Behavioral Health in Primary Care

2026 Idaho Legislative Updates

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Session Highlights

HB 860

Changes to Idaho's Minor Consent Law

HB 822

Pediatric Secretive Transitions Parental Rights Act

Other Notable Healthcare Activity

- Medicaid Updates: Work Requirements, Rate Cuts, Expansion Repeal Attempt
- Scope of Practice: PA Independent Practice, Midwifery, Chiropractic Prescribing
- Vaccine & Public Health Legislation
- Abortion Ban: No Legislative Fix This Session

Parental Rights in Medical Decision-Making Act (PRMDA)

Enacted 2024 | Senate Bill 1329

Codified the principle that parents have a fundamental right to make healthcare decisions for their unemancipated minor children.

Key Provisions

Parental Consent Required (limited exceptions)

For all healthcare services to minors

Effect on Other Laws

Supersedes conflicting state statutes

Parental Access to Records

Right to access child's health information

Private Lawsuits

Civil cause of action for violations

HB 860: Changes to PRMDA (2026)

Effective March 31, 2026

Issues After Implementation

- Conflicts with older statutes allowing minor consent
- Difficulty treating patients in urgent-but-not-emergency scenarios
- Barriers to mental health access
- Confusion about consent in custody situations

Legislative Response

- Expanded exceptions for care without parental consent
- Repealed/changed laws allowing minors to consent to own care
- Added requirements for effective blanket consent

General Rules: Minor Consent

Idaho Code 32-1015(2)-(3)

Fundamental Right & Duty

Parents who have legal custody of any minor child have the fundamental right and duty to make decisions concerning the furnishing of health care services to the minor child.

Prior Informed Consent Required

Except as otherwise provided by this section or court order, an individual, health care provider, or governmental entity shall not furnish a health care service or solicit to furnish a health care service to a minor child without obtaining the ~~prior~~ informed consent of the minor child's parent.

Key Definitions

Idaho Code 32-1015(1)

Minor Child

Individual under 18 years of age; excludes emancipated minors

Parent

Biological parent, adoptive parent, or individual granted exclusive right and authority over child's welfare under state law

Health Care Provider

(i) Physician, practitioner, or licensed individual (or agent); (ii) health care facility or its agent

Health Care Service

Service for diagnosis, screening, examination, prevention, treatment, cure, care, or relief of any physical or mental health condition

Exceptions to Parental Consent

When providers may render care without parental consent

- Nonemergency First Aid
- Medical Emergency
- Pregnancy & Prenatal Care
- Care Related to a Crime
- 988 Crisis Line
- Newborn Drug Screening

Exception: Nonemergency First Aid

IC 32-1015(3)(a)-(b), (4)(d)

No individual acting reasonably under the circumstances shall be found in violation by furnishing nonemergency first aid services to a minor appearing sick or injured.

Permitted services include:

- Dressing minor wounds
- Applying topical agents
- Providing fluids or ice
- Performing checks to identify minor illnesses

Does not invalidate any protections or immunities for individuals administering first aid under any provision of Idaho Code.

Exception: Medical Emergency

IC 32-1015(4)(b); see also IC 39-4504(1)(i)

Provider reasonably determines a medical emergency exists AND:

Scenario (i)

Furnishing the health care service is necessary in order to prevent death or ~~imminent, irreparable physical injury~~ address a serious bodily harm to the minor child; or

Scenario (ii)

After a reasonably diligent effort, the health care provider cannot locate or contact a parent of the minor child and the health care service is furnished to prevent loss of life or serious physical illness or injury to the minor child~~'s; life or health would be seriously endangered by further delay in the furnishing of health care services~~

Exception: Pregnancy, Prenatal, Peripartum Care

IC 32-1015(4)(f)

Provider may furnish care without parental consent for:

- Detecting or diagnosing pregnancy
- Providing prenatal care
- Providing peripartum care

Exclusion: Does NOT include abortion or performing/facilitating an abortion as defined in IC 18-8702.

Exception: Care Related to a Crime

IC 32-1015(4)(c)

Applies when a minor child is seeking health care that is:

- Directly related to an allegation of a crime of physical violence against the minor child
- OR to collect evidence related to such crime when collection is time-sensitive

Exception: 988 Crisis Line

IC 32-1015(4)(e)

Minor utilizes 988 Idaho crisis and suicide hotline and receives immediate crisis and suicide prevention services.

Follow-up provisions:

If hotline determines suicidal ideation, it may offer a follow-up call within 48 hours solely for:

- Reassessing safety
- Reviewing the safety plan
- Encouraging communication with parent/guardian

Exception: Newborn Drug Screening

IC 32-1015(5)

Providers may screen and treat a newborn infant for illegal drugs or substances if reasonable suspicion suggests their presence.

Results of the test or the fact of treatment may NOT be used against the parent in any criminal proceeding.

Informed Consent

IC 39-4506; IDJI 2.12.5

Generally required for all treatment

Sufficiency standard:

Person must be sufficiently aware of pertinent facts respecting:

- Need for the services
- Nature of the services
- Significant risks ordinarily attendant

Consent deemed valid if provider made disclosures as would ordinarily be made under same or similar circumstances.

Lack of informed consent = battery (IDJI 2.12.1)

Blanket Consent

IC 32-1015(4)(a)(i)

Provider may furnish care without specific informed consent if parent has given blanket consent.

Key rules:

- Parent may revoke consent at any time
- No parent shall be required/pressured to sign as condition of public school enrollment or school-sponsored activity

Blanket Consent Form Requirements

IC 32-1015(4)(a)(i)

Must be in writing on a form provided by the healthcare provider:

> **Title**
>
> "Blanket Consent Form for Health Care Services for Minor" in bold, 30-point font

> **First Page Statement**
>
> "Providing blanket consent is optional and may, instead, be given on a case-by-case basis" in bold, 24-point font

Exception: If parent writes and signs their own blanket consent, these formatting requirements do not apply.

Blanket Consent: Scope

How specific must blanket consent be?

Statute says parent "has given blanket consent authorizing the health care provider to furnish the health care service" (emphasis on "the" service).

Consider specific informed consent for services that are:

- Non-routine or unexpected
- Significant or with serious consequences
- Controversial
- Expensive

Ask: "Would the parent expect me to provide such services without further notice or discussion?"

Effect on Other State Laws

IC 32-1015 likely preempts other laws allowing minors to consent

Laws Repealed or Amended by HB 860:

Repealed	Minor consent for STDs and communicable diseases (former IC 39-3801 et seq.)
Repealed	Prohibition on disclosing mental health services to parent (former IC 16-2428)
Amended	Involuntary treatment of minors (IC 16-2424)
Amended	Minor consent to inpatient mental healthcare (IC 66-318, -320)

Laws NOT Changed by HB 860

- Contraception: exams, prescriptions, devices if patient "sufficiently intelligent and mature" (IC 16-603)
- Alcohol/drug abuse: application for inpatient treatment or rehab (IC 39-307; IDAPA 16.05.01.250.02)
- Blood donations for minors aged 17 (IC 39-3701)
- Abortion resulting from rape or sex with certain family members, guardian, or foster parent (IC 18-609A(7) and -622(2)(b)(ii))

Does their survival mean the legislature intended they remain effective? Providers who rely on these statutes do so at their own risk.

Surrogate Decision-Makers

IC 39-4504

Priority order for consent when person (or minor) cannot consent:

- (a) Court-appointed guardian
- (e) Parent
- (f) Person named in delegation of parental authority (IC 15-5-104)
- ~~(g) Any relative~~
- ~~(h) Any other competent individual responsible for health care~~

For minors: Do NOT rely on surrogate consent under IC 39-4504.
Likely can rely on valid delegation of parental authority (respects parent's decision-making authority).

Lawsuits by Parents

IC 32-1015(13)

Private right of action against individual, provider, or governmental entity that deprives a parent of their rights.

Available remedies:

- Declaratory relief
- Injunctive relief
- Compensatory damages
- Reasonable attorney's fees

Statute of limitations: 2 years from harm or 2 years from discovery (whichever later)

Government entities: subject to Idaho Tort Claims Act

HB 822

Pediatric Secretive Transitions Parental Rights Act

Effective July 1, 2026 | IC 32-1016

Idaho Parental Rights Act Overview

IC 32-1010 to -1016

-1010	Parents' Fundamental Rights
-1011	Care, Custody and Control of Children
-1012	Direct the Education of Children
-1013	Interference with Parental Rights Restricted
-1014	Emergency Order Not Justification to Interfere
-1015	Medical Decisionmaking
-1016	Pediatric Secretive Transitions Parental Rights Act

HB 822: Statement of Purpose

Prohibits "covered entities" from facilitating a minor's medical sex transition or social transition without parental informed consent.

Key provisions:

- Prevents covered entities from withholding information about child's interest in sex transition
- Requires schools(?) to notify parents within 72 hours of student requests re: names, pronouns, or sex-separated facilities
- Establishes civil cause of action for compensatory damages
- Authorizes Attorney General to investigate, seek writs of mandamus, and levy civil penalties

Builds upon 2023 H 71 (banning pediatric gender mutilation)

Legislative Intent: IC 32-1016

> *"It is undoubtedly a parental purview and prerogative to have knowledge of, and the authority to deny, a child's efforts at sex transition procedures or social transitions."*
>
> IC 32-1016(2)(c)

Therefore:

"It is the intent of the legislature to prohibit any health care provider or educational institution from facilitating a pediatric sex transition or social transition without informing and obtaining informed consent from a minor child's parents or guardians."

IC 32-1016(3) | Effective July 1, 2026

Applicability

Who and what does IC 32-1016 cover?

"Covered Entity"

IC 32-1016(4)

1 **Primary or Secondary Educational Institution**

Apparently not individual teachers or school employees

2 **Child Care Provider**

Not defined. Only licensed entities, or also family members, babysitters?

3 **Medical, Behavioral, or Mental Health Care Provider**

Not defined in IC 32-1016. Compare IC 32-1015(1)(b) definition

"Child"

IC 32-1016(4)(b)

Individual < 18 years of age who is not married or legally emancipated.

What does "legally emancipated" mean?

- Court declares them emancipated?
- Serving in the armed services?
- Self-supporting?

Note: IC 32-1016(6) applies to "minor student" instead of "child."

"Sex Transition Procedures"

IC 32-1016(4)(d) and IC 18-1506C(3)

(a) Surgeries

Sterilize, mutilate, or construct tissue differing from biological sex

(b) Mastectomy

Performing a mastectomy

(c) Medications

Puberty-blocking medication; supraphysiological testosterone (female) or estrogen (male)

(d) Other Removal

Removing any otherwise healthy or nondiseased body part or tissue

"Sex" - Definition

IC 32-1016 does not define "sex."

But IC 18-1506C incorporates the definition at IC 73-114(n):

> *"'Sex' means an individual's biological sex, either male or female."*
>
> IC 73-114(n)

"Social Transitioning"

IC 32-1016(4)(e)

The process by which an individual goes from identifying with and living as a gender that corresponds to the individual's sex to identifying with and living as a gender different from the individual's sex and may involve:

- Social, legal, or physical changes
- Adopting a name, pronouns, appearance, or dress that does not correspond to the individual's sex

What is meant by "social ... changes"?

Social Transitioning: Liability Questions

For purposes of determining liability:

- Who determines if the "social, legal, or physical changes" constitute "social transitioning"?
- Who determines whether the minor's preferred "name, appearance, or dress" correspond to their sex?
- Does the covered entity's knowledge or intent matter?
- Decision-maker: The covered entity? The parent? The court? The jury? The AG? A licensing agency?

Do Not Withhold Information

IC 32-1016(5)

> *"A covered entity shall not withhold information from a child's parent or guardian related to the child's expressed interest in or desire for sex transition procedures."*

Key question: Does this require proactive disclosure or merely responding to a parent's request?

- Compare IC 32-1015(6): must provide info if requested by parents
- Compare IC 32-1016(6): must notify parents of minor's request to facilitate/participate in social transition

Parental Access to Health Information

IC 32-1015(6)-(7)

No provider shall deny a parent access to health info that is in the provider's control and requested by the parent.

Exceptions (IC 32-1015(7)):

- Parent's access is prohibited by court order
- Record relates to physical abuse, abandonment, or neglect by the parent (IC 33-6001(3))
- Parent is subject of investigation re: crime against child and law enforcement requests non-release

Open questions: Do the IC 32-1015(7) exceptions apply? Do HIPAA exceptions to parental access apply?

Notify Parents: 72-Hour Rule

IC 32-1016(6)

Covered entity shall notify parent within 72 hours of receiving any request by a minor student to participate in or facilitate social transition, including:

(a) Be referred to by pronouns/titles not corresponding to biological sex

(b) Be referred to using names other than legal name (or nickname/derivative thereof) in school records or otherwise

(c) Use restrooms, locker rooms, changing rooms, or overnight lodging for opposite biological sex

(d) Participate on athletic team or sex-separated school activity for opposite sex

Does the 72-Hour Notice Apply to Healthcare Providers?

Why It Might Apply

- "Covered entity" includes healthcare providers

Why It Might NOT Apply

- Statement of purpose says "schools" must notify
- References minor "students" not "child" or "minor patients"
- References school activities and school records

Note: Examples in IC 32-1016(6) are likely not exclusive.

Do Not Aid/Abet: Sex Transition Procedures

IC 32-1016(8)

> *"A covered entity shall not aid or abet a child's efforts to obtain sex transition procedures."*

Expands potential liability for violations of IC 18-1506C by:

- Confirming liability for aiding and abetting
- Creating private cause of action
- Lower burden: "preponderance of the evidence" instead of "beyond a reasonable doubt"

But what constitutes "aiding and abetting"?

Do Not Aid/Abet: Social Transitioning

IC 32-1016(7)

> *"A covered entity shall not aid or abet a child's efforts to socially transition without first obtaining written consent from the child's parent."*

Key distinction from sex transition procedures: Written parental consent can authorize.

But what constitutes "aiding and abetting" social transitioning?

"Aid and Abet": Criminal Context

ICJI 311

A person aids and abets if they:

> *"Intentionally aids, assists, facilitates, promotes, encourages, counsels, solicits, invites, helps or hires another to commit a crime with intent to promote or assist in its commission."*

What is NOT sufficient:

- Mere presence at, acquiescence in, or silent consent to the planning or commission
- Mere knowledge of a crime and assent to or acquiescence in its commission
- Failure to disclose the occurrence of a crime to authorities

Are These "Aiding and Abetting"?

- Referring patient to an out-of-state provider for sex transition procedures?
- Sending minor's records to such a provider?
- Providing literature supportive of, encouraging, or validating social transitioning?
- Providing literature discussing social transitioning, pro or con?
- Informing patient of events or groups that support social transitioning?
- Donating money to organizations promoting social transitioning of minors?
- Displaying a gay pride flag?
- Disclosing that a provider is transgender?

Intent Requirement

Is intent to aid and abet required for a violation?

IC 32-1016(7)

"A covered entity shall not aid or abet a child's efforts to socially transition without first obtaining written consent..."

IC 32-1016(8)

"A covered entity shall not aid or abet a child's efforts to obtain sex transition procedures."

Neither provision expressly requires intent - an open and unresolved question.

Informed vs. Blanket Consent for Social Transitioning

Safer approach: Obtain written, informed consent from parent(s)/guardian.

Be fairly specific as to circumstances and permissible actions to avoid disputes.

If relying on blanket consent (at your own risk):

- Ensure it satisfies IC 32-1015(4) requirements
- Specifically reference "social transitioning as defined in I.C. 32-1016"
- Be careful about significant change in circumstance affecting scope
- Consider having parents waive right to notice under 32-1016(6)
- *Not clear if parents can waive the right, but consistent with respecting parents' rights*

Private Lawsuits

IC 32-1016(9)-(10)

"Aggrieved person" = parent/guardian of child subjected to sex transition procedures or social transitions.

Available Remedies:

- Declaratory relief
- Injunctive relief
- Compensatory damages
- Reasonable costs and attorney's fees

Concerns:

- Unclear if improper intent required
- Defense costs incurred even if prevailing
- May not be covered by insurance
- Only plaintiff may recover fees

Attorney General Enforcement

IC 32-1016(12), (14)

Civil Penalties

AG may seek civil penalties up to $100,000 per violation

(In addition to private action remedies)

Writ of Mandamus

AG may file suit compelling covered entities to comply

Adverse Licensure Actions

IC 32-1016(13)

AG may refer violating covered entity to any licensing board that issued a professional license.

Licensing board is authorized to discipline in a manner it deems appropriate for a violation of this section.

Possible Legal Challenges

Federal Law

- Vague / lack of due process (14th Amend.)
- Privacy (14th Amend.)
- Equal protection (14th Amend.)
- Free speech (1st Amend.)
- Excessive fines (8th Amend.)
- Federal preemption (FERPA, HIPAA, Others?)

State Law

- Inalienable rights / privacy (Art. I § 17)
- Free speech (Art. I § 9)
- Special legislation (Art. III § 19)
- Others?

Other Notable Healthcare Legislation

Medicaid Updates

- HB 913: Work requirements for expansion pop.
- HB 863: Reduced habilitation/HCBS rates (signed)
- HB 850: Full repeal attempt — did NOT advance
- 4% provider rate cut continued through FY 2027

Scope of Practice

- HB 806: PA independent practice — no hearing
- HB 639: Midwifery formulary pathway (signed)
- SB 1254: Chiropractic prescribing authority

Insurance Reform

- HB 648: Oral cancer treatment parity — signed March 31
- HB 841: Prior authorization reform — failed to advance (9-5-4 vote)

Vaccine, Public Health & Other Bills

Vaccine & Public Health

- HB 808: Anti-public health bill — failed (held 7-9 in House H&W)
- SB 1346: 2-year mRNA vaccine ban for minors/pregnant — did NOT advance
- SB 1453: Rural Health Transformation Program ($186M/yr federal funds)
- SB 1446: ACT peer support funding restored (signed April 2)
- Kratom: HB 864 (ban) and SB 1418 (regulation) — both failed

Abortion Ban: No Legislative Fix This Session

- No fix to medical emergency exception
- Monitoring Idaho Reproductive Freedom & Privacy Act (Nov ballot)
- 94 of 268 OB/GYNs lost (35% drop, Aug 2022–Dec 2024)
- Continued uncertainty for emergency pregnancy care

Questions?

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