

Update

Minor Consent and Mandatory Reporting in Family PACT

Family PACT provides private, confidential, no-cost, family planning services to California's youth. By protecting a minor's privacy and confidentiality, Family PACT helps ensure that teens have access to care for these sensitive services.

It is no secret that providing reproductive health services to teen clients presents a challenge to health care providers. Health care providers must protect the privacy and confidentiality of their adolescent clients through clinic practices, bolstered by Federal and California law that allows minors to self-consent for family planning and pregnancy-related services. Health care providers must further assist in protecting minors when they disclose that they are involved in or exposed to legally-reportable situations that are dangerous to themselves or others. Again, the law gives us guidance. This newsletter seeks to clarify California's minor consent and mandated reporting requirements and to highlight what health care providers can do to implement these requirements in a manner that is sensitive to the needs of Family PACT's adolescent clients.

Minor Consent

The importance of confidentiality

During the teenage years, youth begin to explore who they are as they strive to establish their own identity, independence and privacy. This independence extends to teens accessing reproductive health services. One barrier to youth seeking reproductive health care is concern that they will not be able to receive confidential services. Assurances of confidentiality enhance a teen's willingness to seek care and discuss sensitive issues. In California, minors can divulge sensitive reproductive health issues without fear that their information will be disclosed to others, except for information related to mandated reporting (e.g. child abuse, sexual abuse, certain violence, etc.), which will be discussed later.

Under Federal and California Law, a minor has the right to consent to family planning and pregnancy-related services and sexually transmitted infection (STI) testing and treatment.

- For family planning and pregnancy-related services – There is no lower age limit for youth to receive services. Minors also have the right to decline these services.

- For STI testing and treatment – A minor 12 years old or older can consent for these services. If a minor is under 12 years of age, the parent's consent is needed.

Just as only the minor can consent for services, only the minor can authorize the release or sharing of his or her confidential information. Health care providers cannot release information about adolescent clients to parents, guardians or social workers without a written authorization from the client. Health care providers cannot even acknowledge to a parent/guardian/social worker that the minor is a Family PACT client without a signed authorization from the minor.

You can involve a parent or guardian or even a social worker in a minor's reproductive services only if that is what the minor wants. To protect the minor's confidentiality and to clarify the extent that she or he would like a parent, guardian or social worker involved, a private conversation with the minor is essential. Minors respond more openly when they feel they are speaking to someone they trust. One of the goals of this conversation is for health care workers to assure the minor that his or her information is confidential, except under specific situations that would require a mandated report. It is extremely important to discuss the limits of confidentiality at the beginning of the visit so that adolescent clients are aware of what could trigger a report before they start to disclose information. This should be universal policy implemented by all providers and counselors in your clinic. You could open your visit with a statement such as: "Everything that you discuss with me during your visit today will be held in strict confidence within the clinic. The only time I might need to tell someone else would be if you tell me that you are being hurt by someone, you are hurting yourself, or you are hurting someone else. Then I would need to tell someone else to get you the help that you need. Is that okay?"

In this private conversation, it is also important to assess how much the minor would like a parent/guardian/social worker to be involved. If the minor does not want others involved, encourage the minor to think of other adults in whom they can confide. In general, it is our goal as health care providers to inform adolescent clients that they can choose whomever they like to share their medical information with, while at the same time encouraging the input of trusted adults in their lives.

Mandatory Reporting

Mandatory Reporting – What You Must Report

The Child Abuse and Neglect Reporting Act (CANRA) requires mandated reporters to make a child abuse report whenever they "reasonably suspect" that abuse or neglect has occurred. Reporters must share the information necessary to make the report with Child

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Protective Services (CPS) or law enforcement.

If you suspect a minor has experienced child abuse or neglect you must report the abuse as a mandated reporter. By law, you must report:

- Physical injury
- Sexual abuse and/or nonconsensual sex (includes sexual assault, incest and molestation)
- Neglect
- Willful harming or endangerment
- Unlawful corporal punishment
- Sexual exploitation (such a prostitution, pornography, or sexual coercion)
- Statutory rape – Statutory rape is reportable child abuse based on the minor’s age and the age of the minor’s partner, regardless of whether the sexual intercourse is consensual or not.
 - Minor is less than 14 years old, and partner is 14 years old or older
 - Minor is 14 or 15 years old, and partner is 21 years old or older
- Consensual sexual touching (lewd and lascivious act) based on the minor’s age and the age of the minor’s partner
 - Minor is less than 14 years old, and partner is 10 years older
 - Minor is 14 or 15 years old, and partner is 21 years old or older

Who are mandated reporters?

- ◆ Physician
- ◆ Nurse
- ◆ Psychiatrist
- ◆ Dentist
- ◆ Paramedic
- ◆ Licensed or Registered Interns and Assistants
- ◆ Social Worker or Marriage, Family, and Child Therapist
- ◆ Alcohol or Drug Counselor
- ◆ Public Health Employee
- ◆ Teacher/School Employee
- ◆ Clergy Member
- ◆ Peace Officer/Police Officer
- ◆ Additional mandated reporters are listed in California Penal Code § 11165.7

Making a Report

If a mandated reporter determines that a child abuse report should be made, the minor has the right not to inform the parent/guardian/social worker. An authorization to release the information must be signed by the minor in order to involve the parent/guardian/social worker.

If making a report, it is important to discuss with the minor how the mandated report may affect them. For example, if this is true in your area, explain that the police or CPS may come to their place of residence to take a report. This, in turn, might alert the parent or guardian to a problem.

The primary concern when making a report is to keep the minor safe. You will need to screen for indicators that may affect the safety of the minor. There may be red flags as to why the minor may not want to involve a parent or guardian. There may be issues related to teen

abuse and teen violence. There may be safety issues at their place of residence, school, or places that he or she frequents. The primary concern is for the safety of the minor. Brainstorm solutions to any safety issues. Help the minor look at all issues regarding their safety and assist in the development of a plan that will keep them safe.

Practical Guidelines for Reporting Abuse

There are practical guidelines to follow before making a mandated report. Remember to always inform a minor in advance of their confidentiality rights and the LIMITS of confidentiality. Your agency should have policies and procedures in place that address who is responsible for making a mandated report. For example, if a nurse and a medical assistant both become aware that a minor has been abused on the same day in the same clinic setting, who will make the report on behalf of the clinic? Confer with your legal counsel on your policies and procedures to assure that they follow the legal requirements. Make sure all mandated reporters know the time frames for reporting. Mandatory reporting forms with designated phone numbers should be easily accessible to all mandated reporters. You can make the report in your county and your county officials will follow-up in the county where the abuse took place. If the abuse occurred outside of your county or state, you must still report it. You could also make the report in the county or state, where the abuse took place. Since California State law is silent on the statute of limitations for child abuse, you should report an abuse case that happened no matter how long ago it happened. Consult with your legal counsel for guidance on this issue for your practice.

How to Report Abuse

Child Abuse Reporting Time Limits:

1. Report a suspected abuse (of reasonable suspicion) immediately by telephone
2. You can report to either or both:
 - Child Welfare Agency (CWA) or Child Protective Services (CPS)
 - Police Department
3. A written report must be sent within 36 hours (faxed or electronically transmitted)

Child Abuse Reports Must Include:

1. The name of the mandated reporter
2. The name, address and phone number of the business or clinic where the mandated reporter works
3. The capacity that makes the person a mandated reporter
4. The information that triggered a reasonable suspicion of child abuse or neglect
5. The source of the information

Additional Information that must be included in the report (if known):

1. Minor’s name, address, present location, school, grade, and class (if applicable)
2. Name of minor’s parents or guardians as well as addresses and phone numbers
3. Names of the person or persons who might have abused or neglected the minor – include addresses, phone numbers and other relevant information
4. Report what you know as well as what you don’t know

New California Minor Consent Law

Effective January 1, 2012, the passage of AB 499 allows minors age 12 and older to consent for preventive care for sexually transmitted infections (STIs). California law already allows minors age 12 and older to consent to the diagnosis and treatment of STIs, but now they can access critical medical care related to the prevention of STIs. This is of particular importance given that, according to a CDC study published in 2008, one in four teen girls 14-19 years have been infected with at least one of the most common STIs (human papillomavirus (HPV), chlamydia, herpes simplex virus, and trichomoniasis). The rates of STIs are even higher in certain ethnic minority populations. AB 499 brings California in line with almost a dozen other states that already allow some minors to consent to preventive STI services. This new minor consent law is critical to stem the tide of rampant STIs among adolescents.

Research demonstrates that most teens do involve their parents in their sensitive health care needs, but that for a small number, family communication is not possible and actually may be dangerous. AB 499 means that this small group of teens will now have access to care that wasn't available to them before in California.

Minor Consent and Mandatory Reporting Resources

The following resources can aid you in developing policies around minor consent and mandatory reporting for your agency and to assist in training staff.

Family PACT Webcasts:

www.familypact.org > **Providers** > **Training** > **Previously Recorded Webcasts**

- Minor Consent for Health Care in California
- Mandatory Reporting in California

National Center for Youth Law:

www.teenhealthlaw.org > **Publications**

- California's Child Abuse and Neglect Reporting Act: Reporting Rules for Health Care Providers
- Minor Consent, Confidentiality, and Child Abuse Reporting in California
- The California Child Abuse & Neglect Reporting Law: Issues and Answers for Mandated Reporters
- California's Minor Consent Laws
- Broken Promises: California's Child Welfare System
- A Minor's Right to Abortion in California
- Consent to Treatment for Youth in the Juvenile Justice System

Adolescent Health Working Group:

www.ahwg.net > **Resource** > **For Providers**

- Tool Kit: Understanding Confidentiality and Minor Consent in California
- Tool Kit: Sexual Health
- CA Minor Consent Pocket Card for Youth and Their Providers
- Posters
 - Minor Consent and Confidentiality Poster
 - Youth Health Rights and Responsibilities Poster

ACLU of Northern California

www.adnuc.org > **Issues** > **Reproductive Rights** > **Your Health, Your Rights**

- Your Health, Your Rights: A Guide for Teens

Helpful Charts/Grids:

California Minor Consent and Confidentiality Laws

<http://www.teenhealthlaw.org/fileadmin/teenhealth/teenhealthrights/ca/CaMinorConsentConfChartFull11-11.pdf>

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

http://www.teenhealthlaw.org/fileadmin/teenhealth/teenhealthrights/ca/Cal_sexualabuse_reporting__6-10.pdf

Updated Family PACT Resources

There are a number of recently updated resources available at www.familypact.org designed to assist providers with staff training and maintenance of your Family PACT program:

- Family PACT 101 Online Educational Module – Module 1 – Program Overview
[Go to Providers > Provider Training > Online Modules](#)
- Family PACT 101 Online Educational Module – Module 2 – Program Standards
[Go to Providers > Provider Training > Online Modules](#)
- Provider Enrollment Checklist
[Go to Providers > Provider Enrollment > How do I enroll?](#)

Provider Support Resources

Family PACT Website

www.familypact.org

Everything you need to know about Family PACT—trainings, online modules, client education materials, research and reports, program updates, recorded webcasts and the Family PACT Policies, Procedures and Billing Instructions (PPBI) manual

Toll-Free Provider Resource Line

1-877-FAMPACT (1-877-326-7228)

Find out more about Family PACT and its benefits

Office of Family Planning

1-916-650-0414

familypact@cdph.ca.gov

Policy and administration questions

Provider Telephone Service Center

1-800-541-5555

Family PACT billing policies and procedures, all claim services, Appeal Forms and HAP Card orders

Medi-Cal Website

www.medi-cal.ca.gov

Medi-Cal policy and information, Medi-Cal Bulletins

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