

**NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION
638**

CONSENT/REFUSAL OF TREATMENT

Supersedes: AR 638 (Temporary, 02/28/11); 06/17/12; (Temporary, 03/15/2017)
Effective date: 8/30/17

AUTHORITY: NRS 209.131, 209.381

PURPOSE

The purpose of the consent/refusal treatment regulation is to ensure compliance with federal and state regulations regarding an inmate's right to consent or refuse medical treatment. When health care is rendered against the patient's will, it is in accordance with state and federal laws and regulations. Otherwise, any offender may refuse in writing (medical, dental and mental health care).

RESPONSIBILITY

The Director shall be responsible for the administration of this regulation and the direct supervision of the Medical Director.

All Medical Division staff and all Medical Officers are responsible for compliance with this regulation.

638.01 INFORMED CONSENT

1. A signed consent for operation/procedure will not be required for routine medical treatment. The inmate has given implied consent through presenting himself/herself for treatment and through his/her written request to be seen.
2. Prior to the initiation of an examination, treatment, or procedure involving invasion of a body cavity, surgery, or procedures involving a risk to the individual's life or health status, the practitioner (physician, physician assistant, advanced practitioner of nursing), dentist, or designated assistant will explain the procedure, medical indications and necessity, alternatives, benefits and risks to the inmate.
3. The inmate will sign a written consent form authorizing the treatment prior to receiving any type of invasive procedure or treatment beyond that of venipuncture and mandatory testing.

- A. A member of the health care staff will also sign this form as a witness to the consent and then file the completed form in the medical record.
- B. Inmates are not allowed to witness consent forms.
- C. If an inmate refuses to sign a consent form, no procedure or treatment shall be performed. If inmate is unable to sign a consent form, two medical staff members may sign witnessing the inmate's verbal consent. This does not apply if immediate action is required to sustain life.
- D. In the case of a minor, the Nevada Department of Corrections (NDOC) is the guardian and needs no other consent.
- E. The minor should be given the opportunity to sign the consent form.

638.02 REFUSAL OF TREATMENT AND CONSENT WAIVERS

1. In those cases where an inmate chooses to refuse treatment, a Release of Liability form will be completed. A member of the medical staff will witness the completion of the form.
2. According to Nevada Law NRS 209.246, inmates that cause self inflicted injury may be financially responsible for any subsequent medical care. The inmate will be advised that refusal of treatment may constitute a self-inflicted injury. This may result in the inmate being disciplined for a self-inflicted injury and the inmate being financially responsible for any further treatment that is required as a result of the refusal.
3. If an inmate refuses to sign the Release of Liability, two staff members will write, "Inmate refuses to sign" and witness the form.
4. In addition to placing the refusal form in the medical record, documentation shall be made in the Progress Notes of the inmate's medical record.
5. The right of the inmate to refuse treatment may be waived under the following circumstances:
 - A. An emergency which requires immediate medical intervention for the safety of the patient, including but not limited to, suicidal patients, self-mutilation, or the emergency care of patients who do not have the capacity to understand the urgent need for treatment.
 - B. The inmate will be medically quarantined in cases where the refusal of treatment could potentially jeopardize the health and well being of other inmates or staff members.
 - C. Inmates, who refuse the intake physical examination, transfer screening, or who are suspected of having a contagious illness or venereal disease will not be housed in the general population until a determination is made as to their health status.

6. By refusing treatment, the inmate does not waive his/her right to subsequent health care. The inmate has the right to accept or refuse health care offered at a later time.

638.03 INVOLUNTARY TREATMENT

1. Treatment beyond that required for the safety of the patient or others in an emergency situation will not be forced.

A. For such cases, a court order for treatment may be sought by the Director or Warden after consultation with the treating practitioner or dentist.

B. In all cases involving the forced treatment of an inmate whether under emergency conditions or for the safety of the patient or others, documentation will be included in the medical record.

2. A panel may be appointed by the Medical Director/designee to review, approve, defer, or disapprove any proposed use of forced medical treatment and will review any approval, referral or disapproval at least every 90-calendar days.

A. The panel will consist of at least a psychiatrist, who is not the treating psychiatrist, the Warden/designee, Mental Health specialist(s), and other personnel as needed based on the type of treatment.

3. All medical services for inmates in the care of the NDOC will be provided by Medical Division personnel employed or contracted by the NDOC.

4. Outside consultants are chosen by the institutions physicians or Medical Director/Designee, who are licensed in the State of Nevada and approved as Medicaid State Providers.

5. Inmates on work release may choose their own practitioner or dentist in the private sector when they are employed in the private sector and are covered by their employer's insurance, at their expense.

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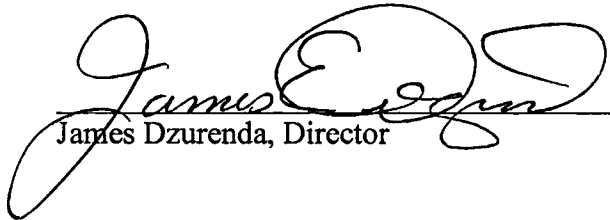
APPLICABILITY

1. This regulation requires a Medical Directive for Consent and Refusal of Treatment.
2. This regulation requires an audit.

ACA 4th Edition: 4-4397

Romeo Aranas, D.O., Medical Director

Date



James Dzurenda, Director

8/30/17

Date