



**STATE OF MONTANA
DEPARTMENT OF CORRECTIONS
POLICY DIRECTIVE**

Policy No. DOC 4.5.31	Subject: INFORMED CONSENT
Chapter 4: FACILITY/PROGRAM SERVICES	Page 1 of 2 and Attachment
Section 5: Health Care	Effective Date: July 1, 1998
Signature: /s/ Mike Ferriter, Director	Revised: 08/08/07; 10/27/09

I. POLICY

The Department of Corrections facility health care providers will comply with informed consent practices in accordance with the provisions of this policy before providing treatment to offenders in Department custody.

II. APPLICABILITY

The secure care facilities that include Riverside and Pine Hills Youth Correctional Facilities, Montana State Prison, Montana Women's Prison, and the private and regional facilities contracted to the Department of Corrections.

III. DEFINITIONS

Facility – Refers to any prison or secure care correctional facility under Department jurisdiction or contract.

Informed Consent – An offender's written voluntary consent for treatment or procedure after he or she receives the material facts about the nature, consequences, and risks of the proposed treatment or procedure and has been informed of the available alternatives.

IV. DEPARTMENT DIRECTIVES

A. Information to the Offender

1. Health care providers must provide the offender with the following information:
 - a. a clear, concise explanation of his/her condition and all proposed technical procedures;
 - b. an explanation of possible risk of mortality or serious side effects;
 - c. an explanation of problems relating to recuperation and probability of success; and
 - d. an explanation of any available treatment alternatives.

B. Informed Clinical Consent

1. After offenders are informed as described in Section A above, consenting offenders will sign an Informed Clinical Consent form [MS® Office Format PDF Format](#) for all medical care other than routine care.
2. The parent or guardian of youth offenders will sign the appropriate forms contained in the Health Information Packet provided by the facility.

C. Emergencies

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1. In the event of an emergency when informed consent cannot be immediately obtained and the offender's life is in danger, informed consent will be implied.
 - a. medical providers must exercise their best medical judgment in all such cases; and
 - b. it is required that the medical provider document in the medical record all aspects of the offender's condition and the reasons for emergency intervention.

D. Court Orders

In certain exceptional cases, a court order for treatment may be sought for offenders, just as may be the case in the general community.

E. Refusal by the Offender to Provide Informed Consent

Offenders may refuse aspects of their treatment in accordance with *DOC Policy 4.5.32, Right to Refuse Medical Treatment*.

V. CLOSING

Questions concerning this policy should be directed to the Department's health services bureau chief.

VI. REFERENCES

- A. *53-1-203, MCA (2009) Powers and Duties of the Department of Corrections*
- B. *National Commission on Correctional Health Care Standards, 2008*
- C. *ACA Standards for Juvenile Correctional Facilities, 2003*
- D. *DOC Policy 4.5.32, Right to Refuse Medical Treatment*

VII. ATTACHMENT

Related Form:

Informed Clinical Consent [MS® Office Format](#) [PDF Format](#)