

Appendix A – Client Consent

LPS conservatees:

- An LPS conservatee's signature is optional on the Consent for Treatment.

Youth Client Signature on Consent for Treatment:

- Minor under age 12:
 - Staff rarely obtain signature of a minor less than 6.
 - Staff obtain and document participation and agreement for a minor 6 or older but less than 12 as best practice for clinical reasons, but it is not a legal requirement.
- Minor 12 or older:
 - Staff will obtain the client's signature unless the client is unavailable or refuses to sign.
 - Occasionally, a minor age 12 or older is unable to participate intelligently in treatment planning due to symptoms of his/her mental illness or lack of maturity. If the client is unable to participate meaningfully after attempts to engage, use the "Document Client Non-signature" option. Staff may provide services with only the P/LRP signature the Consent for Treatment in this instance.
 - For a minor under 12 or not mature enough to participate in treatment planning, no P/LRP participation and agreement = no treatment.

	Minor less than 12	Minor ≥ 12, <u>not</u> mature enough to participate in planning	Minor ≥ 12, mature enough to participate in treatment planning independently:	
			Not minor consent	Minor Consent
Minor	<6: Not Obtained ≥6: Not Required	Best Practice	Required	Required
Parent / Legally Responsible Person	Required		Best Practice	Not Obtained

Minor Consent services:

There are two different laws that allow minors to consent for treatment on their own signature. Both require the therapist to involve the parent in treatment unless the therapist determines that parental involvement is inappropriate. Clearly document the decision and any efforts to involve the parent in Progress Notes. If parental involvement is inappropriate, staff will not obtain the P/LRP signature on the Consent for Treatment. Program Supervisor approval is required for Minor Consent services.

❖ Notes:

- Minor consent is limited to outpatient services and excludes psychotropic medication, ECT or psychosurgery.
- When a minor could have consented for his or her own services, but did not, discuss the risks and benefits of treatment with the minor and the parent and then obtain

both the minor's and the Parent's/Legally Responsible Person's signature on the Consent for Treatment.

- When a minor consents for his or her own services, the record must document:
 1. An explicit statement that the professional person believes the minor is mature enough to participate intelligently in outpatient services. (*Family Code § 6924 and Health & Safety Code § 124260*)
 2. A statement that the minor would present a danger of serious physical or mental harm to self or others without the mental health treatment, or is the alleged victim of incest or child abuse. Services can only be billed to Medi-Cal if the minor meets the stricter *Family Code § 6924* requirements and has Minor Consent Medi-Cal. (*Family Code § 6924 / Minor Consent Medi-Cal services only; not applicable to Health & Safety Code § 124260 services*)
 3. The attempts to involve the parent and the outcome of the attempts, or the reasons why the provider thinks it would be inappropriate to involve the parent in the minor's treatment. (*Family Code § 6924 and Health & Safety Code § 124260*)
- When a minor consents (or could have consented) for his or her own services, the minor controls access to the record and must sign all Releases of Information prior to third party disclosure (excludes mandated reporting and "must" disclosures).
- When a minor could have consented for his or her own services, but did not, usually the best choice is to discuss potential third party disclosures with the minor and the parent, and then obtain both the minor's and the Parent's/Legally Responsible Person's signatures on the Authorization to Use/Disclose PHI.
- When a minor consents for his or her own services, the minor's written authorization is required before disclosing outpatient treatment information to a parent. Involving parents in treatment will necessitate sharing certain otherwise confidential information; however, having them participate does not mean parents have a right to access all confidential records. Providers should honor the minor's right to confidentiality to the extent possible while still involving parents in treatment – disclose the minimum necessary to accomplish the treatment purpose. If the client presents as a danger to self, others or as a gravely disabled minor, W&I 5585 requires information to be shared with a parent or legal guardian. A separate exception to confidentiality applies to Drug & Alcohol treatment information (42 C.F.R. § 2.14).

When a minor (age ≥ 12 but not mature enough to consent for treatment independently) objects to a parent's request for disclosure to a third party, the record must document:

- The specific behaviors/symptoms that support the professional person's opinion that, as a result of his/her illness, lack of maturity, or other related factors, the minor lacks the maturity necessary to consent to treatment intelligently.
- Any attempts to obtain the minor's signature on the Release of Information.
- The reason the professional person intends to disclose the information despite the minor's continued objection.
- Example: "Client's ongoing depression, thought disturbance and unrealistic beliefs about their ability to care for themselves make them incapable of making intelligent, independent treatment choices. Their parent signed a release of information to provider X – the client

objects, and is unwilling to discuss the disclosure rationally. The disclosure is needed to coordinate appropriate treatment, and will be made at the parent's request because the minor does not qualify for minor consent under the circumstances."

Explaining Confidentiality to Minors

I want to talk to you about the word **confidential** and what it means when you come to see me. The word confidential means that when you share something with me, I cannot tell other people because it is your private information. This is a safe place to talk about your feelings, thoughts, experiences, family, or anything you want to talk about or need help with, and I want you to feel comfortable talking to me. A lot of the things we talk about will be confidential, so they will just be between me and you, but there are some things that are not confidential, which means that I would need to tell another adult. One of those times that I would need to share with another adult is if it's about safety, because your safety is really important to me. For example, if you tell me that someone is hurting you, I am going to be so thankful that you told me and I am going to talk to another adult so we can make a plan to keep you safe. Or if you tell me that you want to hurt yourself or somebody else, again I will be so happy that you shared with me, and I will need to talk to another adult to make a plan to help keep you or others safe. Does that make sense? Do you have any questions about what I've told you so far?

I also want to tell you about what we call records. When you come into the office to see me, I will take notes because everything you say is really important to me and I don't want to forget. After you leave the office I put the notes into the computer to keep them safe. When they are in the computer sometimes there are other people who work here who can see them too so that if they need to help me or you with something they are prepared. (Only for Foster Youth: It's important for you to know that even if your foster parent works here, they are not allowed to go into your notes, but if you are working with them here too, then they may be the ones putting your notes into the computer.) Those notes are called records. I can write the notes by myself, but I wanted to let you know that we can talk about what goes in the notes together if you want, so that you feel comfortable knowing what they say or don't say. For example, if you would like to go by a different name or different pronouns than what your family calls you, but you aren't ready to share that with them yet, you can let me know and I will not put that in your health record. I also want you to know that we might get to talk about a lot of things together, but not everything we talk about will go in the notes. I want to keep most things you tell me confidential, or private, and so I will remember a lot of it, and only need to write down things that I teach you or things that you are practicing, like learning new feeling words and what to do with big feelings, different ways to calm down, or how to solve problems or conflicts with family or friends. Do you have any questions about what type of things will go in the notes, and what type of things I will remember that I don't need to put in the notes?

Sometimes your family may want to see the notes so they know what we are working on together, I want to make sure you understand what they are allowed to see and what they are not allowed to see. Sometimes kids will tell me that's it's ok if their parent or

guardian sees the notes, and sometimes kids will tell me they are worried about someone seeing the notes, so if you ever have a question about what you share with me it's always ok to ask me. Do you think you would be comfortable asking me questions about your notes?

We talked about the word **confidential** and the word **records**. I know it was a lot of information. Do you have any questions for me?