

CA Confidentiality Protections: Know them, use them.

Immunization Coalition of LA County – Adolescent Work Group

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ACLU of Southern California



We'll cover:

- Minor consent in California
 - Access to services
 - Confidential medical release
- Confidential Health Information Act
- California Healthy Youth Act
- Resources for you and patients

A REFRESHER ON MINOR CONFIDENTIALITY RIGHTS



Minor Consent Services

Minors of Any Age

- Pregnancy + Pre-natal
- Contraception + EC
- Abortion
- Rape/abuse/assault services

Minors 12 and Older

- Mental Health + Drug/Alcohol treatment
- STI diagnosis/ treatment/ preventive care
- HIV/AIDS testing and treatment

No parental notification

Minor Consent for STI Prevention (Incl. Vaccines)

- Minors \geq 12:
 - Who may have come into contact with an STI may consent to medical care related to the **diagnosis** or **treatment** of the disease.
 - Law for over 50 years
 - May consent to medical care related to the **prevention** of an STI.
 - New as of 2012.
 - Includes vaccines – HPV, Hep B – and PrEP and PEP to prevent HIV.
 - Citation: Cal Family Code § 6926

Handy Guide



CALIFORNIA MINOR CONSENT AND CONFIDENTIALITY LAWS*

MINORS OF ANY AGE MAY CONSENT	LAW/DETAILS	MAY/MUST THE HEALTH CARE PROVIDER INFORM A PARENT ABOUT THIS CARE OR DISCLOSE RELATED MEDICAL INFORMATION TO THEM?
PREGNANCY	“A minor may consent to medical care related to the prevention or treatment of pregnancy,” except sterilization. (Cal. Family Code § 6925).	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 & Safety Code §§ 123110(a), 123115(a)(1); Cal. Civ. Code §§ 56.10, 56.11).
CONTRACEPTION	A minor may receive birth control without parental consent. (Cal. Family Code § 6925).	
ABORTION	A minor may consent to an abortion without parental consent. (Cal. Family Code § 6925; <i>American Academy of Pediatrics v. Lungren</i> , 16 Cal.4 th 307 (1997)).	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. (<i>American Academy of Pediatrics v. Lungren</i> , 16 Cal.4 th 307 (1997); Cal. Health & Safety Code §§ 123110(a), 123115(a)(1); Cal. Civ. Code §§ 56.10, 56.11).
SEXUAL ASSAULT¹ SERVICES	“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).	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.)
RAPE² SERVICES FOR MINORS UNDER 12 YRS³	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).	

¹For the purposes of minor consent 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

Confidential Medical Release

- Schools are gatekeepers to young people accessing services.
- Young people have the right to leave school to seek confidential medical services.
 - Note: if a service has a min. age requirement of 12, the student must be ≥ 12 to leave via conf med release.
- Also called “sensitive services,” these services are the minor consent services we just covered.

Confidential Medical Release

- Students have the right to be excused without the consent or notification of parents/guardians.
- Students must be allowed to make up all assignments.

Confidential Medical Release

- ACLU + NCYL campaign at school district level
 - Blatantly noncompliant districts
 - Changed ~ 25 noncompliant school districts, assisted numerous others
- Remaining issues:
 - Practical implementation (e.g. robocall systems)
- If you know a young person who is worried about violation of this law, call us!

**NEW PRIVACY PROTECTIONS
UNDER THE CONFIDENTIAL
HEALTH INFORMATION ACT**

ACA Implementation in California: Expanding Health Care Coverage

4.1 million newly insured

- 3 million Medi-Cal
- 1.5 million Covered California
 - 1,222,320 with subsidies
 - 161,762 young adults

ACA Implementation in California: Preventive Services

Services that must be provided without cost to patients include:

- Contraception
- Some cancer screenings
- Depression screening
- Domestic violence screening + counseling
- STI prevention counseling + screening
- HPV + Hep B vaccines, among others

This is GREAT but...

Will individuals with health insurance
under another person's plan

FEEL SAFE ENOUGH TO USE IT?

Confidentiality Breaches

Have you heard a teen/young adult say:

- **“I don’t go to my regular doctor because I don’t want my mom/dad to find out.”**
- **“I went to my doctor, used my parent’s insurance, and my mom/dad found out I got a pregnancy test/ birth control / abortion/ STD test.”**
- **“My parent found out I was prescribed Prozac / Adderall...”**

Current Laws to Protect Confidentiality

General Rule under HIPAA and CA law:

Providers and insurers must protect the confidentiality of personal health information.

Usually, they must have a signed “authorization” in order to share protected health information.

The Problem

Exceptions in confidentiality law allow disclosure without patient knowledge:

- Reporting certain violence
- Child abuse reporting
- Sharing for health care operations
- Billing and payment processing

Common insurance communications that reveal patient information

- Explanation of Benefits forms
- Denial of Claims notices
- Quality improvement surveys
- Requests for additional information
- Payment of claims notices

TREATMENT DATE	AA	SERVICE CODE	BB	SUBMITTED CHARGES	ALLOWED AMOUNT	COPAY AMOUNT	NOT COVERED	OLD BALANCE
01/01/12	11	01010101010	11	###.##	###.##	##.##		###.##
01/02/12	11	01010101010	11	###.##	###.##		##.##	###.##
01/03/12	11	01010101010	11	###.##	###.##			
TOTALS				###.##	###.##	##.##	##.##	###.##

Health Insurance Provider
1212 Main Street
Anytown, USA 00000

EXPLANATION OF BENEFITS

Please retain for future reference
Mary Jones MD/ PIN:7654321

Mary Jones, MD
Homeville Medical Center
2121 Elm Ave.
Homeville, USA 000000

Date: 01/01/12
Tax ID #: 0101010101
Check #: 1010101010
Check Amount: \$ ###.00

Patient Name: Bill Smith
Patient Account Number: 987654321
Patient ID #: 1234567
Member ID: 54321



The Solution: Confidential Health Information Act

- SB 138 (Hernandez) – the Confidential Health Information Act (CHIA)
- Passed and signed in 2013
- Took effect January 1, 2015

How Does CHIA Work?

1. Person **submits confidential communication request (CCR)** to insurer verbally or in writing.
2. Person must **provide an alternate address and/or preferred form of communication** as part of CCR.
3. Insurer has **7 or 14 days** to implement.
4. CCR lasts until the person sends in another one or tells the insurer that he/she wants to cancel it.
5. The CCR does not limit provider from talking to patient or patient's insurer.

How Does CHIA Work?

Once the Confidential Communications Request is in effect:

1. Insurer must block out person's information from documents sent to main policy holder.
2. Insurer will send the information directly to person instead.

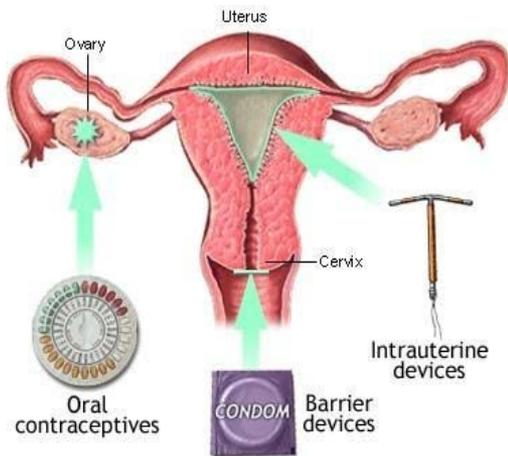
Who Can Protect Their Information?

- People who fear a parent/guardian will find out medical services obtained
 - Teens 12-18 yrs old covered by a parent's insurance
 - Young adults 18-26 covered by a parent's insurance
- People who fear their spouse will find out

What Will it Block?

CHOICE 1: SENSITIVE SERVICES

- STI services
- Contraceptive services
- Sexual assault services
- Mental health
- Drug treatment



What Will it Block?

CHOICE 2: EVERYTHING



Patient must state that disclosure of *any* of their medical information could lead to harassment or abuse.

The insurance company is NOT allowed to ask why or for details.

myhealthmyinfo.org

Questions?

Examples of Frequently Asked Questions:

- How old does someone have to be to submit a CCR?
 - No age floor or ceiling.
- What about co-pays? Who is responsible for paying those?
 - The patient is still responsible.
- What obligations does this put on providers of care?
 - None, but some choose to help their patients with CCRs.

HELPING PATIENTS KEEP IT CONFIDENTIAL

Patient and Provider Resources

myhealthmyinfo.org

KEEP IT CONFIDENTIAL.

Your health insurance plan does NOT keep your health information private unless...

YOU TAKE ACTION.

If you have health insurance under another person's health plan—like your parent or spouse—Your health plan will send them information on WHERE and WHEN you access health care and WHAT health care services or tests you receive.

If you want to Keep it Confidential—submit a Confidential Communication Request to your health plan. They will have to accept it, NO QUESTIONS ASKED if you:

- 1 Know your health plan and policy number
- 2 Contact your health plan
- 3 Submit a confidential communications request

FIND YOUR HEALTH PLAN

FOR PROVIDERS

You can do this if you:

- Get sensitive services like birth control, STD/pregnancy tests or mental health care
- Think you could be at risk if your private health information about any health care service was shared

SHARE THESE RESOURCES

[f](#) [t](#) [s](#)

FAQ

DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM

KEEP IT CONFIDENTIAL is a project of the California Family Health Council, National Center for Youth Law, and the ACLU. | ©2014 All rights reserved.
The images used on this website are for illustrative purposes only; any person depicted in these images is a model.

myhealthmyinfo.org

myhealthmyinfo.org

Provider Resources

[RETURN HOME](#)

KEEP IT CONFIDENTIAL.

As providers you have an important role to play in safeguarding your patient's private health information. The resources below were developed to support providers interested in educating their patients about their confidentiality rights and helping them utilize new privacy protections. All patient education and health center staff training materials were developed in partnership by the ACLU of California, California Family Health Council and the National Center for Youth Law and are available to download for free.

RESOURCES

[Download Confidential Request Form](#)

WALLET CARDS

KEEP IT CONFIDENTIAL

[Wallet Card](#)
[Wallet Card \(with Bleeds + Crop Marks\)](#)

INFO SHEETS

KEEP IT CONFIDENTIAL

[Flyer 1](#)
[Flyer 1 \(with Bleeds + Crop Marks\)](#)
[Flyer 2](#)
[Flyer 2 \(with Bleeds + Crop Marks\)](#)
[Flyer 3](#)
[Flyer 3 \(with Bleeds + Crop Marks\)](#)
[Flyer 4](#)
[Flyer 4 \(with Bleeds + Crop Marks\)](#)

You can do this if you:

- Get sensitive services like birth control, STD/pregnancy tests or mental health care
- Think you could be at risk if your private health information about any health care service was shared

SHARE THESE RESOURCES

[f](#) [t](#) [s](#)

FAQ

DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM

FIND YOUR HEALTH PLAN

2:11 PM 12/11/2014

myhealthmyinfo.org (CCR form)

Confidential-Communications-Request.pdf - Adobe Reader

File Edit View Window Help

Open | [Icons] | 1 / 2 | 56.3% | [Icons] | Tools | Fill & Sign | Comment

KEEP IT CONFIDENTIAL.

Confidential Communications Request
As of January 1, 2015, California law¹ requires insurers to honor this request

TO: _____
Name of Your Health Insurance Company

FROM: _____
Your Name

_____ Your Date of Birth _____ Your Insurance Member #

I am contacting you to request: (Please mark one or both statements below)

All medical information about the sensitive services¹ I receive using my health insurance including where and when I receive health care be sent directly to me and not to my family members. (Sensitive services¹ include sexual and reproductive health care, mental health, sexual assault counseling and care and treatment for alcohol and drug use.)

All information about the health care I receive using my health insurance including where and when I receive care be sent directly to me and not to my family members because disclosure of all or part of this information could lead to harm or could subject me to harassment or abuse. (You will never be asked to explain why you feel this way.)

I request that communications containing any of the above information be sent to me as available as follows:

(Please mark the way(s) that are safe for you to receive information. If you mark more than one way, put a "1" next to your first choice, "2" next to your second choice and so on. Your health plan is required to contact you through at least one of the communication methods noted below.)

Email to the following email address: _____

Message through my online insurance patient portal: _____

Text to the following telephone #: _____

U.S. Mail at the address below _____

Other (please describe): _____

IMPORTANT! The following two sections MUST be completed:

1. If a communication cannot be sent in the above selected format(s) and/or I prefer receiving information by U.S. mail, please use the address below.

2. Is there a phone number or email we can use to contact you if we have questions regarding this request?

This request is valid until I submit a revocation or a new request.

Signature: _____ **Date:** _____

¹As of January 2015, California law obligates health insurers to honor a Confidential Communications Request (CCR) when the CCR requests that "sensitive services" information, as defined in the law, be kept from the policyholder, or when the CCR requests confidentiality of all health service information because disclosure of the information to the main policy holder could lead to harm or harassment. Under California law, when a CCR is submitted, health insurers must send communications directly to the insured individual noted above and NOT the holder of the policy. To comply with California law, health insurers must implement CCRs within 7 days of their receipt by electronic transmission or 14 days of receipt by first class mail. See Cal. Civ. Codes 56.05 and 56.107 and Cal. Insurance Codes 791.02 and 791.29.

Implementation Progress

- Patient and provider resources:
 - myhealthmyinfo.org
- Tracking patients' CCRs
- Advocacy with insurance providers
- Complaints to insurance providers and Dept. of Managed Health Care

CALIFORNIA'S NEW COMPREHENSIVE SEX ED LAW

The California Healthy Youth Act (AB 329)

- Took effect January 1, 2016
- Makes comprehensive sexual health education a requirement
- California again has the most progressive, inclusive sex ed law in the United States

The California Healthy Youth Act (AB 329)

Key Changes:

- Updates old language to reflect current understanding of HIV/AIDS
- Instruction and materials must be appropriate for students of all sexual orientations and genders
- Clarifies the existing passive consent policy for parental consent
- New requirement to include adolescent relationship abuse and sex trafficking
- Focus on healthy attitudes, healthy behaviors, and healthy relationships

Source: CA Ed Code 51930 – 51939



The California Healthy Youth Act (AB 329)

Key Changes:

- Medically accurate and unbiased information
- All FDA approved contraceptive methods
- Prevention and treatment of HIV and other STIs
 - Social views on HIV and AIDS, including stereotypes and myths
- All FDA approved contraceptive methods
- Pregnancy options including abortion

Resources: CA Healthy Youth Act

- Toolkit:
 - <https://www.aclunc.org/our-work/know-your-rights/sex-education>
 - Advocacy messaging
 - Coming Soon – youth-focused materials!



Resources: TeenSource.org

SEX + HEALTH + YOU
teensource.org

HOME | CONTACT | RESOURCES

FIND A CLINIC | BIRTH CONTROL | STDs | RELATIONSHIPS | BLOGS | KNOW YOUR RIGHTS

LATEST NEWS UPDATES: Have an STD but don't know how to tell ur partner? We can help [#STD](http://t.co/YGleb1Q8Eu) [#healthyrelationships](http://t.co/YGleb1Q8Eu) [#safersex](http://t.co/YGleb1Q8Eu) — 2 hours 43 min ago

WHAT'S HOT

The key to successful relationships? Loving yourself
July 17, 2015
By Marissa Relationships are a HUGE part of our lives, and I'm not just talking...[Read more](#)

Bikini season is here! Lucky for you, the pill does NOT cause weight gain!
July 15, 2015
By Marissa As midsummer temperatures rise and the sun stays out for what seems...[Read more](#)

THE BEST BIRTH CONTROL FOR YOU

Condoms. Good idea.
Get free condoms here.

STD? GET IN THE KNOW

FIND A CLINIC NEAR YOU!

ENTER YOUR ZIP CODE
5 MILES SEARCH

HOOKUP OF THE WEEK
Bikini season is here! Lucky for you, the pill does NOT cause weight gain! ([Read more...](#))

TEXT "HOOKUP" TO 877877 TO SIGNUP
Get weekly sex info and life advice sent to you every week! You can also find the nearest clinic to you for low to no cost sexual health services. Message and data rates may apply. Text **STOP** to opt out. [Click here for more info.](#)

PLAYLIST | 1 / 21 | 3 Tips to a Healthy Relationship

BLOG

Resources: YourHealthYourRights.org

**YOUR HEALTH,
YOUR RIGHTS**

A GUIDE FOR FREE AND LOW COST SEXUAL HEALTH CARE FOR WOMEN IN CALIFORNIA

[HOME](#) [KNOW YOUR RIGHTS](#) [HELP AND RESOURCES](#) [MULTIMEDIA](#) [FOR IMMIGRANTS](#) [EN ESPAÑOL](#)

To search, type and hit enter

[Your Health Your Rights](#) [Tweet](#) [Share](#)

In california you have
THE **RIGHT** AND
THE **RESOURCES**
to get the reproductive
health care you need

QUESTIONS?
Call the **ACCESS** Healthline
English 800-376-4636
Español 888-442-2237




Thank you!

Ruth Dawson

- rdawson@aclusocal.org
- 213 977-5258

Kelli Soto

- ksoto@aclusocal.org
- 213 977-5268

myhealthmyinfo.org