

SPECIAL PROGRAMS FOR YOUTH	Policy Number: 1.1434
Policy Title: Consent and Refusal for Health Care Corresponds to: Title 15, Article 8, Section 1434	Written: 3/15/2013 Revised: 1/2019 Approved by: Mona Tahsini, MFT- SPY Director

## I. POLICY

The health administrator, in cooperation with the facility administrator, shall establish written policy and procedures to obtain informed consent for health care examinations and treatment.

- (a) All immunizations, examinations, treatments, and procedures requiring verbal or written informed consent in the community also require that consent for confined youth.
- (b) There shall be provision for obtaining parental consent and obtaining authorization for health care services from the court when there is no parent/guardian or other person standing in loco parentis.
- (c) Policy and procedures shall be consistent with applicable statutes in those instances where the youth's consent for testing or treatment is sufficient or specifically required.
- (d) Conservators can provide consent only within limits of their court authorization.

Youth may refuse, verbally or in writing, non-emergency medical, dental and behavioral/mental health care.

References: Health and Safety Code, Section 199.27, together with Family Code, Sections 7050, 6922, 6924 through 6929 and 6911.

## II. PROCEDURES

**INFORMED CONSENT:** Voluntary agreement to a treatment, examination, or procedure by the youth or the youth's parent/legal guardian after having been informed of the nature, consequences, risks, and alternatives of the procedure treatment, examination or procedure.

### A. Informed Consent for Health Care Services

1. With the exception of certain types of treatment and care to which youth may consent, California State statutes generally authorize the parent(s)/legal guardian of a youth to consent to the provisions of health care services.
2. Until a signed individual consent from parent/guardian/court/emancipated youth is obtained by the assigned Probation Officer, health care services shall be rendered to a youth in custody in accordance with a current 'Standing Order of the Juvenile Court re Mandatory Health Assessment of Detained Juveniles and Consent for Further Medical Care in the Absence of parental Consent'. The current Standing Order shall remain in effect until amended or rescinded by the Juvenile Court.
3. To ensure prompt and proper health care, the assigned Probation Officer will obtain, for each detainee who is under 18 years of age, the signature of a parent or legal guardian on form, "Authorization for Medical, Dental, Psychiatric, and Education Services" at the first contact with the parent/legal guardian after the

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youth is brought into custody. If needed, a consent form in the parent's/legal guardian's spoken language shall be provided. Or alternatively, provisions shall be made for oral explanation of the consent form in the parent's/legal guardian's spoken language.

4. In the event that the parent/guardian/youth refuses to sign the consent form, OR parent/guardian is not available, the Probation Officer shall request the signature of a Juvenile Court judge on Form #92, "Standing order for Medical/Dental Care of Ward". The Probation Officer will be expected to give a full explanation of what attempts have been made to obtain the youth's signature.
5. The original signed consent form (JC 462) or Form #92, shall remain in the file of the youth's Probation Officer, and one copy shall be forwarded to the SPY medical clinic within 72 working hours of the youth's admission.
6. These signed general consents shall apply to all health care services provided to the youth by SPY and shall be effective for a period of two (2) years from the date signed OR legal change in guardianship, at which time new consent forms must be completed and signed.
7. In the event that a signed consent form is not available for placement in the youth's health record, SPY will notify the assigned Probation Officer and/or Supervising Probation Officer, requesting receipt of a signed consent.

**B. Specific Health Care Services for which Youth May Consent.**

1. State statutes authorize youth 12 and older (Civil Code §34.7) to consent to certain types of health care services. Health care services covered by these laws include
  - a. Care related to sexually transmitted infections (STIs), including HIV/AIDS and Immunizations to prevent sexually transmitted infections (hepatitis B and HPV).
  - b. Collection of medical evidence related to the diagnosis or treatment of sexual assault or rape (but the treating provider must attempt to contact the youth's parents or legal guardian unless the provider "reasonably believes" that the parent or guardian committed this sexual assault). (Civil Code §34.9)
  - c. Care related to the diagnosis or treatment of drug or alcohol related problems, not including methadone treatment, (but the treating provider must contact the parents or guardian and give them an opportunity to participate unless the provider believes such contact would be inappropriate). (Civil Code §25.9)

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- d. Outpatient mental health counseling or treatment (not including convulsive therapy, psychosurgery, or psychotropic drugs) if the treating professional determines that the youth: (1) is mature enough to participate in the treatment and counseling, and either (2) would present a serious danger of physical or mental harm to himself/herself or others without intervention, or (3) is the alleged victim of incest or child abuse. A youth 12 years of age or older may give consent. (Civil Code §25.9)
  - e. Family planning, counseling, and contraceptive services (but not sterilization). A youth of any age may give consent. (Civil Code §34.5)
  - f. Care related to diagnosis or treatment of pregnancy, including abortion. A youth of any age may give consent. (Civil Code §34.5)
  - g. Performance of an HIV antibody test. A youth of 12 years of age or older may give consent. [Health and Safety Code (H&S) §199.27]
  - h. Blood donations. A youth 17 years of age or older may give consent. (A youth 15 years of age or older may consent to donate blood if both the youth's parents or legal guardian and a physician authorize the donation in writing.) (Civil Code §25.5)
2. California State statutes generally authorize emancipated youth to consent to the provision of health care services except certain irreversible and highly invasive procedures.

C. Situations requiring additional Informed Consent

- 1. In the event that a youth requires behavioral health hospitalization, or medical/surgical procedures, specific informed written consent shall be obtained from the parents/guardian/emancipated youth or, if unavailable, from the Court by licensed health care providers proposing the above treatments or procedures. This consent will include an explanation of procedure/treatment, risks and benefits and other options.
- 2. When informed consent is required for specific health care services, a consent form in the spoken language of the youth and/or in that of the parent(s)/legal guardian shall be provided. Or alternatively, provisions shall be made for oral explanation of the consent form and/or an explanation in the spoken language of the youth and in that of the parent(s)/legal guardian.
- 3. Should a youth require psychotropic medication, unless he/she is emancipated, the youth's parent(s)/legal guardian shall have the opportunity to give informed written consent for the medication ordered, although the youth's parent(s)/legal guardian may give informed verbal witnessed consent by telephone initially. If the parent(s)/legal

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guardian of the youth is unavailable, informed written consent shall be obtained from the Court by the clinician.

4. Original signed consents for procedures performed by SPY health care providers shall be included in the youth's record.

**D. Exceptions to Requirement of Informed Consent by Youth or Youth's Parents(s) Legal Guardian for Health Care Services**

1. In the case where a youth requires immediate medical, surgical, dental, or other remedial care in an emergency situation or whenever the Probation Officer cannot, with reasonable diligence locate and notify the parent(s)/legal guardian/person standing in loco parentis of a youth's need for such care; upon written recommendation of licensed clinician or dentist, the Court may authorize the performance of such care as is reasonably necessary under the circumstances without notice to the parent(s)/legal guardian/person standing in loco parentis. An "emergency situation" is one wherein a youth requires immediate treatment, diagnosis and treatment of an unforeseeable medical, surgical, dental, or other remedial condition or contagious disease and if left untreated, would lead to serious disability or death [Welfare and Institutions Code (W&I) §739(d)].
2. Whenever a youth is in need of medical, surgical, dental, or other remedial care, and the Probation Officer cannot, with reasonable diligence locate and notify the parent(s)/legal guardian/person standing in loco parentis or that person is not capable or is unwilling to authorize such care; upon written recommendation of a licensed clinician or dentist, the Court may authorize performance of the necessary medical, surgical, dental, or other remedial care [W&I §739 (a) (b)].

**E. Refusal of Treatment and withdrawal of Informed Consent**

1. If a youth and/or his/her parent(s)/legal guardian chooses to refuse treatment recommended as necessary by SPY health care providers, a form stating refusal to submit or consent to treatment shall be signed. A SPY health care provider shall witness and sign the form which shall be filed in the youth's health record. In addition, the SPY staff member administering the treatment shall document in the youth's health record the youth's and/or his/her parent(s)/legal guardian's refusal of treatment.
  - a. In the event that the youth is unwilling to sign the Refusal Form, the SPY staff member administering the treatment shall document the youth's refusal in his/her health record and witness and sign the unsigned Refusal Form.






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- b. In the event that the youth's parent(s)/legal guardian is unwilling or unable to sign the Refusal Form (e.g., when verbal consent is being obtained by telephone), the SPY staff member administering the treatment shall document the parent(s)/legal guardian's refusal in the youth's health record, and witness and sign the unsigned Refusal Form.
2. When there exists valid informed consent for medical or behavioral health treatments or procedures, the youth and/or his/her parent(s)/legal guardian may withdraw consent at any time prior to administration of the treatments or procedures by stating such to the SPY health care provider and signing a refusal form to this effect. A SPY health care provider shall witness and sign the form which shall be filed in the youth's health record. In addition, the SPY staff member who receives this information shall document in the youth's health record the youth's or his/her parent(s)/legal guardian's withdrawal of consent for treatment.
3. If, in the opinion of the licensed health care professional, the refused treatment is necessary for the well being of the youth, he/she may petition the Court for an order to initiate or continue care.

REFERENCE:

1. Hanson CI, Meghrigan AG, Mead AP, et al; Consent. In: Crooks PL, Stocker MW, eds. California Physician's Legal Handbook –1991. San Francisco, Ca: California Medical Association; 1991; 7:23-7:24.
2. Adolescent Health Working Group: <http://www.ahwg.net/>
3. California Welfare and Institutions Code, Div 2, pt 1, ch 2. In: West's California Juvenile Laws and Courts Rules –1991. St. Paul, MN: West Publishing Co.; 1991: 11,115.

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	 Digitally signed by Helena Chan Date: 2020.02.05 16:11:33 -08'00' Helena Chan, MD Behavioral Health Medical Director, SPY
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