SMARTscribe AI
BHS Consent Requirements

Provider Guidance & Workflow

Overview

California law requires **explicit, encounter specific consent** before using any ambient AI listening technology in behavioral health services*. Consent may be verbal if documented but must always be obtained **before** SMARTscribe Live Session Capture is activated.

BHS Requirements for Providers

• Review the *Consent to Use AI* form with the client and obtain a **signed consent** before the first use of SMARTScribe, *and,*
• At the start of **each session** using SMARTscribe, notify the client and obtain **verbal consent**, then document it in the Service Note (AI Consent Key Phrase or AI Consent Checkbox when available).

Required Consent/Key Phrase: *"AI consent has been obtained for this service, and a signed AI consent form is on file. SMARTScribe Ambient Listening AI and/or Text/Voice Summary assisted in drafting the note, which was reviewed and finalized by the clinician."*

** This requirement is supported by multiple California privacy and healthcare laws. California is an all-party consent state under the California Invasion of Privacy Act (CIPA), which requires explicit consent from all participants before any recording of confidential communication, including ambient AI listening within a clinical encounter. The Confidentiality of Medical Information Act (CMIA) further requires that individuals be informed and consent prior to the creation, use, or transmission of medical information through technologies such as AI-enabled audio capture. Together, these laws form the basis for requiring explicit consent at each encounter before activating ambient AI listening tools in behavioral health services.*

Step 1: Explain AI Use to Client

• Describe how SMARTscribe functions during the session.
• Explain how information is stored, protected, and retained.
• Review that consent may be given, refused, or withdrawn at any time.

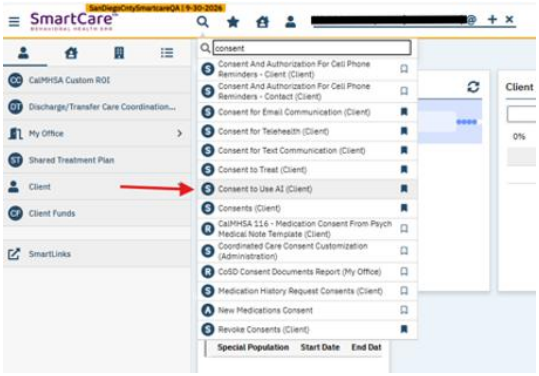
Step 2: Obtain Written/Signed Client Consent via the SmartCare Consent to Use AI form

• Verify if there is a current, valid Consent to Use AI in the client record; if no current consent on file, review and complete the SmartCare *Consent to Use AI* form.
• If using the Downtime form, upload it to SmartCare immediately.

Follow your program's internal policy and process regarding obtaining written consent as part of intake process or upon initial use of SMARTscribe. Review and renew annually.

If a client declines to sign and opts out of use of AI, this should be documented in a never-billable note and entered into the client record.

Graphic 1:
SmartCare screenshot with the navigation panel open and "Consent to Use AI (Client)" highlighted.



Step 4: At the <u>Start</u> of Each Session Using SMARTscribe – enter session consent Key Phrase.

Providers will be required to add the BHS Agency Key Phrase created in SmartCare Key Phrases to verify consent and use of AI to their service note narrative:

"AI consent has been obtained for this service, and a signed AI consent form is on file. SMARTScribe Ambient Listening AI and/or Text/Voice Summary assisted in drafting the note, which was reviewed and finalized by the clinician."

Follow these steps:

- Open service note and select your Program Indicators for the service being provided.
- Click on Note Tab
- Place cursor in Information Text Field
- Click the 3-dot icon in upper right corner
- Select Favorite Phrases
- When Use Key Phrases screen opens, select "Agency" Tab
- Select "Consents Key Phrases" from Category dropdown menu
- When AI Consent phrase opens, click on "Use" hyperlink below key phrase

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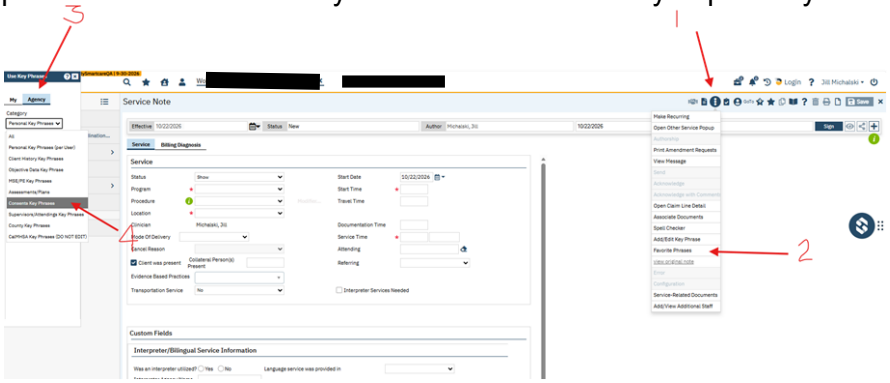
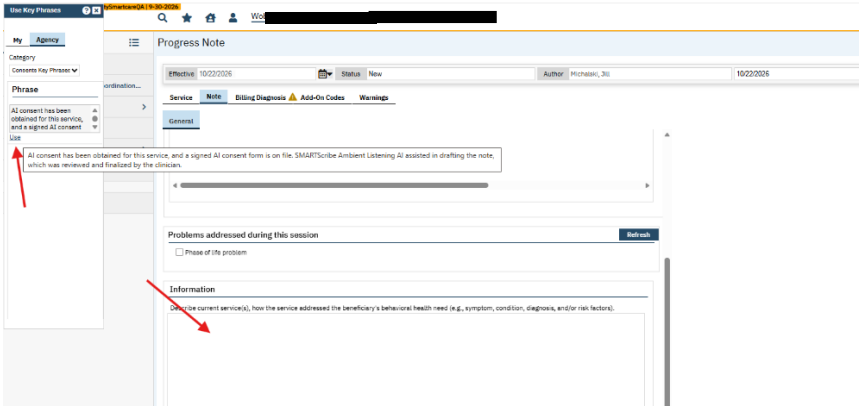
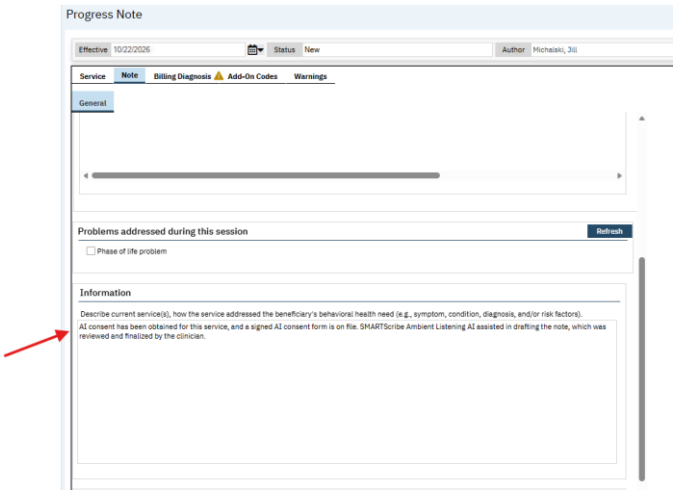
Key phrase will be inserted in your service note where you placed your cursor







**This is a Temporary Workflow until the Consent Checkbox is configured to the service note template(s).*

Step 5: Conduct the Session

• SMARTscribe assists in drafting suggestions for the progress notes for the session.
• The clinician reviews the AI-generated note suggestions, determines what language to retain or modify for completion and finalization of the clinical note.

End of Workflow