



**STATE OF MONTANA
DEPARTMENT OF CORRECTIONS
POLICY DIRECTIVE**

Policy No. DOC 4.5.32	Subject: RIGHT TO REFUSE MEDICAL TREATMENT
Chapter 4: FACILITY/PROGRAM SERVICES	Page 1 of 3 and Attachment
Section 5: Health Care	Effective Date: May 1, 1998
Signature: /s/ Mike Ferriter, Director	Revised: 04/18/06; 10/27/09

I. POLICY

The Department of Corrections facility health care unit will establish procedures to ensure offenders are granted the right to refuse medical care and treatment.

II. APPLICABILITY

The secure care facilities that include Riverside and Pine Hills Youth Correctional Facilities, Montana State Prison, Montana Women's Prison, and the private and regional facilities contracted to the Department of Corrections.

III. DEFINITIONS

Chief Facility Health Officer – The health authority or nursing supervisor responsible for the facility health care services.

Facility Administrator – The official, regardless of local title (administrator, warden, superintendent), ultimately responsible for the facility or program operation and management.

Health Care Providers – Licensed health care providers (e.g., physicians, nurses, psychiatrists, dentists, and mental health practitioners), including contracted or fee-for-service providers, responsible for offender health care and treatment.

Health Care Staff – Includes licensed health care providers and non-licensed health care staff (e.g., medical records staff, health care aides) responsible for offender health care administration and treatment.

IV. DEPARTMENT DIRECTIVES

A. Assurances

1. All offenders have the right to refuse medical treatment.
2. Facility and health care providers and staff will not punish offenders for exercising their right to refuse medical treatment.
3. Health care providers will:
 - a. ensure that the offender is informed of the purpose for a recommended procedure or medication; and
 - b. provide an explanation of the potential risk involved in the offender's refusal of treatment.

Subject: RIGHT TO REFUSE MEDICAL TREATMENT**B. Refusal Procedures**

1. Offenders who refuse medical care and treatment will complete, date, and sign the Medical Refusal Form [MS® Office Format PDF Format](#), and include the reason for refusal.
2. Health care providers and staff will not allow offenders to sign a blanket refusal for treatment.
3. Custody or health care staff must witness and countersign the refusal form.
4. If the offender refuses to sign the form, two staff witnesses must countersign and document the refusal on the form.
5. If an offender refuses routine sick call or a single dose of medication, health care staff will only require the offender to sign the medical refusal form, provided the refusal does not seriously jeopardize the offender's health.
6. An offender does not waive his or her right to subsequent health care by refusing treatment at a particular time

C. Counseling Procedures

1. Health care providers will:
 - a. counsel the offender who repeatedly refuses assessments, clinic appointments, or medication pass;
 - b. counsel the offender on the benefits and risks of the proposed treatment or medication when the offender's refusal may seriously jeopardize his or her health;
 - c. provide the counseling in the health services area or other private clinical setting; and
 - d. document the meeting in the offender's health record.

D. Separate Housing

1. When an offender refuses treatment, health care staff may isolate an offender from the general population if the offender has a medical condition that poses a health risk to others.
2. In such cases, the chief facility health officer will consult with custody and classification staff to determine appropriate separate housing for offenders who refuse medical treatment.

E. Life Threatening Situations

When an offender's life is threatened by his or her refusal to accept medical treatment, the facility administrator and health care providers will immediately pursue legal counsel through the Department's Legal Services Bureau.

F. Review

Subject: RIGHT TO REFUSE MEDICAL TREATMENT

As part of the continuous quality improvement program, health care staff will review all medical treatment refusals, identify patterns that may create barriers to offender health care, and meet with facility administrators to address any issues.

V. CLOSING

Questions concerning this policy should be directed to the Department medical director.

VI. REFERENCES

- A. *National Commission on Correctional Health Care Standards, 2008*
- B. *ACA Standards for Juvenile Correctional Facilities, 2003*

VII. ATTACHMENT**Related Form:**

Medical Refusal Form [MS® Office Format](#) [PDF Format](#)