I. Purpose of Policy

1. GUIDING PRINCIPLES FOR DEPARTMENT OF PUBLIC HEALTH PROVIDERS AND CONTRACTORS

i. Adolescents

1) Adolescent populations are vulnerable to the impact of a number of preventable health conditions, many of which have both immediate and long-term impact on health and well-being. This is compounded by the fact that adolescents are at risk of being underserved by the health system, in many cases because they are un- or underinsured.

2) 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.

3) Confidentiality plays a significant role in adolescents’ willingness to seek care and communicate openly with health professionals.

ii. Parents & Families

The mission of the San Francisco Department of Public Health is to protect and promote the health of all San Franciscans.

We shall ~ Assess and research the health of the community ~ Develop and enforce health policy ~ Prevent disease and injury ~

~ Educate the public and train health care providers ~ Provide quality, comprehensive, culturally-proficient health services ~ Ensure equal access to all ~
1) Parents/guardians play an important role in influencing their adolescent’s behavior. The higher the quality of the relationship between parent and child, the greater the likelihood that the young person will display high self-esteem, do well in school, and engage in healthy behavior.

2) 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 the family.

iii. Providers and Health Care Systems

1) Prevention must be a significant focus of adolescent clinical practice.

2) Coordinating behavioral health services with primary care services is essential, and can improve access and quality of the services provided.

3) The Department of Public Health is committed to ensuring that adolescents receive high quality care based on current standards of adolescent practice. This includes a strength-based approach that respects adolescents’ rights, provides a safe and respectful environment, involves families, and includes holistic assessments.

II. Policy & Procedures/Confidentiality

1. Access to Care (Primary Care & Behavioral Health)

i. Policy: Department of Public Health (DPH) and contractor clinics are required to provide a primary care and/or behavioral health assessment to all persons under 18 years of age (“minor”) who request services. As part of this assessment, the legal status of a minor will be established to determine who has authority to consent for treatment. (Refer to pages 4 through 8 in this document.)

ii. Procedure/Confidentiality: A DPH or contractor primary care or behavioral health site will give minors access to a health care provider with or without a parent/guardian present.

When a minor presents on their own, the provider/healthcare team will:

1) Determine why the minor is visiting the health care site;

2) Determine if the minor’s condition is an emergency;
3) Determine the legal status of the minor;
4) Conduct an assessment to determine presenting issues and consent; and,
5) Inform the minor of his/her health care rights including minor consent services and confidentiality.

iii. For primary care, using HEADSS is recommended. For behavioral health, SF CBHS-CYF Assessment (CBHS CYF MRD 85) is recommended; and the treating clinician should complete the “Checklist for Minor Consent” (MRD80M2).

iv. 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 or Health & Safety Code Section 124260. SB543 is summarized here. If criteria cannot be established within the next few sessions, please consult with a supervisor.

a) Primary care sites will register clients to payer code 834 if no other source of payment is determined; reproductive health care services should always be billed to FamPact to ensure client confidentiality.

b) For a client receiving behavioral health services under minor consent, follow billing procedures as outlined in the SFCBHS Policy & Procedure “Consent for Voluntary Behavioral Health Services for Minors,” #305-03 Section II, Item 3 and 4.

c) Collecting basic demographic information on clients is an important part of a first visit to a primary care or behavioral health clinic. For LGBT youth however, questions about gender or sexual orientation may be anxiety producing if parent/guardian is unaware that they identify as transgender, gay, etc. When asking youth questions about their gender and/or sexual orientation at registration or through health history, it is important to assure the youth that this information will be kept confidential when collected under minor consent, and that this information
cannot be disclosed to parent/guardian or other outside person or agency without the youth’s express permission.

d) Included in the basic demographic information are the following questions: what is your gender, what was your sex at birth, what pronoun should we use in addressing you, and how do you describe your sexual orientation or sexual identity. For transgender identified youth, it is extremely important that there be good communication among the health care team (from registration to discharge) particularly related to chosen gender, name and appropriate pronoun use. In primary care, eCW allows for staff alerts (Option STS1) which can be helpful in ensuring that information is shared as needed among staff AND not to be disclosed without the client’s permission. (Please note that while the rest of this policy is fully enforced, this part of the policy is not at this time and will not be until the system allows for full implementation, i.e., eCW, Avatar or other systems capacity to be able to reasonably collect and manage confidentially this data.)

2. **CONSENT TO PRIMARY CARE SERVICES BY MINORS OF ANY AGE**

i. **Policy**: Minors of any age may consent to the following procedures or items:

1) Medical care related to the prevention or treatment of pregnancy (except sterilization);
2) Birth control;
3) Abortion;
4) Medical care related to the diagnosis, treatment and the collection of medical evidence related to a sexual assault or rape;
5) Skeletal x-ray to diagnose child abuse or neglect; and
6) Emergency care.

ii. **Procedure/Confidentiality**: When a minor consents to any of the procedures listed below, the health provider is not permitted to inform a parent or legal guardian, without the minor’s authorization:

1) Medical care related to the prevention or treatment of pregnancy (except sterilization);
2) Birth control; and/or
3) Abortion.

iii. In the case of treatment for sexual assault or rape of a minor under 12 years old, the health care provider must attempt to contact the minor’s parent/guardian. The clinician must 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.¹

   a) 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.

   b) In the case of emergency treatment, the health care provider shall inform the minor’s parent or guardian.

3. CONSENT TO PRIMARY CARE SERVICES BY MINORS - 12 YEARS OF AGE OR OLDER

   i. Policy: Minors 12 years or older may consent to the following procedures:

      1) 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.

      2) Medical care related to the diagnosis or treatment of a sexually transmitted disease.

      3) An HIV test (with written consent) and the diagnosis and treatment of HIV/AIDS.

   ii. Procedure/Confidentiality: When a minor of 12 years or older consents 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:

¹ Abuse of a child is a criminal act. Certain laws impose mandatory reporting requirements for the reasonable suspicion of child abuse. For policies and procedures governing these instances, please go to COPC P&P, Section III or CBHS P&P.
1) 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;

2) Medical care related to the diagnosis or treatment of a sexually transmitted disease;

3) An HIV test and the diagnosis and treatment of HIV/AIDS.

4. **CONSENT TO PRIMARY CARE SERVICES BY MINORS OF 15 YEARS OF AGE OR OLDER**

   i. *Policy:* Independent minors, 15 years or older, may consent to medical or dental care if they meet the “self-sufficient minor” definition.

   ii. *Procedure/Confidentiality:* When a minor of 15 years or older consents to medical care or dental care, a physician, surgeon or dentist may alert the minor’s parent or guardian of the treatment needed or given. This can be done if the physician, surgeon, or dentist has reason to know, on the basis of information given by the minor, the whereabouts of the parent or guardian. This action can be taken without the consent of the minor patient.

      1) Such disclosure is discretionary, not mandatory. It is recommended that the self-sufficient minor be consulted regarding parental notification.

5. **CONSENT TO PRIMARY CARE AND BEHAVIORAL HEALTH SERVICES BY MINORS BY EMANCIPATED MINORS**

   i. *Policy:* Emancipated minors may consent to medical, behavioral health, or dental care without parental consent, knowledge, or liability.

   ii. *Procedure/Confidentiality:* When an emancipated minor consents to medical, behavioral health, or dental care, the health care provider is not permitted to inform a parent or legal guardian without that minor’s authorization. The provider can only share the minor’s medical records with signed authorization from the minor.

III. **CONSENT TO BEHAVIORAL HEALTH SERVICES**

   2. *Policy:* 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, under **Health &**
Safety Code Section 124260 if condition (i) below is satisfied, or under Family Code Section 6924 if conditions (i) and (ii) are both satisfied.

i. 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

ii. The minor:

1) 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

2) Is the alleged victim of incest or child abuse. (NOTE: See here for information about access to care. Health & Safety Code Section 124260 offers a well defined list of professionals who may provide these services.)

3) A minor may not consent to receive convulsive therapy, psychosurgery or psychotropic drugs without the consent of a parent or guardian.

3. Procedure/Confidentiality: When a minor who is 12 years of age or older consents to mental health treatment or counseling on an outpatient basis, the health care provider is required to involve a parent or guardian unless the provider decides that the involvement is inappropriate. This decision must be documented in the minor’s record.

i. Although a minor who is 12 years old 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.

ii. The parent/guardian of a minor shall not be entitled to inspect or obtain copies of the minor’s patient records, without the minor’s authorization.

IV. CONSENT TO DRUG & ALCOHOL ABUSE TREATMENT

2. Policy: 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 the SFCBHS Policy & Procedure “Consent for Voluntary Behavioral Health Services for Minors,” #305-03 Section II, 4, items d, e, and f.
i. Minors 12 years of age or older may not consent to replacement narcotic abuse treatment without the consent of their 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 a supervisor who may contact legal counsel.

ii. Minors 12 years of age or older may not refuse medical care and counseling for a drug or alcohol-related problem, by law, when the minor’s parent or guardian consents to that treatment. However, a minor cannot be forced to accept treatment.

3. Procedure/Confidentiality: Federal confidentiality law applies to any individual, program, or facility that meets the following criteria:

i. 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

ii. The individual or provider must be one of the following:
   1) A program or individual that provides alcohol or drug abuse diagnosis, treatment, or referral;
   2) A staff member at a general medical facility who is identified as, and whose primary function is, providing drug and alcohol abuse diagnosis, treatment or referral; or
   3) A unit at a general medical facility that provides alcohol or drug abuse diagnosis, treatment, or referral.

iii. For individuals and 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 information with parents if the individual or program director determines the following three conditions are met:
   1) The minor’s situation poses a substantial threat to the life or physical well-being of the minor or another;
   2) This threat may be reduced by communicating relevant facts to the minor’s parents; and
   3) 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 his/her parents.

iv. The parent/guardian of a minor shall not be entitled to inspect or obtain copies of the minor’s patient records, without the minor’s authorization.
4. **PERFORMANCE INDICATORS AND MONITORING**

i. **Policy:** Performance measures will be established to ensure implementation, compliance, and continuous improvement.

ii. **Procedure:** To be determined.

V. **Definitions**

2. **DEFINITIONS OF MINOR CONSENT TERMINOLOGY**

i. **Minor:** All persons under 18 years of age.

ii. **Emergency:** 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.

iii. **Self Sufficient Minor:** Minors of 15 years or older are considered “self-sufficient,” if:

   1) The minor is living separately and apart from the minor’s parents or guardian, with or without the consent of a parent or guardian, and regardless of the duration of the separation; *and*
   2) The minor is managing their own financial affairs, regardless of the source of the minor’s income.

iv. **Emancipated minor:** A person under 18 years of age is considered to be an emancipated minor if one or more of these conditions are satisfied:

   1) The minor has entered into a valid marriage, whether or not the marriage has been dissolved.
   2) The minor is on active duty with the armed forces of the United States.
   3) The minor has received a declaration of emancipation from the court. The minor may obtain a court declaration of emancipation if he/she has met all of these qualifications:

      a) Age 14 or older;
      b) Living apart from his/her parents or guardian with their own acquiescence; *and*
      c) Managing his/her own finances.