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a Berkshire Hathaway company

Informed Refusal: Overview and Risk Considerations

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Informed refusal, like informed consent, is a concept that relies on ethical and legal guidelines that acknowledge the right of competent adults to determine the course of their healthcare. Also, like informed consent, informed refusal refers to a process that requires consultation between a healthcare provider and a patient to determine viable treatment options and engage the patient in treatment-related decisions.

As a healthcare provider, effective communication and thorough patient education are your best allies for encouraging patient collaboration and cooperation in selecting and adhering to a treatment plan.

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Risk Considerations

When a patient refuses treatment or wants to abandon a treatment plan, you should consider the following questions:

- Was the patient given adequate information about his/her diagnosis as well as treatment options that meet the current standard of care?
- Did you thoroughly discuss with the patient the risks and benefits of treatment options?
- Did you and the patient discuss and agree on mutual expectations for a satisfactory outcome?

- Did you encourage the patient to ask questions and voice concerns? Were these questions and concerns addressed to the patient's satisfaction?
- Did you explain the risks associated with refusing treatment? Risks might include:
  - Fewer treatment options as the condition deteriorates.
  - Lower probability of a successful or optimal outcome.
  - Higher probability of complications.
  - Remaining treatment options that are more expensive than the treatment that was initially recommended.
- Did you ask for the patient's reason for the decision? If you are aware of the patient's reason for refusal, you might be able to propose an alternative treatment option that the patient will accept.

Documentation

If the patient has received adequate information and education, but still refuses treatment, you should scrupulously document the decision in the patient's health record. Documentation should include the patient's diagnosis, the recommended treatment, the outcomes that might occur if the condition isn't treated, alternatives to the recommended treatment, the patient's reason for refusal, and all patient education efforts.

If you opt to use an informed refusal form, give the patient a copy of the signed form and retain the original in the patient's health record. The form should include:

- The patient's diagnosis
- Treatment options and the treatment plan the patient elected (if any), as well as risks and benefits associated with each
- Acknowledgment that the patient refused or terminated treatment

Informed Consent/Refusal Forms

Although healthcare providers might use an informed consent or informed refusal form as part of their consent process, the document and patient signature alone do not automatically make the consent or refusal valid. Rather, it merely documents one phase of the informed consent/refusal process. For the patient to be truly "informed," he/she must understand the information that the healthcare provider has disclosed.

- Specific risks that might occur if the patient doesn't receive care, and acceptance of the risk on the part of the patient
- The patient's signature (if he/she agrees to sign)

Although it is not always necessary for the patient to sign an informed refusal form, the request compels the patient to acknowledge the seriousness of the untreated condition. Many patients will sign the form, but some refuse. In the event of refusal, you should document that the patient was asked to sign the form and would not do so.

Some providers like to have a witness present when a patient refuses needed care. When an employee has been asked to witness the informed refusal process, he/she should sign the record and date the signature — regardless of whether the patient agrees to sign.

Ongoing Care

By refusing urgently needed care, patients might increase their risk of injuries and possibly increase your liability risk. Under these circumstances, you might (a) continue to see and treat such patients with the hope that they might change their mind or that, if their conditions deteriorate, emergent care can still be initiated, or (b) feel that you have no other choice but to formally withdraw from these patients' care.

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If you decide to withdraw from a patient's care because of a treatment refusal, a discussion should take place, if possible, before the formal discharge process occurs. The patient should know that you feel strongly enough about the recommended treatment that you might withdraw rather than stand by as a witness to the deterioration of the patient's condition.

Having decided to withdraw, you should formalize the notification with a discharge letter, giving the patient adequate time (generally 30 days) to find another practitioner. The letter should be sent to the patient via certified mail with return receipt requested, and an additional copy should be sent through first class mail. Copies of the letter should be maintained in the patient's file. For more information, see MedPro's guideline *Terminating a Provider–Patient Relationship*.

In Summary

When patients refuse necessary care, healthcare providers must be vigilant in ensuring that the patients understand the potential risks and consequences of their decisions. Providers also should make sure all informed refusal processes are thoroughly documented in patients' health records, including any related forms or documents. When in doubt about how to handle a patient's refusal of treatment or withdrawal from a treatment plan, contact your MedPro risk solutions consultant or a risk management expert.