



# DEPARTMENT OF MENTAL HEALTH POLICY/PROCEDURE

<b>SUBJECT</b> <b>PROVIDING NOTIFICATION AND PATIENT INFORMATION TO FAMILY MEMBERS</b>	<b>POLICY NO.</b>  <b>200.07</b>	<b>EFFECTIVE DATE</b>  <b>10/1/89</b>	<b>PAGE</b>  <b>1 of 7</b>
<b>APPROVED BY:</b>  <b>Original Signed by</b> <b>ROBERTO QUIROZ</b>  Director	<b>SUPERSEDES</b>  <b>310</b> <b>4/18/88</b>	<b>ORIGINAL ISSUE DATE</b>  <b>4/18/88</b>	<b>DISTRIBUTION LEVEL(S)</b>  <b>1,3</b>

## PURPOSE

1.1 To provide guidelines for the involvement of family members in patient treatment.

## POLICY

2.1 It is the Department of Mental Health (DMH) policy to involve family members in the patient's treatment and obtain pertinent background information from them to the extent possible while still observing patient confidentiality and adhering to statutory provisions in this area.

## PROCEDURE

### 3.1 REQUIRED NOTIFICATION OF PATIENT'S FAMILY MEMBERS

#### 3.1.1 Notification of Family of Patient's Admission

When a patient is first admitted to a 24-hour care facility for psychiatric treatment, the staff must make reasonable attempts to notify the patient's next of kin or any other person designated by the patient unless the patient asked that this information be withheld (WIC, Section 5328.1 b).

3.1.1.1 The facility must document in the patient's treatment record that the patient was consulted about admission notification and record the patient's response.

3.1.1.2 If the patient allows the notification or if the patient is unable to respond, the facility staff must attempt to notify the next of kin, or other person designated by the patient, and document this effort. If a family member brought the patient in for treatment or if it has been established that the family is already aware of the patient's admission, additional notification is not needed.



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3.1.1.3 The notification shall be limited to the fact that the patient has been admitted to the facility, the address and phone number of the facility, and the name of the treating physician, unless the patient authorizes further disclosure as specified in this policy.

3.1.1.4 The facility staff may encourage the patient to allow release of this information but not to the point of being coercive in their attempts to solicit permission.

**3.1.2 Notification of Patient’s Release, Transfer, Serious Illness or Death**

An inpatient facility must make reasonable attempts to notify the patient’s next of kin, or any other person designated by the patient, of the patient’s release, transfer, serious illness, injury, or death – upon request of the family member – unless the patient requested that this information not be provided. Patients must be advised by the facility that they have a right to request that this information not be provided (WIC, Section 5328.1).

**3.1.3 Notification of Family of Legal Procedures**

If the patient is scheduled for a certification review (“probable cause”) hearing and/or a judicial writ of habeas corpus, reasonable attempts must be made and documented by the facility to notify the family members or another person designated by the patient of the time and place of the hearing unless the patient objects (WIC, Section 5256.4 and 5276).

3.1.3.1 Facility staff shall advise the patient that the patient has the right to request that this information not be provided, shall document the patient’s decision in the patient’s treatment record, and shall honor it.

3.1.3.2 If the patient consents to this disclosure, the staff shall encourage the family to share information relevant to the issue whether or not the patient meets the legal criteria for involuntary treatment (danger to self or others, or gravely disabled because of a mental disorder) so that the designated hospital presenter can relay the information at the hearing.



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3.1.3.3 Reasonable attempts shall be made by the DMH facility to notify family members or any other persons designated by the patient of the time and place of conservatorship hearings (WIC, Section 5350.2). The person of whom conservatorship is sought shall be advised by the facility that he/she may request that this information not be disclosed. The mental health program must honor the patient’s request in this regard unless the family member is the proposed conservator (WIC, Section 5350.2).

3.1.3.4 Should the patient decline to authorize the notification of family members of the writ or conservatorship hearings, staff may explain to the patient that, while they will honor such request, judicial proceedings held in the court are open to the public and it is possible that family members who learn of the hearing through another means may be in attendance.

3.1.4 Notification of Family If Patient Escapes

When a voluntary patient, who otherwise meets the criteria for involuntary detention, disappears without prior notification from a designated facility and the patient’s whereabouts is unknown, the facility may, at their discretion, notify relatives. The disclosure must be necessary for the protection of the patient and others, and can only be made to relatives designated by the physician in charge of the patient or the professional person in charge of the facility or designee (WIC, Section 5328.3).

3.2 SHARING INFORMATION WITH FAMILY MEMBERS

3.2.1 Information Which MUST Be Shared With Family Members If Patient Authorizes Disclosure

3.2.1.1 Upon request of patient’s family member or another person designated by the patient, the facility must disclose:



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- The patient’s diagnosis
- The patient’s prognosis
- Medications prescribed
- Side effects of the medications, if any
- The patient’s progress providing the patient authorizes release of this information (WIC, Section 5328.1a)

3.2.1.2 When the above information is requested by a family member, the facility staff must:

- Have the requestor verify that the requestor is in fact a member of the patient’s family.
- Ask the patient for authorization to release the information and document the response.
- If the patient is initially unable to authorize the release, make a notation of the attempt in the patient’s treatment record and make daily efforts to secure the patient’s consent or refusal of authorization. The information may only be released once the patient has actually given consent.

3.2.1.3 If the patient is unable to authorize the release of the above information and the person requesting the information is the patient’ spouse, parent, child or sibling, the facility shall give the requestor only notification of the patient’s presence (WIC, Section 5328.1a).

**3.2.2 Information Which May Be Shared With Family Members If The Patient Authorizes Disclosure**

The professional in charge of the patient’s treatment may release any additional information to the family member at his/her discretion with the patient’s written consent (WIC, Section 5328.b).



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**3.2.3 Information Which May Be Released To Family Members Without The Patient's Consent**

Information regarding the patient's admission, presence, hearing dates, release, transfer, serious illness, injury or death may be released without the patient's expressed authorization if the patient is unable to make a determination in this regard. However, the law does not provide for the release of any information to any family members if the patient is an adult and objects.

**3.2.4 Information To Be Released To Family If Patient Is A Minor**

According to Welfare and Institutions Code, Section 5328 (d), information and records must be released to whomever the minor's parents designate in writing – including the parents themselves, apparently.

However, a newer piece of legislation (Section 25253 of the Health and Safety Code) somewhat contradicts this provision. It states that the parent of a minor is not entitled to inspect or obtain a copy of the minor's record if the health care provider determines that such access would have a detrimental effect on the provider's professional relationship with the minor patient. Because this statute is more current and more specific than the previous section, it is likely to prevail. If the minor is authorized by law to consent to treatment (such as an emancipated minor, a minor receiving mental health services under Section 25.9 of the Civil Code\* or a minor ward of the court treated under Section 6552) the minor, and not the parent, holds the confidentiality privilege.

**3.3 OBTAINING INFORMATION FROM FAMILY MEMBERS**

**3.3.1 Questioning the Family About The Patient**

Staff members may accept unsolicited information provided by family members and significant others but should exercise caution in not divulging privileged information without the patient's consent. However, if the significant others are already aware that the patient is being treated, or if the patient does not object to the initial contact, staff may use the opportunity to ask pertinent questions, so long as no confidential information is purposely revealed in the process. If contact is made with the patient's family pursuant to the provisions of Section 3.2 regarding



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family notification, staff should make every effort to solicit information about the patient that may be useful in providing treatment or in deciding appropriate disposition.

**3.3.2 Involving Family In The Treatment Plan**

Within the confines of confidentiality provisions, family members should be encouraged to participate, along with the patient, in the development, implementation, revision and review of the treatment plan for conservatees (WIC, Section 5352.6).

**3.3.3 Considering And Gathering Information About The Historical Course Of The Patient's Mental Disorder**

When applying definition of "mental disorder" for 14-day certifications, conservatorships, certification review hearings, or writ hearings, the historical course of the patient's mental disorder must be considered when it has direct bearing on the determination of whether or not the patient meets the involuntary detention criteria. The historical course may include, but is not limited to, evidence presented by persons who have provided, or are providing, mental health or related support services to the patient or evidence presented by family members, or any other person designated by the patient (WIC, Section 5008.2). Thus, if contact with family members has been established pursuant to the provisions above, staff should try to obtain relevant historical background material and incorporate it into the patient's treatment record, along with the name of the information source.

**3.3.4 Privileged Family Communications**

Information provided by family members is given special protection by California confidentiality statutes. Even if the patient, the patient's attorney, or the patient's parent (in the case of a minor patient) authorizes release of treatment information or records, the professional person treating the patient may exercise his/her own discretion in revealing information which has been given to him or her in confidence by members of the patient's family (WIC, Section 5328 b, d and j).



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**AUTHORITY**

Welfare and Institutions Code, Sections 5328.1; 5328.3; 5256.4; 5276; 5352.6  
 Civil Code, Section 25.9<sup>1</sup>

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<sup>1</sup> Section 25.9 of the Civil Code provides that minors 12 and older can legally consent to outpatient mental health treatment if they are mature enough to participate intelligently in treatment and (a) without treatment they would present a serious danger of physical or mental harm to themselves, or (b) they have been the alleged victims of incest or child abuse.