

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Program Services Division: Health Care Services <b>Rule: Medical Consent</b>  ACA: 4-JCF- 4C-44 3-JCRF-4C-25 Statutes: Texas Family Code §32.001	<b>Effective Date: 4/15/15</b>  Page: 1 of 2  Replaces: GAP.380.9181, 8/1/09
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**RULE**

(a) **Purpose.**

This rule establishes a procedure for the Texas Juvenile Justice Department (TJJD) to consent to particular medical services for youth in TJJD jurisdiction in accordance with the Texas Family Code §32.001(b).

(b) **Definitions.**

See [§380.9175](#) of this title for definitions of certain terms in this rule.

(c) **Applicability.**

This rule does not apply to youth committed to TJJD who are under the managing conservatorship of the Texas Department of Family and Protective Services. See Texas Administrative Code, Title 40, [Section 702.425](#) for rules governing consent for these youth.

(d) **General Provisions.**

TJJD does not have the authority to consent to medical treatment for youth on parole in a home placement. For purposes of this policy, the term "home placement" does not include subsidized independent living described in [§380.8583](#) of this title.

(e) **Medical Consent.**

(1) **For Youth under Age 18.**

- (A) TJJD has the authority to consent to the medical treatment of youth under age 18 only when:
  - (i) the person having the right to consent (youth's parent or guardian) has been notified and TJJD has not received notification that the person objects; or
  - (ii) the person having the right to consent cannot be contacted and the youth's health care need constitutes a medical emergency for a life-threatening condition.
- (B) If TJJD is able to contact the person with authority to consent, TJJD will defer to his/her decision as long as consent is not withheld for treatment of a life-threatening condition.
- (C) When a medical or dental provider determines a youth needs a diagnostic or treatment procedure or treatment for a serious injury or illness that requires parental/guardian consent, the parent/guardian will be contacted to provide written or verbal consent directly to the medical provider. If the parent/guardian cannot be contacted, the facility administrator has the authority to consent for treatment of the youth under certain conditions pursuant to Texas Family Code §32.001.
- (D) If a parent or guardian notifies TJJD that he/she objects to TJJD having medical consent authority, the parent or guardian will be asked to provide written consent for routine physical, dental, mental health, and chemical dependency examinations and/or evaluations and certain immunizations required by law.

(E) When a youth is temporarily admitted to a facility of the Texas Department of State Health Services, the TJJD medical director may consent to the specific care outlined in [§380.9183](#) of this title if the parent or guardian cannot be contacted directly for consent.

(2) **For Youth Age 18 or Older.**

When a youth reaches age 18, he/she has the legal right to consent to medical treatment. The youth's consent to treatment for non-life threatening conditions will prevail if there is a conflict between the youth and the parent/guardian and/or TJJD.

(f) **Notification.**

Notification about providing routine health care services and TJJD's authority to consent to treatment:

- (1) will occur during the youth's initial admission and any subsequent recommitment to TJJD; and
- (2) will be by certified mail to the last known address of the person having the right to consent.

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See [INS.45.01](#) for medical consent procedures for institution staff.

See [HHS.70.05](#) for medical consent procedures for halfway house staff.

See [HSP.11.01](#) for medical consent procedures for infirmary staff.