



Right to Refuse Treatment or Medication in a Developmental Disability Center (ICF/IID)

All people in an ICF/IID have the following rights:

- You have the right to receive age-appropriate treatment.
- The facility must create and implement an individualized written treatment plan within 30 days of your admission. You or your legally responsible person must be involved in creating that plan.
- You and your legally responsible person will be told **in advance** of all potential risks and alleged benefits of the treatment choices.
- You have the right to be free from unnecessary or excessive medication. This means the facility cannot give you medication as punishment or for staff convenience.
- The facility cannot give you medication unless a doctor puts an order in your records for the medication. The medication must be given according to accepted medical standards.
- You or your legally responsible person must give **informed written consent** before you can receive electro-convulsive therapy, experimental drugs or procedures, or non-emergency surgery. You or your legally responsible person can withdraw that consent at any time.

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Can the facility force me to have treatment?

It depends on the situation and the specific treatment.

In general, if you were voluntarily admitted – no, it cannot

If you chose to go the ICF/IID, or your legally responsible person signed you into the facility, you (or your legally responsible person) have the right to agree to or to refuse treatment.

There are some **exceptions**:

- In an emergency, the facility can give you treatment or medication, even if you refused that treatment or medication before the emergency happened.
- The facility can do emergency surgery on you if immediate action is needed to save your life or health, and you or your legally responsible person cannot give consent right away.
- The facility can use seclusion, restraint or other restrictive interventions without your consent in an emergency situation, meaning your behavior is causing the risk of imminent harm to yourself or others.

Be aware that if the facility presents you with all the treatment options it feels are appropriate, and you refuse them all, the facility can discharge you or seek to have you admitted involuntarily.

In general, if you were involuntarily admitted – yes, but only in some situations

If a judge ordered you to be in the ICF/IID, you can be given treatment or medication even if you (or your legally responsible person) refuse it. This can happen:

- In an emergency situation.
- If your doctor and the facility's clinical director agree that you need the medication or treatment in order to participate in any treatment plan that will give a realistic opportunity for your health to improve.
- If your doctor and the facility's clinical director agree that there is a significant possibility you will harm yourself or others before your health improves, unless you receive the treatment or medication.

State-operated DD Centers (Caswell, J. Iverson Riddle, and Murdoch)

Because these facilities are managed by the State of North Carolina, patients there receive some extra protections.

Psychotropic medications in an emergency

In an emergency, you can be given medication even if you refuse it. This is sometimes called “forced medication.”

- If your behavior is causing a risk of imminent harm to yourself or others, the clinical director must document, **in writing**, that giving you the medication is necessary to prevent you from causing that harm.
- If your behavior is putting your life or the lives of others at risk, a doctor must give a **written or verbal** order for the medication.

If you receive forced medication three times or more during a 30-day period, your treatment team must meet to review your treatment plan. They must also develop a plan to respond to emergency situations in the future. You or your legally responsible person must be involved in creating that plan.

Psychotropic medications in a non-emergency

If the situation is not an emergency, you can only be given forced medication if it is in your “best interest.” This means one of these things:

- Your behavior is causing the risk of imminent harm to yourself or others.
- Your doctor believes that without the medication, you will be unable to participate in any treatment plan that will give a realistic opportunity for your health to improve.
- Your doctor believes that unless you take the medication, there is a significant possibility that you will harm yourself or others before your health improves.

The facility must first decide whether you have refused the medication. This means looking at any behavior, whether verbal or non-verbal, that communicates an unwillingness to take the medication. Because of the particular needs and abilities of people in these facilities, some behaviors may seem like a refusal to take medication, but are not actually a refusal. These include:

- Passivity or lack of active participation in activity
- Spitting out medication with an undesirable taste or texture

- Self-injurious or aggressive behaviors

If the facility believes your behavior is an attempt to refuse medication, the facility must notify your Qualified Professional (QP) and the facility advocate. The QP must invite you or your legally responsible person, and the facility advocate, to a treatment team meeting to discuss the matter.

If you still refuse the medication after the treatment team meets, the State Facility Review Committee will review your case. This Committee includes the facility's medical director and representatives from its Human Rights Committee. The Committee will try to reach an agreement with you about the issue.

If you cannot reach an agreement, the Committee will give its recommendations to the facility's Director. If you or your legally responsible person still refuse the medication and do not agree with the Committee's recommendations, the facility's Director can discharge you from the facility.

Disability Rights North Carolina is a 501(c)(3) nonprofit organization headquartered in Raleigh. It is a federally mandated protection and advocacy system with funding from the U.S. Department of Health and Human Services, the U.S. Department of Education, and the Social Security Administration.

Its team of attorneys, advocates, paralegals and support staff provide advocacy and legal services at no charge for people with disabilities across North Carolina to protect them from discrimination on the basis of their disability. All people with disabilities living in North Carolina are eligible to receive assistance from Disability Rights NC.

Contact us for assistance or to request this information in an alternate format.

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