Intimate Partner Violence and Sexual Assault in Youth: History, Exam, and Mandated Reporting

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Definition: Domestic Violence

- "Domestic Violence means abuse committed against an adult or a fully emancipated minor who is a spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating relationship or engagement." Penal Code Section 13700

- Intimate Partner Violence (IPV)
Why Focus on Young People?

- Girls and Young women age 16-24 experience the highest rate of IPV – almost triple the national average.
- Violent behavior typically begins between the ages of 12 and 18.
- Severity of intimate partner violence is often greater in cases where the pattern of abuse was established in adolescence.

Don’t Forget about College Students

- Nearly half (43%) of dating college women report experiencing violent and abusive dating behaviors.

- One in six (16%) college women has been sexually abused in a dating relationship.
Mandated Screening and Reporting

- CA Health and Safety Code section (1259.5)
- Cal Penal code §§ 11160-11163.2
Abuse Screening

- H: Has your partner HURT you physically?
- I : Has your partner INSULTED you?
- T: Has your partner THREATENED you?
- S: Has your partner SCREAMED at you?
Domestic Violence Reporting

When are health care providers required to report?
Health care providers are required to make a report if they provide medical services to a patient whom they suspect is suffering from a physical injury due to a firearm or assaultive or abusive conduct.

To whom?
Local law enforcement agency that has jurisdiction over the location in which the injury was sustained.

What is the time limit to report?
A telephone report must be made immediately or as soon as practically possible, and a written report must be sent within two working days.
Sexual Assault

- Sexual assault is the exception to the injury criterion for mandated reporting of assault.
Child abuse reporting for sexual activity between/with minors

- **Involuntary sexual activity**: always reportable

- **Incest**: Even if voluntary always reportable (ancestors and descendants of every degree; half sibs, uncles, nieces, aunts, nephews)

- **Voluntary sexual activity**: May or may not be reportable
When must you report consensual sexual activity involving minors?

- Both children are under 14? **No report required.** (unless disparate age, intimidation, coercion)

- One child < age 14, the other 14-17? **Yes**

- Both are ages 14-17? **No report required** (unless involves incest or evidence exploitative)

- Child age 14-17, partner 18 or older? **No** Unless:
  1) Incest
  2) Statutory Rape: over 21yo with 14-15yo;
  3) Lewd and Lascivious Acts w 14-15 yo and a person at least 10 yr. older)
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<thead>
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<th>Age of Partner \ Age of Youth</th>
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Chart design by David Knopf, LCSW, UCSF.
(The legal sources for this chart are: Penal Code §§ 261.5, 261, 11165.1, 11165.6, 11166; 249 Cal. Rptr. 762, 769 (3rd Dist. Ct. App. 1989); 226 Cal. Rptr. 361, 381 (1st Dist. Ct. App. 1986).)
The law does not require medical providers to ask about partner age.
When you make a report:

- Inform the patient that you are required to make a report, but they are not required to talk to law enforcement.

- For sexual assault, inform patient:
  
  You have a right to a support person of your choice for law enforcement interview or exam.

- For sexual assault: Notify Rape Crisis Center and give patient phone number.
Legal Responsibilities

- Minors have the right to consent or decline medical care related to sexual assault.

- When sexual assault medical care is provided, Parental Notification is mandated by California Family Code.*

* Cal Family Code §6928
Forensic Medical Exam (aka “Rape Kit”)

- Patient has a right to a forensic medical exam even if not ready or sure about speaking to law enforcement.
- Patient must specifically consent to evidence collection. Patient has right to refuse any part of the exam or evidence collection.
Forensic Medical Exam

- Should be offered for victims within 5 days of assault. Check your local SART (Sexual Assault Response Team) protocol.

- Exam is done by a trained forensic examiner
Forensic Medical Exam

**Goals**

- Treatment of medical problems related to assault
- Collection and preservation of evidence
Evidence considerations

- Urine and blood specimens
- Clothing
- Advice for referring providers:
  - Document statements made and injuries seen
  - Patient should not bathe
  - Avoid cleansing genitals (i.e. wipes for urine collection)
Specimen collection

- Blood should be drawn if within 48 hours of suspected Drug Facilitated Sexual Assault (DFSA)
- Urine specimen should be collected if within 120 hours of suspected DFSA
- Earliest possible specimen!
Strangulation: Don’t forget to ask

- “At any time did the person put hands on your neck or try to choke you?”
- Potentially lethal
- May not have visible injuries or marks on the neck
- Document any statements made or injuries or symptoms
Health Consequences: Providing Emergency Contraception


- Female sexual assault victims must be provided the option of postcoital contraception upon the request of the victim at no cost to the victim.
Emergency Contraception

After pregnancy test:

- Ella
  or
- Plan B
Sexually transmitted infections (STIs): Patient options: testing vs treatment

- Considerations:
  - Patient preference
  - Ability/likelihood of follow up
  - National Protocol encourages treatment as preferable
STI Testing

- Testing at the time of forensic exam is patient’s baseline testing.
- Include: Chlamydia, gonorrhea, trichomonas, HIV, syphilis
- If patient declines treatment, testing for possible transmission during assault should occur in 10-14 days (or sooner if symptoms)
STI Treatment
See current CDC guidelines

- Chlamydia: Azithromycin 1 g PO
- Gonorrhea: Ceftriaxone 250 mg IM
- Trichomonas: Metronidazole 2 g PO
- Hepatitis B: Ensure patient has been vaccinated
- HIV Post Exposure Prophylaxis: individual risk assessment
- Recommend HPV vaccine series
HIV Post Exposure Prophylaxis (HIV PEP)

- Extremely low risk

- If assailant is HIV positive and untreated:
  - Risk from 1 episode penile-vaginal sex: 0.1-0.2%
  - Risk for receptive anal intercourse: 0.5– 3%
If HIV PEP recommended:

- Must be started within 72 hours of assault
- Labs drawn before initiation:
  - HIV Ab, CBC, Chem panel (renal function)
  - May also add:
    - HBsAg, Anti-HBs, Anti-HBc, HepC Ab, Syph Ab
HIV PEP Preferred regimen

- 3 drug regimen consisting of
  tenofovir DF 300mg and emtricitabine 200 mg (Truvada) once daily
  with
  raltegravir 400mg twice daily (Isentress)
  or
  dolutegravir 50 mg once daily (Tivicay)
Referrals

- Domestic Violence Advocates
- Rape Crisis Advocates
- Victims Services
Dating abuse is a big problem, affecting youth in every community across the nation. Learn the facts below.

**Too Common**
- Nearly 1.5 million high school students nationwide experience physical abuse from a dating partner in a single year.\(^1\)
- One in three girls in the US is a victim of physical, emotional or verbal abuse from a dating partner, a figure that far exceeds rates of other types of youth violence.\(^2\)
- One in ten high school students has been purposefully hit, slapped or physically hurt by a boyfriend or girlfriend.\(^3\)

**Why Focus on Young People?**
- Girls and young women between the ages of 16 and 24 experience the highest rate of intimate partner violence, almost triple the national average.\(^4\)
- Among female victims of intimate partner violence, 94% of those age 16-19 and 70% of those age 20-24 were victimized by a current or former boyfriend or girlfriend.\(^5\)
- Violent behavior often begins between the ages of 12 and 18.\(^6\)
- The severity of intimate partner violence is often greater in cases where the pattern of abuse was established in adolescence.\(^7\)

**Don’t Forget About College Students**
- Nearly half (43%) of dating college women report experiencing violent and abusive dating behaviors.\(^8\)
- College students are not equipped to deal with dating abuse – 57% say it is difficult to identify and 58% say they don’t know how to help someone who’s experiencing it.\(^9\)
- One in three (36%) dating college students has given a dating partner their computer, email or social network passwords and these students are more likely to experience digital dating abuse.\(^10\)
- One in six (16%) college women has been sexually abused in a dating relationship.\(^11\)

**Long-lasting Effects**
- Violent relationships in adolescence can have serious ramifications by putting the victims at higher risk for substance abuse, eating disorders, risky sexual behavior and further domestic violence.\(^12\)
- Being physically or sexually abused makes teen girls six times more likely to become pregnant and twice as likely to get a STD.\(^13\)
- Half of youth who have been victims of both dating violence and rape attempt suicide, compared to 12.5% of non-abused girls and 5.4% of non-abused boys.\(^14\)

**Lack of Awareness**
- Only 33% of teens who were in an abusive relationship ever told anyone about the abuse.\(^15\)
- Eighty-one (81) percent of parents believe teen dating violence is not an issue or admit they don’t know if it’s an issue.\(^16\)
- Though 82% of parents feel confident that they could recognize the signs if their child was experiencing dating abuse, a majority of parents (58%) could not correctly identify all the warning signs of abuse.\(^17\)


D. M. Ackard, Minneapolis, MN, and D. Neumark-Sztainer, Division of Epidemiology, School of Public Health, University of Minnesota, Minneapolis, MN, *Date Violence and Date Rape Among Adolescents: Associations with Disordered Eating Behaviors and Psychological Health*, Child Abuse & Neglect, 26 455-473, (2002).

Liz Claiborne Inc., conducted by Teenage Research Unlimited, (February 2005).


## CALIFORNIA MINOR CONSENT AND CONFIDENTIALITY LAWS*

<table>
<thead>
<tr>
<th>MINORS OF ANY AGE MAY CONSENT</th>
<th>LAW/DETAILS</th>
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<tbody>
<tr>
<td><strong>PREGNANCY</strong></td>
<td>“A minor may consent to medical care related to the prevention or treatment of pregnancy,” except sterilization. (Cal. Family Code § 6925).</td>
<td>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 them with a signed authorization from the minor. (Cal. Health &amp; Safety Code §§ 123110(a), 123115(a)(1); Cal. Civ. Code §§ 56.10, 56.11).</td>
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<td><strong>CONTRACEPTION</strong></td>
<td>A minor may receive birth control without parental consent. (Cal. Family Code § 6925).</td>
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<td><strong>ABORTION</strong></td>
<td>A minor may consent to an abortion without parental consent. (Cal. Family Code § 6925; <em>American Academy of Pediatrics v. Lungren</em>, 16 Cal.4th 307 (1997)).</td>
<td>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 them with a signed authorization from the minor. (<em>American Academy of Pediatrics v. Lungren</em>, 16 Cal.4th 307 (1997); Cal. Health &amp; Safety Code §§ 123110(a), 123115(a)(1); Cal. Civ. Code §§ 56.10, 56.11).</td>
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<tr>
<td><strong>SEXUAL ASSAULT¹ SERVICES</strong></td>
<td>“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).</td>
<td>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). Both rape and sexual assault of a minor are considered child abuse under California law and must be reported as such to the appropriate authorities by mandated reporters. The child abuse authorities investigating a child abuse report legally may disclose to parents that a report was made. (See Cal. Penal § 11167 and 11167.5.)</td>
</tr>
<tr>
<td><strong>RAPE² SERVICES FOR MINORS UNDER 12 YRS³</strong></td>
<td>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).</td>
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</table>

¹For the purposes of minor consent health care alone, sexual assault includes acts of oral copulation, sodomy, and other crimes of a sexual nature.

²Rape is defined in Cal. Penal Code § 261.

³See also “Rape Services for Minors 12 and Over” on page 3 of this chart.
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<td><strong>EMERGENCY MEDICAL SERVICES</strong></td>
<td>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. &amp; Prof. Code § 2397).</td>
<td>The parent or guardian usually has a right to inspect the minor’s records. (Cal. Health &amp; Safety Code §§ 123110(a); Cal. Civ. Code § 56.10. <em>But see exception at endnote (EXC).</em>).</td>
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<td><em>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. &amp; Prof. § 2397(c)(2)).</em></td>
<td>“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).</td>
<td>Neither the physician-patient privilege nor the psychotherapist-patient privilege applies to information reported pursuant to this law in any court proceeding.</td>
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<td><strong>SKELETAL X-RAY TO DIAGNOSE CHILD ABUSE OR NEGLECT</strong></td>
<td>“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).</td>
<td>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 them with a signed authorization from the minor. (Cal. Health &amp; Safety Code §§ 123110(a), 123115(a)(1); Cal. Civ. Code §§ 56.10, 56.11).</td>
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<td><em>The provider does not need the minor’s or parent’s consent to perform a procedure under this section.</em></td>
<td>“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 prevention, diagnosis or treatment of the disease. (Cal. Family Code § 6926).</td>
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<td>MINORS 12 YEARS OF AGE OR OLDER MAY CONSENT</td>
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<td>AID/HIV (PREVENTIVE CARE, TESTING, DIAGNOSIS, AND TREATMENT)</td>
<td>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 medical care related to the prevention, diagnosis and treatment of HIV/AIDS. (Cal. Family Code § 6926). Services currently available include pre- and post- exposure prophylaxis medication to prevent HIV infection (PrEP and PEP).</td>
<td>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 them with a signed authorization from the minor. (Cal. Health &amp; Safety Code §§ 123110(a), 123115(a)(1); Cal. Civ. Code §§ 56.10, 56.11).</td>
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<td>RAPE SERVICES FOR MINORS 12 and OVER</td>
<td>“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).</td>
<td>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 them with a signed authorization from the minor. (Cal. Health &amp; Safety Code §§ 123110(a), 123115(a)(1); Cal. Civ. Code §§ 56.10, 56.11).</td>
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<td>INTIMATE PARTNER VIOLENCE*</td>
<td>“A minor who is 12 years of age or older and who states he or she is injured as a result of intimate partner violence may consent to medical care related to the diagnosis or treatment of the injury and the collection of medical evidence with regard to the alleged intimate partner violence.” (Cal. Family Code § 6930).</td>
<td>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 them with a signed authorization from the minor. (Cal. Health &amp; Safety Code §§ 123110(a), 123115(a)(1); Cal. Civ. Code §§ 56.10, 56.11).</td>
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*For the purposes of minor consent health care alone, “intimate partner violence” means an intentional or reckless infliction of bodily harm that is perpetrated by a person with whom the minor has or has had a sexual, dating, or spousal relationship.” If the minor is seeking services as a result of a rape or sexual assault, minor consent services should be provided under the “sexual assault” or “rape” minor consent laws rather than this law. (Cal. Family Code § 6930(b)).
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<td><strong>OUTPATIENT MENTAL HEALTH SERVICES</strong>&lt;sup&gt;4&lt;/sup&gt;/ SHELTER SERVICES</td>
<td>Two statutes give minors the right to consent to mental health treatment. If a minor meets the criteria under either statute, the minor may consent to his or her own treatment. If the minor meets the criteria under both, the provider may decide which statute to apply. There are differences between them. See endnote ** for more on these differences:</td>
<td><strong>MENTAL HEALTH TREATMENT:</strong> 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).) For services provided under Health and Safety Code § 124260, providers must consult with the minor before deciding whether to involve parents. (Cal. Health &amp; Saf. Code § 124260(a).)</td>
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4This section does not authorize a minor to receive convulsive therapy, psychosurgery or psychotropic drugs on their own consent.

**Family Code § 6924**
“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. Family Code § 6924.)

**Health & Safety Code § 124260**
“[A] minor who is 12 years of age or older may consent to [outpatient] mental health treatment or counseling services if, in the opinion of the attending professional person, the minor is mature enough to participate intelligently in the mental health treatment or counseling services.” (Cal. Health & Saf. Code § 124260.)

**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.
MINORS 12 YEARS OF AGE OR OLDER MAY CONSENT

**LAW/DETAILS**

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.

**FEDERAL**: 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
   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).

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” at page 4 above. See also exception at endnote (*EXC*).
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<td>GENERAL MEDICAL CARE</td>
<td>“A minor may consent to the minor's medical care or dental care if all of the following conditions are satisfied: (1) The minor is 15 years of age or older. (2) The minor is living separate and apart from the minor's parents or guardian, whether with or without the consent of a parent or guardian and regardless of the duration of the separate residence. (3) The minor is managing the minor's own financial affairs, regardless of the source of the minor's income.” (Cal. Family Code § 6922(a).)</td>
<td>“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)).</td>
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<td>MINOR MUST BE EMANCIPATED (GENERALLY 14 YEARS OF AGE OR OLDER)</td>
<td>LAW/DETAILS</td>
<td>MAY/MUST THE HEALTH CARE PROVIDER INFORM A PARENT ABOUT THIS CARE OR DISCLOSE RELATED MEDICAL INFORMATION TO THEM?</td>
</tr>
<tr>
<td>GENERAL MEDICAL CARE for EMANCIPATED YOUTH</td>
<td>An emancipated minor may consent to medical, dental and psychiatric care. (Cal. Family Code § 7050(e)). See Cal. Family Code § 7002 for emancipation criteria.</td>
<td>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 them with a signed authorization from the minor. (Cal. Health &amp; Safety Code §§ 123110(a), 123115(a)(1); Cal. Civ. Code §§ 56.10, 56.11).</td>
</tr>
</tbody>
</table>

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Endnotes:

* 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. Further, the confidentiality section focuses on parent and provider access. It does not address when other people or agencies may have a right to access otherwise confidential information.

** In addition to having slightly different eligibility criteria, there are other small differences between Health and Safety Code §124260 and Family Code § 6924. For example, the two laws both allow “professional persons” to deliver minor consent services but the two laws define “professional person” differently. Also, there is a funding restriction that applies to Health and Safety Code §124260 but not to Family Code § 6924. (See Cal. Family Code 6924, Cal. Health & Saf. Code § 124260 and Cal. Welf. & Inst. Code § 14029.8 and look for more information on www.teenhealthlaw.org.).

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.