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| Chapter: Medical – Legal Issues | Effective Date: 8/1/15 |
| Title: Medical Consent | Page: 1 of 3 |
| ACA: 4-JCF-4C-44 | Replaces: HSP.11.01, 6/1/09 |
| Statute(s): Texas Family Code Chapters 32.001 and 32.003 | |
| Implements: GAP.380.9181 | |

(a) **Standard.**

The Texas Juvenile Justice Department (TJJD) follows laws, rules, and industry standards for obtaining medical consent from TJJD youth who are at least 18 years of age or from parents, guardians, or legal custodians of minors and documents the consent process.

TJJD informs youth or their parents, guardians, or legal custodians about youth medical, dental, and psychiatric care in a language that is easily understood.

(b) **Procedures.**

(1) **Notification of Authority to Provide Routine Medical Care.**

(A) Within 48 hours after a youth's admission or recommitment to TJJD, a **TJJD staff member** sends to the parent/guardian/legal custodian a Notice of Provision for Medical Care form, [HLS-860/HLS-860sp](#), via certified mail, return receipt requested. The HLS-860 provides notification that TJJD provides youth with routine medical, dental, and mental health evaluations and continued treatment as medically necessary unless parental/guardian/legal custodian consent for such evaluations and/or treatment is denied. Routine services include:

- (i) health screenings and sick call;
- (ii) physical and dental examinations;
- (iii) mental health evaluations;
- (iv) laboratory tests;
- (v) immunizations; and
- (vi) treatment of health conditions identified through evaluations.

(B) An **infirmiry staff member** scans the certified mail receipt into the electronic medical record (EMR). See [INS.45.01](#).

(C) When a youth is transferred within TJJD, the **health services administrator (HSA)** ensures that the certified mail receipt is available in the EMR. If the receipt is not available, the **HSA** notifies the appropriate TJJD staff.

(2) **Consent for Invasive Medical or Dental Procedures.**

(A) **Off-Site Care.**

If a youth requires an invasive medical or dental procedure to be performed at an off-site location, the off-site medical or dental provider requests and receives consent for the procedure from the youth, if the youth is at least 18 years of age, or from the parent/guardian/legal custodian.

(B) **On-Site Care.**

- (i) **TJJD staff and University of Texas Medical Branch – Correctional Managed Care (UTMB) staff** collaborate with the youth's case manager to contact a minor youth's parent/guardian/legal custodian in order to obtain consent for an on-site, invasive medical or dental procedure. If the parent/guardian/legal custodian cannot be reached, the superintendent has the authority to give his/her consent for treatment of the youth under certain conditions pursuant to Texas Family Code [§32.001](#). If a youth is at least 18 years of age, consent is obtained from the youth.

- (ii) The **medical or dental staff** obtains the youth's signature on the appropriate consent form (i.e., [HLS-780m](#) or [HLS-780d](#)) if the youth is at least 18 years of age. If the youth is under the age of 18, **health care staff** collaborates with the **TJJD case manager** to send the parent/guardian/legal custodian the appropriate consent form listed below and the accompanying cover letter, Notification and Consent for Medical or Dental Treatment, [HLS-780l](#):
- Consent to Surgical/Invasive Medical Procedure form, HLS-780m; or
 - Notification and Consent for Surgical/Invasive Dental Procedure form, HLS-780d.
- (iii) **Infirmiry staff:**
- (I) receives the completed HLS-780 form from the youth or the parent/guardian/legal custodian;
 - (II) scans the form into the EMR; and
 - (III) notifies the facility medical or dental provider when the consent form has been received and scanned into the EMR.
- (iv) If obtaining written consent from the parent/guardian/legal custodian is not feasible, **two staff members (at least one of whom is a health care professional)** must witness parental consent if obtained via the telephone and document the consent on the appropriate consent form (i.e., HLS-780m or HLS-780d).

(3) **Consent for Psychiatric Care.**

- (A) **Health care staff** notify in writing the parent/guardian/legal custodian, as appropriate, when a psychiatric provider is starting a minor youth on a psychotropic medication or discontinuing a psychotropic medication. (See [HSP.06.09](#).)
- (B) For information on involuntary administration of psychotropic medication during psychiatric emergencies, see [GAP.380.9192](#) and [HSP.06.10](#).

(4) **Refusal of Treatment.**

Youth have the right to refuse any examination or medical, dental, psychiatric, or nursing treatment except when refusal is considered life threatening or may jeopardize the health of others. Every effort should be made, as appropriate, to identify the reason for the refusal and to encourage the youth to accept treatment.

(A) **Non-Life Threatening.**

- (i) If a youth refuses a treatment or examination, the youth is asked to sign a Refusal Form, [HLS-520](#), documenting the date, time, and reason for the refusal. The HLS-520 is scanned into the EMR.
- (ii) After two attempts by **nursing and/or medical staff** to obtain the youth's cooperation with a needed medical examination or state-required immunization, nursing staff notifies the youth's TJJD case manager. The **TJJD case manager** attempts to identify a TJJD staff member who relates well to the youth and requests that the staff member attempt to gain the youth's compliance and report back to the nursing staff.
- (iii) If **TJJD staff** are unable to influence the youth to accept the needed examination or immunization, the **UTMB clinical case manager** and the **youth's TJJD case manager** jointly attempt to notify the youth's parent/guardian/legal custodian by telephone and request his/her assistance in talking with the youth.

- (iv) If all attempts to obtain the youth's agreement to receive a needed examination or immunization are unsuccessful, **the HSA** notifies the UTMB director of clinical and administrative programs for youth services and the TJJJ medical or nursing director.
- (v) If a youth refuses the tuberculosis screening required by state law, TJJJ staff may place the youth in the security unit to isolate him/her from staff members and other youth until he/she complies. (See Texas Health and Safety Code, Chapter 89, Subchapter C, Section [89.051](#).)

(B) **Life-Threatening.**

- (i) When a youth's refusal of treatment is life-threatening or presents a danger to others, the **HSA or designee** immediately notifies the following:
 - (I) facility provider;
 - (II) superintendent;
 - (III) TJJJ medical or nursing director;
 - (IV) UTMB director of clinical and administrative programs for youth services; and
 - (V) the parent/guardian/legal custodian (in collaboration with the youth's TJJJ case manager) as appropriate.
 - (ii) The **superintendent or designee**:
 - (I) provides notification to the director of secure facility operations and the senior director of state programs and facilities; and
 - (II) collaborates with the TJJJ staff and UTMB health services staff to determine the appropriate course of action.
 - (iii) The **TJJJ medical director** may consult with the TJJJ Office of General Counsel to determine the appropriate course of action.
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