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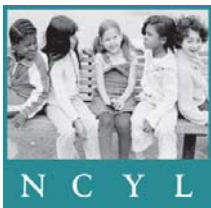
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Course Name: California Confidentiality Law: Medical Records to Mental Health

Course Number: NCYL 02

CEU: 1



California Confidentiality Law: When Parents May Access Adolescent Medical Records

A parent's right to access adolescent medical records usually depends upon the health service provided, who consented or could have consented for the service, and the service provision site. In most cases, parents will have a right to access their child's records; however, in some cases, parents cannot access records until their teen provides them written authorization. This document reviews what California law says about parent access to records given who consented for care and the type of service provided. It does not address how service location may impact access. Therefore, the rules described in this document may not apply when services are provided in certain special settings, such as a school nurse's office or a Title X funded clinic. Providers in specialty service sites should seek additional information about parent access rights in those contexts.

I. PARENT ACCESS RULES BASED ON WHO CONSENTED FOR CARE

Parent Consented for Non-"Sensitive Services"¹ Care

Generally, parents and guardians have the right to inspect their children's records, as long as the records do not pertain to care for which the minor consented or *could have consented* under law. Cal. Health & Safety Code §§ 123110(a), 123115(a)(1). Cal. Civil Code § 56.10(b)(7); Cal. Welfare & Instit. Code § 5328(d).

However, parents do not have an absolute right to see their child's records. Under state law, providers may refuse to provide parents or guardians access to a minor's medical records when "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).

Providers applying this exception in good faith to limit parent access to records shall not

¹ "Sensitive services" means services such as abortion, drug treatment, mental health care, pregnancy related services and STD services. Relevant sensitive services are described in section two of this document. Minor consent rights to sensitive service care are described in other publications available at www.teenhealthrights.org.

be liable for their refusal to share records. Cal. Health & Safety Code § 123115(a)(2).

Parent Consented for "Sensitive Services" Care

See section II below for access rules that apply when minors seek sensitive services under parent consent.

Emancipated Minor Consented for Care

When an emancipated minor consents for care, a health care provider is not permitted to share information or records with a parent without the minor's written authorization. Cal. Civil Code §§ 56.10, 56.11; Cal. Health & Safety Code §§ 123110(a), 123115(a)(1).

Minor Living Separate and Apart from Parents Consented to Care

When a minor consents for care under Family Code section 6922, "[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).

II. PARENT ACCESS RULES BASED ON TYPE OF SERVICE PROVIDED

Abortion

Irrespective of who consented for the care, a health care provider is not permitted to share information or records regarding abortion services with a parent or legal guardian without the minor's written authorization. Cal. Civil Code §§ 56.10, 56.11; Cal. Health & Safety Code §§ 123110(a), 123115(a)(1); *American Academy of Pediatrics v. Lungren*, 66 Cal. Rptr. 2d 210 (1997).

Drug- and Alcohol-Related Problems

Federal regulations establish special protections for substance abuse treatment records. Providers who meet certain criteria must follow the federal rule. (For criteria, see footnote six below.)²

² Federal confidentiality law applies to any individual, program, or facility that meets the following two criteria:

1. The individual, program, or facility is federally assisted. (Federally assisted means authorized, certified, licensed or funded in whole or in part by any department of the federal government. Examples include programs that are: tax exempt; receiving tax-deductible donations; receiving any federal operating funds; or registered with Medicare.) 42 C.F.R. §2.12; And:
2. The individual or program:
 1. Is an individual or program that holds itself out as providing alcohol or drug abuse diagnosis, treatment, or referral; OR

For those providers who must comply with federal rules, the federal regulations prohibit disclosing any information to parents without a minor's written consent if the minor acting alone under applicable state law had the legal capacity to apply for and obtain alcohol or drug abuse treatment. 42 C.F.R. § 2.14; *see* Cal. Health & Safety Code § 123125. This holds true whether a parent also consents to the care or not. However, a provider 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.

For providers who do not have to follow the federal rules, state law applies. Cal. Health & Safety Code § 123125. Under state law, if a parent or guardian consents for a minor's drug or alcohol treatment, "the physician [must] disclose medical information concerning the care to the minor's parent or legal guardian upon his or her request, even if the minor child does not consent to disclosure, without liability for the disclosure." Cal. Family Code § 6929(g).

When a minor consents for his own drug or alcohol treatment, state law prohibits a health care provider from sharing records with a parent or legal guardian without the minor's written authorization. Cal. Civil Code §§ 56.10(a), 56.11(c); Cal. Health & Safety Code §§ 123110(a), 123115(a)(1). At the same time, state law requires health care providers to involve the minor's parent or guardian in the treatment plan, if appropriate, as determined by the professional person or treatment facility treating the minor. The professional person providing care to the minor must state in the minor's treatment record whether and when the professional attempted to contact the minor's parent or guardian, and whether the attempt was successful, or the reason why, in the opinion of the professional person, it would not be appropriate to contact the minor's parent or guardian. Cal. Family Code § 6929(c).

Involving parents in treatment will necessitate sharing certain otherwise confidential information; however, having them participate does not mean parents have a right to access all confidential records. Providers should attempt to honor the minor's right to confidentiality to the extent possible while still involving parents in treatment.

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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.

Family Planning, Including Contraception (Not Title X Funded)

Irrespective of who consented for the care, a health care provider is not permitted to share information or records regarding the prevention or treatment of a minor's pregnancy with a parent or legal guardian without the minor's written authorization. Cal. Civil Code §§ 56.10(a), 56.11(c); Cal. Health & Safety Code §§ 123110(a), 123115(a)(1).

HIV/AIDS

A health care provider is not permitted to share information or records regarding a minor's HIV/AIDS services with a parent or legal guardian without the minor's written authorization. Cal. Civil Code §§ 56.10(a), 56.11(c); Cal. Health & Safety Code §§ 123110(a), 123115(a)(1).

Infectious, Contagious, or Communicable Diseases (Reportable)

Irrespective of who consented for the care, a health care provider is not permitted to share information or records regarding a minor's treatment for reportable diseases with a parent or legal guardian without the minor's written authorization. Cal. Civil Code §§ 56.10, 56.11; Cal. Health & Safety Code §§ 123110(a), 123115(a)(1).

Mental Health Treatment and Counseling

When a parent or guardian consents for a minor's mental health treatment, the general rule applies and parents may access these records as described in "*Parent Consented for Non-Sensitive Services Care*" in section I above.

When a minor consents for mental health treatment, however, the health care provider is not permitted to share records regarding the minor consent mental health care with a parent or legal guardian without the minor's authorization. Cal. Civil Code §§ 56.10(a), 56.11(c); Cal. Welfare & Instit. Code § 5328; Cal. Health & Safety Code §§ 123110(a), 123115(a)(1).

At the same time, state law requires health care providers to involve a parent or guardian in the minor's treatment unless, in the opinion of the professional person who is treating the minor, the involvement would be inappropriate. The professional must state in the client record whether and when the professional attempted to contact the minor's parent or guardian, and whether the attempt was successful, or the reason why, in the professional person's opinion, it would be inappropriate to contact the minor's parent or guardian. Cal. Family Code § 6924(d).

Involving parents in treatment will necessitate sharing certain otherwise confidential information; however, having them participate does not mean parents have a right to access all confidential records. Providers should attempt to honor the minor's right to confidentiality to the extent possible while still involving parents in treatment.

Pregnancy

A health care provider is not permitted to share information or records regarding the prevention or treatment of a minor's pregnancy with a parent or legal guardian without the minor's written authorization. Cal. Civil Code §§ 56.10(a), 56.11(c); Cal. Health & Safety Code §§ 123110(a), 123115(a)(1).

Rape Treatment

For minors 12 and older:

A health care provider is not permitted to share information or records about rape treatment with a parent or legal guardian without the minor's written authorization. Cal. Civil Code §§ 56.10, 56.11; Cal. Health & Safety Code §§ 123110(a), 123115(a)(1).

For minors under 12 years of age:

The health care provider must attempt to contact the minor's parent or guardian and must note in the minor's rape treatment record the date 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 or guardian committed the sexual assault. Cal. Family Code § 6928(c).

Sexual Assault Treatment

The health care provider must attempt to contact the minor's parent or guardian and must note in the minor's sexual assault treatment record the date 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 or guardian committed the sexual assault. Cal. Family Code § 6928(c).

Sexually Transmitted Diseases

For agencies delivering services funded in full or in part by Title X, federal law mandates that "[a]ll information as to personal facts and circumstances obtained by the project staff about individuals receiving services must be held confidential and must not be disclosed without the individual's documented consent, except as may be necessary to provide services to the patient or as required by law, with appropriate safeguards for confidentiality." 42 C.F.R. § 59.11.

For all other services, state law applies. California law says that a health care provider is not permitted to share information or records regarding a minor's STD services with a parent or legal guardian without the minor's written authorization. Cal. Civil Code §§ 56.10(a), 56.11(c); Cal. Health & Safety Code §§ 123110(a), 123115(a)(1).

Suspected Child Abuse Victims

Neither the physician-patient privilege nor the psychotherapist-patient privilege applies

to information reported pursuant to this law in any court proceeding. Cal. Penal Code § 11171.2(b).

Can individuals be held liable for revealing confidential information outside the exceptions listed in federal or state law?

Providers can only share information without client authorization if an exception in state or federal law specifically allows the release. If no exception applies, providers who reveal confidential information without authorization may be held liable. For example, providers who reveal confidential information in violation of California's Confidentiality of Medical Information Act can be held criminally and civilly liable. Cal. Civil Code §§ 56.35, 56.36. In addition, the Department of Health and Human Services has the authority to enforce HIPAA confidentiality regulations and to impose sanctions on providers who breach those rules. *See* 42 U.S.C. 1320d-6; 45 C.F.R. § 160, Subpart C.

Beyond criminal and civil sanction, professionals who violate confidentiality also put their medical license at risk. For example, certain health care providers who "willfully" fail to respect the laws related to patient access to health records (Health and Safety Code sections 123110 et seq.) are guilty of "unprofessional conduct." State law requires the state agency, board or commission that issued the providers' professional license to consider such a violation as grounds for disciplinary action, including suspension or revocation of the license. Cal. Health & Safety Code § 123110(i).



**CALIFORNIA MINOR CONSENT LAWS - *Mental Health Services:*
Minor Consent Rights and Parent Access Rules***

SERVICE/TREATMENT	MINOR'S RIGHT TO CONSENT	INFORMING/CONFIDENTIALITY OBLIGATIONS	
<p align="center">ASSESSMENT*</p> <p>*Assessment means the evaluation necessary for an attending professional to assess whether a minor meets criteria (1) and (2) of the minor consent statute, Family Code § 6924, cited at right.</p>	<p>“A minor who is 12 years of age or older may consent to mental health treatment or counseling on an outpatient basis or to residential shelter services, if both of the following requirements are satisfied: (1) The minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services or residential shelter services. AND (2) The minor (A) would present a danger of serious physical or mental harm to self or to others without the mental health treatment or counseling or residential shelter services, or (B) is the alleged victim of incest or child abuse.” Cal. Fam. Code § 6924.</p>	<p><i>Parent Access/Confidentiality Obligation</i> If the minor consents or could have consented to care, the provider only may share the minor’s medical information with parents or guardian with the signed authorization of the minor. Cal. Health & Saf. Code §§ 123110(a), 123115(a); Cal. Civ. Code § 56.10(b)(7), 56.11(c); 45 C.F.R 164.502(g)(3); 45 C.F.R. 164.508(a).</p> <p><i>Discretion to Inform Parents without Minor’s Authorization?</i> 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. Involving parents in treatment will necessitate sharing certain confidential information; however, having them participate does not mean parents have a right to access confidential records. Providers should attempt to honor the minor’s right to confidentiality to the extent possible while still involving parents in treatment. Cal. Fam. Code § 6924; 45 C.F.R. 164.502(g)(3)(ii).</p>	
<p align="center">OUTPATIENT COUNSELING</p>			<p><i>Discretion to Inform Other Providers without Minor’s Authorization?***</i> In most cases, the health care provider may share outpatient mental health information for treatment or referral purposes with other qualified professionals treating the client, without need of an authorization. However, the provider cannot share psychotherapy notes without written client authorization. For a definition of psychotherapy notes, see 45 C.F.R 164.501 and speak to your own counsel. 45 C.F.R. 164.502(a)(1)(ii); 45 C.F.R. 164.506; 45 C.F.R. 164.508(a)(2); Cal. Welf. & Inst. Code § 5328(a). <i>Compare</i> Cal Civ. Code §§ 56.10(c)(1); 56.104.</p>
<p align="center">OUTPATIENT TREATMENT*</p> <p>* The statute does not define “treatment.” However, treatment in this context does NOT include convulsive therapy, psychosurgery or psychotropic drugs.</p>			
<p align="center">CONVULSIVE THERAPY</p>	<p>Minors who are 16 and 17 years old must give voluntary informed consent for convulsive treatment. Many other conditions must be met before therapy can be given. Cal. Welf. & Inst. Code §§ 5326.8; 5326.75; 5325(f).</p>		

SERVICE/TREATMENT	MINOR'S RIGHT TO CONSENT	INFORMING/CONFIDENTIALITY OBLIGATIONS
<p align="center">PSYCHOTROPIC MEDICATIONS*</p> <p>*"psychotropic medication" means those medications prescribed to affect the central nervous system to treat psychiatric disorders or illnesses.</p>	<p>Only with parent or guardian consent, except a guardian cannot consent to experimental medications for a minor. Cal. Probate Code § 2356.</p>	<p><i>Parent Access/Confidentiality Obligation</i> If the minor did not and could not have consented to care, a parent or guardian usually has the right to access the minor's medical information. To share information with others, the provider usually must have a signed authorization from the parent/guardian. Cal. Health & Saf. Code §§ 123105(e), 123110(a); Cal. Welf. & Inst. Code § 5328(d); Cal. Civ. Code §§ 56.10, 56.11. However, there are exceptions.</p> <p><i>Discretion to Refuse Access to Parents?</i> The parent/guardian of a minor shall not be entitled to inspect or obtain copies of the minor's patient records where the health care provider determines that access to the patient records requested by the parent/guardian would have a detrimental effect on the provider's professional relationship with the minor patient or the minor's physical safety or psychological well-being. The decision of the health care provider as to whether or not a minor's records are available for inspection under this section shall not attach any liability to the provider, unless the decision is found to be in bad faith. Cal. Health & Saf. Code § 123115(a)(2). <i>See also</i> 45 C.F.R. 164.502(g)(5).</p>
<p align="center">INPATIENT TREATMENT</p>	<p>Only with parent or guardian consent, except a guardian may not be able to place a minor in a mental health facility against the minor's will. Involuntary placement can only be obtained through a 5150 or 5350 proceeding. This does not preclude a guardian from placing a ward in a state hospital under a WIC 6000 application. Cal. Probate Code § 2356.</p>	<p><i>Discretion to Inform Other Providers?*</i> In most cases, the health care provider may share outpatient mental health information for treatment or referral purposes with other qualified professionals treating the client, without need of an authorization. However, the provider cannot share psychotherapy notes without written authorization from the parent or guardian. For a definition of psychotherapy notes, see 45 C.F.R. 164.501 and speak to your own counsel. When a minor has been in an inpatient facility, a professional employed by the inpatient facility may share information, without need of an authorization, with a professional employed outside the facility if that professional has the medical or psychological responsibility for the patient's care. In other cases, an authorization from the parent or guardian is necessary to release the information. Cal. Welf. & Inst. Code § 5328(a),(d); 45 C.F.R. 164.502(a)(ii); 45 C.F.R. 164.506; 45 C.F.R. 164.508(a)(2). <i>Compare</i> Cal. Civ. Code §§ 56.10(c)(1); 56.104.</p>
<p align="center">CONVULSIVE THERAPY</p>	<p>Convulsive treatment shall not be performed on a minor under 12 years of age. Cal. Welf. & Inst. Code §§ 5326.8</p> <p>Minors 12-15 years of age may be administered convulsive treatment only if it is an emergency situation and is deemed a lifesaving treatment and other criteria are met. If the minor is able to give informed consent, the treatment cannot be performed if the minor refuses. Cal. Welf. & Inst. Code §§ 5326.8, 5326.85</p> <p>For minors 12-15 years of age parent consent is also necessary. A guardian cannot consent to convulsive therapy. Cal. Probate Code § 2356.</p>	<p><i>Discretion to Inform Other Providers?*</i> In most cases, the health care provider may share outpatient mental health information for treatment or referral purposes with other qualified professionals treating the client, without need of an authorization. However, the provider cannot share psychotherapy notes without written authorization from the parent or guardian. For a definition of psychotherapy notes, see 45 C.F.R. 164.501 and speak to your own counsel. When a minor has been in an inpatient facility, a professional employed by the inpatient facility may share information, without need of an authorization, with a professional employed outside the facility if that professional has the medical or psychological responsibility for the patient's care. In other cases, an authorization from the parent or guardian is necessary to release the information. Cal. Welf. & Inst. Code § 5328(a),(d); 45 C.F.R. 164.502(a)(ii); 45 C.F.R. 164.506; 45 C.F.R. 164.508(a)(2). <i>Compare</i> Cal. Civ. Code §§ 56.10(c)(1); 56.104.</p>

SERVICE/TREATMENT	MINOR'S RIGHT TO CONSENT	INFORMING/CONFIDENTIALITY OBLIGATIONS
<p style="text-align: center;">DRUG COUNSELING by federally assisted drug treatment program*</p> <p>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. Fam. Code § 6929(f).</p> <p style="text-align: center;">*An individual, program or facility is federally assisted if:</p> <ol style="list-style-type: none"> 1. The individual, program, or facility is authorized, certified, licensed or funded in whole or in part by any department of the federal government. Examples include programs that are: tax exempt; receiving tax-deductible donations; receiving any federal operating funds; or registered with Medicare. 42 C.F.R. §2.12; AND 2. The individual or program: <ol style="list-style-type: none"> (1) Is an individual or program that holds itself out as providing alcohol or drug abuse diagnosis, treatment, or referral; OR (2) Is a staff member at a general medical facility whose primary function is, and who is identified as, a provider of alcohol or drug abuse diagnosis, treatment or referral; OR (3) Is a unit at a general medical facility that holds itself out as providing alcohol or drug abuse diagnosis, treatment or referral. 42 C.F.R. §2.11; 42 C.F.R. §2.12. 	<p style="text-align: center;">“A minor who is 12 years of age or older may consent to medical care and counseling relating to the diagnosis and treatment of a drug or alcohol related problem.” Cal. Fam. Code §6929(b).</p>	<p><i>Parent Access/Confidentiality Obligations</i> If the minor consents to care, the provider only may share the minor's medical information with parents with the signed consent of the minor. Cal. Health & Saf. Code §§ 123110(a), 123115(a); Cal. Civ. Code §§ 56.10(b)(7), 56.11(c); 42 C.F.R. 2.14; 45 C.F.R. 164.502(g)(3)(i)(A); 45 C.F.R. 164.508(a).</p> <p><i>Discretion to Inform Parents without Minor's Consent?</i> Providers may not disclose information to parents without a minor's written authorization. However, an exception allows a program to share with parents if the program director determines the following three conditions are met: (1) that the minor's situation poses a substantial threat to the life or physical well-being of the minor or another; (2) that this threat may be reduced by communicating relevant facts to the minor's parents; and (3) that the minor lacks the capacity because of extreme youth or a mental or physical condition to make a rational decision on whether to disclose to her parents. 42. C.F.R. 2.14.</p> <p><i>Discretion to Inform Other Providers without Minor's Consent?</i> The health care provider only may share medical information with providers employed by the same program or with an entity having direct administrative control, and only in connection with duties arising out of the provision of diagnosis, treatment or referral. Providers also may release information to other medical professionals to meet a bona fide emergency. 42 U.S.C. 290dd-2; 42 C.F.R. 2.12.</p>

SERVICE/TREATMENT	MINOR'S RIGHT TO CONSENT	INFORMING/CONFIDENTIALITY OBLIGATIONS
<p>DRUG COUNSELING* By individuals, programs or facilities that are not “federally assisted”</p> <p>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. Fam. Code § 6929(f).</p>	<p>“A minor who is 12 years of age or older may consent to medical care and counseling relating to the diagnosis and treatment of a drug or alcohol related problem.” Cal. Fam. Code § 6929(b).</p>	<p><i>Parent Access/Confidentiality Obligations</i> If the minor consents to care, the provider only may share the minor’s medical information with the signed consent of the minor. Cal. Health & Saf. Code §§ 123110(a), 123115(a); Cal. Civ. Code §§ 56.10(b)(7), 56.11(c); 45 C.F.R 164.502(g)(3)(i)(A); 45 C.F.R. 164.508(a).</p> <p><i>Discretion to Inform Parents without Minor’s Consent?</i> 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. Involving parents in treatment will necessitate sharing certain confidential information; however, having them participate does not mean parents have a right to access confidential records. Providers should attempt to honor the minor’s right to confidentiality to the extent possible while still involving parents in treatment. Cal. Fam. Code § 6929(c); 45 C.F.R. 164.502(g)(3)(ii).</p> <p><i>Discretion to Inform Providers without Authorization?</i> Records maintained in connection with drug abuse treatment or prevention efforts conducted, regulated, or directly or indirectly assisted by the state Department of Alcohol and Drug programs cannot be shared with providers not employed by the same treatment or prevention program except to meet an emergency. Cal. Health & Saf. Code § 11977. For programs that are not state assisted, the health care provider may share medical information for treatment or referral services with other providers. However, the provider cannot share psychotherapy notes without written client authorization. For a definition of psychotherapy notes, see 45 C.F.R 164.501 and speak to your own counsel. 45 C.F.R. 164.502(a)(1)(ii); 45 C.F.R. 164.506; 45 C.F.R. 164.508(a)(2); Cal. Civ. Code § 56.10.</p>

SERVICE/TREATMENT	MINOR'S RIGHT TO CONSENT	INFORMING/CONFIDENTIALITY OBLIGATIONS
<p>GENERAL MEDICAL CARE for Emancipated Minors</p>	<p>An emancipated minor may consent to medical, dental and psychiatric care. Cal. Fam. Code § 7050(e).</p> <p>“A person under the age of 18 years is an emancipated minor if any of the following conditions is satisfied: (a) The person has entered into a valid marriage, whether or not the marriage has been dissolved. (b) The person is on active duty with the armed forces of the United States. (c) The person has received a declaration of emancipation” from a court. Cal. Fam. Code § 7002.</p>	<p><i>Parent Access/Confidentiality Obligations</i> If the minor consents or could have consented to care, the provider only may share the minor’s medical information with parents with the signed authorization of the minor. Cal. Health & Saf. Code §§ 123110(a), 123115(a); Cal. Civ. Code § 56.10(b)(7), 56.11(c); 45 C.F.R 164.502(g)(3); 45 C.F.R. 164.508(a).</p> <p><i>Discretion to Inform Parents without Minor’s Consent?</i> The health care provider has no discretion to inform parents without the minor’s signed authorization.</p> <p><i>Discretion to Inform Other Providers without Minor’s Consent?</i> In most cases, the health care provider may share medical information for treatment or referral purposes with other qualified professionals treating the client, without an authorization. However, the provider cannot share psychotherapy notes without written client authorization. For a definition of psychotherapy notes, see 45 C.F.R 164.501 and speak to your own counsel. 45 C.F.R. 164.502(a)(ii); 45 C.F.R. 164.506; 45 C.F.R. 164.508(a)(2); Cal. Welf. & Inst. Code § 5328(a); Cal. Civil Code § 56.10. <i>But see</i> Cal. Civil Code § 56.104.</p>

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NOTES:

- * There are many confidentiality and consent rules. Different rules apply in different contexts This chart addresses the rules that apply when minors live with their parents or guardians. It does not address the rules that apply when minors are under court jurisdiction or in other special living situations. The information on confidentiality obligations focuses on parent and provider access. It is not a comprehensive list of access rights and confidentiality exceptions. Providers should discuss these rules and how they apply in their own practice settings with legal counsel.
- ** This rule applies to information obtained while providing Lanterman Petris Short (LPS) services. Many if not most publicly funded mental health services as well as most inpatient services are LPS services. A complete list of LPS services is found in Health & Safety § 5328. For other services, Cal. Civil Code § 56 et al may apply.

Posttest

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