

GUIDELINES FOR PATIENT REFUSAL TREATMENT/TRANSPORT

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Patient refusal-01

GUIDELINES FOR PATIENT REFUSAL OF TREATMENT/TRANSPORT

INDICATIONS

A patient has the right, at anytime, to refuse any part of their treatment by EMS. Patients must be mentally competent and understand any consequences of their decision to refuse EMS medical care. Mentally competent means they are able to understand their decision to refuse EMS treatment. Understanding the consequences of their decision means that they have been informed of any or all dangers/harm of their decision to refuse EMS care.

Patients refusing care should be offered care *on a minimum of three different occasions* to ensure they understand the potential implications to their refusal. A formal, departmentally adopted release form should be completed on all refusals. In addition, an EMS run report on any occasion where EMS was activated to provide medical care should be completed. Complete documentation of the refusal process should be completed per departmental/organizational SOP to further protect the EMS provider should litigation occur.

The only condition where a patient may be treated against their will is called involuntary consent. Involuntary consent must be initiated by law enforcement officers. If the EMS provider deems medical care is necessary and finds the patient's decision inappropriate and believes that the poor decision is manifested from, but not limited to, mental disorder, head trauma, intoxication from drugs or alcohol, or any other medical condition that may cloud judgment, then Medical Direction and law enforcement should be contacted.

Minors do not have the right to refuse care. A legal guardian must make the appropriate decision for them and relay this information to the EMS provider. This should be done either face to face or through verbal consent witnessed by two persons. This protocol recognizes the advanced communications of our society and realizes that the popularity of cellular telephones can give the EMS provider the opportunity to verbally communicate with a parent or legal guardian who may not be available to speak to you face-to-face on scene. When communicating via telephone, cellular or hard line, with a legal guardian or parent, documentation of the guardians name and relationship to the minor is paramount, again to protect the EMS provider from future litigation. Accurate information on the minor's condition should be explained to the parent or legal guardian to aid them in their decision to accept or refuse care and/or transport.

The following points should aid you in broadening your understanding of the legal aspects of various forms of consent.

CONSENT

- A. The patient has the right to refuse care/treatment at anytime.
- B. Consent for treatment can be granted by the patient, legal guardian, or durable power of attorney.
- C. If waiting to obtain consent presents risk of death, serious morbidity or would cause severe pain or suffering of the patient, treatment may be undertaken to avoid those risks without consent. This is called implied consent. Implied consent means that the normal and rational decision to treat a patient would be desired by the patient or legal representative if they were present or in contact with the EMS personnel on scene. Therefore, if consent is later given, life saving care can continued without harming the patient or if consent is denied/refused, care (even life saving) can be halted as desired by the patient, legal guardian, or durable power of attorney
- D. In non-emergency cases involving minors, consent should be obtained from the parent or legal guardian prior to undertaking any treatment. All children must be evaluated for acuity of illness, regardless of obtaining parental consent. Implied consent is applicable to minors if there is a serious threat of death or morbidity; therefore, life saving interventions can be undertaken by EMS personnel without delay for parental or guardian consent
- E. Some patients under the age of 18 may be permitted to make their own medical decisions. These patients are called “emancipated minors”. A child under 18 years of age who is married or is living away from home and is financially independent of his/her parents, is considered emancipated and may make medical decisions for themselves and/or their children.
- F. If the patient is under age, consent should be from:
 - 1. Natural parent
 - 2. Adopted parent
 - 3. Legal Guardian (anyone who has legal custodial care of the minor)
- G. NOTE: There has not been a single reported decision that held a physician liable where beneficial care was provided to a minor without obtaining consent; therefore, when in doubt, contact medical direction for assistance in necessary.

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MENTAL COMPETENCE – DECISION MAKING CAPABILITY

- A. A person is mentally competent if he:
 - 1. Is capable of understanding the nature and consequences of the proposed treatment.
 - 2. Have sufficient emotional control, judgment, and discretion to manage his/her own affairs.
- B. Ascertaining that the patient is oriented and has an understanding of the precipitating events, complications if treated or not treated, and a plan of action – such as whom he will call for transportation home – should be adequate for these determinations.
- C. Patients with impaired cerebral perfusion, in shock, postictal, or under the influence of drugs or alcohol will be unlikely to fulfill these criteria.
- D. If the patient is not mentally competent under these guidelines, consent should be obtained from another responsible party – who must also be mentally competent and must be 21 years of age – in the following order of preference:
 - 1. Legal guardian
 - 2. Spouse
 - 3. Adult son or daughter
 - 4. Parent
 - 5. Adult brother or sister
- E. If the patient is not mentally competent (i.e. intoxicated or under the influence of drugs) and none of the above persons can be reached. The person should be treated and transported to a medical facility. It is preferable under such circumstances to obtain assistance from law enforcement and Medical Direction in this course of action. Remember, traumatic head injuries and other medical conditions can mimic intoxication.
- F. If the patient himself is not competent to consent and a legal guardian as defined above is present, and if that person is competent, he or she has the same right to consent or refuse treatment as the patient himself. Those wishes cannot be ignored in a non-life-threatening situation.

REFUSAL TO BE TRANSPORTED TO THE CLOSEST APPROPRIATE FACILITY IN TIME OF EXTREMIS

- A. In the event that a patient in extremis refuses to be transported the closest appropriate facility, the patient and family must be notified of the possible risks and/or complications to their injury or illness because of the delay in medical attention.
- B. Consultation with the on-line Medical Director should be completed advising them of patient condition and patient/family wishes pertaining to destination
- C. Documentation on the out of hospital patient care report should verify that the patient was advised of the risks and complications and that Medical Control was contacted and consulted.
- D. If at any time during the transport the EMS crew becomes uncomfortable with patient condition, diversion to the closest appropriate facility is acceptable.

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PROCEDURE FOR REFUSAL

If a patient wishes to refuse treatment, examination or transportation to the hospital, the following steps must be taken:

1. The EMT should refer to their department/organizations patient refusal checklist prior to obtaining a release and offer care, a minimum of three times, for the present condition.
2. The patient must be advised of the benefits of treatment and transport as well as the specific risks of refusing treatment and transport.
3. Patient's vital signs obtained (Can be excluded for lift assist type call).
4. Risks and benefits should be explained in common terms and wording that the non medical professional or lay person can understand.
5. EMS personnel should complete a department/organization adopted refusal form and EMS patient care form. Document which parts of the care process that the patient refused (example: IV) or document, if applicable, that the patient refused all care and transport.
6. The protocol cannot list the various and unforeseen circumstances that EMS personnel encounter on a daily basis; therefore, if there is doubt or question about the legality of a patient or guardians refusal in during an unusual circumstance or setting, do not hesitate to contact Medical Direction for guidance.

The following two (2) pages should be used as a template for the development of your department/organizations refusal form. Your senior management or department administration may wish to consult with their legal council for guidance in developing your refusal form from this template. Medical Command can also help your department/organization develop a form that meets the requirements or needs of the community/population that you serve.

EMS Patient Refusal

Assessment of patient (circle appropriate response)

Alcohol / drugs ingestion per history or exam		Y	/	N	
Altered Level of Consciousness		Y	/	N	
Head Injury		Y	/	N	
Oriented to:	Person			Place	Time Situation

Medical control (if indicated):

Contacted via phone / radio / unable Time: _____

Medical Control Physician: _____

**If Medical Command physician was not available, explain in comment section of checklist orders:

- Indicated treatment/transport may be refused by patient
- Use reasonable force/restraint to provide treatment
- Use reasonable force and/or restraint to transport
- Other: _____

Patient advised (circle appropriate response)

Medical treatment/Evaluation needed		Y	/	N
Ambulance transport needed		Y	/	N
Further harm may result without medical Treatment or evaluation		Y	/	N
Transport by means other than Ambulance could be Hazardous in light of the patient's present illness or injury		Y	/	N
Patient provided with refusal advice sheet		Y	/	N
Patient would not accept refusal sheet		Y	/	N

Disposition

- Refusal of all EMS Services
- Refused transport, accepted field treatment
- Refused field treatment, accepted transport
- Released in care or custody of self
- Released in custody of Law enforcement agency
Officer: _____ Agency: _____
- Released in care or custody of relative or friend
Name: _____ Relation: _____

Comments: _____

EMS Signature: _____ Date: _____

Officer: _____ Date: _____

PLEASE READ AND KEEP THIS FORM

This form has been given to you because you have refused treatment and/or transport by the Emergency Medical Service. Your health and safety are our primary concern, so even though you have decided not to accept our advise, please remember the following:

1. The evaluation and/or treatment that was provided to you by the EMS Squad is not a substitute for medical evaluation and treatment.
2. Your condition may not seem as bad to you as it actually may be. Without treatment your condition or problem could become worse. If you are planning to get medical treatment, a decision to refuse treatment or transport by the EMS may result in a delay which could make your condition or problem worse.
3. Medical evaluation and/or treatment may be obtained by calling your doctor, if you have one, or by going to any hospital Emergency Department in this area, all of which are staffed 24-hours a day by Emergency Physicians. You may be seen at these Emergency Departments without an appointment.
4. If you change your mind or your condition worsens and you decide to accept treatment and transport by the Emergency Medical Service, please do not hesitate to call us back. We will do our best to help you.

I have been informed of the dangers of y not being treated and/or transported by the Emergency Medical Services, for my condition, for treatment by an emergency department or private physician. I release _____, their EMS personnel and consulting hospitals from any and all liability for any adverse results caused by my decision.

Signature: _____ Date: _____

Circle one: Patient Spouse Parent Guardian

Name (PLEASE PRINT): _____

Address: _____

City: _____ State: _____ Zip: _____

EMS Signature: _____

Witness: _____

Name (PRINT): _____

Name (PRINT): _____

Incident number: _____

Date: _____