



SB 543

MINOR CONSENT MENTAL HEALTH

Questions & Answers

What is Senate Bill 543?

In 2010, the Governor signed Senate Bill (SB) 543 making it easier for youth ages 12 and older to obtain needed mental health counseling. At the same time, the law still requires the involvement of the minor's parent if or when appropriate.

This law went into effect January 1, 2011.

When does SB 543 allow a minor to consent to mental health services?

A minor can consent to mental health treatment if he or she meets *both* the following requirements:

- (1) Age 12 or older AND
- (2) The minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the treatment.

UNDERSTANDING SB 543 MENTAL HEALTH CONFIDENTIALITY AND MINOR CONSENT LAW



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Who determines if the minor is competent (mature enough) to make his or her own decisions? The treatment provider makes his/her own assessment of the minor's competency to consent to treatment –a judicial ruling or psychiatric diagnosis is not needed in order to find the minor incompetent. A minor is competent if he/she:

- (1) Understands the nature and consequence of his/her condition and the proposed treatment AND
- (2) can communicate his/her decision.

What mental health services can minors age 12+ consent to? Minors can consent ONLY to limited services—outpatient mental health treatment and counseling. This includes an assessment—the evaluation necessary for an attending professional to assess whether the minor meets criteria for services and right to minor consent.

What services are NOT covered by this statute? Minors CANNOT consent to any of the following services:

- Inpatient mental health treatment
- Psychotropic drugs
- Convulsive therapy
- Psychosurgery

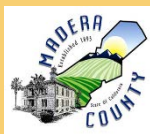
Do parents need to be notified when a minor consents to mental health treatment under this statute?

Yes. Parents must be involved in the minor's treatment UNLESS the treatment provider determines their involvement would be inappropriate. The provider must consult with the minor before deciding to involve the parents.

If parents are involved in the minor's care, the provider should attempt to honor the minor's right to confidentiality while still involving parents.

Do parents have a *right* to access the minor's mental health records?

No. Under this law, when a minor consents or *could have consented* to mental health services, the treatment provider may only share the minor's health information with the parents with the minor's permission and signed authorization. This is true even for parents involved in the minor's treatment.



What is consent?

Consent is an acknowledgement (usually in writing) of any or all of the following:

- The patient understands the treatment he/she will receive.
- The patient authorizes the treatment.
- The patient understands how private information will be shared.

Mental Health Services for Youth

-Background-

Prior to Senate Bill 543, many youth did not seek prevention or early intervention services due to the need for parental consent. This barrier proved especially harmful for certain at risk youth including:

Homeless youth who've lost contact with their parents;

Youth feeling shame, embarrassment or fear of disappointing their parents;

Youth from abusive or neglectful homes;

Youth from immigrant families whose parents are fearful of giving consent;

Youth from cultures that don't condone mental health services;

Lesbian, gay, bisexual, and transgender youth.

Requiring parental consent can force these youth into emotionally damaging and/or physically threatening situations of coming out to their parents prematurely and without support.

Instead, these youth often waited until their mental health condition became dire and their safety compromised by suicide, substance abuse or violence before seeking services.

Senate Bill 543 addresses the identified barrier of parent consent for ALL youth seeking mental health treatment.

Where can I get more information about SB 543, confidentiality and minor consent related resources online?

National Center for Youth Law

<http://www.youthlaw.org>

See Articles and Analysis about Adolescent and Child Health

CA minor Consent Laws: Who can consent for what services and providers' obligations.

Society for Adolescent Medicine

<http://www.adolescenthealth.org>

See Publications: Confidential Health Care for Adolescents

Center for Adolescent Health & the Law

<http://www.cahl.org/>

See Publications: Consent & Confidentiality Protections

California Hospital Association

<http://www.calhospital.org/>

See Publications and Manuals: Minors and Health Care Law: A Handbook in Consent for Treatment of Infants, Children, and Adolescents

BEHAVIORAL HEALTH SERVICES MISSION

To promote the prevention of and recovery from mental illness and substance abuse for individuals, families, and communities we serve by providing accessible, caring and culturally competent services.

Please ask receptionist about your **right to free language assistance** services as well as alternative formats of this brochure. If you have **physical limitations**, we will help you find available, appropriate, and accessible services.