



## Minor Consent Mental Health: What is SB 543?

Senate Bill 543, signed by the Governor in October 2010, creates a new minor consent mental health right in California. This document describes Health and Safety Code 124260, the minor consent law created by SB 543, and highlights the differences between Health and Safety 124260 and Family Code 6924, the minor consent mental health statute currently in effect.

	<b>Family Code § 6924</b>	<b>Health and Safety Code § 124260 (S.B. 543)</b>
<b>Is the law in effect right now?</b>	This law is currently in effect.	This law is not in effect right now. It will go into effect on January 1, 2011.
<b>What happens on January 1, 2011?</b>	This law remains in effect. Both Health and Safety 124260 and Family Code 6924 will be in effect simultaneously as of January 1, 2011.	This law will go into effect. Both Health and Safety 124260 and Family Code 6924 will be in effect simultaneously as of January 1 2011.
<b>When can a minor consent to services under this statute?</b>	<p>A minor can consent to mental health treatment if he or she meets all of the following requirements:</p> <ul style="list-style-type: none"> <li>• Age 12 or older</li> <li>• The minor is mature enough to participate intelligently in the treatment</li> <li>• The minor would be in danger of serious physical or mental harm to him/herself or others without treatment, or the minor is the victim of incest or child abuse.</li> </ul>	<p>A minor can consent to mental health treatment if he or she meets both of the following requirements:</p> <ul style="list-style-type: none"> <li>• Age 12 or older</li> <li>• The minor is mature enough to participate intelligently in the treatment.</li> </ul>
<b>What mental health services can minors consent to under this statute?</b>	<p>A minor can consent to:</p> <ul style="list-style-type: none"> <li>• Outpatient mental health treatment and counseling</li> </ul>	<p>A minor can consent to:</p> <ul style="list-style-type: none"> <li>• Outpatient mental health treatment and counseling</li> </ul>
<b>What mental health services are not covered by this statute?</b>	<p>Minors <i>cannot</i> consent to any of the following services under this statute:</p> <ul style="list-style-type: none"> <li>• Inpatient mental health treatment</li> <li>• Psychotropic drugs</li> <li>• Convulsive therapy</li> <li>• Psychosurgery</li> </ul>	<p>Minors <i>cannot</i> consent to any of the following services under this statute:</p> <ul style="list-style-type: none"> <li>• Inpatient mental health treatment</li> <li>• Psychotropic drugs</li> <li>• Convulsive therapy</li> <li>• Psychosurgery</li> </ul>

	<b>Family Code § 6924</b>	<b>Health and Safety Code § 124260 (S.B. 543)</b>
<b>Who can provide mental health services to consenting minors under this statute?</b>	The following agencies and individuals can provide services based on a minor’s consent under this law: <ul style="list-style-type: none"> <li>• A professional person<sup>1</sup> as defined by statute (see below)</li> <li>• Government agencies</li> <li>• Agencies contracting with government agencies</li> <li>• Agencies receiving community united funds</li> <li>• Runaway or crisis resolution center</li> </ul>	The following agencies and individuals can provide services based on a minor’s consent under this law: <ul style="list-style-type: none"> <li>• A professional person<sup>1</sup> as defined by statute (see below)</li> </ul>
<b>Do parents need to be notified when a minor consents to mental health treatment under this law?</b>	Parents must be involved in the minor’s treatment, unless the provider determines that their involvement would be inappropriate. Involving parents in treatment will necessitate sharing certain confidential information; however, having them participate does not mean parents have a right to access confidential records. Providers should attempt to honor the minor’s right to confidentiality to the extent possible while still involving parents in treatment.	Parents must be involved in the minor’s treatment, unless the provider determines, after consulting with the minor, that the involvement would be inappropriate. Involving parents in treatment will necessitate sharing certain confidential information; however, having them participate does not mean parents have a right to access confidential records. Providers should attempt to honor the minor’s right to confidentiality to the extent possible while still involving parents in treatment.
<b>Do parents have a right to access the mental health records regarding services provided under this statute?</b>	When a minor consents to treatment under this statute, the provider can only share the related mental health records with parents or guardians when the provider has a written authorization from the minor. <sup>2</sup> (But see above regarding parent involvement)	When a minor consents to treatment under this statute, the provider can only share the related mental health records with parents or guardians when the provider has a written authorization from the minor. <sup>3</sup> (But see above regarding parent involvement)
<b>Are there any differences in the funding sources available for these services?</b>	Welfare and Institutions Code § 14029.8 states that “Section 124260 of the Health and Safety Code shall not apply to the receipt of benefits under the Medi-Cal program.” No such restriction exists for Family Code § 6924	

<sup>1</sup> A professional person includes a mental health professional as defined in the California Code of Regulations, a marriage and family therapist as defined in the Business and Professions Code, a licensed educational psychologist as defined in the Business and Professions Code, a credentialed school psychologist as defined in the Education Code, a clinical psychologist as defined in the Health and Safety Code. In addition, Health and Safety Code § 124260 also includes a licensed clinical social worker as defined in the Business and Professions Code. For the exact code sections containing these definitions, see Family Code § 6924(a)(2) and Health and Safety Code § 124260(a)(2).

<sup>2</sup> Cal. Health & Saf. Code §§ 123110(a), 123115(a); Cal. Civ. Code § 56.10(b)(7), 56.11(c); 45 C.F.R. 164.502(g)(3); 45 C.F.R. 164.508(a).

<sup>3</sup> Cal. Health & Saf. Code §§ 123110(a), 123115(a); Cal. Civ. Code § 56.10(b)(7), 56.11(c); 45 C.F.R. 164.502(g)(3); 45 C.F.R. 164.508(a).