

**TITLE: PATIENT RIGHT OF REFUSAL****POLICY STATEMENT:**

Competent patients have the right to accept or refuse any or all prehospital care and transportation, provided the decision to accept or refuse treatment or transportation is made on an informed basis and these patients have the mental capacity to make and understand the implications of such a decision.

**GOAL/PURPOSE:**

To clarify the EMS Provider's responsibility when a patient refuses treatment/transport.

**DEFINITIONS**

Patient – A person for whom EMS was activated and has any medical complaint or injury, or who, in the judgment of the prehospital care provider has an illness or injury.

Minor – Any person under 18 years of age.

Emergency – A medical condition of recent onset and severity that would lead a prudent lay person, possessing an average knowledge of medicine and health, to believe that urgent and unscheduled medical care is required.

Implied consent – A situation involving and unconscious or incompetent patient where care is initiated under the premise that the patient would desire such care if they were able to make the decision. In the case of a minor, if a parent or legal guardian is not present, care and transportation is provided on the basis of "Implied Consent".

Against Medical Advice (AMA) – The refusal of treatment or transport by a patient against the advice of medical personnel on scene and Medical Control.

Competency – The ability of a person to understand the nature of his/her illness/injury with no significant mental impairment by illness, injury, or mind altering substances and understands the consequences of refusing medical care. Competency of a patient will be assessed by:

1. Orientation to person, place, and time.
2. The ability to hear and understand
3. Lack of significant illness that would effect sound judgement, i.e. hypoperfusion, hypoxia, hypoglycemia, or other organic illness
4. Lack of significant injury that would effect sound judgement, i.e. head injury, hypoxia, hypoperfusion
5. Lack of mind altering substances, i.e. alcohol, drugs, medications, or other substances

Prehospital personnel allowed to obtain refusals;

1. EMT-P
2. PHRN
3. EMT-I
4. EMT-B
5. First Responder (Low risk patients only)

High risk patients include, but not limited to:

1. Head injury (based on mechanism or signs and symptoms)
2. Any trauma with significant mechanism (i.e. MVC rollover)
3. Chest pain
4. SOB/dyspnea
5. Syncope
6. Seizure (new onset)
7. Head ache (new onset)
8. TIA/resolving stroke symptoms
9. Pediatric complaints
10. Presence of alcohol and/or drugs
11. Altered level of consciousness or impaired judgment

Low risk patients:

1. Slow speed MVC without injury
2. Isolated injuries not associated with significant mechanism
3. False calls or other “third party” calls where no illness, injury, or mechanism of injury is apparent
4. Lifting assistance or “public assist” calls

Who May Refuse Care

1. The patient
  - a. If a patient is legally, mentally, and situationally competent, the patient has the right to refuse care. Obtain refusal signature.
2. Parent
  - a. A custodial parent (i.e., a parent with a legal right to custody of a minor child) may refuse on behalf of a minor child. Obtain refusal signature from parent.
  - b. A parent of a patient who is 18 years of age or older may not refuse care for his or her child (unless the parent is also happens to be a legal guardian - see below).
  - c. A minor (i.e., under 18 years of age) may refuse care for his or her child. Obtain refusal signature from minor parent.
3. Guardian
  - a. A legal guardian is one who is appointed by a court to act as “guardian of person” of an individual who has been found by a court to be incapacitated.
  - b. Legal guardian may also be appointed in lieu of parents for a minor
  - c. 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 trip sheet. 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 the legal guardian of the patient.
4. Health Care Agent (Attorney in Fact)
  - a. A person appointed by the patient in a durable power of attorney document may refuse care of behalf of the patient if the power of attorney contains such authorization.
  - b. Attempt to obtain a copy of the durable power of attorney document to attach to the trip sheet. If no such documentation is available, you may obtain refusal signature from the health care agent (“attorney in fact”) 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 health care agent or “attorney in fact” of the patient.

**POLICY/PROCEDURE:**

- A. All patients will be offered treatment and transportation to a hospital after an accurate patient assessment has been conducted to include: patient’s complaint, history and objective findings, and patient’s ability to make sound decisions.
  
- B. Determine mental competency of the patient and the reason for refusing care. (Complete the Informed Decision Making Form) Providers should assess three major areas prior to permitting a patient to refuse care and/or transportation:
  - 1. Legal Competence
    - a. Assure that patient is at least 18 years of age
    - b. Or, if a minor, patient may refuse care if he or she is a 17 year old high school graduate, is married, or is currently or has ever been pregnant.
    - c. Patients subject to court decree of incapacity are not legally competent to refuse care.
  - 2. Mental Competence
    - a. Start with the presumption that all patients are mentally competent unless your assessment clearly indicates otherwise.
    - b. Ensure that patient is oriented to person, place, time, and purpose.
    - c. Establish that patient is not a danger to himself or others.
    - d. Ensure that patient is capable of understanding the risks of refusing care or transportation and any proposed alternatives.
    - e. Check to be sure that patient is exhibiting no other signs or symptoms of potential mental incapacity, including drug or alcohol intoxication, unsteady gait, slurred speech, etc.
  - 3. Medical or Situational Competence
    - a. Ensure that patient is suffering no acute medical conditions that might impair his or her ability to make and informed decision to refuse care or transportation.
    - b. If possible, rule out conditions such as hypovolemia, hypoxia, head trauma, unequal pupils, metabolic emergencies (e.g., diabetic shock), hyperthermia, hypothermia, etc.
    - c. Attempt to determine if patient lost consciousness for any period of time.
    - d. If any conditions in (a)-(c) impair patient’s decision-making ability, patient *may* not be competent to refuse care. This would be considered a “High Risk Refusal” and Medical Control should be contacted. Your documentation should clearly establish that the patient understood the risks, benefits, and advice given to him.
  
- C. Explain to the patient the risk associated with their decision to refuse treatment and transportation.
  
- D. Inform the patient they may contact EMS if they change their mind
  
- E. Advise the patient to seek medical care, i.e. go to a hospital, doctor’s office, clinic, etc.

F. High risk patients:

1. Establish voice contact via MERCI radio or cellular telemetry with Medical Control and relay the patient's complaint, history, complete assessment and vital signs. Clearly state that the patient refuses treatment and transport.

The hospital will respond with the following statement to be heard by the patient:

You have not been evaluated by an emergency department physician; therefore the EMS system does not recommend refusals of treatment and transport. Since you are refusing treatment and transport despite being informed of the associated risks, it is recommended you be evaluated by your primary physician or the nearest emergency department as soon as possible.

2. After receiving concurrence by Medical Control to accept refusal, complete the Release of Medical Responsibility Form (example pp.46-47) and have the patient sign the form. If a minor, this form must be signed by a legal guardian. **MINORS CANNOT REFUSE CARE AND TRANSPORTATION TO THE HOSPITAL!**

3. A witness to the patient's release of services must also sign the release form. If available, it is preferable to have a police officer at the scene act as the witness. If police are not present, any other bystander may act as witness. However, their name, address and telephone number should be obtained and written on the back of the report.

G. Low risk patients

1. First responders will establish contact with Medical Control and follow the recommendations of the Physician or ECRN.
2. EMT-B, I, and P prehospital personnel will complete the Release of Medical Responsibility form and reasonably assure the patient understands the refusal
3. A witness to the patient's release of services must also sign the release form. If available, it is preferable to have a police officer at the scene act as the witness. If police are not present, any other bystander may act as witness. However, their name, address and telephone number should be obtained and written on the back of the report.
4. A crew member may sign as a witness, but only when no other appropriate bystanders, police, or family are available to witness the refusal.

- F. If the patient refuses medical help and/or transportation after having been informed of the risks of not receiving emergency medical care and also refuses to sign the release, clearly document refusal to sign on the bottom section of the report, and have the entire crew witness the statement. Have an additional witness sign preferably a police officer. Include unit and badge number. Establish voice contact via MERCI or cellular telemetry with Medical Control and state that the patient refuses treatment/transport, and also refuses to sign the release. Request the tape number and mark the chart to be reviewed.

G. Refusal of transport to the nearest appropriate medical facility

1. If a patient refuses transport to the closest appropriate medical facility and the refusal would create a life threatening or "high risk" situation, follow the policy for "Patient Right of Refusal" and treat it as a "High Risk" refusal. After contact with Medical Control, obtain the patient's refusal signature and transport to the requested medical facility.
2. If a patient refuses transport to the closest appropriate medical facility and the refusal would **not** create a life threatening or "high risk" situation, follow the policy for "Patient Right of Refusal" and treat it as a "Low Risk" refusal. Obtain the patient's refusal signature and transport to the requested medical facility.

#### H. Bypass or Diversion of a Hospital

1. If a hospital diverts an incoming ambulance or in any way refuses to accept an emergency patient, transport the patient to the nearest appropriate medical facility. Complete and Incident Report and forward to the EMS Office.

#### I. Refusal of Transport after Emergency Treatment

1. Some patients will refuse care after emergency treatment, i.e., hypoglycemia in diabetic patients.
2. If the patient meets the criteria for competency and the patient has received any medication or had a sign or symptom considered "High Risk", follow the policy for "Patient Right of Refusal" and treat it as a "High Risk" refusal. After contact with Medical Control, obtain the patient's refusal signature.
3. If the patient meets the criteria for competency, has not received any medication or had a sign or symptom considered "High Risk", follow the policy for "Patient Right of Refusal" and treat it as a "Low Risk" refusal. Obtain the patient's refusal signature.