

**EMS System Operations****Date: 02/01/2021****Patient Refusal of Treatment and/or Transportation****Policy #4080**

- I. **Purpose:** The purpose of this policy is to define the circumstances in which an individual is considered a patient and the information that should be provided prior to a patient deciding to receive or refuse care/transport. Adults and certain minors determined to have capacity are entitled to make decisions about their health care. Whenever possible, prehospital care providers should inform patients of the benefits, risks, and alternatives to recommended medical care before patients decide to refuse or consent to such care. Secondly, this policy explains procedures for prehospital care providers to follow when a patient refuses treatment and/or transport recommended by the prehospital care provider. Finally, this policy explains the procedures for prehospital care providers to follow when both the provider and the patient agree that treatment and/or transport are not needed.
- II. **Authority:** California Health and Safety Code, Division 2.5, Section 1797.220, 1798. Title 22, California Code of Regulations, Section 100169.
- III. **Definitions:**
- A. **Adult:** An individual who is 18 years of age or older.
- B. **Capacity:** The ability to understand the nature and consequences of a decision and to make and communicate a decision, including:
1. The case for proposed health care
  2. The ability to understand its significant benefits, risks, and alternatives
  3. Refusal always potentially includes the risk of death or permanent disability by not being evaluated in the Emergency Department
  4. Those with capacity must also be A&Ox4.
- C. **Minor legally authorized to consent to medical treatment:** An individual under 18 years of age who meets any of the following criteria:
1. Was or is legally married.
  2. Is on active duty in the military.
  3. Has a court-declared emancipation.
  4. Is pregnant and seeks or needs medical care related to prevention or treatment of pregnancy.
- D. **Legal Representative:** A patient's authorized guardian or conservator appointed pursuant to a power of attorney for health care, or other legally authorized person. In the case of a patient who is a minor, the legal representative may be:
1. Either parent.
  2. Any parent with the right and responsibility to make health care decisions for the minor, if the minor's parents are divorced, and there is legal document one parent does not have the ability to make legal health care decisions for the minor.
  3. An adoptive parent.
  4. A stepparent, or registered domestic partner of a parent of the minor, who has written authorization from the minor's natural parent or guardian or a valid Caregiver's Authorization Affidavit.
  5. A guardian of the minor.
  6. A nonparent adult relative with whom a minor is living and who has completed and signed a Caregiver's Authorization Affidavit. The relative can be a spouse, parent, stepparent, sibling, stepsibling, half-sibling, uncle, aunt, niece, nephew, first cousin, any person with the prefix "grand" or "great," or the spouse of any such persons, even after the marriage has terminated by death or dissolution.
  7. Any other person with written authorization from a parent or guardian to consent to treatment of the minor.

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8. Treatment and or transport may be authorized by law enforcement personnel who have placed a minor child in custody.
  9. In the event that two or more legal representatives of a minor disagree about assessment, treatment or transportation of the minor, the prehospital care provider may decide to provide assessment, treatment or transportation if delay might jeopardize the minor's health. Such decision should be documented in the patient care record. If delay would not (likely) jeopardize the minor's health, then assessment, treatment and/or transportation should be withheld until the conflict is resolved.
  10. The prehospital care provider may also reasonably rely on the representations and decisions of an individual purporting to be a minor's legal representative if (1) the prehospital care provider cannot easily confirm the individual's authority to make health care decisions for the minor and (2) delay in obtaining such confirmation might jeopardize the minor's health.
- E. **Implied Consent:** Consent that is implied by the actions or conduct of the patient, rather than direct communication through words, or by the circumstances at hand. Implied consent applies in a medical emergency if a patient lacks capacity and has no legal representative present to consent to, or refuse, any recommended treatment or transport.
- F. **Consent:** The agreement and acceptance as to opinion or course of action. Any impaired or unconscious patients, that lack decision-making capabilities, fall under implied consent for medical care, and PATIENTS WITHOUT CAPACITY DO NOT HAVE ABILITY TO REFUSE CARE.
- G. **Assent:** Gaining assent from children even as young as 7 years can foster the moral growth and development of autonomy in young patients. This consideration is based on an understanding that, starting around 7 years of age, children enter the concrete operations stage of development, allowing for limited logical thought processes and the ability to develop a reasoned decision.
1. Help the patient achieve a developmentally appropriate awareness of the nature of his or her condition
  2. Tell the patient what s/he can expect with tests and treatments
  3. Make a clinical assessment of the patient's understanding of the situation and the factors influencing how s/he is responding (including whether there is inappropriate pressure to accept testing or therapy)
  4. Solicit an expression of the patient's willingness to accept the proposed care
- H. **Emergency:** A condition or situation in which an individual has a need for immediate medical attention, or where the potential for such need is perceived by emergency medical personnel or a public safety agency (California Health and Safety Code, Division 2.5, Section 1797.70).
- I. **Against Medical Advice (AMA):** When an individual, **that has capacity**, refuses evaluation, treatment, or transportation against the advice of medical personnel on scene or the base hospital.
- J. **Eloperment:** When a patient leaves without authorization or signing an AMA typically without notifying medical facility or EMS staff. This sometimes occurs prior to capacity assessment.
- K. **Patient:** An individual for whom patient contact has been made (Policy #4070), emergency medical assessment, care, or emergency ambulance transportation has been requested and who meets at least one of the following criteria:
1. Has a chief complaint or is deceased.

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2. Is accompanied by a witness, or someone with personal knowledge of the individual, who (1) states that the individual has a chief complaint or (2) makes a request for examination or treatment on the individual's behalf.
3. Has an obvious symptom or signs of injury or illness (ex: has symptoms of sepsis).
4. Has been involved in an event with a mechanism that the average EMS Responder would believe could cause injury (ex: injuries to the head).
5. Appears to be disoriented, have impaired psychiatric function, or suicidal intent (ex: obvious or suspected intoxication).

**IV. Policy:**

- A. All patients are entitled to a complete assessment, treatment, and transport to a receiving hospital.
- B. The decision to permit any patient to refuse emergency medical treatment and/or transportation rests with the Base Hospital.
- C. Any AMA form utilized in Imperial County must be approved by the Imperial County EMS Agency.
- D. Refusing medical care
  1. Patients have the right to accept or refuse any and all prehospital care and transportation, provided that the decision to accept or refuse these treatments and transportation is made on an informed basis and provided that patients have the mental capacity to make and understand the implications of such a decision.
  2. Capacity is determined when:
    - a. The patient is 18 years of age or older or is a minor legally authorized to consent to medical treatment.
    - b. The patient is alert and oriented to time, place, person and event.
    - c. The patient does not have an altered mental status – from a suspected medical, traumatic, psychiatric, toxidromic, or other existing complication.
    - d. There are no barriers to communicating with the patient or legal representative (e.g., the individual speaks English, or an interpreter is present to explain the prehospital care provider's information to the individual).
    - e. The risks and complications of refusal of service have been explained to the patient or legal representative.
    - f. The patient or legal representative understands the nature of the medical condition and the risks and the consequences of refusing care, and is able to state them back to the provider.
    - g. The patient or legal representative has been advised that he or she may call 9-1-1 again if they wish to receive any necessary emergency treatment and/or transport.
  3. A patient refusing medical care must meet the following requirements:
    - a. An adult who has capacity
    - b. A minor legally authorized to consent to medical treatment and who has capacity; or
    - c. A legal representative of a patient and has capacity; and
    - d. Is not currently suicidal; and
    - e. Is not on a psychiatric hold under California Welfare and Institutions Code Section 5150 (or similar hold).

**An individual is not legally authorized to refuse care**

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4. A Patient Care Report (PCR) form must be completed for each patient refusal.

**E. Implied Consent**

1. In the event of a medical emergency, a patient's consent to any necessary medical assessment, treatment, and transportation may be presumed without (1) assessing whether an individual is legally authorized to refuse care or (2) obtaining consent for any necessary medical assessment, treatment, and/or transportation. If the situation allows, however, EMTs, paramedics, or first response air ambulance crew members shall introduce themselves to any patients who may require medical care, assess their capacity, and if applicable, determine whether an individual legally authorized to refuse care for the patient is present.

**F. Consent to, or Refusal of, Medical Assessment**

1. If no individual legally authorized to refuse care for the patient is present, the patient shall be assessed, treated, and transported as necessary, based upon implied consent, unless other provisions of this Prehospital Care Policy apply. EMS personnel shall document the capacity determination in the Patient Care Record.
2. If an individual is legally authorized to refuse care, he or she shall be asked, whenever possible, for consent to medical assessment and any necessary treatment and/or transportation.
  - a. If the individual consents to a medical assessment, then EMS personnel shall follow applicable policies related to the provision of patient care and documentation.
  - b. If the individual refuses a medical assessment, then EMS personnel shall follow applicable policies related to prehospital care documentation, and complete an Release of Care form, if applicable.

**G. Consent to, or Refusal of, Treatment and Transport**

1. Following the medical assessment, EMS personnel shall—whenever possible—inform the individual legally authorized to refuse care of any proposed care before administration of such care and prior to any transport.
2. The prehospital care provider shall give the individual legally authorized to refuse care sufficient information to provide a basis for the individual to make a decision regarding whether to agree to treatment and transport from the prehospital care provider.
3. Prehospital care providers must use the Patient Care Record and, if applicable, the Release of Care form (electronic or hardcopy), to document that the individual legally authorized to refuse care acknowledges understanding the information provided before deciding to refuse service.
4. If, in the judgment of the prehospital care personnel, a life-or limb-threatening condition exists that requires immediate transport and treatment at the closest emergency department, and the individual legally authorized to refuse care continues to refuse treatment, the paramedic shall contact the Base Hospital.
  - a. If the individual legally authorized to refuse care continues to decline recommended treatment or transport, he or she shall sign the Release of Care form.

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- b. The prehospital care provider shall document when contact with the Base Hospital was made and any communications that occurred prior to and after the Base Hospital contact ended in the Patient Care Record.
  - c. In the event that an individual who is legally authorized to refuse care refuses to sign the Release of Care form, the prehospital care provider shall document said refusal and have at least one objective witness sign the Release of Care form, in addition to the prehospital care provider.
5. An individual may be released from the scene without a signed Release of Care form if the individual is not a patient, does not require immediate medical care, or the individual legally authorized to refuse care refuses EMS services. Documentation in the Patient Care Record describing the event shall include the same components as listed above.
6. If an individual legally authorized to refuse care refuses treatment and/or transport, all additional responding medical personnel shall be cancelled.
7. In situations where (1) the documentation information required in Section F(below) cannot be obtained or (2) an individual refusing treatment or transport does not have capacity to make such a decision, the paramedic shall contact the Base Hospital for direction.

**H. Documentation**

1. The patient care record shall serve as the mechanism for documenting the requirements of this policy.
2. Capacity Determination: The prehospital care provider must document in the Patient Care Record:
  - a. Any determination that a patient lacks capacity, has recovered capacity, and/or has a legal representative present.
  - b. Any verification of a legal representative's authority to make health care decisions for the patient.
3. Refusal of Service: The prehospital care provider must ascertain and document all of the following information in the Patient Care Record for any direct patient contact that results in completion of the Release of Care form:
  - a. The patient is 18 years of age or older or is a minor legally authorized to consent to medical treatment.
  - b. The patient is alert and oriented to time, place, person and event.
  - c. The patient does not have an altered mental status – from a suspected medical, traumatic, psychiatric, toxidromic, or other existing complication.
  - d. There are no barriers to communicating with the patient or legal representative(e.g., the individual speaks English, or a translator is present to explain the prehospital care provider's information to the individual).
  - e. The risks and complications of refusal of service have been explained to the patient or legal representative.
  - f. The patient or legal representative understands the nature of the medical condition and the risks and the consequences of refusing care, and is able to state them back to the provider.
  - g. The patient or legal representative has been advised that he or she may call 9-1-1 again if they wish to receive any necessary emergency treatment and/or transport.

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1. If the patient is not competent or able to make his/her own medical decisions then the patient may not refuse evaluation, care, or transport without first consulting with base hospital.
  - a. Patients who cannot refuse evaluation, treatment or transportation without first consulting with base hospital include:
    1. Any patient who presents with an altered level of consciousness (witnessed or un-witnessed by EMS personnel).
    2. Any patient who has attempted suicide or verbalizes suicidal intent.
    3. A patient with abnormal vital signs.
    4. A patient making a decision which is clearly irrational in the presence of an obvious potentially life-threatening condition.
    5. Person on a 5150 hold.
    6. Individuals who are not the patient's parent, legal guardian, or designated medical decision maker.
    7. Patient Elopement.
2. In cases where a patient cannot refuse, but is refusing treatment and/or transportation, EMS personnel shall consult with base hospital physician and request law enforcement assistance, if necessary.
3. Law enforcement shall be requested if patient becomes a potential threat to self or the public health and safety.

APPROVED:

Signature on File

Katherine Staats, M.D.

EMS Medical Director