

MEDDAC Regulation 40-8

Medical Services

Medical Care of Military Members Without Permission

**Headquarters
U.S. Army Medical Department Activity
Fort George G. Meade
2480 Llewellyn Avenue
Fort George G. Meade, MD 20755-5800
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Unclassified

SUMMARY of CHANGE

MEDDAC REG 40-8

Medical Care of Military Members Without Permission

Specifically, this revision—

- o Has been published in a new format that includes a cover and this “Summary of Change” page.
- o Reformats the title page. The Contents section now includes the page numbers that the various chapters and paragraphs begin on.
- o Moves the paragraph concerning use of male gender pronouns from chapter 3 to chapter 1 (para 1-5).

Medical Services

Medical Care of Military Members Without Permission

FOR THE COMMANDER:

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History. This is the fourth revision of the regulation, which was originally published on 21 September 1992.

Summary. This regulation covers the policies and procedures for providing medical care to military members without their permission.

Applicability. This regulation applies to Headquarters, U.S. Army Medical Department Activity, Fort George G. Meade (MEDDAC) and all outlying clinics.

Proponent. The proponent of this regulation is the Chief, Patient Administration Division (PAD).

Supplementation. Supplementation of this regulation is prohibited.

Suggested improvements. Users

of this publication are invited to send comments and suggested improvements by memorandum, directly to Commander, U.S. Army Medical Department Activity, ATTN: MCXR-PM, 2480 Llewellyn Ave., Fort George G. Meade, MD 20755-5800 or to the MEDDAC's Command Editor by e-mail to john.schneider@na.amedd.army.mil or fax to (301) 677-8088.

Distribution. Distribution of this publication is by electronic medium only.

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* This publication supersedes MEDDAC Reg 40-8, dated 1 October 2001.

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Glossary

Chapter 1 Introduction

1-1. Purpose

The purpose of this regulation is to establish policies, procedures and responsibilities for medical care of military members, without their permission, within the various facilities of the MEDDAC.

1-2. References

Related publications are listed in appendix A.

1-3. Explanation of abbreviations and terms

Abbreviations and special terms used in this regulation are explained in the glossary.

1-4. Responsibilities

a. *The Chief, PAD, and commanders/directors of outlying clinics.* The Chief, PAD, and outlying clinic commanders/directors, as appropriate, will—

(1) Determine the reason the member is refusing medical care. (The term “member” is explained in the glossary.)

(2) Advise the member that emergency medical care may be performed with or without their permission, when required to preserve the member’s life or health.

(3) If the member still refuses medical care and the situation is not life threatening, notify the member’s commander and request his or her presence in an effort to persuade the member to undergo treatment.

(4) Notify the local Staff Judge Advocate’s (SJA) office. Inform the SJA officer of the situation and request legal advice and guidelines, should force become necessary.

Note: At Fort Meade, call extension 79504 during duty hours. After duty hours call the Fort Meade Staff Duty NCO at extension 74805 to obtain the name and telephone number of the on-call SJA officer.

b. *The medical officer in attendance.* The medical officer in attendance will—

(1) In a life threatening situation. Use medical discretion, whether to initiate forced treatment or delay for an administrative determination.

(2) When the condition of the patient and time permits.

(a) Counsel the member concerning the reasons such medical care is necessary.

(b) If the member still refuses treatment, immediately notify the Chief, PAD. Do not attempt further treatment.

1-5. Use of male gender pronouns

Within this publication, the male gender pronouns “he,” “him,” and “his” also represent the female gender pronouns “she,” “her” and “hers.”

Chapter 2

Requirement for Members to Submit to, and Authority of Commanders to Require Medical Treatment

2-1. Requirement for members to submit to medical treatment

Members on active duty, active duty for training (ADT), and Active Guard Reserve personnel will usually be required to submit to medical care that is considered necessary to protect or maintain the health of others, to preserve the member's life, or to alleviate suffering.

2-2. Authority of commanders to require medical treatment

When warranted, commanders may order a medical examination of any member in their command. The attending physician will determine if hospitalization of the member is appropriate.

Chapter 3

Medical Care Performed With or Without the Member's Permission

3-1. Emergency medical care

Required to save the life or health of the member. Should the member refuse treatment and the unit commander is not available to otherwise persuade the member, the medical facility commander may order the treatment to be given.

3-2. Drug abuse testing (urinalysis)

Army personnel may be ordered to submit to urinalysis testing for the purpose of medical treatment in accordance with (IAW) AR 40-3, AR 600-20, and AR 600-85.

3-3. Immunizations

Immunizations for Army personnel as required by AR 40-562 or other Department of the Army directives (subject to any limitations stated in these directives).

a. The policy of authorizing forcible immunization is intended to protect the health and overall effectiveness of the Army, as well as the health of the soldier. The individual does not have an option as to whether he will be immunized; this is a military obligation; an exception to which is granted only for medical reasons IAW AR 40-562, or religious reasons IAW AR 600-20.

b. Unless medically contra-indicated, any required immunization can be administered to a soldier with or without his consent. Every reasonable effort should be made to avoid the necessity of disciplinary action. However, a soldier should be advised that he may be subject to disciplinary action by resisting, and may be inoculated without his consent.

(1) Soldiers assigned to Kimbrough Ambulatory Care Center (KACC) who refuse immunization will be referred to the Medical Company commander for disposition. Personnel assigned to outlying clinics will be referred to the clinic commander or director.

(2) At KACC, non-Army members at who refuse immunizations will be referred to the Chief, PAD. At outlying clinics, the clinic commander or director will inform the MEDDAC Commander; if the clinic commander or director cannot resolve the matter, the MEDDAC Commander will be so advised.

3-4. Isolation and quarantine

Isolation and quarantine for cases of suspected or proven communicable disease is authorized when appropriate.

3-5. Incompetent members

Medical care related to mental disorders of members who have been found incompetent are pending medical board action may be administered, provided life or health is not likely to be endangered by such procedures or care. These members may also be given routine medical care necessary to treat minor ailments.

3-6. Forced extraction of body fluids for legal purposes

a. A member may be required to submit to the extraction of body fluids or a search of body cavities without consent if both of the following criteria are affirmative—

(1) There is a clear indication that evidence of a crime will be found.

(2) There is a reason to believe that a delay in obtaining command authorization could result in the loss of evidence.

b. The two determinations listed in para a rest solely with law enforcement personnel or a military judge. If requested by these officials, appropriately qualified medical personnel will extract body fluid or search a body cavity using a reasonable medical procedure. Any evidence or contraband obtained from external examination, intrusion into the body (including searching body cavities and surgery), or extraction of fluids, may be retained as evidence when it is the byproduct of a routine medical procedure. For example, blood extracted for medical purposes may also be further tested for evidence of blood alcohol content.

c. A person may not be required to swallow a substance in order to locate an object or induce its elimination from the body solely to obtain evidence. This may only be done when medically indicated or with the person's consent or pursuant to a search authorization.

d. These rules for allowing the gathering of evidence through forced extraction of body fluids or nonconsensual invasion searches of the body only apply to a member suspected or accused of a crime. Witnesses, victims and non-military suspects are excluded. For example, an alleged rape victim may not be forced to undergo an examination for the purpose of obtaining evidence of a crime.

e. Fluids or other evidence obtained through a consent or proper authorization must be strictly accounted for, in writing, when transferred from one custodian to another. Military police or Criminal Investigation Division agents will assist medical personnel in establishing and maintaining the chain of custody.

f. Information received from a member is not privileged simply because it was acquired by a medical officer or civilian physician functioning in a professional capacity. A physician may be ordered to divulge to law enforcement officials and commanders information obtained from a patient.

Chapter 4

Actions to be Taken When a Member Refuses Medical Care

4-1. Actions to be taken if a member refuses emergency medical care

a. An active duty or ADT Army member who refuses to submit for any reason, or whose court appointed guardian or other legal representative objects to recommended medical care, will be referred to a medical board IAW AR 40-3, paragraph 7-5, and AR 600-20, paragraph 5-4c.

b. When a member refuses to submit to recommended care because of religious beliefs, the provisions of AR 600-20, paragraph 5-6 apply.

4-2. Actions to be taken by the medical officer in attendance if the member refuses non-emergency medical care

The medical officer in attendance will—

a. Counsel the patient as to the necessity of the medical care. If the member still refuses, take action as follows:

(1) Immunization refusals.

(a) At KACC. During duty hours and non-duty hours, contact the Chief, Pediatrics. (The Immunization Clinic is subordinate to the Pediatric Service.) If the chief cannot be contacted, contact the Deputy Commander for Clinical Services (DCCS).

(b) At the outlying clinics, notify the commander or director.

(2) Psychiatric detention refusals.

(a) At KACC. During duty hours and non-duty hours, contact the Chief, Community Mental Health Service, the DCCS or the Chief, PAD.

(b) At the outlying clinics, notify the clinic commander or director.

(3) All other medical care refusals.

(a) At KACC. During duty hours and non-duty hours, contact the appropriate or service chief, DCCS, and Chief, PAD. (The term “service” is explained in the glossary.)

(b) At the outlying clinics, notify the commander or director.

4-3. Actions to be taken by chiefs of clinical services, DCCS, and Chief, PAD if the patient refuses non-emergency medical care

If contacted by an attending physician because a military member refuses non-emergent medical care, the chief of the clinical service, DCCS or Chief, PAD will—

a. Verify the necessity for the medical care recommended.

b. Counsel the patient as to the necessity for treatment.

c. If other than the DCCS, notify the DCCS if the patient continues to refuse medical care.

Appendix A References

Section I Required Publications

This section contains no entries.

Section II Related Publications

A related publication is merely a source of additional information. The user does not have to read it in order to understand this publication.

AR 40-3

Medical, Dental, and Veterinary Care

AR 40-562

Immunization and Chemoprophylaxis

AR 310-50

Authorized Abbreviations, Brevity Codes, and

Acronyms

AR 600-20

Army Command Policy

AR 600-85

Alcohol and Drug Abuse Prevention and Control Program

Section III Prescribed Forms

There are no entries in this section.

Section IV Referenced Forms

There are no entries in this section.

Glossary

Section I Abbreviations

ADT

active duty for training

DCCS

Deputy Commander for Clinical Services

IAW

in accordance with

KACC

Kimbrough Ambulatory Care Center

MEDDAC

U. S. Army Medical Department Activity, Fort George G. Meade

PAD

Patient Administration Division

SJA

Staff Judge Advocate

Section II Terms

Member

As used in this regulation, an active duty member of the

Army, Air Force, Navy or Marine Corps; a national guardsman or reservist in Active Guard Reserve status; a reservist in ADT status.

Service

As used in this regulation, the clinical level within the organization whose chief is directly subordinate to the DCCS. The term does not apply to clinics whose names happen to include the word "Service" in them, unless their chiefs are directly subordinate to the DCCS.