

Chapter: Medical – Legal Issues	Effective Date: 8/15/18
Title: Medical Consent	Page: 1 of 3
Statutes: Family Code §32.001 and §32.003	Replaces: HSP.11.01, 8/1/15
Implements: GAP.380.9181	
References: Health and Safety Code §89.051	

(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 of youth who are under 18 years of age. TJJD documents the consent process.

TJJD informs youth and/or their parent/guardian about medical, dental, and psychiatric care for youth in their primary language.

(b) **Procedures.**

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

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

- (i) health screenings and sick calls;
- (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 **infirmary staff member** scans the completed HLS-860 into the electronic health record (EHR).

(C) When a youth is transferred within TJJD, the **health services administrator (HSA)** ensures that the completed HLS-860 is available in the EHR. If the HLS-860 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:

- (i) the youth, if the youth is at least 18 years of age; or
- (ii) the parent/guardian.

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

(i) For an on-site, invasive medical or dental procedure:

- (I) if the youth is 18 years of age, the **University of Texas Medical Branch - Correctional Managed Care (UTMB) medical or dental staff** obtains the youth's signature on the appropriate consent form (i.e., [HLS-780m](#) or [HLS-780d](#)); or
- (II) if the youth is under 18 years of age, the **UTMB staff** collaborates with the **TJJD case manager** to contact the parent/guardian and send the appropriate consent form (i.e., [HLS-780m](#) or [HLS-780d](#)) and the accompanying cover letter, [Notification and Consent for Medical or Dental Treatment, HLS-780I](#).
 - (-a-) If obtaining written consent from the parent/guardian 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.
 - (-b-) If the parent/guardian cannot be reached, the superintendent has the authority to give his/her consent for treatment of the youth under certain conditions, pursuant to [Section 32.001, Family Code](#).

(ii) The **infirmary staff**:

- (I) receives the completed [HLS-780](#) form;
- (II) scans the form into the EHR; and
- (III) notifies the facility medical or dental provider when the consent form has been received and scanned into the EHR.

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

- (A) The **health care staff** notifies the parent/guardian in writing when a psychiatric provider is starting or discontinuing a psychotropic medication for a youth under age 18. See [HSP.06.09](#) for procedures.
- (B) For information on involuntary administration of psychotropic medication during psychiatric emergencies, see [GAP.380.9192](#) and [HSP.06.10](#).

(4) **Refusal of Treatment.**

All youth have the right to refuse any examination, diagnostic test, immunization, and/or medical, dental, psychiatric, or nursing treatment except when the refusal is considered life-threatening or may jeopardize the health of others. Every effort is made, including contacting the parent/guardian, as appropriate, to ensure the youth has accurate and reliable information and assistance in making his or her decision with regard to accepting the recommended treatment or procedure.

(A) **All Prescribed Medication or Other Treatment.**

- (i) If a youth refuses a recommended examination, medication, treatment, or immunization, the youth is asked to complete a [Refusal Form, HLS-520](#), including the reason given for the refusal, if any. If the youth refuses to complete or sign the form, a staff witness signs the form, verifying the refusal and the reason given for the refusal, if any. The [HLS-520](#) is scanned into the EHR.
- (ii) If the youth refuses medication because of a possible side effect or adverse reaction (even one time), the **nursing staff** notifies the provider of the youth's refusal and follows any provider orders.

- (iii) Except as provided by paragraph (B) below, if the youth refuses medication for any other reason, the **nursing** and/or **medical staff** offer up to two subsequent opportunities for the youth to comply, as time allows. If the youth refuses three consecutive treatments or doses of the same prescribed medication, the **nursing staff** notifies the youth's TJJD case manager.
- (iv) The **TJJD case manager** attempts to identify a TJJD staff member who relates well to the youth and requests that the staff member discuss with the youth his or her need for treatment and report back to the nursing staff.
- (v) If the youth continues to refuse the recommended examination, medication, treatment, or immunization, the **UTMB nurse coordinator for health services** and the youth's **TJJD case manager** discuss the situation and each attempts to notify the youth's parent/guardian by telephone and request his/her assistance in talking with the youth.
- (vi) If the youth continues to refuse the recommended examination, medication, treatment, or immunization, the **HSA** notifies the UTMB-CMC nurse program manager for youth services and the TJJD medical or nursing director.

(B) **Medication or Treatment for a Life-Threatening Condition.**

When refusal of medication or treatment is potentially life-threatening or presents a health risk or danger to the youth or to others (e.g., refusal of a TB skin test, a laboratory test, an x-ray, or treatment for a chronic or life-threatening condition such as diabetes, seizure disorder, heart condition, or an infection requiring an antibiotic):

- (i) the **HSA** or designee immediately notifies the facility provider, superintendent, TJJD medical or nursing director, and UTMB-CMC nurse program manager for youth services and completes the bottom section of the [HLS-520](#);
- (ii) the **HSA** or designee, in collaboration with the youth's TJJD case manager, contacts the youth's parent or guardian and documents these notifications on the HLS-520 and/or in the EHR, as applicable;
- (iii) the **superintendent** or designee:
 - (I) notifies the appropriate director of secure facility operations and the deputy executive director for state services or designee; and
 - (II) collaborates with the TJJD staff and the UTMB health services staff to determine the appropriate course of action; and

Note: If a youth refuses the tuberculosis screening, TJJD staff may place the youth in the security unit to isolate him/her from staff members and other youth until he/she complies.
- (iv) the **TJJD medical director** may consult with the TJJD Office of General Counsel to determine the appropriate course of action.

NOTE: Do NOT use physical force or restraint to administer a treatment refused by youth except as provided by [HSP.04.11](#).
