

CALIFORNIA MINOR CONSENT LAWS:

Which minors can consent for what services and providers' confidentiality obligations

MINORS OF ANY AGE MAY CONSENT	LAW	CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER
PREGNANCY	“A minor may consent to medical care related to the prevention or treatment of pregnancy,” except sterilization. (Cal. Family Code § 6925).	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 records with the signed consent of the minor. (Cal. Health & Safety Code §§ 123110(a), 123115(a); Cal. Civ. 56.10, 56.11).
CONTRACEPTION	A minor may receive birth control without parental consent. (Cal. Family Code § 6925).	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 records with the signed consent of the minor. (Cal. Health & Safety Code §§ 123110(a), 123115(a); Cal. Civ. 56.10, 56.11).
ABORTION	A minor may consent to an abortion without parental consent and without court permission. (<i>American Academy of Pediatrics v. Lungren</i> , 16 Cal.4 th 307 (1997)).	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 records with the signed consent of the minor. (Cal. Health & Safety Code §§ 123110(a), 123115(a); Cal. Civ. 56.10, 56.11).
EMERGENCY MEDICAL SERVICES*	A minor who has a condition or injury which is considered an emergency but whose parent or guardian is unavailable to give consent is permitted to give consent for medical services. (Cal. Bus. and Prof. Code § 2397).	The health care provider shall inform the minor’s parent or guardian. (Cal. Bus. and Prof. Code § 2397).
SEXUAL ASSAULT* SERVICES	A minor who may have been sexually assaulted may consent to medical care related to the diagnosis, treatment and the collection of medical evidence related to the assault. (Cal. Family Code § 6928).	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).
RAPE* SERVICES FOR MINORS UNDER 12 YRS**	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 related to the rape. (Cal. Family Code § 6928).	The health care provider must attempt to contact the minor’s parent/guardian and must 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 rape or assault. (Cal. Family Code § 6928).

*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)).

* For the purposes of minor consent alone, sexual assault includes acts of oral copulation, sodomy, and other violent crimes of a sexual nature.

*Rape requires an act of non-consensual sexual intercourse.
** See also “Rape Services for Minors 12 and Over” at page 4-4 of this chart

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<p align="center">*SKELETAL X-RAY TO DIAGNOSE CHILD ABUSE OR NEGLECT</p> <p>* The provider does not need the minor's or her parent's consent to perform a procedure under this section.</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).</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>
MINORS 12 YEARS OF AGE OR OLDER MAY CONSENT	LAW	CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER
<p align="center">OUTPATIENT MENTAL HEALTH SERVICES*</p> <p>* This section does not authorize a minor to receive convulsive therapy, psychosurgery or psychotropic drugs without the consent of a parent or guardian.</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: (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. (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.” (Cal. Family Code § 6924).</p>	<p align="center"><u>MENTAL HEALTH TREATMENT:</u></p> <p>The health care provider is required to involve a parent or guardian unless the health care provider decides that involvement is inappropriate. This decision must be documented in the minor's record.</p> <p 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. (Note: The parent/guardian of a minor shall not be entitled to inspect or obtain copies of the minor's patient records where the health care provider determines that access to the patient records requested by the parent/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. The decision of the health care provider as to whether or not a minor's records are available for inspection under this section shall not attach any liability to the provider, unless the decision is found to be in bad faith. (Cal. Health & Safety Code § 123115(a)(2))).</p>
<p align="center">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>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 records with the signed consent of the minor. (Cal. Health & Safety Code §§ 123110(a), 123115(a); Cal. Civ. 56.10, 56.11).</p>

MINORS 12 YEARS OF AGE OR OLDER MAY CONSENT	LAW	CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER
<p align="center">DIAGNOSIS AND/OR TREATMENT FOR SEXUALLY TRANSMITTED DISEASES</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>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 records with the signed consent of the minor. (Cal. Health & Safety Code §§ 123110(a), 123115(a); Cal. Civ. 56.10, 56.11).</p>
<p align="center">AIDS/HIV TESTING AND TREATMENT</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 the diagnosis and treatment of HIV/AIDS. (Cal. Family Code § 6926).</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 records with the signed consent of the minor. (Cal. Health & Safety Code §§ 123110(a), 123115(a); Cal. Civ. 56.10, 56.11).</p>
<p align="center">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 align="center">“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>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"> 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 The individual or program: <ol style="list-style-type: none"> Is an individual or program that holds itself out as providing alcohol or drug abuse diagnosis, treatment, or referral; OR 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 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).</p> <p>STATE: For programs that don’t meet the above criteria, state law applies. State law allows health care providers to determine whether involving a parent or guardian in the minor’s treatment would be appropriate. This decision must be documented in the minor’s record. (Cal. Family Code §6929(c)). A provider shall not be liable for any good faith decisions concerning access to a minor's records. (Cal. H & S Code §123115(a)(2)).</p>

MINOR 12 YEARS OF AGE OR OLDER MAY CONSENT	LAW	CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER
RAPE SERVICES FOR MINORS 12 and OVER	<i>“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.”</i> (Cal. Family Code 6927).	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 records with the signed consent of the minor. (Cal. Health & Safety Code §§ 123110(a), 123115(a); Cal. Civ. 56.10, 56.11).
MINOR 15 YEARS OF AGE OR OLDER	LAW	CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER
GENERAL MEDICAL CARE	<i>“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.”</i> (Cal. Family Code § 6922(a)).	<i>“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.”</i> (Cal. Family Code § 6922(c)).
MINOR MUST BE EMANCIPATED (GENERALLY 14 YEARS OF AGE OR OLDER)	LAW	CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER
GENERAL MEDICAL CARE	An emancipated minor may consent to medical, dental and psychiatric care. (Cal. Family Code § 7050(e)). <i>“A person under the age of 18 years is an emancipated minor if any of the following conditions is satisfied: (a) The person has entered into a valid marriage, whether or not the marriage has been dissolved. (b) The person is on active duty with the armed forces of the United States. (c) The person has received a declaration of emancipation”</i> from the court. (Cal. Family Code § 7002).	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 records with the signed consent of the minor. (Cal. Health & Safety Code §§ 123110(a), 123115(a); Cal. Civ. 56.10, 56.11).

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