

**County of San Bernardino  
Department of Behavioral Health**

**Consent for the Treatment of Minors Policy**

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**Effective Date** 05/01/97  
**Revision Date** 09/23/14  CaSonya Thomas, Director

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**Policy** It is the policy of the Department of Behavioral Health (DBH) to obtain appropriate and lawful consents for mental health treatment services provided to minors. Minor clients receiving treatment for mental health may give consent for their own treatment.

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**Definition** **Caregiver's Authorization** may be granted to an adult caregiver eighteen (18) years of age or older who completes items one (1) through (4), inclusive, of the [Caregiver's Affidavit](#) (Authorization language provided in Family Code Section 6552), and signs it to enroll a minor in school, may consent to school-related medical care on behalf of the minor. Signatories may also include relatives authorized to consent. They are caregivers who complete items one (1) through eight (8), inclusive, of the [Caregiver's Affidavit](#), and sign it, giving them the same rights to authorize voluntary mental health care for the minor as are provided to Guardians subject to limitations of Section 2356 of the Probate Code. Exception occurs when a parent or other person having legal custody of the minor contravenes, unless the minor's life, health or safety is jeopardized. A relative shall be a **Qualified Relative** as defined below.

**Children and Family Services (CFS)** is the Human Services department dedicated to the safety, protection and permanency of children as well as the promotion of the general well-being of children and their families in the County of San Bernardino.

**Consent Witness** is an adult other than the individual providing consent, who signs the appropriate consent form to confirm that a consent signature has been appropriately obtained on the treatment consent form. This individual may be, but is not limited to: DBH staff, community partners, friends, etc.

**Court Dependent** (Foster Children) is any minor who has been adjudged a dependent by a juvenile court of law.

**Emancipated Minor** is a person younger than 18 years of age, but who carries all rights of an adult because they are:

- Validly Married, or divorced from a valid marriage,
- Active Duty Military, or
- In receipt of a "declaration of emancipation" by the court

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# County of San Bernardino Department of Behavioral Health

## Consent for the Treatment of Minors Policy, Continued

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### Definition (continued)

**Informed Consent** is also Voluntary Informed Consent. It is the provision of the following treatment information to the patient in a clear and explicit manner:

- Reason for treatment and related procedures, including nature and seriousness of the illness
- Probable duration of treatment, including frequency
- Anticipated improvement or remission, temporary or permanent, and degree and duration expected with or without treatment
- Nature, degree, duration and probability of side effects, including significant risks, and how they may be controlled
- Any difference of professional opinion to the effectiveness of the treatment
- Advice that the client has the right to accept, refuse or revoke proposed treatment
- Explanation of the mandated reporting requirements

**Mental health treatment or counseling services** is the provision of mental health treatment or counseling on an outpatient basis.

**Minor** is an individual who is under 18 years of age.

**Professional person** provides mental health services, who shall be a properly qualified professional with training or supervised experience, or both, in the diagnosis and treatment of minors and may mean any of the following:

- Psychiatrist, including board certified, or board eligible Psychiatrist
- Psychologist, including:
  - Licensed educational psychologist as defined in the Business and Professions (B&P) Code
  - Credentialed school psychologist as defined in the California Education Code
  - Clinical psychologist as defined in the California Health and Safety Code
- Licensed Clinical Social Worker as defined in the B&P Code
- Associate Clinical Social Worker (*unlicensed*) as defined in the B&P Code, while working under the supervision of a licensed professional as defined in the B&P Code
- Licensed Marriage and Family Therapist as defined in the B&P Code
- Licensed Professional Clinical Counselor as defined in the B&P Code
- Professional Clinical Counselor Intern (*unlicensed*)
- Marriage and Family Therapist registered intern (*unlicensed*) as defined in the B&P Code, while working under the supervision of a licensed professional as defined in the B&P Code

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# County of San Bernardino Department of Behavioral Health

## Consent for the Treatment of Minors Policy, Continued

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### Definition (continued)

**Qualified Relative** is defined as a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any person denoted by the prefix “grand” or “great” or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.

**Standing Order:** A court order that applies to all cases pending before a court. In San Bernardino there is a [standing order](#) which authorizes the CFS Director or the Director’s delegate to authorize appropriate mental health services for children coming into, or currently within, the dependency system (aka, Foster Children).

**Supervising Social Services Practitioner (SSSP):** Unit supervisor position in the County of San Bernardino at Child and Family Services (CFS) and lowest level CFS staff permitted to sign consents. See list of [SSSPs](#).

**Third Party Consent** is consent for medical treatment under specific circumstances for minors under the supervision of a person(s) other than their parent(s). It is not sufficient for the provision of mental health services.

**Ward** is any minor under the jurisdiction of the juvenile court pursuant to a finding of delinquency under Welfare & Institutions Code 600. Although not commonly thought of as foster children, these wards are foster children if they are living in a Title IV-E placement (e.g. group home) and qualify for the same benefits as foster children in the dependency system.

**Written Informed Consent** occurs when a person with legal authority, knowingly and intelligently, without duress or coercion, clearly and explicitly manifests consent to the proposed therapy to the treating professional.

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### Guidelines Regarding Consent

It is most preferable to have the person with current legal responsibility for the minor to consent for mental health services; however, there are circumstances in which a minor consenting for services is the most appropriate action. Minor clients receiving substance use disorder services may give consent for their own treatment.

The following guidelines apply to legally obtaining informed consent to provide treatment to a minor:

- Prior to the provision of mental health, psychiatric, or counseling services, informed consent shall be obtained as described under the definitions above.

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# County of San Bernardino

## Department of Behavioral Health

### Consent for the Treatment of Minors Policy, Continued

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**Guidelines  
Regarding  
Consent**  
(continued)

- A person who has current legal responsibility for a minor shall sign a consent document for the minor to receive treatment.
- Although a child may be in the care of CFS the parents' rights may not have been terminated, therefore the parent can still give consent for treatment for the child.
- A consent signature from a parent or authorized person who is unable to come to the clinic may be obtained in person by means of a home visit.
- Clarify in advance and request documentation when it is unclear whether persons having physical custody of a minor have the right to consent to treatment, to expedite the registration and treatment process.

When a minor has been removed by CFS, DBH staff are not permitted to release mental health records or disclose mental health information to, or based upon the authority of, the Parent/ Guardian unless the juvenile court has issued an order authorizing the Parent/Guardian to such authority. Since such disclosure is essential in obtaining informed consent, therefore other means of consent must be followed.

A minor is legally permitted to consent to outpatient mental health treatment, if he or she meets both of the following requirements:

- Age 12 or older
- Mature enough to participate intelligently in the treatment

It is the expectation of the law that a minor accessing mental health services will do so within the context of his/her significant family relationships. It is the exception that a child will access mental health services without parent or guardian involvement and not done for the convenience of the parent/guardian. Therefore, even if a minor consents to treatment the parents or guardians shall be involved in the minor's treatment unless the provider determines, after consulting with the minor, the involvement would be inappropriate.

If allowing a minor to consent for treatment, then be aware of the following:  
Parental Involvement:

- Involvement of the parent or guardian should be revisited on a regular basis and, if appropriate, the parent or guardian should be involved.
- Parental involvement necessitates sharing confidential information. In the absence of an authorization from the minor, the provider should only release the minimum information necessary to the parent that is directly relevant to the parent's involvement in the minor's care. This does not mean they have a right to access confidential records.

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# County of San Bernardino Department of Behavioral Health

## Consent for the Treatment of Minors Policy, Continued

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### Guidelines Regarding Consent (continued)

- Providers should attempt to honor the minor's right to confidentiality to the extent possible while still involving parents in treatment.

#### Important Billing Notes:

- Services provided to minors without parental involvement cannot be billed to insurance (e.g., Medi-Cal).
- Ensure only non-billable Medi-Cal codes are used to code services provided when there is no parental involvement.
- Services may be billed to Medi-Cal when it is verified by Children and Family Services (CFS) the child is a dependent child (foster child). The requirements of this verification process are unspecified, so document verification process in chart well if this option is utilized.
- Services provided to minors with parental involvement can be billed to insurance (e.g., Medi-Cal).

#### Important Note:

Separate, additional consent is required for treatment with psychotropic medications. Each medication requires an additional consent. See [Consent for Administration of Psychotropic Medication to Minors Policy](#) for details.

Permission to release confidential information should be obtained by the person who holds the privilege, which is typically the person who consents for treatment. However, if minor is over 12 years of age or older and capable of consenting for treatment, then minor needs to authorize release of Protected Health Information (PHI).

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### Consent Flowcharts

There are three (3) flowcharts below which serve as basic decision trees and which staff shall follow when obtaining consents to treat a minor. The flowcharts are:

- **Parent/Legal Guardian Flowchart I**
- **Dependents Consent Flowchart II**
- **Minor Consent Basic Flowchart III**

The following flowcharts are electronically linked to pertinent forms and procedures applicable to each category of consent.

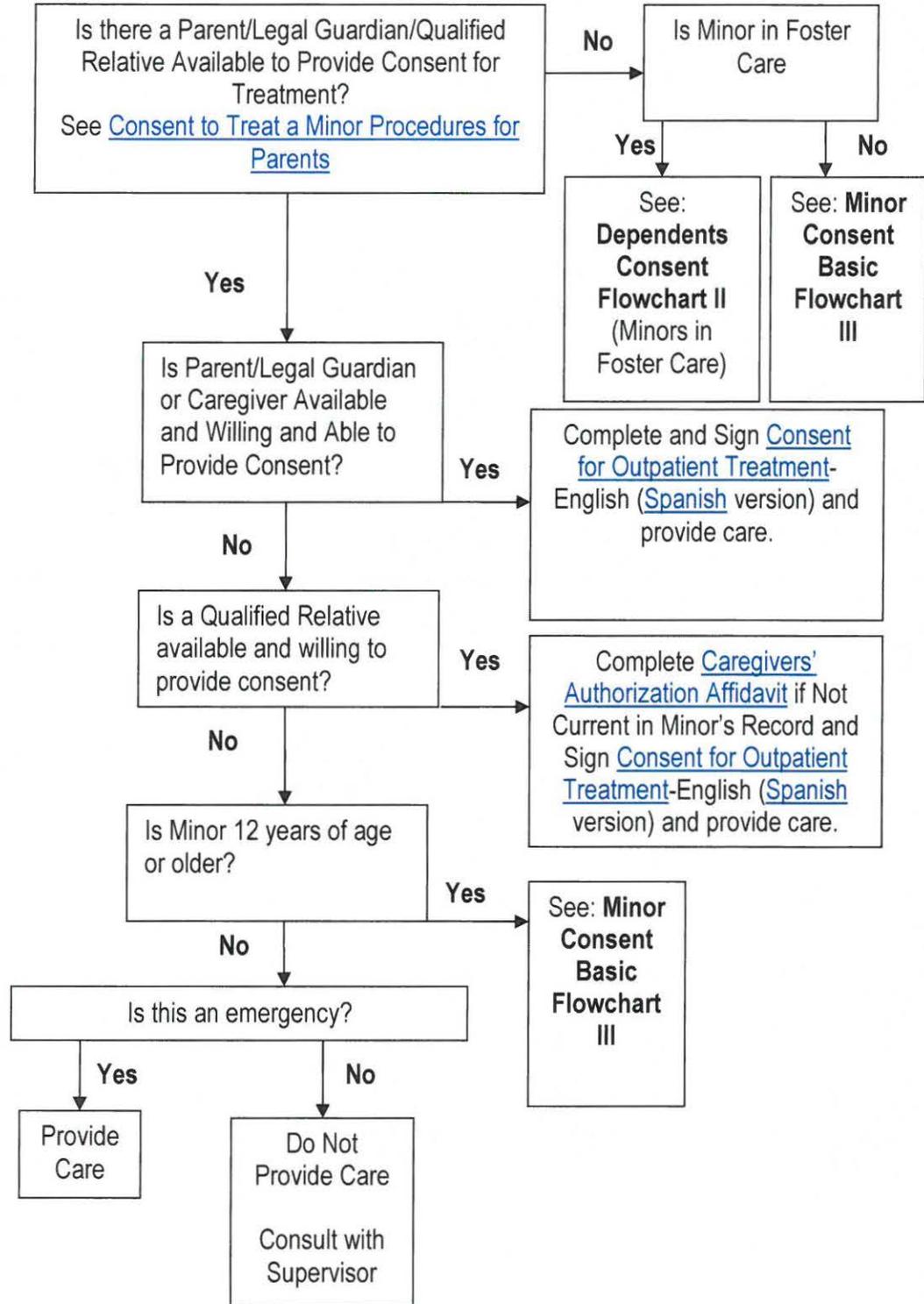
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# County of San Bernardino Department of Behavioral Health

## Consent for the Treatment of Minors Policy, Continued

**Parent/Legal Guardian Consent Flowchart I**



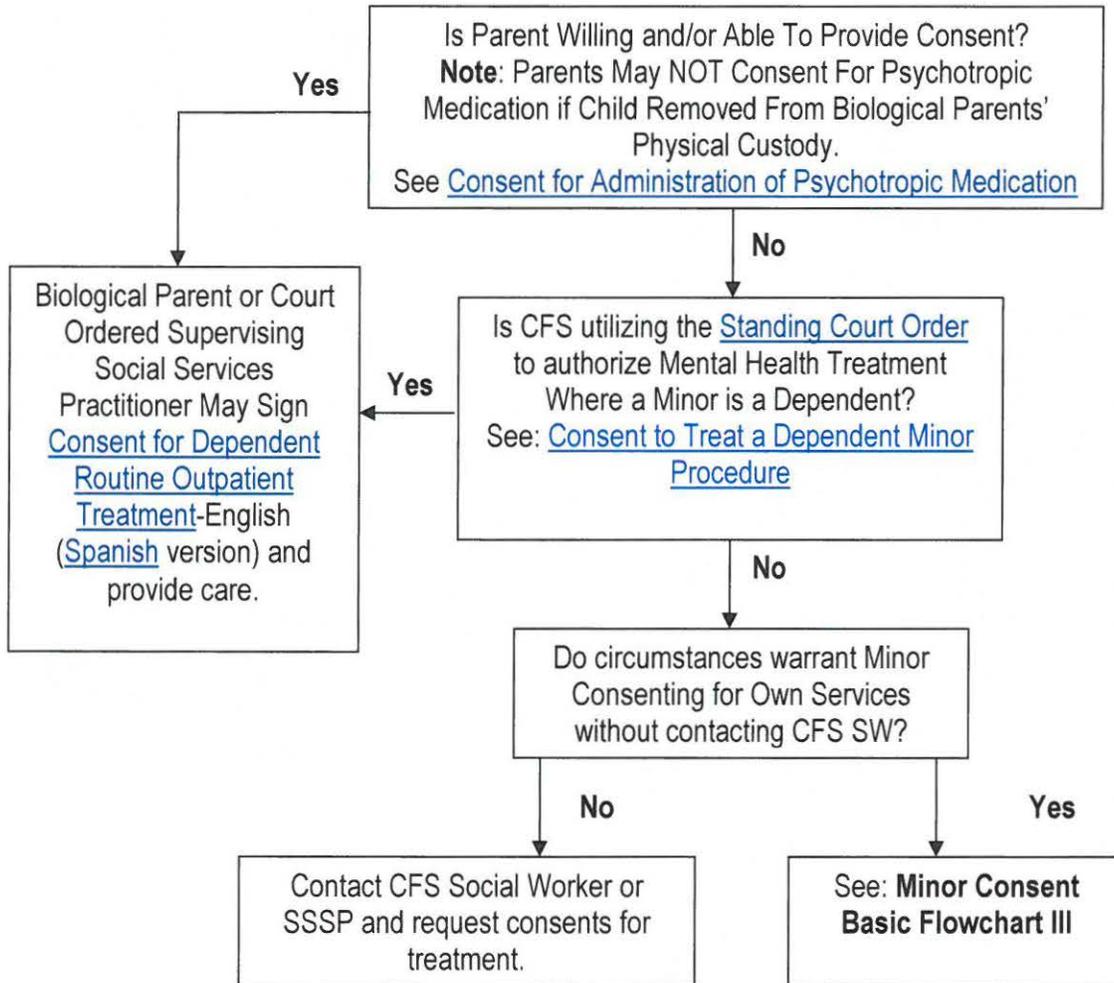
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County of San Bernardino  
Department of Behavioral Health

Consent for the Treatment of Minors Policy, Continued

Dependents  
Consent  
Flowchart II

Behavioral Health Outpatient Treatment Services  
Consent for Dependents of the Court (minors in Foster Care)



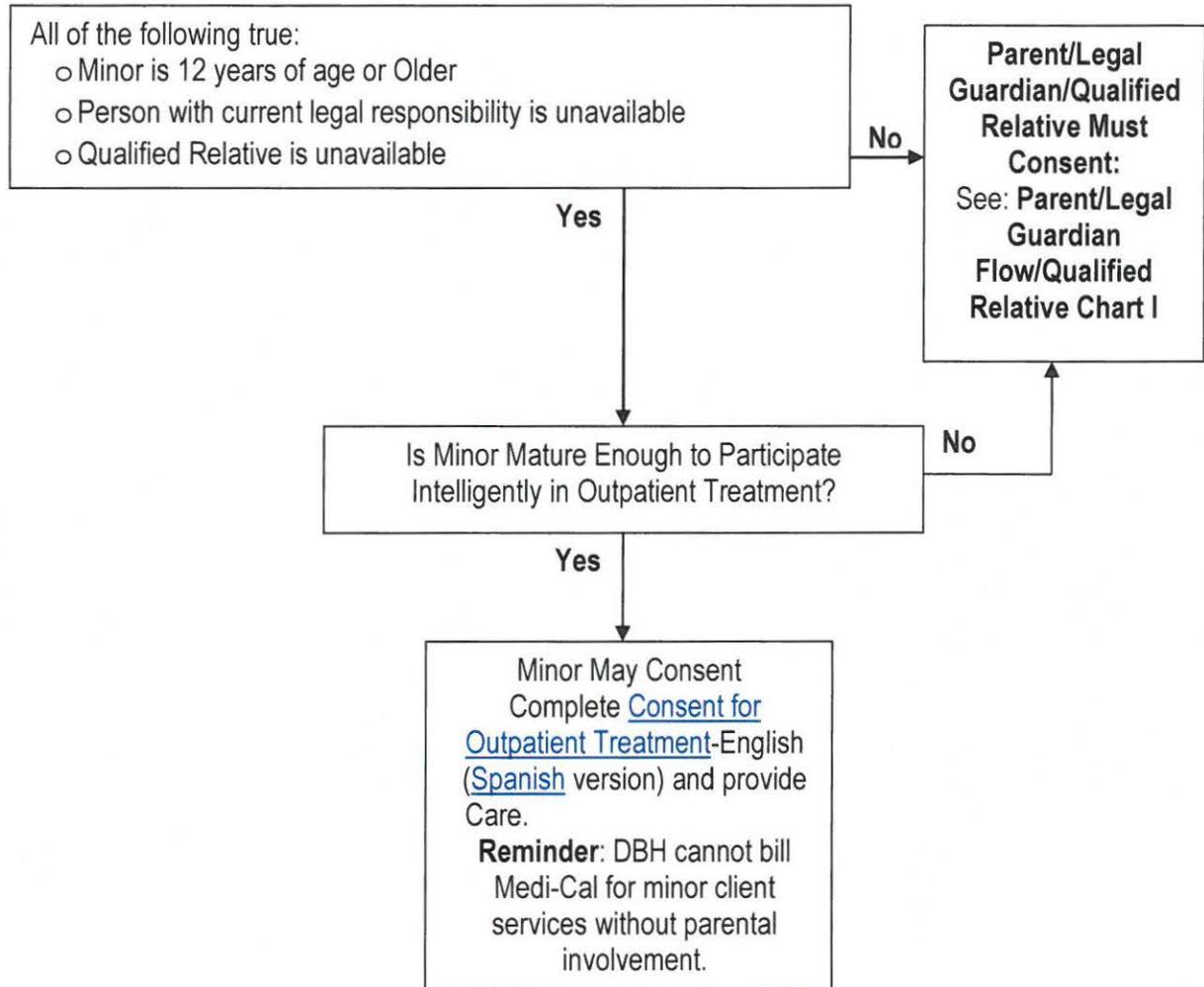
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# County of San Bernardino Department of Behavioral Health

## Consent for the Treatment of Minors Policy, Continued

Minor Consent  
Basic  
Flowchart III

### Behavioral Health Outpatient Treatment for Minors Who Can Consent?



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# County of San Bernardino Department of Behavioral Health

## Consent for the Treatment of Minors Policy, Continued

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**References**

California Code of Regulations, Title 9, Chapter 1, Subchapter 3, Article 8, Sections 622 to 626, inclusive  
California Business and Professions Code, Division 2, Sections 4980, 4980.40, 4988  
California Education Code, Section 49424  
California Family Code, Sections 6500, 6550, 6552, 6902, 6920 et seq., 6922, 6924, 6929, 7002  
California Health and Safety Code, Sections 1316.5, 124260(b)  
California Probate Code, Section 2356

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**Related Policy or Procedure**

DBH Standard Practice Manual:

- CHD0303-1: [Child Abuse Reporting Procedure](#)
- CLP0811-1: [Consent to Treat a Minor Procedures for Parents/Legal Guardians](#)
- CLP0811-2: [Consent to Treat a Dependent Minor Procedure](#)
- CLP0818: [Policies Regarding Authorization and Designation Pursuant to the LPS Act](#)
- MDS2017: [Consent for Administration of Psychotropic Medication to Minors Policy](#)

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## **STANDING ORDER**

### **RELEASE AND EXCHANGE OF INFORMATION TO FACILITATE A COLLABORATIVE APPROACH TO THE MENTAL HEALTH NEEDS OF FAMILIES IN THE CHILD WELFARE SYSTEM**

This Standing Order addresses the need for access to mental health services and the necessary exchange of information for the mental health needs of the children and families in the child welfare system. The goal of such access and exchange of information is to improve the coordination of resources and services for children and their families. An authorization to provide services and exchange information will permit the provision of an array of mental health services delivered in a coordinated, comprehensive, community-based fashion to meet the mental health needs of the children and their families in juvenile court.

Good cause exists for authorizing such services and a release to exchange information as this enables the County to comply with the Katie A. settlement and to implement a core practice model involving a multi-agency collaborative approach. Services would be needs driven and family focused from the outset of involvement with the family. Such an approach allows services that are individualized and tailored to the strengths and needs of each child and family.

The release and exchange of information concerning CFS clients (both children and their families) is generally prohibited by statute and case law unless specifically authorized by court order. There are times when a limited release of information about children and their families will serve the best interests of the children and families appearing before the Juvenile Court for their care and well-being. Therefore, notwithstanding the confidentiality reflected in Penal Code sections 11167 and 11167.5 and Welfare and Institutions Code sections 827, 828 and 10850, this Court finds good cause exists, based on the above consideration, and authorizes the release and exchange of information as outlined below:

- 1) The Director of CFS or the Director's delegate is authorized to provide mental health screenings and the appropriate mental health services for children coming into the dependency system;
- 2) The Director of CFS or the Director's delegate is authorized to provide mental health screening and appropriate mental health services to children currently within in the dependency system if they meet the criteria under Katie A.;

- 3) The departments, agencies, services providers and invested third parties engaged in the core practice model and teaming approach, including but not limited to DBH, SART, and WRAP Providers, to provide children and their families with mental health services, are authorized to release and exchange information between and amongst themselves, without further court order, to ensure that appropriate services are provided to the child and families as needed;
- 4) The release and exchange of information shall be used solely for the purpose of providing mental health screenings and appropriate mental health services, and the information shall not be released or disclosed to any third party not otherwise involved in the core practice model and teaming approach as outlined herein.

The foregoing release of information as authorized herein, is dependent upon the agencies, departments, service providers and invested third parties implementing appropriate procedures to ensure all information is safeguarded from improper disclosure in accordance with applicable state and federal laws and regulations.

The purpose of this order is to authorize the release of information, and shall not be deemed to be an order requiring the release of information.

10/18/13  
Date

  
Christopher Marshall  
Presiding Judge of the Juvenile Court