



320-Q GENERAL AND INFORMED CONSENT¹

INITIAL

EFFECTIVE DATE: [07/01/2016](#)

BACKGROUND

Each ~~member~~² ~~behavioral health recipient~~ has the right to participate in decisions regarding his or her behavioral health care, including the right to refuse treatment. It is important for ~~members~~^{persons} seeking behavioral health services to agree to those services and be made aware of the service options and alternatives available to them as well as specific risks and benefits associated with these services.

DEFINITIONS

General Consent is a one-time agreement to receive ~~behavioral health~~^{certain services} ~~services, including but not limited to behavioral health services~~ that is usually obtained from a ~~person~~^{member} during the intake process at the initial appointment, and is always obtained prior to the provision of any behavioral health services. General consent must be ~~verified~~^{obtained from} by a ~~member's~~ behavioral health recipient's or legal guardian's signature.³

Informed Consent ~~is an agreement to receive behavioral health services~~ ~~must be obtained~~ before the provision of a specific treatment that has associated risks and benefits. Informed consent is required ~~to be obtained from a member or legal guardian~~ prior to the provision of the following services and procedures:⁴

1. Complementary and Alternative Medicine (CAM);⁵
2. Psychotropic medications;⁵
3. Electro-convulsive therapy (ECT);⁵
4. Use of telemedicine;⁵
5. Application for a voluntary evaluation;⁵
6. Research;⁵
7. Admission for medical detoxification, an inpatient facility or a residential program (for ~~person~~^{member}s determined to have a Serious Mental Illness);⁵ and
8. Procedures or services with known substantial risks or side effects

A. OVERVIEW

¹ [DBHS Policy 1107, General and Informed Consent converted to a standalone policy AMPM 320-Q.](#)

² [Post APC revision - persons and behavioral health recipient addressed as 'member\(s\)' throughout](#)

³ [Reworded for clarification of definition](#)

⁴ [Reworded for clarification of definition](#)



The Arizona Department of Health Services/Division of Behavioral Health Services (ADHS/DBHS) AHCCCS recognizes two primary types of consent for behavioral health services⁵: general consent and informed consent.

Prior to obtaining informed consent, an appropriate behavioral health representative, as identified in ~~R9-21-206.01(e)~~R9-21-206.01(c), must present the facts necessary for a ~~person-member~~ to make an informed decision regarding whether to agree to the specific treatment and/or procedures. Documentation that the required information was given, and that the ~~member person~~ agrees or does not agree to the specific treatment, must be included in the comprehensive clinical record, as well as the ~~memberperson~~/guardian's signature when required.

In addition to general and informed consent for treatment, state statute (A.R.S. §-15-104) requires written consent from a child's parent or legal guardian for any behavioral health survey, analysis, or evaluation conducted in reference to a school based prevention program. ~~(See subsection G3-11.3-F.)~~

The intent of this section is to describe the requirements for ~~reviewing and obtaining general~~reviewing and, obtaining general, and informed consent, for ~~persons-members~~ receiving services within the ~~public~~ behavioral health system, as well as consent for any behavioral health survey or evaluation in connection with an ADHS/DBSAHCCCS school-based prevention program.

B. GENERAL REQUIREMENTS

1. Any ~~personmember~~, aged 18 years and older, in need of behavioral health services must give voluntary general consent to treatment, demonstrated by the ~~person's-member's~~ or legal guardian's signature on a general consent form, before receiving behavioral health services.
2. For ~~persons-members~~ under the age of 18, the parent, legal guardian, or a lawfully authorized custodial agency (~~including foster care givers A.R.S. 8.514.05(C)~~) must give general consent to treatment, demonstrated by the parent, legal guardian, or a lawfully authorized custodial agency representative's signature on a general consent form prior to the delivery of behavioral health services.
3. Any ~~personmember~~ aged 18 years and older or the ~~person'smember's~~ legal guardian, or in the case of ~~members persons~~ under the age of 18, the parent, legal guardian or a lawfully authorized custodial agency, after being fully informed of the consequences, benefits and risks of treatment, has the right not to consent to receive behavioral health services.

⁵ Clarification of services



4. Any ~~person~~member aged 18 years and older or the ~~person's~~member's legal guardian, or in the case of ~~persons~~members under the age of 18, the parent, legal guardian or a lawfully authorized custodial agency has the right to refuse medications unless specifically required by a court order or in an emergency situation.
5. Providers treating ~~persons~~members in an emergency are not required to obtain general consent prior to the provision of emergency services. Providers treating ~~members~~persons pursuant to court order must obtain consent, as applicable, in accordance with A.R.S. Title 36, Chapter 5.
6. All evidence of informed consent and general consent to treatment must be documented in the comprehensive clinical record per AMPM⁶ Policy 940.
7. Contractors and TRBHAs must develop and make available to providers policies and procedures that include any additional information or forms.
8. A foster parent, group home staff, foster home staff,⁷ relative, or other person or agency in whose care a child is currently placed may give consent for
 - a. ~~(a)~~eEvaluation and treatment for emergency conditions that are not life threatening, and
 - b. ~~(b)~~rRoutine medical and dental treatment and procedures, including Early Periodic Screening Diagnosis and Treatment (EPSDT) services, and services by health care providers to relieve pain or treat symptoms of common childhood illnesses or conditions. (A.R.S. §-8-514.05(C)).
9. To ensure timely delivery of services, consent for intake and routine behavioral health services may be obtained from either the foster caregiver or the Department of Child Safety Specialist (DCSS) whomever is available to do so immediately upon request (A.R.S. § 8-514.05(C)).⁸
10. Foster or kinship caregivers can consent to evaluation and treatment for routine medical and dental treatment and procedures, including behavioral health services. Examples of behavioral health services in which foster or kinship can consent to include:⁹
 - a. Assessment and service planning
 - b. Counseling and therapy
 - c. Rehabilitation services

⁶ Added to identify the policy manual which houses the policy referenced.

⁷ Added post APC from statute citing ARS 8-514.05(C).

⁸ Language from clarification letter went out to RBHAs and CRS from AHCCCS on 3-14-16 regarding clarification of consent for BH services. Included cCiting ARS 8-514.05(C).

<https://azahcccs.gov/Members/AlreadyCovered/MemberResources/Foster/>

⁹ Added post APC from statute citing ARS 8-514.05(C).



- d. Medical Services
- e. Psychiatric evaluation
- f. Psychotropic medication
- g. Laboratory services
- h. Support Services
- i. Case Management
- j. Personal Care Services
- k. Family Support
- l. Peer Support
- m. Respite
- n. Sign Language or Oral Interpretive Services
- o. Transportation
- p. Crisis Intervention Services
- a-q. Behavioral Health Day Programs

11. ¹⁰A foster parent, group home staff, foster home staff, relative, or other person or agency in whose care a child is currently placed shall not consent to:
- a. General Anesthesia
 - b. Surgery
 - c. Testing for the presence of the human immunodeficiency virus
 - d. Blood transfusions
 - e. Abortions
12. ¹¹Foster or kinship caregivers may not consent to terminate behavioral health treatment. The termination of behavioral health treatment requires DCS consultation and agreement.
13. ¹²If the foster or kinship caregiver disagrees on the behavioral health treatment being recommended through the Child and Family Team (CFT), the CFT including the foster or kinship caregiver and DCS caseworker should reconvene and discuss the recommended treatment plan. Only DCS can refuse consent to medically recommended behavioral health treatment.

C. GENERAL CONSENT

- ~~1. Administrative functions associated with a member's behavioral health recipient's enrollment do not require consent, but before any services are provided, general consent must be obtained. General consent is usually obtained during the intake process and represents a person's, or if under the age of 18, the person's parent, legal~~

¹⁰ Added Post APC change to align with A.R.S. §8-514.05C and FAQ's
<https://azahcccs.gov/Members/Downloads/BHConsentFAQ.pdf>

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<https://azahcccs.gov/Members/Downloads/BHConsentFAQ.pdf>



~~guardian or lawfully authorized custodial agency representative's, written agreement to participate in and to receive non-specified (general) behavioral health services.~~¹³

Contractors and TRBHAs must develop and make available to providers any form used to obtain general consent to treatment.

D. INFORMED CONSENT

1. In all cases where informed consent is required by this policy, informed consent must include at a minimum:
 - a. ~~The member's~~behavioral health recipient's right to participate in decisions regarding his or her health care, including the right to refuse treatment, and to express preferences about future treatment decisions;
 - b. Information about the ~~member's~~person's diagnosis and the proposed treatment, including the intended outcome, nature and all available procedures involved in the proposed treatment;
 - c. The risks, including any side effects, of the proposed treatment, as well as the risks of not proceeding;
 - d. The alternatives to the proposed treatment, particularly alternatives offering less risk or other adverse effects;
 - e. That any consent given may be withheld or withdrawn in writing or orally at any time. When this occurs the provider must document the ~~person's~~member's choice in the medical record;
 - f. The potential consequences of revoking the informed consent to treatment; and
 - f. A description of any clinical indications that might require suspension or termination of the proposed treatment.

2. Documenting Informed Consent

- a. ~~Members~~persons, or if applicable the ~~member's~~person's ~~client's~~ parent, guardian or custodian, shall give informed consent for treatment by signing and dating an acknowledgment that he or she has received the information and gives informed consent ~~to~~for the proposed treatment.
- b. When informed consent is given by a third party, the identity of the third party and the legal capability to provide consent on behalf of the ~~person~~member, must be established. If the informed consent is for psychotropic medication or telemedicine and the ~~person~~member, or if applicable, the ~~person's~~member's guardian refuses to sign an acknowledgment and gives verbal informed consent, the medical

¹³ Repeat of definition - omitted



practitioner shall document in the person's member's record that the information was given, the person member rel ient refused to sign an acknowledgment and that the person member rel ient gives informed consent to use psychotropic medication or telemedicine.

3. When providing information that forms the basis of an informed consent decision for the circumstances identified above, the information must be:
 - a. Presented in a manner that is understandable and culturally appropriate to the person member, parent, legal guardian or an appropriate court; and
 - b. Presented by a credentialed behavioral health medical practitioner or a registered nurse with at least one year of behavioral health experience. It is preferred that the prescribing clinician provide information forming the basis of an informed consent decision. In specific situations in which it is not possible or practicable, information may be provided by another credentialed behavioral health medical practitioner or registered nurse with at least one year of behavioral health experience.
4. Psychotropic Medications, Complementary and Alternative Treatment and Telemedicine
 - a. Unless treatments and procedures are court ordered, providers must obtain written informed consent, and if written consent is not obtainable, providers must obtain oral informed consent. If oral informed consent is obtained instead of written consent from the person member, parent or legal guardian, it must be documented in written fashion. Informed consent is required in the following circumstances:
 - i. Prior to the initiation of any psychotropic medication or initiation of Complementary and Alternative Treatment (CAM) (see [AMPM Policy 108310-V, Psychotropic Medication Prescribing and Monitoring](#)). The use of [Policy Form 108.1](#) [AMPM Exhibit 310-V-1, Informed Consent/Assent for Psychotropic Medication Treatment Form](#) is recommended as a tool to review and document informed consent for psychotropic medications;[;] and
 - ii. Prior to the delivery of behavioral health services through telemedicine.
 - b. Electro-Convulsive Therapy (ECT), research activities, voluntary evaluation and procedures or services with known substantial risks or side effects.
 - c. Written informed consent must be obtained from the person member, parent or legal guardian, unless treatments and procedures are under court order, in the following circumstances:
 - i. Before the provision of (ECT);[;]
 - ii. Prior to the involvement of the person member in research activities;[;]
 - iii. Prior to the provision of a voluntary evaluation for a person member.
The use of [Policy Form 107.2, ADHS/DBHS Form MH 103](#) [AMPM](#)



[Exhibit 320-Q-1, Application for Voluntary Evaluation](#)¹⁴ is required for ~~persons~~ ~~members~~ determined to have a Serious Mental Illness and is recommended as a tool to review and document informed consent for voluntary evaluation of all other populations~~;~~ and

- iv. Prior to the delivery of any other procedure or service with known substantial risks or side effects.
5. Written informed consent must be obtained from the ~~person~~ ~~member~~, legal guardian or an appropriate court prior to the ~~person's~~ ~~member's~~ admission to any medical detoxification, inpatient facility or residential program operated by a behavioral health provider.
6. If informed consent is revoked, treatment must be promptly discontinued, except in cases in which abrupt discontinuation of treatment may pose an imminent risk to the ~~person~~ ~~member~~. In such cases, treatment may be phased out to avoid any harmful effects.

7. Informed Consent for Telemedicine

- a. Before a health care provider delivers health care via tTelemedicine, verbal or written informed consent from the member behavioral health recipient or their health care decision maker must be obtained. Refer to [AMPM Policy 320-I](#).¹⁵
- b. Informed consent may be provided by the behavioral health medical practitioner or registered nurse with at least one year of behavioral health experience. When providing informed consent it must be communicated in a manner that the memberperson and/or legal guardian can understand and comprehend. See [Policy 320-Q, General and Informed Consent for a list of specific elements that must be provided](#).¹⁶
- c. Exceptions to this consent requirement include:
 - i. If the telemedicine interaction does not take place in the physical presence of the member.
 - ii. In an emergency situation in which the member or the member's health care decision maker is unable to give informed consent, or
 - iii. To the transmission of diagnostic images to a health care provider serving as a consultant or the reporting of diagnostic test results by that consultant.¹⁷

¹⁴ Post APC change, updated Exhibit number for [clarification and conformity to current practice](#).

¹⁵ [Refer to Telehealth and Telemedicine policy](#)

¹⁶ Deleted, information not needed.

¹⁷ [Section merged into this policy from DBHS Telemedicine policy.](#)



E. SPECIAL REQUIREMENTS FOR CHILDREN

1. In accordance with A.R.S. §-36-2272, except as otherwise provided by law or a court order, no person, corporation, association, organization or state-supported institution, or any individual employed by any of these entities, may procure, solicit to perform, arrange for the performance of or perform mental health screening in a nonclinical setting or mental health treatment on a minor without first obtaining consent of a parent or a legal custodian of the minor child. If the parental consent is given through telemedicine, the health professional must verify the parent's identity at the site where the consent is given. This section does not apply when an emergency exists that requires a person to perform mental health screening or provide mental health treatment to prevent serious injury to or save the life of a minor child.
2. Non-Emergency Situations
 - a. In cases where the parent is unavailable to provide general or informed consent and the child is being supervised by a caregiver who is not the child's legal guardian (e.g., grandparent) and does not have power of attorney, general and informed consent must be obtained from one of the following:
 - i. Lawfully authorized legal guardian;
 - ii. Foster parent, group home staff or other person with whom the Department of [Economic Security](#)¹⁸ Child [Protective Safety Services \(DES/CPSDCS\)](#)¹⁹ has placed the child; or
 - iii. Government agency authorized by the court.
 - b. If someone other than the child's parent intends to provide general and, when applicable, informed consent to treatment, the following documentation must be obtained and filed in the child's comprehensive clinical record:

¹⁸ Clarification made throughout this document regarding DES and DCS. All references of DES/CPS have been changed to Department of Child Safety (DCS).

¹⁹ Clarification of other governmental organizations and conformity to current practice.



Individual/Entity	Documentation
Legal guardian	Copy of court order assigning custody
Relatives	Copy of power of attorney document
Other person/agency	Copy of court order assigning custody
<u>DES/CPSDCS</u> Placements (for children removed from the home by <u>DES/CPSDCS</u>), such as: <ul style="list-style-type: none">• Foster parents• Group home staff• Foster home staff• Relatives• Other person/agency in whose care <u>DES/CPSDCS</u> has placed the child	None required (<u>see note</u>)*

NOTE: If behavioral health providers doubt whether the individual bringing the child in for services is a person/agency representative in whose care DES/CPS-DCS has placed the child, the provider may ask to review verification, such as documentation given to the individual by DES-DCS indicating that the individual is an authorized DES/CPSDCS placement. If the individual does not have this documentation, then the provider may also contact the child's DES/CPS-DCS caseworker to verify the individual's identity.

- c. For any child who has been removed from the home by CPSDCS, the foster parent, group home staff, foster home staff, relative or other person or agency in whose care the child is currently placed may give consent for the following behavioral health services:
- Evaluation and treatment for emergency conditions that are not life threatening, and
 - Routine medical and dental treatment and procedures, including early periodic screening, diagnosis and treatment services, and services by health care providers to relieve pain or treat symptoms of common childhood illnesses or conditions (including behavioral health services and psychotropic medications).



- d. Any minor who has entered into a lawful contract of marriage, whether or not that marriage has been dissolved subsequently, any emancipated youth or any homeless minor may provide general and, when applicable, informed consent to treatment without parental consent (A.R.S. § 44-132).

3. Emergency Situations

- a. In emergencies involving a child in need of immediate hospitalization or medical attention, general and, when applicable, informed consent to treatment is not required.
- b. Any child, 12 years of age or older, who is determined upon diagnosis of a licensed physician, to be under the influence of a dangerous drug or narcotic, not including alcohol, may be considered an emergency situation and can receive behavioral health care as needed for the treatment of the condition without general and, when applicable, informed consent to treatment.

F. SPECIAL REQUIREMENTS FOR CHILDREN

At times, involuntary treatment can be necessary to protect safety and meet needs when a personmember, due to mental disorder, is unwilling or unable to consent to necessary treatment. In this case, a court order may serve as the legal basis to proceed with treatment. However, capacity to give informed consent is situational, not global, as an memberindividual may be willing and able to give informed consent for aspects of treatment even when not able to give general consent. MembersIndividuals should be assessed for capacity to give informed consent for specific treatment and such consent obtained if the memberindividual is willing and able, even though the memberindividual remains under court order.

G. CONSENT FOR BEHAVIORAL HEALTH SURVEY OR EVALUATION FOR SCHOOL-BASED PREVENTION PROGRAMS

1. Written consent must be obtained from a child's parent or legal guardian for any behavioral health survey, analysis, or evaluation conducted in reference to a school-based prevention program administered by ADHS/DBHSAHCCCS.
2. ~~Policy Form 107.1, Substance Abuse Prevention Program and Evaluation Consent~~ AMPM Exhibit 320-68, Substance Abuse Prevention Program and Evaluation Consen²⁰t must be used to gain parental consent for evaluation of school based prevention programs. Providers may use an alternative consent form only with the prior written approval of ADHS/DBHSAHCCCS. The consent must satisfy all of the following requirements:

²⁰ Clarification and conformity with current practice.



- a. Contain language that clearly explains the nature of the screening program and when and where the screening will take place;²¹
 - b. Be signed by the child's parent or legal guardian;²¹ and
 - c. Provide notice that a copy of the actual survey, analysis, or evaluation questions to be asked of the student is available for inspection upon request by the parent or legal guardian.
3. Completion of ~~Policy Form 107.1 Substance Abuse Prevention Program and Evaluation Consent~~^{AMPM Exhibit 320-6, Substance Abuse Prevention Program and Evaluation Consent²¹} applies solely to consent for a survey, analysis, or evaluation only, and does not constitute consent for participation in the program itself.

REFERENCES²²

1. ~~Policy 310 V of this Manual for Psychotropic Medications: Prescribing and Monitoring~~^{Policy 108, Psychotropic Medications: Prescribing and Monitoring}
2. ~~Policy 109, Pre-Petition Screening, Court-Ordered Evaluation, and Court-Ordered Treatment~~^{Policy 320 U of this Manual for Pre-Petition Screening, Court-Ordered Evaluation, and Court-Ordered Treatment}
3. ~~Policy 410, Use of Telemedicine~~^{Policy 410320 I of this Manual for, Use of Telehealth and Telemedicine}
- ~~Policy 802, Behavioral Health Medical Record Standards~~^{Chapter 900 of this Manual for Behavioral Health Medical Record Standards}
4. ~~Policy 1401, Confidentiality~~^{Policy 1401, Confidentiality}~~Policy 1401, Confidentiality~~^{Chapter 500 of this Manual for Medical Records and Confidentiality}
5. ~~AHCCCS Covered Behavioral Health Services Guide~~
6. ~~20 U.S.C. § 1232h (b)~~
- ~~42 C.F.R. § 438.100~~
- ~~42 C.F.R. § 438.102~~
- ~~A.R.S. § 8-514.05~~
- ~~A.R.S. § 14-5104~~

²¹ Clarification and conformity with current practice.

²² Removed – references are included in the body of the policy.



~~A.R.S. § 15-104~~

~~7. A.R.S. § 8-514.05(C)~~

~~8. A.R.S. § 36-522 A.R.S. § 36-522~~

~~9. A.R.S. § 36-501.21 A.R.S. § 36-501.21~~

~~A.R.S. § 36-2272~~

~~10. A.R.S. § 44-132~~

~~11. A.A.C. R9-20-203~~

~~12. R9-20-208~~

~~13. R9-21-206~~

~~14. AHCCCS/ADHS Contract~~

~~15. ADHS/RBHA Contracts~~

~~16. ADHS/TRBHA IGAs~~

~~17. ADHS/DBHS Practice Protocol, Comprehensive Assessment and Treatment for Substance Use Disorders in Children and Adolescents (Formerly known as Practice Improvement Protocol # 10)~~

~~18. The Arizona Medical Board's Guidelines for Physicians Who Incorporate or Use Complementary or Alternative Medicine in Their Practice~~

OPEN UNTIL 12/10/16