Department of Behavioral Health

TRANSMITTAL LETTER

SUBJECT Informed Consent to Behavioral Treatment for Children and Youth Receiving Services in the Community		
POLICY NUMBER **DBH Policy 414.1**	**DATE** OCT 2 1 2016	**TL#** 302

Purpose. The purpose of this policy is to clarify the informed consent process required to provide outpatient behavioral health services and supports, including prescribing psychiatric medications and medication assisted treatment to children and youth.

Applicability. This policy applies to all Department of Behavioral Health (DBH) certified providers with a Human Care Agreement.

Policy Clearance. Reviewed by affected responsible staff and cleared through appropriate Behavioral Health Authority (BHA) offices and providers (see applicability above).

Effective Date. This policy is effective immediately.

Superseded Policy. DMH Policy 414.1A Informed Consent to Mental Health Treatment for Children and Youth Receiving Services in the Community dated October 25, 2011.

Distribution. This policy will be posted on the DBH website at www.dbh.dc.gov under Policies and Rules. Applicable entities are required to ensure that affected staff is familiar with the contents of this policy.

10/21/2016

Tanya A. Royster, MD **Date**
Director, DBH

GOVERNMENT OF THE DISTRICT OF COLUMBIA ★ ★ ★ **DEPARTMENT OF BEHAVIORAL HEALTH**	**Policy No.** **414.1**	**Date** OCT 2 1 2016	**Page 1**
	Supersedes DBH Policy 414.1A, Informed Consent to Mental Health Treatment for Children and Youth Receiving Services in the Community, dated October 25, 2011		

Subject: Informed Consent to Behavioral Treatment for Children and Youth Receiving Services in the Community

1. **Purpose**. The purpose of this policy is to clarify the informed consent process required to provide outpatient behavioral health services and supports, including prescribing psychiatric medications and medication assisted treatment to children and youth under the age of eighteen (18).

2. **Applicability**. This policy applies to all Department of Behavioral Health (DBH) certified providers with a Human Care Agreement

3. **Authority**. Department of Behavioral Health Establishment Act of 2013, (D.C. Official Code § 7-1141.02); Consent to Mental Health Services and Mental Health Supports, (D.C. Official Code § 7-1231.07); Administration of Medication (D.C. Official Code § 7-1231.08); Consent of Youth Receiving Mental Health Services or Mental Health Supports, (D.C. Official Code § 7-1231.14); 22B DCMR 600.7.

4. **Policy**. Providers shall obtain informed consent for behavioral health services before delivering treatment for all children and youth in accordance with this policy. As used in this policy, the term behavioral health service includes ordinary mental health treatment (no medication), psychiatric medications, and substance use disorder (SUD) treatment, including Medication Assisted Treatment (MAT). As explained below, there are different informed consent rules for each type of treatment.

5. **Procedures**.

5a. Informed consent to ordinary mental health treatment (see Exhibit 1).

(1) Informed consent is not necessary for a mental health evaluation.

(2) Except under the limited circumstances described in Section 6, a provider must obtain informed consent for any mental health treatment through a discussion between the provider, the parent or legal guardian, and child or youth consumer/client (as appropriate), about the following:

a. The child or youth consumer's/client's mental illness or mental health-related problem, including diagnosis;

b. The purpose of the proposed mental health treatment;

c. The known and potential common side effects or risks of the proposed mental health treatment;

d. The potential benefits of the proposed mental health treatment; and

e. Any feasible alternatives to the proposed mental health treatment.

(3) Informed consent requires documentation of the legal representative's consent to the treatment. (See Exhibit 1 as suggested documentation of informed consent; providers may use their own method of documentation that contains the necessary information.)

(4) For children and youth in the care and custody of Child and Family Services Administration (CFSA) or committed to the Department of Youth Rehabilitative Services (DYRS), a mental health provider may obtain consent for ordinary mental health treatment from the agency representative without obtaining the parent or legal guardian's consent if:

a. The agency representative represents that he or she has the authority to provide consent; and

b. The treatment is ordinary mental health treatment provided by a practitioner other than a psychiatrist.

(5) A mental health provider may provide treatment to a child or youth without the consent of a legal representative if the provider determines that:

a. The child or youth is knowingly and voluntarily seeking the services;

b. Provision of the services is clinically indicated for the minor's well-being; and

c. The child or youth is able to provide informed consent.

5b. Informed consent to treatment by a psychiatrist (see Exhibit 2) for psychiatric medications (Exhibit 3).

(1) **As a general rule, only parents or legal guardians** may provide informed consent on behalf of a child or youth in order to receive treatment from a psychiatrist or psychiatric medications. Under limited circumstances, youth sixteen (16) years and older may provide informed consent. (see 5b(5)). If a child or youth is in the custody of CFSA or DYRS, and there is no parent or legal representative available to provide consent, a court order specifying the treatment must be presented to the provider to document informed consent for psychiatric treatment or psychiatric medication. **Only if the parents' rights have been terminated may the custodial agency consent to psychiatric treatment.**

(2) The psychiatrist shall not provide any treatment or psychiatric medications without first obtaining written informed consent.

(3) Informed consent shall be obtained each time a new medication is prescribed.

(4) The psychiatrist shall discuss informed consent during a discussion with the child or youth consumer/client if appropriate and the legal representative about the following:

a. The child or youth consumer's/client's mental illness or mental health related problem, including diagnosis;

b. The purpose of the proposed mental health service, support or treatment;

c. The name and dosage of medication prescribed, if that is a proposed treatment;

d. The known and potential common side effects or risks of the proposed mental health service, mental health support or treatment;

e. The potential benefits of the proposed mental health services, mental health supports or treatment; and

f. Any feasible alternatives to the proposed mental health services, mental health supports or treatment.

(5) Youth sixteen (16) years or older may consent to the administration of psychiatric care (see Exhibit 2) or psychiatric medications (see Exhibit 3) without the consent of a parent or guardian or the authorization of the court under the following circumstances:

a. When the youth's parent(s) or guardian is not reasonably available to make a decision regarding the use of psychiatric medications, the treating psychiatrist determines that the youth has capacity to give informed consent and such medications are clinically appropriate;

b. When requiring the informed consent of a youth's parent(s) or guardian would have a detrimental effect on the youth and a determination is made by both the treating psychiatrist and a non-treating psychiatrist who is not an employee of the provider that the youth has capacity to consent and that such medications are clinically indicated; or

c. When the youth's parent(s) or guardian refuses to give consent and a determination is made by both the treating psychiatrist and a non-treating psychiatrist who is not an employee of the provider that the minor has capacity to consent, and those medications are clinically indicated. Notice of the provider's decision to administer medications to this section to the parent(s) or guardian in writing by the provider.

5c. Informed consent for SUD services.

(1) A provider must obtain informed consent for any SUD services, including MAT[1]. Prior to accepting informed consent from the child or youth consumer/client alone, the provider shall ensure that he or she has capacity to understand the elements of informed consent.

(2) The provider shall document informed consent during a discussion with the child or youth consumer/client about the following:

a. The child's or youth's SUD problem, including diagnosis;

b. The purpose of the proposed SUD service, support or treatment;

c. The known and potential common side effects or risks of the proposed SUD service, support or treatment;

d. The potential benefits of the proposed SUD services, supports or treatment; and

e. Any feasible alternatives to the proposed SUD services, supports or treatment.

6. Informed Consent Not Required in an Emergency.

6a. If an emergency exists, the behavioral health provider shall obtain a written opinion from either the child or youth consumer's/client's attending physician or treating physician stating that a delay in obtaining informed consent for the behavioral health treatment is likely to result in serious injury to the consumer/client (Emergency Opinion).

6b. If the behavioral health provider has information that the child or youth consumer/client would not consent to emergency treatment based on the child or youth consumer's/client's religious beliefs, the behavioral health provider must obtain a court order prior to administering treatment that would terminate the emergency.

6c. After receipt of the Emergency Opinion, the behavioral health provider shall provide behavioral health treatment to the extent necessary to terminate the emergency.

7. Requirements for Behavioral Health Providers.

7a. Establish policies and procedures. The behavioral health provider, in consultation with their treatment teams for children and youth, should establish policies and procedures that require a comprehensive assessment to justify the use of psychiatric medications or MAT as part of the child and youth consumer's/client's treatment plan and that such medications be managed and monitored accordingly.

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[1] D.C. Regulations allows a minor of any age to consent to SUD services. While a minor may consent, it is often clinically appropriate to seek informed consent from the parent or legal representative if the minor does not object.

7b. Identify parents, legal guardians, and/or legal representatives; parties that are legally empowered to provide informed consent for the treatment of a child or youth. The provider must identify the parent, court appointed legal guardian, or custodial agency and determine if parental rights have been terminated.

7c. Provide relevant materials. Provide parents, staff, guardians and other relevant parties easy to understand psycho-educational materials and medication information to facilitate the informed consent process.

7d. Provide information and education. Familiarize consumers/clients, parents and/or legal representatives on their advocacy role and about psychiatric medications or MAT (e.g., names and indications for the use of commonly prescribed psychiatric medications, monitoring for effectiveness and possible side effects, and maintaining medication logs for those administering these medications).

7e. Ensure documentation of informed consent is maintained in consumer's clinical record. Providers may use Exhibits 1 – 4, or own forms or method of documentations if all required information is included.

8. **Definitions**. For purposes of this policy:

8a. Child or youth consumer/client. For purposes of this policy, a person under the age of eighteen (18) who is receiving behavioral health services from a DBH provider.

8b. Custodial agencies. Child and Family Services Administration (CFSA) or Department of Youth Rehabilitative Services (DYRS), when a child or youth has been placed in that agency's legal or physical custody.

8c. DBH Provider. A mental health or substance use disorder provider within the DBH system of care network that provides behavioral health services to consumers/clients.

8d. DBH System of Care. The DBH-coordinated network of community-based services and supports organized to meet the needs of children and youth and their families with behavioral health needs.

8e. Emergency. Refers to a situation in which a consumer/client is experiencing a behavioral health crisis and requires the immediate provision of behavioral health treatment to prevent serious injury to consumer/client or others. Informed consent is not necessary prior to emergency treatment.

8f. Informed consent to behavioral health treatment. Refers to when a consumer/client grants, refuses or withdraws consent to treatment after the behavioral health provider presents the consumer/client with information about the proposed behavioral health services, behavioral health supports, or treatment, in a language and manner that the consumer/client can understand. (see Exhibit 1 – Consent for Behavioral Health Treatment)

8g. Informed consent to the use of medication assisted treatment. Refers to when a consumer/client grants, refuses or withdraws consent to medication assisted treatment after the DBH-certified -certified substance use disorder provider presents the information in a language and manner that is understandable to the consumer/client. (see Exhibit 4 – Consent to Medication Assisted Treatment).

8h. Informed consent to treatment by a psychiatrist. Informed consent specific to treatment provided by a psychiatrist. A psychiatric evaluation is not treatment by a psychiatrist and does not require informed consent. (see Section 6b) (see Exhibit 2 – Informed Consent to Treatment by a Psychiatrist).

8i. Informed consent to use of psychiatric medications. The informed consent specific to the use of psychiatric medicines. (see Exhibit 3 – Informed Consent to use of Psychiatric Medications)

8j. Legal representative. Parent, court appointed legal guardian, or District agency (Child and Family Services or Department of Youth Rehabilitation Services) which has the legal authority to provide informed consent.

8k. Medication Assisted Treatment. The use of methadone and other opioid drugs as a pharmacotherapy long-term treatment for opiate and other forms of dependence.

8l. Ordinary Mental Health Treatment. Mental health treatment provided by a practitioner other than a psychiatrist and does not require the use of psychiatric medications.

8m. Psychiatric medications. Medications that affect the thoughts, perceptions, behavior and mood of a person (e.g. antidepressants, anti-anxiety agents, antipsychotics, mood stabilizers).

9. **Related References**.

D.C. Code § 2-1515.05 Special authorities of the Department (DYRS)
D.C. Code § 4-1303.05 Medical treatment authorized (CFSA)
D.C. Official Code § 7-1231.07 Consent to behavioral health services and behavioral health supports
D.C. Official Code § 7-1231.08 Administration of Medication
D.C. Code § 7-1231.14 Consent of youth receiving behavioral health services or behavioral health supports
D.C. Code § 16-2320 Disposition of child who is neglected, delinquent, or in need of Supervision
In re G.K., 993 A.2d 558 (D.C. 2010)

10. **Exhibits**.

1 – Informed Consent to Behavioral Health Treatment
2 – Informed Consent to Treatment by Psychiatrist
3 – Informed Consent for Use of Psychiatric Medications
4 – Informed Consent for Medication Assisted Treatment

Approved By:

Tanya A. Royster, MD
Director, DBH

(Signature) 10/21/2016 **(Date)**

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Behavioral Health

INFORMED CONSENT TO BEHAVIORAL HEALTH TREATMENT
(For Children and Youth Under the Age of Eighteen (18))

IMPORTANT: Please read this form carefully before signing. The behavioral health services and supports available to you must be explained prior to your signing this form.

I hereby consent to receive behavioral health services and supports from

_____
(Name of Behavioral Health Provider / Agency)

for the purpose of addressing behavioral health concerns or symptoms. The provider has given me information about the purpose, side effects, potential risks and benefits, and feasible alternative treatments to the proposed behavioral health treatment.

Printed Name of Consumer/Client: _____

_____ _____
Consumer's/Client's Signature Date

I have the right to accept, refuse or withdraw from behavioral health services and supports for

_____
Print Consumer's/Client's Name

I hereby consent to receiving behavioral health services and supports for the purpose of addressing behavioral health illness or symptom(s).

_____ _____
Signature of Parent, Legal Representative or Agency Representative Date

_____
Printed Name of Parent, Legal Representative or Agency Representative

_____
Relationship to Consumer/Client (Parent, Legal Representative, or Agency Representative)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Behavioral Health

INFORMED CONSENT TO TREATMENT BY A PSYCHIATRIST NOT PRESCRIBING PSYCHIATRIC MEDICATIONS (For Children and Youth Under the Age of Eighteen (18))

Consumer's/Client's Name: _____ **Date of Birth**:_____

Diagnoses:

ICD-10-CM: _____

I, _____ (Printed Name of Parent or Legal Guardian) hereby consent to _____ (Printed Name of Consumer/Client) receiving treatment by a psychiatrist for the purpose of addressing behavioral health illness or symptoms; and

The behavioral health provider discussed the following with me:

- the diagnosis and target symptoms;
- the possible benefits and intended outcome of treatment;
- the possible risks and side effects;
- the possible alternatives to proposed treatment;
- the possible results of not accepting the treatment; and
- my right to ask questions about the proposed treatment.

I also understand that I have the right to consent, refuse or withdraw from a specific behavioral health supports, service or treatment offered or recommended by the psychiatrist.

I understand that my signature below acknowledges that I received information about my specific behavioral health illness or symptoms and I consent to the treatment provided to this child or youth by the psychiatrist of: _____.
Name of Core Service Agency (CSA)

OR

_____ **Court Order Provided (copy attached)**
Initial of medical provider to verify that copy is attached

_____	_____	_____
Consumer's/Client's Printed Name	Consumer's/Client's Signature	Date
_____	_____	_____
Parent's or Legal Representative's Printed Name (if applicable)	Parent's or Legal Representative's Signature	Date
_____	_____	_____
Medical Practitioner's Printed Name & Credentials	Medical Practitioner's Signature	Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Behavioral Health

INFORMED CONSENT FOR USE OF PSYCHIATRIC MEDICATION(S)
(For Children and Youth Under the Age of Eighteen (18))

Consumer/Client Name: _____ Date of Birth: _____

Diagnoses:

ICD-10-CM	

I, _____ received information from my child's
(Printed Name of Parent/Legal Guardian)

medical practitioner about the medications listed below. For each medication listed below, I have been given the opportunity to discuss with my prescriber the following:

- The diagnosis and target symptoms for the medication recommended.
- The possible benefits/intended outcome of treatment.
- The possible results of not taking the recommended medication.
- The dosage and the possibility that my medication dose may need to be adjusted over time, in consultation with my medical practitioner.
- The possible risks and side effects.
- My right to withdraw voluntary consent for medication at any time (unless the use of medications in my treatment is required in a Court Order).
- The possible alternatives.
- The medication may be used "off-label" for a particular condition (in the absence of FDA approval) and that the medical practitioner will indicate when a medication is being used in this manner.

I understand that the medication information provided to me and my signature below acknowledges that I consent to the use of these medications or see the copy of the attached Court Order _____
(initial of the medical provider, which verifies the attached copy of the court order.)

Medication Name	Route	Dosage

_____ _____ _____
(consumer's/client's name) (consumer's/client's signature) date

_____ _____ _____
(parent's/legal representative's name) (parent's/legal representative's signature) date

_____ _____ _____
(prescribing psychiatrist's name) (prescribing psychiatrist's signature) date

OCT 2 1 2016

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Behavioral Health

INFORMED CONSENT FOR USE OF MEDICATION ASSISTED TREATMENT
(For Children and Youth Under the Age of Eighteen (18))

Consumer/Client Name: _____ Date of Birth: _____

Diagnoses:

ICD-10-CM	

I, _____ received information from the medication
(Printed Name of Consumer/Client)

assisted treatment (MAT) provider about the medications listed below. For each medication listed below, I have been given the opportunity to discuss with my prescriber the following:

- The diagnosis and target symptoms for the medication recommended.
- The possible benefits/intended outcome of treatment.
- The possible results of not taking the recommended medication.
- The dosage and the possibility that my medication dose may need to be adjusted over time, in consultation with my medical practitioner.
- The possible risks and side effects.
- My right to withdraw voluntary consent for medication at any time (unless the use of medications in my treatment are required in a Court Order)
- The possible alternatives.
- The medication may be used "off-label" for a particular condition (in the absence of FDA approval) and that the medical practitioner will indicate when a medication is being used in this manner.[1]

I understand that the medication information provided to me and my signature below acknowledges that I consent to the use of these medications or see the copy of the attached Court Order _____ (initial of the medical provider, which verifies the attached copy of the court order.)

Medication Name	Route	Dosage

_____ _____ _____
(consumer's/client's name) (consumer's/client's signature) date

_____ _____ _____
(parent's/legal representative's name) (parent's/legal representative's signature) date

_____ _____ _____
(prescriber's name) (prescriber's signature) date

[1] Off-label drug use involves prescribing medications for indications, or using a dosage or dosage form, that have not been approved by the U.S. Food and Drug Administration.