



DIVISION OF DEVELOPMENTAL DISABILITIES
Olympia, Washington

TITLE: CONSENT POLICY 7.03

Authority: Title 42 CFR 483.10, 483.15
RCW 7.70.065, 11.92, 70.122, 71A.20.050
DSHS Administrative Policy 12.01

BACKGROUND

The Division of Developmental Disabilities (DDD) provides services to persons who may need assistance with understanding and expressing choices regarding proposed services. Facilities and interdisciplinary teams are required to develop appropriate consent forms for client treatment and all activities that require consent.

PURPOSE

This policy establishes guidelines for obtaining informed consent from clients, parents or guardians for proposed treatments or activities. This includes, but is not limited to, honoring the wishes of clients stated in an Advance Directive.

SCOPE

This policy applies to staff who are required to get consent for habilitative services for clients living in Residential Habilitation Centers (RHCs) and in Intermediate Care Facilities for the Mentally Retarded (ICF/MRs).

POLICY

- A. The interdisciplinary team shall obtain appropriate informed consent from an individual before starting any program or activity that presents a risk for the health or safety of the person.
- B. When clients cannot give consent, the interdisciplinary team shall seek consent from one or more representatives of the clients in the following order:

1. The legal guardian of the client, or parent if the person is under eighteen (18) years of age;
2. An individual to whom the client has given a durable power of attorney, including the authority to decide health care issues;
3. The client's spouse;
4. Children of the client who are eighteen (18) years of age or older;
5. Parents of the client; and
6. Adult brothers and sisters of the client.

PROCEDURES

A. When guardians, parents or others listed in the informed consent hierarchy are unavailable, the superintendent in his or her custodial capacity may authorize the proposed treatment or activity if necessary to safeguard the health, safety, or well-being of the client.

B. Procedures and Activities Requiring Informed Consent

The following procedures and activities require informed consent:

1. Emergency or non-routine medical and dental procedures such as surgery, transfusions, and tooth extraction;
2. Elective or therapeutic surgery;
3. Admission to an RHC;
4. Release of confidential information except as required by law, or by another state habilitation service provider currently involved in client care, including release of a client's discharge summary;
5. Restrictive or aversive behavior management programs;
6. Participation in research;
7. Medications prescribed for birth control;

8. Hormones used for reproductive health problems;
9. Use of neuroleptic or other medications for behavior control or mental disorders;
10. Restraints used as part of a comprehensive behavioral management program;
11. Diagnostic treatment such as body tissue samples, studies of internal body organs and tissues that involve the injection of a dye or other solutions, and specialized X-rays such as the MRI;
12. Any procedure requiring a general anesthetic;
13. Cosmetic procedures involving invasive techniques, such as piercing of ear lobes.

C. Procedures and Activities Not Requiring Consent

Parents or guardians of a client will be informed by the facility of routine medical procedure, illness, or injury. The following procedures and activities do not require a client's formal consent:

1. The delivery of routine programs and services;
2. Emergency procedures necessary to address a significant threat to the client's health when timely consent is not possible;
3. Routine medical procedures such as injections, blood draws, sutures for lacerations, insertion of a heparin lock, and administration of medications;

D. Legal Requirements for Informed Consent

When considering whether an individual can give informed consent, the legal requirements including capacity and information must be considered, as described in the "Definitions" section of this policy.

E. Procedures/Activities Requiring Court Approval

The following procedures require review and approval by a court of law:

1. Sterilization or abortion (refer to DDD Policy 9.08);
2. Therapy or other procedures which induce convulsion;

4. Surgery solely for psychosurgery; and
5. Other psychiatric or mental health procedures that restrict physical freedom of movement.

DEFINITIONS

- A. **"Capacity"** means a person giving consent must be capable of understanding the result of the issue and decision made. A person may have capacity in one situation but not another.
- B. **"Consent"** means that a person agrees to a proposed activity or treatment procedure that affects that person.
- C. **"Custodian"** means the Secretary of DSHS, as authorized under RCW 71A.20.050. The Secretary of DSHS has custody of all clients and has control of their individual medical, educational, and therapeutic treatment. For persons under 18 years of age, the Secretary and the serving school district superintendent share responsibility for that person's education. Superintendents of RHCs act as custodians for persons who live at RHCs.
- D. **"Information"** means a person giving consent must have enough information to decide what a client needs (i.e., informed consent). The person providing information must convey it in a manner that another person can understand including discussion, providing literature, videos, pictorials, or other presentations.

SUPERSESSION

None

Approved: /s/ Norm Davis
Director, Division of Developmental Disabilities

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