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## Family planning services for minors

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### Family planning services for minors: NC state law

#### NORTH CAROLINA MINOR'S CONSENT LAW: G.S. 90-21.5

- A minor may consent to medical health services for the prevention, diagnosis, or treatment of:
  - Sexually transmitted diseases or other reportable communicable diseases
  - Pregnancy (but minors may not receive abortions or sterilization on their own consent)
  - Emotional disturbance (but minors may not consent to admission to a 24-hour facility, except in emergencies)
  - Abuse of controlled substances or alcohol (with the same restriction on admission to 24-hour facilities)

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## Family planning services for minors: federal Title X regulations

### TITLE X PROJECT GRANTS FOR FAMILY PLANNING SERVICES (42 C.F.R. PART 59)

- Title X-funded family planning programs must :
  - Encourage family participation in the decision of minors to seek family planning services,
  - Provide counseling to minors on how to resist sexual coercion, and
  - Comply with state laws requiring reporting of child abuse, child molestation, sexual abuse, rape, or incest.
- However, Title X projects may not require a minor client to obtain the consent of a parent or guardian, nor may project staff notify a parent or guardian before or after a minor has requested or received Title X services. (42 CFR 59.10(b))

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## Title X goes to court in Texas

### DEANDA V. BECERRA, 645 F.SUPP.3D 600 (N.D. TEX. 2022)



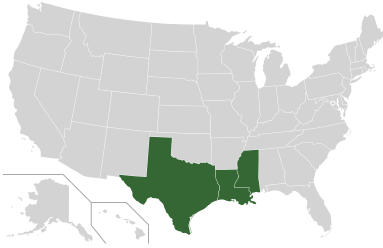
- Deanda, a father of minor children, argued that the Title X regulation providing for confidential services to minors violated his rights under a Texas state law that required parental consent for contraceptives and his parental rights under the US Constitution.
- HHS Secretary Becerra argued that Texas' parental notification law was preempted by Title X and its implementing regulations.
- Federal district court held:
  - Title X does not preempt Texas's parental consent law.
  - As presently administered, Title X violates Deanda's constitutional right to direct the upbringing of his children.
- The court subsequently vacated the portion of the regulation that prohibits Title X-funded projects from requiring parental consent or notifying parents of services to minors.
- HHS appealed to the 5<sup>th</sup> Circuit Court of Appeals.

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## Appellate court decision in *Deanda* (March 12, 2024)

*DEANDA V. BECERRA*, 96 F.4<sup>TH</sup> 750 (5<sup>TH</sup> CIR. 2024)



### Holdings

- The Title X **statute** (which does not contain the language prohibiting parental consent or notification) does not preempt a Texas statute requiring parental consent for family planning, because it is possible for Title X grantees to comply with both statutes.
- The court declined to decide whether the Title X **regulation** preempts the Texas statute because the issue was not addressed in the district court.
- The district court erred in vacating the portion of the Title X regulation requiring confidential services for minors. The regulation remains in place.
- Because it agreed with the district court on preemption, the appeals court decided it need not reach the constitutional questions.

### Implications

- No effect on North Carolina.
- Outcome for Texas and other 5<sup>th</sup> Cir. states? Not entirely clear!

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