

Procedural Guide

0600-501.09

CONSENT FOR MENTAL HEALTH AND/OR DEVELOPMENTAL ASSESSMENT AND SERVICES

Date Issued: 11/04/09

New Policy Release

Revision of Existing Procedural Guide Consent for Mental Health Treatment dated 04/30/09

Revision Made: NOTE: Current Revisions are Highlighted

The recommendation order to court for mental health/developmental services and release of information has been updated.

Cancels: None

DEPARTMENTAL VALUES

This Procedural Guide supports the Departments efforts to ensure child safety and assist in timely permanency by providing staff with guidelines on how to obtain consent for mental health and/or developmental assessment and services for a youth.

WHAT CASES ARE AFFECTED

This Procedural Guide is applicable to all new and existing referrals and cases for children in out-of-home care and in home care (voluntary or court dependent).

OPERATIONAL IMPACT

In 2002, a lawsuit (Katie A.) was filed against the State of California and Los Angeles County on behalf of children in contact with the County's foster care system stating that they were not receiving mental health and other services that they were supposed to receive. In July 2003, the County entered into a settlement agreement and it agreed to ensure that the needs of children in or at risk of foster care were identified and to provide them with the mental health services that they need. As a result of this lawsuit

(Katie A.), children receiving ongoing child welfare services from the Department (voluntary or court) and with a positive Mental Health Screening Tool or Observation of a Behavioral Indicator shall be referred to the appropriate mental health services, see Procedural Guide 0070-516.05. Screening and Assessing Children for Mental Health Services and Referral to the Coordinated Services Action Team (CSAT). Once all of the provisions of the Katie A. Strategic Plan have been implemented, Multi-Disciplinary Assessment Teams (MAT) and CSAT will be available to Children's Social Workers (CSWs) in all Regional Offices and the procedures for accessing services through these teams will be the same across the County.

The Department intends to have all newly detained children in out-of-home care referred to MAT for comprehensive assessments. In order to do so in a timely manner, the CSW needs to obtain consent for treatment and authorization for disclosure of Protected Health Information (PHI) on all newly detained children in out-of-home care; however, MAT is not fully implemented in all DCFS offices at this time. In offices that **do not** have MAT fully implemented, consent for treatment and authorization for disclosure of Protected Health Information (PHI) will only need to be obtained if there is a positive result on the Mental Health Screening Test (MHST) or the child exhibits behaviors that indicate an unmet mental health need. Similarly, in offices where the CSAT **has been** implemented, a MHST will be administered to all children and the CSW needs to obtain consent for treatment and authorization for disclosure of Protected Health Information (PHI) for those children with a positive MHST result. In offices **without** CSAT, there is no requirement to administer the MHST to all children, but if there are concerns that the child has an unmet mental health need, the CSW will need to obtain consent for treatment and authorization for disclosure of Protected Health Information (PHI) prior to referral to Co-located Mental Health staff for assessment and linkage to services. See Procedural Guide 0070-516.05. Screening and Assessing Children for Mental Health Services and Referral to the Coordinated Services Action Team (CSAT), for a list of behavioral indicators.

Developmental screenings and/or assessments are routinely performed by MAT providers, Medical Hubs or pediatricians during well-child examinations. If, based on a medical or developmental concern discovered through the MAT assessment or medical examination, a referral to Regional Center is indicated, the CSW must obtain consent and authorization for disclosure of Protected Health Information (PHI) prior to referring the case to the Regional Center. Regional Center can accept the case for evaluation only if there are consent and authorization for disclosure of Protected Health Information (PHI) included in the referral documents.

The issue of mental health consent frequently arises in the course of providing services to children. The question as to who is authorized to provide consent depends on the age and maturity of the child, the child's legal status, the nature of the mental health and/or developmental services sought and/or the availability of the parent(s). Whether the child is placed with the parent(s) or is in out-of-home care, a child's parent or legal guardian has the legal authority to consent to mental health and/or developmental

assessment and services for their child. However, there exist exceptions to this principle, parents cannot provide consent if:

- Parental rights have been terminated
 - When the adoption has been finalized, the adoptive parents provide consent.
 - If the adoption has not been finalized, the Court must provide consent.
- The child is under legal guardianship
 - When the child is under legal guardianship, the legal guardian usually has the authority to make medical decisions for the child if indicated in the letters of appointment.

In addition, a parent of a youth cannot consent to the following:

- Psychotropic Medication for a dependent child in out-of-home care (post disposition), unless permitted by the court
- Psychiatric Hospitalizations for a dependent child
- Psychosurgery
- Shock Treatment

NOTE: Foster parents, caretakers, a child's attorney and social workers do not have the legal authority to provide consent for a mental health and/or developmental assessment and services for a child, except in very limited instances, such as pursuant to a court order or where the parent has provided their permission; such authority must be verified (e.g., review a copy of a court order; executed caretaker's authorization).

The Department has developed the DCFS 179-MH form to ensure that foster children receive mental health and/or developmental services in a timely manner. **The DCFS 179-MH is to be accepted as the consent form by mental health providers that DCFS clients are linked to and Regional Center for a developmental assessment,** see Procedural Guide 0600-520.00, Collaborating with Regional Center to Provide Services to Children/Youth. If a service provider questions the validity of the DCFS 179-MH, the CSW is to contact the co-located DMH staff who can clarify use and procedures of the form and determine whether a referral to another provider would be appropriate. The DCFS 179-MH does not authorize the release of protected mental health information; see Procedural Guide 0600-500.20, Protected Health and Medical Information: Access and Sharing, for information on obtaining authorization to release protected health information.

By signing the DCFS 179-MH, a parent is providing consent for the child's mental health and/or developmental assessment and for the child's participation in mental health and /or developmental services.

The mental health provider may deem any of the following mental health services to be appropriate: individual or group psychotherapy, individual or group counseling, individual or group rehabilitation, targeted case management, psychological testing*, day treatment intensive services*, day rehabilitation*, therapeutic behavior services* (TBS); and other appropriate and recognized mental health services appropriate for the child's needs.

* Requires a pre-authorization by the Department of Mental Health. For more information on psychological testing, see Procedural Guide 0600-501.05, Psychological Testing of DCFS-Supervised Children.

When a parent is not available or declines to provide consent for their child's mental health and/or developmental assessment and services, in most court cases, consent will be requested from the court to expedite the child's mental health and/or developmental assessment and services. In some cases, if the child is 12 years of age or older, and it is most expeditious to do so, the provider may obtain consent directly from the youth for his/her own mental health and/or developmental assessment and services in lieu of the parent.

If the child is providing consent, it is the responsibility of the mental health provider to ensure that the child is of sufficient maturity and age to give informed consent. If the provider determines the child does not have the requisite ability, the child's consent will not be valid. The mental health provider is responsible for obtaining consent from a child that is 12 years of age or older on the applicable form(s) utilized by that provider. The DCFS 179-MH is NOT to be utilized to obtain youth's consent. A youth can consent to mental health treatment in the following situations:

1. A youth who is 12 years of age or older may consent to mental health services or counseling on an outpatient basis, or to residential shelter services, if both of the following requirements are satisfied:
 - a) The youth, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services or residential shelter services
 - b) The youth:
 - i. Would present a danger of serious physical or mental harm to self or to others without the mental health services or counseling or residential shelter services, or
 - ii. Is the alleged victim of incest or child abuse
2. The youth has been declared emancipated from his/her parent/guardian by the courts and as been issued an identification card by the Department of Motor Vehicles.

3. The youth is self sufficient as exhibited by being over 15 years old, not living at home and manages his/her own financial affairs.
4. The youth is currently serving in the US Armed Forces.
5. The youth is or has been married.

Procedures

A. WHEN: OBTAINING CONSENT FOR MENTAL HEALTH AND/OR DEVELOPMENTAL ASSESSMENT AND SERVICES FOR ALL NEWLY DETAINED* YOUTH-COURT ORDERED FR CASES IN OFFICES WITH MULTIDISCIPLINARY ASSESSMENT TEAMS (MAT)

- * For the purposes of this Procedural Guide, "newly detained" is defined as a child removed from the custody of his/her parent(s)/legal guardian(s) under a WIC 300 petition, placed in out-of-home care and not named on a currently open case. (The "newly detained" population does not include children removed from one parent & placed with another under a Court FM case, a failed VFM.

ER CSW Responsibilities (including ERCP CSWs)

1. Prior to the detention hearing, explain to the parent/legal guardian that their consent is needed to provide the child with the necessary and appropriate mental health and/or developmental assessment and services. Explain to the parent/legal guardian that by signing the DCFS 179-MH, s/he is agreeing that the child can have a mental health and/or developmental assessment and receive any of the mental health and/or developmental services listed on the DCFS 179-MH that the service provider deems as appropriate. Inform the parent/legal guardian of the following:
 - a) If the parent/legal guardian does not agree to sign the DCFS 179-MH it will not be held against them but consent will be sought through the court at the detention hearing.
2. If the parent/legal guardian signed the DCFS 179-MH, place the original in the Psychological/Medical/ Dental/School folder (purple) and provide a copy of the DCFS 179-MH to the following:
 - a) Parent/legal guardian,
 - b) Any caregiver responsible for obtaining mental health and/or developmental services (Regional Center) for the youth, and/or
 - c) In offices where CSAT **has been** implemented, to the CSAT Screening Clerk along with the Mental Health Screening Tool (MHST).
 - d) In offices where CSAT **has not been** implemented to the Co-located DMH staff.

NOTE: A parent/legal guardian or child, and in some cases the court must provide consent to the disclosure of Protected Health Information, including mental health information. A parent/legal guardian is to sign the DCFS 179-PHI to consent to the disclosure of Protected Health Information. See Procedural Guide 0600-500.20, Protected Health Information/Medical Information: Access and Sharing for more information.

3. Document the following in the Detention Report:

- a) If the DCFS 179-MH and DCFS 179-PHI were signed by the parent, document the following in the **“REASONABLE EFFORTS AND/OR PRIOR INTERVENTIONS/SERVICES OFFERED”** section of the report:

“Parent/Legal Guardian (enter parent’s name) signed the DCFS 179 MH Parental Consent for Child’s Mental Health/Developmental Assessment and Participation in Mental Health/Developmental Services, and the DCFS 179-PHI, Authorization for Disclosure of Child’s Protected Health Information.”

- b) If consent was not obtained from the parent/legal guardian before the Detention hearing describe the efforts made to obtain the parent’s signature on the forms, and the reason why it was not possible to obtain the signature and include in the **REASONABLE EFFORTS AND/OR PRIOR INTERVENTIONS/SERVICES OFFERED**” section of the report:

Add the following language under **“RECOMMENDATION”**:

It is respectfully recommended that the court make the following order: “The court orders a mental health and/or developmental assessment of the child[ren] _____ to be performed by a licensed mental health professional within the State DMH approved disciplines. Further, the developmental assessment of the child[ren] may be performed by an approved Regional Center provider.

The above referenced mental health and/or developmental assessment is to be used solely for the purpose of coordinating/providing treatment and/or other services for the child[ren].

Upon recommendation of the approved professional, necessary mental health and/or developmental treatment is authorized and DCFS is to secure services to be provided by a licensed mental health professional within the State DMH approved disciplines or a qualified person under the direction of a licensed mental health professional within the State DMH approved disciplines. Further, necessary mental health and/or developmental treatment may be provided by Regional Center staff or an approved

Regional Center provider. The child[ren]'s attorney is to be notified within 72 hours from the time the child[ren] is referred for mental health and/or developmental treatment.

This order does not apply to administration of psychotropic medications.

The child[ren]'s service provider shall provide DCFS with information relevant to the care and treatment of the child[ren] upon request by DCFS. Such information shall not include the details of therapeutic sessions or statements made by the child[ren] unless otherwise required by law. Further pursuant to Welfare and Institutions Code Section 5328.04 and Civil Code §56.103 information disclosed pursuant to this order may not be admitted into evidence in any criminal or delinquency proceeding against the child. Nothing in this order shall prohibit identical evidence derived solely from other lawful means from being admissible in a criminal proceeding.

DCFS is to regularly update this Court, all parties to this case, and their legal counsel, regarding the status of the mental health and/or developmental assessment and treatment authorized pursuant to this order.”

4. When the minute order is received with the court consent for mental health and/or developmental assessment and services, provide a copy of the redacted minute order to the mental health provider to initiate mental health treatment for the youth and/or Regional Center to complete the developmental assessment and provide services.

ER SCSW Responsibilities

1. Review and approve the Detention report. If changes are needed, instruct the CSW to make the required changes.

B. WHEN: OBTAINING CONSENT FOR MENTAL HEALTH AND/OR DEVELOPMENTAL ASSESSMENT AND SERVICES FOR ALL NEWLY DETAINED* YOUTH-COURT ORDERED FR CASES IN OFFICES WHERE MULTIDISCIPLINARY ASSESSMENT TEAMS (MATs) ARE NOT FULLY IMPLEMENTED

ER CSW Responsibilities (including ERCP CSWs)

1. If the child(ren) has a positive Mental Health Screen, behavioral indicator(s) and/or developmental concerns prior to the detention hearing, explain to the parent/legal guardian that their consent is needed to provide the child with the necessary and appropriate mental health and/or developmental assessment and services. Explain

to the parent/legal guardian that by signing the DCFS 179-MH, s/he is agreeing that the child can have a mental health and/or developmental assessment and receive any of the mental health and/or developmental services listed on the DCFS 179-MH that the service provider deems as appropriate. Inform the parent/legal guardian of the following:

- a) If the parent/legal guardian does not agree to sign the DCFS 179-MH it will not be held against them but consent will be sought through the court at the detention hearing.
2. If the parent/legal guardian signed the DCFS 179-MH, place the original in the Psychological/Medical/ Dental/School folder (purple) and provide a copy of the DCFS 179-MH to the following:
- a) Parent/legal guardian,
 - b) Any caregiver responsible for obtaining mental health and/or developmental services (Regional Center) for the youth, and/or
 - c) In offices where CSAT **has been** implemented, to the CSAT Screening Clerk along with the Mental Health Screening Tool (MHST).
 - d) In offices where CSAT **has not been** implemented to the Co-located DMH staff.

NOTE: A parent/legal guardian or child, and in some cases the court must provide consent to the disclosure of Protected Health Information, including mental health information. A parent/legal guardian is to sign the DCFS 179-PHI to consent to the disclosure of Protected Health Information. See Procedural Guide 0600-500.20, Protected Health Information/Medical Information: Access and Sharing for more information.

3. Document the following in the Detention Report:

If the DCFS 179-MH and DCFS 179-PHI were signed by the parent, document the following in the "**REASONABLE EFFORTS AND/OR PRIOR INTERVENTIONS/SERVICES OFFERED**" section of the report:

"Parent/Legal Guardian (enter parent's name) signed the DCFS 179 MH Parental Consent for Child's Mental Health/Developmental Assessment and Participation in Mental Health/Developmental Services, and the DCFS 179-PHI, Authorization for Disclosure of Child's Protected Health Information."

- a. If consent was not obtained from the parent/legal guardian before the Detention hearing describe the efforts made to obtain the parent's signature on the forms, and the reason why it was not possible to obtain the signature and include in the

”REASONABLE EFFORTS AND/OR PRIOR INTERVENTIONS/SERVICES OFFERED” section of the report:

Add the following language under **“RECOMMENDATION”**:

It is respectfully recommended that the court make the following order: “The court orders a mental health and/or developmental assessment of the child[ren] _____ to be performed by a licensed mental health professional within the State DMH approved disciplines. Further, the developmental assessment of the child[ren] may be performed by an approved Regional Center provider.

The above referenced mental health and/or developmental assessment is to be used solely for the purpose of coordinating/providing treatment and/or other services for the child[ren].

Upon recommendation of the approved professional, necessary mental health and/or developmental treatment is authorized and DCFS is to secure services to be provided by a licensed mental health professional within the State DMH approved disciplines or a qualified person under the direction of a licensed mental health professional within the State DMH approved disciplines. Further, necessary mental health and/or developmental treatment may be provided by Regional Center staff or an approved Regional Center provider. The child[ren]’s attorney is to be notified within 72 hours from the time the child[ren] is referred for mental health and/or developmental treatment.

This order does not apply to administration of psychotropic medications.

The child[ren]’s service provider shall provide DCFS with information relevant to the care and treatment of the child[ren] upon request by DCFS. Such information shall not include the details of therapeutic sessions or statements made by the child[ren] unless otherwise required by law. Further pursuant to Welfare and Institutions Code Section 5328.04 and Civil Code §56.103 information disclosed pursuant to this order may not be admitted into evidence in any criminal or delinquency proceeding against the child. Nothing in this order shall prohibit identical evidence derived solely from other lawful means from being admissible in a criminal proceeding.

DCFS is to regularly update this Court, all parties to this case, and their legal counsel, regarding the status of the mental health and/or developmental assessment and treatment authorized pursuant to this order.”

4. When the minute order is received with the court consent for mental health and/or developmental assessment and services, provide a copy of the redacted

minute order to the mental health provider to initiate mental health treatment for the youth and/or Regional Center to complete the developmental assessment and provide services.

C. WHEN: OBTAINING CONSENT FOR MENTAL HEALTH AND/OR DEVELOPMENTAL ASSESSMENT AND SERVICES FOR YOUTH WITH NEW COURT SUPERVISED FM CASE & WITH A POSITIVE MENTAL HEALTH SCREENING TOOL (MHST), OBSERVATION OF BEHAVIORAL INDICATOR OR POTENTIAL DEVELOPMENTAL DELAY

ER CSW Responsibilities

1. Prior to the Detention Hearing, explain to the parent/legal guardian that their consent is needed to provide the child with the necessary and appropriate mental health and/or developmental assessment (Regional Center) and services. Explain to the parent/legal guardian that by signing the DCFS 179-MH, s/he is agreeing that the child can have a mental health and/or developmental assessment and receive any of the mental health and/or developmental services listed on the DCFS 179-MH that the service provider deems as appropriate. Inform the parent/legal guardian of the following:

a) If the parent/legal guardian does not agree to sign the DCFS 179-MH, it will not be held against them, but consent will be sought from the court.

b) If the parent/legal guardian signed the DCFS 179-MH place the original in the Psychological/Medical/ Dental/School folder (purple) and provide a copy of the DCFS 179-MH to the following:

i. Parent/legal guardian,

ii Service provider responsible for providing mental health services for the youth and/or Regional Center for developmental services.

c) If the child is not currently being seen by a service provider. Take the following steps:

i) In offices where CSAT **has been** implemented, provide a copy of the DCFS 179-MH along with the Mental Health Screening Tool (MHST) to the CSAT Screening Clerk.

ii) In offices where CSAT **has not been** implemented, provide a copy of the DCFS 179-MH to the Co-located DMH staff.

d.) Document the following in the Detention Report:

If the DCFS 179-MH and DCFS 179-PHI were signed by the parent, document the following in the "**REASONABLE EFFORTS AND/OR PRIOR INTERVENTIONS/SERVICES OFFERED**" section of the report:

“Parent/Legal Guardian (enter parent’s name) signed the DCFS 179 MH Parental Consent for Child’s Mental Health/Developmental Assessment and Participation in Mental Health/Developmental Services, and the DCFS 179-PHI, Authorization for Disclosure of Child’s Protected Health Information.”

- e.) If consent was not obtained from the parent/legal guardian before the Detention hearing describe the efforts made to obtain the parent’s signature on the forms, and the reason why it was not possible to obtain the signature and include in the **”REASONABLE EFFORTS AND/OR PRIOR INTERVENTIONS/SERVICES OFFERED”** section of the report:

Add the following language under **”RECOMMENDATION”**:

It is respectfully recommended that the court make the following order: “The court orders a mental health and/or developmental assessment of the child[ren] _____ to be performed by a licensed mental health professional within the State DMH approved disciplines. Further, the developmental assessment of the child[ren] may be performed by an approved Regional Center provider.

The above referenced mental health and/or developmental assessment is to be used solely for the purpose of coordinating/providing treatment and/or other services for the child[ren].

Upon recommendation of the approved professional, necessary mental health and/or developmental treatment is authorized and DCFS is to secure services to be provided by a licensed mental health professional within the State DMH approved disciplines or a qualified person under the direction of a licensed mental health professional within the State DMH approved disciplines. Further, necessary mental health and/or developmental treatment may be provided by Regional Center staff or an approved Regional Center provider. The child[ren]’s attorney is to be notified within 72 hours from the time the child[ren] is referred for mental health and/or developmental treatment.

This order does not apply to administration of psychotropic medications.

The child[ren]’s service provider shall provide DCFS with information relevant to the care and treatment of the child[ren] upon request by DCFS. Such information shall not include the details of therapeutic sessions or statements made by the child[ren] unless otherwise required by law. Further pursuant to Welfare and Institutions Code Section 5328.04 and Civil Code §56.103 information disclosed pursuant to this order may not be admitted into evidence in any criminal or delinquency proceeding against the child. Nothing in this order shall prohibit identical evidence derived solely from other lawful means from being admissible in a criminal proceeding.

DCFS is to regularly update this Court, all parties to this case, and their legal counsel, regarding the status of the mental health and/or developmental assessment and treatment authorized pursuant to this order.”

- f.) When the minute order is received with the court consent for mental health and/or developmental assessment and services, provide a copy of the redacted minute order to the mental health provider to initiate mental health treatment for the youth and/or Regional Center to complete the developmental assessment and provide services.

D. WHEN: OBTAINING CONSENT FOR MENTAL HEALTH AND/OR DEVELOPMENTAL ASSESSMENT AND SERVICES FOR YOUTH WITH NEW OR EXISTING) VFM/VFR CASE & WITH A POSITIVE MENTAL HEALTH SCREENING TOOL (MHST) OBSERVATION OF BEHAVIORAL INDICATOR OR POTENTIAL DEVELOPMENTAL DELAY

ER, ISW, or Case-Carrying CSW Responsibilities

- 1. Prior to or at the signing the VFM or VFR Case Plan, or when providing services to the family, explain to the parent/legal guardian that their consent is needed to provide the child with the necessary and appropriate mental health and/or developmental assessment (Regional Center) and services. Explain to the parent/legal guardian that by signing the DCFS 179-MH, s/he is agreeing that the child can have a mental health and/or developmental assessment and receive any of the mental health and/or developmental services listed on the DCFS 179-MH that the service provider deems as appropriate. Inform the parent/legal guardian of the following:
 - a). If the parent/legal guardian does not agree to sign the DCFS 179-MH, it will not be held against them, but consent will be sought from the child, if the child is 12 years of age or older.

NOTE: If a parent(s) is declining to sign the DCFS 179-MH, the family may not be an appropriate candidate for a VFM or VFR case. See Procedural Guide 0900-503.10, Family Maintenance for Both Court and Voluntary Cases and PG 0100-510.21, Voluntary Placement.

- b). If the parent/legal guardian signed the DCFS 179-MH place the original in the Psychological/Medical/ Dental/School folder (purple) and provide a copy of the DCFS 179-MH to the following:
 - i. Parent/legal guardian,

- c) If this is a VFR case, any caregiver responsible for obtaining mental health and/or developmental services (Regional Center) for the youth, and/or
 - i. Service provider responsible for providing mental health services for the youth and/or Regional Center for developmental services.
- d) If the child is not currently being seen by a service provider. Take the following steps:
 - i. In offices where CSAT **has been** implemented, provide a copy of the DCFS 179-MH along with the Mental Health Screening Tool (MHST) to the CSAT Screening Clerk.
 - ii. In offices where CSAT **has not been** implemented, provide a copy of the DCFS 179-MH to the Co-located DMH staff.
- e) If the parent declined to sign the DCFS 179-MH, document efforts made to obtain consent from the parent/legal guardian in the Contact Notebook and attempt to obtain consent from the youth if s/he is 12 years of age or older by completing the following steps:
 - i. If the youth is 12 years of age or older, have the service provider determine if the youth can legally consent to his/her own mental health and/or developmental services.
 - ii. If the youth can legally provide consent for mental health and/or developmental services, advise the service provider that he/she must obtain the signature of the youth on the applicable form(s) utilized by that provider. For DMH providers, the forms are: Consent of Minor, Consent for Services, and Authorization for Disclosure of Protected Health Information. Request copies of the documents and file in the Psychological/Medical/ Dental/School folder (purple).

E. WHEN: OBTAINING CONSENT FOR MENTAL HEALTH AND/OR DEVELOPMENTAL ASSESSMENT AND SERVICES FOR YOUTH IN EXISTING COURT CASES & WITH A POSITIVE MENTAL HEALTH SCREENING TOOL (MHST), OBSERVATION OF BEHAVIORAL INDICATOR OR POTENTIAL DEVELOPMENTAL DELAY

ISW or Case Carrying CSW Responsibilities

1. Explain to the parent/legal guardian that their consent is needed to provide the child with the necessary and appropriate mental health and/or developmental assessment (Regional Center) and services. Explain to the parent/legal guardian that by signing the DCFS 179-MH, s/he is agreeing that the child can have a mental health and/or developmental assessment and receive any of the mental health and/or

developmental services listed on the DCFS 179-MH that the service provider deems as appropriate. Inform the parent/legal guardian of the following:

- a). If the parent/legal guardian does not agree to sign the DCFS 179-MH, it will not be held against them, but consent will be obtained through the court. Determine what would be more expedient, obtaining consent from court (see step 3) or from a child 12 & older (see step 4).
2. If the parent/legal guardian signed the DCFS 179-MH place the original in the Psychological/Medical/ Dental/School folder (purple) and provide a copy of the DCFS 179-MH to the following:
 - a). Parent/legal guardian,
 - b). Any caregiver responsible for obtaining mental health and/or developmental services (Regional Center) for the youth, and/or
 - c). Service provider responsible for providing mental health for the youth and/or Regional Center for developmental services.
 3. If the parent/legal guardian declined or is not available to sign the DCFS 179-MH and it is more expedient to obtain consent from court, complete the following steps:
 - a) Document efforts made to obtain consent from the parent/legal guardian in the Contact Notebook.
 - b) Within three business days of the parent/legal guardian declining to sign the DCFS 179-MH, walk on an Ex-Parte report requesting an appearance hearing for the court to consent for the youth's mental health and/or developmental assessment and services. See Procedural Guide 0300-503.94, Set-On/Walk-On Procedures for more information. Include the following information in the Ex-Parte:
 - i. Explain that the parent/legal guardian is not available or declines to provide consent for mental health and/or developmental assessment and services;
 - ii. Describe efforts made to obtain consent from the parent/legal guardian;
 - iii. Explain that court consent for mental health and/or developmental assessment and services is necessary to meet the mental health and/or developmental needs of the child; and
 - iv. Include the following language under Recommendation:

It is respectfully recommended that the court make the following order:

“The court orders a mental health and/or developmental assessment of the child[ren] _____ to be performed by a licensed mental health professional within the State DMH approved

disciplines. Further, the developmental assessment of the child[ren] may be performed by an approved Regional Center provider.

The above referenced mental health and/or developmental assessment is to be used solely for the purpose of coordinating/providing treatment and/or other services for the child[ren].

Upon recommendation of the approved professional, necessary mental health and/or developmental treatment is authorized and DCFS is to secure services to be provided by a licensed mental health professional within the State DMH approved disciplines or a qualified person under the direction of a licensed mental health professional within the State DMH approved disciplines. Further, necessary mental health and/or developmental treatment may be provided by Regional Center staff or an approved Regional Center provider. The child[ren]'s attorney is to be notified within 72 hours from the time the child[ren] is referred for mental health and/or developmental treatment.

This order does not apply to administration of psychotropic medications.

The child[ren]'s service provider shall provide DCFS with information relevant to the care and treatment of the child[ren] upon request by DCFS. Such information shall not include the details of therapeutic sessions or statements made by the child[ren] unless otherwise required by law. Further pursuant to Welfare and Institutions Code Section 5328.04 and Civil Code §56.103 information disclosed pursuant to this order may not be admitted into evidence in any criminal or delinquency proceeding against the child. Nothing in this order shall prohibit identical evidence derived solely from other lawful means from being admissible in a criminal proceeding.

DCFS is to regularly update this Court, all parties to this case, and their legal counsel, regarding the status of the mental health and/or developmental assessment and treatment authorized pursuant to this order.”

- v. When the minute order is received with the court consent for mental health and/or developmental assessment and services, provide a copy of the redacted minute order to the service provider to initiate mental health services for the youth and/or Regional Center to complete the developmental assessment and provide services.
4. If the parent declined or is unavailable to sign the DCFS 179-MH and it would be more expedient to obtain consent from a youth 12 and older, document efforts made to obtain consent from the parent/legal guardian in the Contact Notebook and

attempt to obtain consent from the youth if s/he is 12 years of age or older by completing the following steps:

- a) If the youth is 12 years of age or older, have the service provider determine if the youth can legally consent to his/her own mental health and/or developmental services.
- b) If the youth can legally provide consent for mental health and/or developmental services, advise the service provider that he/she must obtain the signature of the youth on the applicable form(s) utilized by that provider. For DMH providers, the forms are: Consent of Minor, Consent for Services, and Authorization for Disclosure of Protected Health Information. Request copies of the documents and file in the Psychological/Medical/ Dental/School folder (purple).

ISW or Case Carrying SCSW Responsibilities

1. Review and approve the Ex-Parte report. If changes are needed, instruct the CSW to make the required changes.

F. WHEN: A PARENT/LEGAL GUARDIAN WITHDRAWS THEIR CONSENT FOR MENTAL HEALTH AND/OR DEVELOPMENTAL ASSESSMENT AND SERVICES ON A COURT SUPERVISED CASE

A parent/legal guardian can withdraw their consent for mental health and/or developmental assessment and services at any time by signing and submitting the "Revocation of Consent" on the DCFS 179-MH to the CSW. When the parent/legal guardian withdraws consent on a voluntary case, the CSW (in consultation with the SCSW), needs to consider if it is still appropriate for the case to have a voluntary status.

Case Carrying CSW Responsibilities

1. Inform the service provider that the parent/legal guardian withdrew their consent for mental health and/or developmental assessment and services. If the child is 12 years of age or older, determine with the service provider which course of action will facilitate the continuity of services: obtaining consent from the youth or obtaining consent through the court.
2. If the youth can legally provide consent for services, advise the service provider that he/she must obtain the signature of the youth on the applicable form(s) utilized by the provider. For DMH providers, the forms are: Consent of Minor, consent for services, and authorization for disclosure of protected health information. Request copies of the documents and file in the Psychological/Medical/Dental/School folder (purple).

3. If it is determined that obtaining consent through the court is the best route or the child is unable to consent for mental health and/or developmental services complete the following steps:

- a) Within three days of receiving the “Revocation of Consent” from the parent, walk on an Ex-Parte report requesting an appearance hearing for the court to consent for the youth’s mental health and/or developmental assessment and services. See Procedural Guide 0300-503.94, Set-On/Walk-On Procedures for more information.
- b) Explain the following in the Ex-Parte report: parent/legal guardian has withdrawn their consent for mental health and/or developmental assessment and services and the court’s consent is necessary to meet the mental health and/or developmental needs of the youth. Attach a copy of the parent/legal guardian signed “Revocation of Consent.”
- c) Include the following language under Recommendation:

It is respectfully recommended that the court make the following order: “The court orders a mental health and/or developmental assessment of the child[ren] _____ to be performed by a licensed mental health professional within the State DMH approved disciplines. Further, the developmental assessment of the child[ren] may be performed by an approved Regional Center provider.

The above referenced mental health and/or developmental assessment is to be used solely for the purpose of coordinating/providing treatment and/or other services for the child[ren].

Upon recommendation of the approved professional, necessary mental health and/or developmental treatment is authorized and DCFS is to secure services to be provided by a licensed mental health professional within the State DMH approved disciplines or a qualified person under the direction of a licensed mental health professional within the State DMH approved disciplines. Further, necessary mental health and/or developmental treatment may be provided by Regional Center staff or an approved Regional Center provider. The child[ren]’s attorney is to be notified within 72 hours from the time the child[ren] is referred for mental health and/or developmental treatment.

This order does not apply to administration of psychotropic medications.

The child[ren]’s service provider shall provide DCFS with information relevant to the care and treatment of the child[ren] upon request by DCFS. Such information shall not include the details of therapeutic sessions or statements made by the child[ren] unless otherwise required by law.

Further pursuant to Welfare and Institutions Code Section 5328.04 and Civil Code §56.103 information disclosed pursuant to this order may not be admitted into evidence in any criminal or delinquency proceeding against the child. Nothing in this order shall prohibit identical evidence derived solely from other lawful means from being admissible in a criminal proceeding.

DCFS is to regularly update this Court, all parties to this case, and their legal counsel, regarding the status of the mental health and/or developmental assessment and treatment authorized pursuant to this order.”

- d) When the minute order is received with the court consent for mental health and/or developmental assessment and services, provide a copy of the redacted minute order to the service provider to initiate or continue mental health services for the youth and/or Regional Center to complete the developmental assessment and provide services.

Case-Carrying SCSW Responsibilities

1. Review and approve the Ex-Parte report. If changes are needed, instruct the CSW to make the required changes.

G. WHEN: A YOUTH REFUSES TO PARTICIPATE IN MENTAL HEALTH AND/OR DEVELOPMENTAL SERVICES

There may be cases in which the youth refuses to participate in mental health and/or developmental services despite being able to provide consent or having consent from the parent/guardian or court. In these situations the CSW shall complete the following steps.

Case-Carrying CSW Responsibilities

1. Document all efforts made to provide the youth with the appropriate mental health and/or developmental services.
2. Obtain a letter from the service provider stating that the youth is refusing treatment.
3. Inform the court of the youth’s refusal to participate in mental health and/or developmental services in the next court report and attach the letter from the service provider.
4. Call the youth’s attorney and inform them that the youth is refusing to participate in mental health and/or developmental services. Document the phone call in the Contact Notebook.

5. During monthly face to face visits with the child, encourage the child to participate in mental health and/or developmental services and remind the youth that mental health and/or developmental services is always available. Document these efforts in the Contact Notebook.

APPROVAL LEVELS

Section	Level	Approval
A. –C.	SCSW	Detention Report
D.-F.	SCSW	Ex-Parte Report
G.		None

OVERVIEW OF STATUTES/REGULATIONS

Family Code Section 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 legal guardian, whether with or without the consent of a parent or legal 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 legal 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 legal 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 legal guardian.

Family Code Section 6924

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:

The minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services or residential shelter services and the youth (1) 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 (2) Is the alleged victim of incest or child abuse.

Family Code Section 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.

Family Code Section 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 Judicial Council form FL-150.
 - (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.

LINKS

California Code	http://www.leginfo.ca.gov/calaw.html
Division 31 Regulations	http://www.cdss.ca.gov/ord/PG309.htm
Title 22 Regulations	http://www.dss.cahwnet.gov/ord/PG295.htm

RELATED POLICIES

Procedural Guide 0070-516.05, Screening and Assessing Children for Mental Health Services and Referral to the Coordinated Services Action Team (CSAT)
Procedural Guide 0500-501.30, Disclosures of Health and Mental Health Information To and From County Departments Providing Services to a Child/Youth
Procedural Guide 0600-500.20, Protected Health Information and Medical Information: Access and Sharing
Procedural Guide 0600-501.05, Psychological Testing of DCFS Supervised Children
Procedural Guide 0600-501.10, Medical Consent
Procedural Guide 0600-514.10, Administration of Psychotropic Medication to DCFS-Supervised Children

Procedural Guide 0600-515.10, Psychiatric Hospitalization and Psychiatric Hospital Discharge Planning for DCFS Supervised Children

Procedural Guide 0600-515.20, Psychiatric Hospitalization: Involuntary

Procedural Guide 0600-520.00, Collaborating with Regional Center to Provide Services to Children/Youth.

FORM(S) REQUIRED/LOCATION

HARD COPY None

LA Kids: **DCFS 179-MH**, Parental Consent for Child's Mental Health/Developmental Assessment and Participation in Mental Health/Developmental Services

DCFS 179-PHI, Authorization for Disclosure of Child's Protected Health Information (includes a Revocation of Authorization)

CWS/CMS: Ex-Parte Report (Court Notebook)
Contact Notebook

SDM: None