



CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: AB 665 **VERSION: INTRODUCED FEBRUARY 13, 2023**

AUTHOR: CARRILLO **SPONSOR: NUMEROUS – SEE BELOW**

RECOMMENDED POSITION: NONE

SUBJECT: MINORS: CONSENT TO MENTAL HEALTH SERVICES

Summary:

This bill seeks to make the requirements for a minor to consent to mental health treatment equal for both Medi-Cal recipients and non-Medi-Cal recipients.

Existing Law:

- 1) Establishes requirements for minors to consent to mental health services in two separate code sections: Health and Safety Code (HSC) §124260, and Family Code (FC) §6924.

Health and Safety Code Section 124260

- 2) Permits a minor 12 or older to consent to mental health treatment if, in the opinion of the attending professional person, the minor is mature enough to participate in the mental health treatment intelligently. (HSC §124260(b)(1))
- 3) Requires the mental health treatment of a minor to include involvement of the minor’s parent or guardian, unless the professional person treating the minor, after consulting with the minor, determines that the involvement would be inappropriate. It must be stated in the client record whether and when the person treating the minor attempted to contact the minor’s parent or guardian and whether or not that attempt was successful, or the reason why in the professional person’s opinion, it would be inappropriate to contact the minor’s parent or guardian. (HSC §124260(c))
- 4) Provides that the minor’s parent or guardian is not liable for payment for mental health treatment pursuant to the provisions in items 2 and 3 above, unless the parent or guardian participate in the mental health treatment, and then only for services rendered with their participation. (HSC §124260(d))
- 5) Defines a “professional person” as several types of mental health professionals, including the Board’s LMFT, LEP, LCSW, and LPCC licensees, and also its associate social workers and social work interns, associate marriage and family

therapists and MFT trainees, and associate professional clinical counselors and PCC trainees. (HSC §124260(a))

- 6) Specifies that the consent requirements for mental health treatment of minors specified in HSC §124260 do not apply to benefits under the Medi-Cal program. (Welfare and Institutions Code (WIC) 14029.8)

Family Code Section 6924

- 7) Permits a minor 12 or older to consent to outpatient mental health treatment or residential shelter services if both of the following are met (FC §6924(b)):
 - a) The minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services or residential shelter services; and
 - b) The minor is either the alleged victim of incest or child abuse, or the minor would present a danger of serious physical or mental harm to self or others without the mental health treatment or residential shelter services.
- 8) Requires the mental health treatment of a minor to include involvement of the minor's parent or guardian, unless, in the opinion of the professional person treating the minor determines that the involvement would be inappropriate. It must be stated in the client record whether and when the person treating the minor attempted to contact the minor's parent or guardian and whether or not that attempt was successful, or the reason why in the professional person's opinion, it would be inappropriate to contact the minor's parent or guardian. (FC §6924(d))
- 9) Provides that the minor's parent or guardian is not liable for payment for mental health treatment pursuant to the provisions in items 7 and 8 above, unless the parent or guardian participates in the mental health treatment, and then only for services rendered with their participation. (FC §6924(e))
- 10) Defines a "professional person" as several types of mental health professionals, including the Board's LMFT, LEP, LPCC license types, associate marriage and family therapists, and associate professional clinical counselors (FC 6924(a)(2). *Note: Associate social workers, social work interns, MFT trainees, and PCC trainees are not included, as they are in HSC §124260. LCSWs are included, but indirectly, in the reference to "professional person" including a person designated as a mental health professional in Title 9 of the California Code of Regulations, §§622 to 626 (which includes LCSWs).*

This Bill:

This bill amends FC §6924 in order to make minor consent to mental health requirements for Medi-Cal recipients more equitable.

- 1) Removes the minor consent requirement in FC §6924 that in order to be able to consent, the minor must be either the alleged victim of incest or child abuse, or would present a danger of serious physical or mental harm to self or others without the mental health treatment or residential shelter services. (FC §6924(b))
- 2) Removes the requirement that the parent or guardian must be included in the mental health treatment of a minor unless, in the opinion of the professional person treating the minor, involvement would be inappropriate. Instead, requires the parent or guardian must be included in the mental health treatment of a minor unless the professional person treating the minor, after consulting with the minor, determines that involvement would be inappropriate. (FC §6924(d))

Comment:

- 1) **Author's Intent.** The sponsor notes that roughly half of children in California are on Medi-Cal, and states the following in their fact sheet for the bill:

“Existing law in both the Health and Safety Code (HSC § 124260) and the Family Code (FC § 6924) establishes that young people 12 and older may consent to outpatient mental health treatment or counseling in certain circumstances without a parent or guardian’s consent. However, language in the Family Code creates a higher standard for young people on Medi-Cal by only allowing the young person to consent if they are in serious danger of physical or mental harm or are the alleged victims of incest or child abuse. In practice, the standard in the Family Code functions as the equivalent of the “5150” legal standard that results in a person immediately being taken into custody by police or designated mental health professionals for involuntary evaluation and inpatient treatment, or to be reported to child protective services. Therefore, outpatient counseling is no longer a choice for a young person who must wait until they’re in severe distress under this exceptionally high bar.

This fundamentally inequitable policy is ultimately at odds with the state’s commitment to racial, ethnic, and health equity as demonstrated through ongoing efforts of the CYBHI and CalAIM, which are state efforts to advance the goal of greater early intervention to address the mental health needs of youth. Requiring young people from low-income families to delay sensitive treatment until they are in serious distress places low-income youth at unnecessary risk of not seeking care, increasing the likelihood of suicide, self-harm, or substance overdose.”

- 2) **Background.** The state’s two statutes regulating minor consent to mental health treatment, FC §6924 and HSC §124260, are similar but not identical. As noted by the sponsor in their fact sheet for the bill, FC §6924 sets the standard for consent to mental health treatment higher than it is set in HSC §124260. FC §6924 is the statute that must be used if a minor is covered under Medi-Cal, leading to unequitable higher consent requirements for Medi-Cal recipients.

HSC §124260 was established in 2010 via SB 543 (Chapter 503, Statutes of 2010) to expand the ability of minors to consent to mental health treatment. However, in that bill, it was specified that the consent provisions of HSC §124260 were not to apply to Medi-Cal benefits. This was possibly done at the time to limit the fiscal impacts of the bill, which was passed at a time of significant state budget difficulties.

FC §6924, the older of the two provisions, is housed in a chapter of the Family Code that addresses the ability of minors of varying ages to seek many various medical services without parental consent, as shown [here](#).

- 3) Professionals Included in FC §6926.** The mental health providers defined as a “professional person” who may determine consent differs in each of the two statutes. HSC §124260 clearly includes all of the Board’s license types, all of its associate types, as well as social work interns and MFT and PCC trainees. FC §6924 is less thorough, and omits associate social workers, social work interns, and MFT and PCC trainees. It includes LCSWs, but only via an indirect reference in regulations. It may be clearer and more equitable across both sections to include all of the Board’s license types, associate registrations, and pre-degree practicum students.
- 4) Incorrect reference to LEP Statute.** The reference to the Licensed Educational Psychologist Practice Act in FC §6924 is incorrect. The reference should be Chapter 13.5 (commencing with section 4989.10) of Division 2 of the Business and Professions Code.
- 5) Previous Legislation.** SB 543 (Chapter 503, Statutes of 2010) expanded the ability of minors to consent to mental health treatment for non-Medi-Cal recipients.

6) Support and Opposition.

Support:

- The Children’s Partnership (Co-Sponsor)
- California Alliance of Child and Family Services (Co-Sponsor)
- GenerationUp (Co-Sponsor)
- CalVoices (Co-Sponsor)
- National Center for Youth Law (Co-Sponsor)
- National Health Law Program (Co-Sponsor)
- The California Children’s Trust (Co-Sponsor)
- API Equality-LA
- Aspiranet
- California Coalition for Youth
- California High School Democrats
- California School-based Health Alliance
- Casa Pacifica Centers for Children and Families
- Children Now
- Communities United for Restorative Youth Justice

- County Behavioral Health Directors Association
- County Welfare Directors Association of California
- Health Net
- Health Net and Its Affiliated Companies
- National Association of Social Workers, California Chapter
- Pacific Clinics

Opposition:

- California Capitol Connection
- California Parents Union
- Our Duty
- Pacific Justice Institute
- Stand Up Sacramento County

7) History.

02/23/23 Referred to Com. on JUD.

02/14/23 From printer. May be heard in committee March 16.

02/13/23 Read first time. To print.

8) Attachments

Attachment A: Comparison of the two mental health consent laws in California: FC §6924 versus HSC §124260 (Source: National Center Youth Law, 2016)

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Introduced by Assembly Member Wendy Carrillo

February 13, 2023

An act to amend Section 6924 of the Family Code, relating to minors.

legislative counsel's digest

AB 665, as introduced, Wendy Carrillo. Minors: consent to mental health services.

Existing law, for some purposes, authorizes a minor who is 12 years of age or older to consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, if the minor is mature enough to participate intelligently in the outpatient services or residential shelter services, as specified, and either the minor would present a danger of serious physical or mental harm to themselves or to others or if the minor is the alleged victim of incest or child abuse. For other purposes, existing law authorizes a minor who is 12 years of age or older to consent to mental health treatment or counseling services if the minor is mature enough to participate intelligently in the outpatient services or counseling services.

This bill would align the existing laws by removing the additional requirement that, in order to consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, the minor must present a danger of serious physical or mental harm to themselves or to others, or be the alleged victim of incest or child abuse.

Existing law, for some purposes, requires that the mental health treatment or counseling include involvement of the minor's parent or guardian unless the professional person treating or counseling the minor determines that the involvement would be inappropriate. For other

purposes, existing law requires the involvement of the parent or guardian unless the professional person who is treating or counseling the minor, after consulting with the minor, determines that the involvement would be inappropriate.

This bill would also align the existing laws by requiring the professional person treating or counseling the minor to consult with the minor before determining whether involvement of the minor’s parent or guardian would be inappropriate.

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
 2 following:

3 (a) California is failing on children’s mental health and
 4 preventive care. According to the most recent Commonwealth
 5 Fund Scorecard on State Health System Performance, our state
 6 ranks 48th in the nation for providing children with needed mental
 7 health care.

8 (b) Roughly one-half of California’s children are covered by
 9 Medi-Cal, the vast majority of whom are Black and children of
 10 color.

11 (c) Less than 19 percent of low-income teenagers on Medi-Cal
 12 received screenings for depression and a followup plan in 2020.
 13 This is despite the reality that nearly one in three adolescents in
 14 California reported symptoms that meet the criteria for serious
 15 psychological distress.

16 (d) Less than 9 percent of Indigenous youth on Medi-Cal
 17 received a screening and plan, the lowest of any racial or ethnic
 18 group.

19 (e) Despite an overall decrease in the suicide rate in California,
 20 in 2020, youth, particularly Black and Latinx youth, and girls all
 21 showed disproportionate increases in suicide. A shocking 78
 22 percent of LGBTQ+ youth who were surveyed shared they had
 23 considered suicide, with the vast majority of those who had
 24 considered suicide sharing they had done so in the last year, and
 25 nearly one-third had made an attempt in the past year.

26 (f) Seeking care for mental health issues is complicated by
 27 pervasive social stigma and centuries of systemic oppression by

1 government programs that create legitimate fears for families to
2 engage in services.

3 (g) Youth, especially youth of color, express significant
4 trepidation about needing to disclose to parents their mental health
5 concerns and their need to access services. Without access to a
6 trained professional, youth report they turn to mostly free resources
7 of mixed quality that they access without parental intervention or
8 adult assistance, such as social media accounts and online videos.

9 (h) For LGBTQ+ youth, the rejection from parents, harassment
10 in school, and the overall LGBTQ negativity present in society
11 can lead to depression, anxiety, drug and alcohol use, and other
12 negative outcomes. Over one-half of surveyed LGBTQ+ youth
13 reported that not being able to get permission from their parents
14 or guardians was sometimes or always a barrier to accessing mental
15 health services.

16 (i) Providers, particularly school-based providers, find that
17 obtaining parental consent for a youth who needs support is
18 complicated by the parent or caretakers' beliefs and stigma about
19 mental health care.

20 (j) Most states allow youth under 18 years of age to consent to
21 receiving mental health care on their own.

22 (k) In California, existing law in both Section 124260 of the
23 Health and Safety Code and the Section 6924 of the Family Code
24 establishes that a minor who is 12 years of age or older may
25 consent to mental health treatment or counseling on an outpatient
26 basis, or to residential shelter services, if the minor is mature
27 enough to participate intelligently in the outpatient services or
28 residential shelter services; however, such services cannot be billed
29 to Medi-Cal.

30 (l) Existing law in the Family Code authorizes providers to bill
31 Medi-Cal if the above requirements are met and either the minor
32 would present a danger of serious physical or mental harm to
33 themselves or to others, or the minor is the alleged victim of incest
34 or child abuse.

35 (m) Two laws with different standards are challenging for
36 providers to implement and challenging for youth and families to
37 understand, creating a chilling effect on their willingness to seek
38 out care.

39 (n) This fundamentally inequitable policy is ultimately at odds
40 with the state's commitment to racial, ethnic, and health equity as

1 demonstrated through ongoing efforts of the Children and Youth
2 Behavioral Health Initiative and CalAIM, which are state efforts
3 to advance the goal of greater early intervention to address the
4 mental health needs of youth.

5 (o) Requiring young people from low-income families to delay
6 sensitive treatment until they are in serious distress places youth
7 at unnecessary risk of not seeking care, increasing the likelihood
8 of suicide, self-harm, or substance overdose, and contributing to
9 the alarming disparities in mental health outcomes for youth from
10 marginalized communities.

11 SEC. 2. Section 6924 of the Family Code is amended to read:

12 6924. (a) As used in this section:

13 (1) “Mental health treatment or counseling services” means the
14 provision of mental health treatment or counseling on an outpatient
15 basis by any of the following:

16 (A) A governmental agency.

17 (B) A person or agency having a contract with a governmental
18 agency to provide the services.

19 (C) An agency that receives funding from community united
20 funds.

21 (D) A runaway house or crisis resolution center.

22 (E) A professional person, as defined in paragraph (2).

23 (2) “Professional person” means any of the following:

24 (A) A person designated as a mental health professional in
25 Sections 622 to 626, inclusive, of Article 8 of Subchapter 3 of
26 Chapter 1 of Title 9 of the California Code of Regulations.

27 (B) A marriage and family therapist as defined in Chapter 13
28 (commencing with Section 4980) of Division 2 of the Business
29 and Professions Code.

30 (C) A licensed educational psychologist as defined in Article 5
31 (commencing with Section 4986) of Chapter 13 of Division 2 of
32 the Business and Professions Code.

33 (D) A credentialed school psychologist as described in Section
34 49424 of the Education Code.

35 (E) A clinical psychologist as defined in Section 1316.5 of the
36 Health and Safety Code.

37 (F) The chief administrator of an agency referred to in paragraph
38 (1) or (3).

39 (G) A person registered as an associate marriage and family
40 therapist, as defined in Chapter 13 (commencing with Section

1 4980) of Division 2 of the Business and Professions Code, while
2 working under the supervision of a licensed professional specified
3 in subdivision (g) of Section 4980.03 of the Business and
4 Professions Code.

5 (H) A licensed professional clinical counselor, as defined in
6 Chapter 16 (commencing with Section 4999.10) of Division 2 of
7 the Business and Professions Code.

8 (I) A person registered as an associate professional clinical
9 counselor, as defined in Chapter 16 (commencing with Section
10 4999.10) of Division 2 of the Business and Professions Code, while
11 working under the supervision of a licensed professional specified
12 in subdivision (h) of Section 4999.12 of the Business and
13 Professions Code.

14 (3) “Residential shelter services” means any of the following:

15 (A) The provision of residential and other support services to
16 minors on a temporary or emergency basis in a facility that services
17 only minors by a governmental agency, a person or agency having
18 a contract with a governmental agency to provide these services,
19 an agency that receives funding from community funds, or a
20 licensed community care facility or crisis resolution center.

21 (B) The provision of other support services on a temporary or
22 emergency basis by any professional person as defined in paragraph
23 (2).

24 (b) A minor who is 12 years of age or older may consent to
25 mental health treatment or counseling on an outpatient basis, or
26 to residential shelter services, if both of the following requirements
27 are satisfied:

28 ~~(1) The~~ *the* minor, in the opinion of the attending professional
29 person, is mature enough to participate intelligently in the
30 outpatient services or residential shelter services.

31 ~~(2) The minor (A) would present a danger of serious physical
32 or mental harm to self or to others without the mental health
33 treatment or counseling or residential shelter services, or (B) is
34 the alleged victim of incest or child abuse.~~

35 (c) A professional person offering residential shelter services,
36 whether as an individual or as a representative of an entity specified
37 in paragraph (3) of subdivision (a), shall make their best efforts to
38 notify the parent or guardian of the provision of services.

39 (d) The mental health treatment or counseling of a minor
40 authorized by this section shall include involvement of the minor’s

1 parent or guardian unless, ~~in the opinion of the professional person~~
 2 ~~who is treating or counseling the minor, the professional person~~
 3 ~~who is treating or counseling the minor, after consulting with the~~
 4 ~~minor, determines that the involvement would be inappropriate.~~
 5 The professional person who is treating or counseling the minor
 6 shall state in the client record whether and when the person
 7 attempted to contact the minor’s parent or guardian, and whether
 8 the attempt to contact was successful or unsuccessful, or the reason
 9 why, in the professional person’s opinion, it would be inappropriate
 10 to contact the minor’s parent or guardian.

11 (e) The minor’s parents or guardian are not liable for payment
 12 for mental health treatment or counseling services provided
 13 pursuant to this section unless the parent or guardian participates
 14 in the mental health treatment or counseling, and then only for
 15 services rendered with the participation of the parent or guardian.
 16 The minor’s parents or guardian are not liable for payment for any
 17 residential shelter services provided pursuant to this section unless
 18 the parent or guardian consented to the provision of those services.

19 (f) This section does not authorize a minor to receive convulsive
 20 therapy or psychosurgery as defined in subdivisions (f) and (g) of
 21 Section 5325 of the Welfare and Institutions Code, or psychotropic
 22 drugs without the consent of the minor’s parent or guardian.

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Minor Consent for Mental Health: A Side-by-Side Comparison of California's Two Laws

California has two different statutes that authorize minors to consent to mental health care under certain conditions. Services can be provided based on a minor's consent if the conditions under either statute are met. A minor does not have to qualify under both to consent to care. There are some important differences between the two statutes. This chart highlights key differences.

	Family Code § 6924	Health and Safety Code § 124260
When can a minor consent to services under this statute?	<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"> • Age 12 or older, • The minor is mature enough to participate intelligently in the treatment in the opinion of the attending professional person, • The minor would be in danger of serious physical or mental harm to him/herself or others without treatment, or the minor is the alleged victim of incest or child abuse. 	<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"> • Age 12 or older, • The minor is mature enough to participate intelligently in the treatment in the opinion of the attending professional person.
What mental health services can minors consent to under this statute?	<p>A minor can consent to:</p> <ul style="list-style-type: none"> • Outpatient mental health treatment and counseling 	<p>A minor can consent to:</p> <ul style="list-style-type: none"> • Outpatient mental health treatment and counseling by a "professional person."¹
What mental health services are not covered by this statute?	<p>Minors <i>cannot</i> consent to any of the following services under this statute:</p> <ul style="list-style-type: none"> • Inpatient mental health treatment • Psychotropic drugs • Convulsive therapy • Psychosurgery 	<p>Minors <i>cannot</i> consent to any of the following services under this statute:</p> <ul style="list-style-type: none"> • Inpatient mental health treatment • Psychotropic drugs • Convulsive therapy • Psychosurgery
Who can provide mental health services to consenting minors under this statute?	<p>The following agencies and individuals can provide services based on a minor's consent under this law:</p> <ul style="list-style-type: none"> • A professional person¹ as defined by statute (see below) • Government agencies • Agencies contracting with government agencies to provide the services • Agencies receiving community united funds • Runaway or crisis resolution center 	<p>The following agencies and individuals can provide services based on a minor's consent under this law:</p> <ul style="list-style-type: none"> • A professional person¹ as defined by statute (see below)

	Family Code § 6924	Health and Safety Code § 124260
Do parents need to be notified when a minor consents to mental health treatment under this law?	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.	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.
Do parents have a right to access the mental health records regarding services provided under this statute?	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. ² (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. ² (But see above regarding parent involvement)
Are parents financially liable for services?	The minor’s parents or guardian are not liable for payment for treatment provided under minor consent unless the parent or guardian participates in the treatment.	The minor’s parents or guardian are not liable for payment for treatment provided under minor consent unless the parent or guardian participates in the treatment.
Are there any differences in the funding sources available for these services?	Family Code § 6924 contains no insurance funding restrictions.	“Section 124260 of the Health and Safety Code shall not apply to the receipt of benefits under the Medi-Cal program.” Welfare and Institutions Code § 14029.8

¹ 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, the chief administrator of an agency defined in 6924, a licensed professional clinical counselor and a person registered as a MFT intern as defined in the Business and Professions code. In addition, Health and Safety Code § 124260 also includes a licensed clinical social worker as defined in the Business and Professions Code and a person registered as a clinical counselor intern. For the exact code sections containing these definitions, see Family Code § 6924(a)(2) and Health and Safety Code § 124260(a)(2).

² 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).