

CORRECTIONAL MANAGED HEALTH CARE POLICY MANUAL	Effective Date: 8/28/2019	NUMBER: I-70.1 Page 1 of 2
	Replaces: 8/23/2016	
	Formulated: 12/84 Reviewed: 07/2021	
INFORMED CONSENT		

PURPOSE: To ensure the inmate's right to informed consent.

POLICY:

- I. All TDCJ contracted health care providers and their agents adhere to requirements set forth by the Texas Medical Disclosure Panel and the Texas State Board of Dental Examiners concerning informed consent.
- II. The treating physician, mid-level practitioner, dentist, or his/her designee, must obtain informed consent for any surgical or invasive procedure.
- III. Other approved Consent Forms are to be used in specific situations as determined by various Correctional Managed Health Care (CMHC) or departmental policies (e.g. consent for Mental Health, Telemedicine, or Hospice Services, consent for Pre-Release HIV testing, consent for HCV or TB treatment, etc.) For non-surgical and non-invasive treatments not covered by a specific consent form but with increased risk of adverse events there is an approved Request/Consent for Treatment or Services form for use at the treating provider’s discretion. (See Attachment A)
- IV. In emergent situations, inmates are treated under the law of implied consent as defined by Texas Health & Safety Code §773.008, “Consent for Emergency Care.”
- V.
 - A. If an inmate is comatose, incapacitated, or otherwise mentally or physically incapable of communication, an adult surrogate who has decision-making capacity will be contacted. If a surrogate from the following list, which is in order of priority, is available and is willing to consent to medical treatment on behalf of the patient after a reasonably diligent inquiry, the surrogate may consent to medical treatment on behalf of the patient.
 1. the patient's spouse;
 2. an adult child of the patient who has the waiver and consent of all other qualified adult children of the patient to act as the sole decision-maker;
 3. a majority of the patient's reasonably available adult children;
 4. the patient's parents; or
 5. the individual clearly identified to act for the patient by the patient before the patient became incapacitated, the patient's nearest living relative, or a member of the clergy.
 - B. In community hospitals, a surrogate decision maker is to be identified in accordance with state law as per hospital policies and procedures.
- VI. Prior to initiating a specific form of mental health assessment and/or treatment, the provider will obtain the inmate’s informed consent.

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Reference: ACA Standard 4-4397, Informed Consent
Texas Civil Practice and Remedies Code Subchapter C of Chapter 74 Sections 101 - 107
25 TAC Chapter 601, Texas Medical Disclosure Board
22 TAC § 108.7, Texas Board of Dental Examiners, Minimum Standards of Care
AD-06.10 Notification Regarding Seriously/Critically Ill Inmates
Texas Health & Safety Code §773.008. Consent for Emergency Care
Texas Health & Safety Code §313.004 Consent for Medical Treatment