

Understanding Confidentiality

Your teen is changing, and raising a teen can be tough. Teens need involved parents and adults, however, they also need privacy. Without privacy, teens may avoid getting the care they need for some health services. As a parent, it can be difficult to understand your role in privacy and confidentiality.

Your Changing Teen

- Wants more responsibility and independence
- Needs more privacy
- Thinks a lot about their own personal concerns
- Feels no one understands them
- Explores new behaviors and activities – some healthy and some risky

The Parent

- Supports their teen
- Listens without judgment
- Guides them
- Sets limits
- Becomes involved and aware of what is going on in their lives
- Expresses love
- Acknowledges strengths
- Gives them their time

The Health Provider

- Asks about strengths
- Builds rapport and trust
- Acts as their health advisor
- Advocates for healthy choices
- Helps with any risky behaviors
- Provides confidential health services and brief office interventions
- Listens to concerns

Parents need to provide consent for most medical care for their teens. However, under Vermont law, teens can get private care without parental consent for some visits. These include:

- Reproductive health services
- Substance abuse treatment
- Mental health treatment

Why can my teen go to the doctor for these issues without me knowing about it?

Each state has laws for children under 18 to get some kinds of health care without parental consent. Parents play an important role in helping teens stay healthy, and most teens want their parents' advice. There are some issues that your teen may feel embarrassed, ashamed, or scared to talk about with you, and if services are not private, they may avoid going to the doctor. Most healthcare providers understand the importance of parents in the lives of teens and will encourage and assist teens in sharing difficult information with parents.

What if my teen is in danger?

In most situations that pose a substantial threat to the child's life or well-being, such as abuse, or if the teen is at risk of harming themselves or others, health providers work with the teen and/or family to ensure that appropriate referrals or resources are made available. Providers also aide the teen in communicating concerns to parents or guardians.

How do I let my teen know that they can talk to me about these issues?

Let them know you are always there to help and listen, even when you might not agree with their decisions or choices. Staying calm and helping your teen learn how to make healthy decisions will allow them the space to be independent and the assurance that you will be there to support them, even with difficult issues.

Health Rights for Teens

1. You have the right to be treated with respect regardless of race, skin color, place where you were born, religion, sex, age, sexual orientation, gender identity, gender expression, ability, immigration status, financial status, health status or parental status.
2. At this health center, you have the right to talk to your provider alone, without your parent or guardian in the room. We may encourage you to share what we talk about with a parent/legal guardian or a trusted adult.
3. You have the right for private information you share with our health center staff to remain confidential and not be shared without your permission (giving consent) except for in the cases listed below:
 - You tell us or we suspect that an adult is hurting you.
 - You tell us that you want to hurt yourself.
 - You tell us you want to hurt someone else.
 - You are under 12 years old and having sex.
4. According to Michigan law, you have the right to the following services without the permission of a parent or legal guardian:
 - Pregnancy testing, prenatal care, and pregnancy services
 - Birth control information and contraceptives
 - Testing and treatment for sexually transmitted infections
 - Substance abuse treatment
 - If you are 14 or older: outpatient counseling (mental health) services, up to 12 visits
5. You have the right to have your options for care explained to you.
6. You have the right to review your health center records.
7. If you have questions about your rights or feel you have been mistreated, please inform the health center staff.

*Some insurance plans may mail information about your visit to your house.
Talk to your provider if you are using your family's insurance and want confidential care.*

TIPS FOR PROTECTING YOUTH CONFIDENTIALITY

While adolescent confidentiality laws provide us with formal (although often confusing) guidelines for ensuring confidentiality of our teen patients, it is frequently the small stuff that can seriously compromise an adolescent patient's confidence in his/her provider. The following is a list of tips-some obvious, some not—for preserving patient privacy and minimizing embarrassment in a clinical setting.

1. Do not discuss patient information in elevators, hallways, or waiting rooms.

If an adolescent patient overhears this conversation, he or she may assume that you will also discuss his or her case in an open environment.

2. Do not collect an adolescent patient's medical history or reason for visit in an open area.

It will be difficult for a teenager to discuss his or her personal issues honestly if he/she thinks other people can overhear.

3. When an adolescent patient gives you a contact phone number, make sure that you can leave messages.

If you can not, ask for an alternative number at which you can leave messages if necessary.

4. Likewise, do not send mail (such as appointment reminders and bills) home unless you have discussed whether or not the patient feels comfortable receiving mail from you at his or her home.

If he or she does not wish to receive mail at home, try to work out an arrangement whereby mail is picked up at the clinic. TIP: Some clinics have check boxes indicating a teen's preference regarding mail and phone calls. Other clinics clarify what kind of message might be ok to leave at a teen's contact number. (e.g. "Tina"called).

5. When discussing anything sensitive, such as sexual history, weight, or substance use, make sure all doors are closed.

A patient in the waiting room may overhear a discussion and thus be more reluctant to share information when he or she sees the health care provider.

6. Think about how your clinic administers paperwork to patients.

Are you asking clients to fill out forms such that other people might be able to read their answers? Give out a clipboard with the forms; also make sure that there is enough room in which to complete forms with some degree of privacy.

7. Make sure that any clinic literature your clinic or practice distributes is small enough to fit into purse or wallet.

Asking a teenager to leave with bright, large brochures on a sensitive subject, such as gonorrhea, will cause more embarrassment than anything else. These types of materials should be offered to teens in private.

8. At the beginning of the appointment, make it clear that a provider is required to maintain patient confidentiality, except under very specific circumstances.

Periodically remind the patient that anything he/she says about sex, drugs, and feelings will not leave the room.

IS YOUR OFFICE CONFIDENTIALITY CONSCIOUS?

Adolescents tend to underutilize existing health care resources. *The issue of confidentiality has been identified by both providers and youth as a significant access barrier to health care.* To support the promotion of adolescent care, please take a few moments to assess your office in determining whether it is confidentiality conscious. Creating a safe environment for teenagers to discuss issues concerning their health will facilitate the best possible care and counseling to respond to their needs.

- Do you have an office policy about confidential issues pertaining to youth and their families?
- Is it the usual practice in your clinic to allow adolescents and parents to talk separately with health care providers about their concerns?
- Do you educate your members and staff regarding laws that specifically pertain to adolescents and their right to receive care without parent or guardian's consent? (Please see summary of the "Legal Consent Requirements for Medical Treatment of minors", included in this packet.)
- Does the atmosphere (pictures, wallpapers, etc.) create a safe and comfortable environment for teens to discuss private concerns regarding their health?
- Do you display and /or offer educational materials on confidentiality to adolescent patients and/or patients?
- Are you and your staff careful not to discuss patient information in open environments (elevators, hallways or waiting rooms)?
- When collecting an adolescent patient's medical history or discussing anything sensitive, do you make sure all doors are closed?
- Do you ask if your adolescent patient feels comfortable receiving messages or mail from you, your patients, and his/her parents?
- Do you discuss situations in which you may need to breach confidentiality?

Source: Adolescent Health Working Group, 2003

PERFORMING AN ATRAUMATIC “PARENTECTOMY”

Or, how do I provide adolescent sensitive services when a parent or a caregiver is present?

Attempting to provide confidential services can cause great discomfort for the youth, parents, and providers if it is not handled in a sensitive manner. The following are recommendations that can facilitate a smooth transition from the parent-accompanied visit to the confidential adolescent visit.

ROADMAP

Lay out course of the visit.....

- For example, *“We will spend some time talking together about Joseph’s health history and any concerns that you or he might have, and then I will also spend some time alone with Joseph. At the end of the visit, we will all meet together again to clarify any tests, treatments or follow-up plans”.*

Explain your office/clinic policy regarding adolescent visits.

- **Review** your policy verbally early in the interaction with the youth and parent.
- **Acknowledge** that the youth is a minor and therefore has specific legal rights related to consent and confidentiality.
- **Introduce** the concept of fostering adolescent self-responsibility and self-reliance.
- **Reinforce** that this policy applies to all adolescents in your practice or clinic (in other words, this is not specific to YOUR child).

Validate the parental role in their child’s health and well-being.

Elicit any specific questions or concerns from the parent.

Direct questions and discussion to the youth while attending to and validating parental input.

REMOVE

- Invite the parents to have a seat in the waiting area, assuring them that you will call them prior to closing the visit.

REVISIT

- Once the parent is out of the room, revisit issues of consent and confidentiality with the youth, including situations when confidentiality has to be breached (suicidality, abuse.).
- Revisit areas of parental concern with the youth and obtain the youth’s perspective.
- Conduct the psycho-social interview and physical exam (ascertain whether youth desires parent’s presence during PE and accommodate youth’s preference.)

- Clarify what information from the psycho-social interview and PE the youth is comfortable sharing with the parent.

REUNITE

Invite the parent back to close the visit with both parent and youth.

TIPS.....

- A young person is more likely to disclose sensitive information to a health care provider if the youth is provided with confidential services, and has time alone with the provider to discuss his/her issues.
- Remember that even when the chief complaint is acne or earache, there may be underlying issues on the part of the adolescent (such as the need for a pregnancy test or contraception), which will only surface when provided confidential services.

EXTRA NOTES:

Additional ways to explain your policy regarding confidentiality:

- A letter to new adolescent patient and their parents, and all parents and patients on the youth's 11th or 12th birthday explaining your policy. This will help families to come prepared for the adolescent and the provider to spend some time alone.
- Posters in the waiting area explaining adolescent consent and confidentiality and your policy as it relates to the law can also help lay groundwork that provider will spending time alone with the youth.



Position paper

Confidentiality Protections for Adolescents and Young Adults
in the Health Care Billing and Insurance Claims Process

The Society for Adolescent Health and Medicine and the American Academy of Pediatrics

Keywords: Adolescent; Young adult; Confidentiality; Healthcare; Insurance; Billing

A B S T R A C T

The importance of protecting confidential health care for adolescents and young adults is well documented. State and federal confidentiality protections exist for both minors and young adults, although the laws vary among states, particularly for minors. However, such confidentiality is potentially violated by billing practices and in the processing of health insurance claims. To address this problem, policies and procedures should be established so that health care billing and insurance claims processes do not impede the ability of providers to deliver essential health care services on a confidential basis to adolescents and young adults covered as dependents on a family's health insurance plan.

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Positions

The Society for Adolescent Health and Medicine, American Academy of Pediatrics, and American College of Obstetricians and Gynecologists endorse the following positions:

- (1) Health care providers should be able to deliver confidential health services to consenting adolescents and young adults covered as dependents under a family's health insurance plan. These sensitive services include care related to sexually transmitted infections (STIs), contraception, pregnancy, substance use/abuse, and mental health, as well as care for other health issues that an adolescent or young adult considers sensitive. Assurance of confidentiality does not obviate the need for parents or guardians to be actively engaged in the care of their adolescent children, especially those who are minors, nor does it obviate the need for health care providers to assist adolescents in engaging their parents for appropriate support.
- (2) Policies and procedures should be established to ensure that health care billing and insurance claims processes such as explanation of benefit (EOB) notifications do not impede the confidential provision of health care services to adolescents and young adults. Specifically:
 - (a) The Department of Health and Human Services should issue guidance to clarify the meaning of the terms "endanger" and "endangerment" in the special confidentiality provisions of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule [1]. These provisions allow individuals to request special privacy protections when necessary to protect the health or safety of an individual. This guidance should make clear that "endangerment" includes the harms that result when access to important sensitive services, such as contraception and STI services, is impeded by fear of loss of confidentiality.
 - (b) Sending of EOBs or other similar notices should not be required when individuals insured as dependents obtain sensitive services. All avenues for eliminating these requirements should be explored, including: (1) use of provisions of the Patient Protection and Affordable Care Act (ACA) [2] that require coverage of key preventive services, including contraception and many STI services without cost sharing, thereby eliminating residual financial liability on the part of a policyholder for the services [3–5]; (2) modification or interpretation of state-level EOB requirements so they do not apply when individuals insured as dependents obtain sensitive services, especially if the policyholder has no residual financial liability; and (3) negotiation between employers and health insurers to include provisions in insurance

Position Paper of the Society for Adolescent Health and Medicine and the American Academy of Pediatrics.

contracts and policies that protect confidentiality when individuals insured as dependents receive sensitive services.

- (c) Health care professional organizations, clinicians, and policymakers should explore all available legal options for enabling health care providers to deliver confidential services to adolescents and young adults in the context of health care billing and insurance claims.
- (d) Health insurance plans and health care providers should collaborate to develop simplified mechanisms that allow individuals insured as dependents to receive confidential care. First, tools should be developed for health care providers to use in discussions with patients about their need for confidential care. Second, a simple procedure should be developed to facilitate health care provider use of the special confidentiality protections included in HIPAA. This would allow health care providers to designate that maintaining an adolescent or young adult's confidentiality for a particular service is needed and may be required by state or federal law. Insurers should honor requests made using this procedure.
- (e) Health insurers and government agencies should provide information to adolescent and young adult patients and their health care providers about ways in which billing processes can result in inadvertent disclosure of otherwise confidential information, and ways to potentially avoid this disclosure of confidential information. Health care professionals should remind their adolescent and young adult patients about the risks of inadvertent disclosure and encourage their patients to seek information about ways to avoid unwanted disclosure of confidential information.
- (f) Research is needed to determine whether existing or new policies designed to maintain confidentiality in the health care billing and insurance claims process are effective. This research should include evaluation of the interaction between confidentiality policies related to insurance and billing and those related to electronic health records [6]. To the extent that effective solutions are identified, their adoption by policymakers should be encouraged. Policies that are effective should be adopted broadly.

Background Information

EOBs and other mechanisms for communicating billing and insurance claims information to policyholders are intended to protect policyholders and insurers from fraud and abuse and to ensure policyholders have information about services provided under their health insurance policies for which they may have some financial liability. However, these forms of communication can have unanticipated and unintended negative consequences. EOBs are notifications to policyholders that health care services were provided under a health insurance plan, including those services provided to any dependents covered by the plan. Insurers routinely send EOBs to policyholders whenever a claim for services received by a covered dependent, regardless of age, is processed. EOBs generally disclose that services were provided to a dependent, the name and profession of the provider, and the specific laboratory used or other services rendered. Accordingly, EOBs and other similar

communications can erode the confidential delivery of essential health care to adolescents and young adults [7,8]. Thus, although the ACA increased access to sensitive services through expanded coverage and less cost sharing, challenges remain as the ACA also expanded health insurance coverage for young adults, the group of individuals most vulnerable to confidentiality breaches by EOBs and other billing and health insurance claims communications.

Importance of confidential health services

The importance of providing confidentiality protections for adolescents and young adults seeking sensitive services—care related to STIs, contraception, pregnancy, substance use/abuse, and mental health, as well as other care for a health issue that an adolescent or young adult may perceive as sensitive, such as electronic health records—cannot be overstated [6,9]. Numerous health care professional organizations have formal policy statements supporting the importance of confidentiality [10]. These organizations include, among many others, the American Academy of Pediatrics [6], the American Academy of Child and Adolescent Psychiatry [10], the Society for Adolescent Health and Medicine [11], the American College of Obstetricians and Gynecologists [12], and the American Medical Association [13].

State and federal laws and policies

State and federal laws and policies also recognize the importance of confidentiality in health care services delivery and provide confidentiality protection. Such laws apply differently to minors and adults. It is important to note that young adults who have reached the age of majority—age 18 years in almost every state—are entitled to the same legal confidentiality protections as older adults.

Although all states have laws that specifically allow minors to provide consent for a range of sensitive services independent of their parents, variation exists among states. For example, all states allow minors to consent to the diagnosis and treatment of STIs, although some states have age restrictions (e.g., only minors over age 14 years may consent) [14]. A significant majority of states explicitly permit minors to consent to contraceptive services; in other states, minors may consent to these services on the basis of their legal status or living situation (e.g., married, emancipated, or living apart from parents) [15]. Moreover, more than half of states allow minors to consent to outpatient mental health services [16]. Finally, almost all states permit minors to consent to substance abuse counseling and treatment [16]. State laws allowing minors to consent to certain services do not guarantee confidentiality. Some states have laws that specifically prohibit providers from disclosing information about certain services to parents. Other states provide physicians with the discretion to inform parents [16]. Even if a health care provider chooses not to share or is not legally allowed to share information with the minor's parents regarding sensitive services received by the minor, breaches of confidentiality may still occur in documentation of billing and health insurance claims.

In addition to state laws, federal laws also provide a layer of confidentiality protections for both adults and minors. Federal HIPAA privacy regulations contain significant protections for individuals, including young adults and adolescents, seeking confidential health care. With regard to adults, HIPAA regulations also require the consent of patients greater than the age of 18

years before confidential health information is disclosed to parents or other family members [17]. However, an exception in HIPAA allows for, but does not require, the disclosure of protected health information without an individual's authorization when such disclosure is necessary for payment. This can result in disclosures to policyholders when an adult child is a dependent on a health plan and receives a service that leaves the parent policyholder liable for payment [17].

When minors consent for their own health care services, HIPAA regulations defer to state or other applicable law regarding whether parents have access to confidential health information about their minor children. If state and other laws are silent, HIPAA gives discretion to the health care provider whether to grant the parents access to the minor's protected health information. It is the responsibility of physicians to know the applicable laws regarding confidentiality and disclosure [14–16,18].

In addition to its general requirements, the HIPAA privacy rule also includes special confidentiality provisions that can be used when necessary to protect the health or safety of an individual. These provisions allow individuals, including young adults and minors who have consented to their own care, to:

- Request that disclosure of their protected health information not be made without their authorization. Individuals may make such requests— withhold the sending of an EOB, for example—when they believe disclosure to a family member or policyholder would endanger them [19]. Covered entities are not required to agree to such requests, but if they do agree, they are required to comply. When payment is made in full by the patient or a third party other than the insurer, a covered entity is required to withhold disclosure [20].
- Request that communications, including sending of an EOB, be made by alternate means or to a different location. Specifically, this enables a beneficiary to request communications be sent by email rather than regular mail, that phone calls to remind about appointments not be made to the beneficiary's home phone, or that mail be sent to an address other than the home address. Health care providers are required to accommodate reasonable requests of this nature. Health plans also are required to accede to such requests for these “confidential” communications but may require that the individual making the request state that disclosure of the information with respect to which the request is made would endanger the individual [19].

Expanded access to sensitive health care services

The ACA expanded access to sensitive services for both minors and young adults. For example, adult children ages 18 to 26 are allowed to remain on their parents' health insurance plans [21]. Also under the ACA, Department of Health and Human Services requires new health plans to cover specific preventive services for women without cost sharing, based on an Institute of Medicine Consensus Report. The Institute of Medicine's report recommended a range of preventive women's health services, including (1) improved screening and counseling for cervical cancer and STIs; (2) full range of Food and Drug Administration–approved contraceptive methods and reproductive counseling; and (3) annual well-women visits [22]. In addition, for both men and women, the ACA required health plans to cover without cost sharing a range of preventive services, including

some sensitive services (e.g., STI screening) recommended by the US Preventive Services Task Force [3–5].

Danger to health from confidentiality loss in billing and insurance claims process

The breaches of confidentiality that occur through the billing and insurance claims process have potentially serious consequences because protecting confidentiality for minors and young adults is critical to encouraging those individuals to access health care needed to prevent negative health outcomes [6–8,11–13,18]. Although there are positive benefits of parental involvement in an adolescent's health care, situations exist in which parental notification could place an adolescent at risk of verbal and/or physical abuse or conflict. This could lead to underutilization of essential health services by adolescents. The possibility of parental notification has been shown to contribute to forgone care or delays in seeking health care. In one survey, adolescent females younger than 18 years seeking sexual health services in US family planning clinics were asked whether they would continue to use the clinic for prescription contraception if parental notification were mandated. Although 79% of adolescent patients whose parents were aware of their family planning clinic use would continue to use these services, only 29.5% of adolescent patients whose parents were unaware of their clinic visits reported intent to continue accessing the clinic for contraceptive services [8]. Overall, 18% reported that they would engage in risky sexual behavior, and 5% would forgo STI services [8]. The risk of avoiding health care because of confidentiality concerns also exists for young adults who are covered as dependents on family policies.

Given the serious consequences of unintended pregnancy and untreated STIs, lack of access to confidential care endangers the health and well being of adolescents and young adults. In addition, when individuals who have health insurance coverage are deterred from seeking services and using that coverage to pay for it, they often turn to publicly funded clinics and services, placing a burden on the public health system and potentially fragmenting care. Ultimately, stakeholders must collaborate to implement policies that enable providers to deliver sensitive health services confidentially to individuals insured as dependents in an effort to prevent unnecessary negative health outcomes.

Provisions to address confidentiality in the health care billing and insurance claims process

Current laws and policies have established ways to improve confidentiality in the health care billing and insurance claims process [23]. Some of these pertain to private health insurance plans; others are found in state Medicaid policies. In addition, some insurers, as a matter of practice, send EOBs to the patient who is >18 years rather than to the policyholder.

Several states have adopted provisions to address confidentiality in the private health care billing and insurance claims process. Approaches include identifying situations in which EOBs do not have to be sent (e.g., when no balance is due from the policyholder); sending EOBs for sensitive services directly to the patient at an address specified by that patient and using minor consent laws to specify that the care to which the minor can consent must be confidential including in the health care billing process [18,24].

Exempting sensitive services such as contraception and STI care from EOBs is standard practice in many state Medicaid programs. A review of state Medicaid policies on EOBs conducted

found that state policies vary [25]. Significantly, many states expressly exclude information related to sensitive services, such as family planning and STI services, received by Medicaid recipients, regardless of age, from EOBs.

Protecting confidentiality in health care billing and insurance claims is essential in providing health care for adolescents and young adults. Health care providers must be able to deliver confidential health services to young people covered as dependents under a family's health insurance plan. Policies and procedures should be established so that EOB notifications do not impede the otherwise confidential provision of health care services to adolescents and young adults.

Endorsed by the American College of Obstetricians and Gynecologists and should be construed as American College of Obstetricians and Gynecologists clinical guidance.

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MODULE ONE: CONFIDENTIALITY

A. TIPS, TRICKS & TOOLS

California Minor Consent Laws	2
Snapshot: Who Can Consent for What	7
When Sexual Intercourse is Reportable as Child Abuse	8
Confidentiality and Minor Consent Q&A	9
Mandated Reporting Q&A.....	11
Is Your Office Confidentiality Conscious?	13
Confidentiality Conscious Back Office Recommendations	15
Balancing Act: Engaging Youth, Supporting Parents	16
Provider Tips for Discussing Conditional Confidentiality	17
Financing Sensitive Services: A Guide for Adolescent Health Care Providers.....	18

B. HANDOUTS FOR PARENTS AND YOUTH

FOR YOUTH

Introduction.....	21
The Truth About Confidentiality	22
Youth-friendly Clinic Poster	23
Your Health Rights and Responsibilities	24
Quiz: How well do you know your health rights and responsibilities?	25

FOR PARENTS

Handouts from Providers to Parents Regarding Consent and Confidentiality	26
Your Teen is Changing!	28
Talking to Your Teen About Tough Issues	29
Helping Your Teen Take Responsibility for Their Health	30
Know Myself, Know My Teen	31
The 5 Basics of Parenting Adolescents.....	32
My Teen is Going to the Doctor and Not Telling Me!.....	33

C. FOR SCHOOL HEALTH PROVIDERS

What is FERPA?	34
How Does FERPA Differ From HIPAA?	36
What Do I Follow?	38
FAQs	40

D. RESOURCES

Confidentiality Literature Review Summaries	43
Federal Medical Privacy Regulations (HIPAA Rules): A Brief Overview.....	45
Confidentiality and Minor Consent-related Online Resources.....	48



CALIFORNIA MINOR CONSENT AND CONFIDENTIALITY LAWS: MINOR CONSENT SERVICES AND WHEN PARENTS MAY ACCESS RELATED MEDICAL INFORMATION

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	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)).	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.4th 307 (1997); Cal. Health & Safety Code §§ 123110(a), 123115(a)(1); Cal. Civ. Code §§ 56.10, 56.11).
ABORTION		
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>	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>RAPE² SERVICES FOR MINORS UNDER 12 YRS³</p> <p>²Rape requires an act of non-consensual sexual intercourse.</p> <p>³See also “Rape Services for Minors 12 and Over” on page 3 of this chart</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).	Both rape and sexual assault of a minor are considered child abuse under California law and must be reported as such. The child abuse authorities investigating the report legally may disclose to parents that a report was made.

MINORS OF ANY AGE MAY CONSENT	LAW	CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER IN RELATION TO PARENTS
EMERGENCY MEDICAL SERVICES* *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)).	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).	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>)
SKELETAL X-RAY TO DIAGNOSE CHILD ABUSE OR NEGLECT* * The provider does not need the minor's or her parent's consent to perform a procedure under this section.	"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).	Neither the physician-patient privilege nor the psychotherapist-patient privilege applies to information reported pursuant to this law in any court proceeding.
MINORS OF 12 YEARS OF AGE OR OLDER MAY CONSENT	LAW	CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER IN RELATION TO PARENTS
OUTPATIENT MENTAL HEALTH SERVICES⁴/SHELTER SERVICES ⁴ This section does not authorize a minor to receive convulsive therapy, psychosurgery or psychotropic drugs without the consent of a parent or guardian.	"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).	MENTAL HEALTH TREATMENT: 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). While this exception allows providers to inform and involve parents in treatment, 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 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. <i>See also exception at endnote (EXC).</i> SHELTER: 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.

CALIFORNIA MINOR CONSENT AND CONFIDENTIALITY LAWS:

MINOR CONSENT SERVICES AND WHEN PARENTS MAY ACCESS RELATED MEDICAL INFORMATION, cont.

MINORS OF 12 YEARS OF AGE OR OLDER MAY CONSENT	LAW	CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER IN RELATION TO PARENTS
<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>“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"> 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” supra at page 2. See also exception at endnote (EXC.).</p>

MINORS OF 12 YEARS OF AGE OR OLDER MAY CONSENT	LAW	CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER IN RELATION TO PARENTS
DIAGNOSIS AND/OR TREATMENT FOR INFECTIOUS, CONTAGIOUS COMMUNICABLE DISEASES	<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 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 of a minor is considered child abuse under California law and must be reported as such. Even if health care providers cannot disclose to parents that they have made this report, adolescent patients should be advised that the child abuse authorities investigating the report legally may disclose to parents that a report was made.</p>
RAPE SERVICES FOR MINORS 12 AND OVER	<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>	
AIDS/HIV TESTING AND TREATMENT	<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 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>
DIAGNOSIS AND/OR TREATMENT FOR SEXUALLY TRANSMITTED DISEASES	<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>	

CALIFORNIA MINOR CONSENT AND CONFIDENTIALITY LAWS:

MINOR CONSENT SERVICES AND WHEN PARENTS MAY ACCESS RELATED MEDICAL INFORMATION, cont.

MINORS OF 15 YEARS OF AGE OR OLDER MAY CONSENT	LAW	CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER IN RELATION TO PARENTS
GENERAL MEDICAL CARE	<p>“A minor may consent to the minor’s medical care or dental care if all of the following conditions are satisfied:</p> <p>(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 exception at endnote ^(EXC).</p>
MINOR MUST BE EMANCIPATED (GENERALLY 14 YEARS OF AGE OR OLDER)	LAW	CONFIDENTIALITY AND/OR INFORMING OBLIGATION OF THE HEALTH CARE PROVIDER IN RELATION TO PARENTS
GENERAL MEDICAL CARE	<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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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.

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CALIFORNIA MINOR CONSENT LAWS

SERVICES YOUTH CAN RECEIVE WITHOUT PERMISSION FROM THEIR PARENT/GUARDIAN		CAN PROVIDER TELL YOUTH'S PARENT/GUARDIAN?
Birth Control <i>Except Sterilization</i>	Minors of any age	No Parental notification allowed only with consent of minor
Pregnancy (Prev, Dx, Tx) <i>Including inpatient care</i>	Minors of any age	
Abortion	Minors of any age	
STIs, Contagious and Reportable Diseases (Dx & Tx)	Minors 12 yrs or older	
HIV Testing	Minors 12 yrs or older and assessed as competent to give informed consent	
Sexual Assault Care	Minors of any age	Yes In most cases, an attempt to notify parent/guardian must be made. ^{1,2}
Alcohol/Drug Counseling by Federally Assisted Treatment Program <i>Including inpatient care</i>	Minors 12 yrs or older ^{3,4}	No Parental notification allowed only with consent of minor
Alcohol/Drug Counseling by Non-Federally Assisted Treatment Program	Minors 12 yrs or older ^{3,4}	Yes An attempt to notify parent/guardian must be made, except when provider believes it is inappropriate
Outpatient Mental Health Treatment	Minors 12 yrs or older ⁵	

DEFINITIONS

(with regard to minor consent)

Confidentiality: The provider can only share patient information with permission of patient. Note: Exceptions include reporting child abuse and insurance billing.

Consent: Giving permission to receive health services; or giving permission to share patient information with others.

Notification: The provider is required to tell a minor's parent/guardian that he/she received a specific health service. Note: Notification does not mean access to medical records.

Sexual assault: For the purposes of minor consent alone, sexual assault includes but is not limited to acts of oral sex, sodomy, rape, and other violent crimes of a sexual nature that occur without permission.

Note: Minors maintain the same right to consent for the above healthcare services upon entry into foster care and juvenile justice systems. For more detailed information on consenting for healthcare services for youth in the foster care and juvenile justice systems, see: *Consent to Treatment for Youth in the Juvenile Justice System: California Law and Consent to Medical Treatment for Foster Children: California Law* at www.teenhealthrights.org.

¹The law allows for some exceptions to parental notification. These exceptions include suspecting the parent of assault and certain cases of rape. See teenhealthrights.org for more information.

²Sexual assault requires a child abuse report in which case youth should be advised that parents may be notified by law enforcement or child protective services.

³However, parent/guardian can consent over the minor's objection.

⁴Parent/guardian's consent is required for methadone treatment.

⁵If (1) the minor is 12 years or older, is mature enough to consent AND (2) the minor is (A) the victim of incest or child abuse or (B) would present a threat of serious physical or mental harm to self or others without treatment.

KEY:

Pre=Prevention

Dx=Diagnosis

Tx=Treatment

STIs=Sexual Transmitted Infections

Adapted from: CA Minor Consent Laws Pocket Card, the Adolescent Health Working Group.



When Sexual Intercourse with a Minor Must Be Reported as Child Abuse: California Law*

In California, health care practitioners are mandated to report any reasonable suspicion of child abuse. Sexual intercourse with a minor is reportable as child abuse:

1. WHEN COERCED OR IN ANY OTHER WAY NOT VOLUNTARY

Mandated reporters must report any intercourse that was coerced or in any other way not voluntary, irrespective of the ages of the partners and even if both partners are the same age. Sexual activity is not voluntary when accomplished against the victim's will by means of force or duress, or when the victim is unconscious or so intoxicated that he or she cannot resist. See Penal Code § 261 for more examples. Irrespective of what your patient tells you, treating professionals should use clinical judgment and "evaluate facts known to them in light of their training and experience to determine whether they have an objectively reasonable suspicion of child abuse." 249 Cal. Rptr. 762.

2. BASED ON AGE DIFFERENCE BETWEEN PARTNER AND PATIENT IN A FEW SITUATIONS

Mandated reporters also must report based on the age difference between the patient and his or her partner in a few circumstances, according to the following chart:

KEY: **M** = Mandated. A report is mandated based solely on age difference between partner and patient.

CJ = Clinical Judgment. A report is not mandated based solely on age; however, a reporter must use clinical judgment and must report if he or she has a reasonable suspicion that act was coerced, as described above.

AGE OF PATIENT	AGE OF PARTNER										
	12	13	14	15	16	17	18	19	20	21	22 and older
11	CJ	CJ	M	M	M	M	M	M	M	M	M ⇒
12	CJ	CJ	M	M	M	M	M	M	M	M	M ⇒
13	CJ	CJ	M	M	M	M	M	M	M	M	M ⇒
14	M	M	CJ	CJ	CJ	CJ	CJ	CJ	CJ	M	M ⇒
15	M	M	CJ	CJ	CJ	CJ	CJ	CJ	CJ	M	M ⇒
16	M	M	CJ	CJ	CJ	CJ	CJ	CJ	CJ	CJ	CJ
17	M	M	CJ	CJ	CJ	CJ	CJ	CJ	CJ	CJ	CJ
18	M	M	CJ	CJ	CJ	CJ	Chart design by David Knopf, LCSW, UCSF. The legal sources for this chart are as follows: Penal Code §§ 11165.1; 261.5; 261; 259 Cal. Rptr. 762, 769 (3 rd Dist. Ct. App. 1989); 226 Cal. Rptr. 361, 381 (1 st Dist. Ct. App. 1986); 73 Cal. Rptr. 2d 331, 333 (1 st Dist. Ct. App. 1998).				
19	M	M	CJ	CJ	CJ	CJ					
20	M	M	CJ	CJ	CJ	CJ					
21 and older	M	M	M	M	CJ	CJ					

DO I HAVE A DUTY TO ASCERTAIN THE AGE OF A MINOR'S SEXUAL PARTNER FOR THE PURPOSE OF CHILD ABUSE REPORTING?

No statute or case obligates health care practitioners to ask their minor patients about the age of the minors' sexual partners for the purpose of reporting abuse. Rather, case law states that providers should ask questions as in the ordinary course of providing care according to standards prevailing in the medical profession. Thus, a provider's professional judgment determines his practice. 249 Cal. Rptr. 762, 769 (3rd Dist. Ct. App. 1988).

WHAT DO I DO IF I AM NOT SURE WHETHER I SHOULD REPORT SOMETHING?

When you aren't sure whether a report is required or warranted, you may consult with Child Protective Services and ask about the appropriateness of a referral.

*This worksheet addresses reporting of consensual vaginal intercourse between non-family members. It is not a complete review of all California sexual abuse reporting requirements and should not be relied upon as such. For more information on other reporting rules and how to report in California and other states, check www.teenhealthrights.org

CONFIDENTIALITY AND MINOR CONSENT Q&A

Q: What are the services a minor can consent to?	A: See pages 2-8 “CALIFORNIA MINOR CONSENT LAWS: Who can consent for what services and providers’ obligations.”
Q: If a minor cannot give consent to health care, who (besides a parent) can give it for them?	A: <p><i>Adult Caretaker:</i> With letter from parent, or with a caretaker consent affidavit;</p> <p><i>Guardian:</i> With court order granting guardianship;</p> <p><i>Court:</i> Minors 16 and over whose parents are unavailable;</p> <p><i>Juvenile Court:</i> Minor who is a dependent of court;</p> <p><i>Foster Parent:</i> In some cases.</p> <p><i>Emergency:</i> Consent not required in an emergency</p> <p>Note: For complete information, please refer to http://www.teenhealthrights.org/</p>
Q: How far should I go when trying to reach a parent?	A: When parental consent is necessary in order to provide a service, the provider must obtain that consent. If the provider is unable to reach a parent and believes that treatment must be provided immediately, the provider should proceed if the youth’s medical condition qualifies as an emergency. The provider should clearly document his/her actions, decisions, and rationale for treatment or interventions.
Q: Can consent be given verbally?	A: California statutes do not specifically require that consent be written. Often, for routine uncomplicated care, providers feel comfortable with verbal consent. In these cases, it is clear that the person giving consent understands the risks and consequences of the procedure and that the verbal communication is documented in the medical record. If the treatment is more complicated, the provider may want a signed consent form to be sure that the person providing consent is providing “informed consent” and understands the ramifications of the procedures performed. Health care providers should establish an office policy to provide all staff guidance. (See Back Office Policies, p.15)
Q: If parents give consent to treatment, does that give them the right to look over medical records?	A: The general rule is that parents have a right to see medical records if the parents consented to the treatment. HOWEVER, California law gives health care providers the right to refuse access to records anytime the health care provider determines that access to the patient records would have a detrimental effect on the provider’s professional relationship with the minor patient or the minor’s physical or psychological well-being. (Cal. Health and Safety Code § 123115(a)(2)). The health care provider is not liable for denying access to records under this provision if the decision to deny access was made in good faith.
Q: When the youth has the right to confidential care, what do I do if I’m uncomfortable NOT telling parents?	A: If a minor has the legal right to confidential care, a provider must abide by that right or risk liability or other legal sanction. There are a few minor consent statutes that grant the health provider the right to decide whether contacting a parent is appropriate or necessary even over the minor’s objection. One example is the minor consent drug treatment statute. See the chart on pages 2-6 confidentiality column for statutes that allow providers to share with parents over the minor’s objection. In those cases and no others, a provider can rely on their professional judgment to decide whether to share information with parents. Providers are not legally obligated to provide services to which they are morally or ethically opposed. In such circumstances, the provider should refer the adolescent to another provider, clinic, or program who can better meet the teen’s health care needs.

CONFIDENTIALITY AND MINOR CONSENT Q&A, cont.

Q: What if the minor does not **SEEM** competent to make his or her own decisions? (low IQ, drug use, adult influence, etc.)

A: A patient is competent if the patient (1) understands the nature and consequence of his/her medical condition and the proposed treatment, and (2) can communicate his/her decision.

Providers can make their own assessment of a patient's competency and do not need a judicial ruling or psychiatric diagnosis in order to find a patient incompetent. When assessing whether the patient understands the nature and consequences of his/her medical condition (and can communicate his/her decision) take into account the following:

- (1) Always start with the presumption that a patient is competent.
- (2) Minority age alone is not a sufficient basis for determining if someone is incompetent. The law specifically deems minors capable of providing consent in certain medical situations.
- (3) Physical or mental disorders alone are not a sufficient basis for finding incompetency.
- (4) The nature and consequence of the medical condition must be explained in terms a minor would understand.
- (5) Believing that the patient is making an unwise or "wrong" medical decision is not a sufficient basis for finding the patient incompetent.
- (6) Competency is situation specific. A minor deemed incompetent in one situation may not be considered incompetent in all situations.

Q: How can we provide confidential care when the patient's health plan sends Explanation of Benefits (EOBS), bills, or surveys home after a visit?

A: If you know that a health plan will automatically send out materials to your patient you can do the following:

- (1) Become a Family PACT provider and bill for services through this program.
- (2) Urge your patient to sign-up for the Medi-Cal Minor Consent program and bill for services through this program.
- (3) Refer your patients to Family PACT or Medi-Cal Minor Consent providers. See page A-18, "Financing Sensitive Services: A Guide for Adolescent Health Care Providers."
- (4) Contact the patient's health plan and let them know your concerns.
- (5) Urge your patients to request that their insurer not send an EOB or send it to a different address, although the insurer is not obligated to comply.

Q: I know that minors 12 and over can consent to their own mental health care when they are mature enough to participate in the service and the minor would present "a danger or serious physical or mental harm to self or others without the mental health treatment." But, what is "serious harm?"

A: There is no statute or regulation that defines the term "serious harm". The interpretation of this term is left to the discretion and professional judgment of the provider. For more detailed information, please refer to "Behavioral Health: An Adolescent Provider Toolkit" at www.ahwg.net.

MANDATED REPORTING Q&A

<p>Q: Who is a Mandated Reporter?</p>	<p>A: There is a list of 33 mandated reporters, but those pertaining to adolescent health services are: 1) Physicians, 2) Surgeons, 3) Psychiatrists, 4) Psychologists, 5) Psychological Assistants, 6) Mental Health and Counseling Professionals, 7) Dentists, 8) Dental Hygienists, 9) Registered Dental Assistants, 10) Residents, 11) Interns, 12) Podiatrists, 13) Chiropractors, 14) Licensed Nurses, 15) Optometrists, 16) Marriage, Family and Child Counselors, Interns and Trainees, 17) State and County Public Health Employees, 18) Clinical Social Workers, 19) EMT's and Paramedics, and 20) Pharmacists.</p>
<p>Q: Why and when am I required to make a report?</p>	<p>A: The California Child Abuse and Neglect Reporting Act created a set of state statutes that establish the whys, whens and wheres of reporting child abuse in California.</p> <p>“Mandated reporters” are required to make a child abuse report anytime, in the scope of performing their professional duties, they discover facts that lead them to know or reasonably suspect a child is a victim of abuse. Reasonable suspicion of abuse occurs when “it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse or neglect.”</p> <p>The Act requires professionals to use their training and experience to evaluate the situation; however, “nothing in the Act requires professionals such as health practitioners to obtain information they would not ordinarily obtain in the course of providing care or treatment. Thus, the duty to report must be premised on information obtained by the health practitioner in the ordinary course of providing care and treatment according to standards prevailing in the medical profession.” (People v. Stockton Pregnancy Control Medical Clinic, 203 Cal.App.3d 225, 239-240, 1988)</p> <p>The pregnancy of a minor in and of itself does not constitute a basis for a reasonable suspicion of sexual abuse. A child who is not receiving medical treatment for religious reasons shall not be considered neglected for that reason alone.</p>
<p>Q: What about the right of patient confidentiality?</p>	<p>A: Child Abuse reporting is one of the few exceptions to patient confidentiality. Reporters do not need the minor or parent’s consent to share the otherwise confidential information necessary to make a report. The Child Abuse Reporting Act specifically exempts reporters from any liability for breaching confidentiality if they make a good faith report of abuse.</p>
<p>Q: When does a mandated reporter have to report sexual activity?</p>	<p>A: See page A-8 “When Sexual Intercourse is Reportable as Child Abuse in California?”</p>
<p>Q: How do I make a report?</p>	<p>A:</p> <ol style="list-style-type: none"> 1. Reports should be made to any one of the following: <ul style="list-style-type: none"> • any police department or sheriff’s department, not including a school district police or security department; • the county probation department, if designated by the county to receive mandated reports; or • the county welfare department (often referred to as CWA or CPS). 2. You must make an initial report immediately or as soon as is possible by telephone. A written report (DOJ form SS 8572) must be sent, faxed, or electronically transmitted within 36 hours of the verbal report.

MANDATED REPORTING Q&A, cont.

Q: What will I report?	A: <ol style="list-style-type: none">1. Your name. Although this is kept confidential, there are exceptions in certain limited situations.2. The child's name.3. The present location of the child.4. The nature and extent of the injury.5. Any other information requested by the child protective agency, including what led you to suspect child abuse.6. If the child does not feel safe returning to the place of abuse or if he or she is in immediate danger, report this information as well.
Q: What happens to the report?	A: <ol style="list-style-type: none">1. The report will be investigated either by the local law enforcement agency or by the child protective services agency.2. The report will be assessed as to whether there is a need for immediate action.3. High risk factors will be considered to determine whether immediate face-to-face contact is required (ex. Direct interviews with anyone who might provide more information on the situation).4. The report will be determined to be either:<ol style="list-style-type: none">a) Unfounded (false, inherently improbable, to involve accidental injury, or not to constitute child abuse);b) Substantiated (constitutes child abuse or neglect);c) Inconclusive (not unfounded, but the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect has occurred).
Q: What happens if the report is not unfounded?	A: <ol style="list-style-type: none">1. It will be forwarded to the Child Abuse Central Index and investigation will continue.2. The child may be taken into protective custody.3. A dependency case may be opened.
Q: Will I be told about the status of the report?	A: The Child Protective Agency is required to provide mandated reporters with feedback about the report and investigation. It might be necessary to be proactive in this situation by calling the Department of Social Services.
Q: Is there a statute of limitations?	A: No. If an individual under 18 years old tells you about abuse, even if it occurred when he or she was a young child, you must report it. Other agencies will decide whether the case should be pursued.

IS YOUR OFFICE CONFIDENTIALITY CONSCIOUS? OFFICE SELF-ASSESSMENT CHART

			YES	NO
STAFF	Knowledge	Staff are educated regarding the confidentiality laws that pertain to adolescents (p. 2-11 of toolkit). Reference materials are available for all staff.		
	Policies	When confidentiality cannot be maintained, adolescents are provided referrals to other practices where confidentiality will be safeguarded.		
	Practice	Charts and paperwork are securely placed or stored.		
		Patient information is only discussed in private and never in elevators, hallways, parking lots, garages, waiting rooms, or other open spaces.		
WAITING ROOM	Privacy	Precautions are taken to ensure privacy when patients register at the front desk.		
		Patients can sit in visually obscured, private areas (i.e. a corner or alcove; behind a room divider), and are shielded from the view of people walking outside.		
		Waiting room signs assure confidentiality.		
	Environment	The atmosphere (pictures, posters, etc.) creates a safe and comfortable environment for adolescents to discuss private health concerns.		
		Patients are given as much privacy as possible when completing forms and paperwork.		
HAND OUTS AND MATERIALS	Discrete	Literature is small enough to fit into a purse or wallet.		
	Accessible	Educational materials on confidentiality for adolescent patients and their parents are displayed and/or offered.		
		Written materials have been translated to languages spoken by patients and families.		
		Written materials have been assessed for reading levels and some materials target adolescents with a reading level below 8th grade.		
EXAM	Informative	Adolescents and parents are provided with the opportunity to talk one-on-one with the health care provider about their concerns.		
		At the beginning of each appointment, the parameters of confidentiality are explained to patients and his/her parents.		
		Situations in which confidentiality may be breached are discussed.		
		A sign in the exam room encourages patients to ask questions.		
	Private	Patients are given privacy when changing clothes.		
		Doors are closed during history taking, counseling, and physical exams.		

IS YOUR OFFICE CONFIDENTIALITY CONSCIOUS? OFFICE SELF-ASSESSMENT CHART, cont.

			YES	NO
IN-HOUSE RECORD KEEPING*	HIPAA Compliant	File cabinets, drawers, and file rooms are closed and locked when not in use.		
		Adolescent charts are flagged with a sticker stating “DO NOT COPY,” and staff are trained to separate out confidential materials when copying records.		
		Confidential visit information is filed in a separate or distinctly marked section of the medical record.		
	Electronic Records	Computer access is protected by passwords, and monitors are faced away from public view.		
PRE-VISIT AND FOLLOW UP	Phone Calls	New adolescent patients can join your practice without parental consent when legally possible.		
		Patients are asked at the time of scheduling if automated appointment reminder calls are ok.		
		At every visit, adolescent patients are asked where and how they can be contacted by phone or email for general and/or confidential matters.		
	Mail	Appointment reminders are only mailed to adolescent patients’ homes with permission from the adolescent. If the adolescent does not wish to receive mail at home or an alternate address, he or she is offered a time to pick up mail at the clinic.		
BILLING	Procedures	Special considerations are made to safeguard confidential visit information for adolescents with private insurance. Please see p. 15 of toolkit.		
		Payment for confidential services is collected at the time of service if possible.		

HOW DID YOU SCORE?

If you checked more than half of the boxes “yes” in each section, you’re on your way to having a confidentiality conscious office. Each section in which you checked only half or less of the boxes “yes” should be improved to better promote and protect confidentiality in your office. You can improve your office by implementing each piece that you checked “no.”

*While establishing confidentiality conscious guidelines in the front office is essential, it is also important to acknowledge that confidentiality can be breached through the systems that support your electronic record keeping, billing, insurance claims, and explanation of benefits (EOBs). See the Back-Office Policy Recommendations (p.15) for suggestions on confidentiality conscious policies for the systems in your type of practice.

CONFIDENTIALITY CONSCIOUS BACK-OFFICE POLICY RECOMMENDATIONS

The following administrative policies are necessary in any practice setting for the promotion and protection of adolescent confidentiality. Exemplary policies from various health care settings can be found at www.californiateenhealth.org.

COMMUNICATION AMONG FRONT AND BACK OFFICE STAFF

- Clinician/Provider: The clinician stamps or visibly marks the chart of each adolescent patient who receives minor consent services. Clearly marking charts that contain confidential information is imperative so that all personnel (including registration and lab) are aware that adolescents' confidentiality must be maintained.
- Front and Back Office Staff: All staff are trained to look for confidential charts and treat them accordingly.

SENSITIVE BILLING PRACTICES

- For confidential services, request any co-payment at the time of service. If the adolescent patient cannot pay at the time of visit, a balance is incurred that can be paid in person at a later date or alternately, waiving the fee.
- Electronic or automatic billing programs can be circumvented by using alternate programs or methods of record keeping for paying for confidential services.

DIFFERENT TYPES OF PRACTICES WILL REQUIRE ADDITIONAL OR SPECIALIZED POLICIES.

Special Considerations for Privately Insured Patients

While Medi-Cal and other types of public coverage generally avoid sending explanation of benefits (EOB) to patients' homes for confidential or sensitive services, private insurance companies are often required to send EOBs as a measure to avoid fraud. Even if billing to the home is avoided, an EOB sent home can breach confidentiality for adolescents who are insured through their parents. In general, *providers* have little to no control over how insurers will inform their beneficiaries of claims, but HIPAA allows *patients* to request that his or her insurance plan not send an EOB to the household if disclosing the information to another household member will "endanger" the patient.

POLICY RECOMMENDATIONS:

- Ensure that patients seeking confidential or sensitive services are aware that they may request that their insurer not send an EOB or send it to a different address if the disclosure would "endanger" the patient. Note that the insurer is not obligated to comply with the request. Adolescent patients may not know what type of insurance they have, so the following recommendation should be simultaneously implemented.
- Train billing, claims, or other appropriate staff to flag or contact privately insured patients receiving confidential care to warn them that an EOB containing information may be sent to their home address. Patients receiving confidential services who feel they would be endangered by receiving an EOB to the household should be encouraged to contact their health plan's HIPAA-required privacy officer for information on how to make a request.

ELECTRONIC RECORDS

- Face monitors away from public and other employee view, or use privacy screens, strategically placed objects, or timed screen savers and log-outs.
- Use passwords, and enforce no password sharing or accessible written passwords.
- When communicating between electronic systems, use a real or virtual cover sheet with a confidentiality notice and request to destroy if sent unintentionally.
- When disclosing medical records of a minor to the parent of that minor, confidential minor-consent services are NOT automatically printed or included.

PROMOTION OF SERVICES

- Advertisement wallet cards are adolescent-appropriate and state confidentiality practices.
- Publicize your services at local schools.

Balancing Act: Engaging Youth, Supporting Parents

Attempting to provide confidential services can cause great discomfort for adolescents, parents, and providers if it is not handled in a sensitive manner. The following are recommendations to ease the transition from the parent-accompanied visit to the confidential adolescent visit. The participation of a parent/caregiver in the adolescent's visit is invaluable and should be encouraged. That said, essential information may not be disclosed if the provider does not establish rapport and an alliance with the adolescent. When balancing the needs, concerns, and priorities of the parent with those of the adolescent, remember, the *adolescent* is your client, not the parent.

SEPARATING THE ADOLESCENT AND PARENT IN THE CLINICAL VISIT:

ROADMAP

- Lay out the course of the visit... *for example*, “We will spend some time talking together about Joseph’s health history and any concerns that you or he might have, and then I will also spend some time alone with Joseph. At the end of the visit, we will all talk to clarify any tests, treatments or follow-up plans.”
- Explain your office/clinic policy regarding adolescent visits.
 - Review* your policy verbally early in the interaction with the adolescent and parent.
 - Normalize* the reality that adolescents have an increased concern with and need for privacy.
 - Acknowledge* that although the adolescent is a minor, they do have specific legal rights related to consent and confidentiality.
 - Introduce* the concept of fostering adolescent self-responsibility and self-reliance.
 - Reinforce* that this policy applies to all adolescents in your practice or clinic (in other words, this is not specific to a particular adolescent).
 - Validate* the parental role in their adolescent’s health and well-being.
- Elicit any specific questions or concerns from the parent.
- Direct questions and discussion to the adolescent while attending to and validating parental input.

SEPARATE

- Invite the parents to have a seat in the waiting area, assuring them that you will call them in prior to closing the visit.

ESTABLISHING A RELATIONSHIP WITH THE ADOLESCENT:

REVISIT

- Once the parent is out of the room, revisit issues of consent and confidentiality with the adolescent, including situations when confidentiality has to be breached (suicidality, abuse, etc.).
- Revisit areas of parental concern with the adolescent and obtain the adolescent’s perspective.

EXAM

- Conduct the psycho-social interview and physical exam (ascertain whether the adolescent desires parent’s presence during PE and accommodate adolescent’s preference).
- Decide what to disclose and how; clarify what information from the psycho-social interview and PE the adolescent is comfortable sharing with parent.
- Encourage the adolescent to discuss issues with their parent or other responsible adult as appropriate to the individual circumstances.
- Explore approaches the adolescent might use to facilitate this discussion (how do they imagine the conversation).
- Offer support, tools and facilitation.

CONCLUDING THE VISIT WITH THE ADOLESCENT AND PARENT

REUNITE

- Invite the parent back to close the visit with both parent and adolescent.
- Focus on strengths and discuss concerns (with the adolescent’s permission).

TIPS

- Give parents and adolescents a heads up about confidential care. Send a letter to all adolescent patients and their parents who are new or between 10-11 years old explaining your policy. This will help prepare families for the adolescent visit.
- Explain the separation of the parent and adolescent by emphasizing that adolescents need to have increasing involvement in and **responsibility** for their health.
- A young person is more likely to disclose sensitive information to a health care provider if the adolescent is provided with confidential care, and has time alone with the provider to discuss his/her issues.
- Even when the presenting concern is acne or an earache, there may be other issues (such as the need for a pregnancy test or contraception), which will only surface when confidential care is provided.
- Display posters in the waiting area explaining adolescent consent and confidentiality and your office policy relating to the law. This can reinforce that you will be meeting alone with the adolescent.

Provider Tips for Discussing Conditional Confidentiality

Be direct

- Discuss confidentiality and the conditions under which it might be breached at the beginning of your interaction with a young person.

Keep it simple

- Tailor your discussion to the youth's age and context. For example, when presenting information about child abuse reporting related to age differences:

In California for the 13 year old client, it is important to emphasize that if they tell you that they are having sex with a partner who is older than they are, you would need to report that as child abuse, *even if they tell you they are having consensual sex, in order to assure that they can get help if they need it.*

In California for the 16 year old client, the focus would shift to a discussion of his or her risk of being reported as a perpetrator of child sexual abuse if they tell you that their partner is under 14 years old.

Communicate caring and concern

- Always frame information about your need to breach confidentiality (child abuse reporting, informing others about a youth's suicidality) in the context of "getting them the help that they might need", rather than using the law, policy, or phrase "I am a mandated child abuse reporter," as a reason to breach confidentiality.

Assure two-way communication

- Clarify that you will ALWAYS let the youth know if you are going to share information that they told you in confidence.

Know the law

- Be very familiar with California laws related to minor consent and confidentiality. In order to explain content clearly, you must first understand it yourself.

Check for understanding

- Ask the youth to explain what *they* understand about conditional confidentiality to avoid any misperceptions.
- If you're unsure about a situation or question that comes up about confidentiality, let the client know that you need to check out the facts and then get back to them in a timely fashion.

Document your communications, understanding and actions in the medical record

The **TRUTH** ABOUT **Confidentiality**

Confidentiality means privacy.

Confidential health care means that information is kept private between you and your doctor or nurse.

Your doctor or nurse **CANNOT** tell your parents or guardians about your visits for:

- Pregnancy
- Birth control or abortion
- Sexually transmitted diseases (STDs)

For your safety, some things **CANNOT** stay confidential. Your doctor or nurse has to contact someone else for help if you say...

- You were or are being physically or sexually abused.
- You are going to hurt yourself or someone else.
- You are under 16 and having sex with someone 21 years or older.
- You are under 14 and having sex with someone 14 years or older.

CONFIDENTIALITY TIPS FOR TEENS

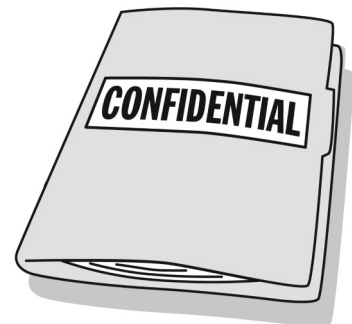
Ask questions about confidentiality. You can ask your doctor or nurse and health insurance plan what information will be shared with your parent/guardians.

Know your rights in the health care system and speak up.

Read and understand forms before you sign them.

*Even if you do **NOT** need permission from your parent/guardian to see a doctor, it's a good idea to talk with them or a trusted adult about the help you need.*

Every state has different confidentiality laws. This information applies **ONLY** to California. Visit www.teenhealthrights.org for more information about laws that protect your privacy when talking to your health care provider.





Teens...

Did You Know?

Anything you say about sex, drugs and your personal feelings is confidential.*

There are some exceptions so ask your doctor about confidentiality rules.



*Visit www.teenhealthrights.org for more information about laws that protect your privacy when talking to your healthcare provider.

Teen Health Rights and Responsibilities



An Agreement Between You and Your Doctor

As a teen,

I have the RIGHT to:

- Be treated with respect.
- Be given honest and complete health information.
- Ask questions.
- Know how my health insurance and billing process works.
- Be able to look at my medical records.
- Ask for any of my family, friends, or partners to come into the exam room with me.
- See my doctor without my parent/guardian in the exam room.

I have the RESPONSIBILITY to:

- Give honest information and let my doctor know if my health changes.
- Follow the plan that I choose with my doctor or nurse, and tell him/her if I choose to change my plan.
- Treat staff, other patients, and the office with respect.
- Be on time for my appointments and call if I need to cancel or change an appointment.

When I have questions, I will **ASK!**

When I have concerns, I will **SPEAK UP!**

When I like what happens, I will **SMILE AND SAY THANKS!**

How Well do you Know Your Health Rights and Responsibilities?

TRUE OR FALSE:

A teen can see a doctor about birth control and pregnancy without their parent/guardian's consent.

TRUE: California has laws that let a person of any age make their own choices about birth control, pregnancy, abortion, adoption, and parenting.

Teens 12 and older can see a doctor about mental health issues, drug and alcohol use, or sexually transmitted diseases without their parent's consent.

TRUE: California laws let people 12 or older get care for mental health, drug and alcohol issues, or sexually transmitted diseases without parent consent.

Not all issues a teen might want to see a doctor for are considered confidential.

TRUE: Cases of abuse, assault, or possible suicide cannot remain confidential. Your doctor may have to contact others for help. Health services like treatment of injuries, colds, flu, and physicals are NOT confidential services. The doctor will need your parent/guardian's consent for these services.

A teen can ask a doctor about what will stay private in a visit, and what information will be shared with parents/guardians.

TRUE: There are many laws about what information your parent/guardian will be given. It is important to talk to your doctor about what will stay private. In some situations, you get to decide what is shared.

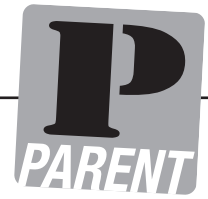
It is usually helpful for a teen to talk to an adult they trust about their health or changes in their life that they are worried about.

TRUE: It can be helpful to talk to an adult you trust such as a parent/guardian, teacher, family friend, counselor, or coach about your health. If there are health issues you have questions or concerns about, a trustworthy adult can give you important advice and opinions.

A teen being responsible for his or her health is an important part of growing up!

TRUE: Taking on more responsibility and wanting more privacy are a normal part of growing up for teens.





A Letter From Your Teen's Health Care Provider

Dear Parent or Guardian,

As teens become adults and take more control of their lives, our office will ask them to be more actively involved in their health and health care.

Some areas of teen health that we may talk about during an exam are:

- Eating and how to be active
- Fighting and violence
- Sex and sexuality
- Safety and driving
- Smoking, drinking, and drugs
- Sadness and stress

You should know...

We support teens talking about their health with their parents or guardians. But teens may be embarrassed to have an exam or talk about some things in front of their parents. This is a normal part of growing up. We give all teens a chance to be seen privately. During this time, you will be asked to wait outside of the exam room.

In order to best take care of your teen we offer some confidential services. "Confidential" means that we will only share what happens in these visits if the teen says it is okay, or if someone is in danger.

In California, teens can receive some types of health services on their own. We cannot share the content of these visits without your teen's okay. Ask us about what these health services include.

We are happy to talk to you about any questions or concerns you may have about this letter and your teen's health. Together, we can help keep your teen healthy.

Below, you will find some helpful websites about teen health and tips for parents of teens.

Sincerely,

Your teen's Health Care Provider

RESOURCES

Children Now and Kaiser Family Foundation
<http://www.talkingwithkids.org>

Advocates for Youth
<http://www.advocatesforyouth.org/>

SIECUS— Families are Talking
<http://www.familiesaretalking.org>

California Family Health Council—Talk with Your Kids
<http://www.talkwithyourkids.org/>

**US Department of Health & Human Services—
 Parents Speak Up**
<http://www.4parents.gov/>

Nickelodeon—Parents Connect
<http://www.parentsconnect.com>

A large, black, stylized paperclip is positioned at the top left of the note, appearing to hold it in place.

A Note to Parents from your Teen's Doctor

- Teens need to have more input in their health in order to build responsibility.
- I will give your teen a chance to talk to me alone during each exam.
- In California, teens can receive some services on their own. I cannot talk to you about your teen's use of these services without permission from your teen. Talk to me about what these services are.
- I encourage teens to talk about their health with their parents.
- I am happy to answer any questions or concerns you may have!

