



## Consent to Treat a Minor: Procedures for Parents/Legal Guardians

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**Purpose** To establish uniform procedures for staff to ensure appropriate consents are obtained prior to providing outpatient behavioral health treatment services to minors.

**Basic Procedure for Parents/Legal Guardians**

Step	Action	
1	Determine who is authorized to sign the consent for treatment form as follows:	
	<b>If...</b> Biological or adoptive parent/guardian is present and responsible for minor	<b>Then...</b> Obtain the signature of biological or adoptive parent/guardian  <b>Note:</b> Ensure that parent/guardian is capable of providing Informed consent as defined in policy.
	Neither a biological nor adoptive parent/guardian is available, but minor is under the care of a "qualified relative"	Obtain a <b>Caregiver's Authorization Affidavit (CLP029)</b> review to ensure adult present is a "qualified relative"
Minor is:	<ul style="list-style-type: none"> <li>12 years of age or older, (minor must be 16 or older to provide consent for replacement narcotic abuse treatment that uses buprenorphine), and</li> <li>Mature enough to participate intelligently in treatment</li> </ul>	<ul style="list-style-type: none"> <li>Ensure minor client is capable of providing Informed Consent, as defined in policy.</li> <li>Every effort should be made to involve parents or guardians in outpatient behavioral health treatment of a minor unless, in the opinion of the treating professional person, the involvement would be inappropriate.</li> </ul>

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## Consent to Treat a Minor: Procedures for Parents/Legal Guardians, Continued

Basic Procedure for Parents/Legal Guardians, continued

Step	Action	
1, continued	<b>If...</b> Minor is 12 or older (continued)	<b>Then...</b> <ul style="list-style-type: none"> <li>• The provider must consult with the minor before deciding whether to involve parents/guardian.</li> <li>• Activate Client Alert in myAvatar as instructed in PHI Disclosure section of this document.</li> <li>• This decision and any attempts to contact parents/guardian must be documented in the minor's record.</li> </ul>
2	Review the <b>Consent for Outpatient Treatment (COM013)</b> document and planned treatment with the individual authorized to sign the consent form and with client to ensure informed consent as defined in policy is obtained.	
3	Obtain the proper signature on the <b>Consent for Outpatient Treatment (COM013)</b> document.	
4	Provide or obtain the signature of a witness as defined in policy on the <b>Consent for Outpatient Treatment (COM013)</b> document.	
5	Record appropriate additional information in the medical record, including: <ul style="list-style-type: none"> <li>• Logic behind acceptance of authorization;</li> <li>• Court documents used for confirmation;</li> <li>• Attempts to contact parents/guardian if minor is consenting on own behalf;</li> <li>• Any unusual circumstances, particularly against potential litigation, and</li> <li>• Any of the reasoning behind decisions of the attending professional person.</li> </ul>	
6	Should treatment involve a significant risk of severe adverse consequences, confer with DBH supervision/management to determine if County Counsel consultation is appropriate prior to proceeding with treatment.	

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# Consent to Treat a Minor: Procedures for Parents/Legal Guardians, Continued

## Adjusting Consent for Treatment During Course of Care

Updates may need to be made to consents as circumstances change.

If...	Then...
<ul style="list-style-type: none"> <li>Client is now 18 years of age</li> </ul>	<ul style="list-style-type: none"> <li>Review all information and obtain the signature of the client.</li> <li>Review potential need for and obtain authorization to release information between DBH and parent or others involved in client treatment plan.</li> </ul> <p><b>Note:</b> Ensure client is capable of providing Informed Consent, as defined in policy above.</p>
<ul style="list-style-type: none"> <li>A biological or adoptive parent/guardian has indicated that treatment should not continue, against the wishes of the other biological or adoptive parent/ guardian</li> </ul>	<ul style="list-style-type: none"> <li>Consult with supervisor.</li> </ul> <p><b>Note:</b> Although you generally should discontinue any treatment authorized by one parent when the other parent/guardian so indicates, there is a possibility that services should be continued upon the request and consent of the minor client. Review Policy for consent for treatment by minor.</p>
<ul style="list-style-type: none"> <li>Adult previously consenting for treatment no longer meets criteria to consent (e.g., divorce court documentation appropriate actions).</li> </ul>	<ul style="list-style-type: none"> <li>Consult <b>Consent for the Treatment of Minor Policy</b> (CHD0316) for most appropriate means to obtain informed consent and take appropriate actions.</li> </ul> <p><b>Note:</b> Advise divorced parents of the minor to show the court order which specifies which parent(s) must sign for health care decisions. It is not appropriate for DBH to retain copies of confidential court documents, but it may be necessary to confirm and document the information for treatment purposes.</p>

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## Consent to Treat a Minor: Procedures for Parents/Legal Guardians, Continued

### Adjusting Consent for Treatment During Course of Care, continued

If...	Then...
Minor client through dependency proceedings is removed from the physical custody of parent/guardian previously consenting for treatment [i.e., Children and Family Services (CFS) removes client].	<ul style="list-style-type: none"> <li>• DBH staff are not permitted to release behavioral health records or disclose information to, or based upon the custody of, the parent/guardian unless the juvenile court has issued an order authorizing the parent/guardian to such authority.</li> <li>• Since such disclosure is essential in obtaining informed consent, contact the minor clients' CFS Caseworker and obtain appropriate consent from the Supervising Social Service Practitioner (SSSP).</li> </ul>
Client is no longer a dependent of the court (i.e., Foster Youth)	Determine who is authorized to sign the consent form (Step 1 of "Basic Procedure for parents/guardians in table above

### Protected Health Information (PHI) Disclosure

Restrictions regarding the sharing of PHI apply when a minor age 12 or older has given consent for their own treatment. These restrictions are as follows:

- Providers will inform and involve parents/guardian in treatment when appropriate, however, providers may not disclose medical records to parents/ guardian or other third parties without the minor's authorization;
- Providers can only share the minor's medical records with parents/ guardian or other third parties with a signed authorization from the minor;

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# Consent to Treat a Minor: Procedures for Parents/Legal Guardians, Continued

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## Protected Health Information (PHI) Disclosure, continued

- DBH staff will enter an alert into myAvatar when opening episode for client indicating that the minor has given consent for treatment and advising an Authorization to Release Protected Health Information (PHI) (COM001) is required before sharing any PHI with parents/guardians or other third parties. Staff will follow these steps to enter alert:
  - Search/Open for the client;
  - Search for the Client Alerts form;
  - Once you get to the Client alert screen click add;
  - On the Client Alert form
    - Select the Minor Consent alert from the Type of Alert dropdown
    - Check all episodes in the Episodes box, and
  - Submit the form

Providers may refuse to provide parents/guardian access to a minor's medical records if the provider determines:

- Access to the patient records by the parent/guardian would have a detrimental effect on the provider's professional relationship with the minor patient, or
- Access would have a detrimental effect on the minor's physical safety or psychological well-being.

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## Referenced Forms, Policies, and Procedures

### DBH Standard Practice Manual and Departmental Forms:

- Caregiver's Authorization Affidavit (CLP029)
- Consent for Outpatient Treatment (COM013)
- Consent for the Treatment of Minors Policy (CHD0316)
- Consent to Treat a Dependent Minor Procedure (CHD0316-2)
- Authorization and Designation Pursuant to the Lanterman-Petris-Short (LPS) Act (CLP0818)

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## Reference(s)

- [AB816 Minors: Consent to Medical Care](#)
- [California Code of Regulations](#), Title 15, Sections 1430, 1432, 1434
- [California Codes](#):
  - [Civil Code, Section 56.106](#)
  - [Family Code Sections](#) 6550, 6552, 6910, 6929
  - [Health and Safety Code Section](#), 124260(b), 123115(a)(2)
  - [Probate Code Sections](#) 2353, 2356
  - [Welfare and Institutions Code Sections](#) 300, 357, 361, 362, 366.27, 369, 705, 711, 712, 739, 741, 5003, 5326.8, 5350, 5585, 6000, 6002, 6004, 6552