





**SAN MATEO COUNTY HEALTH**  
**EMERGENCY**  
**MEDICAL SERVICES**

<b>EMS POLICY</b>	<b>521</b>
Effective:	<b>April 2022</b>
Approval: EMS Director <b>Travis Kusman, MPH</b>	Signed: 
Approval: EMS Medical Director <b>Greg Gilbert, MD</b>	Signed: 

## **REFUSAL OF EMERGENCY MEDICAL CARE OR TRANSPORT**

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### **I. PURPOSE**

This policy defines the requirements for patients with decision making capacity to decline medical care/ transport. This policy is applicable to all EMS providers. Providers should recognize these situations as high risk. When patients insist on refusing care/ambulance transport or insist on leaving the scene; careful discussion with the patient and specific documentation may improve outcomes. In addition, this policy is intended to empower providers to ensure appropriate utilization of transportation resources.

### **II. AUTHORITY**

California Health and Safety Code Division 2.5, §1797-1797.207 and 1797.227; California Code of Regulations, Title 22, Division 9 §100170

### **III. DEFINITIONS**

Conservator: A responsible person or organization appointed by a judge who cares for another person who cannot care for her/ himself or manage her/ his own finances.

Decision-Making Capacity: The ability of a patient who is fully oriented to use and understand information to make a decision, and communicate any decision made.

Electronic Health Record (“EHR”): The official and legal patient care record completed by EMS personnel. Formerly referred to as ePCR.

Implied Consent: A form of consent when surrounding circumstances exist that would lead a reasonable person to believe that this consent had been/ would be given, although no direct, express, or explicit words of agreement had been uttered. Implied consent applies to emergency, life-saving care only.

Legal Guardian: A person appointed by a judge who is not a child’s parent who oversees the care of the child, including making decisions about the child’s healthcare.



Parent: The lawful father or mother of a person.

Patient: Any person for whom 9-1-1 services have been activated and that EMS personnel encounter (see Patient Contact) and who meets any of the following criteria:

1. Has a chief complaint or demonstrates illness or injury;



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2. Is not oriented to person, place, time or event;
3. Requires or requests an assessment, field treatment, or transport; or
4. Is a minor who is not accompanied by a parent or legal guardian and appears to be ill or injured.

Patient Contact: Any time when EMS personnel encounter a patient and perform any of the following:

1. Offer medical assistance when medically indicated;
2. Perform a visual assessment of clinical acuity;
3. Perform a hands-on physical assessment, including vital signs;
4. Determine the mechanism of injury;
5. Obtain a history of present illness; or
6. Witness any medical care rendered by other parties.

Refusal of Care: A pathway for ALS personnel on scene of an emergency incident to follow when an individual identified as a “patient” refuses medical treatment/ ambulance transportation or when a parent(s), legal guardian, or designated decision maker refuses medical treatment/ambulance transport for a minor identified as a patient. Only ALS personnel may complete a Refusal of Care; BLS personnel are required to contact the Base Hospital for Refusal of Care requests.

#### **IV. REFUSAL OF CARE**

- A. Refusal of care applies to patients who require and/or refuse medical care, ambulance transport, or ambulance transport to the recommended facility.
- B. In order to refuse care, a patient must be legally and mentally capable of doing so by meeting the following criteria:
  1. Is an adult (> 18 years of age), or if a minor meets the criteria set forth in Section VII;
  2. Understands the nature of the medical condition or injury and the risks and consequences of refusing care; and
  3. Exhibits no evidence of altered mental status, including suspected alcohol or drug ingestion that impairs one’s ability to make a sound decision regarding medical care/transport.



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- C. If the patient is legally and mentally capable of refusing care:
  - 1. Honor the patient’s request and complete the refusal;
  - 2. Document the Electronic Health Record (EHR) thoroughly; and
  - 3. Complete a “Refusal of Services Release.”
- D. If the patient cannot legally refuse care or does not meet the criteria outlined in Section IV(B) above:
  - 1. Document in the EHR to reflect that the patient required immediate treatment/transport and lacked the mental capacity to understand the risks/consequences of refusal (implied consent). Assessment findings should also be documented to support a decision to treat/ transport.
  - 2. Treat as necessary to prevent death or serious disability.
  - 3. The law presumes that an individual is competent to consent or refuse care. The party alleging a lack of capacity has the legal burden of proving it. Document accordingly. Anyone forcing treatment on an unwilling patient must be able to prove both the necessity of the treatment and the incapacity of the patient.

**V. BASE HOSPITAL CONTACT**

- A. For patients with acute conditions that pose a threat to the life or health of the patient, every effort should be made to convince the patient to be transported. Be persuasive – get help from family members, friends, or a Base Hospital physician.
- B. Paramedics must contact the Base Hospital:
  - 1. Whenever the refusal of care or transport poses threat to the life or health of the patient;
  - 2. Any other situation in which, in the prehospital personnel’s opinion, Base Hospital contact would be beneficial in resolving treatment or transport issues; or
  - 3. When required by clinical protocol (e.g., BRUE, etc.).

**VI. REQUIRED DOCUMENTATION FOR THE PATIENT REFUSING CARE**

- A. Document thoroughly as outlined in 701 – Documentation Standards.
- B. The phrase “decision-making capacity” shall be used to document the EHR narrative to reflect that the patient had the mental capacity to make a sound decision when refusing care/transport. This phrase is a quality assurance marker used for auditing purposes.



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- C. Specific refusal of care documentation may include:
  - 1. Indications that there were no signs of impairment due to drugs, alcohol, organic causes, or mental illness that affected the patient’s ability to make a sound decision regarding medical care/ transport.
  - 2. Anything that caused the prehospital provider to believe the patient was mentally capable.
  - 3. The indications that the patient understood the risks.
  - 4. What the patient specifically said about why he/she is refusing treatment/transport (use “quotes” as appropriate).
  - 5. The prehospital provider’s efforts to encourage the patient to seek care.
  - 6. The person(s), if any, who agreed to look after the patient.
- D. The patient must sign a refusal of care form. The signed form shall be attached to the EHR.

**VII. MINORS AND CONSERVED ADULTS**

- A. Minors who may consent include:
  - 1. A legally married minor;
  - 2. A minor on active duty with the U.S. military;
  - 3. A minor seeking prevention or treatment of pregnancy or treatment related to sexual assault;
  - 4. A minor seeking treatment of contact with an infectious, contagious or communicable disease or sexually transmitted disease;
  - 5. A self-sufficient minor of at least 15 years of age, living apart from parents and states that she/he is managing her/his own financial affairs (e.g., homeless);
  - 6. An emancipated minor (must provide proof); or
  - 7. The parent of a minor child or a legal guardian of the patient (of any age).
- B. If the parent/ legal guardian or conservator is not at the scene, consent/refusal of care may be obtained over the telephone. Document exactly as if the parent/ legal guardian or conservator was present on scene. Verify the name and relationship of the individual to the patient. Attempt to have another person validate the consent/ refusal with the parent/ legal guardian or conservator. Document exactly what was said (use “quotes” as appropriate).



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1. Do not release the child to the custody of an individual that has not been authorized by the parent/ legal guardian or conservator to make medical decisions for the child.
  2. If the parent/ legal guardian has denied consent and has requested that the child be left at home without parent/ legal guardian and EMS personnel feel uncomfortable doing so, involve law enforcement.
- C. If the patient is 18 years of age or older, but there is a reason to suspect that the patient has been judged incompetent by a court and placed under a legal conservatorship, seek consent from the designated guardian.
- D. If the parent/ legal guardian or conservator is not present and treatment can be safely delayed:
1. Document thoroughly.
  2. Attempt to reach the parent/ legal guardian or conservator by telephone. Do not release the patient to the custody of a relative or friend unless the individual has been authorized to do so by the parent/ legal guardian or conservator.
- E. If the parent/ legal guardian or conservator is unavailable and treatment cannot be safely delayed, treat and transport as necessary to prevent death or serious disability (implied consent).
- F. If the parent/ legal guardian or conservator is available but refuses to consent for necessary, emergency treatment:
1. Explain the risks of refusal.
  2. Be persuasive – get help from family members, friends, or a Base Hospital Physician.
  3. Involve law enforcement.

**VIII. ARRESTED AND PATIENTS PLACED ON A WELFARE AND INSTITUTIONS CODE SECTION 5150 HOLD**

- A. An individual under arrest or incarcerated is legally capable of consenting or refusing medical care if they have the decision-making capacity to do so. They may not, however, refuse transport to a hospital if directed to do so by law enforcement. Contact the Base Hospital for guidance if you have questions.
- B. If a patient who is in law enforcement custody does not want to go to a hospital for medical evaluation/ treatment and law enforcement agrees, contact the Base Hospital for medical direction.



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- C. An individual who is placed on a 5150 hold may be legally capable of consenting or refusing medical care if they have the decision-making capacity to do so. They may not, however, refuse transport to a hospital. Contact the Base Hospital for guidance if you have questions.
- D. EMS personnel cannot “medically clear” patients for jail/ other facilities (e.g., First Chance, etc.) at the request of law enforcement. All requests for medical clearance must be performed by a physician at a receiving hospital.