Department of Juvenile Justice
Health Services Operating Procedure

HSOP VOL IV – 4.3 – 6.01	**Statutory Authority:** Title 66 of the Code of Virginia; § 54.1-2969; § 37.2-1100 et seq.
Subject: **Informed Consent and Parental Notification**	**Regulations:** 6VAC35-140-210; 6VAC35-71-930 **Board Policy:** 12-001; 12-005 **ACA #** 4-JCF-4C-30; 4-JCF-4C-41; 4-JCF-4C-42; 4-JCF-4C-43; 4-JCF-4C-44; 4-JCF-4C-45 **NCCHC #** Y-I-02; Y-I-04

6.01-1.0 PURPOSE

To ensure medical assessments and procedures performed on residents committed to Department of Juvenile Justice (DJJ) comply with informed consent standards in the community.

6.01-2.0 SCOPE

These procedures apply to all juvenile correctional center (JCC) and halfway house employees and staff assigned to the JCCs and halfway houses by other units, agencies, or departments.

6.01-3.0 DEFINITIONS

Acute Medical Distress – Medical condition requiring immediate medical intervention (e.g., a medical emergency).

Implied Consent – Consent which is not expressly granted by a person, but rather inferred from a person's actions and the facts and circumstances of a particular situation after receiving the facts regarding the nature, consequences, risks, and alternatives (e.g., request to take blood and the resident holds out his/her arm).

Informed/Expressed Consent – The voluntary consent or agreement to treatment, examination, or procedure after receiving the facts regarding the nature, consequences, risks, and alternatives. The consent may be written or verbal.

Invasive Procedure – A surgical entry into tissues, cavities, or organs or the repair of any tissues. This includes the manipulation, cutting, or removal of any tissue during which bleeding occurs or the potential for bleeding exists.

Medical Observation – Resident separated from the general population upon assessment by Health Services staff to enable observation, improve ready access to care, or prevent the spread of infectious diseases.

Routine Procedure – A medical procedure that would be beneficial to a resident but is not emergent or urgent in nature. Experimental procedures shall not be considered routine.

Urgent Care – Procedures and interventions that address conditions that are not life threatening but that if left untreated could result in protracted pain or deterioration of a resident's health.

6.01-4.0 PROCEDURES

1. The resident shall be advised by health services staff of the following:

    a. The material facts regarding the nature, consequences, and risks of any proposed treatment, examination, or procedure; and
    b. The alternatives to it.

2. Treatments, examinations, and procedures requiring informed/expressed consent are as follows:

    a. Those requiring general anesthesia;
    b. Invasive surgical procedures;
    c. HPV vaccination;
    d. Influenza vaccination; and
    e. Dental extractions.

3. Informed/expressed consent, when given verbally, shall be documented in the resident's medical record.

4. Treatments, examinations, and procedures not listed above do not require informed/expressed consent. Implied consent shall be sufficient and documentation of the implied consent is not required.

6.01-4.1 Delegation of Authority to Consent for Minors

1. The DJJ Director is authorized to provide consent for on-site and off-site medical treatment for minors committed to DJJ. The DJJ Director may delegate this authority to superintendents and halfway house directors to give consent for medical treatment for minors residing within their respective facility.

2. The Local Health Authority shall ensure the DJJ Director or superintendent/director, as designated and applicable, provides consent prior to surgery or medical treatment.

    a. Consent forms for all elective and emergency medical/dental procedures shall be signed by the superintendent/director or designee.
    b. If verbal permission is obtained, the staff obtaining the consent shall have an additional person act as a witness to the verbal consent for the procedure. Both staff members shall sign the consent form as witnesses.
    c. All consent forms shall be maintained in the resident's medical record.

6.01-4.2 Resident Ability to Consent

1. Residents 18 and over may provide consent for medical procedures.

2. A resident, of any age, may consent to the following:

    a. Medical or health services needed to determine the presence of or to treat sexually transmitted infections or any infectious or contagious disease that the State Board of Health requires to be reported;

b. Medical or health services required in case of birth control, pregnancy, or family planning except for the purposes of sexual sterilization;
c. Medical or health services needed in the case of outpatient care, treatment, or rehabilitation for substance abuse as defined in § 37.2-100; and
d. Medical or health services needed in the case of outpatient care, treatment, or rehabilitation for mental illness or emotional disturbance.

3. A pregnant resident, of any age, may give consent for herself and her child to surgical and medical treatment relating to the delivery of her child when such surgical or medical treatment is provided during the delivery of the child or the duration of the hospital admission for such delivery.

6.01-4.3 Emergency Medical Treatment

1. The resident shall be clearly informed of the need for emergency medical treatment if he/she is responsive.

2. The non-minor resident may give verbal or written consent to emergency medical treatment. If the resident is unable to consent (e.g., unconscious), there is implied consent.

3. The DJJ Director or designee, as appropriate, shall give verbal consent for minors requiring emergency medical treatment.

4. The parent, guardian, or responsible agency, as appropriate and applicable, shall be informed of the emergency and treatment as soon as practicable. Treatment shall not be delayed due to the inability to notify the parent, guardian, or responsible agency.

5. The nurse shall document all emergency medical treatment, parental notifications, as applicable, and consents in the resident's medical record.

6.01-4.4 Resident's Refusal of Health Services

1. Residents may refuse medical treatment and care. Each refusal of medical treatment and care shall be documented on the Refusal of Health Services Form and maintained in the resident's medical record.

2. Refusal of medications shall be documented in accordance with HSOP VOL IV-4.3-3.09 (Medication Administration Record).

3. The following shall be notified for further consultation with the resident, as appropriate:

   a. Provider;
   b. Counselor;
   c. Behavioral Services Unit staff;
   d. Parole Officer;
   e. Superintendent/Director or designee; and
   f. Parent, guardian, or responsible agency.

4. The right of a resident to refuse medical services should be respected unless the services are legally required for all residents, are necessary to prevent the spread of a communicable

disease, are necessary for the protection of the resident's health, or are required by an order of the court. Treatment over the refusal of a resident shall be provided in accordance with sections 6.01-4.5, 6.01-4.6 and 6.01-4.7 below. Only upon a decision by the court that a resident is incompetent should the refusal be overridden for residents over 18.

5. The resident shall be made aware of the impact or consequences of his/her refusal of services (e.g., postponed release, medical complications, competency hearing, transfer to another facility, etc).

6.01-4.5 Involuntary Assessment of Residents

1. Health services staff shall assess residents following an injury, post-restraint, and when acute medical symptoms are observed. Residents refusing medical assessment shall be given an explanation of the risks inherent in their refusal of care by a nurse or a provider.

2. Residents not demonstrating any signs of acute medical distress may be placed under medical observation for thirty (30) minutes to allow the resident time to consider their need for assessment and/or treatment and when necessary to regain emotional control.

    a. The nursing staff shall maintain nursing observations, as indicated.
    b. The security staff shall conduct routine observation checks (e.g., 15 minutes checks as required by standard operating procedures) unless more frequent checks are required due to case specific circumstances.
    c. The nurse manager/supervisor shall be notified.
    d. A resident may be assessed earlier if he/she consents to the assessment.

3. After the thirty (30) minutes has lapsed, the nursing staff shall attempt another assessment. If the resident continues to refuse, the nursing staff shall attempt an assessment to the extent possible, over the resident's objection, when it is necessary to determine if a potential injury or condition exists that may affect the resident's recovery.

    a. The assessment shall include only what is minimally necessary to ascertain the basic extent of the injury or condition.
    b. At a minimum, the nursing assessment shall include the observation of the affected site(s).
    c. The nurse shall report significant findings to a provider.
    d. If the resident's active resistance prevents assessment, a Registered Nurse (RN) shall request use of force through the shift commander. The pre-planned use of force to facilitate the assessment shall be conducted in accordance with SOP 218 (Use of Force and Mechanical Restraints).
        1) If a RN is unavailable, a Licensed Professional Nurse shall notify Chief Physician or designee of the situation to receive orders regarding whether or not force is necessary and document accordingly in the resident's medical record.
        2) Nursing staff shall notate in the medical record when their assessment has been affected by a lack of resident cooperation.

3) The nursing staff and the shift commander shall consult on the appropriate means for the use of force to avoid aggravating any existing injuries or medical conditions.
4) A serious incident report relating to the use of force shall be submitted in accordance with SOP 100 (Incident Reports).

6.01-4.6 Urgent and Emergent Medical Care of a Minor Resident Over Objection

1. Whenever a delay in providing services may adversely affect a minor's recovery, the Chief Physician or designee may request use of force for the administration of medical treatment through the shift commander to facilitate invasive assessment and treatment with a non-compliant resident. The pre-planned use of force shall be conducted in accordance with SOP 218 (Use of Force and Mechanical Restraints). Instances of when this may occur include, but are not limited to, the following:

   a. Initial assessment of injury or wound to include visual observation and palpitation.
   b. The administration of medication to prevent serious decline in health.
   c. Wound care to include object removal, cleansing, irrigation, bandaging, and topical antibiotics.

2. Prior to the involuntary treatment, consent for the minor resident must be received from the DJJ Director or designee. The consent may be written or verbal and shall be documented in the resident's medical record. If verbal consent is obtained, the staff obtaining the consent shall have an additional person act as a witness to the verbal consent for the procedure. Both staff members shall sign the consent form as witnesses.

3. Health services staff and the shift commander shall consult on the appropriate means for the use of force to avoid aggravating any existing injuries or medical conditions.

4. Health services staff shall not participate in the restraint of the resident, but shall conduct the assessment or treatment while the resident is being restrained by security staff.

5. When health care is rendered against the resident's will, it shall be in accordance with applicable laws and regulations.

6. All instances of involuntary treatment shall be documented in the resident's medical record.

6.01-4.7 Urgent and Emergent Care of a Resident 18 Years of Age or Older Over Objection

1. Whenever a delay in providing services may adversely affect a non-minor resident's recovery, the Chief Physician or designee shall inform the Local Behavioral Services Unit (BSU) Treatment Director or designee.

2. Upon direction from the Chief Physician or designee, the Local BSU Treatment Director or designee shall have the resident evaluated to determine whether an involuntary medical treatment petition should be pursued.

3. The Local BSU Treatment Director or designee shall pursue a Medical Treatment and Detention Petition in the general district court for involuntary medical treatment, when indicated.

4. If the non-minor resident is in acute medical distress and refusing care, he/she shall be sent to the emergency room consistent with HSOP VOL IV-4.3-5.03 (Community Medical Referrals) and HSOP VOL IV-4.3-4.09 (Medical Emergency Response Plan), as appropriate.

5. Health services staff and the shift commander shall consult on the appropriate means for the use of force, consistent with SOP 218 (Use of Force and Mechanical Restraints), as appropriate and applicable.

6. Health services staff shall not participate in the restraint of the resident, but shall conduct the assessment or treatment while the resident is being restrained by security staff.

7. When health care is rendered against the resident's will, it shall be in accordance with applicable laws and regulations.

8. All instances of involuntary treatment shall be documented in the resident's medical record.

6.01-4.8 Behavior Constituting a Threat to the Resident, Staff, or Institutional Security

1. Residents exhibiting behavior that constitutes an urgent or emergency medical threat shall be addressed consistent with this procedure and applicable standard operating procedures. Health services staff shall work collaboratively with security staff to protect residents and staff from harm.

2. If a resident exhibits behaviors that cause harm to themselves or others, health services staff and security may intervene to end the current behavior and prevent future harm. Use of force, consistent with SOP 218 (Use of Force and Mechanical Restraints), may be applied to protect the resident, other residents, and staff, as appropriate and applicable.

3. With an order from a provider, intervention may include, but is not limited to the following:

    a. Involuntary treatment reasonably related to abating active self-injurious behavior and the resulting physical harm;
    b. Involuntary removal of any external object, material, or bodily excretion in a wound or body cavity and cleaning of a wound posing an urgent or emergency risk to the health or safety of the resident, other residents, and/or staff;
    c. Involuntary cleaning of the resident's body when fecal matter or other bodily excretions have been applied or rubbed on the surface area.

4. The behaviors exhibited, medical condition and threat to health or safety, and intervention shall be documented in the resident's medical record.

6.01-4.9 Parental Notification for Minor Residents

1. The parent or legal guardian of a minor resident shall be advised, as soon as practicable, by Health Services staff of the following:

    a. The material facts regarding the nature, consequences, and risks of the proposed invasive surgical procedures and/or procedures requiring general anesthesia; and
    b. The alternatives to it.

2. Parental notifications shall be made in advance of the procedure, unless security concerns require a delay in notification, and shall be documented in the resident's medical record.

3. The parent, guardian, or responsible agency shall be informed of medical emergency and treatment as soon as practicable. Treatment shall not be delayed due to the inability to notify the parent, guardian, or responsible agency.

6.01-5.0 RESPONSIBILITY

The Local Health Authority, Local BSU Treatment Director, Superintendent, and Halfway House Director are responsible for implementing this procedure.

6.01-6.0 INTERPRETATION

The Health Services Administrator and Deputy Director of Operations are responsible for the interpretation and the exception approval to this procedure.

6.01-7.0 CONFIDENTIALITY

All procedures and bulletins are DJJ property and shall only be used for legitimate business purposes. Any redistribution or the documents or information contained in the procedures or bulletins shall be in accordance with applicable state and federal statutes and regulations and all other DJJ procedures. Any unauthorized use or distribution may result in disciplinary and/or criminal action, as appropriate and applicable.

6.01-8.0 REVIEW DATE

This procedure shall remain in effect until rescinded or otherwise modified by the appropriate authority.

Approved by Director: Mark A. Bruck	**Date:** 8/27/13
Approved by Health Administrator: Mark H. Murphy	**Date:** 8/27/13
Approved by Chief Physician:	**Date:** 8/27/13
Effective Date: August 27, 2013	**Office of Primary Responsibility:** Health Services; Behavioral Services Unit; Division of Operations
Supersedes: VOL IV-4.3-6.01 (August 26, 2013); HS-12 Notification of Parents/Guardians (2005); HS-21 Informed Consent (2005)	**Forms:** Refusal of Health Services