



Policy # HC-RI-133-POL	Title: <b>Requests for or Refusal of Healthcare Professionals or Other Personnel with Specific Characteristics</b>	
Effective Date: 3/4/2017	Category: Rights and Responsibilities	
Origination Date: 1/16/2007	Next Review Date: 3/4/2020	Pages 1 of 4

**PURPOSE:**

This policy describes processes used by OHSU Healthcare when there is a request for or refusal of a healthcare professional or other personnel because of a specific characteristic of the healthcare professional or other personnel.

**PERSONS AFFECTED:**

This policy applies to any OHSU Healthcare workforce member who receives or is asked to respond to a request for or refusal of a healthcare professional or other personnel because of a specific characteristic of the healthcare professional or other personnel.

**POLICY:**

OHSU will not accommodate requests for or refusal of healthcare professionals or other personnel because of a specific characteristic of the healthcare professional or other personnel, except when such requests meet the following criteria: (i) there is a belief expressed by the patient (or other individual on the patient's behalf) that an accommodation is necessary to protect a patient's modesty or (ii) the patient (or individual on the patient's behalf) reports that he or she has a history of traumatic event(s) resulting in fear of specific characteristics or (iii) the patient or other individual asserts that he or she is being treated inappropriately by a healthcare professional or other personnel because of the patient or other individual's age, culture, physical ability, ethnicity, gender identity, gender expression, sex, national origin, race, color, religion or sexual orientation. In these three situations only OHSU will evaluate the request on an individual basis and may accommodate or refuse to accommodate such request.

**DEFINITIONS:**

1. **Accommodation decision:** a decision to grant or deny a patient or individual's request to have patient care or other services provided by a healthcare professional or other personnel because of a specific characteristic of the healthcare professional or other personnel.
2. **Accommodation request:** a request or refusal of a patient or other individual to have patient care or other services provided by a healthcare professional or other personnel because of a specific characteristic of the healthcare professional or other personnel.
3. **AOD:** Administrator on Duty.
4. **Healthcare professional or other personnel:** Anyone engaged in the delivery of healthcare or other services for a patient or visitor. This includes, but is not limited to, physicians; dentists; nurses; respiratory, physical or occupational therapists; pharmacists; residents; students; ancillary, auxiliary and supporting healthcare providers who may be involved in patient care; and

service personnel (e.g., janitorial staff, food workers and admissions staff). The term is used in this policy to encompass classified and unclassified employees, students, volunteers and faculty.

5. Specific characteristics: characteristics that include, but are not limited to, age, culture, physical ability, ethnicity, gender identity, gender expression, sex, national origin, race, color, religion or sexual orientation.

## **PROCEDURES:**

1. When making such decisions, OHSU will ensure that:
  - a. Safety (patient, employee and community) is addressed;
  - b. Continuity and quality of care is maintained;
  - c. Respect for employees, students, trainees and others is maintained; and
  - d. The overall operational impact of the accommodation is minimized.
2. OHSU may not be able to accommodate such requests in emergencies or other life-threatening or urgent situations.
3. Process for Handling Requests for Healthcare Professional or Other Personnel with Specific Characteristics Generally
  - a. When there is a request for, or refusal of, a healthcare professional or other personnel because of a specific characteristic of the healthcare professional or other personnel other than for the three reasons listed in the policy statement above, the OHSU Healthcare workforce member who receives such a request should inform the patient or other individual making the request that the request will not be honored. If the OHSU Healthcare workforce member does not feel comfortable relaying this information to the patient or other individual making the request, the workforce member shall ask his or her supervisor, the attending physician or other healthcare team member to explain to the requester that the request will not be honored.
  - b. If there are any safety concerns associated with the request, the OHSU Healthcare workforce member receiving the request shall immediately discuss the issue with his or her supervisor and contact the Administrator on Duty (AOD), Patient Advocates' office and/or the Department of Public Safety promptly.
  - c. A healthcare professional or other personnel who is the subject of such a request may withdraw from providing services to the patient or other individual making the request only if there are safety or legal concerns. For safety or legal concerns the OHSU Healthcare workforce member must seek approval from his or her supervisor to withdraw from providing services to the patient or other individual making the request. Before approving such a request, the supervisor shall assure that continuity, safety and quality of care for the patient and other patients are not compromised and/or that necessary services can be provided. If the supervisor cannot make such assurances the supervisor should do the following:
    - i. For legal concerns, contact the Legal Department at 504-494-5222 for guidance.
    - ii. For safety concerns, the supervisor shall develop a safety plan for the healthcare professional or other personnel with the AOD, the Patient Advocates' office and/or the Department of Public Safety and have the healthcare professional or other personnel continue to provide services utilizing the safety plan.
  - d. Notwithstanding the above, a healthcare professional may also withdraw from a specific medical intervention if the criteria set forth in the OHSU Conscientious Objection policy are met.
  - e. All requests for or refusal of a healthcare professional or other personnel because of a specific characteristic of the healthcare professional or other personnel, except those requests approved pursuant to the process set forth in Section 2 (below), must be reported to the

Affirmative Action & Equal Opportunity Department (AAEO) at aaeo@ohsu.edu or 503-494-5148 by the OHSU Healthcare workforce member receiving the request or by his or her supervisor (if the matter is reported to the supervisor).

- f. Healthcare professionals or other personnel who are the subject of such a request will be offered the opportunity to confer with his or her supervisor, department chair, the Chief Medical Officer, the OHSU Center for Diversity & Inclusion, an OHSU Patient Advocate, or others who may be sensitive to the situation. In addition, the healthcare professional or other personnel may obtain a list of support resources from the OHSU Office of AAEO.

#### 4. Process for Considering Accommodation Requests

- a. A request by a patient or other individual asserting that he or she has been treated inappropriately because of the patient or other individual's age, culture, physical ability, ethnicity, gender identity, gender expression, sex, national origin, race, color, religion or sexual orientation shall be referred immediately to a Patient Advocate for handling.
- b. If the reason for the request is one of the other two reasons described in the Policy Statement of this policy, modesty or history of traumatic event(s), the supervisor of the healthcare professional or other personnel that is the subject of the request, or another appropriate unit leader will consider, at a minimum, the following:
  - i. Whether accommodating the request will compromise continuity, safety or quality of care for the patient or other patients or prevent necessary services from being provided to the patient or the individual that is making the request.
  - ii. Whether accommodating the request will create an unreasonable burden or other substantive, negative operational impact.
  - iii. if the reason for the request is other than the two above reasons (modesty, history of traumatic events), it will be rejected.
- c. The supervisor or unit leader making the accommodation decision will communicate the accommodation decision to all parties involved in the care of the patient or the provision of services to the patient or other individual, including the involved healthcare professional or other personnel, in a timely and respectful manner. Requests and decisions should be documented in the patient's medical record when the request relates to patient care. An accommodation decision to deny the request shall be reported to OHSU Office of AAEO as described in Section 1(d) of this policy.

#### 5. Process for Addressing Disagreement with Accommodation Decision

- a. **Healthcare professional or other personnel:** When there is disagreement with an accommodation decision by a healthcare professional or other personnel, the concern should be directed to the healthcare professional or other personnel's department chair or immediate supervisor. Unresolved concerns should be escalated through the appropriate chain of resolution, using the Patient Advocate's Office, the Center for Diversity & Inclusion or the Chief Medical Officer as additional resources.
- b. **Patient or other Individual:** When there is disagreement with an accommodation decision by a patient or other individual making the request, the Patient Advocate's Office can make an advocate available as needed to meet with the patient or other individual making the request if he/she wishes to express concerns or dissatisfaction.

#### RELEVANT REFERENCES:

- Paul-Emille K, Smith A, Lo B, Fernández A. Dealing with Racist Patients. N Engl J Med 2016, 374;8: 708-711.
- Title VII of the Civil Rights Act of 1964
- Equal Employment Opportunity Commission Compliance Manual

- The Joint Commission Hospital Accreditation Standards
- Watson K, Mahowald MB. Honoring gender-based patient requests for obstetrician: Ethical imperative or employment discrimination. J Women's Health & Gender-Based Med 1999; 8(8):1031-1041.

**RELATED DOCUMENTS/EXTERNAL LINKS:**

- Conscientious Objection Policy (Policy No. HC-RI-111-RR)
- Equal Opportunity Policy (Policy No. 03-05-030)

**TITLE, POLICY OWNER:**

Chief Operating Officer, OHSU Healthcare

**APPROVING COMMITTEE(S):**

- OHSU Institutional Ethics Committee
- Legal

**FINAL APPROVAL:**

Healthcare Administrative Team

**Supersedes:**

2007, 2/2014; 3/2017;