

Family planning: No state or local governmental entity nor any health facility that furnishes family planning services “shall subject any person”, regardless of the person’s age, “to any standard or requirement as a prerequisite to the receipt of any requested family planning service”. NMSA 24-8-5 (NM Family Planning Act). “Family planning services’ includes contraceptive procedures and services (diagnosis, treatment, supplies and follow-up), social services, [and] educational and informational services.” NMSA § 24-8-2.

Federal regulations also require that family planning services funded in whole or in part with Federal Title X monies shall be provided to all persons, without regard to age. 42 CFR 59.5(a)(4); *see also Planned Parenthood Assoc. of Utah v. Matheson*, 582 F. Supp. 1001, 1006 (D. Utah 1983); *Does 1-4 v. Utah Dept. of Health*, 776 F.2d 253 (10th Cir. 1985); *Doe v. Pickett*, 480 F.Supp. 1218, 1220-1221 (D.W. Va. 1979).

Pregnancy: “Any person, regardless of age, has the capacity to consent to an examination and diagnosis by a licensed physician for pregnancy.” NMSA § 24-1-13 (NM Public Health Act).

Prenatal and postnatal care: “A female minor shall have the capacity to consent to prenatal, delivery and postnatal care by a licensed health care provider.” NMSA § 24-1-13.1 (NM Public Health Act).

Sexually transmitted diseases (STD’s): “Any person regardless of age has the capacity to consent to an examination and treatment by a licensed physician for any sexually transmitted disease.” NMSA § 24-1-9 (NM Public Health Act).

To the extent that STD services are funded in whole or in part with Federal Title X monies, those services shall be provided to all persons, without regard to age. 42 CFR 59.5(a)(4).

HIV and AIDS: “A minor shall have the capacity to give informed consent to have the human immunodeficiency virus test performed on himself.” NMSA § 24-2B-3 (NM Human Immunodeficiency Virus Test Act).

To the extent that HIV/AIDS services are funded in whole or in part with Federal Title X monies, those services shall be provided to all persons, without regard to age. (42 CFR 59.5(a) (4)).

Mental health treatment: “A child fourteen years of age or older is presumed to have capacity to consent to treatment without consent of the child's legal custodian, including consent for individual psychotherapy, group psychotherapy, guidance counseling, case management, behavioral therapy, family therapy, counseling, substance abuse treatment or other forms of verbal treatment that do not include aversive interventions.” NMSA § 32A-6A-15 (NM Children’s Mental Health and Developmental Disabilities Act).

A child under fourteen years of age may initiate and consent to an initial assessment with a clinician. A child under fourteen years of age may also initiate and consent to medically necessary early intervention service limited to verbal therapy, if such service will not extend beyond two calendar weeks. NMSA § 32A-6A-14 (NM Children's Mental Health and Developmental Disabilities Act).

Emancipated, married or divorced minors: "Notwithstanding any other provision of the law, and without limiting cases in which consent may otherwise be obtained or is not required, any emancipated minor or any minor who has contracted a lawful marriage may give consent to the furnishing of hospital, medical and surgical care to such minor, and the consent is not subject to disaffirmance because of minority. The consent of a parent of an emancipated minor or of a minor who has contracted a lawful marriage is not necessary in order to authorize hospital, medical and surgical care. For the purposes of this section only, subsequent judgment of annulment of the marriage or judgment of divorce shall not deprive the minor of his adult status once attained." NMSA § 24-10-1 (NM Public Health Act).

The foregoing list of applicable laws is not exhaustive, but is merely intended to illustrate some of the laws that apply in New Mexico with respect to minors' ability to consent to treatment. The SBHC or its contractor(s) should always consult with an attorney whenever a question arises as to whether a minor has the legal ability to consent to treatment, or whether the SBHC should require parental consent in a given case.