



DIVISION OF DEVELOPMENTAL DISABILITIES
Olympia, Washington

TITLE: CONSENT FOR MEDICAL TREATMENT POLICY 9.08
AFFECTING REPRODUCTIVE FUNCTIONS

Authority: 42 CFR 440.150, 483.420
RCW 7.70.065
RCW 71A.20.050

BACKGROUND

Some medical or surgical treatments for various diseases and/or health conditions may affect a client's reproductive functions and may cause sterility or reduced ability to produce children. Other medical procedures are sometimes used for the primary purpose of sterilization. When sterilization is the primary objective of a medical procedure, court authorization is generally required. When sterilization is a secondary outcome, guardian consent may be sufficient. For medical procedures that may affect a client's reproductive functions, this policy sets forth the guidelines that staff of RHCs and ICF/MRs should apply when determining the necessary steps that must be taken to secure informed consent or, where necessary, court authorization.

PURPOSE

This policy specifies the responsibilities of Division of Developmental Disabilities (DDD) staff to assist individuals in obtaining informed consent prior to treatment, and describes which treatments and procedures require court authorization.

SCOPE

This policy applies to division clients receiving services in DDD Residential Habilitation Centers and private Intermediate Care Facilities for the Mentally Retarded (ICF/MR) in the community. This policy does not apply to emergency medical or surgical procedures necessary to save the person's life.

DEFINITIONS

Informed consent means consent given by a person to receive treatment with an understanding of the risks and benefits involved. If a person is not competent to give informed consent for health care, other persons as defined in [RCW 7.70.065](#) may provide informed consent on the individual's behalf.

POLICY

- A. DDD staff shall assist clients through the consent process before sterilization procedures are performed. DDD Policy 6.12, *Mandatory Reporting Requirements for Residential Services Providers*, requires certified residential services providers to contact the client's Case Resource Manager (CRM) whenever they become aware that the client or the client's legal representative is contemplating permanent sterilization procedures.
- B. Intentional Sterilization Procedures
 1. Individuals with developmental disabilities who do not have legal guardians and who are capable of providing informed consent may give consent for intentional sterilization procedures, such as tubal ligations and vasectomies.
 2. A client's legal representative, family members, and/or other substitute decision-makers cannot give consent for intentional sterilization procedures.
 3. Informed consent from the client must be obtained thirty (30) days prior to any surgical procedure.
 4. When treatment as described above has been prescribed for a client, DDD staff will assist the client in completing and providing the necessary consent. If the client is not capable of providing informed consent, DDD staff will assist, in consultation with the Office of the Attorney General, the client's legal representative or family members to petition the Superior Court for consent.
- C. Secondary Sterilization Procedures
 1. Certain elective medical or surgical treatments and procedures necessary to save the person's life or to treat a condition, which if left untreated would become life-threatening, may result in secondary sterilization. This includes, but is not limited to, the following:
 - a. Treatment for malignancy of the reproductive system, including breast and prostate cancer;

- b. Treatment for disease of the reproductive system, which cures or prevents the spread of disease from the reproductive system, including ionizing radiation;
 - c. Treatment for benign lesions of the reproductive system; and
 - d. Treatment for trauma to the reproductive system.
2. A client's legal representatives can give consent for the procedures described above. If there is no legal representative, other family members may give consent according to the consent hierarchy defined in [RCW 7.70.065](#). When there is no legal representative or family member able to provide the necessary informed consent, DDD will, in consultation with an Assistant Attorney General (AAG), petition the Superior Court for consent. For life threatening conditions requiring immediate treatment, such treatment should not be delayed to address potential reproductive concerns or to seek additional consent, where such delay could cause loss of life.

D. Other Treatments Affecting Reproductive Functions

A client's legal representative can give consent for the following procedures:

1. Administration of contraceptive medications and contraceptive devices;
2. Administration of medications whose possible side effects include a potential for causing diminished reproductive capacity, when such medications are necessary to treat significant conditions affecting the individual's physical or psychological health, and when they are not prescribed for the purpose of reducing reproductive capacity; and
3. Administration of medications prescribed for the purpose of diminishing sexual desire. In cases where a client is requesting, or the client's legal representative or healthcare professional is requesting, that the client take anti-androgen medications for the purpose of diminishing his/her sexual desire/functioning, the following requirements apply. Caution should be exercised as these drugs have severe side effects, including loss of bone density with prolonged use.
 - a. A client who is competent and able to understand the risks and benefits of the medication, and who does not have a legal representative, may give consent to receive medications that reduce sexual desire and/or functioning. No Exception to Policy (ETP) is required.
 - b. If a client is unable to understand the risks and benefits of the proposed medication, and has no legal representative, a guardian should be appointed to make the decision. The CRM and/or the RHC Habilitation

Plan Administrator (HPA) or other designated RHC staff will consult with the Assistant Attorney General (AAG) on such cases.

- c. When a client has a legal representative with power to make health care decisions for the client, the legal representative must give consent for such medications. In these instances, an ETP is also required to allow the agency and the division to evaluate the client's willingness and understanding relative to the consent and the effects of the medication.
- d. Refer to DDD Policy 5.15, *Use of Restrictive Procedures*, for more information and ETP requirements.

E. Documenting the Need for Treatment

All medical or surgical treatments that result or may result in sterilization must be preceded by:

- 1. A specific medical diagnosis;
- 2. A description of:
 - a. The planned medical procedure;
 - b. Possible effects of the procedure;
 - c. Alternative treatments, including non-treatment; and
 - d. The risks and benefits of each treatment alternative.
- 3. Documentation of the medical necessity of the procedure by at least two (2) physicians. In addition, for females, at least one of the physicians must be a fellow of the American College of Obstetricians and Gynecologists (ACOG) or certified by the American Board of Obstetrics and Gynecology (ABOG); and
- 4. Documentation of necessary laboratory studies, including X-rays, CAT scans, ultrasound results, and any other examination results.

EXCEPTIONS

No exceptions to this policy are allowed.

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SUPERSESSION

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Issued February 1, 2009

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Director, Division of Developmental Disabilities

Date: September 15, 2010