

Refusal of Treatment and/or Transport

Standard:

To establish guidelines for all System Credentialed participants and providers when addressing issues of patient consent or patients refusing treatment and/or transport..

Purpose:

Adult patients with present mental capacity retain the right to refuse care and/or transport against medical advice.

Definitions:

Informed Consent/Refusal

In Texas the general rule of law is that before a person may receive medical treatment they must give informed consent for that treatment. Without consent the medical treatment is unlawful. This is true regardless of whether the person receiving the treatment is a minor or has reached the age of majority (18 years of age).

Informed consent is based on an individual's appreciation and understanding of the facts, implications and future consequences of an action. In order to provide informed consent or refusal a patient must have adequate reasoning faculties(capacity) and be provided with information (risks/benefits) relevant to the decision making process. They should also be aware of the options available to them if they choose not to accept evaluation and/or treatment.

Implied Consent

In potentially life-threatening emergency situations where a patient is unable to give informed consent the law presumes that the patient would give consent if able. In potentially life-threatening emergency situations, consent for emergency care is implied if the individual is:

- 1) Unable to communicate because of an injury, accident, illness, or unconsciousness and suffering from what reasonably appears to be a life-threatening injury or illness
OR
- 2) Suffering from impaired present mental capacity
OR
- 3) A minor who is suffering from what reasonably appears to be a life-threatening injury or illness and whose parents, managing or possessory conservator, or guardian is not present

Substituted (Surrogate) Consent

An individual with legal standing may give consent for a patient when the patient does not have the ability to do so because they are a minor, incarcerated or have been determined by courts to be legally incompetent. Parents or guardians are entitled to provide permission because they have the legal responsibility, and in the absence of abuse or neglect, are assumed to act in the best interests of the child.

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The following person(s) may consent to or refuse the evaluation, treatment, and/or transportation of a minor:

1. Parent
2. Grandparent
3. Adult (18 or greater) sibling
4. Adult (18 or greater) aunt or uncle
5. Educational institution in which the child is enrolled that has received written authorization to consent/refuse from a person having the right to consent/refuse.
6. Adult who has actual care, control, and possession of the child **and** has written authorization to consent/refuse from a person with the power to consent /refuse (i.e., daycare camps, carpools, youth sports, etc.)
7. Adult who has actual care, control, and possession of a child under the jurisdiction of a juvenile court
8. A court having jurisdiction over a lawsuit affecting the parent-child relationship of which the child is the subject
9. A peace officer who has lawfully taken custody of minor, if the peace officer has reasonable grounds to believe the minor is in need of immediate medical treatment.
10. A managing or possessory conservator or guardian.

Application:

1. All patients refusing treatment and/or transport must :
 - a) Be at least 18 years of age or an Emancipated Minor;
 - b) Be able to demonstrate present mental capacity in accordance with the Determination of Capacity Procedure.
 - c) NOT have been declared legally incompetent by a court of law. (If a patient has been declared legally incompetent, his/her court appointed guardian has the right to consent to or refuse evaluation, treatment, and/or transportation for the patient.)
 - d) NOT be suicidal or homicidal. (A law enforcement officer may arrest a patient who threatens or attempts suicide under Texas Health and Safety Code Section 573.001. The statute also covers other mentally ill patients and a similar statute allows an arrest for chemical dependency. Only a law enforcement officer can make these arrests.)
2. Patients meeting the above criteria who demonstrate present mental capacity retain the right to refuse any or all treatment and/or transportation. All patients should be encouraged to seek care. Additional resources may be employed including but not limited to involving the patients physician, additional providers such as a Commander, DMO, or On-line Medical Control.
3. Under no circumstances will ATCEMS System providers refuse or deny treatment or EMS transportation to any patient (or legal patient representative) who requests medical assistance from the provider or agency. The initiation of treatment should not be dependent on the patient's willingness to accept transport. (e.g. hypoglycemia, asthma, etc.) This does not include the administration of narcotic pain medications or sedative agents.
4. ATCEMS System providers shall not discourage any patient (or legal patient representative) from seeking medical care from a physician or from accepting EMS transport to a hospital.
5. When a patient with present mental capacity wishes to refuse care:
 - a) The patient will be instructed that the evaluation and/or treatment is incomplete due to the limitations of the pre-hospital care environment;
 - b) The providers will attempt to identify any patient perceived obstacles to treatment/transport and make reasonable efforts to address these obstacles. This

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includes but is not limited to the offer of transportation without treatment, or the offer of transportation to a facility not recommended by guideline. These should be offered only for the purpose of facilitating additional evaluation and/or treatment which would otherwise be refused.

- c) The provider will inform the patient of the risks of refusal and benefits of treatment/transport in accordance with their presenting complaint. It should be explained that the risks described are not comprehensive due to the diagnostic limitations of the pre-hospital environment and that their refusal may result in worsening of their condition, serious disability or death.
- d) The patient will be advised that they should seek immediate medical care at an Emergency Department or with their own physician and that they may call 911 again at any time if they wish to be transported to the hospital or if their condition changes or worsens.

Documentation:

- 1) The provider must document facts sufficient to demonstrate the patient's present mental capacity and understanding of his/her condition and the consequences of refusing treatment and/or transport to include those mentioned above.
- 2) If a patient wishes to refuse assessment, treatment and/or transport, have the patient sign (Against Medical Advice-AMA) relating to the refusal of specific assessment, treatment, destination recommendation, or transport and have a third party witness the signature.
- 3) If the patient refuses to sign the refusal form, the provider will document the circumstances under which the patient refused to sign.
- 4) Vitals and any assessment or diagnostic findings the patient allowed provider(s) to obtain.
- 5) Include direct quoted statements made by the patient related to their reasoning for refusing care or transport.
- 6) The strategies used by the provider(s) to inform the patient of the risks and benefits of care/transport to refusing need to be clearly documented.
- 7) How information was provided to the patient to seek immediate medical care or to call 911 again at any time if EMS is needed or if their condition changes or worsens, and how patient acknowledged understanding of this information.
- 8) Witnesses to the interactions between provider(s) and patient need to be documented, when applicable these witnesses include:
 - a) Fellow first responders on scene, this includes their name, credential or agency, and employee or badge number.
 - b) Patient family members, this includes their name and their legal relationship to the patient.
 - c) Care Attendants, Friends or Co-workers, this includes their name and relationship to the patient.