



CALIFORNIA MINOR CONSENT AND CONFIDENTIALITY LAWS: Minor Consent Services and Parents Access Rules*

MINORS OF ANY AGE MAY CONSENT	LAW	CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER IN RELATION TO PARENTS
PREGNANCY	<p>“A minor may consent to medical care related to the prevention or treatment of pregnancy,” except sterilization. (Cal. Family Code § 6925).</p> <p>A minor may receive birth control without parental consent. (Cal. Family Code § 6925).</p>	The health care provider is not permitted to inform a parent or legal guardian without the minor’s consent. The provider can only share the minor’s medical information with parents with a signed authorization from the minor. (Cal. Health & Safety Code §§ 123110(a), 123115(a)(1); Cal. Civ. Code §§ 56.10, 56.11).
CONTRACEPTION	<p>A minor may consent to an abortion without parental consent. (Cal. Family Code § 6925; <i>American Academy of Pediatrics v. Lungren</i>, 16 Cal.4th 307 (1997)).</p>	The health care provider is not permitted to inform a parent or legal guardian without the minor’s consent. The provider can only share the minor’s medical information with parents with a signed authorization from the minor. (<i>American Academy of Pediatrics v. Lungren</i> , 16 Cal.4 th 307 (1997); Cal. Health & Safety Code §§ 123110(a), 123115(a)(1); Cal. Civ. Code §§ 56.10, 56.11).
SEXUAL ASSAULT¹ SERVICES	<p>“A minor who [may] have been sexually assaulted may consent to medical care related to the diagnosis, . . . treatment and the collection of medical evidence with regard to the . . . assault.” (Cal. Family Code § 6928).</p> <p>A minor under 12 years of age who may have been raped “may consent to medical care related to the diagnosis, . . . treatment and the collection of medical evidence with regard” to the rape. (Cal. Family Code § 6928).</p>	<p>The health care provider must attempt to contact the minor’s parent/guardian and note in the minor’s record the day and time of the attempted contact and whether it was successful. This provision does not apply if the treating professional reasonably believes that the parent/guardian committed the assault. (Cal. Family Code § 6928).</p> <p>Both rape and sexual assault of a minor are considered child abuse under California law and must be reported as such by mandated reporters. Health care providers are mandated reporters. The child abuse authorities investigating a child abuse report legally may disclose to parents that a report was made. See Cal. Penal § 11167 and 11167.5.</p>
RAPE² SERVICES FOR MINORS UNDER 12 YRS³	<p>¹For the purposes of minor consent alone, sexual assault includes acts of oral copulation, sodomy, and other crimes of a sexual nature.</p> <p>²Rape requires an act of non-consensual sexual intercourse.</p> <p>³See also “Rape Services for Minors 12 and Over” on page 2 of this chart</p>	

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<p>EMERGENCY MEDICAL SERVICES*</p> <p><i>*An emergency is "a situation . . . requiring immediate services for alleviation of severe pain or immediate diagnosis of unforeseeable medical conditions, which, if not immediately diagnosed and treated, would lead to serious disability or death" (Cal. Code Bus. & Prof. § 2397(c)(2)).</i></p>	<p>A provider shall not be liable for performing a procedure on a minor if the provider "reasonably believed that [the] procedure should be undertaken immediately and that there was insufficient time to obtain [parental] informed consent." (Cal. Bus. & Prof. Code § 2397).</p>	<p>The parent or guardian usually has a right to inspect the minor's records. (Cal. Health & Safety Code §§ 123110(a); Cal. Civ. Code § 56.10. <i>But see exception at endnote (EXC.).</i>)</p>
<p>SKELETAL X-RAY TO DIAGNOSE CHILD ABUSE OR NEGLECT*</p> <p><i>* The provider does not need the minor's or her parent's consent to perform a procedure under this section.</i></p>	<p>"A physician and surgeon or dentist or their agents . . . may take skeletal X-rays of the child without the consent of the child's parent or guardian, but only for purposes of diagnosing the case as one of possible child abuse or neglect and determining the extent of." (Cal. Penal Code § 11171.2).</p>	<p>Neither the physician-patient privilege nor the psychotherapist-patient privilege applies to information reported pursuant to this law in any court proceeding.</p>
<p>MINORS 12 YEARS OF AGE OR OLDER MAY CONSENT</p>	<p>LAW</p>	<p>CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER IN RELATION TO PARENTS</p>
<p>DIAGNOSIS AND/OR TREATMENT FOR INFECTIOUS, CONTAGIOUS COMMUNICABLE DISEASES</p>	<p>"A minor who is 12 years of age or older and who may have come into contact with an infectious, contagious, or communicable disease may consent to medical care related to the diagnosis or treatment of the disease, if the disease . . . is one that is required by law . . . to be reported . . ." (Cal. Family Code § 6926).</p>	<p><u>RAPE and COMMUNICABLE DISEASES</u></p> <p>The health care provider is not permitted to inform a parent or legal guardian without the minor's consent. The provider can only share the minor's medical information with parents with a signed authorization from the minor. (Cal. Health & Safety Code §§ 123110(a), 123115(a)(1); Cal. Civ. Code §§ 56.10, 56.11).</p>
<p>RAPE SERVICES FOR MINORS 12 and OVER</p>	<p>"A minor who is 12 years of age or older and who is alleged to have been raped may consent to medical care related to the diagnosis or treatment of the condition and the collection of medical evidence with regard to the alleged rape." (Cal. Family Code 6927).</p>	<p><u>RAPE</u></p> <p>Rape of a minor is considered child abuse under California law and mandated reporters, including health care providers, must report it as such. Providers cannot disclose to parents that they have made this report without the adolescent's authorization. However, adolescent patients should be advised that the child abuse authorities investigating the report legally may disclose to parents that a report was made.</p>

MINORS 12 YEARS OF AGE OR OLDER MAY CONSENT	LAW	CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER IN RELATION TO PARENTS
<p style="text-align: center;">OUTPATIENT MENTAL HEALTH SERVICES⁴/ SHELTER SERVICES</p> <p>⁴This section does not authorize a minor to receive convulsive therapy, psychosurgery or psychotropic drugs without the consent of a parent or guardian.</p>	<p>Two statutes give minors the right to consent to mental health treatment. If a minor meets the criteria under either statute, the minor may consent to his or her own treatment. If the minor meets the criteria under both, the provider may decide which statute to apply. There are differences between them. See endnote ** for more on these differences:</p> <p style="text-align: center;"><u>Family Code § 6924</u></p> <p>“A minor who is 12 years of age or older may consent to mental health treatment or counseling on an outpatient basis or to residential shelter services, if both of the following requirements are satisfied:</p> <ol style="list-style-type: none"> (1) The minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services or residential shelter services. AND (2) The minor (A) would present a danger of serious physical or mental harm to self or to others without the mental health treatment or counseling or residential shelter services, or (B) is the alleged victim of incest or child abuse.” <p style="text-align: center;">Cal. Family Code § 6924.</p> <p style="text-align: center;"><u>Health & Safety Code § 124260</u></p> <p>“[A] minor who is 12 years of age or older may consent to [outpatient] mental health treatment or counseling services if, in the opinion of the attending professional person, the minor is mature enough to participate intelligently in the mental health treatment or counseling services.”</p> <p style="text-align: center;">Health & Saf. Code § 124260.</p>	<p style="text-align: center;"><u>MENTAL HEALTH TREATMENT:</u></p> <p>The health care provider is required to involve a parent or guardian in the minor’s treatment unless the health care provider decides that such involvement is inappropriate. This decision and any attempts to contact parents must be documented in the minor’s record. Cal. Fam. Code § 6924; 45 C.F.R. 164.502(g)(3)(ii). For services provided under Health and Safety Code § 124260, providers must consult with the minor before deciding whether to involve parents. Health & Saf. Code § 124260(a).</p> <p>While this exception allows providers to inform and involve parents in treatment when appropriate, it does not give providers a right to disclose medical records to parents without the minor’s consent. The provider can only share the minor’s medical records with parents with a signed authorization from the minor. (Cal. Health & Saf. Code §§ 123110(a), 123115(a)(1); Cal. Civ. Code §§ 56.10, 56.11, 56.30; Cal. Welf. & Inst. Code § 5328. See also <i>endnote</i>^{EXC}).</p> <p style="text-align: center;"><u>SHELTER:</u></p> <p>Although minor may consent to service, the shelter must use its best efforts based on information provided by the minor to notify parent/guardian of shelter services.</p>

<p>MINORS 12 YEARS OF AGE OR OLDER MAY CONSENT</p>	<p>LAW</p>	<p>CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER IN RELATION TO PARENTS</p> <p>There are different confidentiality rules under federal and state law. Providers meeting the criteria listed under ‘federal’ below must follow the federal rule. Providers that don’t meet these criteria follow state law.</p> <p>FEDERAL: Federal confidentiality law applies to any individual, program, or facility that meets the following two criteria:</p> <ol style="list-style-type: none"> 1. The individual, program, or facility is federally assisted. (Federally assisted means authorized, certified, licensed or funded in whole or in part by any department of the federal government. Examples include programs that are: tax exempt; receiving tax-deductible donations; receiving any federal operating funds; or registered with Medicare.)(42 C.F.R. §2.12); AND 2. The individual or program: <ol style="list-style-type: none"> 1) Is an individual or program that holds itself out as providing alcohol or drug abuse diagnosis, treatment, or referral; OR 2) Is a staff member at a general medical facility whose primary function is, and who is identified as, a provider of alcohol or drug abuse diagnosis, treatment or referral; OR 3) Is a unit at a general medical facility that holds itself out as providing alcohol or drug abuse diagnosis, treatment or referral. (42 C.F.R. §2.11; 42 C.F.R. §2.12). <p>For individuals or programs meeting these criteria, federal law prohibits disclosing any information to parents without a minor’s written consent. One exception, however, is that an individual or program may share with parents if the individual or program director determines the following three conditions are met: (1) that the minor’s situation poses a substantial threat to the life or physical well-being of the minor or another; (2) that this threat may be reduced by communicating relevant facts to the minor’s parents; and (3) that the minor lacks the capacity because of extreme youth or a mental or physical condition to make a rational decision on whether to disclose to her parents. (42 C.F.R. §2.14). STATE RULE: Cal. Family Code §6929(c). Parallels confidentiality rule described under “Mental Health Treatment” <i>supra</i> at page 2. See <i>also exception at endnote (EXC).</i></p>
<p>DRUG AND ALCOHOL ABUSE TREATMENT</p> <ul style="list-style-type: none"> • This section does not authorize a minor to receive replacement narcotic abuse treatment without the consent of the minor’s parent or guardian. • This section does not grant a minor the right to refuse medical care and counseling for a drug or alcohol related problem when the minor’s parent or guardian consents for that treatment. (Cal. Family Code § 6929(f)). 	<p>LAW</p> <p>“A minor who is 12 years of age or older may consent to medical care and counseling relating to the diagnosis and treatment of a drug or alcohol related problem.”(Cal. Family Code §6929(b)).</p>	<p>CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER IN RELATION TO PARENTS</p>
<p>MINOR 12 YEARS OF AGE OR OLDER MAY CONSENT</p>	<p>LAW</p> <p>A minor 12 and older is competent to give written consent for an HIV test. (Cal. Health and Safety Code § 121020). A minor 12 and older may consent to diagnosis and treatment of HIV/AIDS. (Cal. Family Code § 6926).</p> <p>A minor 12 years of age or older who may have come into contact with a sexually transmitted disease may consent to medical care related to the diagnosis or treatment of the disease. (Cal. Family Code § 6926).</p>	<p>CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER IN RELATION TO PARENTS</p> <p>The health care provider is not permitted to inform a parent or legal guardian without the minor’s consent. The provider can only share the minor’s medical information with parents with a signed authorization from the minor. (Cal. Health & Safety Code §§ 123110(a), 123115(a)(1); Cal. Civ. Code §§ 56.10, 56.11).</p>
<p>MINOR 12 YEARS OF AGE OR OLDER MAY CONSENT</p>	<p>LAW</p> <p>AIDS/HIV TESTING AND TREATMENT</p> <p>DIAGNOSIS AND/OR TREATMENT FOR SEXUALLY TRANSMITTED DISEASES</p>	<p>CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER IN RELATION TO PARENTS</p>

MINOR 15 YEARS OF AGE OR OLDER	LAW	CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER IN RELATION TO PARENTS
<p style="text-align: center;">GENERAL MEDICAL CARE</p>	<p>“A minor may consent to the minor’s medical care or dental care if all of the following conditions are satisfied: (1) The minor is 15 years of age or older. (2) The minor is living separate and apart from the minor’s parents or guardian, whether with or without the consent of a parent or guardian and regardless of the duration of the separate residence. (3) The minor is managing the minor’s own financial affairs, regardless of the source of the minor’s income.” (Cal. Family Code § 6922(a)).</p>	<p>“A physician and surgeon or dentist may, with or without the consent of the minor patient, advise the minor’s parent or guardian of the treatment given or needed if the physician and surgeon or dentist has reason to know, on the basis of the information given by the minor, the whereabouts of the parent or guardian.” (Cal. Family Code § 6922(c). See also <i>exception at endnote (EXC)</i>).</p>
<p style="text-align: center;">MINOR MUST BE EMANCIPATED (GENERALLY 14 YEARS OF AGE OR OLDER)</p>	<p style="text-align: center;">LAW</p>	<p style="text-align: center;">CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER IN RELATION TO PARENTS</p>
<p style="text-align: center;">GENERAL MEDICAL CARE for EMANCIPATED YOUTH</p>	<p>An emancipated minor may consent to medical, dental and psychiatric care. (Cal. Family Code § 7050(e)). See Cal. Family Code § 7002 for emancipation criteria.</p>	<p>The health care provider is not permitted to inform a parent or legal guardian without minor’s consent. The provider can only share the minor’s medical information with parents with a signed authorization from the minor. (Cal. Health & Safety Code §§ 123110(a), 123115(a)(1); Cal. Civ. Code §§ 56.10, 56.11).</p>

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Endnotes:

* There are many confidentiality and consent rules. Different rules apply in different contexts. This chart addresses the rules that apply when minors live with their parents or guardians. It does not address the rules that apply when minors are under court jurisdiction or in other special living situations. Further, the confidentiality section focuses on parent and provider access. It does not address when other people or agencies may have a right to access otherwise confidential information.

** In addition to having slightly different eligibility criteria, there are other small differences between Health and Safety Code § 124260 and Family Code § 6924. For example, the two laws both allow “professional persons” to deliver minor consent services but the two laws define “professional person” differently. Also, there is a funding restriction that applies to Health and Safety Code § 124260 but not to Family Code § 6924. See Cal. Family Code 6924, Health & Saf. Code § 124260 and Welf. & Inst. Code § 14029.8 and look for more information on www.teenhealthlaw.org.

EXC: Providers may refuse to provide parents access to a minor’s medical records, where a parent normally has a right to them, if “the health care provider determines that access to the patient records requested by the [parent or guardian] would have a detrimental effect on the provider’s professional relationship with the minor patient or the minor’s physical safety or psychological well-being.” Cal. Health & Safety Code § 123115(a)(2). A provider shall not be liable for any good faith decisions concerning access to a minor’s records. *Id.*