

# Minor Consent and Confidentiality Spring 2015 Revision

Monterey County Behavioral Health  
Quality Improvement

# Background

- \* March 2014
  - \* Realigned MCBH's definition of minor consent for sensitive service to reflect the definition of "sensitive services" contained in the newer law, California Health and Safety Code 124260
  - \* Also revised confidentiality of minors' protected health information to reflect current law [California Health & Safety Code Section 123110(a), 1231125(a); Code of Federal Regulations, Title 45, Section 164.502(g)(3), 164.508(a)]

# Background

- \* May 2015
  - \* Realignment of MCBH's definition of sensitive services to meet the definition of "sensitive services" in the more established California Family Code Section 6924
- \* Realignment based on:
  - \* Feedback from providers regarding difficulties in having parents/guardians understand and accept the concept of California Health & Safety Code Section 124260
  - \* Concerns from programs regarding billing MediCal under the California Health & Safety Code Section 124260 definition of "sensitive services."

# Background

- \* Even with this realignment, there will be no change as to how MCBH's definition and application of confidentiality regarding minor consent services.
- \* Confidentiality of minor consent services are still controlled by the same current and prevailing statutes law [California Health & Safety Code Section 123110(a), 1231125(a); Code of Federal Regulations, Title 45, Section 164.502(g)(3), 164.508(a)]

# Changes

	March 2014	May 2015
Law defining minor consent	CA Health and Safety Code Section 124260	CA Family Code 6924
Definition of sensitive services	“[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.”	“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.”

# Confidentiality of Minors' PHI

	March 2014	May 2015
Law establishing confidentiality of minors; PHI	<ul style="list-style-type: none"><li>CA Health &amp; Safety Code Section 123110(a), 1231125(a)</li><li>45 CFR 164.502(g)(3), 164.508(a)</li></ul>	
Rule regarding confidentiality of minors' PHI		If the minor consents or could have consented to care, the provider <b><i>only may</i></b> share the minor's medical information with parents or guardian <b><i>with the signed authorization of the minor.</i></b>
Practical application		An Authorization to Use, Exchange, and/or Disclose PHI must be obtained from minor clients 12 years or older prior to disclosing PHI to parents or legal guardians even if those parents or guardians are who consented for services

# Resource

- \* National Center for Youth Law
  - \* 405 14<sup>th</sup> St., 15<sup>th</sup> floor, Oakland, CA 94612
  - \* Tel: 510-835-8098
  - \* <http://www.youthlaw.org>
  - \* <http://www.teenhealthlaw.org>