

THE RIGHTS OF MINORS

Definitions:

Minor - Person under 18 years of age

Emancipated Minor – A person under the age of 18 if any of the following conditions are met:

- a) The person has entered into a valid marriage, whether it has been dissolved or not.
- b) The person is on active duty with the armed forces of the US.
- c) The person has received a declaration of emancipation pursuant to Section 7122 of the California Family Code.
- d) Self-sufficient minors (minors fifteen years or older living away from home and managing their own financial affairs). These minors can be required to fill out the form in Appendix A. (Documentation of Self-sufficient Minor Status)

Because of their immaturity, minors do not have the same rights as adults. Laws are written to protect children from the consequences of their acts and to prevent them from doing things that require great maturity. Parents and their teenage children often have questions concerning the rights to consent, or refuse to consent, to medical care for a child.

Usually parents/guardians are required to give informed consent for most medical decisions on behalf of their children, **however there are exceptions***, and there are certain types of medical care for which minors may themselves consent.

Special precautions must be taken to insure that communication regarding the medical information of a minor related to sensitive services is protected (i.e. letters and phone calls should NOT be directed to the home without the minor's authorization).

Types of treatment to which minors can consent:

1. Pregnancy and care related to pregnancy, Contraception and Abortion. Includes genetic counseling and testing services related to pregnancy, but not sterilization. *Minors of any age have this right.*

2. Contagious Diseases. Care of any infectious, contagious, or communicable disease of the type that must be reported to the local health officer *if the minor is twelve or older*.
3. Sexually Transmitted Diseases. Care of a sexually transmitted disease *if the minor is twelve or older*.
4. Rape. Care related to the diagnosis or treatment of rape *if the minor is twelve or older*.
5. Sexual Assault. Care related to the diagnosis or treatment of sexual assault *for a minor of any age* (but the treating physician must attempt to contact the child's parents or legal guardian unless the physician "reasonably believes" that the parent or guardian committed the sexual assault).
6. Mental Health. Mental health treatment or counseling on an outpatient basis (not including convulsive therapy, psychosurgery or psychotropic drugs), or residential shelter services, *if the minor is twelve or older and mature enough to participate intelligently* and either (a) the minor is an alleged victim of incest or child abuse or (b) there is danger of serious physical or mental harm to the minor or others without such treatment. (The treating physician must contact and involve the parents unless the physician believes such contact would be inappropriate.)
7. Drug or Alcohol Abuse. Care related to the diagnosis or treatment of drug or alcohol-related problems (not including Methadone) *if the minor is twelve or older*.
8. HIV Tests. The performance of an HIV test for *minors twelve or older*.

Confidentiality of Minor's Medical Records

Except as otherwise provided by law or if the minor authorizes it in writing, physicians and their office staff are **prohibited** from telling the minor's parents or legal guardian about medical care the minor was legally able to authorize.

When a minor seeks medical treatment for which the minor has the legal power to consent and the minor's parents have no knowledge of the proposed care, the physician will generally discuss with the minor the advantages of disclosing the proposed treatment to the minor's parents/guardians before the service is rendered.

The physician and minor should reach an understanding concerning the extent to which the parents or guardians will be informed and who is responsible for paying the cost of the medical treatment or whom the physician can disclose the medical information that is necessary to obtain payment for the treatment.

Minors should understand, that it may be impossible to keep the information from their parents, if the minor expects the parent's health plan to pay for the services.

Emancipated* minors have further rights, most concerning financial issues, but they also have the right to consent to all medical, dental, or psychiatric care, without parental consent, knowledge or liability.

**see next page for example documentation form*

This information can be found in the California Family Code, Sections 6924, 6926, 6927, 6928, 6929, 7000-7002, 7120-7123, 7050 and the Health and Safety Code, Sections 125000, 121020.

DOCUMENTATION OF SELF-SUFFICIENT MINOR STATUS

For the purposes of obtaining medical, dental or surgical diagnosis or treatment, pursuant to Family Code §6922, I hereby certify that the following is true:

1. I am fifteen years of age or older, having been born on _____ (date), at _____

(Location)

2. I am living separate and apart from my parents or legal guardian.

(Residence) (Phone)

(Residence of parents/guardians) (Phone)

3. I am managing my own financial affairs.

(Name and Address of Employer)

(Other Source(s) of Income)

(Location of Bank Account)

4. I understand that, under the law, I will be financially responsible for my medical, dental, or surgical care and treatment.

(Signed) (Date)

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