



# KANSAS DEPARTMENT OF CORRECTIONS

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|   | <b>INTERNAL<br/>MANAGEMENT<br/>POLICY AND<br/>PROCEDURE</b> | <b>SECTION NUMBER</b><br><br>10-126D   | <b>PAGE NUMBER</b><br><br>1 of 6  |
|  |   | <b>SUBJECT:</b><br><br><b>PROGRAMS AND SERVICES: Infection Control and Management Response to Offender Refusal of Medical Intervention for Infectious and/or Communicable Diseases</b> |   |
| <b>Approved By:</b><br><br><br>Secretary of Corrections |   | <b>Original Date Issued:</b> <span style="float: right;"><b>10-15-15</b></span>  | <b>Replaces Version Issued:</b> <span style="float: right;"><b>N/A</b></span> |
|  |   | <b>CURRENT VERSION EFFECTIVE: <span style="float: right;">10-15-15</span></b>  |   |

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| <b>APPLICABILITY:</b> | _ ADULT Operations Only | _ JUVENILE Operations Only | <input checked="" type="checkbox"/> DEPARTMENT-WIDE |
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## POLICY STATEMENT

An infection control program shall be established by the Regional Medical Director and approved by the Director of Health Care Services to effectively monitor the incidence of serious, infectious and communicable diseases among offenders; promote a safe and healthy environment; prevent the incidence and spread of these diseases; assure that offenders infected with such diseases receive prompt diagnosis, care and treatment; and, provide for the completion and filing of all reports consistent with local, State, and federal laws and regulations.

## DEFINITIONS

Departmental Clinical Health Authority: The physician Regional Medical Director of the agency or organization responsible for the provision of health care services for the KDOC. This position has full clinical autonomy and responsibility for clinical health care issues within the KDOC.

Director of Health Care Services: Acts as the administrative health authority for the Department. This position manages health care systems, directs the health care services model, and has final approval on all policies and procedures in the health care system.

Facility Administrative Health Authority: The Health Services Administrator responsible for the provision of health care services at a facility. The Health Services Administrator works under the direction of the Regional Medical Director clinically and the Regional Vice President or designee administratively.

Facility Clinical Health Authority: The site physician Medical Director responsible to the Regional Medical Director for all clinical matters and to the Health Services Administrator for all administrative matters.

## PROCEDURES

### **I. Administration of Infectious and/or Communicable Disease Program**

- A. The Regional Medical Director shall establish surveillance procedures to:
  1. Detect offenders with infectious and communicable diseases;
  2. Ensure appropriate immunizations to prevent such diseases; and,
  3. Provide for the care of offenders with such diseases.

- B. The provisions for care shall include, but not be limited to:
  - 1. Isolation, when medically indicated and to ensure compliance with treatment regimens;
  - 2. The decontamination of medical equipment and proper disposal of sharps and bio-hazardous wastes; and,
  - 3. Strict adherence to standard precautions by health care workers. (ACI 4-4354, 4-4355, 4-4356, 4-4357, 4-4358, NCCHC P-B-01, P-B-06)

## II. Initial Health Screenings and Routine Examinations

- A. All offenders received by KDOC facilities shall receive a medical screening in accordance with IMPP 10-117D to determine their suitability for general population placement, or referral for appropriate health care.
- B. The Site Medical Director may, at any time, require medical examinations of offenders confined within the facility.
- C. Any offender suspected of having a communicable disease shall receive a medical examination.
  - 1. Offenders diagnosed or suspected of harboring or being affected by an infectious and/or communicable disease shall be provided an explanation of the potential effect of the medical condition to themselves and/or others and the consequences of their refusal to participate in the required medical procedures.
    - a. With the exception of screening for tuberculosis infection, offenders can refuse, in writing, health treatment and care. Because tuberculosis is an airborne disease, transmitted via droplet nuclei, tuberculin skin testing shall be mandatory.

## III. Placement of Offenders Refusing Medical Intervention for Infectious and/or Communicable Disease in Restrictive Housing

- A. To ensure the protection and well-being of the general population, offenders who refuse to participate in specific programs of health diagnosis or intervention for communicable diseases, in accordance with procedures developed by the Regional Medical Director, shall be administratively separated from the general population.
  - 1. The Site Medical Director may require the isolation of any offender declared to be carrying a contagious disease.
  - 2. Wardens/superintendents, in consultation with the Regional Medical Director and/or the Site Medical Director, shall ensure prompt action in isolating offenders when medically indicated and providing assistance in provision of the treatment regimens. Isolation may consist of placement in a facility infirmary or in restrictive housing for medical reasons.
- B. All cases refusal of physical examinations, medical testing, and/or treatment of suspected or diagnosed infectious and/or communicable diseases and medical isolation shall be documented and procedures for restrictive housing shall be adhered to until a change in status is recommended by the Site Medical Director and authorized by the Restrictive Housing Review Board.
  - 1. **ADULT:** Placement in restrictive housing in such cases shall be done in accordance with IMPP 20-104 through 20-106.
  - 2. **JUVENILE:** Placement in restrictive housing in such cases shall be done in accordance with JJA IMPP 14-101 through 14-105.

- C. Should any offender refuse to participate in any testing or treatment for any infectious and/or communicable disease as ordered by the Site Medical Director, the following procedures shall be implemented:
1. The Health Services Administrator, Site Medical Director or designee shall provide an initial explanation to the offender defining the potential consequences of refusal to participate in the required health procedures.
    - a. Major emphasis shall be placed on the possibility that an infection, disease or other hidden condition may be present and injurious to the offender's general health and the health of others. Education about the testing and the condition shall be provided to the offender and documented in the Electronic Health Record.
    - b. The offender shall be informed that refusal to participate in the required health procedures shall necessitate placement in restrictive housing in order to protect the health of the offender and/or others.
    - c. The offender shall be afforded the opportunity to either accept the required health procedures or persist in refusal.
      - (1) If an offender refuses the medical care recommended, he/she shall sign a Refusal to Submit to Treatment form per provisions of IMPP 10-127D.
  2. Should the offender persist in refusing the required medical procedures, he/she shall be afforded the opportunity to present objections, explanations or reasons as to why the proposed placement in restrictive housing should not be effected.
    - A. This opportunity to present objections, explanations or reasons shall satisfy the pre-placement hearing requirements:
      - (1) **ADULT:** As set forth under IMPP 20-105.
      - (2) **JUVENILE:** As set forth under JJA IMPP 14-105.
  3. All contacts with the offender shall be fully documented in his/her health record.
  4. The offender shall be referred to behavioral health staff for a behavioral health status evaluation.
- D. Should the offender persist in refusing the required medical procedures, he/she shall be placed in restrictive housing away from the general population in an isolation cell or other location as is required to minimize exposure to staff, visitors, and other offenders.
1. The placement of the offender within restrictive housing shall be:
    - a. **ADULT:** In accordance with IMPP 20-104.
    - b. **JUVENILE:** In accordance with JJA IMPP 14-101.
  2. Providing that the pre-placement hearing requirements, as set forth in Section III.C.2. above, have been met and the necessary documentation required in that section has been prepared, the offender may be placed in restrictive housing without further hearing.
- E. The offender shall be served with written notice of the reason for restrictive housing:
1. **ADULT:** In accordance with IMPP 20-105.
  2. **JUVENILE:** In accordance with JJA IMPP 14-104.

- F. As soon as possible, but no later than three (3) working days following transfer to restrictive housing, the offender shall be afforded an administrative hearing before the Restrictive Housing Review Board, and the board shall proceed with the administrative hearing as follows:
1. The offender shall be informed:
    - a. That the hearing is being conducted:
      - (1) **ADULT:** Under the requirements of IMPP 20-106.
      - (2) **JUVENILE:** Under the requirements of JJA IMPP 14-105.
    - b. Of the reasons for placement in restrictive housing; and,
    - c. Of exactly what the offender must do before being considered for general population placement.
  2. **ADULT:** As provided by IMPP 20-106, the offender shall be given the opportunity to explain the reasons for refusal of the ordered procedures, and that explanation shall be recorded on the Restrictive Housing Review Board Report.
    - a. **JUVENILE:** As provided by JJA IMPP 14-105, the offender shall be given the opportunity to explain the reasons for refusal of the ordered procedures, and that explanation shall be recorded on the Restrictive Housing Review Board Report.
  3. The Restrictive Housing Review Board shall record its conclusions and rationale for reaching these conclusions on the Restrictive Housing Review form.
    - a. If the Restrictive Housing Review Board concludes that the offender should remain in restrictive housing, the review form shall include a statement that restrictive housing is necessary to protect the health of all persons in the facility, and that restrictive housing shall continue until either:
      - (1) The necessary testing, diagnosis and treatment are accomplished; or,
      - (2) The Regional or Site Medical Director is able to determine by other means that the offender is free of communicable disease.
  4. The offender shall be given one (1) copy of the Restrictive Housing Review form, and a statement by the Site Medical Director setting forth the examinations, tests and/or treatment(s) required.
- G. **ADULT:** The Restrictive Housing Review Board shall review the status of the offender in accordance with IMPP 20-106.
1. The Warden shall be provided recommendations after each such review in accordance with IMPP 20-106
- H. **JUVENILE:** The Restrictive Housing Review Board shall review the status of the offender in accordance with JJA IMPP 14-105.
1. The Superintendent shall be provided recommendations after each such review in accordance with JJA IMPP 14-105.
- I. All cases of refusal shall be documented in the offender's Electronic Health Record on the Patient Notes/Physician Orders form, see IMPP 10-127D. Such documentation shall include information regarding the following:
1. The testing that is necessary and recommended;

2. The diagnosis giving rise to the need for testing;
3. The fact of the refusal by the offender;
4. The reason(s) given by the offender for the refusal;
5. A description of the efforts made to educate the offender on the reason(s) for the testing; and,
6. Action taken as a result of the refusal and/or the final resolution and testing if and when it is finally completed.

**IV. Offenders Refusing Prescribed Mandatory Tuberculin Testing and/or Annual Screening TB Symptoms Questionnaire**

- A. The Site Medical Director and the Health Services Administrator or designee shall determine the necessary tuberculin test or symptoms screening required in determining if an offender has tuberculosis, including but not limited to TB Symptoms Questionnaire, tuberculin skin testing, IGRA, or chest x-ray.
- B. The Deputy Secretary of Facilities Management or Deputy Secretary of Juvenile Services, upon the recommendation of the Regional or Site Medical Director may order the use of force to accomplish the mandatory screening of offenders for tuberculosis infection when deemed necessary to maintain security and prevent the spread of disease.
  1. **ADULT:** Use of force in such cases shall be in accordance IMPP 12-111.
  2. **JUVENILE:** Use of force in such cases shall be in accordance with JJA IMPP 12-111.
- C. The offender shall be informed that his/her refusal to allow the mandated tuberculin testing in order to protect the health of the offender and/or others, shall necessitate a use of force and will result in a disciplinary violation report.
  1. An offender who refuses to submit to the mandated tuberculin test shall be given a direct order to submit to the tuberculin test. Failure by the offender to submit to the mandated tuberculin test shall result in the offender being charged with a disciplinary violation.
- D. If the offender refuses a tuberculin test, IGRA, or annual symptoms questionnaire, he/she shall be asked to sign the Refusal to Submit to Treatment form in accordance with IMPP 10-127(D). The refusal shall be documented on the day it occurs in the Electronic Health Record.
  1. If the offender refuses to sign the form, the attending staff member or contract health service provider shall indicate the offender's refusal by entering the phrase "Offender refused to sign" over the offender's signature block, and shall sign and date the form.
  2. The signature of the staff member or contract health service provider shall be witnessed by at least one (1) other health or staff person who heard or observed the offender refuse the tuberculin test.
  3. If the use of force procedures set out in Section IV.B.1. or 2. are followed, the offender's health record shall reflect the administration of the mandated tuberculin test.
- E. If use of force was not implemented, continued non-compliance with testing shall be addressed as follows:
  1. On day 15 in restrictive housing, health care staff shall ask the offender to comply. If refusal occurs again, complete the "Refusal to Submit to Treatment" form and document the refusal in the electronic health record.

- a. On day 30 in restrictive housing, health care staff shall request the offender to comply a final time. If the offender continues the refusal, complete the "Refusal to Submit to Treatment" form and document the refusal in the Electronic Health Record.
  2. Documentation shall require at least two (2) different nurses requested compliance.
- F. The following options for release from restrictive housing shall be considered when three (3) refusals are documented.
1. An interview shall be conducted with an officer who has observed the offender in restrictive housing for several days. In this interview, the officer is to be asked if he/she observed any of the signs and symptoms on the TB questionnaire. The results of the interview are to be documented in the Electronic Health Record.
  2. A review of the offender's sick call requests/encounters shall be completed specifically looking for any respiratory complaints. The results of the review shall be documented in the Electronic Health Record.
  3. If the information obtained as per Section IV.D.1. and 2. above reveal no TB concerns, the offender's medical assignment to restrictive housing may be released upon the approval of the Regional Medical Director and the Director of Health Care Services.
  4. If release under these circumstances, the health record of the offender should be flagged to alert any provider of the lack of TB screening in the event of a respiratory complaint in the future.
  5. The offender will be seen by behavior health staff to assist in understanding of the compliance benefits.

**NOTE:** The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

#### **REPORTS REQUIRED**

None.

#### **REFERENCES**

K.S.A. 75-5210  
IMPP 10-117D, 10-127D, 12-111, 20-104, 20-105, 20-106  
JJA IMPP 12-111, 14-101, 14-102, 14-103, 14-104, 14-105  
ACI 4-4354, 4-4355, 4-4356, 4-4357, 4-4358  
NCCHC P-B-01

#### **ATTACHMENTS**

None.