

San Francisco Department of Public Health

POLICY AND PROCEDURE

Policy Number	PENDING
Policy Title	Consent for Minors: Urgent, Primary Care and Behavioral Health Services; Confidentiality Obligations
Adoption Date	Adopted December 6, 2005
Review Dates	At a minimum, every year
Oversight	Director of Health
Authors	Minor Consent Policy Committee Members and DPH Staff
Sections Affected	All Department of Public Health providers, including contractors, who deliver primary care, mental health, and substance abuse services to persons under the age of 18 who are seeking services such as pregnancy-related care, rape treatment, skeletal x-ray.
Purpose of Policy	To increase access to health care for adolescents, and establish uniform consent practices for minors for non-emergency, primary care and behavioral health services.
<p>Guiding Principles</p> <p>ADOLESCENTS</p> <ul style="list-style-type: none"> • Adolescents are an underserved, underinsured, vulnerable population at risk for preventable health conditions, many of which have both immediate and long-term impact on health and well-being. • During adolescence, tremendous developmental changes occur; these changes can produce fragile relationships, conflict and confusion. It is critical during this period for adolescents to have easy access to adult guidance and support in health settings. • Confidentiality plays a significant role in adolescent's willingness to seek care and communicate openly with health professionals. <p>PARENTS AND FAMILY</p> <ul style="list-style-type: none"> • Parents/guardians play an important role in influencing their adolescent's behavior. The greater the quality of the relationship between parent and child, the greater the likelihood that young person will display high self-esteem, do well in school and engage in healthy behavior. • For some families, for a variety of reasons, the parent/legal guardian may be estranged from or unavailable to, their adolescent children. In many cases, support from the health community can benefit both parents/guardians and their teenagers. <p>PROVIDERS AND HEALTH CARE SYSTEMS</p> <ul style="list-style-type: none"> • Prevention must be a significant focus of adolescent clinical practice. • Coordinating behavioral health services with primary care services is essential for improving access to, and quality of, health care. • Clinicians want adolescents to receive good care based on current standards of adolescent practice, including a strength-based approach that respects adolescents' rights, provides a safe and respectful environment, involves families, and includes holistic assessments. 	

101.01 ACCESS TO CARE (PRIMARY CARE & BEHAVIORAL HEALTH)	
Policy	Procedure/Confidentiality
<p>All persons under 18 years of age ("minors") requesting services at a DPH or contractor clinic will be provided with a primary care and/or behavioral health assessment.</p> <p>As part of the assessment, the legal status of a minor will be established to determine who has authority to consent for treatment. (refer to section 101.02 – 101.07).</p>	<ol style="list-style-type: none"> 1. Any minor requesting services at a DPH or contractor primary care or behavioral health site will be given access to a health care provider with or without a parent/guardian present. 2. The provider will (1) determine the legal status of the minor (refer to section 101.02 – 101.07), (2) determine why the minor is presenting to the health care site, (3) determine if the minor's condition is an emergency, (4) inform the minor of his/her health care rights including minor consent services and confidentiality and, (5) conduct an assessment to assist in understanding presenting issues and consent. For primary care, it is recommended that HEADSSS be used. For behavioral health, it is recommended that the SFCBHS-CYF Assessment be used (CBHS CYF MRD 85). For behavioral health, the treating clinician should fill out the “Checklist for Minor Consent” (MRD80M2). 3. Completing an initial assessment and determining eligibility for behavioral health minor consent services may take multiple sessions. In those cases, the charting should clearly describe why the clinician believes that the minor may qualify for minor consent under Family Code Section 6924. If criteria cannot be established within the next few sessions, please consult with a supervisor. 4. Primary care sites will register clients to payor code 834 if no other source of payment is determined; reproductive health care services should always be billed to FamPact to ensure client confidentiality. 5. For a client receiving behavioral health services under minor consent, follow billing procedures as outlined in the SFCBHS Policy and Procedure “Consent for Voluntary Behavioral Health Services for Minors” # 3.05-03 Section II, Item 3 and 4, and Section III, items 1 and 2.

101.02 CONSENT TO PRIMARY CARE SERVICES BY MINORS OF ANY AGE	
Policy	Procedure/Confidentiality
<p>Minors of any age may consent to the following procedures:</p> <ul style="list-style-type: none"> • Medical care related to the prevention or treatment of pregnancy (except sterilization) • Receipt of birth control • An abortion • Medical care related to the diagnosis, treatment and the collection of medical evidence related to a sexual assault or rape • A skeletal x-ray to diagnose child abuse or neglect • An emergency condition or injury when the minor's parent or guardian is unavailable to give consent <ul style="list-style-type: none"> ➤ 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. 	<ol style="list-style-type: none"> 1. When a minor has consented to the following procedures, the health care provider is not permitted to inform a parent or legal guardian, without minor's authorization: <ol style="list-style-type: none"> a. Medical care related to the prevention or treatment of pregnancy (except sterilization) b. Receipt of birth control c. An abortion 2. In the case of treatment for sexual assault or rape (except for rape services for a minor who is 12 years of age or older), 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 or rape. In the case of rape services for a minor who is 12 years of age or older, the healthcare provider is not permitted to inform a parent or legal guardian without the minor's authorization. 3. In the case of a skeletal x-ray to diagnose child abuse or neglect, neither the physician-patient privilege nor the psychotherapist-patient privilege applies to information reported. 4. In the case of emergency treatment, the health care provider shall inform the minor's parent or guardian of the treatment.

101.03 CONSENT TO PRIMARY CARE SERVICES BY MINORS OF 12 YEARS OF AGE OR OLDER	
Policy	Procedure/Confidentiality
<p>Minors of 12 years or older may consent to the following procedures:</p> <ul style="list-style-type: none"> • Medical care related to the diagnosis or treatment of an infectious, contagious, or communicable disease, if the disease is one that is required by law to be reported • Medical care related to the diagnosis or treatment of a sexually transmitted disease • An HIV test (consent should be in writing) and the diagnosis and treatment of HIV/AIDS 	<p>When a minor of 12 years or older has consented to the following procedures, the health care provider is not permitted to inform a parent or legal guardian without minor's authorization. The provider can only share the minor's medical records with the signed authorization of the minor:</p> <ul style="list-style-type: none"> • Medical care related to the diagnosis or treatment of an infectious, contagious, or communicable disease, if the disease is one that is required by law to be reported • Medical care related to the diagnosis or treatment of a sexually transmitted disease • An HIV test and the diagnosis and treatment of HIV/AIDS

101.04 CONSENT TO PRIMARY CARE SERVICES BY MINORS OF 15 YEARS OF AGE OR OLDER	
Policy	Procedure/Confidentiality
<p>Minors of 15 years or older may consent to medical care or dental care if:</p> <ul style="list-style-type: none"> • 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, and • The minor is managing the minor's own financial affairs, regardless of the source of the minor's income. • Such minors are termed, "self-sufficient minors." 	<p>When a minor of 15 years or older has consented to medical care or dental care, 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. However, such disclosure is discretionary, not mandatory. It is recommended that the self-sufficient minor be consulted regarding parental notification.</p>

101.05 CONSENT TO PRIMARY CARE AND BEHAVIORAL HEALTH SERVICES BY EMANCIPATED MINORS	
Policy	Procedure/Confidentiality
<p>Emancipated minors may consent to medical, behavioral health, or dental care without parental consent, knowledge, or liability.</p> <p>A person under the age of 18 years is an emancipated minor if any of the following conditions is satisfied:</p> <ul style="list-style-type: none"> • The person has entered into a valid marriage, whether or not the marriage has been dissolved. • The person is on active duty with the armed forces of the United States. • The person has received a declaration of emancipation from the court. <ul style="list-style-type: none"> ➤ A minor may obtain a court declaration of emancipation if he or she is: 14 years old or older; living separate and apart from his or her parents or guardian with their acquiescence; AND managing his or her own finances. 	<p>When an emancipated minor has consented to medical, behavioral health, or dental care, the health care provider is not permitted to inform a parent or legal guardian without minor’s authorization. The provider can only share the minor’s medical records with the signed authorization of the minor.</p>

101.06 CONSENT TO BEHAVIORAL HEALTH SERVICES

Policy	Procedure/Confidentiality
<p>1. 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:</p> <ul style="list-style-type: none">a. The minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services or residential shelter services, andb. The minor:<ul style="list-style-type: none">i. 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, orii. is the alleged victim of incest or child abuse <p>Note: see section 101.01</p> <p>2. A minor may not consent to receive convulsive therapy, psychosurgery or psychotropic drugs without the consent of a parent or guardian.</p>	<ul style="list-style-type: none">1. When a minor who is 12 years of age or older has consented to mental health treatment or counseling on an outpatient basis, the health care provider is required to involve a parent or guardian unless the health care provider decides that involvement is inappropriate. This decision must be documented in the minor's record.2. Although a minor who is 12 years of age or older may consent to shelter services, the shelter must use its best efforts based on information provided by the minor to notify parent/guardian of shelter services.3. The parent/guardian of a minor shall not be entitled to inspect or obtain copies of the minor's patient records, without minors' authorization.

101.07 CONSENT TO DRUG AND ALCOHOL ABUSE TREATMENT	
Policy	Procedure/Confidentiality
<p>1. Minors 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. See SFCBHS policy and procedure “Consent for voluntary behavioral health services – minors” Policy # 3.05-03, section II 4, item d, e, and f.</p> <p>2. Minors 12 years of age or older may not consent to the receipt of replacement narcotic abuse treatment without the consent of the minor's parent or guardian. However, if in the physician's judgment, replacement narcotic abuse treatment is necessary for the treatment of a pregnancy, the physician should consult with legal counsel.</p> <p>3. Minors 12 years of age or older may not refuse medical care and counseling for a drug or alcohol related problem when the minor's parent or guardian consents to that treatment.</p>	<p>1. Federal confidentiality law applies to any individual, program, or facility that meets the following two criteria:</p> <ul style="list-style-type: none"> a. The individual, program, or facility is authorized, certified, licensed or funded in whole or in part by any department of the federal government (this applies to all DPH programs); AND b. The individual or program: <ul style="list-style-type: none"> i. Is an individual or program that holds itself out as providing alcohol or drug abuse diagnosis, treatment, or referral; OR ii. 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 iii. Is a unit at a general medical facility that holds itself out as providing alcohol or drug abuse diagnosis, treatment or referral. <p>2. 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.</p> <p>3. The parent/guardian of a minor shall not be entitled to inspect or obtain copies of the minor’s patient records, without minors’ authorization.</p>

101.08 PERFORMANCE INDICATORS AND MONITORING	
Policy	Procedure
Performance measures are established to assure implementation, compliance, and continuous improvement.	To be determined

AUTHORIZATIONS			
Divisions	Signature	Adoption Date	Effective Date
Community Health and Safety Programs	Mitchell H. Katz, M.D., Director of Health		
Community Programs	Barbara A. Garcia, Director		
San Francisco General Hospital	Gene O'Connell, C.E.O.		
AIDS Office	James Loyce, Director		
Laguna Honda Hospital	John Kanaley, Director		