

GEORGIA DEPARTMENT OF CORRECTIONS



Standard Operating Procedures

Policy Name: Right to Refuse Treatment

Policy Number: 507.04.86

Effective Date: 01/19/2022

Page Number: 1 of 6

Authority:
Commissioner

Originating Division:
Health Services Division
(Physical Health)

Access Listing:
Level I: All Access

I. Introduction and Summary:

Offenders will have the right to refuse health treatment and care. This policy is applicable to all facilities that house Georgia Department of Corrections (GDC) offenders including private and county prisons.

II. Authority:

A. GDC Standard Operating Procedures (SOPs): 209.04 Use of Force and Restraint for Offender Control, 409.04.09 Modified Diets and Special Feeding, 507.04.87 Advance Directives, 507.04.89 Do Not Resuscitate (DNR) Order, 507.05.09 Refusal of Dental Treatment, 508.09 Mental Health Records, 508.22 Mental Health Management of Suspected Sexual Abuse or Sexual Harassment, and 508.26 Involuntary Medication Administration;

B. NCCHC 2018 Adult Standard: P-G-05; and

C. ACA Standards: 5-ACI-6C-04, 4-ALDF-4D-15, and 4-ACRS-4C-19.

III. Definitions:

A. **Non-Serious Medical Condition** - A medical condition for which no serious complications are anticipated if the condition is untreated (e.g., common cold, athletes' foot, etc.).

B. **Serious Medical Condition** - A medical condition for which, if untreated, may result in irreversible loss of life, limb, or function.

C. **Competent Adult** - Any person who is of sound mind, 18 years of age or older.

D. **Clinician** - Physician (MD or DO), Nurse Practitioner (NP), or Physician's Assistant (PA).

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IV. Statement of Policy and Applicable Procedures:

A. General Refusal of Treatment - Any health evaluation and treatment refusal must be documented and shall include the following:

1. Description of the nature of the service being refused;
2. Evidence that the offender has been made aware of any adverse consequences to health that may occur as a result of the refusal;
3. The signature of the patient;
4. The signature of a health care staff witness; and
5. In the case of medication refusals, in addition to a signed refusal form, documentation on the Medication Administration Record (MAR) will indicate the patient refused the medication.

B. Refusal of Treatment for Non-Serious Medical Conditions.

1. The health care Clinician should provide sufficient information to explain the nature, benefits and risks of examinations, procedures or treatments being offered to offenders.
2. Offenders may, at the time of being offered medical evaluation and treatment, refuse such treatment.
3. Offenders may not sign a blanket refusal for all treatment. Rather, offenders may refuse care on a case-by-case basis after the specific risks and alternatives have been discussed by the Clinician and documented in the health record.

C. Refusal of Treatment for Serious Medical Conditions.

1. If the evaluation or treatment being refused is for a medical condition for which serious consequences may occur if untreated, the Clinician will counsel the

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offender regarding the consequences of refusing the evaluation or treatment and document the counseling in the progress notes section of the health record. If the offender continues to refuse, a refusal of treatment form will be completed in the presence of a witness.

2. If the Clinician questions or is unsure that the offender is a Competent Adult, a referral to Mental Health should be made. Mental Health professionals will be responsible for determining offender competency (refer to section IV.F for additional information).
3. The Clinician should clearly document the specific type of treatment being refused along with the medical or surgical condition for which the offender is being treated and the potential consequences of refusing treatment (e.g., death, stroke, heart attack, etc.).
4. If an offender refusing an evaluation or treatment refuses to sign a refusal of treatment form the Clinician will complete the form and write "patient refuses to sign" in the space for signature. The signature of both the Clinician and a second witness are required.
5. The physician should determine transportation requirements regarding offenders with potentially Serious Medical Conditions who refuse treatment. In most cases, the offender should be transported to the facility where the specialty services are to take place (e.g., specialty consultation at ASMP/340 B Program). This measure is intended to provide every opportunity for the offender to receive necessary evaluation and treatment.
6. Offenders refusing treatment for Serious Medical Conditions will be monitored through the appropriate Chronic Illness Clinic and re-counseled regarding their current condition. A refusal of treatment form will be signed during each visit.
7. The Clinician will counsel offenders with terminal illnesses wishing to refuse treatment regarding the availability of Advance Directives (Living Will and

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Durable Power of Attorney for Health Care) and Do Not Resuscitate Orders. Refer to SOP 507.04.87 for additional information.

8. Each occurrence of offender refusal of medications will be documented on the MAR and on a refusal of treatment form. The nurse should initially provide non-adherence counseling to offenders who refuse high risk medications that can result in serious consequences (insulin, antiretroviral therapy, anticoagulants, TB medications, etc.) within fourteen (14) days. If one dosage of insulin is missed, the offender will be immediately referred to a Clinician for counseling. If the offender continues to be non-adherent, referral to a Clinician should be scheduled after the 4th missed dose within a seven (7) day period. The Clinician will counsel offenders who refuse to accept medications that can result in serious consequences (such as insulin, anti-retrovirals, anticoagulants and TB medications). The counseling will be documented in the health record. In addition to progress note documentation, a refusal of treatment form will be completed.
9. Refusals of major medical treatments such as those for cancer, neurological conditions, or other irreversible processes that may result in irreparable harm should be communicated to the GDC Statewide Medical Director for advice and guidance.

D. Acceptance of Treatment Following a Refusal.

1. Offenders will have the right to accept treatment following a refusal of treatment.
2. In the event an offender changes his/her mind and decides to accept treatment after refusing, a waiver of refusal of treatment form will be signed, witnessed, and filed in the consent section of the Health Record. This cancels the initial refusal of treatment and reinstates the original consent for treatment.
3. The Clinician will re-evaluate the patient to determine whether the previous treatment recommended to the offender remains appropriate.

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4. The Clinician will explain to the offender and document in the health record any changes in the treatment plan. The offender's acceptance of treatment will be documented in the progress notes.

E. Refusals of Evaluation and Treatment for Infectious Diseases.

1. While offenders have the right to refuse treatment, in circumstances involving infectious diseases including but not limited to tuberculosis and syphilis, the offender refusing treatment will be placed in medical isolation for the protection of other offenders and correctional staff until treatment is accepted and the offender is no longer infectious. Force may be used to obtain the required test for infectious disease only after:
 - a. If an offender objects to or refuses to take a TST test or blood test for TB, HIV or syphilis, alternative methods of persuasion such as patient counseling, education and/or isolation must be exhausted prior to using force to administer the test (s).
 - b. In order to reduce the risk of staff injury due to needle sticks at any point in the testing process if the offender is inadequately contained or becomes out of control, the licensed health care provider will stop the procedure until the offender is either voluntarily or physically under control.
2. If unable to obtain the test by use of force, the physician at his discretion may seek to obtain a court order for any offender who continues to refuse consent for a required examination or testing for longer than 30 days.

F. Refusal of Treatment by offenders with Mental Health Disorders.

1. Throughout the management of offender refusals, the provider must keep in mind that refusal of medically necessary treatments may be an indicator of mental health problems. When in doubt of the competency of the offender to refuse, a mental health evaluation shall be requested.

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2. If the offender has a mental health diagnosis, and is felt to be psychotic, a psychiatrist should evaluate the offender to determine the need for involuntary medication under SOP 508.26, Involuntary Medication Administration.
3. For offenders with a mental health diagnosis, who also have a Serious Medical Condition where a refusal may result in irreversible consequences, the GDC Statewide Medical Director should be notified for guidance and resolution.

V. **Attachments:** None.

VI. **Record Retention of Forms Relevant to this Policy:** None.