

	State of Indiana Indiana Department of Correction Division of Youth Services	Effective Date 4/1/2022	Page 1 of 2	Number 2.12Y
HEALTH CARE SERVICES DIRECTIVE-YOUTH SERVICES Manual of Policies and Procedures				

Title CONSENT AND REFUSAL

Legal References (includes but is not limited to) IC 11-8-2-5	Related Policies/Procedures (includes but is not limited to) 01-02-101	Other References (includes but is not limited to) National Correctional Healthcare Standards
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I. **PURPOSE:**

This Health Care Services Directive (HCSD) describes the application of informed consent and informed refusal.

II. **GUIDELINES:**

- A. The law regarding consent and refusal is complicated and will not be reviewed here. This HCSD provides guidelines regarding the application of informed consent and refusal with Department facilities. If questions arise, advice from Legal Services should be sought early.
- B. For youth, the right to provide or withhold consent belongs to the youth's guardian.
- C. Simple health care interventions do not require explicit consent. Rather, consent for simple, non-dangerous interventions is implied by the patient's cooperation. As proposed health care interventions become more complicated and riskier, the need for formal consent increases. Formal written consent is clearly required when surgery (including dental extractions) or the use of dangerous drugs is proposed. In emergency circumstances, when there is either no time for informed consent or when the patient's condition precludes informed consent, the presence of the patient in the treatment setting with guardian's knowledge provides "presumed consent".
- D. Any proposed health care intervention may be refused by a competent patient or their guardian. The riskier the refusal, the more important it is to document the refusal in writing. Informed refusal presumes that a knowledgeable provider has reviewed the refusal, considered the consequences of refusal on the patient's health and discussed this with the patient and guardian.
- E. Repeated patterns of refusal may be documented in the health record and the physician or dentist may determine, through orders and treatment plans, that formal written refusal may be forgone. In such an event, documentation in the health record of continuing counseling and refusal must continue.

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F. Refusal of care necessary to the public health (e.g., screening or treatment for tuberculosis) may result in sanctions being taken or court-ordered treatment.

G. Specialized Circumstances

1. Hospitalized Youth

Wardens of DYS facilities are the legal guardians of the youth in their facilities. It is appropriate to inform the youth regarding any proposed intervention. For routine interventions the Warden's approval may be inferred. For interventions that carry significant risk, specific written consent must be obtained from the Warden. Although Wardens have the authority to overrule the youth's wishes, this authority should be exercised with great discretion. Although parents need not be informed, it is an appropriate courtesy to do so if there is any risk involved.

2. Exceptions for Youth:

Youth have the authority to provide consent and refusal for care relating to sexually transmitted diseases, for addiction recovery services, for services related to sexual abuse, and for HIV diagnosis and treatment, except mandatory testing at Intake.

H. Refusal of crucial health care interventions or patterns of refusal must be reviewed by a practitioner.

III. APPLICABILITY:

This HCSD is applicable to all DYS facilities providing health services to youth.

signature on file

Kristen Dauss, MD
Chief Medical Officer

Date