Patient Refusals

PURPOSE

To establish guidelines for the management and documentation of situations where patients refuse treatment or transportation, or insist on transportation to a destination other than that recommended by EMS personnel.

Patient Assessment

- Providers should attempt to obtain a history and physical in as much detail as is permitted by the patient
- Conduct Three Assessments: Providers should attempt to assess three major areas prior to permitting a patient to refuse care and/or transportation:
  - Decision-making Capacity Assessment
    - Patient must be at least 14 years of age in order to refuse care (See PEARLS)
    - Patients subject to a court decree of incapacity are not legally competent to refuse care
    - Emancipated Juveniles may refuse care
  - Mental Status Assessment
    - Start with the presumption that all patients are mentally competent unless your assessment clearly indicates otherwise
    - Ensure the patient is oriented to person, place, time, and event
    - Establish the patient is not a danger to himself or others
    - Ensure the patient understands the risks of refusing care or transportation and any proposed alternatives. Consider whether the patient is exhibiting any other signs or symptoms of potential mental incapacity, including drug or alcohol influence, unsteady gait, slurred speech, etc.
  - Medical or Situational Screening
    - Ensure the patient is suffering from no acute medical conditions which might impair their ability to make an informed decision to refuse care or transportation
    - If possible, rule out conditions such as hypovolemia, hypoxia, head trauma, unequal pupils, metabolic emergencies (e.g., diabetic coma), hypothermia, hyperthermia, etc.
    - Attempt to determine if patient lost consciousness for any period of time
    - If any conditions impair patient’s decision-making ability, patient may not be capable of refusing care and your documentation should clearly establish the patient understood the risks, benefits and advice given to him

Medical Control

Contact Medical Control for a decision in situations including but not limited to:
- You believe patient is in need of further medical attention yet refuses care
- ALS care has been established and the patient refuses transport

Who May Refuse Treatment/Transport

- The patient
  - If patient is legally, mentally and situationally competent, the patient has a right to refuse treatment/transport; obtain refusal signature
  - Implied consent – if the patient is unconscious and seriously injured or in need of further medical attention, treat and transport patient despite patient’s inability to consent.
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- **Parent**
  - A custodial parent (i.e., a parent with a legal right to custody of a minor child) may refuse treatment/transport on behalf of a minor child; obtain refusal signature from parent.
  - A parent of a patient who is 14 years of age or older may not refuse treatment/transport on behalf of their child (unless the parent also happens to be a legal guardian – see below).
  - A parent who is a minor (i.e., under 14 years of age) may refuse treatment/transport for their child. Obtain refusal signature from the minor parent.

- **Guardian**
  - A legal guardian is one who is appointed by a court to act as “guardian of the person” of an individual who has been found by a court to be incapacitated.
  - A legal guardian may also be appointed in lieu of parents for a minor.
  - If a person indicates they are a legal guardian to the patient, attempt to obtain documentation of this fact (court order, etc.) and attach to the PCR. If no such documentation is available, you may obtain refusal signature from the guardian as long as you do so in good faith and do not have any evidence or knowledge that the person is misrepresenting himself as a legal guardian of the patient.

- **Medical Power of Attorney**
  - A person appointed by the patient in a medical power of attorney document may refuse treatment/transport on behalf of the patient if the power of attorney contains such authorization.
  - Attempt to obtain a copy of the medical power of attorney document to attach to the PCR. If no such documentation is available, you may obtain refusal signature from a medical power of attorney as long as you do so in good faith and do not have any evidence or knowledge that the person is misrepresenting himself as the medical power of attorney of the patient.

- **Incompetent Patient**
  - If patient is incompetent, and no other authorized individual is available to provide a refusal signature, patient may be treated and transported as long as you act in good faith and without knowledge that the patient or authorized individual would refuse treatment/transport.
  - Take all reasonable steps to secure treatment or transportation for a patient who is legally or mentally incompetent to refuse treatment/transport, but do not put yourself or your crew in jeopardy.

**Refusal Procedure**

- Conduct assessment as outlined above.
- Contact Medical Control if necessary.
- Determine who may sign refusal form as outlined above.
- Complete all sections of EMS Agency Refusal Form.
- Review form with patient or authorized signer.
- Provide detailed explanation of possible risks and danger signs to patient or other authorized signer.
- Inform the patient or authorized signer to call 9-1-1, call their doctor, or go to an Emergency Department if they reconsider, symptoms persist or get worse, or any of the danger signs you inform them of appear.
- Obtain the signature of the patient or authorized signer; if they refuse to sign, document this fact on the Refusal Form as well as the PCR.
- Have the patient or authorized signer date the form.
- Obtain signature of a witness; preferably the witness should be someone who witnessed your explanation of risks and benefits to the patient and who watched the patient sign the form.
  - If no witness is available, a crew member may sign as a last resort.
  - All witnesses should be 18 years of age or older if possible.
- The crew member who obtained the refusal and completed the Refusal Form should also sign the form on the appropriate line.
• The crew member who obtained the refusal and completed the Refusal Form should also sign the form on the appropriate line
• Complete PCR in addition to the EMS Agency Refusal Form. PCR narrative must include the following documentation:
  o Patient assessments (listed above)
  o Results of history and physical exam
  o The clinical symptoms upon which the need for transport was based
  o Information provided to fully inform the patient and/or other authorized individual of the consequences of their refusal of treatment/transport
  o The patient’s understanding of the risks and potential complications of his/her choice to refuse
  o Medical Control instructions, if any
  o Alternatives offered
  o Crew signatures

**PEARLS**

§ 54.1-2969. Authority to consent to surgical and medical treatment of certain minors. ( Portions relevant to EMS included below.)

*Whenever delay in providing medical or surgical treatment to a minor may adversely affect such minor’s recovery and no person authorized in this section to consent to such treatment for such minor is available within a reasonable time under the circumstances, no liability shall be imposed upon qualified emergency medical services personnel as defined in § 32.1-111.1 at the scene of an accident, fire or other emergency, a licensed health professional, or a licensed hospital by reason of lack of consent to such medical or surgical treatment. However, in the case of a minor 14 years of age or older who is physically capable of giving consent, such consent shall be obtained first.*

*Whenever delay in providing transportation to a minor from the scene of an accident, fire or other emergency prior to hospital admission may adversely affect such minor's recovery and no person authorized in this section to consent to such transportation for such minor is available within a reasonable time under the circumstances, no liability shall be imposed upon emergency medical services personnel as defined in § 32.1-111.1, by reason of lack of consent to such transportation. However, in the case of a minor 14 years of age or older who is physically capable of giving consent, such consent shall be obtained first.*