


Idaho Department of Correction 	<b>Standard          Operating          Procedure</b>  <b>Division of          Education          and          Treatment</b>  <b>Operational          Services</b>	<b>Control Number:</b> 401.06.03.071	<b>Version:</b> 2.1	<b>Page Number:</b> 1 of 6
		<b>Title:</b> Right to Refuse Treatment		<b>Adopted:</b> 3-1-2001  <b>Reviewed:</b> 9-26-2008

This document was approved by Dr. Mary Perrien, chief of the Division of Education and Treatment, on 9/26/08 (signature on file).

**BOARD OF CORRECTION IDAPA RULE NUMBER 401**

Medical Care

**POLICY STATEMENT NUMBER 401**

Hospitalization, Institutional Clinical Services, and Treatment

**POLICY DOCUMENT NUMBER 401**

Hospitalization, Institutional Clinical Services, and Treatment

**DEFINITIONS**

Standardized Definitions List

**Contract Medical Provider:** A private company under contract with the Department to provide comprehensive medical, dental, and/or mental health services to the incarcerated offender population. A contract medical provider may include private prison companies and other entities under contract with the Department to operate the Idaho Correctional Center (ICC) and other out-of-state facilities housing Department offenders.

**Facility Health Authority:** The contract medical provider employee who is primarily responsible for overseeing the delivery of medical services in an Idaho Department of Correction (IDOC) facility.

**Facility Medical Director:** The highest ranking physician in an Idaho Department of Correction (IDOC) facility.

**Health Authority:** The Department employee who is primarily responsible for overseeing or managing the Department's medical and mental health services. The health authority is commonly referred to as the health services director.

**Qualified Health Professional:** A physician, physician assistant, nurse practitioner, nurse, dentist, mental health professional or others who -- by virtue of their education, credentials, and experience -- are permitted by law (within the scope of their professional practice) to evaluate and care for patients.

**Treatment Plan:** A series of written statements specifying a patient's particular course of therapy and the roles of qualified healthcare professionals in carrying it out.

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## PURPOSE

The purpose of this standard operating procedure (SOP) is to establish procedures to afford offenders the opportunity to refuse specifically recommended or prescribed healthcare evaluations and treatments.

## SCOPE

This SOP applies to all Idaho Department of Correction (IDOC) healthcare services staff, offenders, contract medical providers and subcontractors.

## RESPONSIBILITY

### ***Health Authority***

The health authority is responsible for:

- Monitoring and overseeing all aspects of healthcare services; and
- The implementation and continued practice of the provisions provided in this SOP.

When healthcare services are privatized, he will also be responsible for:

- Reviewing and approving (prior to implementation) all applicable contract medical provider policy, procedure, and forms; and
- Monitoring the contract medical provider's performance, to include but not limited to reviewing processes, procedures, forms, and protocols employed by the contract medical provider to ensure compliance with all healthcare-related requirements provided in respective contractual agreements, this SOP, **and** in *National Commission on Correctional Health Care (NCCHC) standard P-I-05, Informed Consent and Right to Refuse*. (See section 2 of this SOP.)

### ***Contract Medical Provider***

When healthcare services are privatized, the contract medical provider is responsible for:

- Implementing and practicing all provisions of this SOP, unless specifically exempted by written contractual agreements;
- Ensuring that all aspects of this SOP and NCCHS standard P-I-05 are addressed by applicable contract medical provider policy and procedure;
- Ensuring facility health authorities utilize all applicable contract medical provider policy, procedure, forms, and educational information to fulfill all healthcare-related requirements provided in this SOP, *NCCHC standard P-I-05*, **or** as indicated in their respective contractual agreement(s); and
- Ensuring all applicable contract medical provider policy, procedure, and forms are submitted to the health authority for review and approval prior to implementation.

**Note:** Nothing in this SOP shall be construed to relieve the contract medical provider(s) of any obligation and/or responsibility stipulated in respective contractual agreements.

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**Facility Medical Director**

The facility medical director (or designee) will be responsible for:

- Reviewing the circumstances and clinical consequences of the offender’s refusal to accept the recommended evaluation and/or treatment, and
- Making a determination of whether the offender’s refusal to accept the recommended evaluation and/or treatment presents significant adverse health risks.

**Facility Health Authority**

The facility health authority will be responsible for:

- Ensuring the presence of an adequate number of appropriately trained staff and materials are available to meet the requirements of this SOP; and
- Establishing and monitoring applicable contract medical provider policy and procedure to ensure that all elements of this SOP **and NCCHC standard P-I-05** are accomplished as required.

**Qualified Health Professional**

The qualified health professional will be responsible for:

- Providing sufficient explanation and information to the offender to allow the offender to understand the consequences of refusing the recommended evaluation and/or treatment, and
- Documenting the refusal in the offender’s healthcare record.

**Note:** When an offender’s refusal to accept the recommended evaluation and/or treatment has significant adverse health risks or consequences, the qualified health professional shall—at a minimum of 90 days **or** as detailed in the treatment plan—discuss the evaluation and/or treatment with the offender.

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**GENERAL REQUIREMENTS**

**1. Guidelines**

- Refusing treatment at a particular time does not waive the offender’s right to subsequent healthcare.
- The process for informing and clarifying understanding of the recommended evaluation and/or treatment (e.g., face-to-face contact, discussion of the alternative(s), associated risks, etc.) must be documented in the healthcare record.

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## 2. Process Steps

**Note:** The contract medical provider is responsible for supplying and providing any forms or lists indicated in this section.

Functional Roles and Responsibilities	Step	Tasks
Qualified Healthcare Professional	1	<ul style="list-style-type: none"> <li>Provide information sufficient enough for an offender to make an informed decision to refuse recommended healthcare evaluations and/or treatment.</li> <li>If the offender requests, a more detailed explanation must be provided to include details of the recommended evaluation and/or treatment, the viable alternatives, and any material risks to the recommended evaluation and/or treatment.</li> </ul>
		<p><b>Note:</b> Treatment is mandatory for an offender who has latent tuberculosis infection (LTBI) and/or active tuberculosis (TB) (see SOP 401.06.03.076, <i>Tuberculosis</i>) or when he does not have the mental capacity to make an informed decision (see SOP 401.06.03.070, <i>Informed Consent</i>).</p> <p><b>Note:</b> If an offender does not speak English, a written interpretation or telephone interpretation service must be provided in the language spoken.</p>
Qualified Healthcare Professional	2	<p>If the offender <b>refuses</b> evaluation and/or treatment:</p> <ul style="list-style-type: none"> <li>Complete the <i>Treatment Refusal Form</i>,</li> <li>Secure a healthcare staff member to serve as a witness,</li> <li>Have the offender sign and date the form in the presence of the witness, and</li> <li>Have the witness sign and date the form in the presence of the offender.</li> </ul>
		<p><b>Note:</b> If the offender refuses to sign the form, have the witness sign and date the form indicating the offender's refusal to sign.</p>
		<p>If the offender <b>accepts</b> evaluation and/or treatment:</p> <ul style="list-style-type: none"> <li>Take steps to obtain informed consent (see SOP 401.06.03.070, <i>Informed Consent</i>) and provide the evaluation and/or treatment. (The process ends here.)</li> </ul>
Qualified Healthcare Profession	3	<ul style="list-style-type: none"> <li>Document the information provided, circumstances, and the offender's stated reason for refusal in the "progress notes" section of the healthcare record, and</li> <li>Forward the healthcare record to the facility medical director (or designee) for review.</li> </ul>

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<b>Functional Roles and Responsibilities</b>	<b>Step</b>	<b>Tasks</b>
<b>Facility Medical Director (or designee)</b>	4	<p>Review the circumstances and clinical consequences of the offender's refusal to accept evaluation and/or treatment.</p> <ul style="list-style-type: none"> <li>• <b>If the refusal to accept evaluation and/or treatment <u>does</u> present a significant adverse health risk:</b> <ul style="list-style-type: none"> <li>◆ Schedule the offender for a subsequent appointment with the healthcare provider to discuss the refusal, <b>and</b></li> <li>◆ Forward the healthcare record to the qualified healthcare professional.</li> </ul> </li> </ul>
		<p><b>Note:</b> If the refusal to accept evaluation and/or treatment places others in the facility at risk of contracting infectious disease, appropriately isolate the offender.</p>
		<ul style="list-style-type: none"> <li>• <b>If the refusal to accept evaluation and/or treatment <u>does not</u> present a significant adverse health risk:</b> <ul style="list-style-type: none"> <li>◆ No further action is needed. (The process ends here.)</li> </ul> </li> </ul>
<b>Qualified Healthcare Professional</b>	5	<p>Repeat step 1, and</p> <ul style="list-style-type: none"> <li>• <b>If the offender continues to refuse evaluation and/or treatment:</b> <ul style="list-style-type: none"> <li>◆ Consider referral to a mental health provider for an assessment of the offender's mental status,</li> <li>◆ Document the information provided, circumstances, and the offender's stated reason for refusal in the "progress notes" section of the healthcare record, <b>and</b></li> <li>◆ Forward the healthcare record to the facility medical director (or designee) for review.</li> </ul> </li> <li>• <b>If the offender rescinds his earlier refusal to accept the evaluation and/or treatment:</b> <ul style="list-style-type: none"> <li>◆ Take steps to obtain informed consent (see SOP 401.06.03.070, <i>Informed Consent</i>) and provide the evaluation and/or treatment. (The process ends here.)</li> </ul> </li> </ul>
<b>Facility Medical Director (or designee)</b>	6	Record the refusal on the <i>Healthcare Record Problem List</i> .

### 3. Compliance

Compliance with this SOP and all related Department-approved protocols will be monitored by the health authority (or designee) by using various sources to include: this SOP, clinical practice guidelines, routine reports, program reviews, and record reviews.

The health authority (or designee) must conduct two (2) audits a year (or more frequently as desired based on prior audit results). The audits must consist of monitoring applicable contract medical provider and IDOC policy and procedures, applicable NCCHC standards, and the review of a minimum of 15 individual records.

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## REFERENCES

National Commission on Correctional Health Care (NCCHC), Standard P-I-05, *Informed Consent and Right to Refuse*

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