



# PREGNANCY, PARENTING, & SUBSTANCE USE: NAVIGATING SYSTEMS

---

## Module 2.1: Legal Basics

## Additional Acts, Laws, or Regulations

### Family Medical Leave Act (FMLA)

The [Family Medical Leave Act \(FMLA\)](#) requires employers to grant 12 weeks of job-protected, unpaid leave to eligible employees for certain family and medical reasons, such as the birth or adoption of a child or to bond with a child. Health insurance benefits must continue while an employee takes leave, and the leave does not have to be taken all at once.

A participant can also use the FMLA to take time off work to enter treatment by a healthcare provider for substance use disorder.<sup>32</sup> There are certain nuances to FMLA, which can be found [in this fact sheet](#).<sup>33</sup> Some criteria for FMLA eligibility include, but are not limited to: employees must have worked for their employer for at least 12 months or 1,250 hours over the past 12 months, and work at a location where the company has 50 or more employees within 75 miles.

### Providing Urgent Maternal Protections (PUMP) Act

The [Providing Urgent Maternal Protections \(PUMP\) Act](#) requires that all employers provide break time and a private, clean space for mothers to pump breastmilk for up to one year after the birth of their child. Similar to the Pregnant Workers Fairness Act, local and state laws that provide more protection or rights to an individual are not replaced or affected by the PUMP Act.<sup>34</sup>

[Time and Place to Pump at Work: Your Rights](#) is a helpful resource providing a quick review of what the PWFA, Fair Labor Standards Act, and PUMP Act cover for employees and applicants who need a time and place to pump breastmilk at work.<sup>42</sup> If your employer is not protecting your rights to pump breastmilk at work, call the Wage and Hour Division's free help line, 1-866-487-9243, or contact the [office nearest you](#). They will answer your questions and determine whether an investigation is the best course of action. Complaints should be filed within two years.



**PREGNANCY, POSTPARTUM,  
& EARLY PARENTING**

---

Peer Support for Families Impacted by Substance Use



# PREGNANCY, PARENTING, & SUBSTANCE USE: NAVIGATING SYSTEMS

---

## Module 2.1: Legal Basics

### Medicaid Act

Medicaid is a federal program administered by states to provide medical assistance to low-income and underserved people. It is free or low-cost health insurance for eligible low-income adults, children, pregnant women, elderly adults, and people with disabilities. Although Medicaid is known by different names in each state, overall, Medicaid enrollees have constitutionally protected due process rights to [challenge unlawful denials of coverage and care, as well as certain consumer protection rights](#).

The Supreme Court curtailed one of these consumer rights (“freedom of choice”) for Medicaid enrollees to choose their care from any Medicaid-qualified provider. Specifically, in the Court’s June 2025 decision, *Medina v. Planned Parenthood South Atlantic* allowed South Carolina to exclude Planned Parenthood’s providers from the Medicaid program. As a result, Medicaid enrollees in South Carolina and other states that exclude Planned Parenthood from receiving Medicaid funding will not be able to use their Medicaid coverage to obtain any preventive reproductive health services.

Peer workers should be aware that if Medicaid-enrolled participants have experienced losses in health coverage or denials of services, they may require legal assistance to address these issues. In addition, peer workers can assist participants in locating alternative sources of reproductive health care if some reproductive health centers are prohibited from receiving Medicaid reimbursement in certain jurisdictions.

Recent legal developments require states to implement [work requirements](#) for Medicaid eligibility that apply to those individuals (ages 19–64 years old) who became qualified for Medicaid through the Affordable Care Act’s [expansion of Medicaid eligibility in certain states](#). Peer workers should be aware of the criteria to verify compliance with these work requirements, as well as the factors considered as exemptions.

Peers can learn more about their specific state’s Medicaid program here: [Help for mental health, drugs, alcohol – Medicaid, CHIP | SAMHSA](#)



**PREGNANCY, POSTPARTUM,  
& EARLY PARENTING**

---

Peer Support for Families Impacted by Substance Use



# PREGNANCY, PARENTING, & SUBSTANCE USE: NAVIGATING SYSTEMS

---

## Module 2.1: Legal Basics

### Health Insurance Portability and Accountability Act (HIPAA)

The [Health Insurance Portability and Accountability Act \(HIPAA\)](#) ensures the privacy and confidentiality of health information. HIPAA also gives individuals the right to access and request corrections to their health records.<sup>26</sup>

HIPAA requires healthcare systems to protect the privacy and security of individuals' health information, including diagnoses, treatments, lab results, prescriptions, or notes or test results related to pregnancy or substance use. These typically cannot be shared without a person's consent, except in specific, limited cases. Exceptions include that healthcare entities can still disclose protected health information without patient consent for treatment, payment, or healthcare operations purposes.<sup>35</sup>

We encourage peers working with participants who are concerned about the privacy of their reproductive healthcare records to stay up to date, as ongoing legal challenges to the [HIPAA Privacy Rule to Support Reproductive Health Care Privacy issued in 2024](#) may impact it if it is implemented in the future.

HIPAA's privacy rules, at the time of writing, serve as a limited protective shield—but the privacy rules have limitations when state laws require reporting (like in child welfare cases or if law enforcement gets a subpoena or court order).<sup>2,36</sup> Additional information on child welfare involvement can be found in other modules in this course.

HIPAA does not always stop disclosures if:

- A court order or warrant compels a provider to release records
- State laws mandate providers to report suspected child abuse or neglect (which, in some states, includes prenatal drug use or abortion)<sup>24</sup>
- A patient voluntarily discloses information on a non-HIPAA-covered platform (like a [substance use treatment app](#), fitness or fertility app, text message, or social media)<sup>37</sup>
- Disclosures for treatment, payment, and health care operations purposes



**PREGNANCY, POSTPARTUM,  
& EARLY PARENTING**

---

Peer Support for Families Impacted by Substance Use



# PREGNANCY, PARENTING, & SUBSTANCE USE: NAVIGATING SYSTEMS

---

## Module 2.1: Legal Basics

For additional information on sharing and protecting substance use records (including guidelines for peer workers), see: [Resource Library | Focus:PHI](#).

### Title VI of the Civil Rights Act (Title VI)

Title VI prohibits “discrimination based on race, color, and national origin in programs receiving federal financial assistance.”<sup>38</sup>

One effect of Title VI is that health programs and others who receive federal funding must take reasonable steps to provide “meaningful access” to their services and programs for people with Limited English Proficiency (LEP). Learn more here: [Federal-Language-Access-Laws.pdf](#)

### Title IX of the Education Amendments of 1972

[Title IX](#) is a federal civil rights law that prohibits sex-based discrimination in any education program or activity that receives federal funding—this includes nearly all public and private K–12 schools, colleges, universities, and vocational training programs.

Importantly, this law protects pregnant and parenting students from being treated unfairly because of pregnancy and pregnancy-related conditions, childbirth, recovery from childbirth, and parental status (including fathers and non-birthing parents).<sup>39</sup>

Schools are also required to have a designated staff member who handles compliance and coordination with Title IX; often, this position is called a Title IX coordinator.<sup>40</sup> Participants can work with their school’s Title IX coordinator (or other designated staff member) to learn more and ensure they’re being treated fairly. Title IX gives you a legal basis to help participants advocate for themselves and stay in school.



**PREGNANCY, POSTPARTUM,  
& EARLY PARENTING**

---

Peer Support for Families Impacted by Substance Use



# PREGNANCY, PARENTING, & SUBSTANCE USE: NAVIGATING SYSTEMS

## Module 2.1: Legal Basics

### Key Rights that Title IX Protects<sup>39</sup>

- **Schools can't force students to drop out, change programs, or take leave because they're pregnant or parenting.**
- **Students must be allowed to make up missed work.**
  - If someone misses class due to pregnancy, childbirth, or related conditions, they must be given a reasonable amount of time to make up the work.
- **Students can take medical leave.**
  - Schools must excuse absences for pregnancy and related conditions, just like any temporary disability. This includes doctor's appointments, labor, and postpartum recovery.
- **Pregnant students must be treated the same as other students with temporary conditions.**
  - If students with broken legs or other medical issues get special seating or online class options, pregnant students are entitled to the same accommodations.
- **Students have the right to privacy.**
  - School staff cannot share information about the pregnancy without permission.
- **Title IX prohibits bullying, harassment, or discrimination based on pregnancy or parental status.<sup>39,41</sup>**

Learn more at: [Know Your Rights: Pregnant or Parenting? Title IX Protects You from Discrimination at School](#)



**PREGNANCY, POSTPARTUM,  
& EARLY PARENTING**

Peer Support for Families Impacted by Substance Use



# PREGNANCY, PARENTING, & SUBSTANCE USE: NAVIGATING SYSTEMS

## Module 2.1: Legal Basics

### Model Substance Use During Pregnancy and Family Care Plans Act

The [Model Substance Use During Pregnancy and Family Care Plans Act](#) is not a current law. It is a template of recommendations (or “model”) created by experts to guide states in developing their own laws about family care plans and substance use during pregnancy. It provides a compassionate and structured response for pregnant and postpartum people who use substances.

<b>Model Substance Use During Pregnancy and Family Care Plans Act Recommendations<sup>42</sup></b>
<ul style="list-style-type: none"><li>✓ Early support, care coordination, and family-centered services to promote the well-being of both parent and child.</li><li>✓ Pregnant or postpartum individuals with SUD should not be penalized for receiving medical treatment (including medication).</li><li>✓ A newborn being affected by parental substance use or withdrawal symptoms alone is not seen as a sufficient reason to report child abuse or neglect.</li></ul>
Source: <a href="#">Legislative Analysis and Public Policy Association (LAPPA)</a> <sup>42</sup>

By fostering collaboration between systems and recognizing the strengths of parents and caregivers, the Act aims to promote better outcomes for families, reduce trauma, and support long-term stability and wellness. It is hoped that states will adopt recommendations in the Model Act.

### Module 2.1 References

1. American College of Emergency Physicians. Understanding EMTALA. Accessed Oct 28, 2025. <https://www.acep.org/life-as-a-physician/ethics--legal/emtala/emtala-fact-sheet>
2. National Partnership for Women & Families. Advancing reproductive health privacy, mitigating criminalization. Accessed Oct 24, 2025. <https://nationalpartnership.org/report/advancing-reproductive-health-privacy-mitigating-criminalization/>



**PREGNANCY, POSTPARTUM, & EARLY PARENTING**

Peer Support for Families Impacted by Substance Use



# PREGNANCY, PARENTING, & SUBSTANCE USE: NAVIGATING SYSTEMS

---

## Module 2.1: Legal Basics

3. Quinn DK, Geppert CMA, Maggiore WA. The Emergency Medical Treatment and Active Labor Act of 1985 and the practice of psychiatry. *Psychiatric Services*. 2002;53(10):1301-1307. doi:10.1176/appi.ps.53.10.1301
4. American Public Health Association (APHA). Public health brief urges court to preserve EMTALA's protections for pregnant women Accessed Oct 28, 2025. <https://www.apha.org/news-and-media/news-releases/apha-news-releases/2024/emtala-protections>
5. If/When/How: Lawyering for Reproductive Justice. Prenatal drug exposure: CAPTA reporting requirements for medical professionals. Accessed Oct 28, 2025. <https://ifwhenhow.org/wp-content/uploads/2024/02/2024-Prenatal-Drug-Exposure-CAPTA-Reporting-Requirements-for-Medical-Professionals.pdf>
6. Legal Action Center. Be empow(ER)ed! Know your rights to addiction care for drug & alcohol-related ER visits. Accessed Oct 29, 2025. <https://www.lac.org/resource/be-empowered-know-your-rights-to-addiction-care-for-drug-alcohol-related-er-visits>
7. American Medical Association. Affordable Care Act, Section 1557: Fact sheet. Accessed Oct 29, 2025. <https://www.ama-assn.org/media/14241/download>
8. U.S. Department of Health and Human Services (HHS). Section 1557: Frequently asked questions. Accessed Oct 28, 2025. <https://www.hhs.gov/sites/default/files/section-1557-final-rule-faqs-7282017rev15.pdf>
9. KFF, Dawson L, Sobel L, et al. The Biden Administration's Final Rule on Section 1557 non-discrimination regulations under the ACA Accessed Oct 29, 2025. <https://www.kff.org/affordable-care-act/issue-brief/the-biden-administrations-final-rule-on-section-1557-non-discrimination-regulations-under-the-aca/>
10. Center of Excellence for Protected Health Information (CoE-PHI). 42 CFR Part 2 ("Part 2"). Accessed Oct 29, 2025. <https://coephi.org/about-the-laws/42-cfr-pt-2/>
11. Axios, Gold A, González O. Post-Roe, prosecutors can seek unprotected reproductive health data Accessed Oct 24, 2025. <https://www.axios.com/2023/03/01/post-roe-unprotected-reproductive-health-data>
12. Child Welfare Information Gateway. About CAPTA: A legislative history. Accessed Oct 29, 2025. <https://www.childwelfare.gov/resources/about-capta-legislative-history/>
13. National Harm Reduction Coalition, Academy of Perinatal Harm Reduction. Pregnancy and substance use: A harm reduction toolkit. Accessed Aug 15, 2025. <https://www.perinatalharmreduction.org/toolkit-pregnancy-substance-use>
14. National Council For Adoption, Lindner A. Understanding the Adoption and Safe Families Act (ASFA): History and impacts Accessed Oct 29, 2025. <https://adoptioncouncil.org/publications/understanding-the-adoption-and-safe-families-act-asfa/>
15. ADA National Network. Health care and the Americans With Disabilities Act. Accessed Oct 23, 2025. <https://adata.org/factsheet/health-care-and-ada>
16. U.S. Department of Justice, Civil Rights Division, ADA.gov. The ADA and opioid use disorder: Combating discrimination against people in treatment or recovery. Accessed Oct 24, 2025. <https://www.ada.gov/resources/opioid-use-disorder/>
17. Rahim H, Petrie-Flom Center at Harvard Law School. Does the ADA protect people with substance use disorder from health care discrimination? Oct 29, 2023.



**PREGNANCY, POSTPARTUM,  
& EARLY PARENTING**

Peer Support for Families Impacted by Substance Use



# PREGNANCY, PARENTING, & SUBSTANCE USE: NAVIGATING SYSTEMS

---

## Module 2.1: Legal Basics

<https://petrieflom.law.harvard.edu/2023/12/26/the-ada-as-protection-from-health-care-discrimination-towards-persons-with-substance-use-disorder/>

18. U.S. Department of Justice, Civil Rights Division, ADA.gov. The Americans with Disabilities Act and the opioid crisis: Combating discrimination against people in treatment or recovery. Accessed Oct 29, 2025.

<https://www.ada.gov/resources/opioid-use-disorder/>

19. ADA National Network. The Americans With Disabilities Act, addiction, and recovery for state and local governments. Accessed Oct 23, 2025. <https://adata.org/factsheet/ada-addiction-and-recovery-and-government>

20. U.S. Department of Commerce, Office of Civil Rights. Pregnancy discrimination. Accessed Oct 23, 2025. <https://www.commerce.gov/cr/reports-and-resources/discrimination-quick-facts/pregnancy-discrimination>

21. U.S. Equal Employment Opportunity Commission (EEOC). Fact sheet on recent EEOC pregnancy-discrimination litigation. Accessed Oct 30, 2025. <https://www.eeoc.gov/fact-sheet-recent-eeoc-pregnancy-discrimination-litigation>

22. U.S. Equal Employment Opportunity Commission. What you should know about the Pregnant Workers Fairness Act. Accessed Oct 23, 2025. <https://www.eeoc.gov/wysk/what-you-should-know-about-pregnant-workers-fairness-act>

23. The State of New York. New York state paid prenatal leave: Frequently asked questions. Accessed Oct 24, 2025. <https://www.ny.gov/new-york-state-paid-prenatal-leave/frequently-asked-questions>

24. U.S. Department of Health and Human Services (HHS), Office of the Assistant Secretary for Health (OASH), HHS Office of Population Affairs. Title X statutes, regulations, and legislative mandates. Accessed Oct 28, 2025. <https://opa.hhs.gov/grant-programs/title-x-service-grants/title-x-statutes-regulations-and-legislative-mandates>

25. Cleveland Clinic. Ombudsman. Accessed Oct 29, 2025.

<https://my.clevelandclinic.org/health/articles/ombudsman>

26. U.S. Department of Health and Human Services (HHS). HIPAA Privacy Rule and disclosures of information relating to reproductive health care. Accessed Oct 23, 2025. <https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/phi-reproductive-health/index.html>

27. National Partnership for Women & Families. Making informed decisions. Accessed Oct 29, 2025. <https://nationalpartnership.org/childbirthconnection/maternity-care/making-informed-decisions/>

28. Medicaid and CHIP Payment and Access Commission (MACPAC). Medicaid 101. Accessed Oct 29, 2025. <https://www.macpac.gov/medicaid-101/>

29. Centers for Medicare & Medicaid Services, Medicaid.gov. State profiles. Accessed Oct 29, 2025. <https://www.medicare.gov/state-overviews/state-profiles>

30. The Legal Aid Society. About Us. Accessed Oct 29, 2025. <https://legalaidnyc.org/about/>

31. USAGov. Find a lawyer for affordable legal aid. Accessed Oct 29, 2025. <https://www.usa.gov/legal-aid>

32. 29 CFR § 825.119 - Leave for treatment of substance abuse (1990).

33. U.S. Department of Labor. Fact sheet #28Q: Taking leave from work for birth, placement, and bonding with a child under the FMLA. Accessed Oct 24, 2025. <https://www.dol.gov/agencies/whd/fact-sheets/28q-taking-leave-for-birth-placement-child>

34. U.S. Breastfeeding Committee. The PUMP Act explained. Accessed Oct 24, 2025.

<https://www.usbreastfeeding.org/the-pump-act-explained.html>



**PREGNANCY, POSTPARTUM,  
& EARLY PARENTING**

---

Peer Support for Families Impacted by Substance Use



# PREGNANCY, PARENTING, & SUBSTANCE USE: NAVIGATING SYSTEMS

---

## Module 2.1: Legal Basics

35. U.S. Department of Health and Human Services (HHS). Summary of the HIPAA Privacy Rule. Accessed Oct 29, 2025. <https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html#permit>
36. Network for Public Health Law, Murphy S. The limits of HIPAA in keeping reproductive health records private. Accessed Oct 23, 2025. <https://www.networkforphl.org/wp-content/uploads/2022/08/Fact-Sheet-The-Limits-of-HIPAA-in-Keeping-Reproductive-Health-Records-Private.pdf>
37. U.S. Department of Health and Human Services (HHS), National Institutes of Health (NIH), National Institute of Child Health and Human Development (NICHD). What happens during prenatal visits? Accessed Sep 29, 2025. <https://www.nichd.nih.gov/health/topics/preconceptioncare/conditioninfo/prenatal-visits>
38. U.S. Department of Justice, Civil Rights Division. Title VI of the Civil Rights Act of 1964. Accessed Oct 24, 2025. <https://www.justice.gov/crt/fcs/TitleVI>
39. U.S. Department of Education. Know your rights: Pregnant or parenting? Title IX protects you from discrimination at school. Accessed Oct 29, 2025. <https://www.ed.gov/laws-and-policy/civil-rights-laws/sex-discrimination/know-your-rights-pregnant-or-parenting-title-ix-protects-you-from-discrimination-at-school>
40. U.S. Department of Education. U.S. Department of Education Title IX Final Rule overview: Guiding principles. Accessed Oct 29, 2025. <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/titleix-overview.pdf>
41. National Women's Law Center. Pregnant & parenting students' rights toolkit. Accessed Oct 29, 2025. [https://nwlc.org/wp-content/uploads/2016/08/Final\\_Aug2016\\_nwlc\\_PPToolkit.pdf](https://nwlc.org/wp-content/uploads/2016/08/Final_Aug2016_nwlc_PPToolkit.pdf)
42. Legislative Analysis and Public Policy Association (LAPPA). Model Substance Use During Pregnancy and Family Care Plans Act. Accessed Nov 25, 2024. <https://legislativeanalysis.org/model-substance-use-during-pregnancy-and-family-care-plans-act/>



## PREGNANCY, POSTPARTUM, & EARLY PARENTING

---

Peer Support for Families Impacted by Substance Use