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 <u>outpatient</u> 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; <u>not</u> 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 <u>must</u> 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 <u>not</u> 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 themself 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."