

POLICY OF STATE OF DELAWARE DEPARTMENT OF CORRECTION	POLICY NUMBER A-03	PAGE NUMBER 1 of 5 Plus attachment
	RELATED NCCHC/ACA STANDARDS: P-A-03,J-A-03/4-4381 (ESSENTIAL)	
CHAPTER: 11 BUREAU OF CORRECTIONAL HEALTHCARE SERVICES	SUBJECT: MEDICAL AUTONOMY	
EFFECTIVE DATE: 11/14/07		REVISED: 4/13/09; 4/23/10, 12/11/13, 1/7/2016
APPROVED FOR PUBLIC RELEASE		

- I. AUTHORITY: Bureau of Correctional Healthcare Services (BCHS)
- II. PURPOSE: Clinical decisions and actions concerning health care decisions are based upon discussions between the offender and the treating provider in light of security restraints, however the wishes of the offender shall be honored if possible.
- III. APPLICABILITY: All Delaware Department of Correction (DDOC) employees and Contract provider staff, offenders, and any outside healthcare provider servicing DDOC offenders.
- IV. DEFINITIONS: See glossary.
- V. SUMMARY OF CHANGES:
- A. Adds clarification that offenders under the age of eighteen years of age sentenced to the care and custody of the DDOC are considered wards of the state and do not have the right to refuse medical, dental, mental health or substance abuse treatment without the permission of the facility warden or their designee.
 - B. Revisions consistent with change in 16 Delaware Code §4304 and adds the DMOLST Form as an attachment.
 - C. Changes the requirement for mid-level providers to have a Collaborating Agreement consistent with changes in Delaware Code concerning Advance Practice Nurse Practitioners.
 - D. This policy incorporates BCHS Policy 11-A-09, *Privacy of Care* which is hereby rescinded.

VI. POLICY:

A. Juvenile Offenders

1. It is the policy of the DDOC that offenders under the age of eighteen years of age sentenced to the care and custody of the DDOC are considered wards of the state and do not have the right to refuse medical, dental, mental health or

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substance abuse treatment without the permission of the facility warden or their designee.

B. Medical Autonomy for Offenders

1. It is the policy of the DDOC that a mentally competent offender has a constitutional right to refuse medical treatment.
2. When an offender refuses a medication, consultation, dental appointment or other health related appointment the nurse administering the medication, medical, behavioral health or dental provider shall explain to the offender the reason for the medication or appointment, any potential adverse effects of refusing the medicine or appointment, and have the offender sign a Refusal Form.
3. In select cases when an offender refuses medicine and there is a risk for injury or harm to others a Treatment Review Committee (TRC) may be convened to consider forced psychotropic medication in accordance with policies: 11-I-02 *Emergency Psychotropic Medication* and 11-I-2.1 *Non-Emergency Involuntary Medication Administration*.
4. Offenders who are terminally ill, elderly or registered in the Chronic Care Clinic are encouraged to consider an Advance Health-care Directive to express their wishes should they become terminally ill during their incarceration (Attachment A, Delaware Medical Orders for Scope of Treatment (DMOLST)).
5. It is also the policy of the DDOC that offenders in Level 4 and Level 5 facilities, including those on Work Release must utilize or have their health-related needs arranged by the Medical Contract Provider and may not obtain outside medical services or prescriptions using a family member's commercial insurance or by cash payments. This restriction is to ensure that Security shall not be compromised with contraband prescriptions, etc.

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6. While every effort shall be made to maximize offender autonomy with their healthcare, there are circumstances in which for security reasons a particular treatment cannot be followed at the Level 4 or Level 5 facility such as a neural stimulator or physical therapy in administrative segregation, and/or a medicine which may not be appropriate in the incarcerated environment for a particular offender.
7. When a treatment or medication cannot be available because of security concerns an Alternative Treatment Plan shall be developed by the institution Medical Director. In such cases, the alternative plan must be explained to the offender in language they are able to understand regarding with the reason why the original plan is unacceptable and the Alternative Treatment Plan documented in the Health Record. The offender does have the right to refuse the Alternative Treatment Plan.

C. Privacy of Care

1. Healthcare encounters shall be carried out in a manner and location that promotes confidentiality within the constraints of security and safety. Every effort shall be made to ensure confidentiality but in some cases it may not be completely possible.
 - a. A Security member who must be in attendance during a clinical encounter shall have specific training on confidentiality and the HIPAA restrictions concerning personal information.

D. Patient Escorts

1. Outside consultation appointments and transportation to local community hospitals must be coordinated with Security in a manner least disruptive to the institution's routine and escort availability.

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2. Same gender escorts shall be provided within the constraints of security and safety but there is no guarantee that same-gender escorts will always be available and the use of opposite-sex escorts may be necessary.
3. Security staff transporting offenders off-site will be provided medical and behavioral health information only as it relates to maintaining security, safety of the offender, officers and the public.

E. Medical Decision Autonomy

1. It is the policy of the DDOC that the institution Medical Director designated by the Medical Contract Provider, has responsibility for approving medical decisions made by supervised state licensed provider staff regarding the care provided to offenders of an institution.
2. Clinical decisions are made by qualified licensed health care professionals. Recently graduated Advance Practice Nurse Practitioners and Physician Assistants must have a signed Collaborative Agreement between the supervising site physician and the Advance Practice Nurse Practitioner or Physician Assistant consistent with BCHS policy 11-C-01, *Credentials, Privileging and Peer Review of Healthcare Providers*. Advance Practice Nurse Practitioners who have completed their required supervision have autonomous prescribing authority and do not require a Collaborative Agreement.
3. Decisions concerning the type of treatment or the need for transfer to outside resources shall be the responsibility of the site Medical Director in consultation with Security.
 - a. In no case shall an emergency transfer to a local community Emergency Room be delayed waiting for administrative approvals from the Contract Provider.
4. The site Medical Director shall work in conjunction with the institution custody staff for security and control of the offender while receiving medical,

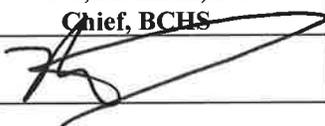
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behavioral health or dental care, and in all cases in which travel outside the facility is necessary to obtain medical care.

5. Decisions on the type of behavioral health treatment and need for transfer to outside resources shall be the responsibility of the site Mental Health Director in consultation with the Warden or their designee and site Medical Director. Whenever any such transfers outside of the institution for behavioral health reasons occurs, the BCHS Bureau Chief and Director of Behavioral Health shall be notified as soon as possible.

F. The Contracted Medical Provider shall develop within 30 days of the effective date of this policy, a site-specific procedure for each Level 4 and Level 5 facility implementing this policy and coordinating the procedure with BCHS.

Approval:

Marc D. Richman, Ph.D. Chief, BCHS	Date	Robert Coupe Commissioner	Date
	11/2/16		1/7/2016

DELAWARE MEDICAL ORDERS FOR SCOPE OF TREATMENT (DMOST)

- FIRST, follow the orders below. THEN contact physician/or other health-care practitioner for further orders, if indicated.
- The DMOST form is voluntary and is to be used by patient with serious illness or frailty whose practitioner would not be surprised if they died by next year.
- Any section not completed requires providing the patient with the full treatment described in that section.
- Always provide comfort measure, regardless of the level of treatment chosen.
- The Patient or the Authorized Representative has been given a plain-language explanation of the DMOST form.
- The DMOST form must accompany the patient at all times. It is valid in every health care setting in Delaware.

Print Patient's Name (last, first, middle)	/ /	Date of Birth	last four digits of SSN	
A	Goals of Care (see reverse for instructions. This section does not constitute a medical order.)			
B	<div style="text-align: center;"> <p>Cardiopulmonary Resuscitation (CPR) <i>Patient has no pulse and/or is not breathing</i></p> <p><input type="checkbox"/> Attempt resuscitation/CPR. <input type="checkbox"/> Do not attempt resuscitation/DNAR.</p> </div>			
C	<p>Medical Interventions: <i>Patient is breathing and/or has a pulse.</i></p> <p><input type="checkbox"/> Full Treatment: Use all appropriate medical and surgical interventions, including intubation and mechanical ventilation in an intensive care setting, if indicated to support life. Transfer to a hospital, if necessary.</p> <p><input type="checkbox"/> Limited Treatment: Use appropriate medical treatment, such as antibiotics and IV fluids, as indicated. May use oxygen and noninvasive positive airway pressure. Generally avoid intensive care.</p> <p><input type="checkbox"/> Transfer to hospital for medical interventions.</p> <p><input type="checkbox"/> Transfer to hospital only if comfort needs cannot be met in current setting.</p> <p><input type="checkbox"/> Treatment of Symptoms Only/Comfort Measures: Use any medications, including pain medication, by any route, positioning, wound care, and other measures to keep clean, warm, dry, and comfortable. Use oxygen, suctioning, and manual treatment of airway obstruction as needed for comfort. Use antibiotics only to promote comfort. Transfer only if comfort needs cannot be met in current setting.</p> <p><input type="checkbox"/> Other Orders: _____</p>			
D	<p>Artificially Administered Fluids and Nutrition: <i>Always offer food/fluids by mouth if feasible and desired.</i></p> <p><input type="checkbox"/> Long-term artificial nutrition</p> <p><input type="checkbox"/> Defined trial period of artificial nutrition: Length of trial: _____ Goal: _____</p> <p><input type="checkbox"/> No artificial nutrition <input type="checkbox"/> hydration only <input type="checkbox"/> none (check one box)</p>			
E	<p>Orders Discussed With: <input type="checkbox"/> Patient _____ ph.# _____</p> <p><input type="checkbox"/> Guardian <input type="checkbox"/> Surrogate (per DE Surrogacy Statute) Printed Name & phone number _____</p> <p><input type="checkbox"/> Other <input type="checkbox"/> Agent under healthcare POA/or AHCD _____</p> <p><input type="checkbox"/> Parent of a minor Signature _____</p> <hr/> <p>Print Name of Authorized Representative Relation to Patient Address Phone # _____</p> <p>If I lose capacity, my Authorized Representative may not change or void this DMOST _____</p> <p style="text-align: right;">Patient Signature _____</p>			
F	<p>SIGNATURES: Patient/Authorized Representative/Parent (mandatory) <i>I have discussed this information with my Physician / APRN / PA</i></p> <hr/> <p>Signature _____ Date _____</p> <p>If authorized representative signs, the medical record must document that a physician has determined the patient's incapacity & the authorized representative's authority, in accordance with DE law.</p>	<p>Physician / APRN / PA</p> <hr/> <p>Signature _____ Date _____ Time _____</p> <hr/> <p>Print Name _____</p> <hr/> <p>Print Address _____</p> <hr/> <p>License Number _____ Phone # _____</p>		

DIRECTIONS FOR HEALTH-CARE PROFESSIONALS

COMPLETING A DMOST FORM

- Must be signed by a Licensed Physician, Advance Practice Registered Nurse or Physician's Assistant.
- Use of original form is highly encouraged. Photocopies and faxes of signed DMOST forms are legal and valid.
- Any incomplete section of a DMOST form indicates the patient should get the full treatment described in that section.

REVIEWING A DMOST FORM -- It is recommended that a DMOST form be reviewed periodically, especially when:

- The patient is transferred from one care setting or care level to another,
- There is a substantial change in the patient's health status, or
- The patient's treatment preferences change.

MODIFYING AND VOIDING INFORMATION ON A COMPLETED DMOST FORM

A patient with decision-making capacity can void a DMOST form at any time in any manner that indicates an intent to void.

Any modification to the form voids the DMOST form. A new form may be completed with a healthcare practitioner.

Forms are available online at www.delaware.gov/

SECTION A This section outlines the specific goals that the patient is trying to achieve by this treatment plan. Healthcare professionals shall share information regarding prognosis with the patient in order to assist the patient in setting achievable goals. Examples may include:

- Longevity, cure, remission or better quality of life
- To live long enough to attend an important event (wedding, birthday, graduation)
- To live without pain, nausea, shortness of breath or other symptoms
- Eating, driving, gardening, enjoying time with family, or other activities

SECTION B This is a medical order. Mark a selection for the patient's preferences regarding CPR.

SECTION C This is a medical order. When "limited treatment" is selected, also indicate whether the patient prefers or does not prefer transfer to a hospital for additional care.

- IV medication to enhance comfort may be appropriate treatment for a patient who has indicated "symptom treatment only."
- Non-invasive positive airway pressure includes continuous positive airway pressure (CPAP) and bi-level positive airway pressure (Bi-PAP).
- The patient will always be provided with comfort measures.
- Patients who are already receiving long-term mechanical ventilation may indicate treatment limitations on the "Other Orders" line.

SECTION D This is medical order. Mark a selection for the patient's preferences regarding nutrition and hydration. Check one box.

- Oral fluids and nutrition should always be offered if feasible and consistent with the goals of care.

SECTION E This section documents with whom the medical orders were discussed, the name of any healthcare professional who assisted in the completion of the form, the name of any authorized representative and whether the authorized representative may not modify/void the form.

SECTION F To be valid, all information in this section must be completed.

HIPAA PERMITS DISCLOSURE OF DMOST TO OTHER HEALTH CARE PROFESSIONALS AS NECESSARY FOR TREATMENT.

SEND FORM WITH PATIENT WHENEVER MOVED TO A NEW SETTING

Faxed, Copied, or Electronic Versions of the Form are legal and valid.

Delaware Medical Orders for Scope of Treatment (DMOST)

DMOST is a process for documenting treatment choices. The DMOST form is voluntary. It is a portable, standardized Medical Order that will be recognized and followed by Delaware health care providers.

The DMOST conversation is an opportunity to understand the likely course of your health and medical condition, so that you may make informed choices that are appropriate and reflect what you want. If you choose, you may invite loved ones to join this conversation.

Q. What is DMOST?

A. The Delaware Medical Orders for Scope of Treatment (DMOST) form is a portable medical order form. It allows you to make choices about life-sustaining treatments, including among other treatments, CPR (resuscitation) and artificial nutrition. You may request full treatment, limited treatment, or comfort care only.

Q. Who is it for?

A. A DMOST form can be used by a person with a serious illness or frailty, whose health-care practitioner would not be surprised if they died within the next year.

Q. When should it be discussed and signed? Who signs it?

A. A DMOST form is completed after a conversation you have with a health care practitioner. It is signed by you and a physician (MD or DO), an advanced practice registered nurse (APRN), or a physician assistant (PA). The physician/APRN/PA signature makes the choices into portable medical orders.

Q. Who is required to follow the wishes documented on the DMOST form?

A. These orders will be followed by health care providers in any setting (ambulance, long-term care facility, emergency room, hospital, hospice, home, assisted living facility, etc.). It travels with you and is honored when you move to a new setting.

Q. Can someone else make DMOST decisions for me?

A. You make health-care decisions for yourself as long as you have decision-making capacity. You have the right to change your authorized representative at any time while you have decision-making capacity.

If a physician determines that a person lacks decision-making capacity, an authorized representative can sign a DMOST form on behalf of that person. A DMOST form does not change the decision-maker designated by an Advance Health Care Directive, a Health Care Power of Attorney document, a guardian of person appointed by a Court, or Delaware law on health care surrogates.

If you have capacity and complete a DMOST form, you can sign on the form saying that if you lose capacity, your authorized representative cannot void the form you signed.

Q. What if I change my mind?

A. If your condition or your choices change, you or your authorized representative should void (cancel) your DMOST form and request a new DMOST be completed with your new choices. You can void a DMOST form if you change your mind but do not want to create a new one. You may not make any changes to the content of the DMOST form. If you want to change your DMOST form you must void your previous form and complete a new one with your health-care practitioner. If your DMOST form does not agree with your advance directive, the most recent document will be followed.

Q. Must I do this?

A. The DMOST form is always voluntary and can be voided at any time. A Health care organization is prohibited from requiring you to complete a DMOST form for any reason, including as part of a person's admission to a health care facility.

It is important to understand that this form contains medical orders. It will be followed by health care providers. For example, if you choose "Do Not Attempt Resuscitation", and your heart stops, no attempt will be made to restart your heart. If you choose "Intubate/Use Artificial ventilation", then you may be placed on a breathing machine with a tube in your throat and transferred to an intensive care setting in a hospital.

Q. What will happen to my choices if I travel out of state?

A. Many states, including all the states in our region, currently use a form similar to the DMOST form. Forms from those states which are valid under the Delaware Law will be honored in Delaware. DMOST forms will be honored in other states which have reciprocity.

19 DE Reg. 388 (11/01/15) (Prop.)