



Quality Assurance Bulletin

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Program Support Bureau

County of Los Angeles - Department of Mental Health
Marvin J. Southard, DSW, Director

Senate Bill 1407

**New Provision re: Release of Minor's Mental Health Records
Effective January 1, 2013**

On January 1, 2013, Senate Bill 1407 went into effect amending existing law including Section 5328.03 of the Welfare and Institutions Code. The new provision prohibits a psychotherapist, who knows a minor has been removed from the physical custody of his/her parent or guardian in a dependency proceeding, from allowing the parent/guardian to release the minor's mental health records based upon an authorization signed by the parent/guardian unless the juvenile court has issued an order authorizing such release. SB 1407 also prohibits the inspection or obtaining of copies of the minor's mental health records based solely upon the parent or guardian's signature when the minor is known to have been removed from physical custody. *Note: Psychotherapist is broadly defined in SB 1407 to include many categories of clinical staff, including psychiatrists, licensed clinical social workers, and marriage and family therapists. Thus, psychotherapist for purposes of this Quality Assurance Bulletin is intended to apply to all staff working within DMH.*

The new provision does not impact the parent/guardian's right to consent for mental health services. If the minor has consented to his/her own mental health services, the new law does not impact the minor's right to authorize the release or inspection of his/her own mental health records.

For Directly-Operated staff, effective immediately, if the minor-client is known or suspected of having any involvement with the Department of Children and Family Services (DCFS), staff must ask the parent/guardian if the minor has been removed from the parent/guardian's physical custody prior to accepting the parent/guardian's signature on any Authorization or Client Access form including MH 602, MH 603 and DCFS 179 PHI. **The response provided by the parent/guardian must be clearly documented in the minor's mental health record.** If at any time, the parent/guardian indicates that the minor has been removed from his/her physical custody, staff must not release the minor's mental health records, or allow the parent/guardian access to those records, based upon the parent/guardian's signed authorization. In addition, any Authorization or Client Access form the parent/guardian may have signed prior to the minor's removal becomes invalid beginning at the time of the minor's removal. Unless staff has knowledge to the contrary, if the parent/guardian states that the minor has not been removed from the parent/guardian's physical custody, staff may release the minor's mental health records, or allow the parent/guardian access to those records, based upon the parent/guardian's signed authorization.

For additional information and direction regarding application of SB 1407, Contract Providers should consult their legal counsel. Directly-Operated providers may contact the DMH Quality Assurance Division, Program Support Bureau if they have questions.

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