

CHAPTER 22

Hunger Strike

I. POLICY

The California Department of Corrections and Rehabilitation (CDCR) shall provide inmate-patients who are participating in a hunger strike with a medical and mental health assessment, monitoring, and necessary treatment, regardless of the reason for the hunger strike.

II. PURPOSE

This purpose of this policy is to delineate the roles of health care and custody staff during an inmate-patient hunger strike in order to provide inmate-patients with needed care.

III. DEFINITIONS

- Hunger strike: Refusal of necessary food and/or fluids for political, mental health or other grievance-related reasons.
- Baseline: Date and time that initial medical assessment and documentation occur for monitoring purposes.
- Nutrition support: Nutritional therapy such as food delivered by a tube (to the stomach), by a central venous line, or by an intravenous line when usual diet is insufficient. A licensed clinician orders and administers this therapy in a licensed health facility only. Intravenous rehydration may be performed in non-licensed facilities.
- Forced treatment: Forced treatment that shall occur only in an emergency (defined below) or with a court order for a mentally incompetent inmate-patient as provided in California Penal Code Section 3200.
- Emergency: As defined in the California Code of Regulations (CCR), Title 15, § 3351(a):“An emergency exists when there is a sudden, marked change in an inmate’s condition so that action is immediately necessary for the preservation of life or the prevention of serious bodily harm to the inmate or others, and it is impracticable to first obtain consent.”

IV. IDENTIFYING HUNGER STRIKE

Custody response to inmate hunger strike is found in restricted Department Operations Manual (DOM) Section 55010, Resource Supplement 43, Inmate Hunger Strike.

V. PROCEDURE

- A. Staff who become aware of an inmate-patient(s) who appears or declares to not be taking adequate food or fluids, shall do the following:
- Verbally notify custody supervisory staff in the unit where the inmate-patient is housed.
 - Verbally notify the inmate-patient’s facility/yard/unit clinic Registered Nurse (RN).
 - Refer to Mental Health services for a mental health assessment. This assessment is to determine if the inmate’s mental illness is the cause of the hunger strike behavior and to take appropriate clinical action.
 - Document the inmate-patient’s hunger strike information on a CDC Form 128-B, General Chrono. A copy of the CDC Form 128-B shall be sent to the inmate-patient’s

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facility/yard/unit clinic Registered Nurse (RN) and a copy shall be filed in the Unit Health Record (UHR) and Central File.

B. Health care staff shall do the following:

1. The RN shall do the following:
 - The RN shall be responsible for reviewing the UHR to determine if there are any immediate medical concerns (e.g., insulin dependent diabetes, dialysis, end-stage renal disease). Any medical concerns shall be reported to the Primary Care Physician (PCP) and Mental Health staff and documented in the UHR. The RN shall notify his/her immediate supervisor and the CMO or CP&S.
 - Within two business days of receipt of the CDCR Form 128-B regarding an inmate-patient on a hunger strike, or sooner if clinically indicated, the RN shall conduct a face-to-face triage of the inmate-patient.
2. The CMO, Chief Physician and Surgeon (CP&S), or designee shall do the following within 24 hours:
 - Review the inmate-patient's UHR to determine if the hunger strike will have serious, immediate consequences to the inmate-patient's health.
 - Inform the Warden of the inmate-patient's health care status.
 - The CMO/CP&S shall maintain a log of all inmate-patient hunger strikes.
3. Licensed health care staff shall do the following after 48 hours:
 - Complete a CDC Form 7219, Medical Report of Injury or Unusual Occurrence, upon receipt of a CDC Form 114A or CDC Form 128-B, which documents an inmate or group of inmate-patients who are engaged in a hunger strike.
4. The RN shall document the following on a CDCR Form 7230, Interdisciplinary Progress Note:
 - Stated reason and duration of the hunger strike.
 - Most recent documented weight.
 - Current weight (measured), noting attire and mechanical restraints (if applicable).
 - Physical condition and appearance (dry eyes, mouth, and skin).
 - Emotional and/or psychological condition.
 - Vital signs including heart rate, temperature, respiration, and blood pressure with orthostatic changes.
 - Relevant medical history, including allergies to foods or medications.
 - Document what the inmate-patient is refusing, e.g., all food, or liquids.
 - Current Mental health status and suicide risk assessment and history of mental disorder and suicide risk assessment and/or attempts.

C. Custody staff shall do the following:

- Interview the inmate-patient(s) to determine the reason for the hunger strike.
- Complete a CDC Form 837, Incident Report (for a group hunger strike) and a CDC 128-B for an individual hunger strike.
- Determine, if possible, when the inmate-patient(s) began the hunger strike and what is being refused specifically: food and/or fluids.

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- Document the date and time of discovery by staff, date and time of last meal, and inmate-patient's stated reason for the hunger strike.
- Report the hunger strike to their supervisor and a licensed health care staff member who shall notify the RN on duty. The custody supervisor shall also document the hunger strike and report it to the Associate Warden (AW)/ Administrative Officer of the Day (AOD) of the area, who shall report the incident to the Warden within 24 hours.
- For inmate-patients in restrictive housing, document each meal refusal on CDCR Form 114A, Inmate Segregation Record. For inmates in general population, document each meal refusal on a CDCR Form 128-B. A copy of the CDCR Form 128-B and/or the CDCR Form 114A are sent to the program supervisor.
- Upon receipt of the CDCR Form 114A or CDCR Form 128-B which documents that an inmate-patient or group is engaging in a hunger strike for more than 72 hours, the Warden shall inform the appropriate Division of Adult Institutions (DAI) Associate Director within 24 hours. The Associate Director shall inform the Director, DAI. The Director, DAI, shall inform the Chief Deputy Secretary Adult Operations.

D. After the first 48 hours the licensed health care staff shall be required to complete daily assessments including the following:

1. The RN shall document the following:

- Weight
- Physical condition
- Emotional condition
- Vital signs including orthostatic blood pressure/pulse
- Hydration status

2. The RN shall notify the CMO/CP&S or designee of significant changes in the inmate-patient's health status.

3. The licensed health care staff shall document the following:

- Each examination or interview, and intake of food, fluid and/or medication on CDCR Form 7230, Interdisciplinary Progress Notes.
- Refusal of any health care service, including but not limited to, nutrition, nutrition supplement, weight and daily assessment, on a CDCR Form 7225, Refusal of Examination and/or Treatment. Include the reason for the refusal in the inmate-patient's own words in the space provided on the form.
- A licensed health care staff shall refer any refusal of an assessment or examination to the HCM for review.

E. After the first 72 hours, the physician and CMO/CP&S shall do the following:

- The physician shall perform a physical examination and order a metabolic panel and a urinalysis of an inmate-patient who is on a hunger strike more than 72 hours to determine the current physical status of the inmate-patient, and document the information on a CDCR Form 7230, Interdisciplinary Progress Note. The physician shall refer the inmate-patient for a mental health evaluation. The mental health staff will complete a MH4 evaluation form and include the response to the referral question. If indicated, the

mental health staff shall develop and document a recommended care plan, housing requirements, including consideration for placement in a mental health care bed.

- The CMO/CP&S or designee shall report any hunger strike that has lasted more than 72 hours to the Warden and to the appropriate Division of Correctional Health Care Services (DCHCS) Regional Administrator within 24 hours, who shall inform the Director, DCHCS. The Director, DCHCS, shall inform the Chief Deputy Secretary, Adult Programs.

VI. HEALTH CARE PLACEMENT AND HOUSING

The HCM/CMO or designee may decide to place the inmate-patient in an Outpatient Housing Unit (OHU) or may determine that an inmate-patient's health care condition requires immediate transfer to a licensed health facility for services that are not available at the present institution. This includes transfer from one licensed facility to another if the level of care needed requires transfer. If so, the CMO/CP&S or designee shall notify the Warden or AOD and initiate procedures to transfer the inmate-patient. A licensed health facility includes, but is not limited to:

- General Acute Care Hospital (GACH)
- Skilled Nursing Facility (SNF)
- Correctional Treatment Center (CTC), including a Mental Health Crisis Bed (MHCB)
- Intermediate Care Facility (ICF)

Transfer to an appropriate licensed health facility shall occur when any one of the following exists:

- The reason for the hunger strike is intended suicide.
- A physician determines a medical need which requires a level of care beyond that available at the inmate-patient's current facility.
- A court has declared the inmate-patient mentally incompetent. (A *Keyhea* order on the basis of Grave Disability is not considered a court declaration of mental incompetence for purposes of this section).
- The definition of an emergency has been met.

When it has been reported that an inmate-patient has not had food or fluid for a 72-hour period, the CMO/CP&S designee, on a case-by-case basis, shall consider placement in a setting where monitoring of the inmate-patient's health care condition can occur.

Institutional staff shall offer the inmate-patient his/her regular provision of food at every regularly scheduled meal serving time except as otherwise prescribed by a physician.

VII. INFORMED CONSENT AND INTERVENTION

Prior to administering a course of medical treatment, medical staff must first obtain the inmate-patient's informed consent. To exercise this right, an inmate-patient shall receive information

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about his/her medical condition, the proposed course of treatment (including nutrition support) and his/her prospects for recovery. See the following citations for the outline of these rights.

Title 22, § 70707, General Acute Care -- Inmates' Rights.

Title 22, §§ 72527 & 72528, Skilled Nursing Facility -- Inmates' Rights and Informed Consent Requirements.

Title 22, § 79799, Correctional Treatment Center -- Inmates' Rights.

Probate Code §§ 3200-3212.

Health care staff shall grant inmate-patients autonomy in health care decisions related to nutrition and shall not force feed the inmate-patient unless one of the following criteria are met:

- The inmate-patient's condition meets the definition of emergency status.
- The inmate-patient is deemed unable to give informed consent as defined in CCR Title 15, Article 8, § 3353.1 and the institution obtains an appropriate court order per CCR, Title 15, Article 8, §3351(a) to treat a mentally incompetent inmate-patient.

Forced feeding (enteral or parenteral nutrition support) shall not take place except in a licensed health care facility by licensed clinical staff.