

**Frequently Asked Questions  
For Documenting, Protecting, and Sharing  
Reproductive and Sexual Health Information of Youth in Foster Care**

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**Q1: Is the reproductive and sexual health information of youth in foster care protected by confidentiality law?**

Youth in foster care<sup>1</sup> have reproductive and sexual health care rights that allow them to consent to medical services, without obtaining consent from their parent or guardian, and any information regarding those services remains confidential between them and their provider to the extent required by law.<sup>2</sup> These services include:

- prevention or treatment of pregnancy (including contraception, pregnancy testing, prenatal care, or abortion) *at any age*,
- health care due to a rape or sexual assault *at any age, and*
- prevention or treatment of a sexually transmitted infection or HIV prevention *at age 12 or older*.

As such, a medical provider cannot share a youth's protected health information with a third-party such as the youth's child welfare social worker (SW) or probation officer (PO) without the written consent of the youth or through a court order. A foster youth has the right to authorize or deny disclosure of their health information, or portions thereof, with persons specifically selected by the youth. When a SW or PO obtains protected health information from a medical provider, that information cannot be shared with others except as allowed by applicable confidentiality and privilege laws.

When a youth chooses to voluntarily disclose their health information to their SW or PO outside of the medical setting, this information is subject to a general right of privacy. As such, local child welfare and juvenile probation departments should determine and follow their established policies and procedures on confidentiality and information sharing. Placing agencies should have clear policies which stipulate whose responsibility it is to ensure that protected information is appropriately flagged and redacted from juvenile case files. Placing agencies should consult with their county counsel when necessary. For further information related to the juvenile case file, refer to question 3.

**Q2: How does honoring privacy requests encourage youth to disclose to their SW/PO?**

Private information about reproductive and sexual health, sexuality, gender identity are essential elements of one's wellbeing. These foundations reflect who we are and how we interact with others. A youth may or may not feel ready or comfortable to disclose personal information about their reproductive or sexual health. However, there may be times when the youth may

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<sup>1</sup> Foster care means the provision of 24-hour care and supervision to a child, youth, or nonminor dependent consistent with [Welfare and Institution Code \(WIC\) section 11400\(f\)](#).

<sup>2</sup> Information on the reproductive and sexual health care rights of youth in foster care is found in [All County Letter No 16-82](#).

feel comfortable sharing some portions of information, but not all information, with only certain individuals. When child welfare and juvenile probation professionals explain confidentiality and the limits of confidentiality in a manner that is age and developmentally appropriate to the youth in an open and honest manner this trustworthiness will most likely lead to more disclosure. Youth are more comfortable to share information about their reproductive and sexual health, as well as their needs and concerns when they feel supported and know what to expect. Open and honest discussions presents a great opportunity for the SW/PO and the youth to engage, build trust, discuss life skills and further good health outcomes.

**Q3: If a SW/PO documents information about a youth's reproductive or sexual health into the Child Welfare Services/Case Management System (CWS/CMS), how can the SW/PO and agency ensure unauthorized parties will not see it? Is there a chance that information will later be included in the juvenile case file?**

Although the CWS/CMS is intended to be a confidential system, there are times when information in CWS/CMS needs to be entered in a generalized manner or redacted prior to disclosure. Documents and information from CWS/CMS are provided to the juvenile court to be included in a youth's juvenile case file. Some of the documents created on CWS/CMS that may become part of the juvenile case file include the Health and Education Passport (HEP), the case plan, the court report, and case notes contained in the delivered service log.

Many individuals have the right to inspect or access a foster youth's juvenile case file, including:

- the minor subject of a proceeding,
- the minor's parent or guardian,
- appointed counsel for the parties,
- hearing officers,
- district attorney or city prosecutor,
- probation officers and child protective agency personnel,
- county counsel, or any other attorney representing the petitioning agency in a dependency action,
- the superintendent or designee of the school district where the minor is enrolled or attending school.<sup>3</sup>

While these above individuals have a right to inspect the juvenile case file, there are types of protected health information to which they are not entitled. As such, entering information in CWS/CMS in a generalized manner ensures that sensitive reproductive and sexual health information is not publicly shared in the HEP or in court.

For example, some county child welfare agencies instruct their public health nurses (PHNs) to document treatment for a sexually transmitted infection (STI) as, "*Youth is under treatment for a sensitive health matter.*" Other suggested language may be:

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<sup>3</sup> [Welfare and Institutions Code \(WIC\) section 827\(a\).](#)

- *The social worker and the youth discussed topics of reproductive health.*
- *The social worker provided youth resources regarding reproductive health.*
- *The social worker offered to remove any barrier the youth may experience in accessing reproductive health.*

Additionally, documenting pregnancy information in CWS/CMS as an Observed Condition ensures this information is not automatically populated on the HEP and will help keep this information private from others who receive copies of the youth's HEP.

However, if private health information is stated in CWS/CMS it should be redacted prior to being submitted to the juvenile case file. County agencies should consider what types of private health information they are routinely redacting from documents prior to submittal to the court and determine whether their list is exhaustive enough. Private health information that should be redacted includes:

- a youth's pregnancy or abortion,
- treatment or testing for a STI,
- a youth's sexual activity,
- a youth's birth control method,
- a youth's sexual orientation, gender identity and expression (SOGIE), and
- any other information related to their sexual or reproductive health.

Child welfare and juvenile probation departments should determine and follow their established policies and procedures which stipulate whose responsibility it is to ensure that information is appropriately redacted from juvenile case files.

**Q4: How can SW/POs ensure that youth understand their rights to privacy about their health information and the limitations of these rights?**

SW/POs are required to discuss and explain to youth their personal rights in a manner that is age and developmentally appropriate, including their reproductive and sexual health rights, at the time of a placement, including any and all placement changes, and at a minimum every six months thereafter or anytime as necessary. As part of these discussions, it is important for the SW/PO to explain that there are different confidentiality protections for information between a youth and their doctor and information voluntarily disclosed by the youth to their SW or PO. (See Attachment B, "Talking Tips for Case Management Workers about Reproductive and Sexual Health" for suggestions on framing this conversation.)

When discussing the limits of confidentiality, the SW/PO should explain to the youth that when they receive information from a medical provider, the youth has a right to authorize or deny to whom it is or is not disclosed. The SW/PO can only share when:

- the youth grants written permission,
- a court order requires disclosure, or when

- the youth discloses or the SW/PO reasonably suspects abuse, neglect, or exploitation and the SW/PO must legally report it.

The SW/PO should explain to the youth that when they voluntarily share information with their SW/PO, the worker will try to honor their privacy and seek their permission before re-disclosing any of their reproductive and sexual health information. The SW/PO should explain up front the different times when they **may share** and **must share** their information with others in the child welfare agency, including:

- **May share:** when arranging for necessary services and supports for the youth.
- **May share:** when arranging for a new placement.
- **Must share:** when the youth verbally discloses abuse, neglect, or exploitation or the SW/PO reasonably suspects a health or safety risk to the youth.<sup>4</sup>

There may be times when a youth does not want their private information shared with certain individuals. However, if the SW/PO believes the disclosure is important, for example, to arrange for a new placement that will affirm the youth's SOGIE, the SW/PO should explain to the youth the reasons why the disclosure is important and necessary, with whom the information will be shared, the steps the agency will take to limit further disclosure, and if the youth will agree in providing their permission. Whenever possible, the youth's preferences for keeping certain types of information private should be honored and respected. The SW/PO should attempt to notify the youth in advance of sharing or as soon as possible thereafter that their information will be shared and why.

#### **Q5: With whom may a SW/PO share the reproductive or sexual health information of a youth?**

When a SW/PO discusses confidentiality rights with youth, the SW/PO should take this opportunity to discuss which individuals (if any) they approve of receiving information about their reproductive and sexual health. (See *Attachment B, Talking Tips for Case Management Workers about Reproductive and Sexual Health.*) During this time, it can be helpful to explain why a SW/PO might want to share information with others, for example, with a potential caregiver to ensure a good placement match where the youth will feel comfortable and affirmed or with a medical provider to ensure the youth receives appropriate health or other support services.

When information is disclosed by a youth, a SW/PO may share the information with other members of their internal agency child welfare/probation team, including the following individuals as appropriate:

- The SW/PO direct supervisor,
- Respective county placing staff (for dual status youth who are under the jurisdiction of both the child welfare and juvenile justice systems),

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<sup>4</sup> <http://fosterreprohealth.org/wp-content/uploads/2018/04/NCYL-Chart-Minor-Sexual-Intercourse-Reporting.pdf>

- The Foster Care PHN if the PHN is a member of the child welfare/probation agency staff.

In addition, the SW/PO may share with any other trusted adult the youth has specifically authorized to receive the information. When a SW/PO is unsure whether information may or must be shared against the youth's wishes, the SW/PO should consult with their supervisor and/or county counsel.

When sensitive information may be protected by confidentiality law, county child welfare agencies and probation departments should determine their process at the local level to ensure only the appropriate parties receive necessary information. Agencies should have clear policies and procedures which stipulate whose responsibility it is to ensure sensitive information is treated appropriately.

**Q6: What types of reproductive and sexual health information may be shared with the youth's caregiver?**

County SW/POs are required to share with caregivers a foster youth's health and education summary including information about their medical history and other presenting needs, consistent with applicable federal and state confidentiality laws, to help better serve the youth, increase placement stability and ensure effective service delivery.<sup>5</sup> As discussed in the Sharing Information With Caregivers [ACIN I-05-14](#)<sup>6</sup>, there are some barriers and limitations in sharing information with caregivers. As such, consistent with a teaming approach, counties may consider having a youth execute a consent early in the case in order to share all necessary information as soon as possible to provide better service to the child. The child welfare agency should be explicit about the type of information to be shared, the persons with whom the information will be shared, and the purpose of sharing the information. The SW/PO should ask the youth what they feel comfortable sharing with their caregiver. A youth may prefer that their reproductive and sexual health information, such as their sexual activity, birth control method, their sexual orientation, or reasons for taking a prescribed medication remain private from their caregiver. The SW/PO should make efforts to honor the youth's wishes, including ensuring any necessary redactions to the HEP occur. If necessary, it is possible to provide a youth's general health information to caregivers without providing the youth's specific information about any medical treatment or their SOGIE.

*Example: A 12-year-old youth has been diagnosed with an STI and has been prescribed medication. The youth chooses to share this information with their SW, but states they are not comfortable sharing it with their caregiver. Respecting the youth's privacy, the SW informs the caregiver by stating "the youth is on antibiotics for treatment of an infection." This general statement is appropriate as the SW has addressed the youth's health needs while honoring their*

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<sup>5</sup> [WIC sections 827.11\(a\)\(5\) and \(b\), 16010\(c\).](#)

<sup>6</sup> [https://www.cdss.ca.gov/lettersnotices/entres/getinfo/acin/2014/I-05\\_14.pdf](https://www.cdss.ca.gov/lettersnotices/entres/getinfo/acin/2014/I-05_14.pdf)

*privacy. It is not necessary to explain to the caregiver that the infection was sexually transmitted.*

When a SW/PO is unsure whether information needs to be shared with the caregiver against the youth's wishes, the SW/PO should consult with their supervisor and/or county counsel.

**Q7: How is confidentiality of reproductive and sexual health handled within the child and family team (CFT) setting?**

[WIC section 832\(a\)](#) provides that in order to promote more effective communication needed for the development of a plan to address the needs of the child or youth and family, a person designated as a member of a child and family team as defined in paragraph (4) of subdivision (a) of [WIC section 16501](#) may receive and disclose relevant information and records, subject to the confidentiality provisions of state and federal law. Information exchanged among the team shall be received in confidence for the limited purpose of providing necessary services and supports to the child or youth and family and shall not be further disclosed except to the juvenile court with jurisdiction over the child or as otherwise required by law. Civil and criminal penalties may apply to the inappropriate disclosure of information held by the team.

Teams should adhere to the information sharing policies already established and followed within their counties. County public agencies are strongly encouraged to create and use an Interagency Memorandum of Understanding to effectively identify the processes and tools to be used when serving children or youth in multiple systems.

To further support information sharing within the CFT of a youth's protected health information, the CDSS and Department of Health Care Services have developed a universal release of information form to be used by the CFT. The form, released in the Requirements for Implementing the Child and Adolescent Needs and Strengths Assessment Tool Within a Child and Family Team [ACL 18-09](#), is titled Child and Family Team Authorization for Use of Protected Health and Private Information, and will allow for sharing information between CFT members pursuant to [WIC section 832](#).

**Q8: How can SW/POs ensure that foster youth have access to their daily prescriptions for reproductive or sexual health care needs without the medical information being shared with their caregiver, group home staff, or other youth in the youth's placement?**

When working with a youth placed in a group home or Short-Term Residential Treatment Program (STRTP), the SW/PO should verify that the youth has access to their medication by speaking with the youth and gathering the youth's self-report. Many times, a youth will have prescribed medications such as birth control pills, the patch, or antibiotics to treat an STI that they need to take on a regular basis but may not want staff or other residents in the group home to know about. While most medications taken by a foster youth in a group home or STRTP are required to be centrally stored and distributed by group home staff, contraceptive medication, including birth control and emergency contraception pills, and medications to treat or prevent

STIs do not need to be centrally stored. This information has been shared via Community Care Licensing's interim licensing standards. The STRTP interim licensing standards effective January 1, 2017 require the licensee to provide a locked storage container to a youth for their private storage of their contraception. Both the youth and staff shall have a key to the container.

For other licensed children's residential facilities, current regulations mandate that prescription medications be centrally stored. However, a youth's condoms, spermicide, diaphragms, birth control patches, and other non-prescription contraceptives, are not required to be centrally stored and therefore may remain with the youth.

Resource families are not required to centrally store prescription medications. For youth under the age of 18, the resource family shall use the Reasonable and Prudent Parent Standard to determine whether it is appropriate for the youth to have access to their medications for self-administration. More information about centrally stored medications for reproductive or sexual health can be found in the [Community Care Licensing Division Healthy Sexual Development and Pregnancy Prevention Technical Support Resource Guide](#).

SW/POs should see that a youth's confidentiality be maintained for medication related to an STI. The SW/PO should have a generalized discussion with the caregiver about the reason for these medications. Stating the youth is on antibiotics for treatment of an infection is generalized and appropriate to help ensure the youth's privacy is respected. It is not necessary to explain that the infection is sexually transmitted.

**Q9: How should a county agency respond when a request for a court order is received related to a reproductive or sexual health care service that a youth is legally able to consent to? For example, when the juvenile court receives a request for a court order to allow a youth to have an IUD inserted?**

Youth placed in foster care can consent to many reproductive and sexual health care services which do not require a court order (refer to question #1.) These services include the prevention or treatment of pregnancy, including contraception, abortion, prenatal care, health care due to a rape or sexual assault, and treatment of a sexually transmitted infection or HIV.<sup>7</sup> Medical providers may not realize that youth in foster care have consent rights and do not need consent from a parent, caregiver, guardian, social worker, probation officer, court, or authorized representative to obtain reproductive and sexual health care services. This can lead to an unnecessary request of a court order and can cause a delay in services to the youth. To avoid such delays and unnecessary requests for court orders, it is important that SW/POs inform medical providers that a foster youth has the right to consent to reproductive and sexual health care services. If the court receives a request that is not legally necessary, the court should inform the child welfare agency or the SW/PO making the request that such an order is not required. There should not be any evidence of such request found in the youth's case file due to confidentiality of this protected information.

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<sup>7</sup> [WIC section 369\(h\)](#).

**Q10: What is the role of the foster care PHN in documenting reproductive and sexual health information?**

WIC Section [16501.3](#) of the W&IC outlines the duties of foster care PHNs. Foster care PHNs are permitted to review and document in the child's HEP. However, when documenting sensitive reproductive and sexual health information, PHNs should consider documenting information in a generalized manner to keep sensitive reproductive or sexual health information from being publicly shared in the HEP. Some county child welfare agencies instruct their PHNs to document treatment for an STI as, "*Youth is under treatment for a sensitive health matter.*" Additionally, documenting pregnancy information as an Observed Condition in CWS/CMS ensures this information is not automatically populated on the HEP and will help keep this information private from others who receive copies of the youth's HEP. Additional instructions for documenting pregnancy are contained in the Documentation of Pregnancy and Parenting in the Child Welfare Services/Case Management System for Minor and Non-Minor Dependents [ACL 16-32](#).