
SHARING INFORMATION WITH MEDICAL OR MENTAL HEALTH SYSTEM PROVIDERS

TABLE OF CONTENTS

<u>TITLE</u>	PAGE
I. BACKGROUND AND POLICY	1
II. ANALYSIS	1- 4
A. Confidentiality Protection	1
B. Section 827	1
C. Section 16504	2
D. Section 16501	2
E. Section 827 Exception	2
F. Social Worker's Responsibility	2
G. Additional Authority	2- 3
H. Need of Comprehensive System	3
I. Involuntary Hospitalization	4
J. Section 10850	4
K. Section 11167.5	4

SHARING INFORMATION WITH MEDICAL OR MENTAL HEALTH SYSTEM PROVIDERS

i. BACKGROUND AND POLICY

The County Counsel has issued an opinion regarding sharing information with providers of medical and mental health services. A social worker responsible for a child in the dependency system may disclose information necessary for the child to receive proper evaluation and treatment.

The following analysis by the County Counsel is provided to guide social work staff in determining what information may be released and under what circumstances.

II. ANALYSIS

A. Confidentiality Protection

The confidentiality of information regarding children in the dependency system is protected by two and sometimes all three of the following statutes :

1. Welfare and Institutions Code 827
2. Section 10850
3. Penal Code Section 11167.5

A violation of any of these statutes is a misdemeanor.

B. Section 827

Section 827 presents the most difficult confidentiality barrier. It provides for confidentiality of Juvenile Court records, including reports of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his or her report, . . . and thereafter retained. . .

Generally, absent a court order, only certain identified personnel are entitled to have access to such records. This section has been interpreted to apply to records of the Department of Family and Children's Services of the Social Services Agency in casts in which a petition has been or may be filed in Juvenile Court.

Although Section 827 does not explicitly authorize a social worker to release information necessary to arrange for the care and **protection of a child**, there is an implicit exception to allow a social worker to disclose information necessary to do his or her job: to provide **for the care and protection of children for whom the social worker is responsible. A child reported to the county welfare department to be tndangtrtd by abuse, ntglct or exploitation must receive intake and-asstssmnt of services.**

SHARING INFORMATION WITH MEDICAL OR MENTAL HEALTH SYSTEM PROVIDERS (Cont'd)

C. Section 16504

The County must provide child welfare services as needed pursuant to an approved service plan and in accordance with State regulations.

D. Section 16501

Child welfare services" includes public social services directed to protecting and promoting the welfare of all children: preventing, remedying or assisting in the solution of problems which result in neglect, abuse, or exploitation or delinquency; preventing the unnecessary separation of children from families; and assuring the adequate care of children away from their homes, in cases where the child cannot be returned home.

E. Section 827 Exception

If 827 were construed to prohibit the social worker from divulging any information to health professionals except as expressly allowed in that section, these mandated services could not be provided. Accordingly, in County counsel's opinion, there is an implicit exception to Section 827 to allow a social worker to share information with health professionals in order to secure child welfare services. Without such implied exception, a social worker simply could not serve the child or the child's family.

F. Social Worker's Responsibility

It is the social worker's responsibility to determine, in a manner consistent with preserving and protecting the child's health, what information should be shared. If a medical or mental health professional believes that certain information is necessary for the provision of evaluation or treatment, he or she must communicate the need to the social worker, who has discretion to make the final decision about what information should be disclosed to serve the child's interests, absent a court order authorizing and directing release of specific information. Note that this implied exception to the confidentiality provisions allows for release of information. The question of who has the legal right or responsibility to authorize or consent to medical or mental health treatment is a separate issue and is not addressed in this memorandum.

G. Additional Authority

There is additional authority for allowing a social worker to exchange information when a medical or mental health professional is assessing or treating a child held in a county facility, such as a shelter. By special order of the Juvenile Court, which is soon to become a local court rule, Valley Medical Center is authorized to provide to all children brought to the Shelter the following services:

SHARING INFORMATION WITH MEDICAL OR MENTAL HEALTH SYSTEM PROVIDERS (Cont'd)

I. Involuntary Hospitalization

When a child in the dependency system is involuntarily hospitalized for mental health treatment, the treatment facility is obligated under the Children's Civil Commitment and Mental Health Treatment Act of 1988 to provide, within 72 hours, a clinical evaluation *consisting of multi-disciplinary professional analyses of the minor's medical, psychological, developmental, and education, social, financial and legal conditions as may appear to constitute a problem."

Section 5585.52 cannot be done effectively--and an adequate evaluation and treatment plan cannot be developed for the child--if the social worker is prohibited from participating in this process. Again, authorization for disclosure of information for essential functions is implied by the entire statutory scheme for protection and care of children within the juvenile system.

J. Section 10850

The second confidentiality section does not present a major bar to disclosure of information to providers of medical and mental health services. Section 10850 generally allows the disclosure of public social services information for any purpose directly connected with the administration of such program. Clearly, giving necessary information to personnel who are providing mental health and medical evaluations or treatment to children within county custody or within the dependency system is directly connected with the administration of the public social services program, particularly when the social worker or Agency has a responsibility to provide or access those services on behalf of a child.

Section 31167.5

The third rule of confidentiality is set forth in Penal Code Section 11167.3, which comes into play when a formal report is made regarding suspected child abuse or neglect. Although this section does not specifically authorize disclosure of protected information to health care professionals in the absence of a court order, we conclude that there is an implied exception for the same reasons explained above.