

DEVELOPMENTAL DISABILITIES ADMINISTRATION
Olympia, Washington

TITLE: CONSENT FOR MEDICAL TREATMENT POLICY 9.08
AFFECTING REPRODUCTIVE FUNCTIONS

Authority: [42 C.F.R. 440.150](#) *Intermediate care facility services*
[42 C.F.R. 483.420](#) *Condition of participation: Client protections*
[RCW 7.70.065](#) *Informed Consent*
[Title 71A RCW](#) *Developmental Disabilities*
[RCW 71A.20.050](#) *Superintendents: Custody of Residents*
[In re Guardianship of Hayes, 93 Wn.2d 228 \(1980\)](#)

BACKGROUND

Some medical or surgical treatments for various diseases or health conditions may affect a person's reproductive functions and may cause sterility or reduced ability to produce children. Other medical procedures are sometimes used for the primary purpose of sterilization. When sterilization is the primary objective of a medical procedure, a court order may be required. When sterilization is a secondary outcome, guardian consent may be sufficient. For medical procedures that may affect a client's reproductive functions, this policy sets forth the guidelines that employees of residential habilitation centers (RHCs) and privately operated intermediate care facilities for individuals with intellectual disabilities (ICF/IIDs) must apply when determining the steps necessary to secure informed consent or a court order.

PURPOSE

This policy specifies the responsibilities of employees of the Developmental Disabilities Administration (DDA) and privately operated ICF/IIDs to assist clients in obtaining informed consent prior to treatment, and describes which treatments and procedures require a court order.

SCOPE

This policy applies to employees at RHCs and privately operated ICF/IIDs. If the client's ability to reproduce has already been permanently lost, this policy does not apply.

DEFINITIONS

Informed consent means consent given by a person to receive treatment with an understanding of the risks and benefits involved. If a client is not competent to give informed consent for health care, other persons as defined in [RCW 7.70.065](#) may provide informed consent on the client's behalf.

Reproductive function means the ability to reproduce through spermatogenesis, ovulation, or sexual intercourse and ability to sustain intrauterine pregnancy.

POLICY

- A. DDA clients have the right to preserve fertility. Legally sufficient consent must be obtained for any treatment that may affect reproductive function, fertility, or diminish sexual function or desire.
- B. Examples of treatments that adversely affect fertility include hormone replacement, chemotherapy, radiation therapy, and medications that reduces ovulation, spermatogenesis, or sexual drive.
- C. Examples of surgical procedures that adversely affect fertility include tubal ligation, vasectomy, removal of an ovary or testicle, and hysterectomy.

PROCEDURE

- A. Employees must assist clients with the decision to give or withhold consent before sterilization procedures are performed.
- B. Intentional Sterilization Procedures
 - 1. A client who does not have a legal guardian and is capable of providing informed consent may give consent for intentional sterilization procedures, such as tubal ligations and vasectomies.
 - 2. A client's legal representative, family member, or other substitute decision-maker cannot give consent for intentional sterilization procedures. A court order must be obtained (See *In re Guardianship of Hayes*, 93 Wn.2d 228 (1980)).
 - 3. A court order or informed consent from the client must be obtained at least 30 days before any surgical procedure.
 - 4. If a client is prescribed an intentional sterilization procedure, employees must assist the client in completing and providing the necessary consent. If the client is not capable of providing informed consent, DDA staff will consult with the Office

of the Attorney General, the client's legal representative, or family regarding a petition to the Superior Court for consent.

C. Secondary Sterilization Procedures

1. Certain elective medical or surgical treatments and procedures necessary to save the person's life or to treat a condition, which if left untreated would become life-threatening, may result in secondary sterilization. This includes, but is not limited to, the following:
 - a. Treatment for malignancy of the reproductive system, including breast and prostate cancer;
 - b. Treatment for disease of the reproductive system, which cures or prevents the spread of disease from the reproductive system, including ionizing radiation;
 - c. Treatment for benign lesions of the reproductive system; and
 - d. Treatment for trauma to the reproductive system.
2. A client's legal representative may give consent for the secondary sterilization procedures described above. If there is no legal representative, other family members may give consent according to the consent hierarchy defined in [RCW 7.70.065](#). When there is no legal representative or family member able to provide the necessary informed consent, DDA must, in consultation the Office of the Attorney General, petition the Superior Court for consent. For life threatening conditions requiring immediate treatment, such treatment should not be delayed to address potential reproductive concerns or to seek additional consent, where such delay could cause loss of life.

D. Other Treatments Affecting Reproductive Functions

A client's legal representative may give consent for:

1. Administration of a temporary contraceptive medication and temporary contraceptive device; or
2. Administration of a medication with side effects that may cause diminished reproductive capacity if:
 - a. The medication is necessary to treat a significant condition affecting the client's physical or psychological health; and
 - b. The medication is prescribed for reasons other than reducing reproductive

capacity.

E. Medications that Diminish Sexual Desire or Functioning

If a client is prescribed a medication that diminishes sexual desire or functioning, the following requirements apply.

1. A client who is competent and able to understand the risks and benefits of the medication, and who does not have a legal representative, may give consent to receive medications that reduce sexual desire or functioning.
2. If a client is unable to understand the risks and benefits of the proposed medication, and has no legal representative, the RHC should consult with the Office of the Attorney General about whether to file a guardianship petition.
3. If a client has a legal representative with the power to make health care decisions for the client, the legal representative may give consent for such medications. In these instances, an exception to policy is also required to allow DSHS and DDA to evaluate the client's willingness and understanding relative to the consent and the effects of the medication.

F. Documenting the Need for Treatment

All medical or surgical treatments that result or may result in sterilization must be preceded by:

1. A specific medical diagnosis;
2. A description of:
 - a. The planned medical procedure;
 - b. Possible effects of the procedure;
 - c. Alternative treatments, including non-treatment; and
 - d. The risks and benefits of each treatment alternative.
3. Documentation of the medical necessity of the procedure by at least two physicians. One of which cannot be an employee or contractor for DDA.
4. Documentation of necessary laboratory studies, including X-rays, CAT scans, ultrasound results, and any other examination results.

EXCEPTIONS

No exceptions to this policy are allowed.

SUPERSESSSION

DDA Policy 9.08
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Approved: /s/: Deborah Roberts
Deputy Assistant Secretary
Developmental Disabilities Administration

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