

Chapter: Medical – Legal Issues	<b>Effective Date: 10/15/16</b>
<b>Title: Informed Consent for Youth in DFPS Custody</b>	Page: 1 of 4
ACA: 4-JCF-4C-44	Replaces: HSP.11.02, 8/1/15
Statutes: Human Resources Code §244.0106, Family Code §266.004	

(a) **Standard.**

- (1) As required by [Section 244.0106, Texas Human Resources Code](#), and [Section 266.004, Texas Family Code](#), for youth under 18 years of age committed to the Texas Juvenile Justice Department (TJJD) who are under Department of Family and Protective Services (DFPS) conservatorship, TJJD:
  - (A) provides advance notice to DFPS regarding all routine and non-routine medical appointments and care;
  - (B) obtains consent for any non-routine medical care requiring consent for treatment; and
  - (C) prescribes psychotropic medication that is consistent with TJJD/University of Texas Medical Branch (UTMB) Disease Management Guidelines and the DFPS Psychotropic Medication Utilization Parameters for Foster Care Youth.
- (2) Youth 18 years of age or older committed to TJJD who were under DFPS conservatorship upon turning 18 and who have signed an Extended Foster Care Agreement with DFPS have the authority:
  - (A) to give consent for their own health care; and
  - (B) to consent to the release of their protected health information to their parent/guardian, including DFPS, and/or non-medical staff by signing the [Authorization for the Use and Disclosure of Protected Health Information \(PHI\) by TJJD consent form, HLS-660](#).
- (3) Medical records requested by court order are provided to DFPS regardless of the age of the youth.
- (4) Before finalizing any substantive revisions to this procedure, TJJD sends the draft procedure to DFPS for review.

(b) **Definitions.**

- (1) **Routine health care**--initial screenings, examinations, or services provided to youth on a regular basis (e.g., immunizations, vision/hearing screenings, and annual physicals/dental exams).
- (2) **Non-Routine Health Care.**
  - (A) **Behavioral, occupational, and/or physical therapies**--mental health examinations/treatment and occupational and/or physical therapies that may be physician-ordered for a youth while the youth is at TJJD. Behavioral therapy in this section excludes treatment with psychotropic medication, which is addressed in subparagraph (D) below.
  - (B) **Chronic care physician visits/non-routine encounters**--all health-care appointments (medical, dental, and/or psychiatric) for a chronic condition or other health-care need specific to an individual youth. Also included in this level of care are off-site visits to specialist providers.
  - (C) **Emergent encounters**--any type of emergency medical encounter or youth visit to an off-site emergency department.
  - (D) **Psychotropic medications**--medication prescribed by a UTMB-Correctional Managed Care psychiatric provider for the treatment of a youth's psychiatric condition.

(c) **Procedures.**

(1) **Identification of a Youth in DFPS Conservatorship.**

Nursing staff members receive a DFPS notification form, Placement Authorization Foster Care/Residential Care, 2085-FC, from the TJJD case manager as notification that a youth is under DFPS conservatorship. Upon notification, **nursing staff** scans the 2085-FC form into the electronic medical record (EMR).

- (A) If the court authorizes DFPS to consent to medical care for the youth, TJJD receives from DFPS a copy of the completed Designation of Medical Consenter for non-DFPS Employee form, 2085-B. This form designates a medical consenter and a back-up medical consenter for the youth. (Both are usually Child Protective Services caseworkers for children in TJJD placements).
- (B) In rare cases, the court may authorize someone other than a DFPS employee to consent to medical care for the youth. In such cases, TJJD receives from DFPS a copy of the court order authorizing the individual to consent to medical care for the youth.

(2) **Contact with the DFPS Consenter.**

When contact with the medical consenter is required and the youth is under 18 years of age, **nursing staff** makes two attempts to contact the DFPS medical consenter. If unsuccessful, **nursing staff** must attempt to contact the back-up medical consenter and then the DFPS unit supervisor. If all attempts are unsuccessful, the DFPS Statewide Intake (SWI) staff must be contacted.

(3) **Notification and Consent.**

(A) **Routine Health Care.**

- (i) In accordance with [HSP.11.01](#), the [Notice of Provision for Medical Care form, HLS-860](#), is sent to the DFPS consenter upon a youth's admission to TJJD to provide the consenter with notification of routine health-care services and to obtain general consent for TJJD to provide these services.
- (ii) Upon receiving notification, the DFPS caseworker may decline consent for the youth to receive one or more routine health services or may consent, by default, by not denying consent for care.
- (iii) In accordance with [HSP.01.01](#), all youth receive an orientation to health services upon admission to TJJD and at the time of each transfer to a state-operated facility to provide notification of routine health-care services, as documented on the [Youth Orientation to Health Services form, HLS-101](#).
- (iv) A youth who is 18 years of age or older may decline consent for a routine health-care procedure.

(B) **Non-Routine Health Care.**

- (i) For all non-routine medical care, except as noted in (a)(2)(A) and in (iv) and (v) below, consent by the DFPS caseworker is required before or at the time of the initial treatment plan and before any treatment plan revisions.
- (ii) **Nursing staff** notifies the designated DFPS medical consenter by telephone of the youth's appointment to allow the consenter the opportunity to be present at the appointment or to participate by telephone if he/she deems it necessary.

- (iii) **Nursing staff** does not need to notify the designated DFPS medical consenter or obtain consent prior to:
  - (I) a nursing sick call; or
  - (II) the administering of over-the-counter medications.
- (iv) If a youth requires off-site emergency care and if time allows, the **clinical case manager (CCM)** or a **nurse** provides prior notification to DFPS and consent is obtained, if required, before treatment is provided. However, if the DFPS medical consenter is not available to consent at the time of requested services, the **physician** decides whether the youth's condition constitutes a medical emergency and, if so, may provide medical care under TJJD's authority to consent. The DFPS medical consenter must be notified as soon as possible after emergency care has been provided.
- (v) If a youth requires a new psychotropic medication prescription or a review of current psychotropic medications, the **CCM** or a **nurse** notifies the medical consenter of the psychiatric appointment. The medical consenter is allowed time to participate and is notified no later than the next business day of any treatment plan changes.

(4) **Information for Court Hearings.**

- (A) The **TJJD case manager** provides the DFPS caseworker with a summary of care for use in scheduled court hearings. The summary must be updated and provided in advance of scheduled permanency/placement review hearings. Court-ordered hearings are held either every four months or every six months, depending upon the type of conservatorship. TJJD receives notification from DFPS 30 days in advance of a hearing to allow time for preparation of the required information. Upon receipt of the notification, the **TJJD case manager** informs the health services administrator.
- (B) The **RN clinical case manager**:
  - (i) documents on the [TJJD/UTMB-CMC Summary of Care for Department of Family and Protective Services form, HLS-765](#), a comprehensive summary of health services provided to the youth; and
  - (ii) provides the summary to the TJJD case manager at least 15 days before the date of the scheduled court hearing.
- (C) The **TJJD case manager** uses the HLS-765 to answer questions the DFPS caseworker may have about any information provided by TJJD.

(5) **Documentation.**

- (A) Any notification and/or consent must be documented on the [Report of Notification and Consent Obtained from Department of Family and Protective Services form, HLS-760](#).
- (B) All DFPS documentation, with the exception of consent forms (i.e., parent/guardian/legal custodian letter form--[Notification and Consent for Medical or Dental Treatment, HLS-780l](#), [Consent to Surgical/Invasive Medical Procedure form, HLS-780m](#), and [Notification and Consent for Surgical/Invasive Dental Procedure, HLS-780d](#)) must be located and/or scanned into the designated DFPS folder in the EMR, including but not limited to the following forms:
  - (i) DFPS form 2085-B;
  - (ii) DFPS form 2085-FC;
  - (iii) HLS-760;
  - (iv) HLS-765; and
  - (v) other associated documents.

- (C) Consent forms (i.e., [HLS-780m](#) and [HLS-780d](#)) for invasive medical or dental procedures are scanned into the designated consent folder in the EMR.
  - (D) The [Authorization for the Use and Disclosure of Protected Health Information \(PHI\) by TJJJ consent form, HLS-660](#), which is used for documentation by youth at least 18 years of age who consent for TJJJ to release protected health information, is scanned into the designated consent folder in the EMR.
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