



City and County of San Francisco  
Department of Public Health  
Community Programs  
COMMUNITY BEHAVIORAL HEALTH SERVICES

1380 Howard Street, 5th Floor  
San Francisco, CA 94103  
415.255-3400  
FAX 415.255-3567

**POLICY/PROCEDURE REGARDING: Consent for Voluntary Behavioral Health Services: MINORS**

Issued By: Jo Robinson, MFT  
Director of Community Behavioral Health Services

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References: California Family Code,  
Welfare Institutions Code, Family  
Code, Health and Safety Code, CCR,  
HIPAA, 42 USC Section 290-dd, 42  
CRF Part 2

**Substantive Revision. Replaces policy # 3.05-03 of October 13, 2011**

**I. Purpose**

The purpose of this policy is to provide guidance regarding consent for behavioral health care (mental health and substance abuse) treatment services for minor (under 18 years of age) clients. The general rule is that the parent or legal guardian must consent to medical care for a minor; however, there are numerous exceptions to this rule, especially when dealing with adolescents aged 12-18 in the outpatient behavioral health and substance abuse treatment setting where they may be legally permitted to provide their own consent to treatment if certain conditions are met. Also, in an emergency, care may be provided to a minor even without consent if there is difficulty locating the parent or guardian. This policy will also address minor clients who are wards or dependents of the Court.

This policy clarifies which minors are considered "adults" for medical consent purposes ("emancipated" and "self-sufficient" minors), and those instances when a minor aged 12 to 18 may qualify to consent to his/her own outpatient mental health care or substance abuse program treatment under the so-called "sensitive services" exceptions. It also clarifies financial responsibility for treatment provided to minors pursuant to their own consent.

See separate policies and procedures for information pertaining to consent for the treatment of adults, informed consent, and treatment of minor and adult clients in locked mental health facilities.

**II. Policy**

**1. Parent or Legal Guardian Consent**

**a. Right of Parent/Legal Guardian to Consent**

It is the general rule that the parent or legal guardian must consent to medical or behavioral health care for minor clients, unless the minor has the right to consent to the care under minor consent laws. Only one

parent is necessary to provide consent, and unless the provider is aware of evidence to the contrary, it can be assumed that the other parent has not objected. Adoptive parents have the same rights as natural parents. In a same-sex couple only the biological parent would have authority to consent unless the other partner adopts the child. If same-sex partners both adopt the same rules would apply and either adoptive parent could consent. If only one partner is an adoptive parent, and the other is not the biological parent, only that partner could consent.

A parent who is him/herself still a minor (under 18) may consent to their minor child's medical care so long as they are sufficiently mature to rationally weigh the risks and benefits of that care and understand the nature of the treatment proposed.

#### b. Implied Consent in an Emergency

In an emergency, care may be provided to a minor without parent/guardian consent if necessary to alleviate pain or prevent serious medical harm if the parent or guardian has not yet been located. Unless there is evidence to indicate that the parent/guardian would object to the care, consent may be implied.

#### c. What the Right to Consent Includes

When services are provided to a minor client who does not qualify for minor consent, the parent/guardian will have the right to consent to or refuse the recommended medical treatment. In the case of outpatient behavioral health services this would typically involve minors under 12 years of age, or minors who are living at home with their parents (or legal guardians) and receiving services at the request of their parents or the school. The parent or guardian shall also have a right to know how the minor's private medical information will be used or disclosed, and how the parent or guardian may access that information. All of the issues pertaining to mental capacity, informed consent, communication barriers, etc. that are discussed in the Policy 3.05-01 "Consent for Community Behavioral Health Services" apply to parent or guardian who is consenting to care for the minor. For example, if the parent is unable to communicate, translation services should be found, or if the parent lacks capacity, someone else must be found to provide consent.

#### d. The Right to Refuse Treatment

The parent/guardian's right to consent includes the right to refuse treatment. Health care providers who believe that the refusal of care will harm a minor client should immediately discuss the situation with a supervisor; if the refusal of care triggers suspicion of medical neglect, child protective services should be immediately contacted pursuant to mandated child abuse reporting requirements (i.e., if the refusal of care will likely harm the child, a report must be made).

#### e. Divorced Parents

When parents divorce, the Court decides who will have physical custody and who will have legal custody of the child/children. In most situations, the parent who has physical custody also has legal custody. Often, the parents will have "joint" or shared legal custody. The parent(s) who has legal custody has the right to consent to medical care. If only one parent has legal custody, then only that parent may consent to medical care. If the parents have "joint legal custody" usually either parent can consent to the treatment unless the court has required both parents to consent to the proposed care. Such an order is rare. In most

situations, providers can presume that either parent can consent unless there is evidence to the contrary (some providers like to obtain consent from both divorced parents when treatment is provided to a minor child, but again, this is not usually required by the court). However, if either parent disputes the other parent's legal right to make medical decisions the provider should ask to see documentation of the court's order and place a copy in the chart. If there is any question about legal custody or a divorced parent's right to consent to medical care for the minor, the provider should contact CBHS or the Child, Youth and Families Administration.

#### f. Delegation of Authority to a Third Party

A parent or guardian who has the legal authority to consent to care for the minor child/youth has the right to delegate this authority to other third parties (aged 18 and older); for example, the parent may delegate authority to consent to medical care to the school, to a coach, to the step-parent, or to a baby-sitter who is temporarily caring for the child while the parent is away or at work. A copy of the written delegation of authority shall be kept in the chart. Many providers use the California Healthcare Association Form 2-3, "Authorization for Third Party to Consent to Treatment of Minor Lacking Capacity to Consent" (Attachment I), but a handwritten note that clearly delegates authority to consent to an adult person (18 or older) is also acceptable. Typically providers will limit care to routine procedures that the parent already has consented to, or to emergency situations when relying on delegated consent. If the person with delegated authority is requesting a new course of treatment, change in medications, or other non-routine procedure, it is recommended that the new treatment be deferred until the parent's return, unless it is clearly medically indicated. If you are unsure, check with a colleague for another opinion or discuss it with your supervisor. Document any discussions or concerns.

#### g. Caregiver Affidavits and Caregiver Authority to Consent

In some cases, a minor child/youth lives with and is being raised by a "surrogate parent." If this adult is a "qualified relative" (often the grandparent, or an aunt or older sibling) who has stepped into the role of parent because the biological parents are no longer willing or able to care for the child he or she may fill out a Caregiver's Affidavit. Many providers in California use the California Healthcare Association Form 2-2, "Caregiver's Authorization Affidavit" (Attachment II). These so called "caregivers" who have "unofficially" undertaken the care of the child are authorized by law to consent to most medical and mental health care and to enroll these children in school; the use of this form does not legally bind the caregiver to the child or imply any other legal obligations. Once they have completed the "Caregiver's Affidavit" form (which is then placed in the chart) they may consent to medical care for the minor child. The affidavit is valid for one year after the date on which it is executed and a new form should be completed and placed in the chart each year as needed. If the parent(s) returns, the "caregiver's" authority is ended, and once again the parent has authority to consent to or refuse care for the child.

#### h. Financial Liability of Parent/Guardian

If the parent or guardian consents to the treatment of a minor, the parent or guardian is financially liable for that treatment. The parent or legal guardian is also financially responsible when care is provided pursuant to delegated consent or a Caregiver's Affidavit. The parent or guardian is not financially responsible for services provided to emancipated or self-sufficient minors, or for "sensitive services" that the minor is receiving subject to minor consent. However, if the parent or guardian participates in

outpatient mental health treatment or counseling, or alcohol or drug abuse treatment, the parent or guardian is financially liable for those services rendered with their participation (even though the services are being provided pursuant to minor consent).

## **2. Dependents and Wards of the Court**

Refer to: "Wards and Dependents Consent Flow Chart III" (Attachment VIII)

Minors who are dependents or wards of the court do not lose their own rights re: consent to sensitive services, and the provider should not deny such services if the minor otherwise qualifies to provide his/her own consent.

### **a. Dependents (Welfare and Institutions Code Section 300)**

A minor who has been neglected, abused, abandoned, or otherwise has no parent(s) or guardian willing or able to exercise appropriate care or control can be adjudged a "dependent child" of the juvenile court. (Welfare and Institutions Code 300.). When a child is adjudged a dependent child of the court on the ground that the child is a person described in Welfare and Institutions Code section 300, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child, including medical treatment, subject to the further order of the court.

### **b. Children in Temporary Custody (Welfare and Institutions Code Section 305)**

A police officer may take a child into temporary custody if the child is believed to be a dependent described under section 300, and who is in need of medical care or who is in danger; also included are children who are about to be released from a hospital into the care of a parent where there is a danger of harm to the child, and children who are found in a street or public place suffering from a sickness or injury that requires care. A social worker may authorize care for such a minor upon the recommendation of the provider after notifying the parent or guardian that such care will be provided. If the parent or guardian objects, a court order authorizing the necessary care is necessary.

### **c. Authority to Provide Medical Care to Dependents: Children in Temporary Custody**

Welfare and Institutions Code Section 369 (a) states that "Whenever any person is taken into temporary custody under Article 7 (commencing with Section 305) and is in need of medical, surgical, dental, or other remedial care, the social worker may, upon the recommendation of the attending physician and surgeon or, if the person needs dental care and there is an attending dentist, the attending dentist, authorize the performance of the medical, surgical, dental, or other remedial care." The social worker must notify the parent or guardian, if any, of the care found to be needed before that care is provided and if the parent or guardian objects, the care shall only be given upon order of the court in the exercise of its discretion.

### **d. Authority to Provide Medical Care to Dependents: Children Concerning Whom a Petition has Been Filed (Unadjudicated Cases)**

Welfare and Institutions Code Section 369(b) states that whenever it appears to the court that any person concerning whom a petition has been filed with the court is in need of medical, surgical, dental, or other remedial care, and that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize the remedial care or treatment for that person, the court, upon the written recommendation of a licensed physician and surgeon, or if the person needs dental care, a licensed dentist, and after due notice to the parent, guardian, or the person standing in loco parentis, if any, may make an order authorizing the performance of the necessary care for that person.

e. Authority to Provide Medical Care to Dependents: Children Placed by Court Order with the Care and Custody of Social Worker

Welfare and Institutions Code Section 369(c) states that when a dependent child is placed by the court within the care and custody or under the supervision of a social worker of the county in which the dependent child resides, and it appears to the court that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize medical, surgical, dental, or other remedial care or treatment, that the court may after due notice to the parent or guardian, if any, order that the social worker may authorize the care for the dependent child by licensed practitioners as may from time to time appear necessary.

f. Authority to Provide Medical Care to Dependents: Children who Require Immediate Medical, Surgical or other Remedial Care:

Welfare and Institutions Code Section 369(d) provides that in an emergency situation, care may be provided without a court order upon the authorization of a social worker. The social worker must make reasonable efforts to obtain the consent of, or notify the parent, guardian or person standing in loco parentis prior to authorizing that care. "Emergency situation" means that the child requires immediate treatment to alleviate severe pain, or there is a need for an immediate diagnosis and treatment of an unforeseeable medical, surgical, dental or other remedial or contagious disease which, if not immediately diagnosed and treated, would lead to serious disability or death.

Release of Information:

In any case in which the court orders the performance of any medical, surgical, dental or other remedial care for dependent minors, the court may also make an order authorizing the release of information concerning that care to social workers, parole officers, or any other qualified individuals or agencies caring for or acting in the interest and welfare of the child under order, commitment or approval of the court.

g. Dependent minors who have been removed from the physical custody of a parent under Welfare and Institutions Code Section 361:

If a child is found to be a dependent of the court under section 300 and has been removed from the physical custody of the parent under Section 301, only a juvenile court judicial officer shall have authority to make orders regarding the administration of psychotropic medications for that child. The juvenile court may issue a specific order delegating this authority to a parent upon making findings on the record that the parent poses no danger to the child and has the capacity to authorize psychotropic medications. Court

authorization for administration of psychotropic medications shall be based upon a request from a physician, indicating the reasons for the request, a description of the child's diagnosis and behavior, the expected results of the medication, and a description of the side effects of the medications.

h. San Francisco Superior Court Order re: Dependents of the Court

The Superior Court of the State of California, in and for the City and County of San Francisco Unified Family Court, Juvenile Division has issued a Standing Order, No. 210A (Attachment III) for mental health treatment for dependents of the court or those whose dependency status is pending, which grants authority to the Foster Care Mental Health Unit of the Department of Public Health to authorize mental health treatment for minors. The authority extends to consent for assessment, treatment, sharing of information, determination of eligibility, and provision and payment for outpatient services when the parent or guardian is unavailable, unable or unwilling to provide such consent (staff must document attempts to reach the parent or guardian). The order does not permit inpatient placement or antipsychotic medications unless there is consent from the parent or guardian or further order of the court.

i. Wards of the Court (Section 601 and 602)

A minor who refuses to obey his parents or who violates curfew, or who is deemed to be a habitual truant, may be adjudged a ward of the court (Section 601). A minor who violates the law may be also be adjudged a ward of the court (Section 602).

Welfare and Institutions Code Section 727 provides that "When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or 602, the court shall make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor, including medical treatment, subject to further order of the Court." Documentation supporting the authority of a probation worker, social worker, juvenile hall staff, etc. should be obtained and placed in the record prior to providing services pursuant to such an order.

j. Foster Parents

A foster parent's right to consent to treatment for a minor depends upon whether the minor has been placed with the foster parent by court order, or with the consent of the minor's legal custodians, or on a temporary basis before a detention hearing has been held. Written evidence of the foster parent's authority (e.g., a copy of a court order or the consent of the minor's parent or legal guardian) should be placed in the minor's medical record before proceeding with treatment. Finally, the court order must specifically allow the foster parent to consent to medical treatment. A placement order alone is insufficient.

k. Documentation When Treating Dependents and Wards of the Court

In situations where someone other than the parent or guardian is providing consent, (unless it is an emergency) care must be taken to establish a non-parent's legal authority to consent to care before treatment begins. Often this requires identification of the child's status as well as the ability or inclination of the natural parents to provide consent. A copy of the Court Order delegating this authority (to a Foster Care, for example) should be placed in the client's medical record before care is provided. If a ward or dependent qualifies for "sensitive services minor consent," and could therefore legally provide his/her

own consent to the treatment, the provider should not seek authorization from the court appointed legal guardian or from the parent. The ward or dependent enjoys the same consent privileges and confidentiality as a minor in the care and custody of the parent.

### 1. Court Authorization to Consent

In rare situations a court may summarily grant consent to medical treatment upon verified application of a minor aged 16 or older who resides in California if consent for medical care would ordinarily be required of the parent or guardian, but the minor has no parent or guardian available to give the consent. (If the minor is suspected of being a runaway, Child Protective Services should be notified.) For example, if a non-emancipated, non-self-sufficient 16 year old in a non-emergency situation would clearly benefit from antipsychotic medications, but the parent or guardian was out of the state and had not delegated authority to any other adult, the provider might choose to get such an order rather than delay the medical treatment while a surrogate decision maker could be found. A copy of the court order should be obtained and placed in the patient's medical chart before treatment is provided pursuant to the order.

### m. Financial Liability: Dependents and Wards of the Court

Services for minors who are dependents or wards of the Court, or who are referred through the Foster Care Mental Health Program, will generally be paid through full-scope Medi-Cal or through the parent's insurance. If needed, supplemental coverage is also available through a special DHS fund for this purpose. Unresolved billing questions may be referred to Foster Care Mental Health at 3801 Third Street, Suite 400, San Francisco, CA 94124 (phone: 415-970-3875; fax: (415-970-3813).

## 3. Minors Treated as "Adults"

### a. Emancipated and Self-Sufficient Minors' Right to Consent

Certain minors are considered to be "adults" under the law for purposes of medical consent. They can consent to both "sensitive services" and to non-sensitive services. They still have to have mental capacity to consent, but they do not suffer automatic legal incapacity due to their young age. These minors are clearly defined under the law and include "emancipated minors" and "self-sufficient minors."

### b. Definition of Emancipated Minor

Emancipated minors include 1) minors 14 and older who have been emancipated by court order, 2) minors who are serving in the active US military forces, and 3) minors who are married or who have been married (parenthood by itself does not emancipate a minor).

### c. Definition of Self-Sufficient Minor

Self-sufficient minors are defined by law as minors aged 15 and older who are living separate and apart from their parents and who are also managing their own financial affairs regardless of their source of income. The law permits "notification" of the parent or guardian of the care (as opposed to "consent") if the minor has told the provider where the parent is located, however such disclosures are discretionary,

not mandatory. It is recommended that the self-sufficient minor be consulted regarding parental notification and that in general, such notification be in accordance with the wishes of the minor.

#### d. Use of the Checklist for Minor Consent Form

When minors seek medical services pursuant to their status as "adults" they may also independently qualify for minor consent for "sensitive services." For example, they may be receiving "sensitive services" such as outpatient mental health care that is described by Family Code Section 6924(b) or Health and Safety Code Section 124260 or outpatient substance abuse services described in Family Code Section 6929, and they may be consenting to their own antipsychotic medications pursuant to their status as an emancipated minor. All relevant boxes on the Checklist for Minor Consent (Attachment V) should be checked. A copy of this form must be kept in client's medical record and copy sent to SFCBHS Billing Unit.

The minor may then sign the "CBHS Consent for MH", BHRD 80, (Attachment IV) and services may be provided directly to the minor. See also "Minor Consent Flow Chart I" (Attachment VI). The minor's medical care is confidential, and information about the care should not be divulged to parents/guardians without the minor's specific authorization except in rare instances when required or permitted by law. In the case of self-sufficient minors receiving non-sensitive services (e.g. antipsychotic medications), a parent or guardian may be contacted regarding the care if the minor has provided information about the parent/guardian's whereabouts; however, prudent providers would not make such a disclosure without first notifying the minor and getting the minor's consent to make such a disclosure.

#### e. Financial Responsibility - Emancipated and Self-sufficient Minors

Generally, a minor seeking services as an "adult" (emancipated or self-sufficient minor) will be financially responsible for his/her own care. When the minor is still "covered" by the parent's insurance plan, the issue of whether insurance will be billed or not must be discussed with the minor, and specific permission to bill insurance should be obtained. Failure to obtain permission, or billing without the minor's knowledge and consent, could result in a breach of confidentiality.

Note: If the emancipated or self-sufficient minor receives services that also qualify under "sensitive services minor consent" it is important not to bill the parents directly or indirectly (through their insurance plan). Other sources are often available to pay for the care.

### **4. Minors Seeking "Sensitive Services"**

#### a. Minor's Right to Consent to Treatment for "Sensitive Services"

Minors seeking certain sensitive services may be legally authorized to provide their own consent to those services. The minor also controls whether or not the parent will have access to records generated as a result of receiving those services. When minor consent applies, sensitive services should never be provided over the minor's objection; in other words, even if the parent provides consent, non-consent by the qualified minor bars treatment.



## b. Overview of Sensitive Services

"Sensitive services" that may be provided to minors aged 12 and older without parental consent (or knowledge) include rape care and treatment (see discussion of additional, separate provision of law below), treatment of infectious reportable conditions (including HIV testing), outpatient mental health and residential care treatment (not ECT or psychotropic medications) if certain conditions are met (see discussion below), and outpatient substance abuse treatment (not methadone). Minors of any age may consent to their own care and treatment for sexual assault and rape under a separate provision of the law; however, if the minor is under the age of 12, or 12 and older, seeking sexual assault care as opposed to rape care and treatment, the provider must attempt to notify the parent or guardian of the care and treatment unless the provider believes that the parent or guardian committed the rape or assault.

## c. Outpatient Mental Health Care and Minor Consent

The law allows two approaches to providing services to minors (See Attachment X).

1. Family Code Section 6924 states that minors 12 and older may consent to mental health treatment or counseling on an outpatient basis if both of the following requirements are satisfied:
  - Age 12 or older
  - the minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services
  - the minor would either present a danger of serious physical or mental harm to self or to others without the mental health treatment or counseling, or is the alleged victim of incest or child abuse
  - Services provided under Family Code may be provided by "a professional person" as defined by statute to include LMFTs, LCSWs, licensed educational psychologist, a credentialed school psychologist, or clinical psychologist; services may also be provided by government agencies, agencies contracting with government agencies, agencies receiving community united funds, and runaway or crisis resolution center.
2. Health and Safety Section 124260 states that a minor can consent to mental health treatment if he or she meets both of the following requirements.
  - Age 12 or older
  - The minor is mature enough to participate intelligently in the treatment
  - Services provided under Health and Safety Code may only be provided by LMFTs, or a licensed educational, credentialed school, or clinical psychologist. Therefore, while Family Code allows social workers and interns/trainees to provide minor consent services through agencies outlined above, Health and Safety Code currently does not.

The attending professional conducts an assessment to determine presenting issues and consent. Completing an initial assessment and determining eligibility for mental health minor consent services may take multiple sessions. In those cases, the charting should clearly describe why the clinician believes that the minor may qualify for minor consent under Family Code Section 6924 or Health and Safety Code Section 124260. If criteria cannot be established within the next few sessions, please contact with a supervisor. Parent/guardian consent is required if psychotropic medications are prescribed or if inpatient mental health facility services are provided. The law also does not authorize a minor to consent to convulsive therapy or psychosurgery.

### 3. Financial liability:

Please use "Minor Consent" guarantor #109, as first guarantor.

#### d. Involvement/Notification of Parent or Guardian in Outpatient Behavioral Health Services

If outpatient mental health treatment or counseling services are provided pursuant to "sensitive services minor consent" (Family Code 6924) or (Health and Safety Code 124260) the law states that it shall include the involvement of the minor's parent or guardian unless, in the opinion of the professional person who is treating or counseling the minor, the involvement would be inappropriate. The professional person must state in the record whether and when the person attempted to contact the minor's parent or guardian, and whether the attempt to contact was successful or unsuccessful, or the reason why, in the professional person's opinion, it would be inappropriate to contact the minor's parent or guardian.

#### e. Substance Abuse Programs and Minor Consent

The law states that minors aged 12 and older may consent to primarily outpatient drug-free counseling services outpatient services for the treatment of alcohol and drug abuse (Family Code 6929). This does not include methadone treatment (Note: if minor is pregnant, methadone treatment may be provided under Family Code 6925 as part of her reproductive health care.) See the previous discussion in part 4.d. above, regarding involvement of the parent or legal guardian, unless the provider deems it inappropriate. The same rules for involving the parent or legal guardian, and charting the decision to involve them, or not, apply in the case of substance abuse treatment.

Behavioral health care providers providing services at government funded substance abuse programs should consult 42 USC Section 290dd-2 and 42 CFR Part 2 Section that address the rights of participants in those programs. It should be noted that because minors 12 or older may consent to medical care and counseling related to the diagnosis and treatment of a drug or alcohol related problem, parents or guardians have no legal authority to demand drug testing of their minor children who are 12 or older. Furthermore, parents and guardians should not be advised of their minor child's participation unless written authorization is received from the minor permitting such a disclosure. California Family Code Section 6929 (g) includes a provision for parental access to the record which only applies to private programs that receive no federal or state funding; that subsection should therefore not be followed in the County programs, as it is in direct conflict with federal statutes.

**Minors who are under 12, or who require methadone treatment, require parent or guardian consent.**

#### f. Financial liability

Please use Drug Medi-Cal (DMC) guarantor #33, as first guarantor.

#### g. Minor Consent Aid Codes

AOD treatment services may be provided to all minors in Aid Code 7M and 7P and to pregnant/postpartum females in Aid Code 7N. For pregnant/postpartum females, check off "pregnancy

indicator” in Avatar Cal PM. AOD treatment services may not be provided to minors in Aid Code 7R. In order to bill AOD treatment services under minor consent, the program must be a certified Drug Medi-Cal program.

Minor consent eligibility is for a 30 day period. The minor must reapply in person at the County Welfare Office to receive subsequent minor consent services. Children receiving minor consent DMC services are not eligible for Early and Periodic Screening Diagnosis and Treatment Supplemental Services (EPSDT).

### **III. Procedures**

#### **1. Parent/Guardian Consent (See Below for Procedures for "Minor Consent")**

Refer to: “Parent/Legal Guardian Consent Flow Chart II” (Attachment VII)

a. Consent will be obtained from the parent or guardian prior to treatment, unless an emergency exists. If a procedure is complex, or where there are risks that may not be commonly understood, informed consent will also be obtained (see related policy on "Informed Consent"). At intake, the parent or guardian will be provided with the SFCBHS Consent, BHRD 80, (Attachment IV) to review.

b. In the case of an emergency situation, consent may be implied and the treatment may proceed without consent so long as there is no evidence to indicate that the parent or guardian would refuse the treatment. An emergency will be deemed to exist if immediate services are required to alleviate severe pain, or immediate treatment or diagnosis of a medical condition is required because the condition could lead to serious disability or death if not immediately diagnosed and treated. If treatment is provided without consent pursuant to the emergency "exception" the provider should document his/her belief that an emergency situation exists and describe in the chart the specific details pertaining to the emergency situation as well as all attempts to contact the parent or guardian.

c. The provider will ask if the parent/guardian has any questions about the form, and will then discuss general privacy practices and confidentiality concerns, review the conditions of treatment, including risks, benefits and alternatives (including doing nothing), and will then ask the parent/guardian to sign the form. Generally, it is presumed that people are being truthful in filling out the form and it is not necessary to ask to see picture ID or a birth certificate to verify the information on the form. (Note: typically a photocopy of the insurance card is obtained by clerical staff at the initial visit.) However, if there is reason to doubt the information on the consent form (for example, if the provider does not believe that this adult is really the child's parent) then further inquiry is justified and appropriate. It is also presumed that the person consenting to the care for the minor is not doing it over the objections of the other parent, or in the case of divorced parents, over the objection of the other parent who may have legal custody as well. If there is evidence that a conflict does exist, the matter should be immediately referred to a supervisor and services should not be provided until the matter has been resolved.

d. If the adult (age 18 or older) presenting with the minor child has documentation that the parent/guardian has delegated authority to consent to this other adult, the provider may use his/her discretion to provide services. In some cases, it would be prudent to wait until the parent/guardian can

accompany the child for services, while in other cases, telephone consultation with the parent to confirm the services provided and to obtain oral informed consent until such time that a written form can be signed will be appropriate.

e. If the adult (age 18 or older) presenting with the minor child claims to be a qualified relative who is raising the child in the parent's absence, the Caregiver's Affidavit form should be filled out. Proof of identity should be obtained and copied in this case, and the form and proof of identity should be placed in the chart. The Caregiver may then proceed with the above steps in providing consent and informed consent. The Caregiver's Affidavit form should be renewed annually.

f. If the adult (age 18 or older) presenting with the minor child is a foster parent, probation officer, law enforcement officer, social services worker or any other person working within his/her official capacity as an individual who works with wards or dependents of the court, and is seeking medical care for the minor child, documentation verifying that the individual has legal authority to seek such treatment should be obtained. Typically HSA will forward the 1122 A form to the provider or to Foster Care Mental Health. Another avenue may be through the panel attorneys appointed by the court for HSA kids. A court order granting such authority to the individual would be another example of this type of documentation. If the child is an "in-home" dependent, the parent or legal guardian should give consent to mental health services. If there are questions, the provider should immediately discuss this with a supervisor; if necessary, contact Community Behavioral Health Services or Children, Youth and Family Administration. Note: if the child is a dependent of the Court pursuant to Welfare and Institutions Code 300 et seq., consent for antipsychotic medications may not be provided by the parent/guardian unless this authority has been specifically restored to the parent/guardian by the Court after a hearing on the matter.

g. If language barriers exist, an interpreter or AT&T translation services should be contacted. If other communication barriers exist (e.g., hearing disability), attempts must be made to find a "signer" or other person or means to communicate with the parent/guardian. Providers need to know that without communication they do not have consent.

h. If a procedure is complicated, or has risks that might not be commonly appreciated, more information must be disclosed to the parent/guardian, and an informed consent form should be signed and placed in the chart. A copy should be given to the parent/guardian to keep. Any time a new treatment is proposed, or a new medicine prescribed, informed consent discussions should be undertaken with the parent/guardian as part of good client care and ongoing education.

i. If an unusual situation presents itself (e.g., where a person presenting him/herself as the parent does not appear to be the legally authorized parent/guardian, or where the parent/guardian refuses recommended medical care) the provider must immediately discuss the situation with a supervisor. In some cases, legal counsel might need to be contacted (e.g., confusion over the divorce decree or the court order delegating parental rights to a foster parent).

j. If the parent or legal guardian is not physically present, but can give verbal consent by telephone, ask another staff person to "listen in" on the other line (with permission) while verbal consent is given. Carefully document the verbal consent and then obtain written consent as soon as practicable. Faxed consent is also adequate when face-to-face consent is not possible and you have reasonably determined identity of the parent. Have the parent sign a written consent at the next appointment or as soon as

practicable. Phone and faxed consent should be used only when the situation justifies this and it would not make sense to wait for the parent to arrive from work for example.

## **2. Minor Consent**

Refer to: "Minor Consent Flow Chart I" (Attachment VI)

a. If a minor (between age 12-18) presents for services and qualifies for Minor Consent, the Checklist for Minor Consent, MRD 80 M2, (Attachment V) should be filled out. If services will be provided because the minor is emancipated or self-sufficient, the minor should complete the form and sign it. A copy of the appropriate documentation confirming that the minor is emancipated or self-sufficient should be obtained (for example, the identification card issued by the DMV stating that the minor is emancipated, or the military ID card). If services are provided pursuant to the "sensitive services" exception, the Provider should complete and sign the form.

b. The minor may then be provided with the SFCBHS Consent for Treatment Form (BHRD 80) to review. The name of the provider, agency, or clinic will be filled in by staff where indicated on the form prior to handing the form to the minor.

c. The provider should ask if the minor has any questions about the form, and should then discuss general privacy practices and confidentiality concerns, especially as might be related to insurance billing issues. If the minor does not wish his/her parent/guardian to know he/she is receiving services, care must be taken that insurance not be billed. The provider should also review the conditions of treatment, including risks, benefits and alternatives (including doing nothing), and then ask the minor to sign the form which is then placed in the chart. A copy is given to the minor client.

d. If minor consent is justified pursuant to the outpatient mental health "sensitive services" exception, the provider will specifically state in the medical record progress notes that both of the legal requirements for minor consent are satisfied: in the case of Health and Safety Code 124260, 1) that the minor is at least 12 years of age, and 2) that the minor is mature enough to participate intelligently in the treatment; in the case of Family Code 6924, 1) that the minor is at least 12 years of age, 2) in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services (including the basis for that opinion), and 3) that the minor would either present a danger of serious physical or mental harm to self or to others without the mental health treatment or counseling (describing the harm that would occur), or is the alleged victim of incest or child abuse (describing the allegations). Note: if there are allegations of incest or child abuse that would trigger a reasonable suspicion of child abuse, a mandated child abuse report must also be filed. (Note: please refer back to page 9, section c, for a list of what professionals may provide services under each of the codes.)

e. If outpatient mental health treatment or counseling services or outpatient substance abuse services are provided, the law states that the treatment shall include the involvement of the minor's parent or guardian unless, in the opinion of the professional person who is treating or counseling the minor, the involvement would be inappropriate. The professional person must therefore state in the record whether and when the person attempted to contact the minor's parent or guardian, and whether the attempt to contact was successful or unsuccessful, or the reason why, in the professional person's opinion, it would be

inappropriate to contact the minor's parent or guardian. Specific details must be included in the charting to support the opinion.

f. If minor consent appears justified pursuant to the "sensitive services" exception for outpatient behavioral health services, but the professional person is uncertain whether the criteria actually exist, charting should reflect this concern beginning with the initial interview. Under most circumstances, the issue should be resolved within the first several visits. Each visit should be supported with charting that explores the issue and discusses why it appears to the provider that the criteria apply.

g. Sometimes a minor who initially meets criteria for "sensitive services" minor consent for outpatient behavioral health services no longer meets those criteria after a period of treatment or counseling. If and when that point is reached, the professional person offering the services must inform the minor patient that further therapy or counseling will require parent/guardian consent, and appropriate steps should then be taken to either obtain that consent with the minor client's permission, or to discontinue services.

If an unusual situation presents itself, for example, where the minor is referred for 5150 assessment, or is emancipated but does not appear to have the mental capacity required to thoughtfully weigh the risks and benefits of the proposed treatment, the supervisor should be immediately advised and appropriate steps taken to resolve the matter.

#### **IV. Special Instructions**

1. A consent form is necessary for each new episode at each program provider.
2. The client may withdraw consent at any time.
3. If the minor is under LPS Conservatorship, the conservator should be contacted to arrange for consent to services.
4. Consent forms should be witnessed by someone other than the minor's provider. Another member of the staff may act as witness. All witnesses should be 18 years of age or older.
5. Note that the clinician and the agency run the risk of liability when treatment is initiated without documented consent.
6. The SFCBHS Consent Form (BHRD80) and the informing material should be used by staff of Community Behavioral Health Services. A private practitioner network (PPN) provider is NOT required to use these forms if the PPN provider prefers to use his/her own form which addresses the necessary consent elements.
7. If the minor or parent/legal guardian is willing to provide consent, but does not wish to (or is unable to) sign the form, it should be so noted on the form and in the progress notes of the minor's record.
8. The consent form must be permanently filed in the minor's record according to SF Community Behavioral Health Services chart order policy.

9. A copy of the Consent Form should be given to the minor or parent/legal guardian who signs it.
  10. Note that there may be situations where an "Educational Surrogate" has authority pursuant to his/her role in assisting a student obtain educational services as part of the IEP process to consent to a mental health assessment or any behavioral health service that is considered part of IEP services available to the student.
  11. In the case of dependents of the court, the Foster Care Mental Health Unit can sign the consent form for the minor once they have Form 1122-A. DHS either sends Form 1122-A to Foster Care Mental Health Unit along with the screening packet, or alternatively, the foster parent or DHS gets the form and forwards it to Foster Care Mental Health. For questions about Form 1122-A or the authority of Foster Care Mental Health Unit to authorize behavioral health care for a minor, call 970-3875. The fax is 970-3813.
- 

#### **Attachments**

- I. Authorization for Third Party to Consent to Treatment of Minor Lacking Capacity to Consent
- II. Caregiver's Authorization Affidavit
- III. Standing Order No. 210A
- IV. SFCBHS Consent for Treatment Form (BHRD 80)
- V. Checklist for Minor Consent
- VI. Minor Consent Flow Chart I
- VII. Parent/Legal Guardian Consent Flow Chart II
- VIII. Wards and Dependents Consent Flow Chart III
- IX. California Statutes
- X. Minor Consent Mental Health: What is SB 543?

**Contact Person:** Assistant Director, Child, Youth, and Family System of Care, (415) 255-3761

**Distribution:** CBHS Policies and Procedures are distributed by the Office of Quality Management for  
Community Programs  
Administrative Manual Holders  
CBHS Programs

SOC Managers  
BOCC Program Managers  
CDTA Program Managers  
Health Information Management Staff



FORM 2-3

## AUTHORIZATION FOR THIRD PARTY TO CONSENT TO TREATMENT OF MINOR LACKING CAPACITY TO CONSENT

(I)(We), the undersigned, parent(s)/person having legal custody/legal guardianship of *(name of minor)* \_\_\_\_\_, a minor, do hereby authorize *(name of agent)* \_\_\_\_\_ as agent(s) for the undersigned to consent to any x-ray examination, anesthetic, medical or surgical diagnosis or treatment, and hospital care which is deemed advisable by, and is to be rendered under the general or special supervision of, any physician and surgeon licensed under the provisions of the Medical Practice Act on the medical staff of any hospital, whether such diagnosis or treatment is rendered at the office of the physician or at the hospital.

It is understood that this authorization is given in advance of any specific diagnosis, treatment, or hospital care being required but is given to provide authority to the above described agent(s) to give specific consent to any and all such diagnosis, treatment, or hospital care which a physician, meeting the requirements of this authorization, may, in the exercise of his/her best judgment, deem advisable.

This authorization is given pursuant to the provisions of Family Code Section 6910.

(I)(We) hereby authorize any hospital which has provided treatment to the above-named minor pursuant to the provisions of Family Code Section 6910 to surrender physical custody of such minor to ~~(my)~~(our) above-named agent(s) upon the completion of treatment. This authorization is given pursuant to Health and Safety Code Section 1283.

These authorizations shall remain effective until *(month and day)* \_\_\_\_\_, 20\_\_\_\_, unless sooner revoked in writing delivered to the agent(s) noted above.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
*(circle relationship: parent/legal guardian/person having legal custody)*

Signature: \_\_\_\_\_  
*(parent)*

(please fill out form on reverse of this page)

*Form 2-3 Authorization for Third Party to Consent to Treatment of Minor Lacking Capacity to Consent*

**MEDICALLY RELEVANT INFORMATION**

Minor's Name: \_\_\_\_\_

Minor's birthdate: \_\_\_\_\_

Allergies to drugs or food: \_\_\_\_\_

Conditions for which minor is currently being treated: \_\_\_\_\_

Current medications: \_\_\_\_\_

Restrictions on activity: \_\_\_\_\_

Primary care physician (name and telephone number): \_\_\_\_\_

Insurance Company: \_\_\_\_\_

Mother's name: \_\_\_\_\_

Mother's address: \_\_\_\_\_

Mother's telephone numbers: Work \_\_\_\_\_ Home \_\_\_\_\_ Other \_\_\_\_\_

Father's name: \_\_\_\_\_

Father's address: \_\_\_\_\_

Father's telephone numbers: Work \_\_\_\_\_ Home \_\_\_\_\_ Other \_\_\_\_\_

**FORM 2-2****CAREGIVER'S AUTHORIZATION AFFIDAVIT**

Use of this affidavit is authorized by Part 1.5 (commencing with Section 6550) of Division 11 of the California Family Code.

**Instructions:** Completion of items 1-4 and the signing of the affidavit is sufficient to authorize enrollment of a minor in school and authorize school-related medical care. Completion of items 5-8 is additionally required to authorize any other medical care. Please print clearly.

- I am requesting enrollment of the minor in school and to authorize school-related medical care. Completion of items 1-4 only are required.
- I am requesting to authorize medical care not school-related. Completion of items 1-8 are required.

The minor named below lives in my home and I am 18 years of age or older.

1. Name of minor: \_\_\_\_\_
2. Minor's birthdate: \_\_\_\_\_
3. My name: (adult giving authorization) \_\_\_\_\_
4. My home address: \_\_\_\_\_
5. I am a grandparent, aunt, uncle, or other qualified relative of the minor (see back of this form for a definition of "qualified relative").
6. Check one or both (for example, if one parent was advised and the other cannot be located):
- I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care, and have received no objection.
- I am unable to contact the parent(s) or other person(s) having legal custody of the minor at this time, to notify them of my intended authorization.
7. My date of birth: \_\_\_\_\_
8. My California driver's license or ID card number: \_\_\_\_\_

**WARNING: DO NOT SIGN THIS FORM IF ANY OF THE STATEMENTS ABOVE ARE INCORRECT, OR YOU WILL BE COMMITTING A CRIME PUNISHABLE BY A FINE, IMPRISONMENT, OR BOTH.**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

**Please Note:**

- This declaration does not affect the rights of the minor's parents or legal guardian regarding the care, custody, and control of the minor, and does not mean that the caregiver has legal custody of the minor.
- A person who relies on this affidavit has no obligation to make any further inquiry or investigation.
- This affidavit is valid for only one year after the date on which it is executed.

**IMPORTANT INFORMATION**

**TO CAREGIVERS**

1. "Qualified relative," for purposes of item 5, means 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.
2. The law may require you, if you are not a relative or currently licensed foster parent, to obtain a foster home license in order to care for a minor. If you have any questions, please contact your local department of social services.
3. If the minor stops living with you, you are required to notify any school, health care provider, or health care service plan to which you have given this affidavit.
4. If you do not have the information requested in item 8 (California driver license or identification card), provide another form of identification such as your social security number or Medi-Cal number.

**TO SCHOOL OFFICIALS**

1. Section 48204 of the Education Code provides that this affidavit constitutes a sufficient basis for determination of residency of the minor, without the requirement of a guardianship or other custody order, unless the school district determines from actual facts that the minor is not living with the caregiver.
2. The school district may require additional reasonable evidence that the caregiver lives at the address provided in item 4.

**TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS**

1. No person who acts in good faith reliance upon a Caregiver's Authorization Affidavit to provide medical or dental care, without actual knowledge of facts contrary to those stated on the affidavit, is subject to criminal liability or to civil liability to any person, or is subject to professional disciplinary action, for such reliance if the applicable portions of the form are completed.
2. This affidavit does not mean that the minor is automatically a dependent for health care coverage purposes.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO  
UNIFIED FAMILY COURT, JUVENILE DIVISION  
STANDING ORDER NO. 210A

**AUTHORIZATION FOR MENTAL HEALTH TREATMENT**

This order of the Juvenile Division of the Unified Family Court is intended to supplement Standing Order No. 210.

To expedite the assessment and treatment of the mental health needs of minors, who are dependents of the court or whose dependency status is pending before the court, it is hereby ordered that mental health workers assigned to the Foster Care Mental Health Unit of the Department of Human Services may authorize mental health care for minors as specified below.

Members of the Foster Care Mental Health Unit shall have the authority to execute documents necessary for the (1) assessment; (2) treatment; (3) sharing of information; (4) determination of eligibility; and, (5) provision and payment of services. This authority is given in all cases in which the minor's parent or guardian is unavailable, unable or unwilling to execute such documents.

Nothing in this order shall allow members of the Foster Care Mental Health Unit to consent to placement of a minor in an inpatient psychiatric facility, or to the prescription of psychiatric medications for a minor, absent the written consent of the minor's parent or guardian, or a specific order of this court.

In any case in which a member of the Foster Care Mental Health Unit utilizes the authority granted pursuant to this standing order, the staff member must document his or her

attempt to locate a parent or legal guardian, and the reason(s) for the parent or legal guardian's failure, or refusal, to execute the requisite authorizations.

Dated: 10-26-98

31  
DONNA J. HITCHENS  
Judge of the Superior Court



City and County of San Francisco  
Department of Public Health

COMMUNITY BEHAVIORAL HEALTH SERVICES

Name: \_\_\_\_\_

BIS#: \_\_\_\_\_

RU#: \_\_\_\_\_

**CONSENT for Community Behavioral Health Services  
Mental Health/Drug and Alcohol Treatment Programs**

Client's Name \_\_\_\_\_

I consent to treatment services provided by San Francisco's Community Behavioral Health Services (CBHS) at \_\_\_\_\_

I understand that any proposed treatment will be explained to me by my (my dependent's) provider, including the risks, benefits, and reasonable alternatives. I understand that I will have an opportunity to ask questions and have my questions answered.

I understand that CBHS programs provide clinical experiences for a variety of behavioral health trainees. I understand that these individuals, who are under the direction of the supervising clinical staff, may provide treatment to me (my dependent).

I understand that my (my dependent's) treatment records are confidential and may be disclosed only as outlined in the DPH Summary Notice of Privacy. I understand CBHS providers are mandated to report to the appropriate authorities, as required by state and/or federal laws, when (1) my provider believes that I (my dependent) may hurt myself (him/herself) or someone else, or (2) my provider suspects child, dependent adult, or elder abuse.

I have read this consent, received a copy, and accept its conditions. I also understand that I can withdraw my consent and stop receiving services from this program at any time.

Date: \_\_\_\_\_

Time: \_\_\_\_\_ A.M./P.M.

Signature or Mark: \_\_\_\_\_  
client/parent/conservator/other legal representative

If signed by someone other than the client, please state your legal relationship to the client: \_\_\_\_\_

If a minor is either 1) emancipated, or 2) 12 years old or older and qualifies for services under Family Code section 6924 and/or 6929, he/she may consent to services and sign this form on his/her own behalf.

If the adult client is unable to provide his or her full signature and does not have a legal representative, his or her mark must be witnessed by two people.

Witness: 1. \_\_\_\_\_  
Signature \_\_\_\_\_ Print Name & Title \_\_\_\_\_

Witness: 2. \_\_\_\_\_  
Signature \_\_\_\_\_ Print Name & Title \_\_\_\_\_



City and County of San Francisco
Department of Public Health
COMMUNITY BEHAVIORAL HEALTH SERVICES

Community Behavioral Health Services
Child, Youth & Family System of Care
1380 Howard Street, 5th Floor
San Francisco, CA 94103-2614
TELE 415-255-3400 FAX 415-255-3567

Checklist for Minor Consent

(Use this form to clarify basis for minor consent, obtain parent/guardian consent if none of the following apply)

Name of Minor: \_\_\_\_\_ Date of Birth: \_\_\_\_/\_\_\_\_/\_\_\_\_

- Minor is emancipated (attach copy of ID card or other documentation).
I am married or have been married. (Family code 7002, 7050)
I am on active duty with the US armed services. (Family Code 7002, 7050)
I am 14 or older and have been emancipated by court order. (Family Code 7002, 7120, 7140)

- Minor is 15 years of age or older and a self-sufficient minor. (Family Code 6922)
I am living separate and apart from my parents or legal guardian.

(place of residence of minor)

(place of residence of parents or guardian)

- I am managing my own financial affairs.

(place of bank account)

(place of employment)

(other source of financial support - explain)

Signature of Minor: \_\_\_\_\_ Date: \_\_\_\_\_

Witness: \_\_\_\_\_

- Minor may consent to outpatient behavioral health services under Family Code section 6924 or 6929.

Family Code section 6924(b) provides that a minor aged 12 or older in need of outpatient health services may consent to those services if both of the following criteria are met: (1) the minor, in the opinion of the attending professional, is mature enough to participate intelligently in the services, and (2) the minor (A) would present a danger of serious physical or mental harm to self or others without the treatment or counseling or (B) is the alleged victim of incest or child abuse. Provider shall document in the client record that both of these criteria have been met.

Health & Safety 12420 a minor can consent to mental health treatment if he or she meets both the following requirements: (1) age 12 or older, and (2) the minor is mature enough to participate intelligently in the treatment.

Family Code section 6929 provides that a minor aged 12 or older may consent to medical care and counseling related to the diagnosis and treatment of a drug or alcohol problem.

Both Family Code section 6924(b) and 6929 require that the treatment must include involvement of the minor's parent or guardian if appropriate, as determined by the provider. The provider must document whether and when the provider attempted to reach the parent or guardian, whether the attempt was successful, or the reason why, in the professional's opinion it would be in appropriate to contact the parent or guardian.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

(Licensed Health Care Provider)

Note: This form clarifies legal basis for minor consent. If more than one criteria for minor consent applies, all applicable boxes should be "checked." If minor qualifies for minor consent pursuant to any criteria listed on this form, minor should sign Minor Consent form when behavioral health services are initiated and receive a copy of Notice of Privacy Practices. If none of the conditions on this form apply to minor's situation, medical care should not be provided until consent is obtained from parent or legal guardian except as otherwise permitted by law.

(Original to Chart; Copy to Client)

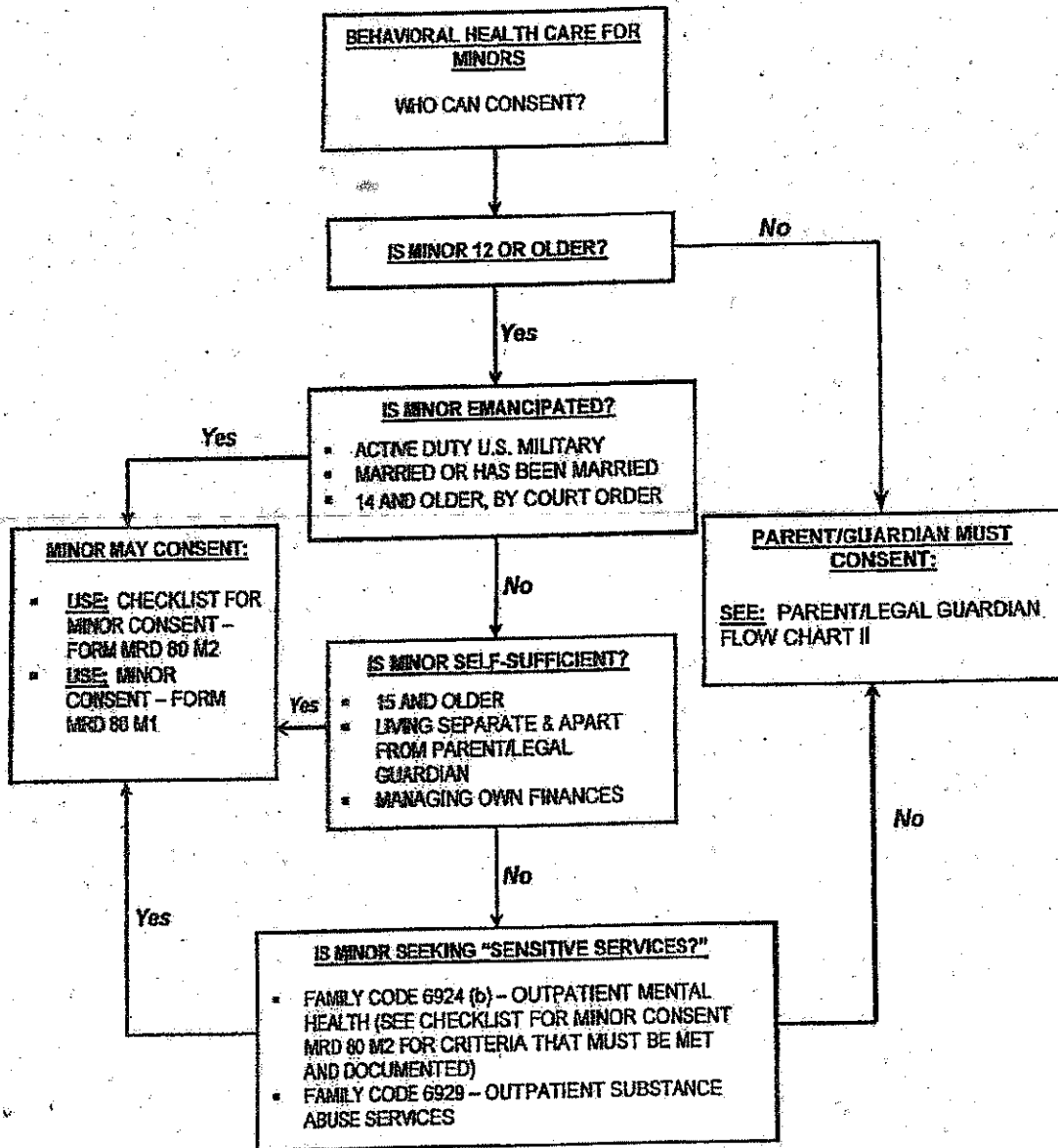




City and County of San Francisco  
 Department of Public Health  
 Community Behavioral Health Services

Community Behavioral Health Services  
 Child, Youth & Family System of Care  
 1380 Howard Street, 5th Floor  
 San Francisco, CA 94103-2614  
 415.255.3400 FAX 415.255.3567

**MINOR CONSENT  
 FLOW CHART I**

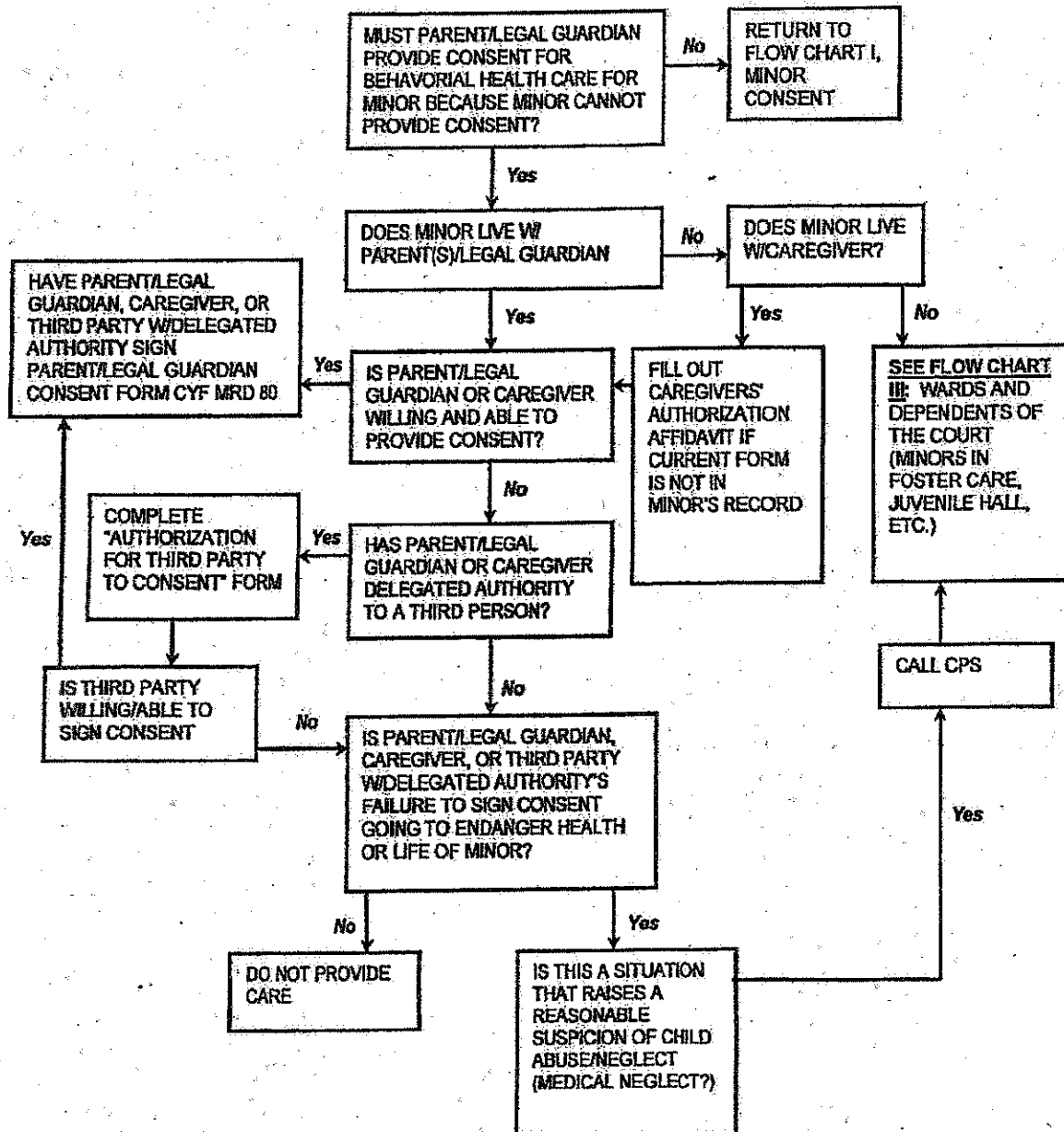




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**PARENT/LEGAL GUARDIAN CONSENT  
 FLOW CHART II**

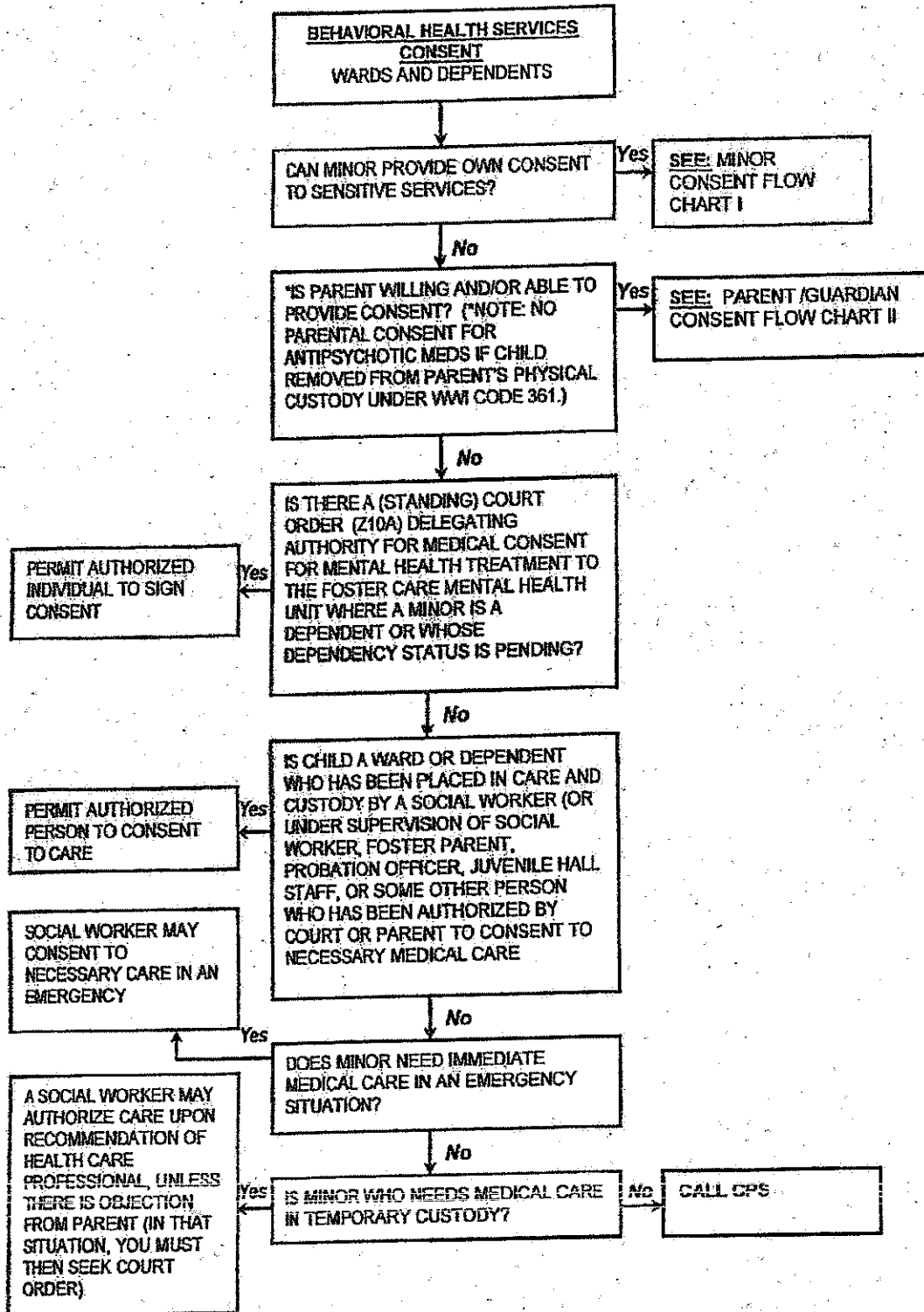




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**WARDS AND DEPENDENTS CONSENT  
 FLOW CHART III**



## Family Code

3000. Unless the provision or context otherwise requires, the definitions in this chapter govern the construction of this division.

3002. "Joint custody" means joint physical custody and joint legal custody.

3003. "Joint legal custody" means that both parents shall share the right and the responsibility to make the decisions relating to the health, education, and welfare of a child.

3004. "Joint physical custody" means that each of the parents shall have significant periods of physical custody. Joint physical custody shall be shared by the parents in such a way so as to assure a child of frequent and continuing contact with both parents, subject to Sections 3011 and 3020.

3006. "Sole legal custody" means that one parent shall have the right and the responsibility to make the decisions relating to the health, education, and welfare of a child.

3007. "Sole physical custody" means that a child shall reside with and be under the supervision of one parent, subject to the power of the court to order visitation.

3080. There is a presumption, affecting the burden of proof, that joint custody is in the best interest of a minor child, subject to Section 3011, where the parents have agreed to joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child.

3081. On application of either parent, joint custody may be ordered in the discretion of the court in cases other than those described in Section 3080, subject to Section 3011. For the purpose of assisting the court in making a determination whether joint custody is appropriate under this section, the court may direct that an investigation be conducted pursuant to Chapter 6 (commencing with Section 3110).

3082. When a request for joint custody is granted or denied, the court, upon the request of any party, shall state in its decision the reasons for granting or denying the request. A statement that joint physical custody is, or is not, in the best interest of the child is not sufficient to satisfy the requirements of this section.

3083. In making an order of joint legal custody, the court shall specify the circumstances under which the consent of both parents is required to be obtained in order to exercise legal control of the child and the consequences of the failure to obtain mutual consent. In all other circumstances, either parent acting alone may exercise legal control of the child. An order of joint legal custody shall not be construed to permit an action that is inconsistent with the physical custody order unless the action is expressly authorized by the court.

3084. In making an order of joint physical custody, the court shall specify the rights of each parent to physical control of the child in sufficient detail to enable a parent deprived of that control to implement laws for relief of child snatching and kidnapping.

3085. In making an order for custody with respect to both parents, the court may grant joint legal custody without granting joint physical custody.

3086. In making an order of joint physical custody or joint legal custody, the court may specify one parent as the primary caretaker of the child and one home as the primary home of the child, for the purposes of determining eligibility for public assistance.

3087. An order for joint custody may be modified or terminated upon the petition of one or both parents or on the court's own motion if it is shown that the best interest of the child requires modification or termination of the order. If either parent opposes the modification or termination order, the court shall state in its decision the reasons for modification or termination of the joint custody order.

3088. An order for the custody of a minor child entered by a court in this state or any other state may, subject to the jurisdictional requirements in Sections 3403 and 3414, be modified at any time to an order for joint custody in accordance with this chapter.

3089. In counties having a conciliation court, the court or the parties may, at any time, pursuant to local rules of court, consult with the conciliation court for the purpose of assisting the parties to formulate a plan for implementation of the custody order or to resolve a controversy which has arisen in the implementation of a plan for custody.

#### Caregiver's Affidavits

6550. (a) A caregiver's authorization affidavit that meets the requirements of this part authorizes a caregiver 18 years of age or older who completes items 1-4 of the affidavit provided in Section 6552 and signs the affidavit to enroll a minor in school and consent to school-related medical care on behalf of the minor. A caregiver who is a relative and who completes items 1-8 of the affidavit provided in Section 6552 and signs the affidavit shall have the same rights to authorize medical care and dental care for the minor that are given to guardians under Section 2353 of the Probate Code. The medical care authorized by this caregiver who is a relative may include mental health treatment subject to the limitations of Section 2356 of the Probate Code.

(b) The affidavit shall not be valid for more than one year after the date on which it is executed.

(c) The decision of a caregiver to consent to or to refuse medical or dental care for a minor shall be superseded by any contravening decision of the parent or other person having legal custody of the minor, provided the decision of the parent or other person having legal custody of the minor does not jeopardize the life, health, or safety of the minor.

(d) No person who acts in good faith reliance on a caregiver's authorization affidavit to provide medical or dental care, without actual knowledge of facts contrary to those stated on the affidavit, is subject to criminal liability or to civil liability to any person, or is subject to professional disciplinary action, for such reliance if the applicable portions of the affidavit are completed.

This subdivision shall apply even if medical or dental care is provided to a minor in contravention of the wishes of the parent or other person having legal custody of the minor as long as the person providing the medical or dental care has no actual knowledge of the wishes of the parent or other person having legal custody of the minor.

(e) A person who relies on the affidavit has no obligation to make any further inquiry or investigation.

(f) Nothing in this section shall relieve any individual from liability for violations of other provisions of law.

(g) If the minor stops living with the caregiver, the caregiver shall notify any school, health care provider, or health care service plan that has been given the affidavit.

(h) A caregiver's authorization affidavit shall be invalid unless it substantially contains, in not less than 10-point boldface type or a reasonable equivalent thereof, the warning statement beginning with the word "warning" specified in Section 6552. The warning statement shall be enclosed in a box with 3-point rule lines.

(i) For purposes of this part:

(1) "Person" includes an individual, corporation, partnership, association, the state, or any city, county, city and county, or other public entity or governmental subdivision or agency, or any

other legal entity.

{2} "Relative" means 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.

{3} "School-related medical care" means medical care that is required by state or local governmental authority as a condition for school enrollment, including immunizations, physical examinations, and medical examinations conducted in schools for pupils.

6552. The caregiver's authorization affidavit shall be in substantially the following form:

#### Caregiver's Authorization Affidavit

Use of this affidavit is authorized by Part 1.5 (commencing with Section 6550) of Division 11 of the California Family Code.

Instructions: Completion of items 1-4 and the signing of the affidavit is sufficient to authorize enrollment of a minor in school and authorize school-related medical care. Completion of items 5-8 is additionally required to authorize any other medical care. Print clearly.

The minor named below lives in my home and I am 18 years of age or older.

1. Name of minor: \_\_\_\_\_
2. Minor's birth date: \_\_\_\_\_
3. My name (adult giving authorization): \_\_\_\_\_
4. My home address: \_\_\_\_\_

5.  I am a grandparent, aunt, uncle, or other qualified relative of the minor (see back of this form for a definition of "qualified relative").

6. Check one or both (for example, if one parent was advised and the other cannot be located):

- I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care, and have received no objection.
- I am unable to contact the parent(s) or other person(s) having legal custody of the minor at this time, to notify them of my intended authorization.

7. My date of birth: \_\_\_\_\_
8. My California's driver's license or identification card number: \_\_\_\_\_

:  
: Warning: Do not sign this form if any of the statements :  
: above are incorrect, or you will be committing a crime :  
: punishable by a fine, imprisonment, or both. :  
:

I declare under penalty of perjury under the laws of the State  
of California that the foregoing is true and correct.

Dated: \_\_\_\_\_ Signed: \_\_\_\_\_

Notices:

1. This declaration does not affect the rights of the minor's parents or legal guardian regarding the care, custody, and control of the minor, and does not mean that the caregiver has legal custody of the minor.
2. A person who relies on this affidavit has no obligation to make any further inquiry or investigation.
3. This affidavit is not valid for more than one year after the date on which it is executed.

Additional Information:

TO CAREGIVERS:

1. "Qualified relative," for purposes of item 5, means 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.
2. The law may require you, if you are not a relative or a currently licensed foster parent, to obtain a foster home license in order to care for a minor. If you have any questions, please contact your local department of social services.
3. If the minor stops living with you, you are required to notify any school, health care provider, or health care service plan to which you have given this affidavit.
4. If you do not have the information requested in item 8 (California driver's license or I.D.), provide another form of identification such as your social security number or Medi-Cal number.

TO SCHOOL OFFICIALS:

1. Section 48204 of the Education Code provides that this affidavit constitutes a sufficient basis for a determination of residency of the minor, without the requirement of a guardianship or other custody order, unless the school district determines from actual facts that the minor is not living with the caregiver.



2. The school district may require additional reasonable evidence that the caregiver lives at the address provided in item 4.

**TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS:**

1. No person who acts in good faith reliance upon a caregiver's authorization affidavit to provide medical or dental care, without actual knowledge of facts contrary to those stated on the affidavit, is subject to criminal liability or to civil liability to any person, or is subject to professional disciplinary action, for such reliance if the applicable portions of the form are completed.

2. This affidavit does not confer dependency for health care coverage purposes.

**Delegated Authority**

6910. The parent, guardian, or caregiver of a minor who is a relative of the minor and who may authorize medical care and dental care under Section 6550, may authorize in writing an adult into whose care a minor has been entrusted to consent to medical care or dental care, or both, for the minor.

**Court-Ordered Care**

6911. (a) Upon application by a minor, the court may summarily grant consent for medical care or dental care or both for the minor if the court determines all of the following:

- (1) The minor is 16 years of age or older and resides in this state.
  - (2) The consent of a parent or guardian is necessary to permit the medical care or dental care or both, and the minor has no parent or guardian available to give the consent.
- (b) No fee may be charged for proceedings under this section.

**Minor Consent: Self-Sufficient Minor**

6922. (a) A minor may consent to the minor's medical care or dental care if all of the following conditions are satisfied:

- (1) The minor is 15 years of age or older.
  - (2) The minor is living separate and apart from the minor's parents or guardian, whether with or without the consent of a parent or guardian and regardless of the duration of the separate residence.
  - (3) The minor is managing the minor's own financial affairs, regardless of the source of the minor's income.
- (b) The parents or guardian are not liable for medical care or dental care provided pursuant to this section.
- (c) A physician and surgeon or dentist may, with or without the consent of the minor patient, advise the minor's parent or guardian of the treatment given or needed if the physician and surgeon or dentist has reason to know, on the basis of the information given by

the minor, the whereabouts of the parent or guardian.

Minor Consent: Sensitive Services

Family Code

6924. (a) As used in this section:

(1) "Mental health treatment or counseling services" means the provision of mental health treatment or counseling on an outpatient basis by any of the following:

(A) A governmental agency.

(B) A person or agency having a contract with a governmental agency to provide the services.

(C) An agency that receives funding from community united funds.

(D) A runaway house or crisis resolution center.

(E) A professional person, as defined in paragraph (2).

(2) "Professional person" means any of the following:

(A) A person designated as a mental health professional in Sections 622 to 626, inclusive, of Article 8 of Subchapter 3 of Chapter 1 of Title 9 of the California Code of Regulations.

(B) A marriage and family therapist as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(C) A licensed educational psychologist as defined in Article 5 (commencing with Section 4986) of Chapter 13 of Division 2 of the Business and Professions Code.

(D) A credentialed school psychologist as described in Section 49424 of the Education Code.

(E) A clinical psychologist as defined in Section 1316.5 of the Health and Safety Code.

(F) The chief administrator of an agency referred to in paragraph (1) or (3).

(G) A marriage and family therapist registered intern, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, while working under the supervision of a licensed professional specified in subdivision (f) of Section 4980.40 of the Business and Professions Code.

(3) "Residential shelter services" means any of the following:

(A) The provision of residential and other support services to minors on a temporary or emergency basis in a facility that services only minors by a governmental agency, a person or agency having a contract with a governmental agency to provide these services, an agency that receives funding from community funds, or a licensed community care facility or crisis resolution center.

(B) The provision of other support services on a temporary or emergency basis by any professional person as defined in paragraph (2).

(b) A minor who is 12 years of age or older may consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, if both of the following requirements are satisfied:

(1) The minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services or residential shelter services.

(2) The minor (A) would present a danger of serious physical or mental harm to self or to others without the mental health treatment

or counseling or residential shelter services, or (B) is the alleged victim of incest or child abuse.

(c) A professional person offering residential shelter services, whether as an individual or as a representative of an entity specified in paragraph (3) of subdivision (a), shall make his or her best efforts to notify the parent or guardian of the provision of services.

(d) The mental health treatment or counseling of a minor authorized by this section shall include involvement of the minor's parent or guardian unless, in the opinion of the professional person who is treating or counseling the minor, the involvement would be inappropriate. The professional person who is treating or counseling the minor shall state in the client record whether and when the person attempted to contact the minor's parent or guardian, and whether the attempt to contact was successful or unsuccessful, or the reason why, in the professional person's opinion, it would be inappropriate to contact the minor's parent or guardian.

(e) The minor's parents or guardian are not liable for payment for mental health treatment or counseling services provided pursuant to this section unless the parent or guardian participates in the mental health treatment or counseling, and then only for services rendered with the participation of the parent or guardian. The minor's parents or guardian are not liable for payment for any residential shelter services provided pursuant to this section unless the parent or guardian consented to the provision of those services.

(f) This section does not authorize a minor to receive convulsive therapy or psychosurgery as defined in subdivisions (f) and (g) of Section 5325 of the Welfare and Institutions Code, or psychotropic drugs without the consent of the minor's parent or guardian.

6929. (a) As used in this section:

(1) "Counseling" means the provision of counseling services by a provider under a contract with the state or a county to provide alcohol or drug abuse counseling services pursuant to Part 2 (commencing with Section 5600) of Division 5 of the Welfare and Institutions Code or pursuant to Division 10.5 (commencing with Section 11750) of the Health and Safety Code.

(2) "Drug or alcohol" includes, but is not limited to, any substance listed in any of the following:

(A) Section 380 or 381 of the Penal Code.

(B) Division 10 (commencing with Section 11000) of the Health and Safety Code.

(C) Subdivision (f) of Section 647 of the Penal Code.

(3) "LAAM" means levoalphacetylmethadol as specified in paragraph (10) of subdivision (c) of Section 11055 of the Health and Safety Code.

(4) "Professional person" means a physician and surgeon, registered nurse, psychologist, clinical social worker, or marriage, family, and child counselor.

(b) A minor who is 12 years of age or older may consent to medical care and counseling relating to the diagnosis and treatment of a drug or alcohol related problem.

(c) The treatment plan of a minor authorized by this section 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. The professional person providing medical care or counseling to a minor shall state in the minor's

treatment record whether and when the professional person attempted to contact the minor's parent or guardian, and whether the attempt to contact the parent or guardian was successful or unsuccessful, or the reason why, in the opinion of the professional person, it would not be appropriate to contact the minor's parent or guardian.

(d) The minor's parents or guardian are not liable for payment for any care provided to a minor pursuant to this section, except that if the minor's parent or guardian participates in a counseling program pursuant to this section, the parent or guardian is liable for the cost of the services provided to the minor and the parent or guardian.

(e) This section does not authorize a minor to receive replacement narcotic abuse treatment, in a program licensed pursuant to Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code, without the consent of the minor's parent or guardian.

(f) It is the intent of the Legislature that the state shall respect the right of a parent or legal guardian to seek medical care and counseling for a drug- or alcohol-related problem of a minor child when the child does not consent to the medical care and counseling, and nothing in this section shall be construed to restrict or eliminate this right.

(g) Notwithstanding any other provision of law, in cases where a parent or legal guardian has sought the medical care and counseling for a drug- or alcohol-related problem of a minor child, the physician shall disclose medical information concerning such care to the minor's parents or legal guardian upon their request, even if the minor child does not consent to disclosure, without liability for such disclosure.

#### Minor Consent: Emancipated Minor

##### Family Code

7002. A person under the age of 18 years is an emancipated minor if any of the following conditions is satisfied:

(a) The person has entered into a valid marriage, whether or not the marriage has been dissolved.

(b) The person is on active duty with the armed forces of the United States.

(c) The person has received a declaration of emancipation pursuant to Section 7122.

7050. An emancipated minor shall be considered as being an adult for the following purposes:

(a) The minor's right to support by the minor's parents.

(b) The right of the minor's parents to the minor's earnings and to control the minor.

(c) The application of Sections 300 and 601 of the Welfare and Institutions Code.

(d) Ending all vicarious or imputed liability of the minor's parents or guardian for the minor's torts. Nothing in this section affects any liability of a parent, guardian, spouse, or employer imposed by the Vehicle Code, or any vicarious liability that arises from an agency relationship.

(e) The minor's capacity to do any of the following:

(1) Consent to medical, dental, or psychiatric care, without

parental consent, knowledge, or liability.

- (2) Enter into a binding contract or give a delegation of power.
- (3) Buy, sell, lease, encumber, exchange, or transfer an interest in real or personal property, including, but not limited to, shares of stock in a domestic or foreign corporation or a membership in a nonprofit corporation.
- (4) Sue or be sued in the minor's own name.
- (5) Compromise, settle, arbitrate, or otherwise adjust a claim, action, or proceeding by or against the minor.
- (6) Make or revoke a will.
- (7) Make a gift, outright or in trust.
- (8) Convey or release contingent or expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy, and consent to a transfer, encumbrance, or gift of marital property.
- (9) Exercise or release the minor's powers as donee of a power of appointment unless the creating instrument otherwise provides.
- (10) Create for the minor's own benefit or for the benefit of others a revocable or irrevocable trust.
- (11) Revoke a revocable trust.
- (12) Elect to take under or against a will.
- (13) Renounce or disclaim any interest acquired by testate or intestate succession or by inter vivos transfer, including exercise of the right to surrender the right to revoke a revocable trust.
- (14) Make an election referred to in Section 13502 of, or an election and agreement referred to in Section 13503 of, the Probate Code.
- (15) Establish the minor's own residence.
- (16) Apply for a work permit pursuant to Section 49110 of the Education Code without the request of the minor's parents.
- (17) Enroll in a school or college.

7120. (a) A minor may petition the superior court of the county in which the minor resides or is temporarily domiciled for a declaration of emancipation.

(b) The petition shall set forth with specificity all of the following facts:

- (1) The minor is at least 14 years of age.
- (2) The minor willingly lives separate and apart from the minor's parents or guardian with the consent or acquiescence of the minor's parents or guardian.
- (3) The minor is managing his or her own financial affairs. As evidence of this, the minor shall complete and attach a declaration of income and expenses as provided in Section 1285.50 of the California Rules of Court.
- (4) The source of the minor's income is not derived from any activity declared to be a crime by the laws of this state or the laws of the United States.

7140. On application of a minor declared emancipated under this chapter, the Department of Motor Vehicles shall enter identifying information in its law enforcement computer network, and the fact of emancipation shall be stated on the department's identification card issued to the emancipated minor.

Miscellaneous provisions

7600. This part may be cited as the Uniform Parentage Act.

7601. "Parent and child relationship" as used in this part means the legal relationship existing between a child and the child's natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. The term includes the mother and child relationship and the father and child relationship.

7602. The parent and child relationship extends equally to every child and to every parent, regardless of the marital status of the parents.

7603. Section 3140 is applicable to proceedings pursuant to this part.

7604. A court may order pendente lite relief consisting of a custody or visitation order pursuant to Part 2 (commencing with Section 3020) of Division 8, if the court finds both of the following:

(a) Based on the tests authorized by Section 7541, a parent and child relationship exists pursuant to Section 7540.

(b) The custody or visitation order would be in the best interest of the child.

7604.5. Notwithstanding any other provision of law, bills for pregnancy, childbirth, and genetic testing shall be admissible as evidence without third-party foundation testimony and shall constitute prima facie evidence of costs incurred for those services.

**Probate Code**

2353. (a) Subject to subdivision (b), the guardian has the same right as a parent having legal custody of a child to give consent to medical treatment performed upon the ward and to require the ward to receive medical treatment.

(b) Except as provided in subdivision (c), if the ward is 14 years of age or older, no surgery may be performed upon the ward without either (1) the consent of both the ward and the guardian or (2) a court order obtained pursuant to Section 2357 specifically authorizing such treatment.

(c) The guardian may consent to surgery to be performed upon the ward, and may require the ward to receive the surgery, in any case where the guardian determines in good faith based upon medical advice that the case is an emergency case in which the ward faces loss of life or serious bodily injury if the surgery is not performed. In such a case, the consent of the guardian alone is sufficient and no person is liable because the surgery is performed upon the ward without the ward's consent.

(d) Nothing in this section requires the consent of the guardian for medical or surgical treatment for the ward in any case where the ward alone may consent to such treatment under other provisions of law.

2356. (a) No ward or conservatee may be placed in a mental health treatment facility under this division against the will of the ward or conservatee. Involuntary civil placement of a ward or conservatee in a mental health treatment facility may be obtained only pursuant to Chapter 2 (commencing with Section 5150) or Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. Nothing in this subdivision precludes the placing of a ward in a state hospital under Section 6000 of the Welfare and Institutions Code upon application of the guardian as provided in that section. The Director of Mental Health shall adopt and issue regulations defining "mental health treatment facility" for the purposes of this subdivision.

(b) No experimental drug as defined in Section 111515 of the Health and Safety Code may be prescribed for or administered to a ward or conservatee under this division. Such an experimental drug may be prescribed for or administered to a ward or conservatee only as provided in Article 4 (commencing with Section 111515) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

(c) No convulsive treatment as defined in Section 5325 of the Welfare and Institutions Code may be performed on a ward or conservatee under this division. Convulsive treatment may be performed on a ward or conservatee only as provided in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code.

(d) No minor may be sterilized under this division.

(e) This chapter is subject to a valid and effective advance health care directive under the Health Care Decisions Law (Division 4.7 (commencing with Section 4600)).

## **Welfare and Institutions Code**

### Consent for Care of Wards and Dependents:

305. Any peace officer may, without a warrant, take into temporary custody a minor:

(a) When the officer has reasonable cause for believing that the

minor is a person described in Section 300, and, in addition, that the minor has an immediate need for medical care, or the minor is in immediate danger of physical or sexual abuse, or the physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In cases in which the child is left unattended, the peace officer shall first attempt to contact the child's parent or guardian to determine if the parent or guardian is able to assume custody of the child. If the parent or guardian cannot be contacted, the peace officer shall notify a social worker in the county welfare department to assume custody of the child.

(b) Who is in a hospital and release of the minor to a parent poses an immediate danger to the child's health or safety.

(c) Who is a dependent child of the juvenile court, or concerning whom an order has been made under Section 319, when the officer has reasonable cause for believing that the minor has violated an order of the juvenile court or has left any placement ordered by the juvenile court.

(d) Who is found in any street or public place suffering from any sickness or injury which requires care, medical treatment, hospitalization, or other remedial care.

362. (a) When a child is adjudged a dependent child of the court on the ground that the child is a person described by Section 300, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child, including medical treatment, subject to further order of the court. To facilitate coordination and cooperation among government agencies, the court may, after giving notice and an opportunity to be heard, join in the juvenile court proceedings any agency that the court determines has failed to meet a legal obligation to provide services to the child. In any proceeding in which an agency is joined, the court shall not impose duties upon the agency beyond those mandated by law. Nothing in this section shall prohibit agencies which have received notice of the hearing on joinder from meeting prior to the hearing to coordinate services for the child.

The court has no authority to order services unless it has been determined through the administrative process of an agency that has been joined as a party, that the child is eligible for those services. With respect to mental health assessment, treatment, and case management services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, the court's determination shall be limited to whether the agency has complied with that chapter.

(b) When a child is adjudged a dependent child of the court, on the ground that the child is a person described by Section 300 and the court orders that a parent or guardian shall retain custody of the child subject to the supervision of the social worker, the parents or guardians shall be required to participate in child welfare services or services provided by an appropriate agency designated by the court.

(c) The juvenile court may direct any and all reasonable orders to the parents or guardians of the child who is the subject of any proceedings under this chapter as the court deems necessary and



proper to carry out the provisions of this section, including orders to appear before a county financial evaluation officer. That order may include a direction to participate in a counseling or education program, including, but not limited to, a parent education and parenting program operated by a community college, school district, or other appropriate agency designated by the court. A foster parent or relative with whom the child is placed may be directed to participate in such a program in cases in which the court deems participation is appropriate and in the child's best interest. The program in which a parent or guardian is required to participate shall be designed to eliminate those conditions that led to the court's finding that the child is a person described by Section 300.

369. (a) Whenever any person is taken into temporary custody under Article 7 (commencing with Section 305) and is in need of medical, surgical, dental, or other remedial care, the social worker may, upon the recommendation of the attending physician and surgeon or, if the person needs dental care and there is an attending dentist, the attending dentist, authorize the performance of the medical, surgical, dental, or other remedial care. The social worker shall notify the parent, guardian, or person standing in loco parentis of the person, if any, of the care found to be needed before that care is provided, and if the parent, guardian, or person standing in loco parentis objects, that care shall be given only upon order of the court in the exercise of its discretion.

(b) Whenever it appears to the juvenile court that any person concerning whom a petition has been filed with the court is in need of medical, surgical, dental, or other remedial care, and that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize the remedial care or treatment for that person, the court, upon the written recommendation of a licensed physician and surgeon or, if the person needs dental care, a licensed dentist, and after due notice to the parent, guardian, or person standing in loco parentis, if any, may make an order authorizing the performance of the necessary medical, surgical, dental, or other remedial care for that person.

(c) Whenever a dependent child of the juvenile court is placed by order of the court within the care and custody or under the supervision of a social worker of the county in which the dependent child resides and it appears to the court that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize medical, surgical, dental, or other remedial care or treatment for the dependent child, the court may, after due notice to the parent, guardian, or person standing in loco parentis, if any, order that the social worker may authorize the medical, surgical, dental, or other remedial care for the dependent child, by licensed practitioners, as may from time to time appear necessary.

(d) Whenever it appears that a child otherwise within subdivision (a), (b), or (c) requires immediate emergency medical, surgical, or other remedial care in an emergency situation, that care may be provided by a licensed physician and surgeon or, if the child needs dental care in an emergency situation, by a licensed dentist, without a court order and upon authorization of a social worker. The social worker shall make reasonable efforts to obtain the consent of, or to notify, the parent, guardian, or person standing in loco parentis prior to authorizing emergency medical, surgical, dental, or other remedial care. "Emergency situation," for the purposes of this

subdivision means a child requires immediate treatment for the alleviation of severe pain or an immediate diagnosis and treatment of an unforeseeable medical, surgical, dental, or other remedial condition or contagious disease which if not immediately diagnosed and treated, would lead to serious disability or death.

(e) In any case in which the court orders the performance of any medical, surgical, dental, or other remedial care pursuant to this section, the court may also make an order authorizing the release of information concerning that care to social workers, parole officers, or any other qualified individuals or agencies caring for or acting in the interest and welfare of the child under order, commitment, or approval of the court.

(f) Nothing in this section shall be construed as limiting the right of a parent, guardian, or person standing in loco parentis, who has not been deprived of the custody or control of the child by order of the court, in providing any medical, surgical, dental, or other remedial treatment recognized or permitted under the laws of this state.

(g) The parent of any person described in this section may authorize the performance of medical, surgical, dental, or other remedial care provided for in this section notwithstanding his or her age or marital status. In nonemergency situations the parent authorizing the care shall notify the other parent prior to the administration of that care.

369.5. (a) If a child is adjudged a dependent child of the court under Section 300 and the child has been removed from the physical custody of the parent under Section 361, only a juvenile court judicial officer shall have authority to make orders regarding the administration of psychotropic medications for that child. The juvenile court may issue a specific order delegating this authority to a parent upon making findings on the record that the parent poses no danger to the child and has the capacity to authorize psychotropic medications. Court authorization for the administration of psychotropic medication shall be based on a request from a physician, indicating the reasons for the request, a description of the child's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication. On or before July 1, 2000, the Judicial Council shall adopt rules of court and develop appropriate forms for implementation of this section.

(b) Psychotropic medication or psychotropic drugs are those medications administered for the purpose of affecting the central nervous system to treat psychiatric disorders or illnesses. These medications include, but are not limited to, anxiolytic agents, antidepressants, mood stabilizers, antipsychotic medications, anti-Parkinson agents, hypnotics, medications for dementia, and psychostimulants.

(c) Nothing in this section is intended to supersede local court rules regarding a minor's right to participate in mental health decisions.

370. The juvenile court may, in any case before it in which a petition has been filed as provided in Article 7 (commencing with

Section 305), order that the social worker obtain the services of those psychiatrists, psychologists, or other clinical experts as may be required to assist in determining the appropriate treatment of the child and as may be required in the conduct or implementation of that treatment. Payment for those services shall be a charge against the county.

727. (a) When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or 602 the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor, including medical treatment, subject to further order of the court. To facilitate coordination and cooperation among government agencies, the court may, after giving notice and an opportunity to be heard, join in the juvenile court proceedings any agency that the court determines has failed to meet a legal obligation to provide services to the minor. However, no governmental agency shall be joined as a party in a juvenile court proceeding in which a minor has been ordered committed to the Department of Youth Authority. In any proceeding in which an agency is joined, the court shall not impose duties upon the agency beyond those mandated by law. Nothing in this section shall prohibit agencies which have received notice of the hearing on joinder from meeting prior to the hearing to coordinate services for the minor.

The court has no authority to order services unless it has been determined through the administrative process of an agency that has been joined as a party, that the minor is eligible for those services. With respect to mental health assessment, treatment, and case management services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, the court's determination shall be limited to whether the agency has complied with that chapter.

In the discretion of the court, a ward may be ordered to be on probation without supervision of the probation officer. The court, in so ordering, may impose on the ward any and all reasonable conditions of behavior as may be appropriate under this disposition. A minor who has been adjudged a ward of the court on the basis of the commission of any of the offenses described in subdivision (b), paragraph (2) of subdivision (d), or subdivision (e) of Section 707, Section 459 of the Penal Code, or subdivision (a) of Section 11350 of the Health and Safety Code, shall not be eligible for probation without supervision of the probation officer. A minor who has been adjudged a ward of the court on the basis of the commission of any offense involving the sale or possession for sale of a controlled substance, except misdemeanor offenses involving marijuana, as specified in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, or of an offense in violation of Section 12220 of the Penal Code, shall be eligible for probation without supervision of the probation officer only when the court determines that the interests of justice would best be served and states reasons on the record for that determination.

In all other cases, the court shall order the care, custody, and control of the minor to be under the supervision of the probation officer who may place the minor in any of the following:

(1) The home of a relative. When a decision has been made to place the minor in the home of a relative, the court may authorize

the relative to give legal consent for the minor's medical, surgical, and dental care and education as if the relative caretaker were the custodial parent of the minor.

(2) A suitable licensed community care facility.

(3) With a foster family agency to be placed in a suitable licensed foster family home or certified family home which has been certified by the agency as meeting licensing standards.

(b) Where the court has ordered a specific minor placed under the supervision of the probation officer and the probation officer has found that the needs of the child cannot be met in any available licensed or exempt facility, including emergency shelter, the minor may be placed in a suitable family home that has filed a license application with the State Department of Social Services, provided that all the following certification conditions are met:

(1) A preplacement home visit is made by the probation officer to determine the suitability of the family home.

(2) The probation officer verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the minor.

(3) The probation officer notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor. If the license is subsequently denied, the minor shall be removed from the home immediately. The denial of the license constitutes a withdrawal of the certification.

When a minor has been adjudged a ward of the court on the ground that he or she is a person described in Section 601 or 602 and the court finds that notice has been given in accordance with Section 661, and when the court orders that a parent or guardian shall retain custody of that minor either subject to or without the supervision of the probation officer, the parent or guardian may be required to participate with that minor in a counseling or education program including, but not limited to, parent education and parenting programs operated by community colleges, school districts, or other appropriate agencies designated by the court.

(c) The juvenile court may direct any and all reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out subdivisions (a) and (b), including orders to appear before a county financial evaluation officer.

When counseling or other treatment services are ordered for the minor, the parent, guardian, or foster parent shall be ordered to participate in those services, unless participation by the parent, guardian, or foster parent is deemed by the court to be inappropriate or potentially detrimental to the child.

727.1. (a) Unless otherwise authorized by law, the court may not order the placement of a minor who is adjudged a ward of the court on the basis that he or she is a person described by either Section 601 or 602 in a private residential facility or program that provides 24-hour supervision, outside of the state, unless the court finds, in its order of placement, that all of the following conditions are met:

(1) In-state facilities or programs have been determined to be

unavailable or inadequate to meet the needs of the minor.

(2) The out-of-state residential facility or program is licensed for the placement of minors by an agency of the state or states in which the minor will be placed or operates under and is inspected pursuant to standards comparable to those developed by the Board of Corrections for similar facilities or programs.

(3) The requirements of Section 7911.1 of the Family Code are met.

(b) If, upon inspection, the probation officer of the county in which the minor is adjudged a ward of the court determines that the out-of-state facility or program is not in compliance with the standards required under paragraph (2) of subdivision (a) or has an adverse impact on the health and safety of the child, the probation officer may temporarily remove the minor from the facility or program. The probation officer shall promptly inform the court of the minor's removal, and shall return the minor to the court for a hearing to review the suitability of continued out-of-state placement. The probation officer shall, within one business day of removing the child, notify the State Department of Social Services' Compact Administrator, and, within five working days, submit a written report of the findings and actions taken.

(c) The court shall review each of these placements for compliance with the requirements of subdivision (a) at least once every six months.

(d) The county shall not be entitled to receive or expend any public funds for the placement of a minor in an out-of-state group home unless the conditions of subdivision (a) and (c) are met.

727.2. Where any minor has been adjudged a ward of the court for the commission of a "sexually violent offense," as defined in Section 6600, and committed to the Department of the Youth Authority, the ward shall be given sexual offender treatment consistent with protocols for that treatment developed or implemented by the Department of the Youth Authority.

727.2. When the court orders the care, custody and control of the minor to be under the supervision of the probation officer for foster care placement pursuant to subdivision (a) of Section 727, the decision regarding choice of placement shall be based upon selection of a safe setting that is the least restrictive or most family like, and the most appropriate setting that is available and in close proximity to the parent's home, consistent with the selection of the environment best suited to meet the child's special needs and best interests. The selection shall consider, in order of priority, placement with relatives, tribal members, and foster family, group care, and residential treatment pursuant to Section 7950 of the Family Code.

727.3. The purpose of this section is to provide a means to monitor the care of every child in foster care who has been declared a ward of the juvenile court pursuant to Section 601 or 602 to ensure that

everything reasonably possible is done to facilitate the safe early return of the child to his or her own home or to establish a permanent plan for the child.

(a) Whenever the court orders the care, custody, and control of the minor to be under the supervision of the probation officer for placement pursuant to subdivision (a) of Section 727, the juvenile court shall order the probation department to ensure the provision of services to facilitate the safe return of the child to a safe home or the permanent placement of the child, and to address the needs of the child while in foster care.

(b) A child shall be deemed to have entered foster care, for purposes of this section, on the date that is 60 days after the date on which the minor was removed from his or her home.

(c) The status of every child declared a ward and placed in foster care shall be reviewed at the time of the initial placement order and then as determined by the court but no less frequently than once every six months, as calculated from the date the minor entered foster care. If the court so elects, the court may declare the hearing at which the court orders the care, custody, and control of the minor to be under the supervision of the probation officer for foster care placement pursuant to subdivision (a) of Section 727 as the first status review hearing. At each status review hearing, the court shall consider the safety of the child and make findings and orders which determine the following:

(1) The continuing necessity for and appropriateness of the placement.

(2) The extent of the probation department's compliance with the case plan in making reasonable efforts to safely return the child to the child's home or to complete whatever steps are necessary to finalize the permanent placement of the child.

(3) The extent of progress that has been made toward alleviating or mitigating the causes necessitating placement in foster care.

(4) The likely date by which the child may be returned to and safely maintained in the home or placed for legal guardianship or adoption.

(d) The status review hearings required by subdivision (c) may be heard by an administrative review panel, provided:

(1) The administrative review shall be open to participation by the child and parents or legal guardians and all those persons entitled to notice under Section 727.4.

(2) The child and his or her parents or legal guardians receive proper notice as required in Section 727.4.

(3) The administrative review panel is composed of persons appointed by the presiding judge of the juvenile court, the membership of which shall include at least one person who is not responsible for the case management of, or delivery of services to, the child or the parents who are the subject of the review.

(4) The findings of the administrative review panel shall be submitted to the juvenile court for the court's approval and shall become part of the official court record.

(e) At the status review hearing the court shall order return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The probation department shall have the burden of establishing that

detriment. The failure of the child to participate in court-ordered treatment programs shall be prima facie evidence that the return of the child would be detrimental. In making its determination, the court shall review and consider the social study report and recommendations pursuant to Section 706.5 and the report and recommendations of any child advocate appointed for the child in the case, and shall consider the efforts or progress, or both, demonstrated by the child and family and the extent to which the child availed himself or herself of the services provided.

(f) There shall be a permanency planning hearing within 12 months of the date the child entered foster care and periodically thereafter, but no less frequently than every 12 months during the period of placement. It shall be the duty of the probation officer to prepare a written social study report pursuant to Section 706.5 containing a statement of the responsibilities of the parents or legal guardians, the probation department, the caseworker of the probation department, the foster parents, and the child. The written social study shall also describe the goals for the child's placement and care with the department, including the services provided to achieve the goal that the child shall exhibit lawful and productive behavior, and the appropriate plan for permanence for the child. The report shall be submitted to the court at the permanency planning hearing.

(1) At all permanency planning hearings, the court shall determine the permanent plan for the child that includes a determination of whether the child will be returned to the physical custody of the parent or legal guardian. Upon findings that there is substantial probability that additional services will aid the safe return of the child to the physical custody of his or her parents or legal guardian within six months, the court may order further reunification services to be provided to the child and parent or legal guardian for a period not to exceed six months. For purposes of this section, in order to find a substantial probability, the court shall be required to find the child and his or her parents or guardians to have demonstrated the capacity and ability to complete the objectives of his or her case plan. If the child is not returned to a parent or legal guardian at the permanency hearing, the court shall determine whether or not the child should be referred for adoption proceedings, referred for legal guardianship pursuant to subdivision (c) of Section 728, or referred to an alternative planned permanent living arrangement, including whether, because of the child's special needs or circumstances, the child should be continued in foster care on a permanent basis. The court shall also determine the extent of progress in achieving the treatment goals of the plan. In the case of a child who has reached 16 years of age, the hearing shall, in addition, determine the services needed to assist the child to make the transition from foster care to independent living.

(2) An "alternative planned permanent living arrangement" means a permanent foster care placement with a specific identified foster family on a permanent basis, a facility described in Section 11402, or an independent living arrangement, such as emancipation by marriage, court order, or reaching the age of majority.

(3) When a minor is placed in long-term foster care with a relative, the court may authorize the relative to provide the same legal consent for the minor's medical, surgical, and dental care, and education as the custodial parent of the minor.

(4) If the child has a continuing involvement with his or her

parents or legal guardians, the parents or legal guardians shall be involved in the planning for a permanent placement. The court order placing the child in a permanent placement shall include a specification of the nature and frequency of visiting arrangements with the parents or legal guardians.

(5) Any change in the placement of a child in permanent foster care or the responsibilities of the foster parents for that child shall be made only by order of the court that ordered the placement pursuant to a petition filed pursuant to Section 778.

(g) Prior to any status or permanency hearing involving a child in the physical custody of a community care facility or foster family agency, the facility or agency shall file with the court a report containing its recommendations. Prior to any status or permanency hearing involving the physical custody of a foster parent, relative caregiver, preadoptive parent, or legal guardian, that person may present to the court a report containing his or her recommendations. The court shall consider all reports and recommendations, filed pursuant to this subdivision.

(h) If the minor is not returned to the custody of a parent or legal guardian at the permanency hearing, the court shall do one of the following:

(1) Continue the case for up to six months for a permanency reviewing hearing, provided that the hearing shall occur within 18 months of the date the minor was originally taken from the physical custody of his or her parent or legal guardian. The court shall continue the case only if it finds that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or guardian.

The court shall inform the parent or legal guardian that if the minor cannot be returned home by the next permanency review hearing, a proceeding pursuant to Section 727.31 may be instituted. The court shall not order that a hearing pursuant to Section 727.31 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parent or legal guardian.

(2) Order that the minor remain in long-term foster care, but only if the court finds by clear and convincing evidence, based upon the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, that there is a compelling reason for determining that a hearing held pursuant to Section 727.31 is not in the best interest of the minor because the minor is not a proper subject for adoption and has no one willing to accept legal guardianship. For purposes of this section, a recommendation by the State Department Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency that adoption is not in the best interest of the minor shall constitute a compelling reason for the court's determination. That recommendation shall be based on the present circumstances of the minor and shall not preclude a different recommendation at a later date if the minor's circumstances change.

(3) Order that the hearing be held within 120 days, pursuant to Section 727.31, if there is clear and convincing evidence that



reasonable services have been provided or offered to the parents.

(i) Notwithstanding subdivision (h), the court shall not order a hearing pursuant to Section 727.31 if the probation department has documented a compelling reason for determining that the termination of parental rights would not be in the minor's best interests. A compelling reason is either of the following:

(1) A determination made by the probation officer that any of the following applies:

(A) The parent or legal guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing the relationship.

(B) The permanent plan is for the minor to return to his or her own home.

(C) A child 12 years of age or older objects to termination of parental rights.

(D) The minor is placed in residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the minor a permanent family placement if the parents cannot resume custody when residential care is no longer needed.

(2) A determination by the licensed county adoption agency or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency that the minor is unlikely to be adopted and the child is living with a relative who is unable or unwilling to adopt the child because exceptional circumstances that do not include an unwillingness to accept legal or financial responsibility for the minor but who is willing and capable of providing the minor with a stable and permanent home environment, and the removal of the minor from the physical custody of his or her relative or foster parent would be detrimental to the minor's emotional well-being.

(j) Whenever the court orders that a hearing pursuant to Section 727.31 shall be held, it shall direct the agency supervising the minor and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment that shall include all of the following:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount and nature of any contact between the minor and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each minor shall be reviewed on case-by-case basis, "extended family" for the purpose of the paragraph shall include, but not be limited to, the minor's siblings, grandparents, aunts, and uncles.

(3) An evaluation of the minor's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, and the relative was assessed for foster care placement of the minor prior to January 1, 1998, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision

(a) of Section 361.3.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation of seeking adoption or guardianship, and a statement from the minor concerning placement and the adoption or guardianship, unless the minor's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(6) An analysis of the likelihood that the minor will be adopted if parental rights are terminated.

(7) Whenever a court orders a hearing pursuant to Section 727.31, it shall order that the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or the licensed county adoption agency has exclusive responsibility for determining the adoptive placement and making all adoption-related decisions.

(k) Nothing in this section shall be construed to limit the ability of a parent to voluntarily relinquish his or her child to the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or to a licensed county adoption agency at any time while the minor is a ward of the juvenile court if the department agency is willing to accept the relinquishment.

739. (a) Whenever any person is taken into temporary custody under Article 15 (commencing with Section 625) and is in need of medical, surgical, dental, or other remedial care, the probation officer may, upon the recommendation of the attending physician and surgeon or, if the person needs dental care and there is an attending dentist, the attending dentist, authorize the performance of that medical, surgical, dental, or other remedial care. The probation officer shall notify the parent, guardian, or person standing in loco parentis of the person, if any, of the care found to be needed before the care is provided, and if the parent, guardian, or person standing in loco parentis objects, the care shall be given only upon order of the court in the exercise of its discretion.

(b) Whenever it appears to the juvenile court that any person concerning whom a petition has been filed with the court is in need of medical, surgical, dental, or other remedial care, and that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize the remedial care or treatment for that person, the court, upon the written recommendation of a licensed physician and surgeon or, if the person needs dental care, a licensed dentist, and after due notice to the parent, guardian, or person standing in loco parentis, if any, may make an order authorizing the performance of the necessary medical, surgical, dental, or other remedial care for that person.

(c) Whenever a ward of the juvenile court is placed by order of the court within the care and custody or under the supervision of the probation officer of the county in which the ward resides and it appears to the court that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize medical, surgical, dental, or other remedial care or treatment for the ward, the court may, after due notice to the parent, guardian, or person standing in loco parentis, if any, order that the probation officer may authorize the medical, surgical, dental, or other remedial care for the ward by licensed

practitioners, as may from time to time appear necessary.

(d) Whenever it appears that a minor otherwise within subdivision (a), (b), or (c) requires immediate emergency medical, surgical, or other remedial care in an emergency situation, that care may be provided by a licensed physician and surgeon or, if the minor needs dental care in an emergency situation, by a licensed dentist, without a court order and upon authorization of a probation officer. If the minor needs foot or ankle care within the scope of practice of podiatric medicine, as defined in Section 2472 of the Business and Professions Code, a probation officer may authorize the care to be provided by a podiatrist after obtaining the advice and concurrence of a physician and surgeon. The probation officer shall make reasonable efforts to obtain the consent of, or to notify, the parent, guardian, or person standing in loco parentis prior to authorizing emergency medical, surgical, dental, or other remedial care. "Emergency situation," for the purposes of this subdivision means a minor requires immediate treatment for the alleviation of severe pain or an immediate diagnosis and treatment of an unforeseeable medical, surgical, dental, or other remedial condition or contagious disease which if not immediately diagnosed and treated, would lead to serious disability or death.

(e) In any case in which the court orders the performance of any medical, surgical, dental, or other remedial care pursuant to this section, the court may also make an order authorizing the release of information concerning that care to probation officers, parole officers, or any other qualified individuals or agencies caring for or acting in the interest and welfare of the minor under order, commitment, or approval of the court.

(f) Nothing in this section shall be construed as limiting the right of a parent, guardian, or person standing in loco parentis, who has not been deprived of the custody or control of the minor by order of the court, in providing any medical, surgical, dental, or other remedial treatment recognized or permitted under the laws of this state.

(g) The parent of any person described in this section may authorize the performance of medical, surgical, dental, or other remedial care provided for in this section notwithstanding his or her age or marital status. In nonemergency situations the parent authorizing the care shall notify the other parent prior to the administration of the care.



### Minor Consent Mental Health: What is SB 543?

Senate Bill 543, signed by the Governor in October 2010, creates a new minor consent mental health right in California. This document describes Health and Safety Code 124260, the minor consent law created by SB 543, and highlights the differences between Health and Safety 124260 and Family Code 6924, the minor consent mental health statute currently in effect.

Is the law in effect right now?	This law is currently in effect.	This law is not in effect right now. It will go into effect on January 1, 2011.
What happens on January 1, 2011?	This law remains in effect. Both Health and Safety 124260 and Family Code 6924 will be in effect simultaneously as of January 1, 2011.	This law will go into effect. Both Health and Safety 124260 and Family Code 6924 will be in effect simultaneously as of January 1, 2011.
When can a minor consent to services under this statute?	A minor can consent to mental health treatment if he or she meets all of the following requirements: <ul style="list-style-type: none"> <li>• Age 12 or older</li> <li>• The minor is mature enough to participate intelligently in the treatment</li> <li>• The minor would be in danger of serious physical or mental harm to him/herself or others without treatment, or the minor is the victim of incest or child abuse.</li> </ul>	A minor can consent to mental health treatment if he or she meets both of the following requirements: <ul style="list-style-type: none"> <li>• Age 12 or older</li> <li>• The minor is mature enough to participate intelligently in the treatment.</li> </ul>
What mental health services can minors consent to under this statute?	A minor can consent to: <ul style="list-style-type: none"> <li>• Outpatient mental health treatment and counseling</li> </ul>	A minor can consent to: <ul style="list-style-type: none"> <li>• Outpatient mental health treatment and counseling</li> </ul>
What mental health services are not covered by this statute?	Minors <i>cannot</i> consent to any of the following services under this statute: <ul style="list-style-type: none"> <li>• Inpatient mental health treatment</li> <li>• Psychotropic drugs</li> <li>• Convulsive therapy</li> <li>• Psychosurgery</li> </ul>	Minors <i>cannot</i> consent to any of the following services under this statute: <ul style="list-style-type: none"> <li>• Inpatient mental health treatment</li> <li>• Psychotropic drugs</li> <li>• Convulsive therapy</li> <li>• Psychosurgery</li> </ul>

<p><b>Who can provide mental health services to consenting minors under this statute?</b></p>	<p>The following agencies and individuals can provide services based on a minor's consent under this law:</p> <ul style="list-style-type: none"> <li>• A professional person<sup>1</sup> as defined by statute (see below)</li> <li>• Government agencies</li> <li>• Agencies contracting with government agencies</li> <li>• Agencies receiving community united funds</li> <li>• Runaway or crisis resolution center</li> </ul>	<p>The following agencies and individuals can provide services based on a minor's consent under this law:</p> <ul style="list-style-type: none"> <li>• A professional person<sup>1</sup> as defined by statute (see below)</li> </ul>
<p><b>Do parents need to be notified when a minor consents to mental health treatment under this law?</b></p>	<p>Parents must be involved in the minor's treatment, unless the provider determines that their involvement would be inappropriate. Involving parents in treatment will necessitate sharing certain confidential information; however, having them participate does not mean parents have a right to access confidential records. Providers should attempt to honor the minor's right to confidentiality to the extent possible while still involving parents in treatment.</p>	<p>Parents must be involved in the minor's treatment, unless the provider determines, after consulting with the minor, that the involvement would be inappropriate. Involving parents in treatment will necessitate sharing certain confidential information; however, having them participate does not mean parents have a right to access confidential records. Providers should attempt to honor the minor's right to confidentiality to the extent possible while still involving parents in treatment.</p>
<p><b>Do parents have a right to access the mental health records regarding services provided under this statute?</b></p>	<p>When a minor consents to treatment under this statute, the provider can only share the related mental health records with parents or guardians when the provider has a written authorization from the minor.<sup>2</sup> (But see above regarding parent involvement)</p>	<p>When a minor consents to treatment under this statute, the provider can only share the related mental health records with parents or guardians when the provider has a written authorization from the minor.<sup>3</sup> (But see above regarding parent involvement)</p>
<p><b>Are there any differences in the funding sources available for these services?</b></p>	<p>Welfare and Institutions Code § 14029.8 states that "Section 124260 of the Health and Safety Code shall not apply to the receipt of benefits under the Medi-Cal program." No such restriction exists for Family Code § 6924</p>	

<sup>1</sup> A professional person includes a mental health professional as defined in the California Code of Regulations, a marriage and family therapist as defined in the Business and Professions Code, a licensed educational psychologist as defined in the Business and Professions Code, a credentialed school psychologist as defined in the Education Code, a clinical psychologist as defined in the Health and Safety Code. In addition, Health and Safety Code § 124260 also includes a licensed clinical social worker as defined in the Business and Professions Code. For the exact code sections containing these definitions, see Family Code § 6924(a)(2) and Health and Safety Code § 124260(a)(2).

<sup>2</sup> Cal. Health & Saf. Code §§ 123110(a), 123115(a); Cal. Civ. Code § 56.10(b)(7), 56.11(c); 45 C.F.R. 164.502(g)(3); 45 C.F.R. 164.508(a).

<sup>3</sup> Cal. Health & Saf. Code §§ 123110(a), 123115(a); Cal. Civ. Code § 56.10(b)(7), 56.11(c); 45 C.F.R. 164.502(g)(3); 45 C.F.R. 164.508(a).