

Exceptions to Confidentiality for Mental Health Care Providers in California (2021)

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The following is a partial list of exceptions to confidentiality to be observed by mental health care providers in California. Please note that laws are subject to revision over time and this document should be reviewed and updated as laws change.

Although mental health care providers must honor patient privacy regarding personal disclosures and by securely maintaining patient records, there are exceptions. Some of these exceptions are:

1.	Your patient is under 18-years-old and you reasonably suspect that s/he is a victim of child abuse. OR- Your patient admits in counseling that s/he has abused a child under 18-years-old. OR- Your patient speaks of a third party who you reasonably suspect has abused a child. (PC 11166 - CANRA)	CANRA	-----The "mandates"-----
2.	You patient informs you that s/he has copied, printed, exchanged or developed a photograph, slide, negative, or video of a child (anyone under 18-years-old) engaged in an act of obscene sexual conduct. This includes downloading, streaming and accessing through electronic or digital media. OR- Your patient speaks of a third party you reasonably suspect of the above. (CANRA: AB 1775)		
3.	Your patient is over 65 and you believe that s/he is the victim of physical abuse or any one of a variety of other abusive conditions cited in law. OR- Your patient admits in counseling that s/he has abused an elder. OR- Your patient speaks of a third party who you reasonably suspect has abused an elder. <i>Emotional abuse is a permissive report, not a mandated report. (WIC 15610 - E&DAA)</i>	Elder/Dependent Adult Abuse Law	
4.	Your patient is a dependent adult between the ages of 19- and 64-years-old and you believe that s/he is the victim of physical abuse or any one of a variety of other abusive conditions cited in law. OR- Your patient admits in counseling that s/he has abused a dependent adult. OR- Your patient speaks of a third party who you reasonably suspect has abused a dependent adult. <i>Emotional abuse is a permissive report, not a mandated report. (Elder and Dependent Adult Abuse)</i>		
5.	Your patient threatens to harm another identified person (e.g., assault, kill; per <i>Tarasoff v. Univ. of California</i>). OR- A member of your patient's family [or presumably someone "in the know" e.g., their fiancée, or the like] informs you that s/he intends bring "great bodily harm" to another person (CANRA: Ewing v. Goldstein) .		
6.	Your patient is a suspected terrorist seeking treatment ... The Patriot Act of 2001 (§215) may require you to reveal your records to government officials. Per the <i>Act</i> , you <i>will not</i> inform your patient of this intrusion.		
7.	Your patient is a danger to him-/herself and threatens harm to self (e.g., suicidal). <i>No mandate exists for threats of suicide. (EC 1024)</i>		
8.	Your patient is under 16-years-old and is the victim of a crime. (EC 1027)		
9.	You are a court-appointed psychotherapist and are evaluating a patient (perhaps even in jail ...). (EC 1017)		
10.	Your patient is being evaluated to determine his/her sanity in a criminal proceeding. (EC 1023)		
11.	Your patient is in a legal proceeding where his/her mental competence is at issue (the kids are after the money or the real property ...). (EC 1025)		
12.	Your patient has filed a lawsuit claiming mental/emotional damages (the boss made him/her crazy). (EC 1016)		
13.	Your patient is seeking psychological services to enable them to commit a crime, or to avoid detection or apprehension after committing a crime. (EC 1018)		
14.	Your patient's medical information <i>may</i> be disclosed to other health care professionals or facilities for purposes of diagnosis or treatment. No "release" is required (but is always preferred) per CC 56.10(c)(1) .		
15.	Your patient's PHI (Protected Health Information) is subject to many disclosures permitted by HIPAA to insurance payers, including diagnosis, dates of service, treatment plan, use of substances, etc.		
16.	Your patient files a lawsuit against you for breach of duty (e.g., incompetence, malpractice) or you file suit against your patient (perhaps for non-payment for services, or he/she tore-up your office in a fit of rage, etc.). The disclosure needs to be relevant to the case). (EC 1020)		
17.	Your patient dies, and information previously disclosed to you (and perhaps is documented in the record) pertains to an issue between parties making claims through you. Or, you were privy to information important in ascertaining your patient's intent concerning a deed or conveyance, will, trust, or other writing affecting potential heirs' interest in property. (EC 1019, EC 1021, EC 2022)		
18.	Your patient has, in writing, waived privilege or given consent authorizing disclosure.		