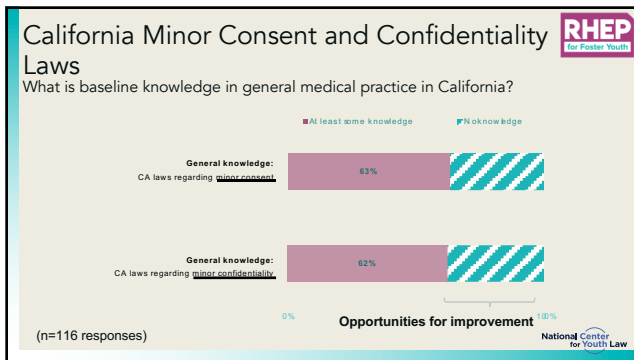


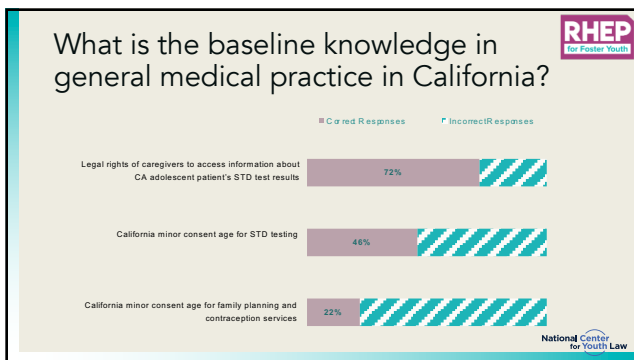
Adolescent Reproductive Health Concerns: Legal Review

Rebecca Gudeman, JD, MPA,
National Center for Youth Law
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Why is assuring confidentiality important?

Young people worry about it.

Concerns about parents finding out about a clinic visit impacts whether youth will seek sensitive services
(e.g., STD screening and birth control).

40%
of female adolescents seek sexual health services without parents/caretaker knowledge

Data Sources: (1) Jones, R. et al. JAMA. 2005. "Adolescents' Reports of Parental Knowledge of Adolescents' Use of Sexual Health Services and Their Reactions to Mandated Parental Notification for Prescription Contraception". Vol 293, No 5. (2) 2013-2016 National Survey of Family Growth data analyzed by the Centers for Disease Control and Prevention.

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Parental notification can drastically affect youth decision-making, reducing the likelihood they will seek sensitive services while not reducing their risk behaviors.

Among sexually active female adolescents seeking sensitive services...

40%
would no longer go to clinics for prescription contraceptives

1 out of 5
would use no contraception or rely on withdrawal method

only 1%
would stop having sex

Data Source: Jones, R. et al. JAMA. 2005. "Adolescents' Reports of Parental Knowledge of Adolescents' Use of Sexual Health Services and Their Reactions to Mandated Parental Notification for Prescription Contraception". Vol 293, No 5.

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All patients expect that their personal health information will be kept private...

...young people are no different.

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All patients expect that their personal health information will be kept private...

...young people are no different.

Consensus among national recommending bodies strongly supports minors' access to confidential care for sensitive services

Ensuring access to confidential sensitive healthcare services for young people who need them is an essential safety net for keeping youth healthy and safe

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What does "minor consent" mean?

Young people can consent to specific, sensitive medical services without the permission or notification of their parents/guardians.

These are minor consent services.

Some minors are able to consent to their own care entirely based on their situation in life.

This is minor consent based on status.

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Status Exceptions in California

Minors may consent for general medical care if:

- Emancipated by a court
- Married
- Armed Services
- All of the following:
 - 15 years of age or older;
 - living apart from parents/guardians, no matter the duration of the separation and with or without the permission of the parents;
 - managing their own financial affairs.

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Minor Consent Services:

Of the services listed below, minors* can consent to which?

1. Contraception
2. Pregnancy testing
3. Abortion
4. Sports physical
5. Flu vaccine
6. Mental Health Psychotropic Medication
7. Mental Health Outpatient Therapy
8. HPV vaccine
9. Hepatitis B vaccine
10. Drug Treatment
11. HIV PrEP
12. STD testing

* Assume the minors are not emancipated

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Quiz! Of the services listed, minors* can consent to which?

Minors of any age

Minors cannot consent unless status exception applies

Minors 12 years old and older

1. Contraception
2. Pregnancy testing
3. Abortion
4. Sports physical
5. Flu vaccine
6. Mental Health Medication
7. Mental Health Outpatient Therapy
8. HPV vaccine
9. Hepatitis B vaccine
10. Drug Treatment
11. HIV PrEP
12. STD testing

* Assume the minors are not emancipated

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HIV Prevention + Testing + Treatment

- A **minor 12 years and older** is competent to give written consent for an HIV test
Cal. Health and Safety Code § 121020
- A **minor 12 years and older** may consent to the prevention, diagnosis and treatment of HIV/AIDS
Cal. Family Code § 6926

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STD Prevention + Testing + Treatment

- A **minor 12 years and older** who may have come into contact with a sexually transmitted disease may consent to medical care related to the diagnosis or treatment of the disease
Cal. Family Code § 6926
- A **minor 12 years and older** may consent to medical care related to the prevention of a sexually transmitted disease
Cal. Family Code § 6926









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Contraception Services

A minor may receive birth control without parental consent
Cal. Family Code § 6925

There is no specified age minimum related to minor consent for birth control.






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Pregnancy + Related Services

- A minor may consent to pregnancy related care, including pre and postnatal pregnancy care, except sterilization
Cal. Family Code § 6925
- A minor may consent to an abortion without parental consent
Cal. Family Code § 6925; American Academy of Pediatrics v. Lungren, 16 Cal.4th 307 (1997)

There is no specified age minimum related to minor consent for pregnancy related care.

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What does this mean for Healthcare Providers?



- Minors of any age may seek any of the pregnancy related services noted (no age minimum for contraception).
- Healthcare providers do NOT need parent/guardian permission to provide these services.
- Healthcare providers cannot demand parent permission or notification.

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Confidentiality Laws and Parent/Guardian Access



A health care provider **is not permitted to inform a parent or legal guardian** about sexual and reproductive health care services (STD services, pregnancy related care) provided to a minor without minor's consent.

The provider can **only** share the minor's medical information **with a parent or guardian with a signed authorization from the minor.**

Cal. Health & Safety Code §§ 123110(a), 123115(a)(1); Cal. Civ. Code §§ 56.10, 56.11

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Minor Consent Confidentiality Law and Third Party Disclosures



While the general rule is that a signed authorization is necessary to release personal health information, in some cases, the law sometimes **allows or requires providers to disclose otherwise protected information** about the minor to third parties.

Examples include but are not limited to:

- Complying with mandated child abuse reporting laws
- Public health reporting laws
- Court Orders (but also must consider Doctor Patient Privilege before releasing for court purposes)
- Insurance Claims

Cal. Health & Safety Code §§ 123110(b), 123115(b)(1); Cal. Civ. Code §§ 56.10, 56.11

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What is Mandated Child Abuse Reporting?



1. Neglect

2. Child abuse

- Sexual Abuse
- Willful Harming or Endangering
- Physical Injury
- Unlawful Corporal Punishment

Not mandated by child abuse reporting law, but often required by other duties:

- Hurting oneself or threats to hurt oneself
- Hurting others or threats to hurt others

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What is Reportable as Sexual Abuse?



1. Sexual assault
2. Sexual exploitation, including trafficking
3. Certain disparate age sexual acts

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When is disparate age sexual intercourse reportable as child abuse?



KEY: M = Mandated. A report is mandated based solely on age difference between partner and patient.
CJ = Clinical Judgment. A report is not mandated based solely on age; however, a reporter must use clinical judgment and must report if he or she has a reasonable suspicion that act was coerced, as described above.

| Age of Partner → Age of Patient ↓ | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 and older |
|--------------------------------------|----|----|----|----|----|----|----|----|----|----|--------------|
| 11 | CJ | CJ | M | M | M | M | M | M | M | M | ⇒ |
| 12 | CJ | CJ | M | M | M | M | M | M | M | M | ⇒ |
| 13 | CJ | CJ | M | M | M | M | M | M | M | M | ⇒ |
| 14 | M | M | CJ | CJ | CJ | CJ | CJ | CJ | CJ | M | ⇒ |
| 15 | M | M | CJ | CJ | CJ | CJ | CJ | CJ | CJ | M | ⇒ |
| 16 | M | M | CJ | CJ | CJ | CJ | CJ | CJ | CJ | CJ | |
| 17 | M | M | CJ | CJ | CJ | CJ | CJ | CJ | CJ | CJ | |
| 18 | M | M | CJ | CJ | CJ | CJ | | | | | |
| 19 | M | M | CJ | CJ | CJ | | | | | | |
| 20 | M | M | CJ | CJ | CJ | | | | | | |
| 21 and older | M | M | M | M | CJ | CJ | | | | | |



Chart design by David Kozel, LCSW, LCSF.
(The legal sources for this chart are as follows: Penal Code §§ 11165.1, 261.5; 261.259 Cal. Rptr. 762, 769
17 Dist. Ct. App. 1989; 224 Cal. Rptr. 361, 381 (1st Dist. Ct. App. 1988); 73 Cal. Rptr. 24, 331, 333 (1st Dist. Ct. App. 1988).

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Common question areas related to mandated child abuse reporting


- Do I need to report Illegal activities?
- Do I need to inform parents if I make a child abuse report?


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Sample strategies that help to assure confidentiality for adolescent visits

Standardize alone time for adolescent patients, regardless of reason for visit



During alone time with the provider, ensure parents/caretakers are not waiting outside exam room






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Sample strategies that help to assure confidentiality for adolescent visits

Provide parents with resources that help explain the developmental role of privacy



Review "conditional confidentiality" with each teen patient during alone time. Have materials in waiting and exam room.





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Sample strategies that help to assure confidentiality for adolescent visits

Music in hallways and communal areas can help ensure privacy of conversations occurring in exam rooms



Provide routine training for **all staff** on CA Minor Consent and Confidentiality laws (clinicians, nurses, MAs, receptionists, and medical records staff)








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Sample strategies that help to assure confidentiality for adolescent visits


Facilitate confidential billing for adolescent patients requesting minor consent services

- Family PACT
- Medi-Cal Minor Consent
- Assist patients in submitting confidential communications request forms to their parents' health plans

For more about the Confidential Communications Request Information: www.myhealthmyinfo.org







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Summary of California Laws for Minor Consent Services

Minors may seek and consent to any of the following services:

- ✓ Contraception (no age minimum)
- ✓ Pregnancy services, including abortion (no age minimum)
- ✓ STD & HIV testing, treatment, prevention (12 years and older)
- ✓ HPV & Hepatitis B vaccines (12 years and older)
- ✓ HIV PrEP, PEP (12 years and older)
- ✓ Mental Health Outpatient Treatment (12 years and older)

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Quiz!

Fifteen year old Emma comes in with her mom for a physical. During a private moment with her, Emma says she wants a pregnancy test.

May she consent for the pregnancy test?

Emma's test is positive and she tells you that she wants to schedule an abortion appointment.

May she consent for an abortion on her own?



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Quiz!

Emma shares that her partner is 22 years old. They plan to get married, but she wants to finish high school before she has any children.


Are you required to make any reports related to Emma?

What if anything can you share with Emma's mom?



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Resources



National Center for Youth Law Charts
www.teenhealthlaw.org

- [When Sexual Intercourse is Deemed Child Abuse in CA](#)
- [CA Minor Consent Laws](#)



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Quiz!

Emma shares that she is from Texas. You know that there are new laws around pregnancy and abortion in Texas.


Are you required to ask additional questions?

Are you required to make any additional reports?

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Abortion Law: Where Are We Now?




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Reproductive Rights

Reproductive Justice.

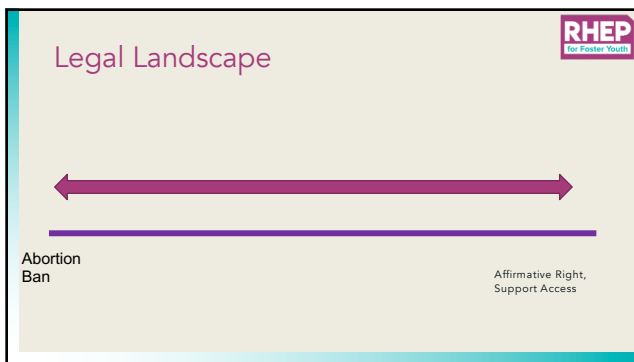
REPRODUCTIVE FREEDOM



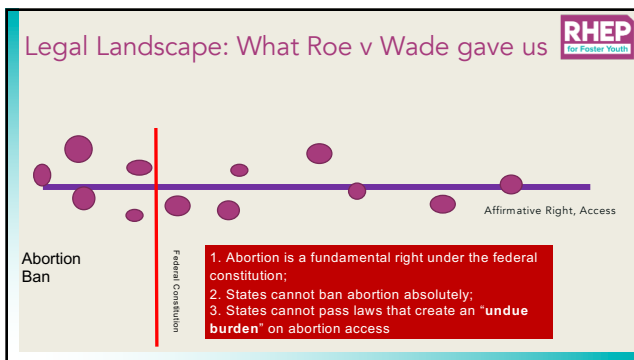

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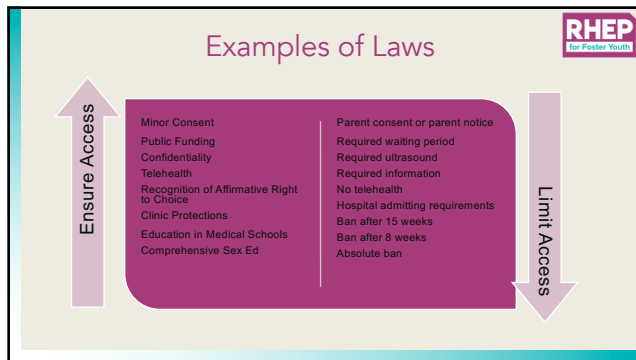
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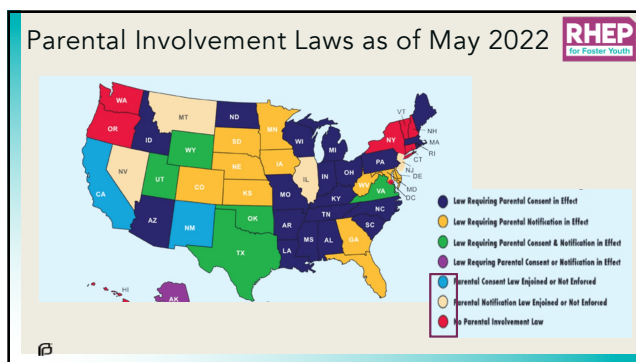
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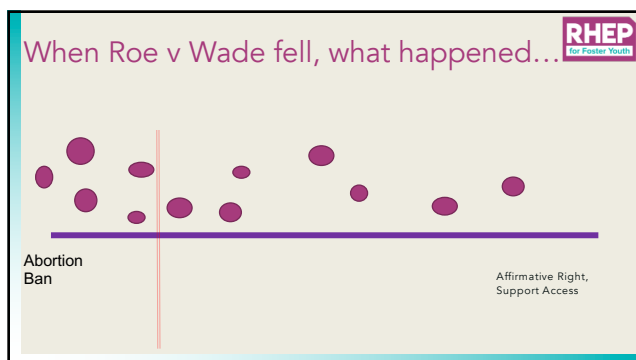
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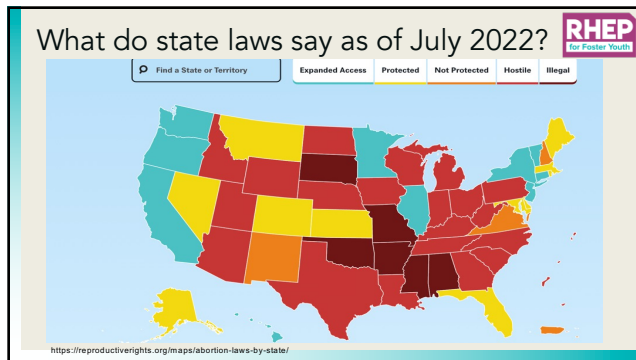
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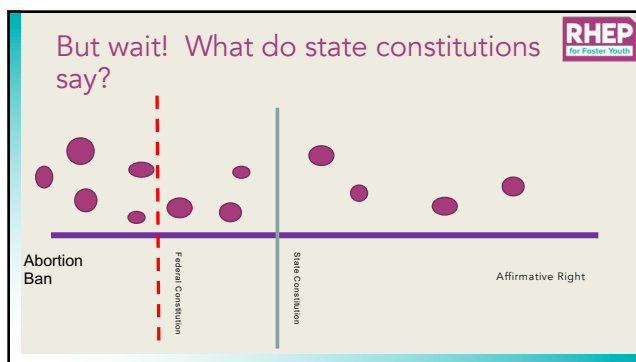
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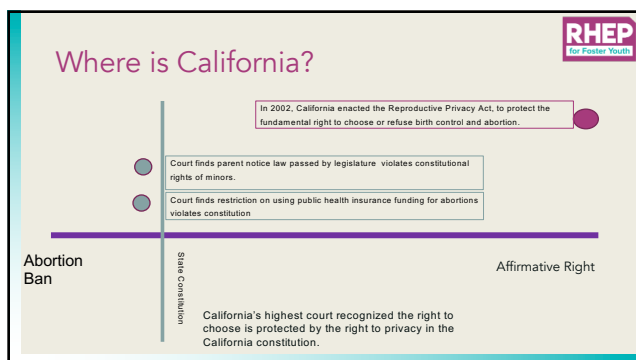
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What's coming? lots of legislative and ballot activity



- Many bills right now to protect and improve access to abortion
- Many bills to restrict or ban abortion.
- Constitutional Amendment will be on the California November Ballot.

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Constitutional Ballot Proposition 1, Right to Reproductive Freedom Amendment:



If the initiative passes, it would add the following language to the California Constitution:

"The state shall not deny or interfere with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives. This section is intended to further the constitutional right to privacy guaranteed by Section 1, and the constitutional right to not be denied equal protection guaranteed by Section 7. Nothing herein narrows or limits the right to privacy or equal protection."

[https://ballotpedia.org/California_Proposition_1,_Right_to_Reproductive_Freedom_Amendment_\(2022\)](https://ballotpedia.org/California_Proposition_1,_Right_to_Reproductive_Freedom_Amendment_(2022))

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Resources:




- For an up to date summary of state abortion laws, see abortionfinder.org, sponsored by [Power to Decide](https://www.power2decide.org).
- For a legal helpline for youth with questions about self-managed abortion, judicial bypass and state law, see <https://www.reprolegalhelpline.org/>, sponsored by If When How, Lawyering for Reproductive Justice.
- For holistic support (funding, travel support, abortion doula, information) in California, clients can reach out to the Access Reproductive Justice health line via text or phone, see <https://accessrj.org/>.
- For holistic support and resources to support abortion access in other states (funding, travel support, informational needs, etc.), find the local abortion fund at <https://abortionfunds.org/>.
- For information on pending bills and policy proposals in California, check out the [website for the Future of Abortion Council \(FAB council\)](https://futureofabortioncouncil.org).

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Hypothetical

Seventeen-year-old Julia schedules an appointment for an abortion in your clinic. In her paperwork, she lists her home state, and it is one in which abortion has now been banned.


- Does Julia have a legal right to consent to abortion in California?
- Are you required to make a report that she has sought abortion care from you?
- What do you do if you receive a court order or subpoena asking for private medical information related to Julia?



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Thank you!

Questions, comments, discussion?



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