Chapter 4 – Special Circumstances

Article 1 – Health Care

4.1.1 Hunger Strike

(a) Policy

Inmates who are participating in a hunger strike shall be provided health care (including assessment, monitoring, and treatment) regardless of the reason for their strike.

(b) Purpose

To delineate the roles of health care and custody staff during a hunger strike to ensure the provision of needed health care.

(c) Responsibility

The Chief Executive Officer (CEO), or designee, is responsible for the implementation, monitoring, and evaluation of this policy.

(d) Procedure Overview

These procedures outline requirements for providing health care (including assessment, monitoring, and treatment) to all individual and mass organized hunger strike participants.

(e) Procedure

(1) Individual Hunger Strike

(A) Custody Response to a Hunger Strike

1. Custody staff shall provide institutional health care executives (i.e., Chief Medical Executive [CME], Chief Nurse Executive [CNE]) information regarding hunger strike participants as they are identified including, but not limited to:
   a. Names.
   b. California Department of Corrections and Rehabilitation (CDCR) numbers.
   c. Dates and times of all state-issued meals refused.
   d. Current housing.
2. Information concerning hunger strike participants shall be discussed during the institution's daily executive briefing. The CEO or a medical representative shall be present at the briefing to receive the information.
3. Custody staff shall ensure that hunger strike participants have access to water at all times and are offered state-issued food daily as scheduled. Custody staff may adjust the state-issued meal or meal portions offered to participants if advised to do so by health care staff.

(B) The CEO, or designee, shall designate health care staff responsible to establish and maintain a hunger strike participant log for use by health care staff. The log will contain information relevant to the hunger strike participant, to include the number of days the participant is on the hunger strike.

(C) When custody staff identifies an inmate as a participant in a hunger strike, they shall notify nursing staff from the participant's facility/yard/clinic and the facility Lieutenant by completing a CDCR 128-B, General Chrono, which shall be added to the health record.

(D) The Registered Nurse (RN) shall create a Hunger Strike Orderset: scheduling PCP, RN assessment, daily rounds, and mental health encounters every two weeks.

(E) When custody staff identifies an inmate who is fasting and refuses water for at least one day, they shall notify nursing staff from the participant's facility/yard/clinic via a completed CDCR 128-B. Nursing staff shall notify the Primary Care Provider (PCP) and ensure information is updated on the hunger strike participant log.

(F) Designated licensed health care staff shall observe participants daily and shall determine if there is a need for medical attention. Documentation of the observations shall be on a checklist near the patient's housing and shall be added to the health record after the hunger strike ceases.

(G) Within 72 hours of notification by custody staff that an inmate is a hunger strike participant:

1. Health care staff shall review the health record to determine if the participant is at a high-risk for complications of starvation or refeeding.
   a. High-risk participants may be scheduled for a PCP visit, vital signs, and body mass index (BMI) determinations.

b. Refusals shall be documented in the health record.
c. If participants are prescribed high-risk medications, a PCP may discontinue or adjust the medication dosage without a PCP visit.
d. Participants shall be notified in writing regarding medication changes.

2. Participants in the Mental Health Services Delivery System (MHSDS) and/or Developmental Disability Program (DDP) shall have a mental health evaluation to rule out mental health or cognitive issues that may impact decisional capacity. For the purposes of a hunger strike mental health evaluation, the clinician shall ensure that the patient understands the implications and potential consequences of not eating and that the patient is not being coerced.
   a. For patients in the MHSDS, if the evaluation was performed by a psychologist or social worker, a referral should be made to psychiatry to determine if medication adjustments are necessary. An Interdisciplinary Treatment Team shall be convened and the treatment plan revised to address the underlying cause for lack of decisional capacity. Psychiatry should consider initiating a PC 2602.
   b. For patients in the DDP, an Interdisciplinary Support Team shall be convened to determine if additional accommodations are necessary. Psychiatry should consider initiating a PC 2604 (PC 2604 may also be initiated by PCPs) if indicated.
   c. If it is determined the patient is being coerced, mental health staff shall consult with the Health Care Access Captain and the Associate Warden of Health Care.
3. If there are concerns about decisional capacity for patients not included in the MHSDS or DDP, an urgent mental health referral can be submitted.

(H) Within seven calendar days of notification, the participant shall be scheduled for a face-to-face triage assessment by an RN who shall provide education on the adverse effects and risks of fasting and the refeeding syndrome. Nursing staff shall:
1. Provide the patient with information about the procedure for obtaining a CDCR 7465, Physician Orders for Life Sustaining Treatment.
2. Document the encounter or refusal in the health record.

(I) Custody staff shall continue to offer state-issued meals to participants during their hunger strike. While inmates are participating in a hunger strike, health care staff shall not prescribe meal replacements including milk, juice, or nutritional supplements for participants unless medically necessary.

(J) Any form of caloric intake would end the hunger strike for that specific participant but shall be restarted if the participant resumes fasting.

(K) After 14 calendar days of participation in a hunger strike (as defined by custody), and at least weekly thereafter, all identified participants (even if not in a high-risk group) shall be scheduled for a PCP visit which shall include a BMI determination. The visit or refusal shall be documented in the health record.

(L) PCP visits shall be tailored to the individual participant and the clinical circumstances by following the CCHCS Hunger Strike, Fasting, and Refeeding Care Guide (care guide) for the health care management of hunger strike participants. The care guide is not a substitute for a health care professional's clinical judgment.

(M) After the initial 72-hour evaluation, participants in the MHSDS or DDP shall have a mental health evaluation scheduled every 14 calendar days or more frequently, as clinically indicated. The visit or refusal shall be documented in the health record.

(N) After 21 calendar days of participation in a hunger strike:
1. Hunger strike participants shall be provided with written information about advance directives and a CDCR 7465.
2. If the participant accepts a primary care visit, the PCP shall perform and document a determination of capacity for informed consent as defined by California Code of Regulations (CCR), Title 15, Chapter 2, Subchapter 2, Article 1, Section 3999.203. Participants who lack capacity for informed consent shall be reported to the Chief of Mental Health, Supervising Dentist, CME, CNE, and CEO.
3. If the participant accepts the primary care visit, the PCP shall counsel the patient regarding advance directives and a CDCR 7465.

(O) When the hunger strike participant decides to resume eating, custody staff shall immediately notify health care staff and complete a CDCR 128-B.

(P) Health care staff shall use the care guide for refeeding to determine if the participant requires adjustments in the size or content of the state-issued meals.

(Q) Participants who fail to gain weight despite a trial of refeeding and who have lost more than ten percent of their body weight may be prescribed nutritional supplements as described in Health Care Department Operations Manual (HCDOM), Section 3.1.12, Outpatient Dietary Intervention, and in the refeeding section of the care guide.

(R) Artificial feeding (enteral or parenteral nutrition support) may require the participant be transferred to a licensed health facility as clinically indicated.

(2) Health Care Placement and Housing

(A) The CME, or designee, may decide, based on participant's health care condition, to place the participant in an Outpatient Housing Unit or to immediately transfer to a licensed health facility (for services that are not available at the current institution). The participant may not refuse placement or housing for medical needs. This includes transfers between licensed health facilities if the level of care needed requires transfer. If transfer is deemed necessary, the PCP shall notify the Warden or Administrator on Duty and initiate procedures to transfer the participant.

(B) A licensed health facility includes, but is not limited to, the following:
1. Skilled Nursing Facility (SNF).
2. Correctional Treatment Center (CTC), including a Mental Health Crisis Bed (MHCB).
3. Intermediate Care Facility (ICF).

(C) To facilitate the transfer, the CME or designee of the sending facility shall contact the CME or designee of the receiving facility.

(D) Clinical guidance for starvation and refeeding and emergency department patient management recommendations shall be shared with collaborating health care staff.

(E) Whenever a participant is transferred to a higher level of care, he/she shall be offered oral hydration, food, or supplements according to the clinical guidance refeeding assessment.

(3) Mass Organized Hunger Strike

(A) Identifying a Mass Organized Hunger Strike
1. The institution Warden and CEO, or designee, shall determine when a mass organized hunger strike exists.
2. The Warden and CEO, or designee, shall determine the need to implement the institution emergency operations and activate the Incident Command System (ICS) based on facts of the event.
3. The CEO, or designee, shall notify the Statewide CME within one hour of ICS activation.
4. To provide safe and effective health care for all patients, the Joint Clinical Executive Team may implement an emergency operations mode and create an ICS at headquarters to organize and coordinate an emergency health care response statewide.

(B) Notification of Mass Organized Hunger Strike Participants
1. As participants are identified, health care executives (i.e., CME, CNE) shall receive certain information from custody staff, including:
   a. Names.
   b. CDCR numbers.
   c. Dates and times of all state-issued meals refused.
   d. Current housing.
2. When custody staff identifies an inmate as a participant, they shall notify the participant's facility/yard/clinic RN and the facility Lieutenant using a Mass Organized Hunger Strike Participant List.
   a. The CEO, or designee, shall designate health care staff responsible to obtain the Mass Organized Hunger Strike Participant List from custody staff and maintain it for use by health care staff.
   b. The number of days on a hunger strike shall be indicated on the list for each participant.
   c. The list maintained by health care staff may differ from the custody staff's list.
3. When custody staff identifies an inmate who is fasting and refuses water for one day, they shall notify the participant's facility/yard/clinic RN.
4. The RN shall then notify the PCP and ensure all information is on the Mass Organized Hunger Strike Participant List.

(C) Response to Mass Organized Hunger Strike

1. Custody staff shall ensure participants have access to water at all times.
2. Custody staff shall continue to offer all state-issued meals to participants daily as scheduled.
   a. Any form of caloric intake would end the hunger strike for that specific participant but shall be restarted if the participant resumes fasting.
3. Custody staff may adjust the state-issued meals and/or portions offered to participants if advised to do so by health care staff.
4. Health care staff shall not prescribe meal replacements including milk, juice, or nutritional supplements to patients participating in a mass organized hunger strike unless medically necessary.
5. Designated licensed health care staff shall observe all participants daily and determine any need for immediate medical attention.
6. Health care staff shall adhere to the following regarding all observations, nursing assessments, and PCP visits:
   a. Tailor to the clinical circumstances of each individual participant.
   b. Refer to the care guide for the health care management of hunger strike participants. The care guide is not a substitute for a health care professional's clinical judgment.
   c. Document all observations on the CDCR 7527, Hunger Strike Observation Checklist, placed near the patient's housing and file the CDCR 7527 in the health record after the hunger strike ceases.
   d. Document all nursing triage, PCP visits, and refusals in the health record.
7. When custody staff notifies health care executives of mass organized hunger strike participants, staff shall adhere to the following timelines:
   a. Within 24 hours, health care staff shall notify each participant that they are eligible for sick call evaluations during the hunger strike.
   b. Within 72 hours:
      1) Health care staff shall review the health record to determine if the participant is at a high-risk for complications of starvation and refeeding:
         a) High-risk hunger strike participants may be scheduled for a PCP visit, vital signs, and BMI determinations.
         b) Refusals shall be documented in the health record.
         c) If participants are prescribed high-risk medications, a PCP may discontinue or adjust the medication dosage without a PCP visit.
         d) Participants shall be notified in writing regarding medication changes.
      2) Mental health staff shall review the health care Mass Organized Hunger Strike Participant List for patients' in the MHSDS and/or DDP and shall conduct a mental health evaluation for those patients on the list. For the purposes of the hunger strike mental health evaluation, the clinician shall rule out mental health or cognitive issues that may impact decisional capacity. The clinician shall ensure the patients understand the implications and potential consequences of not eating and that the patients are not being coerced.
         a) For patients in the MHSDS, if the evaluation was performed by a psychologist or social worker, a referral should be made to psychiatry to determine if medication adjustments are necessary. An Interdisciplinary Treatment Team shall be convened and the treatment plan revised to address the underlying cause for lack of decisional capacity. Psychiatry should consider initiating a PC 2602.
         b) For patients in the DDP, and Interdisciplinary Support Team shall be convened to determine if additional accommodations are necessary. Psychiatry should consider initiating a PC 2604 (PC 2604 may also be initiated by PCPs) if indicated.
         c) If it is determined the patient is being coerced, mental health staff shall consult with the Health Care Access Captain and the Associate Warden of Health Care.
      3) If there are concerns about decisional capacity for patients not included in the MHSDS or DDP, an urgent mental health referral can be submitted.

c. Within seven calendar days, the participants shall be scheduled for a face-to-face triage assessment by an RN who shall provide education on the adverse effects and risks of fasting and the refeeding syndrome. Nursing staff shall:
   1) Provide the patient with information about the procedure for obtaining a CDCR 7465.
   2) Document the encounter or refusal in the health record.

d. After 14 calendar days, and at least weekly thereafter, health care staff shall schedule all identified participants (even if not in a high-risk group) for a PCP visit which will include a BMI determination. The visit or refusal shall be documented in the health record.

e. After the initial 72-hour evaluation, participants in the MHSDS or DDP shall have a mental health evaluation scheduled every 14 calendar days or more frequently, as clinically indicated. The visit or refusal shall be documented in the health record.

f. After 21 calendar days, participants shall be provided with written information about advance directives and the CDCR 7465.
   1) If the participant accepts a primary care visit, the PCP shall perform and document a determination of capacity for informed consent as defined by CCR, Title 15, Chapter 2, Subchapter 2, Article 1, Section 3999.203.
   2) The PCP's determination documents the patient's understanding and ability to discuss possible medical effects and medical hazards associated with a hunger strike.
   3) The PCP may consider mental health input and/or consult with mental health regarding those patients who lack capacity for informed consent.
   4) Participants who lack capacity for informed consent shall be reported to the Chief of Mental Health, Supervising Dentist, CME, CNE, or CEO.
   5) If the participant accepts the primary care visit, the PCP shall counsel the patient regarding advance directives and the CDCR 7465.

8. When the hunger strike participant decides to resume eating, custody staff shall immediately notify health care staff using the Mass Organized Hunger Strike Participant List.
9. Health care staff shall use the care guide to determine if the participant requires adjustments in the size or content of the state-issued meals.
10. Participants who fail to gain weight despite a trial of refeeding and who have lost more than ten percent of their body weight may be prescribed nutritional supplements as described in HCDOM, Section 3.1.12, Outpatient Dietary Intervention and in the refeeding section of the care guide.
11. Artificial feeding (enteral or parenteral nutrition support) may require the participant to be transferred to a licensed health facility as clinically indicated.

(D) Health Care Placement and Housing

1. The CME, or designee, may decide, based on a participant's health care condition, to either place the participant in an Outpatient Housing Unit or to immediately transfer to a licensed health care facility (for services that are not available at the institution). The participant may not refuse placement or housing for medical needs. This includes transfer from one licensed facility to another if the level of care needed requires transfer. If transfer is deemed necessary, the CME, Chief Physician and Surgeon, or designee, shall notify the Warden or Administrator on Duty and initiate procedures to transfer the participant.
2. A licensed health care facility includes, but is not limited to, the following:
   a. SNF
   b. CTC, including a MHCB
   c. ICF
3. To facilitate the transfer, the CME, or designee, of the sending facility shall contact the CME, or designee, of the receiving facility.
4. Health care executives shall inform physicians in local community hospitals and Emergency Departments (ED) of mass organized hunger strikes and keep them apprised of potential participant referrals.
5. Clinical guidance for starvation and refeeding and ED patient management recommendations shall be shared with collaborating health care staff.
6. Whenever a participant is transferred to a higher level of care, he/she shall be offered oral hydration, food, or supplements according to the clinical guidance refeeding assessment.

(4) Informed Refusal

(A) The participant shall receive information about his/her medical condition, the proposed course of treatment (including nutrition support), and his/her prospects for recovery. If the participant refuses recommended medical care, he/she shall be asked to sign a CDCR 7225, Refusal of Examination and/or Treatment, and complete a CDCR 7465 to delineate the care he/she will accept.

(B) Health care staff shall grant participants autonomy in health care decisions.

1. If the participant refuses to clearly and consistently indicate his/her wishes regarding medical management including questions of refeeding and resuscitation if required, then all necessary interventions including artificial nutrition to protect life and limb shall be carried out.
2. If the participant is deemed unable to give informed consent as defined in CCR, Title 15, Chapter 2, Subchapter 2, Article 1, Section 3999.203, the institution shall obtain a court order to treat the participant.

(C) Health care staff shall not participate in forced feeding of patients.

References

- California Probate Code, Division 4, Part 7, Sections 3200-3212
- California Code of Regulations, Title 15, Division 3, Chapter 1, Subchapter 4, Article 8, Section 3353.1, Capacity for Informed Consent
- California Code of Regulations, Title 22, Division 5, Chapter 3, Article 5, Section 72527, Patients' Rights
- California Code of Regulations, Title 22, Division 5, Chapter 3, Article 5, Section 72528, Informed Consent Requirements
- California Code of Regulations, Title 22, Division 5, Chapter 12, Article 5, Section 79799, Inmate-Patients' Rights
- Health Care Department Operations Manual, Chapter 2, Article 4, Section 2.4.2, Physician Orders for Life Sustaining Treatment
- Health Care Department Operations Manual, Chapter 3, Article 1, Section 3.1.12, Outpatient Dietary Intervention
- California Correctional Health Care Services, Hunger Strike, Fasting, and Refeeding Care Guide

Revision History

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