

# HEALTH SERVICES POLICY & PROCEDURE MANUAL

North Carolina Department Of Public Safety  
Prison

SECTION: Administrative – Offender  
Rights

POLICY # AD IV-1

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SUBJECT: Informed Consent

EFFECTIVE DATE: February 2014  
SUPERCEDES DATE: February 2008

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## PURPOSE

To insure appropriate consents are obtained.

## STATUTORY AUTHORITY

G.S. 148.22-2 provides statutory authority which allows medical staff of the North Carolina Prisons to perform, or arrange performance by competent and skillful surgeons, surgical operations upon any offender when such operation is necessary for the improvement or maintenance of his/her health. The decision to perform an operation shall be made by the attending surgeon. No such operation shall be performed without the written consent of the offender. If the offender is a minor, consent must be obtained from a responsible family member, a guardian, or someone having legal custody of the minor.

## GENERAL CONSENTS

As part of general medical care during incarceration, NCDPS will perform test including the collection of blood work to look for treatable conditions for which offenders are often at risk. Each offender is asked to voluntarily consent to medical and or dental examinations, treatments and procedures which are deemed necessary in the opinion of the physician and health care providers, including tuberculosis, syphilis, HIV infection, laboratory tests and x-rays via the General Consent Form.

## DEFINITION

Informed consent is the written granting of permission in writing by an offender to an examination, diagnostic test, or proposed medical or surgical procedure after receiving appropriate information about the benefits, risks, and alternatives.

Prior to signing an informed consent, the physician/dentist shall disclose to the offender in a clear and understandable manner, information which will enable offender to evaluate the options and make a knowledgeable decision based on that information, before consenting to a course of treatment. This is to include the possibility of complications, disfigurements, and incision into or removal of body parts. The offender shall be given a general idea of what to expect in the early and late postoperative periods and be given a general idea of the time frame involved. The following requirements are necessary in obtaining informed consent:

### Pre-Operative

1. The person responsible for carrying out the procedure should obtain informed consent.
2. The offender must be legally and mentally capable of granting informed consent, in the physician's determination.
3. The offender must be free from coercion or undue influence when granting consent

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4. Consent is to be granted for a specific treatment or procedure.
5. The offender is to be given an opportunity to ask questions and receive answers to questions prior to granting consent.
6. The offender has the right to refuse treatment or withdraw consent.

Signed consent forms are to be obtained from the offender for the following but not limited to:

1. Procedures involving any anesthesia (general, local or spinal) (DC 887)
2. Radiation therapy
3. Electroconvulsive therapy
4. Blood donation and transfusion
5. Religiously motivated treatments/or non-treatments
6. Organ Donations
7. Dental Procedures (including restorations, root canals, and extractions) (DC 808)
8. Oral Surgery (DC 807)
9. Medication Administration which involve risk of harm to the offender (i.e. chemotherapy, myelograms, arteriograms, pyelograms) (DC 175)
10. Mental Health Treatment (DC- 945).

\*Special consideration will be given to the offender/offender for whom English is a second language, those who are deaf or blind, or anyone experiencing communication barriers. The name of the translators or interpreters assisting the physician must be documented on the consent form.

The offender may rescind consent at any time; however, treatment rendered while the consent was in effect is to be considered authorized by the offender.

**NOTE:** Informed consent **IS NOT** required in life threatening situations in which the offender is not capable of granting consent.

### CONSENT FOR MINORS

A minor is an offender who is under 18 years of age who is not emancipated (by marriage or by a judicial decree of emancipation).

A parent or legal guardian must sign the consent form or give verbal consent, for an offender/offender for non-emergency medical treatment. A minor may consent to treatment under the following conditions without parental or guardian involvement:

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1. “when seeking services for prevention, diagnosis and treatment of venereal diseases and other diseases reportable under N.C. Gen. Stat. 130-A-135, pregnancy, abuse of controlled substances or alcohol, or emotional disturbances, as authorized in N.C. Gen. Stat. 90-21.5 (1990).
2. An unwed minor mother may consent to medical or surgical treatment services for her child.

If a minor offender is unconscious or incapable of granting informed consent, and consent from a parent or legal guardian cannot be obtained within the time constraints necessitated by nature of the situation, medical decisions may be made by the chief medical officer and the superintendent of the correctional facility. (N.C. Gen. Stat. 148-22.2) The Director of Health Services/designee should be made aware of these actions.

Medical personnel shall document all measures taken to obtain permission from parents or legal guardians.

### MENTAL CAPACITY

If an offender has been determined to be mentally incompetent, “or if a physician doubts an offender’s capacity to consent, even though the offender has not been judged legally incompetent” the consent of a responsible member of his/her family or a guardian must be obtained. In the event a responsible member of the offender’s family or a guardian cannot be contacted (as evidenced by the return of a registered letter to the last known address of the guardian or responsible relative), the Director of Health Services/designee of Prisons is authorized to give substituted consent. The Director of Health Services of the Prisons may also withhold (on behalf of the offender) consent to proposed medical or surgical procedures.

### DOCUMENTATION

Orderly presentation of recorded offender information is essential. Therefore, various consent for treatment forms must be signed by the offender (these include medical, surgical, dental, and oral surgical). If an offender refuses treatment, a refusal of treatment form must be signed. If the offender refuses to sign a refusal of treatment form, two staff members must witness the refusal and document accordingly on the Refusing Health Care Against Orders of Responsible Clinician.

### EMERGENCY TREATMENT

If the responsible physician determines that emergency surgery is necessary to preserve the life or health of an offender and the offender is incapacitated and unable to grant consent, consent will be sought from a family member, guardian, or someone having legal custody. If consent cannot be

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obtained by a responsible family member, guardian, or person with legal custody within the time necessitated by the nature of the emergency, the Medical Director/Director of Health Services (physician) and the facility superintendent (with the advice of the medical staff) shall give substitute consent.

In emergency surgical cases, the Director of Health Services/designee (physician) and the medical staff of the facility are to maintain careful and complete records of the measures taken to obtain consent. A complete medical record signed by the Director of Health Services/designee, the surgeon, and all surgical consultants of the operation will be created.

Informed consent for medical intervention will not be required when staff is responding to life threatening conditions that require immediate action to preserve the health and safety of the offender.

### REFERENCE FORMS

The forms listed below are referenced in this policy and are located on the Prisons web page under Health Services, Forms. They may be accessed by clicking the link below or under forms in the electronic health record.

[http://internal.doc.state.nc.us/dop/health\\_services\\_forms.htm](http://internal.doc.state.nc.us/dop/health_services_forms.htm)



3/24/2014

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Paula Y. Smith, Chief of Health Services

Date

SOR: Director of Medical Records

[DC 887 Procedures involving any anesthesia \(general, local or spinal\)](#)

Radiation therapy

Electroconvulsive therapy

Blood donation and transfusion

Religiously motivated treatments/or non-treatments

Organ Donations

[DC 808 Dental Procedures \(including restorations, root canals, and extractions\)](#)

[DC 807 Oral Surgery](#)

[DC 175 Medication Administration which involve risk of harm to the offender \(i.e. chemotherapy, myelograms, arteriograms, pyelograms\)](#)

[DC 945 Mental Health Treatment](#)