

DEPARTMENT OF THE ARMY
US ARMY MEDICAL DEPARTMENT ACTIVITY
FORT HUACHUCA, ARIZONA 85613-7079

MEDDAC MEMORANDUM
No. 40-42

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Medical Services
CONSENT FOR MEDICAL TREATMENT

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- 1. History:** This issue publishes a revision of this publication.

- 2. PURPOSE:** To provide guidance for obtaining and documenting consent from patients to be treated at Raymond W. Bliss Army Health Center, Fort Huachuca, Arizona.

- 3. SCOPE:** This memo applies to all activities at Raymond W. Bliss Army Health Center, Fort Huachuca, Arizona.

- 4. REFERENCES:**
 - 4.1** AR 40-3, Medical, Dental and Veterinary Care, w/MEDCOM Supplement 1.
 - 4.2** AR 40-66, Medical Record and Health Care Documentation
 - 4.3** AR 40-562, Immunization and Chemoprophylaxis.
 - 4.4** AR 600-20, Army Command Policy.

*This memorandum supersedes MEDDAC Reg 40-42, dated:1 Apr 04

4.5 MEDDAC Memo 40-22, Medical Treatment of Minors.

4.6 Arizona Law, Arizona Hospital Association Consent Manual current edition.

5. GENERAL APPLICATIONS:

5.1 A patient will normally be given routine medical care when consent is granted by:

5.1.1 An adult patient, eighteen (18) years of age, emancipated minors and members of the Armed Services.

5.1.2 Someone authorized to consent on behalf of the patient according to Arizona law or the orders of a court having jurisdiction over the patient, or having a legally executed medical power of attorney.

5.1.3 Minors, sixteen (16) or seventeen (17) years of age, may be treated without consenting adults present if a valid Special Power of Attorney (SPOA) (Child Medical Care), (See Appendix A), granting consensual authority to the patient is in the possession of the patient. The SPOA may be filed in the patient's Outpatient Treatment Record (OTR).

5.1.4 An adult, or sibling eighteen (18) years of age or older, who has been granted consensual authority to act as guardian by a minor's parents, as in paragraph 5.1.3 above.

5.2 Consent involves a statement, by the patient or person authorized to act on his/her behalf, that specifies consent is given to proposed medical care. Consent may be either expressed or implied.

5.3 Written consent must be obtained before performing any of the following procedures (valid for 72 hours):

5.3.1 All surgical procedures involving entry into the body by an incision or through one of the natural body openings.

5.3.2 Any procedure or course of treatment in which anesthesia is used, whether or not entry into the body is involved.

5.3.3 All non-operative procedures that involve more than a slight risk of harm to the patient or that involve the risk of a change in body structure.

5.3.4 All procedures in which x-ray, radium, or other radioactive substance is used in the patient's treatment.

5.4 Consent to medical care must be preceded by counseling of the patient to inform him/her, in terms and language understandable to the patient, of:

5.4.1 The nature and purpose of the operation or procedure.

5.4.2 Possible alternative methods of treatment including risks, benefits and likelihood of success.

5.4.3 Risks involved in the procedure, including possible complications.

5.4.4 The benefits of the contemplated procedure including likelihood of success..

5.4.5 The probable result of not having the procedure done.

6. CONSENT FOR EMERGENCY TREATMENT:

6.1 For consent purposes, an emergency is a situation where the patient requires immediate care, and there is danger to life or health, or well being if the care is delayed. Expressed consent is unnecessary in the context of such an emergency. An emergency exists if three things are present:

6.1.1 The patient needs immediate medical attention. No restriction is placed on the form of assistance that can be rendered if the patient has immediate need for the assistance. Treatment can range from elementary first aid to surgery. However, without a manifestation of showing of consent, treatment is limited to what is necessary to resolve the emergency.

6.1.2 An attempt to secure written or oral consent would delay treatment. The patient himself/herself must be unable to give consent (by reason of legal incompetence or a prohibiting mental or physical condition) and there must be no one else immediately available who is entitled by law to consent for the patient.

6.1.3 Delay of treatment would increase the risk to the patient's life or health. An emergency may exist even though the patient's life is not in danger. If the health of the patient may be substantially worsened by delay, the patient's condition is sufficiently serious.

6.2 If the emergency involves a minor and parents and/or guardian are not available for consent, all efforts will be made to locate the parents and/or guardians before treatment is rendered, utilizing police, radio, or television, etc. to locate parents and/or guardian. The Public Affairs Office should be notified for assistance from the media. This notification can be handled by the Patient Administration Division (PAD). In an emergency, consent can be taken over the telephone with a witness monitoring the conversation. The consent will be documented in the patient's Outpatient Treatment Record (OTR). Written consent will be obtained as soon as possible when the parents/guardians are available. If the parents or guardians cannot be reached, notify the Chief, Patient Administration Division.

6.3 Emergency treatment should not be undertaken when consent is expressly refused by a competent adult or competent mature minor. The patient's refusal of treatment should be documented and the patient's signature on a refusal of emergency treatment form should be obtained if possible. With minors whose parents refuse consent, the Staff Judge Advocate should be consulted to consider application for court authorization.

7. DOCUMENTING CONSENT:

7.1 The patient's acknowledgment of the counseling and his or her consent to treatment will be recorded on OF FORM 522 (Medical Record - Request for Administration of Anesthesia and for Performance of Operations and Other Procedures).

7.2 Physicians will record on OF FORM 522 the nature of the proposed procedure. They may also record on the OF FORM 522, or elsewhere in the medical record, some of the risks discussed with the patient. Any listing of risks will be preceded by qualifying terms such as, "including, but not limited to". Consent counseling is a dynamic process.

7.3 For emergencies, within a reasonable time of treatment, the physician administering treatment will record on either OF FORM 522, or History & Physical:

7.3.1 The reasons consent could not be obtained prior to treatment.

7.3.2 The elements of the patient's condition that represented a serious or imminent threat to life, health or well-being.

8. CONSENT FOR ACTIVE DUTY MILITARY PERSONNEL:

8.1 A member of the Army on active duty usually will be required to submit to medical care considered necessary to protect or maintain the health of others, to preserve the member's life, or alleviate undue suffering by the member. A commanding officer may, with concurrence of the medical commander, order a medical examination when needed. Under the following circumstances, medical care may be performed with or without the member's permission:

8.1.1 Emergency medical care which is required to preserve the life or health of the member.

8.1.2 Immunizations required by AR 40-562. The individual does not have an option as to whether they will be immunized. This is a military obligation; an exception is granted only for medical or religious reasons. Any force necessary to overcome an individual's reluctance to immunization normally will be provided by personnel acting under orders from the soldier's unit commander.

8.1.2.1 Anthrax vaccination is an exception to 8.1.2 above. This vaccination is mandatory only for Soldiers deploying to CENTCOM AOR or the Korean Peninsula for a period of 15 or more consecutive days. NO Soldier will be forced to receive the Anthrax vaccine. All refusals will be documented and the Soldier's Chain of Command notified for further action.

8.1.3 Isolation and quarantine for cases of suspected proven communicable disease, when appropriate.

8.1.4 Detention when necessary to ensure appropriate medical supervision or to protect the member or others from harmful acts.

8.1.5 Medical care related to the mental disorders of member shown to have been found incompetent by a medical board, or when believed to be incompetent and pending medical board action.

8.2 Members refusing care for other than the above will be submitted to a medical board in accordance with (IAW) AR 600-20.

9. RELEASED AGAINST MEDICAL ADVICE (AMA/LOSS OF CONSENT): A non-military patient or his/her sponsor may decide that medical care is not wanted and that he/she be released against the advice

of the physician. In such a case, the patient/sponsor will sign a DA Form 5009-R, Release Against Medical Advice, (See Appendix B), and be placed in the patient's Ambulatory Surgery Record (ASR).

10. TELEPHONIC CONSENT FOR MEDICAL CARE: Telephonic consent will only be utilized when medically indicated to prevent undue pain and suffering and not solely for the convenience of the parent or guardian.

11. OBTAINING MEDICAL POWER OF ATTORNEY: In the event that parents/patients will require a medical power of attorney, they are to be directed to the local Staff Judge Advocate's office.

12. OTHER SITUATIONS: The Patient Administration Division will be consulted on specific cases of problems not addressed elsewhere in this memorandum.

The proponent of this publication is Patient Administration Division. Users are invited to send comments and suggested improvements on DA Form 2028 directly to Patient Administration Division, RWBAHC, ATTN: MCXJ-PA, Fort Huachuca, AZ 85613-7079.

FOR THE COMMANDER:

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APPENDIX A
DA 5009R RELEASE AGAINST MEDICAL ADVICE

MEDICAL RECORD	RELEASE AGAINST MEDICAL ADVICE <small>For use of this form, see AR 40-66; proponent agency is the Office of The Surgeon General.</small>	
STATEMENT OF PATIENT RELEASING HOSPITAL FROM LIABILITY UPON LEAVING HOSPITAL AGAINST MEDICAL ADVICE		
<p>1. This is to CERTIFY that I am leaving _____ (Name of Med Treatment Facility) at my own insistence and against the advice of the hospital authorities and my attending physician(s).</p> <p>2. I have been advised of the dangers involved in leaving the hospital at this time.</p> <p>3. I hereby release the hospital, its staff and the Federal Government of all responsibility for any ill effects brought about by my failure to remain in the hospital.</p>		
_____	_____	_____
(Signature of Patient)	(Signature of Witness)	
_____	_____	
(Date and Time)		
STATEMENT OF REPRESENTATIVE OF PATIENT RELEASING HOSPITAL FROM LIABILITY UPON LEAVING HOSPITAL AGAINST MEDICAL ADVICE		
<p>1. This is to CERTIFY that I _____ (Name), _____ (Relationship to Patient) of _____ (Name of Patient) insist that he/she be discharged from _____ (Name of Med Treatment Facility) without the authorization of the patient's attending physician(s).</p> <p>2. I have been informed of the dangers to the patient in his/her leaving the hospital at this time, including the possibility that it may worsen or aggravate the patient's condition.</p> <p>3. I hereby release the hospital, its staff and the Federal Government of all responsibility for any ill effects brought about by _____ (Name of Patient) leaving the hospital against medical advice.</p>		
_____	_____	_____
(Signature of Representative)	(Signature of Witness)	
_____	_____	
(Date and Time)		
PATIENT IDENTIFICATION	REGISTER NUMBER	WARD NUMBER