

Informed Refusal

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Physicians and other clinicians are well aware of the legal obligation to provide informed consent for treatment. A fundamental component of consent is providing the patient with sufficient information to make an informed decision about the risks, benefits, and alternatives of the proposed treatment. Clearly, one of the alternatives to treatment is to forgo it altogether. Patients have autonomy with regard to healthcare, and many patients elect to refuse treatment based on a number of factors such as cost, health literacy, fear of a particular procedure, and cultural or religious considerations. When this is the case, it's important to document the patient's reasons for refusal as well as the physician's discussion of the indications for the treatment, consequences of refusal, and any follow-up conversations and educational materials provided to the patient. Physicians and other healthcare providers should document using a refusal of treatment form or make other appropriate documentation. Some recent examples of informed refusal claims against SVMIC-insured physicians include the following medical situations:

- A lymph node biopsy revealed metastatic squamous cell carcinoma, but the patient refused radiation or chemotherapy.
- A patient in premature labor experienced hemorrhage from placental abruption but delayed consent for emergency C-section for 10 minutes, resulting in delivery of a stillborn infant.
- An EKG showed a bundle branch blockage, but the patient refused follow-up treatment and cardiology consult.
- An elderly patient with pulmonary hypertension, mitral valve disease, hypertensive heart disease, and atrial fibrillation refused any evaluation or treatment for these problems.
- A patient with a strong family history of colon cancer refused a screening colonoscopy because insurance would not pay for the procedure. The patient was subsequently diagnosed with colon cancer.

All of these cases were resolved successfully due to the fact that there was documented evidence that the patients were provided sufficient information on the risks of forgoing treatment. The important elements of documenting informed refusal include the following:

- Document the patient's reasons for refusal.
- Emphasize that the patient understood the risks of refusing the recommended care.

Try also to obtain the patient's signature on an "informed refusal" form. Several entities including the American Medical Association, American College of Obstetricians and

Gynecologists, American Academy of Pediatrics, American Academy of Family Physicians, and others have sample forms, both general and specific, to a particular refusal (vaccines, genetic testing, dialysis, etc.). SVMIC also has a general sample informed refusal form that may be downloaded [here](#). By using a refusal form, the patient may better appreciate the potentially serious consequences of their decision. If the patient refuses to sign the form, the documentation in the record regarding any discussion(s) with the patient, their reasons for refusing the care and their refusal to sign the form should suffice.

If the patient was referred to the clinic as a consult, be sure to document the above information in a letter to the referring physician.

This documentation may become crucial to avoiding a negligence claim in the event of an adverse outcome. Refusal to adhere to recommended treatment may result in a decision to discharge the patient from practice. Discharging a patient for non-adherence should be a last resort only after inquiring about and attempting to resolve barriers to adhering to the treatment plan. As noted earlier, many patients are unable to afford the medication or recommended testing, do not have transportation, do not understand the care instructions or have other barriers to adherence. It's a patient's right to refuse treatment, but it's the physician's duty to ensure that refusal is well-informed.

If you have questions or concerns, or would like to discuss a particular situation, please call 800-342-2239 and ask to speak to a member of our claims attorney staff.

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