North Carolina Department Of Correction
Division Of Prisons

SECTION: Administration – Patient Rights

POLICY # AD IV-5

SUBJECT: Inmate Right to Refuse Medical Treatment

EFFECTIVE DATE: May 2010
SUPERCEDES DATE: February 2007

References

Related ACA Standards **4th Edition Standards for Adult Correctional Institutions 4-4397**

PURPOSE

To provide guidance on how to manage an inmate's refusal of care.

POLICY

This policy is designed to establish a procedure in which an inmate patient may refuse diagnostic and treatment recommendations. Guidance concerning documentation, and counseling of refusals of treatment.
Procedures for compulsory testing, quarantine, patient competency and guardianship related to refusal of treatment are already outlined below.

PROCEDURE

I. Right to Refuse

a. If found competent to make this decision, inmates may elect to refuse all diagnostic and treatment recommendations,
b. Inmate may be quarantined for observation when the inmate's condition is a danger or potential danger to himself, the inmate population, or employees of the Division of Prisons, as determined by the facility health authority in coordination with the facility head.
c. Treatment for purposes of coercion, punishment or any other improper purpose is prohibited.

II. Documentation

a. All refusals of any diagnostic or treatment modality must be documented on the DC-442 Refusal of Treatment form and filed in the inmate's medical record.
b. The inmate must sign the refusal to receive medical treatment.
c. When an inmate refuses to receive recommended diagnostic measures and treatment, but also refuses to sign the DC-442, the form will be witnessed by two DOP staff members
d. It will be duly noted on the DC-442 that the inmate refused the diagnostic measures and/or treatment and that he refused to sign the DC-442.

III. Counseling

a. By refusing treatment at a particular time, the inmate does not forego his ability to receive the same or related health care at a later time.
b. Health care staff shall counsel inmates against refusals of treatment when they believe it to be in the inmate's best interest~~,~~

c. Document counseling in the inmate's health record.

IV. Compulsory Testing

a. Diagnostic tests for an inmate reasonably suspected of having a communicable disease can be accomplished with or without the inmate's consent.
b. Consent should be sought in all cases.
c. Testing or treatment without the inmate's consent shall be by order of the individual's attending physician.
d. The least intrusive and most effective alternative available shall be used to accomplish the treatment (medical isolation, chest x-ray, etc.).
e. The health care provider shall enter into the medical record all aspects of the patient's condition and the reason for the medical intervention without the inmate's consent (such as a communicable disease issue).
f. When an inmate refuses to submit to an ordered diagnostic test, prison authorities will make reasonable efforts to convince the inmate to voluntarily submit to testing.
g. Counseling will be documented in the medical record.
h. Continued inmate refusal to submit to ordered diagnostic testing will result in compulsory testing.
i. When testing is exercised, the following conditions will apply:
    1. Appropriate medical personnel will be present when use of force is necessary.
    2. Only the degree of force necessary to perform the diagnostic test is to be applied. The force used shall be documented on a Use of Force Report.
j. The facility health authority may detain and isolate an inmate:
    1. 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 inmate population and staff
    2. until the results of the examination or diagnostic tests are known in any inmate.
k. Complete documentation of all actions relating to the forcible administration of treatment or isolation will be included in the inmate health record and reported to the facility head on a Use of Force report.

IV. Quarantine

a. Local and State Health Directors are empowered to exercise quarantine and isolation authority.
b. Quarantine and isolation authority 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. (GS 130A-145)
c. Division of Prisons health care staff shall follow all legitimate quarantine and isolation orders from a local or the State Health Director.
d. Immunizations against communicable disease in a communicable disease outbreak situation may be given without the inmate's consent upon written instructions by the

Chief of Communicable Disease Branch, North Carolina Department of Environment, Health and Natural Resources.

e. Inmates who fail to follow communicable disease and communicable condition control measures are causing a significant risk of disease transmission to the inmate population or employees of the Division of Prisons.

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

V. Patient Competency

a. If there is reason to suspect that an inmate is not competent and medical treatment or diagnosis is necessary, a clinical determination of the inmate's competency must be made.

b. For these purposes, competency is defined as:
   1. the ability to reason and understand the nature and consequences of the health care decision being made.
   2. t he inability to reason or understand will generally be the product of a significant mental disease or defect.

c. An inmate is not incompetent simply because he declines to follow medical advice, however ill-advised that decision may be.

d. In life threatening emergencies, the decision of competency is made by the available senior medical staff.

e. If the inmate is reasonably believed to be incompetent, informed consent will not be required in responding to life threatening conditions.

f. Interventions based on such determinations of incompetency and supporting reasons must be documented by the senior medical staff who made the clinical determination of the patient's competency.

g. Such documentation should include the specific and objective circumstances, words or actions which led the recording staff member to conclude that the inmate was not competent to make the decision.

h. In other than a life threatening emergency, an inmate who is in need of medical care and who is suspected of being incompetent shall be referred to Mental Health for the appropriate assessment. This referral shall take place even though the inmate is consenting to treatment.

i. If the appropriate Mental Health personnel determine to a reasonable medical certainty the inmate is competent to make the determination as to treatment, that determination shall be documented and the inmate have the right to decline medical treatment, either in general or a specific treatment procedure.

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

k In the event of such change, the new or additional circumstances should be documented and an new competency assessment requested.

VI. Guardianship

a. If the determination is that the inmate is not competent to make his/her own medical judgments and the need for treatment is not currently life threatening, application for judicial appointment of a guardian should be made.
b. Following appointment, treatment decisions may be made by said guardian in the same manner as would be true of the inmate himself if he were competent.

5/5/10

Paula Y. Smith, M.D., Director of Health Services Date

SOR: Risk Manager