Minors, couples and families: consent and confidentiality

Who consents for a child, counselling at 12, a child's health information, two parents and custody disputes, and records for couples and families, from Ontario law and CRPO's manual.

Study aid, not legal advice. Last verified against the official sources linked below on 11 November 2026.

1 Consent to treatment (HCCA)

- **No minimum age**: capacity is about the person and the treatment, not a birthday.
- Capable means able to understand the relevant information and appreciate the reasonably foreseeable consequences of a decision or of no decision (**s. 4 (1)**).
- Everyone is **presumed capable**, unless there are reasonable grounds to believe otherwise (s. 4 (2), (3)).
- Young children often need a substitute decision-maker, usually a parent. In CRPO's example, **Noah**, 13, is capable, so his treatment and information are not discussed with his father without his consent.

2 Counselling at 12 or older (CYFSA)

- A child 12 or older may consent to a counselling service alone; no one else's consent is needed (**s. 23 (1)**).
- If the child is **younger than 16**, discuss with them, at the earliest appropriate time, whether to involve a parent.
- If the service is treatment under the HCCA, the HCCA's consent rules apply instead (**s. 23 (2)**).

3 The child's health information (PHIPA s. 23)

- For a child **under 16**, a parent may consent to sharing their information, except about treatment the child decided on alone under the HCCA, or counselling they took part in alone under the CYFSA (s. 23 (1), para. 2).
- A capable child's own decision **prevails** over a parent's conflicting decision (s. 23 (3)).
- A parent with parenting time may ask for and be given information about the child's well-being, including health (Children's Law Reform Act **s. 20 (5)**). Weigh it with PHIPA and any order, and get advice when they conflict.

4 Two parents (CRPO manual)

- Unless an agreement or order says otherwise, the **presenting parent** can consent, and you may accept one parent's consent unless you have reason to believe the other disagrees.
- Ask whether there is an **other custodial parent**, seek their consent and read any agreements or orders: leaving a parent out is one of CRPO's most common complaint issues.
- If joint substitute decision-makers disagree, treatment **cannot proceed**; the Public Guardian and Trustee, the Consent and Capacity Board or a court may become involved.

5 Custody disputes (CRPO manual)

- **Check your competence** for children, high-conflict couples and custody disputes, with supervision (2.1), and watch for conflicts of interest as roles change (1.6).
- **Clarify your role** with everyone, have a policy on whether you write reports for custody proceedings, and know whose consent each release needs.
- In any report, separate facts from interpretations and stay within your competence: calling a client "**a good parent**" is unclear and unverifiable (5.2).

6 Couples and families: records (5.1)

- One file is fine while the couple or family attends in the **same combination**.
- When the combination changes, keep **separate files** or sub-files, for example for one partner's individual session.
- Explain at the start how records are kept and accessed. If only one participant asks, they get what is **about themselves** and communal information not attributable to another.

Ask who can consent, to what, and who may see the record, before the first session. A child in need of protection is reported, whoever consents (CYFSA s. 125).

Official sources: CRPO, Professional Practice and Jurisprudence manual and CRPO Standard 5.1: Clinical Records and Health Care Consent Act, s. 4 and PHIPA, s. 23 and CYFSA, s. 23. Condensed from Client-Therapist Relationship and The Legal Framework. Independent study aid, not legal advice, not affiliated with CRPO or COMPASS.