

CONSENT FOR MINORS

In California, a minor is defined as a person under the age of 18 years. Generally, minors may not consent for medical diagnosis or treatment. There are, however, situations for which they may consent. Whether adult or minor, the consenting individual must be provided with informed consent and that discussion, by the licensed healthcare provider, must be documented in the medical record.

WHO MAY GRANT CONSENT FOR A MINOR?

California law authorizes the parent(s) or legal guardian of a minor child to give consent for most medical decisions on behalf of the minor.

Other special consent situations are as follows:

- A **“qualified adult relative”** may grant consent if the minor lives with that adult. A “qualified adult relative,” is defined as an adult spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix “grand” or “great,” or the spouse of any of those persons. A specific authorization form is required.
- **“Court assigned guardians”** may consent for a minor's medical care as defined by the documents awarding guardianship.
- In **“divorce/separation”** situations, a parent with legal custody may give consent. If both parents have legal custody, and there is no disagreement, either parent may give consent and have access to information / records.
- **“Foster parents”** may consent to “ordinary” medical care such as immunizations, physical exams, or x-rays if placement was by court order or with consent of the child's legal custodians. Foster parents may NOT give consent for surgical or experimental/controversial treatments/medications.
- **“Step Parents”** generally **do not** have the authority to give legal consent for medical treatment of a minor child. However, there are several exceptions to this rule.
 1. A stepparent may give consent for a minor's medical care if the stepparent has legally adopted the child or has been designated as the child's legal guardian **or**
 2. A stepparent may authorize medical care for the minor by completing and signing a “Caregiver's Authorized Affidavit”. This authorization is valid only if the following exist:
 - The minor is living with the qualified relative, such as a stepparent
 - The stepparent must advise the parents of the proposed medical treatment and have received no objection OR they have been unable to contact the parents

OTHER AREAS WHEN MINORS MAY GIVE CONSENT

- Minors who are married or divorced, on active duty with the U.S. Armed Forces, emancipated by a court order, or self-sufficient 15 years or older, living away from home, and managing his own finances) may consent to most types of health care treatment.

ACCESS TO THE MINOR'S MEDICAL RECORD

Parents or legal guardians usually have a legal right to obtain a minor child's medical records.

- However, in circumstances where a minor can consent to medical treatment, the healthcare provider can only share the minor's medical records, with the parents, with the signed consent of the minor. For example, a parent can access minor medical records for treatment of the flu or a laceration but not for treatment of an STD or pregnancy.
- The health care provider may also limit parental access, to the minor's record, if the provider feels it is detrimental to the provider's relationship with the minor.

Special California Minor Consent Laws

When may a minor give consent and provider's obligations

	Minor Consent Sufficient for Confidential Care	Parent/Guardian Consent Required	Parent/Guardian Notification Required
Abortion	Yes	No	Not allowed without consent of minor
Birth Control	Yes (except sterilization)	No (except sterilization)	
Pregnancy (Prev., Dx & TX)	Yes ¹	No ¹	
STD's, Contagious & Reportable Diseases (Dx & Tx)	Yes (minors ≥ 12 years)	Not needed for minors ≥ 12 years	
HIV Testing	Yes (minors ≥ 12 years and assessed as competent to give informed consent)	Not Needed for minors ≥ 12 years, unless deemed incompetent to consent	
Outpatient Mental Health Treatment	Yes ² (minors ≥ 12 years)	Yes (except ²)	An attempt should be made, except when the provider believes it is inappropriate
Alcohol/Drug Abuse Treatment	Yes (minors ≥ 12 years)	Not needed for minors ≥ 12 years, except for methadone treatment ^{1,3}	Not allowed without consent of minor
Rape ⁴	Yes (minors ≥ 12 years)	Not Needed ¹ for minors ≥ 12 years	
Sexual Assault ⁵	Yes	No	An attempt must be made except when provider believes parent or guardian was responsible

1. Including inpatient Care
2. If (1) the minor is 12 years, 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. Minors may NOT consent to convulsive therapy, psychosurgery or psychotropic drugs
3. However, parents can consent over the child's objection
4. Non-consensual sexual intercourse
5. Acts of rape, oral copulation, sodomy, and other violent crimes of a sexual nature

Reprinted with permission from Adolescent Health Working Group in collaboration with CA Adolescent Health Collaborative. For Further information, please visit <https://ahwg.org/> or call 415-554-8429.

This information is not intended to be inclusive, nor is intended as legal advice. If you have a specific patient situation, please contact CAP Risk Management at 800-252-7706 for further information.