I. PURPOSE

A. To delineate the process to obtain written permission from the patient, after receiving information regarding the benefits, risks, and alternatives from the applicable Comprehensive Health Services provider (internal and external), to perform an examination/evaluation, diagnostic tests, or treatments and/or services.

B. To establish a procedure for patients to refuse in writing examinations, diagnostic tests, treatments and/or services.

C. To identify procedures for compulsory testing, quarantine, patient competency, and guardianship related to the refusal of recommended treatment, care, and services.

II. DEFINITIONS

A. Competency

The ability to reason and understand the nature and consequences of the health care decision being made.

B. Incompetent

The inability to reason or understand will generally be the product of a significant mental disease or defect.

C. Informed consent

The agreement by a patient to a treatment, examination, or procedure after the patient receives the material facts regarding the nature, consequences, risks, and alternatives concerning the proposed treatment, examination, or procedure.

D. Minor

An offender who is under 18 years of age who is not emancipated (by marriage or by a judicial decree of emancipation).

III. POLICY

A. Processing center Comprehensive Health Services staff shall review and have the patient sign the DC 598 Consent Form. The completed form shall be scanned into the patient health care record.

B. The Comprehensive Health Services provider that is providing the care, treatment, and service shall be responsible for providing counseling/education and obtaining the patient's signed informed consent on the applicable consent form that is specific to the care, treatment, and services being offered. The completed form shall be scanned into the patient health care record.

C. Counseling, education, and informed consent for care, treatment, and services being performed by community providers will be completed by the clinician performing the intervention.

D. ***Patients for whom English is a second language, those who are deaf or blind, or anyone experiencing communication barriers shall have the information provided in a way that is understood by the patient. If applicable, the name of the translators or interpreters assisting the provider shall be documented on the consent/refusal form (5-ACI-6C-04).***

E. ***Informed consent (verbal or written) shall be obtained from a parent, guardian, or legal custodian for minors, when required by law for non-emergency Comprehensive Health Services treatment (5-ACI-6C-04).***

F. Consent to medical treatment on behalf of a patient (offender) who is comatose or otherwise lacks capacity to make or communicate healthcare decisions should proceed in accordance with NC Gen. Stat. § 90-21.13, which establishes such authorities based on legal appointment, familial relationships, and in some circumstances the attending physician caring for the patient (offender). These circumstances most often arise when offenders are admitted to community hospitals.

G. Nursing staff shall be responsible for reviewing the patient health care record and provide counseling/education to the patient about the purpose, contraindications, risks and what to do in case of adverse reactions prior to obtaining consent and administering immunizations/vaccines.

H. Informed consent for health care intervention shall not be required when staff is responding to life threatening conditions that require immediate action to preserve the health and safety of the patient.

I. The patient shall be legally and mentally capable of granting informed consent, in the provider's determination.

J. Care, treatment, and services for purposes of coercion, punishment or the use of undue influence is prohibited and shall be addressed by facility and Comprehensive Health Services leadership.

K. ***Patients may refuse and or rescind consent for health care services, in writing, on the DC 442 Medical Treatment Refusal (5-ACI-6C-04).***

L. ***Two DAC staff members shall sign as witnesses for patients that refuse to sign the DC 442 Medical Treatment Refusal (5-ACI-6C-04).***

M. ***A licensed Comprehensive Health Services staff member shall provide counseling/education to the patient that has refused medical care, treatment, and services. Specific counseling/education shall be documented on the DC 442 Medical Treatment Refusal. Completed form shall be scanned into the patient's health care record (5-ACI-6C-04).***

N. A patient's refusal of Comprehensive Health Services care, treatment and services does not forego their ability to receive the same or related care, treatment, or services at a later time.

O. Comprehensive Health Services staff shall document communications with the patient, parent, guardian, or legal custodian in the patient's health care record.

P. In accordance with NC Gen. Stat. § 148-22.2, North Carolina Department of Adult Correction (DAC) Comprehensive Health Services providers are authorized to perform, or arrange performance by competent and skillful surgeons, surgical operations upon any offender when such operation is necessary for the improvement or maintenance of their health.

Q. If the attending surgeon determines that an operation is needed, the decision shall be made by the Comprehensive Health Services Chief Medical Officer/designee in consultation with the facility provider and in collaboration with the facility Warden.

R. Patient consent shall be sought for diagnostic tests/treatment for a patient reasonably suspected of having a communicable disease; however, if applicable, tests/treatments shall be accomplished with or without the patient's consent by order of the provider.

S. For patient's suspected of having a communicable disease the least intrusive and most effective alternative available shall be used to accomplish the applicable treatments/tests (medical isolation, chest x-ray, etc.).

T. Audio, Video, and photographic recordings; either hard copy or digital files made in the course of diagnostic or therapeutic processes, are private and confidential.

1. Offenders' identity may NOT be revealed if the images are used in later case studies.

2. A digital file is to be considered part of the medical record and will be retained according to established retention schedules. Notation should be made in the medical record indicating the existence of a digital file.

3. Hardcopies or digital photographic, video or audio related to medical treatment should be integrated into the Electronic Health Record. All other copies will then be deleted from all other devices.

4. Consent either written or verbal, in the presence of a witness, is required prior to taking photographs or recordings with a non-state issued device. Consent must be noted in the medical record.

5. If electronic media is essential for evaluation/treatment and the offender refuses to consent, offender will be counseled regarding the risk, and the evaluation/ treatment will not be completed. Medical treatment refusal shall be obtained and scanned into the medical record.

U. Patient Competency

1. If there is reason to suspect that a patient is not competent and Comprehensive Health Services treatment or diagnosis is necessary, a clinical determination of the patient's competency shall be made.

2. If the determination is made by the Comprehensive Health Services provider that a patient is not competent to make their own decisions/judgements in non-life-threatening situations, application for judicial appointment of a guardian shall be made.

3. Following the court appointed guardian, Comprehensive Health Services decisions shall be made by the guardian.

4. A patient is not incompetent simply because he declines to follow the advice of health and wellness providers.

5. In life threatening emergencies, the decision of competency shall be made by the available senior Comprehensive Health Services staff member.

    a) If the patient is reasonably believed to be incompetent, informed consent shall not be required in responding to life threatening conditions.

    b) Specific interventions based on such determinations of incompetency and supporting reasons shall be documented in the patient’s health care record by the senior Comprehensive Health Services staff member that made the clinical determination of the patient's competency.

6. In other than a life-threatening emergency, a patient who is suspected of being incompetent shall be referred to Behavioral Health for the appropriate assessment. This referral shall take place even though the offender is consenting to treatment.

    a) If Behavioral Health personnel determine that the patient is competent to make the decision for care, treatment, and services, that determination shall be documented in the patient’s health care record.

    b) The patient shall have the right to decline/refuse general or specific Comprehensive Health Services care, treatment and services.

c) The determination of competency shall be considered effective until such time as there are circumstances indicating some change in the patient's condition or status.

d) In the event of such change, the new or additional circumstances should be documented, and a new competency assessment requested.

V. Minors

In accordance with NC Gen. Stat. § 130A-135 and 90-21.5, minors may consent to treatment without parental or guardian involvement when seeking services for sexually transmitted diseases, pregnancy, substance abuse, and behavioral health.

W. Compulsory Testing

1. When a patient refuses to submit to an ordered diagnostic test/treatment, Institution authorities shall make reasonable efforts to convince the offender to voluntarily submit to testing/treatment.

2. The Comprehensive Health Services provider shall document in the patient's health care record the patient's condition, the reason for the diagnostic tests/treatments being implemented without the patient's consent (such as a communicable disease issue) and counseling/education provided.

3. Continued patient refusal to submit to ordered diagnostic testing/treatment shall result in compulsory testing.

4. When compulsory testing is required, appropriate Comprehensive Health Services personnel shall be present.

a) If the offender refuses, the DAC Chief Medical Officer (CMO) shall be notified. DAC CMO will review the case, including the efforts and interventions made by medical and facility staff to determine if any additional interventions are available or if all efforts have indeed been exhausted while considering the potential health risks to staff, other offenders, and to the refusing offender. The DAC CMO will then provide a recommendation to facility leadership. Approval of use of force and the determination of the timing and extent of force deemed necessary to perform the mandated testing lies completely within the authority of the Warden or designee.

b) The facility medical staff shall enlist the assistance of the unit custody staff. The offender shall be given a direct order to submit to the ordered test. If the offender still refuses, staff shall explain to the offender that force will be used to accomplish testing.

c) Upon the offender's continued refusal and with recommendation from the DAC CMO and approval of the Warden or designee, custody staff shall restrain and hold the offender in order for medical staff to obtain the necessary lab specimens. Appropriately trained

medical staff will collect the required specimens. Only the degree of force reasonable to accomplish testing is to be applied.

d) Documentation should be completed in the offender's medical record of the counseling, refusal to consent to testing, subsequent requirement for use of force and any other interaction with offender related to mandatory testing.

e) Clinical nurse management or designee shall complete the Medical Event Report and forward to risk management.

5. The facility health authority/designee shall request to have a patient detained and isolated:

a) Who is reasonably suspected of being infected with a communicable disease when and the extent such detention and isolation is necessary to protect the health of the offender population and staff.

b) Until the results of the examination or diagnostic tests are determined.

c) ***Documentation shall be entered in the patient health care record by the facility health authority/designee regarding administration of treatment or isolation and reported to the Facility Warden/designee (5-ACI-6C-03).***

X. Quarantine

1. In accordance with NC Gen. Stat. § 130A-145, local and state health directors are empowered to exercise quarantine and isolation authority and shall be exercised only when and so long as the public health is endangered, all other reasonable means for correcting the problem have been exhausted, and no less restrictive alternative exists.

2. ***Immunizations against a communicable disease in a communicable disease outbreak situation may be given without the patient's consent upon written instructions by the Chief of Communicable Disease Branch, North Carolina Department of Environmental Health (5-ACI-6A-12).***

3. The patient shall be quarantined (isolated) until such time as the provider responsible for the patient determines that either the patient has responded to counseling and will be compliant or an appropriate plan is in place to prevent transmission.

Y. Consents

1. Offenders shall be asked to voluntarily consent to Comprehensive Health Services examinations/evaluations, care, treatment, and services which are deemed necessary in the opinion of Comprehensive Health Services providers.

2. Consent forms shall be obtained for the following (not all inclusive): https://internal.doc.state.nc.us/dop/health_services_forms.htm or as found in electronic medical record.

   a) DC 133R Notice of Referral to a Mental Health Unit.

   b) DC 411C Transgender Accommodation Review Committee (TARC) Consent and Authorization.

   c) DC 475 Hepatitis C Therapy Informed Consent.

   d) DC 540 Behavioral Health Services Referrals.

   e) DC 546 Notice of Referral to IMC.

   f) DC 552 Request for Discharge for inpatient/Residential Program.

   g) DC 590 Request and Authorization for Oral Surgery.

   h) DC 598 Consent Form.

   i) DC 746 Inmate Reasonable Accommodation Request Determination.

   j) DC 807 Request and Authorization for General Dental Treatment.

   k) DC 808 Endodontic Root Canal Therapy, Endodontic Surgery, Anesthetics and Medications.

   l) DC 854 Informed Consent for Intravenous Contrast Media.

   m) DC 887 Consent to Surgery, Anesthetics and Medical Treatment.

   n) DC 945 Confidentiality and Privileged Information.

   o) DC 947CR Behavioral Health Consent to Record.

   p) DC 947DT Informed Consent for Day Treatment Services.

   q) DC 947OP Informed Consent for Outpatient Treatment Services.

   r) DC 947RA Informed Consent for Psychological Evaluation for Community Risk Assessment.

   s) DC 947TDU Informed Consent for Therapeutic Diversion Unit Services.

   t) DC 967 SOAR Referral.

IV. REFERENCES

A. 5th Edition Standards for Adult Correctional Institutions

5-ACI-6A-04, 5-ACI-6A-12, 5-ACI-6C-03, 5-ACI-6C-04

B. NC Gen. Stat. § 90-21.5, 90-21.13, 130A-135, 130A-143, 130A-145, 148-22.2

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