

CENTRAL STATE HOSPITAL  
POLICY

SUBJECT: RIGHT TO CONSENT/REFUSE

ANNUAL REVIEW MONTH: November

RESPONSIBLE FOR REVIEW: Chief Medical Officer

LAST REVISION DATE: July 2009

---

**I. GENERAL**

Central State Hospital (CSH) recognizes the right of its clients to refuse treatment, a right which is guaranteed by law to all clients who have reached the age of majority and have not been declared legally incapacitated by a court of law. For further information on the client's right to make treatment decisions and to formulate advance directives concerning health care, refer to CSH Policy 4.42, Advance Directives: Patients/Residents Self-Determination in the Planning of Medical and/or Surgical Treatment for Physical Conditions.

**II. PSYCHOTROPIC MEDICATION**

- A. Before the administration of any psychotropic medication, the client (or parent or legal guardian, as appropriate) shall be given the opportunity to consent or refuse to consent to the medication. The client's (or parent's/ legal guardian's) signature is to be obtained on the appropriate Informed Consent for Psychotropic Medication form. (See CSH Informed Consent Guidelines for Implementation contained in the appendix to the Medical and Dental staff Bylaws which is made a part of this policy by reference).
- B. For the specific requirements involved in the administration of psychotropic medication CSH Policy #4.44, Informed Consent-Psychotropic Medication, should be consulted.

**III. SURGERY OR INVASIVE DIAGNOSTIC PROCEDURES**

Prior to any surgical or invasive diagnostic procedure, the written consent of the client (or parent or legal guardian, as appropriate) must be obtained on form CSH-41 (Rev. 2/05) (Consent For Surgical or Diagnostic Procedures). For dental procedures the requirement shall be deemed applicable only to those dental cases requiring general anesthesia. If the client

refuses to consent to any of these procedures, one of the following steps is to be taken:

- A. If the client has not been declared legally incapacitated by a court of law, but he/she is not mentally capable of making a decision concerning the proposed procedure, the following persons are authorized and empowered to consent:
1. Any adult, for him/herself, whether by living will or otherwise;
  2. Any person authorized to give such consent for the adult under a health care agency complying with Chapter 36 of Title 31, the "Durable Power of Attorney for Health Care Act";
  3. In the absence or unavailability of a living spouse, any parent, whether an adult or a minor, for his/her minor child;
  4. Any married person, whether an adult or a minor, for himself/herself and for his/her spouse;
  5. Any person temporarily standing in loco parentis, whether formally serving or not, for the minor under his/her care; and any guardian, for his/her ward;
  6. Any female, regardless of age or marital status, for herself when given in connection with pregnancy, or the prevention thereof, or childbirth;
  7. Upon the inability of any adult for him/herself and in the absence of any person to consent under paragraphs (2) through (5) of this subsection the following persons in the following order of priority:
    - (a) Any adult child for his/her parents;
    - (b) Any parent for his/her adult child;
    - (c) Any adult for his/her brother or sister; or
    - (d) Any grandparent for his/her grandchild.

Alternately, a family member may file for guardianship in the appropriate probate court. If a guardian is appointed, then he/she should be approached for a written consent for the proposed medical procedure. The Facility Risk Management Director should be contacted for assistance and further information.

In an emergency where medical staff determines that immediate surgical or other intervention is necessary to prevent serious physical consequences or death, and delay in obtaining consent would create grave danger to the physical health of the client, then surgery or other intervention may be performed without the consent of the client, spouse, next-of-kin, attorney, guardian, or any other person. The signatures of two physicians shall

constitute valid authorization for the procedure and they shall document their medical opinion and reasons in the client's medical record.

- B. If the client is both legally competent and able to make such decisions, then the attending physician, along with the clinical director or chief medical officer/ designee, needs to determine the urgency of the proposed procedure. If the medical procedure is considered urgent, the Facility Risk Management Director should be contacted for assistance and further information.

**Approved:**

**This policy has been approved by the CEO and CMO on 12/09.**