

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

Consent to Treat a Dependent Minor Procedure

Effective Date 09/22/14
Approved Date 09/22/14



CaSonya Thomas, Director

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

Definition **Dependent:** (Foster Child) A judge may classify a child as a dependent of the California juvenile court if the child is unable to return home because the home is unfit, the child is abused or neglected or because there is not a suitable guardian to take care of the child. When declaring a child a dependent, the judge is seeking to protect the child in a safe environment, provide time and assistance for families to reunite or to give the child a safe, permanent and new home. When this occurs, the minor has entered the juvenile dependency system.

Standing Order: A court order that applies to all cases pending before a court. In San Bernardino there is a [standing order](#), which authorized the Children and Family Services 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 permitted to sign consents. See list of [SSSPs](#).

Consent for Dependent Routine Outpatient Treatment (COM004.1/CFS): CFS form developed in collaboration with DBH that is to be used instead of DBH form (Consent for Outpatient Treatment). COM004.1/CFS includes an attestation made by SSSP that a court order exists permitting consent to be given.

CFS Authorization for Medical/Mental Health Care Memo: This memo, updated periodically, is from the CFS Director to the current Presiding Judge and articulates all CFS staff to whom the authority to consent for treatment has been delegated. This memo should be attached to the COM004.1.

Notice of Privacy Practices (NOPP)(COM004/CFS): CFS form developed in collaboration with DBH that is used instead of DBH(NOPP). This form includes all HIPAA required information and has a modified version of the "Acknowledgement of Receipt" which allows for CFS to indicate that parent/guardian was not available.

Continued on next page

County of San Bernardino Department of Behavioral Health

Consent to Treat a Dependent Minor Procedure, Continued

Basic Dependent Procedure

In general, for outpatient mental health services, the right to consent for mental health treatment is held by the biological or adoptive parents; however, the standing order authorized the CFS Director or the Director's delegate to authorize appropriate mental health services for foster youth. Consistent communication with the involved CFS staff is expected through treatment. Additionally, reasonable diligence is expected when attempting to contact the biological parent to facilitate their participation as appropriate in treatment.

The standing court order allows for a SSSP, or higher, to consent for treatment. It is the expectation whenever appropriate the parents and guardians will be involved in the provision of mental health services. Additionally, the standing order does not remove the biological or adoptive parent's rights to consent for treatment; therefore, services may be provided based on the informed consent with the parents. A minor, including a dependent of the court, 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 their 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 or guardian. Therefore, consent for treatment shall be obtained from either the parent (i.e., biological or adoptive) or from Children and Family Services (CFS).

Note: Parents or Legal Guardians are to be involved in outpatient mental health treatment of a minor unless, in the opinion of the juvenile court or the treating professional person, the involvement would be inappropriate. Parent/Legal Guardian involvement must be re-evaluated on an ongoing basis.

Important Billing Notes:

- Services provided to minors without parental involvement based on minor consent may not be billed to insurance (e.g., Medi-Cal).
- Make sure that non-billable Medi-Cal codes are used to code services provided.
- Services may be billed to Medi-Cal when it is verified by CFS the child is a dependent child (foster child). The requirements of this verification process are unspecified, so document verification process in the chart well if this option is utilized.

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County of San Bernardino Department of Behavioral Health

Consent to Treat a Dependent Minor Procedure, Continued,

Basic
Dependent
Procedure,
continued

Step	Action										
1	<p>Determine who has the legal right to consent to outpatient mental health treatment of the dependent minor.</p> <table border="1" style="width: 100%;"> <thead> <tr> <th style="text-align: center;">If...</th> <th style="text-align: center;">Then...</th> </tr> </thead> <tbody> <tr> <td>CFS SSSP has signed consent for treatment (i.e., CFS forms COM004 and COM004.1)</td> <td>Ensure ongoing communication with involved CFS caseworker and parent as appropriate.</td> </tr> <tr> <td colspan="2" style="text-align: center;">OR</td> </tr> <tr> <td>Biological/Adoptive parent has the right to consent to outpatient mental health treatment and that right has not been terminated by Court Order Note: Biological/Adoptive Parent may not have actual physical custody, but retains right to consent to outpatient mental health treatment.</td> <td>Have Biological/Adoptive parent sign the Consent for Dependent Routine Outpatient Treatment</td> </tr> <tr> <td>Biological/Adoptive parental rights have been terminated</td> <td>CFS SSSP signs CFS forms COM004 and COM004.1 and do not seek consent from parent.</td> </tr> </tbody> </table>	If...	Then...	CFS SSSP has signed consent for treatment (i.e., CFS forms COM004 and COM004.1)	Ensure ongoing communication with involved CFS caseworker and parent as appropriate.	OR		Biological/Adoptive parent has the right to consent to outpatient mental health treatment and that right has not been terminated by Court Order Note: Biological/Adoptive Parent may not have actual physical custody, but retains right to consent to outpatient mental health treatment.	Have Biological/Adoptive parent sign the Consent for Dependent Routine Outpatient Treatment	Biological/Adoptive parental rights have been terminated	CFS SSSP signs CFS forms COM004 and COM004.1 and do not seek consent from parent.
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2	<p>If the CFS social worker has obtained the biological parent's signature for consent for treatment, then clinician should contact biological parent to ensure <i>informed</i> consent is obtained.</p> <p>Note: This is an option, and if CFS elects to have the parent sign for consent, then DBH staff shall respect this authorization and engage with parent in a manner consistent with them consenting for treatment.</p>										
3	<p>If after reasonable diligence the provider is unable to obtain the signature of the parent then additional options should be considered. These options include:</p> <ul style="list-style-type: none"> • Consult with CFS Social Worker and indicate that utilization of the standing court order for consent to treatment may be needed • Evaluate if an adult in home is a "qualifying relative" and use Caregiver Affidavit 										

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County of San Bernardino Department of Behavioral Health

Consent to Treat a Dependent Minor Procedure, Continued

**Basic
Dependent
Procedure,
(continued)**

Step	Action
3 (cont.)	<ul style="list-style-type: none"> • If client is 12 years of age or older, consider if client is appropriate to consent for own treatment <p>Note: Having the minor consent for own services should not be done for the convenience of the parent, guardian or CFS worker.</p> <p>Note: Services provided to minor when minor consents for own treatment may NOT be billed to insurance.</p>
4	Obtain the signature of a witness on the consent document if possible.

Reference

California Code of Regulations, Title 15, Sections 1430, 1432, 1434
California Codes:

- Family Code Section 6550, 6552, 6924, 6929
- Health and Safety Code Sections 15306, 124260
- Probate Code Sections 1370, 2353, 2356
- Welfare and Institutions Code Sections 210, 300, 357, 361, 362, 366.27, 369, 600, 705, 711, 712, 731, 729, 739, 741, 885.15, 1756, 5003, 5008, 5260, 5270, 5300, 5326.8, 5326.85, 5332, 5350, 5585, 5600, 6000, 6002, 6004, 6552

**Related Policy
or Procedure**

DBH Standard Practice Manual:

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

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:

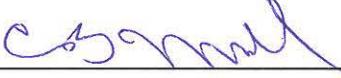
- 1) The Director of CFS or the Director's delegate is authorized to provide mental health screenings and the appropriate mental health services for children coming into the dependency system;
- 2) The Director of CFS or the Director's delegate is authorized to provide mental health screening and appropriate 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