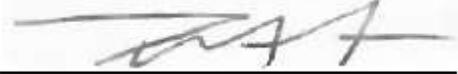


<b>POLICY TITLE: INFORMED CONSENT FOR A RESIDENT WHO HAS NOT ATTAINED THE AGE OF EIGHTEEN</b>		<b>PAGE 1 OF 6</b>
<b>POLICY NUMBER: 13.3.1 (JF)</b>		
<b>CHAPTER 13: HEALTH CARE SERVICES</b>		
	<b>STATE of MAINE DEPARTMENT of CORRECTIONS</b>  <b>Approved by Commissioner:</b> 	<b>PROFESSIONAL STANDARDS:</b>  <b>See Section VIII</b>
<b>EFFECTIVE DATE:</b> December 15, 2003	<b>LATEST REVISION:</b> February 25, 2026	<b>CHECK ONLY IF</b> <b>APA [ ]</b>

**I. AUTHORITY**

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403.

**II. APPLICABILITY**

All Departmental Juvenile Facilities

**III. POLICY**

Access to necessary health care services is a right, rather than a privilege. The Department ensures that juvenile residents have the right to make informed decisions regarding health care, including where applicable the right to refuse care.

**IV. DEFINITIONS**

1. Competent - a resident is competent if they have the ability to understand the significant benefits and risks of, and alternatives to, proposed health care and to make and communicate a reasoned health care decision.
2. Emergency treatment - medical care for conditions that pose an immediate threat to life, limb, or long-term health, requiring rapid intervention to prevent serious harm, disability, or death, often delivered in hospital emergency departments for severe issues like breathing difficulties, diabetic coma, major injuries, or sudden loss of consciousness, distinguishing itself from urgent care for less severe, but still timely, needs.
3. Family planning services - means medically safe and effective sexual and reproductive health care and education that enable persons to freely plan their children, avoid unintended pregnancy and maintain reproductive and sexual health through the provision of contraceptive supplies, contraceptive procedures, and related counseling; the prevention and treatment of infertility; appropriate prenatal and obstetric care; the prevention or treatment of sexually transmitted infections; and other services necessary for reproductive and sexual health.

4. Guardian ad litem (GAL) - an individual appointed by a court to represent the best interests of a minor in an ongoing child protection case, family matter (e.g., divorce case), or probate matter. A GAL may be an attorney, mental health professional, or CASA (Court-Appointed Special Advocate) volunteer. A GAL is not a legal guardian of the minor and may not act as such in any way.
5. Health care provider - for purposes of this policy, physician, physician assistant, or nurse practitioner or, where applicable, dentist, optometrist, or ophthalmologist.
6. Informed consent - a voluntary consent, usually in writing, for treatment after the material facts about the nature, risks and benefits of the proposed treatment, and the available alternatives have been provided. The informed consent of the Superintendent, or designee, as the legal guardian for a resident who has not attained the age of 18 applies as provided by law.

**V. CONTENTS**

- Procedure A: General
- Procedure B: Maine Law Regarding a Minor’s Consent to Treatment
- Procedure C: Informed Consent
- Procedure D: Right to Refuse

**VI. ATTACHMENTS**

- Attachment A: Consent to Medical, Dental, Eye, and Mental Health Treatment and Information Sharing ([paper/online](#))
- Attachment B: Consent to Invasive Medical or Eye Procedures, Including Surgery ([paper/online](#))
- Attachment C: Consent for Invasive Dental Procedures, Including Surgery ([paper/online](#))
- Attachment D: Refusal of Treatment ([paper/online](#))

**VII. PROCEDURES**

**Procedure A: General**

1. A juvenile resident who has not attained the age of 18 shall be provided with general information regarding medical, dental, and eye services and mental health care as part of the admission health screening process.
2. The facility Health Services Administrator (HSA), or designee, shall ensure the resident and, if applicable, the resident’s parent(s), guardian, or legal custodian are informed about health care in a language that is easily understood.
3. Per [Title 34-A §3809-A](#), the Commissioner, or designee, has all the power over a juvenile resident under the age of 18, regardless of whether they are committed or detained, that a guardian has over a ward and that a parent has over a child while that the resident is at the Long Creek Youth Development Center with respect to consent to health care for the resident. The Commissioner has delegated this power to the Superintendent of the facility, and in the Superintendent’s absence, to the Superintendent’s designee.

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4. This means that a resident’s parent, guardian, or legal custodian or guardian ad litem, if applicable, does not have any authority with respect to consent for health care.
5. Non-emergency treatment shall not be provided to a resident who refuses the treatment, regardless of their age, whether or not they are competent, or have a court-appointed guardian.
6. The resident disciplinary process shall never be used to force unwanted treatment on a resident.
7. Neither restraints, nor other form of physical force, may be used to force unwanted treatment on a resident, except as set out below and only in accordance with Department Policy (JF) 13.13, Therapeutic Restraints and Seclusion.
8. In any emergency in which a resident is unable to consent to or refuse treatment (is unconscious, unable to communicate, or disoriented) and when it is necessary to provide treatment before consent can be obtained, necessary treatment shall be provided, using only the degree of physical force necessary.

**Procedure B: Maine Law Regarding a Minor’s Consent to Treatment**

1. Under Maine law, a juvenile resident under the age of 18 can consent without permission of any other person to the below:
  - a. mental health services under [Title 22 §1503](#);
  - b. substance use disorder treatment under [Title 22 §1502](#);
  - c. health services associated with a sexual assault forensic examination to collect evidence after an alleged sexual assault under [Title 22 §1507](#);
  - d. family planning services under [Title 22 §1908](#);
  - e. care for the prevention or treatment of a sexually transmitted infection under Title 32 §§ [2595](#) and [3292](#); and
  - f. abortion services under [Title 22 §1597-A](#).
2. Under [Title 22 §1503](#), a resident under the age of 18 can consent without permission of any other person to all medical, mental, dental and other health counseling and services if the resident:
  - a. is or was legally married;
  - b. has been living separately from parents or legal guardians for a period of at least 60 days and is independent of parental support (this does not include time that the resident has been at a Department juvenile facility);
  - c. is or was a member of the Armed Forces of the United States; or
  - d. has been emancipated by the court.
3. Under [Title 22 §1508](#), a resident who is at least 16 years of age may consent without permission of any other person to gender-affirming hormone therapy if:

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- a. the resident has been diagnosed with gender dysphoria by a health care provider as provided in Department Policy (JF) 18.8, Transgender, Gender Nonbinary, and Intersex Juvenile Residents; and
  - b. in the judgment of the health care provider, the resident is experiencing harm from or is expected to experience harm from not receiving gender-affirming hormone therapy.
4. Except as set out below, a resident who may consent to treatment is entitled to the same confidentiality afforded to adults.
  5. A facility health care provider may notify the parent(s)/guardian/legal custodian of a resident who has consented to treatment if, in the judgment of the provider, failure to inform the parent(s)/guardian/legal custodian would seriously jeopardize the health of the resident or would seriously limit the provider's ability to provide treatment or if the resident has consented to the notification.

**Procedure C: Informed Consent**

*4-JCF-4C-44 & 5-JCF-5C-45*

1. The intake nurse shall provide a juvenile resident who has not attained the age of 18 with a general Consent to Medical, Dental, Eye, and Mental Health Treatment and Information Sharing form (Attachment A) for completion after being provided with the general information as part of the admission health screening process. This form shall be signed on an annual basis.
2. The intake nurse shall also ask the resident if health care information can be shared with the resident's parent(s)/guardian/legal custodian and shall document the resident's response in the resident's electronic health care record (EHCR).
3. The facility Health Services Administrator (HSA), or designee, shall ensure that each signed consent form is uploaded into the resident's EHCR.
4. If a resident refuses to sign the general consent to treatment form, the resident may still consent to specific health care by submitting a sick call slip.
5. It shall be presumed that the Superintendent, or designee, consents to any treatment that is recommended by a facility health care provider that the resident consents to, except as set out below.
6. Regardless of whether the Consent to Medical, Dental, Eye, and Mental Health Treatment and Information Sharing form has been signed or not, for invasive medical, eye, or dental diagnostic and/or treatment procedure(s), the resident and the Superintendent, or designee, shall be provided with information about the condition, its nature and duration, the proposed diagnostic and/or treatment procedure(s), the benefits and risks of the proposed procedure(s), any alternatives to the proposed procedure(s), and the consequences of refusing the proposed procedure(s).
7. After the resident and the Superintendent, or designee, have had the opportunity to consider this information, and if the resident and the Superintendent, or designee, consent to the procedure, they shall sign the Consent to Invasive Medical or Eye

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Procedures, Including Surgery form (Attachment B) or the Consent to Invasive Dental Procedures, Including Surgery form (Attachment C), as applicable, and the procedure shall be provided.

8. In the event that a resident requires assistance to communicate effectively or understand health care treatment or needs, the facility HSA, or designee, shall ensure the resident is provided with an interpreter, assistive device, or other necessary assistance.
9. Any time there is a concern that a resident who has not attained the age of 18 might not be competent to make health care decisions, that resident shall be referred to appropriate mental health care staff for a determination of whether or not the resident is competent to make the health care decision(s) in question.
10. If the mental health care staff determines that the resident is incompetent to make the health care decision(s), the Superintendent, or designee, shall make the decision(s). The procedures set out in this policy shall be followed, except that the resident shall not be asked to sign any consent or refusal forms with respect to any decision(s) they are incompetent to make.

**Procedure D: Right to Refuse**

1. In a situation in which a resident who has not attained the age of 18 refuses health care, the health care staff shall explain to the resident the risks of refusing and attempt to persuade the resident to accept the treatment.
2. If the resident continues to refuse, the health care staff shall provide the resident with a Refusal of Treatment form (Attachment D) to sign and upload it into the resident’s electronic health care record (EHCR).
3. If the resident refuses to sign the form, the health care staff and a witness shall document the refusal on the form. It shall also be documented in the progress notes of the EHCR that the resident refuses care and refuses to sign the Refusal of Treatment form.
4. When a resident refuses to go to the medical department or other treatment area for a scheduled appointment or procedure, unless safety or security risks prevent it, the resident shall be required to go to the medical department in order for health care staff to verify the refusal, or, if necessary, the health care staff shall verify the refusal at the resident’s location. Any refusal shall be documented by the health care staff in the resident’s EHCR.
5. If a resident who has not attained the age of 18 refuses treatment after the health care staff has explained the risks of refusal and attempted to persuade the resident to accept the treatment, health care staff shall contact the Superintendent, or designee, for a decision and document in the progress notes of the EHCR that contact and the Superintendent’s, or designee’s, decision. If applicable, the health care staff shall also ask the Superintendent, or designee, to sign the appropriate consent for an invasive procedure.
6. The health care staff shall inform the resident of the Superintendent’s, or designee’s, decision and, if necessary, attempt to persuade the resident to accept the decision.

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7. A situation in which a resident refuses to take non-emergency medications that have been ordered shall be handled in accordance with Department Policy (JF) 13.7, Pharmaceuticals.
8. If the resident refuses to accept a decision regarding non-emergency treatment, the treatment shall not be provided.
9. If the resident refuses to accept a decision regarding emergency treatment, the emergency treatment shall be provided, despite the refusal by the resident.
10. If the resident refuses emergency hospital treatment or end of life care that has been determined medically necessary, the Superintendent, or designee, shall give the consent for the hospital to provide the treatment or care.
11. By refusing treatment at a particular time, the resident does not necessarily waive their right to subsequently request the treatment or other health care.

## **VIII. PROFESSIONAL STANDARDS**

### **ACA**

- 4-JCF-4C-44 & 5-JCF-5C-45** Informed-consent standards in the jurisdiction are observed and documented. The informed consent of parent, guardian, or legal custodian is obtained where required by law. The juvenile and parent, guardian, or legal custodian are informed about medical care in a language that is easily understood. When health care is rendered against the juvenile's will, it is only in accordance with federal and state laws and regulations.

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