



Health Homes Serving Children Consent Document Guidance – Updated March 2022

This is a companion document to the *Access to/Sharing of Personal Health Information (PHI) and the Use of Health Home Consents* policy #HH0009, which can be found on the Departments of Health Home Policy and Updates webpage at: https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/policy/greater6.htm#consent – under: *Consent*.

The purpose of this guidance document is to provide an overview and useful tips when explaining and completing the required consent forms used in the Health Home Serving Children program (DOH Consent Forms 5201, 5203, 5204, and 5055). This guidance document also outlines appropriate practices and procedures to obtain valid consents required for participation and information sharing in the Health Home Serving Children program.

- Obtaining consent is a collaborative process between the Health Home care manager, the child or youth, and their Parent, Guardian, or Legally Authorized Representative.
- Consent forms document the appropriate party or parties provided with permission to request a referral and enrollment in the Health Homes Serving Children program
- Allows for the gathering and sharing of information with the necessary individuals and entities that participate in providing services and supports related to the child/youth's identified needs.

The process of sharing information is fundamental for care coordination and developing a comprehensive approach to meeting the child or youth's needs and supports essential ongoing communication between team members. Gaining consent is an opportunity to:

- Learn who needs to be included as key members of the interdisciplinary team
- Build a representative, functional, and collaborative interdisciplinary team
- Collect and share historical and current information
- Assist team members to work together to meet the needs of the child or youth

Current valid consents are required to:

- Share information
- Enroll an individual in the Children's Health Home program

Health Home care managers are responsible for obtaining, maintaining, and updating consents. Care managers must be:

- Knowledgeable of the specific federal and New York State legal protections of minors related to obtaining consent
- Mindful of who is the responsible party able to provide consent, i.e., the Parent, Guardian, Legally Authorized Representative, or, in some cases, the child/youth,
- Aware of instances where the Parent, Guardian, or Legally Authorized Representative, as well as the child/adolescent, must both provide consent

A. General Overview of Individuals Who Can Provide Consent

For individuals who are between 18-21 years of age or children under 18 years of age who are parents, pregnant, and/or married:

- Between 18-21 years of age:
 - Able to legally consent for their own Health Home enrollment and consent to share their own protected health information with the completion of the DOH 5055 consent form.
- Under the age of 18 and who are also parents, pregnant, and/or married:
 - Able to legally consent to their own Health Home enrollment and consent to share their own protected health information with the completion of the DOH 5055 consent form.

For children and adolescents who are under 18 years of age and who are NOT parents, pregnant and/or married and cannot self-consent:

- Children and adolescents who are under 18 years of age and are not parents, pregnant, and/or married:
 - Are not able to legally consent for their own enrollment into the Children's Health Home
 - For enrollment a DOH 5201 must be completed.
- Consent for enrollment must be completed by:
 - Child's Parent or,
 - Guardian or,
 - Legally Authorized Representative

Additionally, the DOH 5201 is utilized to share information:

- Consent for information sharing, may be provided by:
 - Child's Parent or,
 - Guardian or,
 - Legally Authorized Representative
 - and/or Child/youth

Note- A Legally Authorized Representative is defined as, "a person or agency authorized by state, tribal, military or other applicable law, court order or consent to act on behalf of a person for the release of medical information".

For persons over age 18 or under age 18 who are married, a parent, or pregnant and have been determined to be legally incompetent:

- If a child/adolescent who otherwise would be considered self-consenting (by being over the age of 18, or married, pregnant, or a parent) but lacks the capacity to self-consent,
- the person granted legal authority to make health care decisions on behalf of this child/adolescent has the authority to sign Health Home consents. The Health Home consent to be signed is the DOH 5055.

- Examples of this may include a health care power of attorney or court appointed legal Guardian. The individual with authority to consent on behalf of the child/adolescent would need to provide valid active documentation (i.e. court paperwork) for the member's record.

Note: *In these types of situations, the appropriate consents to be signed are based upon member's age as outlined by Health Home consent forms and guidance, not the individual consenting.*

B. Differences in Legal Consent for Educational Record Sharing

- It is important to be aware that the definition of Parent, Guardian, and Legally Authorized Representative may differ for consent related to educational information sharing as the definitions are taken from educational law, specifically FERPA (Federal Educational Rights and Privacy Act).
- An individual who was authorized to provide consent for Health Home enrollment and other information sharing may not be authorized under the definitions used for educational record sharing. Please refer to the section for DOH 5203 *Health Home Consent Information Sharing Release of Educational Records* for further information as to these definitions.
- Records from Early Intervention Program or an Early Intervention official are also covered *under DOH 5203 Health Home Consent Information Sharing Release of Educational Records*.

C. Types of Required Consent

1. Consent to Refer

- Prior to referring a child or adolescent to the Children's Health Home program, the referrer must obtain, at minimum, a verbal consent from the Parent, Guardian, Legally Authorized Representative, and/or the child/adolescent, if appropriate.
- Providers may follow their own internal procedures or Health Home requirements for making a referral providing, at minimum, a verbal consent for referral is obtained.
- The Medicaid Analytics Performance Portal Health Home Tracking System (MAPP HHTS) Children's Referral Portal provides the referring entity with a place to document that a consent to refer was obtained and who provided the verbal consent.
- Verbal consent is needed to ensure that the consenter is aware a referral has been made for the Health Home program and is prepared to engage when they are contacted by the assigned Health Home care manager.
- Once a referral is completed, the assigned care manager(s) is responsible for educating the child and/or their Parent, Guardian, or legal authorized representative about the Children's Health Home program, consent, and the plan of care process.

2. Health Home Consent Frequently Asked Questions (FAQ) For Use with Children Under 18 Years of Age

A child/adolescent under age 18, and their Parent, Guardian, or Legally Authorized Representative, must be provided a copy of *Health Home Consent Frequently Asked Questions (FAQ) For Use with Children Under 18 Years of Age*, which explains the Health Home program, services, how the child's information can be shared, and consents required for information sharing and Health Home enrollment.

- This FAQ document must be provided to and reviewed with the child/adolescent and the Parent, Guardian, or Legally Authorized Representative prior to completion of the *Health Home Enrollment and Information Sharing Consent For Use with Children Under 18 Years of Age* (DOH 5201)
- Signing the DOH 5201 consent form indicates that: *"I have had the chance to review the Health Home FAQ sheet and have had my questions answered"*.
- The discussion and completion of the FAQ document must be documented in case record notes.

Important note- Children who are parents, pregnant, and/or married, and who otherwise are capable of consenting, should not be given the FAQ document. They should be given the *Health Home Patient Information Sharing Consent* form (DOH 5055) to review and complete.

3. DOH 5200- Health Home Consent Enrollment For Use with Children and Adolescents Under 18 Years of Age

IMPORTANT: Use of the DOH-5200 ended effective: May 1, 2022.

4. DOH 5201- Health Home Enrollment and Information Sharing Consent For Use with Children Under 18 Years of Age

IMPORTANT: The updated DOH 5201 will now be used for enrollment and sharing of PHI and other information effective: May 1, 2022.

Consent to share information for Children's Health Home members concerns a wide range of information sharing including Protected Health Information (PHI). It is important that a Health Home care manager is aware of the consent differences involved to protect the rights of minors and to determine whether PHI is shared and with whom. There are established procedures outlined that a care manager must follow to ensure that minors freely agree to consent or deny consent to information sharing of their protected health information.

The *DOH 5201* includes information required for enrollment and must state, at a minimum:

- the name of the Health Home Care Management Agency (CMA)
- the member's Medicaid Managed Care Plan (MMCP), if enrolled
- the primary care physician (PCP) and/or healthcare provider from whom the member receives most of their care (e.g. mental health, substance use, etc.)
- providers of services and supports for the chronic condition(s) for which the member is enrolled in the Health Home program, if they differ from the PCP
- Home and Community Based Service provider, if enrolled in the Children's Waiver.

The DOH 5201:

- must be used for children less than 18 years of age for enrollment in a Health Home.
- outlines what, and with whom, health information can be shared.

Children less than 18 years of age who are parents, pregnant, and/or married, and who are otherwise capable of consenting, should not use this form. Rather, they must use the Health Home Patient Information Sharing Consent form (DOH 5055)].

On the DOH 5201 page one, there are three (3) sets of directions explaining the DOH 5201 to a specific audience:

- Parent/Guardian/Legally Authorized Representative
- Care Manager
- Participating Provider

The DOH 5201 is broken down into sections:

- Section 1- for the Parent, Guardian, or Legally Authorized Representative to complete because they are the authority that can enroll and release the child/adolescent's PHI information, and they are consenting adult for the child.
- Section 2- Part A- only for children ages 10 or older regarding certain types of protected services.
- Section 2 Part B- only for children ages 12 or older regarding mental health or developmental disabilities services.

The DOH 5201 requires signatures and date:

- Section 1, page 2- Parent/Guardian/Legally Authorized Representative
- Section 2, page 5- Children ages 10 or older and the Care Manager

The DOH 5201 Section 1, page 2:

- Ensures that a Parent/Guardian/Legally Authorized Representative is fully informed regarding Health Home enrollment:
- Informs the Parent/Guardian/Legally Authorized Representative of the various means through which health information may be accessed by the Health Home and assigned CMA/HHCM
 - Statewide Health Information Network for New York (SHIN-NY)
 - Psychiatric Services and Clinical Enhancement System (PSYCKES)
 - TABS/CHOICES (run by the New York State Office for People With Developmental Disabilities OPWDD)
 - Single Point of Access under the authority of the Local Government Unit (SPOA/LGU)
- Establishes the consent will stay in place until:
 - Parent/Guardian/Legally Authorized Representative withdraws consent
 - Child is no longer eligible for a Health Home
 - Health Home is no longer in business
 - Child becomes the age or situation to self-consent (complete DOH-5055)
- Allows for changes to be made at any time
- Informs Parent/Guardian/Legally Authorized Representative of their ability take back consent on behalf of the child by contacting the Care Manager, Care Management Agency, or Health Home
- Contains an autofill feature for the child's name and Health Home
- Has an option for electronic signature

The DOH 5201 Section 1, page 3:

- Designed to provide a clear and clean path for adding or removing providers/services/others approved by the member's Parent, Guardian, or Legally Authorized Representative
- Informs Parent, Guardian, or Legally Authorized Representative that they can change the information on the form at any time and how to do this
- Remember to read and follow the form directions:
 - For enrollment- Left column is used to list participating partners and others approved by the member's Parent, Guardian, or Legally Authorized Representative
 - **Note: no additional signatures/initialing and dates are needed at time of enrollment as the signature is on Section 1, page 2.**
 - To make changes to the originally approved list of partners/others use the Add/Remove, Date of Change, and initials columns
- *Copy page 3 as necessary to capture all participating providers which are added over time*

The DOH 5201 Section 2- Part A, page 4

- Can be reviewed with the Parent/Guardian/Legally Authorized Representative ahead of time so that they are aware of what will be discussed with child/youth
- To be completed only by the child or adolescent with the Health Home care manager and outside the presence of the Parent, Guardian, or Legally Authorized Representative of the child or adolescent
- Children ages 10 or older can consent to share or withhold information regarding these types of protected services:
 - Family planning
 - Emergency contraception
 - Abortion
 - Sexually transmitted infection testing and treatment
 - HIV testing
 - HIV treatment and prevention
 - Prenatal care
 - Labor and delivery services
 - Drug and alcohol treatment
 - Sexual assault services
- The HHCM cannot share Section 2 of the consent form with the Parent/Guardian/Legally Authorized Representative unless the child has agreed.

Remember to read and follow the form directions:

- For enrollment - Left column is used to list Types of services and Names of Provider and/or Agency approved by the child
 - **Note: no additional signatures/initialing and dates are needed at time of enrollment. The signature is on Section 2, page 5**
- To remove permission to share from the originally approved list of Types of services and Names of Providers and/or Agencies use the Date of Change, and initials columns on the right of the page

The DOH 5201 Section 2- Part B, page 4

- Can be reviewed with the Parent, Guardian or Legally Authorized Representative ahead of time so that they are aware of what will be discussed with child/youth

- To be completed only by the child or adolescent with the Health Home care manager and outside the presence of the Parents, Guardian, or Legally Authorized Representative of the child or adolescent
- Children ages 12 or older can consent to share or withhold information regarding services:
 - Mental health services
 - Developmental Disabilities
- Cannot share Section 2 of the consent form with the Parent, Guardian or Legally Authorized Representative unless the child has agreed

Remember to read and follow the form directions:

- For enrollment - Left column is used to list Types of services and Names of Provider and/or Agency approved by the child
 - **Note: no additional signatures/initialing and dates are needed at time of enrollment. The signature is on Section 2, page 5**
- To remove permission to share from the originally approved list of Types of services and Names of Providers and/or Agencies use the Date of Change, and initials columns on the right of the page

IMPORTANT FACTORS:

1. If the Parent, Guardian, or Legally Authorized Representative does not want the Health Home care manager (HHCM) to meet alone with the child, the child is not 10 years of age, the child is not receiving any of the services, **OR**, the child is unable/unwilling to complete DOH 5201 Section 2, then the HHCM must document this in the member's case record and complete the **Health Home Care Management Tracking Form for Section 2**.
2. Absence of Section 2 completion shall in no way prohibit the child's enrollment.
3. The HHCM must be aware of restrictions posed when Section 2 is not completed and act accordingly. If the child, Parent, Guardian, or Legally Authorized Representative does not allow for the completion of DOH 5201 Section 2 of this form, then all providers listed on Section 2 will not be able to share information relating to these health services.
4. The HHCM should re-approach the Parent, Guardian, or Legally Authorized Representative, and/or the child again whenever Section 2 is not completed, to attempt to obtain the necessary information to complete Section 2. Failure to complete Section 2 can severely hamper care management by restricting information sharing with team members.
 - a. The Health Home care manager should check periodically when reviewing and updating the Plan of Care, when there is a change in services, or if the child obtains a protective service to revisit completing section 2.
5. The HHCM must be mindful to ensure 5201 section 2 is maintained in the case record in which only appropriate consented individuals can view this section of consent.
6. The HHCM must also ensure that the specific services and goals within the Plan of Care directly linked to DOH 5201 section 2 is maintained in the case record separately in which only appropriate consented individuals can view these services and goals.

DOH 5201 - Health Home Care Management Tracker for Section 2

- Provides Health Home care managers an easy, streamlined method of tracking when Section 2 cannot be completed.
- Provides easy access to historical information and can be used as a reference point

- to locate documentation that supports the absence of Section 2.
- Tracker must be maintained in the CMAs EHR along with the child's HH consents.

NOTE:

- Health providers may share information from before and after the date of the DOH 5201.
- Providers can share information with each other and with the listed care management agency.
- Providers cannot give the child's information to other people unless listed on the DOH 5201, or the law says they can.
- Consent to share information can be recorded, modified, or withdrawn at any time.
- The child can keep private any information about services that the child/adolescent has the right to self-consent to receive (see Section 2).

5. DOH 5202- Health Home Withdrawal of Health Home Enrollment and Information Sharing Consent Form For Use with Children and Adolescents Under 18 Years of Age
IMPORTANT: Use of the DOH-5202 ended effective: May 1, 2022.

For more disenrollment information, refer to *the Member Disenrollment From the Health Home Program* policy #HH0007, which can be found on the Department's Health Home Policy and Updates webpage at:

https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/policy/greater6.htm#consent – under: *General Health Home*

Important note- HHCMs must continue to provide written notification to the member (and/or Parent, Guardian, or Legally Authorized Representative) regarding disenrollment from the Health Home Program. This must include the ending of consent to share PHI and other information, obtaining copies of documentation and, how to request consideration for re-enrollment in the future.

6. DOH 5203- Health Home Consent Information Sharing Release of Educational Records

- The *Health Home Consent Information Sharing Release of Educational Records (DOH 5203)* is used to gain consent to release educational records to a Health Home for children and adolescents who have been enrolled in a Health Home.
- It includes information on what educational records can be shared and with whom.
- Consent for release of educational records for children and adolescents under age 18 must be provided by the Parent as defined in Question 5 of the *Health Home Consent Information Sharing Release of Educational Records (DOH 5203)*.
- Consent for release of educational records for those aged 18 and over must be provided by the individual.
- New York State Education Department (NYSED) requires a different consent to release educational records because they are covered by Family Educational Rights and Privacy Act (FERPA) and not the Health Insurance Portability and Accountability Act (HIPAA).

- The definition of Parent in *Health Home Consent Information Sharing Release of Educational Records (DOH 5203)* is also different from other Health Home consent forms. Please refer to *Health Home Consent Information Sharing Release of Educational Records (DOH 5203)* for the complete definition of Parent, Guardian, or Legally Authorized Representative.

Note: *Health Home Consent Information Sharing Release of Educational Records (DOH 5203)* also includes education records that are directly related to an infant or toddler in the Early Intervention Program (EIP) or records from a local early intervention official.

Note: *Obtaining the Health Home Consent Information Sharing Release of Educational Records (DOH 5203)* does not impact the enrollment process. However, HHCMS must discuss completion of this form with the individual or Parent, Guardian, or Legally Authorized Representative and document any instances where this consent is not signed, and the reason for failure to sign consent for members enrolled in school/educational programs.

7. DOH 5204- Health Home Consent Withdrawal of Release of Educational Records

- To be completed by the Parent of a child/adolescent under the age of 18 (see definition of Parent on the consent form) or the adolescent, if 18 years of age or older, to withdraw consent to share educational records.
- Education records need a separate form as they are covered under Family Educational Rights and Privacy Act (FERPA) and not the Health Insurance Portability and Accountability Act (HIPAA).

8. DOH 5230- Health Home Functional Assessment Consent

IMPORTANT: Use of the DOH-5230 ended effective: May 1, 2022.

9. DOH 5055- Health Home Patient Information Sharing Consent

- Provides for consent for enrollment in a Health Home and for the purpose of sharing health information for individuals.
- This consent form is used with all enrolled Health Home Serving Children members who are 18 years of age or older **or** are under the age of 18 **AND** a parent, pregnant, or married. These members are legally able to consent for their own enrollment into a Health Home and consent to share their information.

Note: *If Health Home Patient Information Sharing Consent (DOH 5055) is completed, then the HH care manager would not complete the Health Home Consent Information Sharing For Use with Children and Adolescents Under 18 Years of Age (DOH 5201). Also, the Health Home Consent FAQ For Use with Children Under 18 Years of Age does not need to be provided when Health Home Patient Information Sharing Consent (DOH 5055) is completed as this form has an imbedded FAQ within it.*

10. DOH 5058 Health Home Patient Information Sharing Withdrawal of Consent

IMPORTANT: Use of the DOH-5058 ended effective: May 1, 2022.

11. DOH 5059- Health Homes Opt-Out Form

IMPORTANT: Use of the DOH-5059 ended effective: May 1, 2022.

D. Circumstances which Warrant Obtaining a New Consent(s)

There are circumstances where consent must be re-obtained after the initial enrollment and information sharing consents are signed. Significant events or changes in the life of the child or changes of the Health Home that would warrant the completion of a new consent for a member include, but are not limited to:

- if a Health Home changes its name (e.g., upon submission of the *Health Home Notification Letter* to the NYS Department of Health)
- if the child/adolescent turns 18 years old, only if he/she did not previously consent for him/herself
- if the child/adolescent changes from foster care to non-foster care or from non-foster care to foster care
- if the child/adolescent under age 18 gets married, becomes pregnant, or becomes a parent
- the consentor for a child still under 18 years of age changes
- the child changes schools and/or school districts (refers to use of DOH 5203 for HHSC)
- if the member re-enrolls in the Health Home program following disenrollment, or
- when a member changes Health Homes.

E. When a New Consent Is Needed

The new consent form to enroll and consent to share information **MUST occur within the month of the event and/or birthday month of the member** to ensure continuity of care management services and the ability to bill for such services, when a new consent form is needed due to any of the circumstances listed above.

NOTE: When the member changes Health Homes, record sharing is not an automatic process. Member consent must be obtained by the current CMA/HH to allow for the transfer of member records from the current HH to receiving HH to assure PHI is protected in the process.