

Policies and Procedures

Policy Subject/Title:	Patient Declination of Care
Applicability:	All Sites
Purpose:	Federal and state laws and regulations grant competent adult patients the right to make his/her healthcare decisions, including the right to consent to or to refuse medical treatment or services. The purpose of this policy is to assist BVCHC in understanding and complying with federal and state laws and regulations regarding our roles and responsibilities in relation to the patient's rights to decline care.

Policy:

- A. **Patient Right to Decline Care.** A competent adult patient has the fundamental right to consent to or to refuse medical treatment to the extent permitted by applicable laws and regulations. A patient's refusal of treatment or procedures is one of the patient's rights in the Center's *Patient and Center Rights and Responsibilities* form. Patients who are unable to exercise this right (such as minors and incapacitated adults) have the right to be represented by another person if that person qualifies under applicable law as a minor or Incapacitated patient's Legal Representative. The Center will establish guidelines to respect the right of legally competent adults to decide to consent to (or to refuse to consent to) medical treatment or services, while to the extent possible, protecting the safety of its patients and promoting quality of patient care.
- B. **Patient Capacity or Competency.** The threshold question for determining both Informed Consent and Informed Refusal of medical treatment or procedures is that of "capacity" or "competency." When a person has "capacity" or "competency", it means that a person is alert, fully-oriented, has no evidence of substance abuse or intoxication, can verbalize an understanding of the condition, can verbalize an understanding of potential, serious consequences of refusing provider's recommended treatment, has no evidence of memory impairment, has a normal mood with congruent affect, has no expression of suicidality, and their thought processes and reasoning appear intact. Patients who are "incapacitated" or "incompetent" and unable to exercise their right of self-determination and informed consent (such as minors and incapacitated adults) have the right to be represented by their legal representative (as their surrogate decision maker) who will protect their interests.

Procedure:

- A. **Declination of Care; Informed Refusal Process.** If a patient refuses treatment or procedures believed to be in the best interests of the patient, the patient's provider should be contact immediately. The provider will first determine whether the patient has the requisite "capacity" or "competency" to decline the recommended treatment or procedure. If the patient is determined to be "competent", the following procedure should be followed:

1. The provider should explain the reason for ordering the specific treatment or procedure.
2. The provider should fully explain to the patient: (a) the nature and purpose for the treatment; (b) the expected benefits of the treatment or procedure; (c) the possible risks, hazards, and consequences of refusing the treatment or procedure; (d) the reasonable alternatives, if any (and their risks and benefits); and (e) any other information that may be material to the patient's (or Legal Representative's) decision sufficient for the patient to understand the consequences and untoward effects of his/her refusal of the recommended treatment plan. This is called an "Informed Refusal."
3. The provider cannot coerce the patient (or Legal Representative) into receiving the recommended treatment, as the consent must be voluntary.
4. The patient should be asked to sign the "Patient Declination of Care" form (attached at the end of the Policy and Procedure). If the patient refuses to sign, "Patient Refused to Sign" should be written on the signature line of the form. The form should be witnessed by a responsible staff member (R.N. or L.V.N. in attendance) and the patient's refusal and circumstances should be recorded in the patient's medical record, including the time and date. The original form should be placed in the patient's medical record as well.
5. The provider should document in the patient's medical record the factual circumstances of the patient's (or Legal Representative's) refusal of the recommended treatment or services. The provider should further document in the medical record the discussion with the patient (or the patient's Legal Representative) and that Informed Refusal was obtained from the patient (or patient's Legal Representative).
6. If the patient's refusal will result in significant adverse consequences (i.e., his/her imminent death or disability where treatment would clearly be life saving or the disability avoided), the Center's Medical Director and Executive Director should be notified immediately. The Executive Director should contact the Center's Legal Counsel for advice, as needed.
7. A clinical staff member should contact the patient the next business day in order to follow-up on the visit during which care was declined. Three attempts at contacting the patient via phone should be made. The patient's condition, comments, and whether or not a referral was made should all be documented on the "Patient Declination of Care" form. Any outstanding labs/x-ray results, provider recommendations, and potential risks for failure to follow should be reviewed with the patient. If the patient agrees to return the next business day for a follow-up visit, it should be noted on the "Patient Declination of Care" form.

B. Incompetent Adult Patients or Minors

1. Incompetent patients in general. If the provider determines that the patient lacks “capacity” or “competency” to make his or her healthcare decisions, the patient’s Legal Representative must be contacted. The patient’s Legal Representative should be given all relevant information required for an “Informed Refusal”, including the risks, hazards, and consequences of the refusal of the treatment or procedure.
2. Minors. Generally, a minor for “Informed Consent” purposes include all persons under the age of 18; however certain exceptions apply:
 - a. Minor Refusing Medical Treatment. Minors who have the authority to consent also have the authority to refuse medical treatment.
 - b. Parent/Guardian/Conservator Refusing Medical Treatment for Minor. Parent/Guardians/Conservators have a legal obligation to provide necessities of life for their children or wards, including medical care. If there is a question as to whether a parent/guardian/conservator is acting in the best interests of the minor, the Center’s Medical Director and Executive Director should be contacted for assistance. The Executive Director should contact the Center’s Legal Counsel for advice, as needed.

Attachments:

The following form is attached to this Policy and Procedure regarding the patient’s Declination of Care and should be used in accordance with this Policy and Procedure:

A. “Patient Declination of Care” form