

Dear Parent/Legal Guardian,

The Mental and Emotional Resource Center (MERCΙ) is pleased that you have chosen us to provide mental health care for your son or daughter. Providing psychotherapy services to minors comes with a number of issues that need to be agreed upon to provide an environment for change to occur. Please read the following and discuss any concerns you have before consenting to the contents of this Agreement.

### **Divorce, Custody, and Communication**

When a family is confronted by parental separation or divorce, it is very hard on everyone. It is particularly hard on children. It is MERCΙ's policy to require the consent of both parents to the treatment of their minor child. This is to establish that both parents are willing to agree to the terms of the professional relationship. This policy is followed even in cases where the parents of the minor child are divorced and is waived only in extreme circumstances. You should be aware of the following:

- Joint legal custody (and the right to make healthcare decisions) is assumed unless a copy of a court decision stating otherwise is provided.
- With joint legal custody, either parent can consent to treatment.
- Also with joint legal custody, either parent can demand an end to therapy. In the case of one parent demanding the end of therapy and the other requesting it to continue, the law favors the termination of therapy-even when the minor child wishes to continue treatment. Note, however, if treatment is discontinued against medical advice, both parents will be provided a written statement regarding the medical appropriateness of discontinuing treatment.

It is hoped that obtaining consent (or at minimum, assent) from both parents at the beginning of therapy would help to avoid this unpleasant conflict and, more importantly, harm to your child as he or she would get caught in the middle of this conflict. Related to this is communication with both parents. Unless a court decision stating the termination of specific parental rights is provided, your therapist may communicate with both parents the information specified in the confidentiality section above.

### **Sharing Information about Child Clients with the Court**

If custody is in question, then the safety of the family environment may also be in question. It is even more important that therapy presents a safe environment. That safety is particularly endangered where a child has to worry that what he or she says in therapy will be revealed in court and used against one of his parents. In order to protect that safety, we request that we all agree that neither party will call the therapist to be a witness. Everyone needs to understand that a judge may not decide to honor this agreement and that your therapist may be required to be a witness. You should also be aware that once we start treatment it is unethical for your therapist to give any opinion about custody or visitation arrangements, even if he or she is compelled to be a witness. If custody is contested, a court may appoint a custody evaluator and/or guardian ad litem (or other person to represent the legal interest of the child) to protect the legal interests of your child. If asked to provide information about your child's treatment to these persons, your therapist will provide the information but not provide a recommendation about the final custody determination. Note that either parent, barring a court order to the contrary, is assumed to have the right to release treatment records to these individuals. Please do not request that your therapist refuse to release records despite a release signed on the part of the other parent.

### **Child Abuse, Evaluations, and Reporting**

In the instance that child abuse is a part of therapy, the counselor will begin the therapeutic process of helping the child to heal, unless the client's parents desire to pursue pressing charges against the offender, and request a forensic evaluation or psychosexual evaluation. If court is a desired goal, the counselor will make an appropriate recommendation for an abuse expert, who will then conduct the necessary evaluations and court proceedings. Counselors on staff do not testify in court for abuse cases, conduct forensic evaluations, or do psychosexual evaluations. Following the completion of the necessary evaluations, the counselor will resume therapy with the child that is focused on helping the client process his/her abuse. When appropriate, the counselor will also use his/her clinical judgment to discuss appropriate types of touch and the importance of physical boundaries with the child. Lastly, if the client is in imminent danger, the counselor has the right to contact the appropriate authorities to ensure the safety of the client.

**Testing and Assessment** If your child is being seen for Psychological Testing and Assessment services, all results will be shared with the parents and/or legal guardians of the minor child.

Your signature below indicates that you have read the information in this document, have had any questions answered and concerns clarified. Your signature indicates that you agree to waive your rights to inspect your child's treatment records and will accept the terms

of confidentiality outlined above. Your signature also indicates that you understand your therapist's role and the limits to his or her role if a custody dispute arises that results in court involvement.

\_\_\_\_\_  
**Child's Name**

\_\_\_\_\_  
**Child's Birthdate**

\_\_\_\_\_  
Parent/Guardian #1 - First, MI, Last Name

\_\_\_\_\_  
Parent/Guardian #2 - First, MI, Last Name

\_\_\_\_\_  
Parent/Guardian #1 - Address

\_\_\_\_\_  
Parent/Guardian #2 - Address

\_\_\_\_\_  
Parent/Guardian #1 - City State ZIP

\_\_\_\_\_  
Parent/Guardian #2 - City State ZIP

\_\_\_\_\_  
Parent/Guardian #1 - Phone

\_\_\_\_\_  
Parent/Guardian #2 - Phone

\_\_\_\_\_  
Parent/Guardian #1 - Email

\_\_\_\_\_  
Parent/Guardian #2 - Email

\_\_\_\_\_  
Parent/Guardian #1 - Birthdate

\_\_\_\_\_  
Parent/Guardian #2 - Birthdate

\_\_\_\_\_  
Parent/Guardian #1 - Signature

\_\_\_\_\_  
Parent/Guardian #2 - Signature Parent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

- |                          |   |   |
|--------------------------|---|---|
| <b>Legal Custody</b>     | <input type="checkbox"/> Parent/Guardian #1 | <input type="checkbox"/> Parent/Guardian #2 |
| <b>Physical Custody</b>  | <input type="checkbox"/> Parent/Guardian #1 | <input type="checkbox"/> Parent/Guardian #2 |
| <b>Joint Custody</b>     | <input type="checkbox"/> Parent/Guardian #1 | <input type="checkbox"/> Parent/Guardian #2 |
| <b>Sole Custody</b>      | <input type="checkbox"/> Parent/Guardian #1 | <input type="checkbox"/> Parent/Guardian #2 |
| <b>Visitation</b>        | <input type="checkbox"/> Parent/Guardian #1 | <input type="checkbox"/> Parent/Guardian #2 |
| <b>Custody Order</b>     | <input type="checkbox"/> Parent/Guardian #1 | <input type="checkbox"/> Parent/Guardian #2 |
| <b>Medical Decisions</b> | <input type="checkbox"/> Parent/Guardian #1 | <input type="checkbox"/> Parent/Guardian #2 |

### Capacity to give informed consent

Legally all parents in Tennessee have decision-making power over their own minor children. Guardianship is the term used to describe the legal relationship (ARC, 2011). Tennessee, however, recognizes the 'mature minor exception' to permission for behavioral health treatment, which defines the age of consent to mental health treatment and/or services as 16 years of age. A "minor child" is defined at TCA §33-1-101 as a person under 18 years of age, but TCA §33-8-202 that states if a child with serious emotional disturbance or mental illness is 16 years of age or older, the child has the same rights as an adult with respect to, among other things, confidential information. Further TCA §33-3-104 lists a service recipient 16 years of age and over as one of the persons authorized to consent to disclosure of confidential information (TDMHSAS Policies and procedures, 2011). Thus, adolescents 16 years of age and older in Tennessee are presumed to have the maturity to consent to medical care, including mental health care, and can sign their own consents for treatments, services, and/or tests (DCS, 2011). Since young people in DCS custody may provide their own consents for mental health treatment, additional consent from the parent, legal guardian or legal custodian is not needed. Yet some mental health providers, at their discretion, may choose not to treat 16-year-old youths without parental involvement. In those situations and the 16-year-old youth does not want his/her parents involved, another mental health treatment provider should be sought (DCS, 2011). Detailed policy and procedures related to informed consent requirements for children in state custody, and capacity in particular, can be found in DCS's Administrative Policies and Procedures: 20.24.

