



Consent for the Treatment of Minors Policy

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Policy It is the policy of the Department of Behavioral Health (DBH) to obtain appropriate and lawful consents for behavioral health treatment services provided to minors. Minor clients, twelve (12) years of age or older, receiving treatment for behavioral health may give consent for their own treatment.

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

Definition(s) **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 is at odds with caregiver consent 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): 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.

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

Court Dependent (Foster Children): Any minor who has been designated a dependent by a juvenile court of law.

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**Definition(s),
continued**

Emancipated Minor: A person younger than 18 years of age 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

Informed Consent: Also known as Voluntary Informed Consent, is the provision of the following treatment information to the client 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, and
- Explanation of the mandated reporting requirements.

Mental health treatment or counseling services: The provision of mental health treatment or counseling on an outpatient basis.

Minor: An individual who is under 18 years of age.

Professional person: A behavioral health service provider, 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, and
 - 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;

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Definition(s), continued

- Registered Associate Professional Clinical Counselor, while working under the supervision of a licensed professional as defined in the B&P Code;
- Registered Associate Marriage and Family Therapist, while working under the supervision of a licensed professional as defined in the B&P Code, and
- Alcohol and Other Drug (AOD) Counselor.

Qualified Relative: 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 County there is a standing order which authorizes the CFS Director or the Director’s delegate to authorize appropriate behavioral health services for children coming into, or currently within, the dependency system (aka, Foster Children).

Supervising Social Services Practitioner (SSSP): Unit supervisor position in San Bernardino County Child and Family Services (CFS) and lowest level CFS staff permitted to sign consents.

Third Party Consent: 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: 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: 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.

Guidelines Regarding Consent

It is preferable to have the person with current legal responsibility for the minor to consent for mental health or SUD services; however, there are circumstances in which a minor consenting for services is the most appropriate action. Minor clients twelve (12) years of age or older receiving behavioral health services may give consent for their own treatment, exception is replacement narcotic abuse treatment. Minor must be sixteen (16) years of age or older to consent to replacement narcotic abuse treatment that uses buprenorphine.

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Guidelines Regarding Consent (continued)

A minor is legally permitted to consent to outpatient behavioral health treatment, if the minor meets both of the following requirements:

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

It is the expectation of the law that a minor accessing behavioral health services will do so within the context of the individual's significant family relationships. It is the exception that a minor will access behavioral 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, the following should be monitored:

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

The following guidelines apply to legally obtaining informed consent to provide treatment to a minor (does not apply if minor is age 12 or older and gives own consent):

- Prior to the provision of mental health, psychiatric, or counseling services, informed consent shall be obtained as described under the definitions above;
- 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, and
- Clarify in advance and request documentation when it is unclear whether person(s) having physical custody of a minor have the right to consent to treatment, to expedite the registration and treatment process.

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Guidelines Regarding Consent, continued

When a minor has been removed by CFS, DBH staff are not permitted to release mental health or SUD 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 such authority. Since such disclosure is essential in obtaining informed consent, other means of consent must be followed.

Important Billing Notes:

- Services will be billed to the minor's (age 12 or older) Medi-Cal if the individual has provided consent for treatment. Minor can enroll for their own coverage.
- 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). 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).

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** (MDS2017) 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. Therefore, a minor over 12 years of age or older and capable of consenting for treatment needs to authorize release of Protected Health Information (PHI).

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Consent

Parents/Legal Guardians/Qualified Relative may provide consent for the mental health or substance use disorder treatment of a minor. The treatment plan shall include the involvement of the minor's parent or guardian, if appropriate, as determined by the professional person or treatment facility treating the minor regardless of who provides consent.

If	Then
Minor is less than 12 years old	<ul style="list-style-type: none"> • Parents/Legal Guardians/Qualified Relative will provide consent for treatment. • The treatment plan shall include the involvement of the minor's parent or guardian, if appropriate, as determined by the professional person or treatment facility treating the minor
Minor is less than 12 years old and a dependent of the court	<ul style="list-style-type: none"> • Parent maintains right to consent for care unless court order specifies otherwise. • Court may appoint the right to consent for treatment to the child's SSSP.
Minor is 12+ years	<ul style="list-style-type: none"> • Minor age 12 or older may consent for behavioral health treatment, with the exception of replacement narcotic abuse treatment (Must be 16years or older to consent) • Minor age 12 or older must be deemed mature enough to participate intelligently in the treatment by professional care provider. • Parents may consent for care if the minor declines treatment. • Minors age 12 or older may consent to mental health treatment or counseling on an outpatient basis and residential shelter services. • Minors age 12 or older may not consent to inpatient psychiatric care (hospitalization), convulsive therapy, psychosurgery or psychotropic medication.

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Related Policy or Procedure

[DBH Standard Practice Manual and Departmental Forms:](#)

- [Consent to Treat a Minor Procedures for Parents/Legal Guardians \(CHD316-1\)](#)
- [Consent to Treat a Dependent Minor Procedure \(CHD0316-2\)](#)
- [Authorization and Designation Pursuant to the LPS Act \(CLP0818\)](#)

[PDD Publications Portal](#)

- [COM 004.1/CFS Consent for Dependent Routine Outpatient Treatment](#)
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Reference(s)

- [AB816](#)
 - [California Code of Regulations, Title 15, Sections 1430, 1432, 1434](#)
 - [California Codes:](#)
 - [Family Code Sections 6550, 6552, 6929](#)
 - [Health and Safety Code Section, 124260](#)
 - [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](#)
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