

South Metro Fire Department
Clinical Policies and Procedures

Title:	Patient Consent
Effective Date:	December 15, 2015
Authorized By:	Keith Wesley, MD Medical Director
Standard:	Patient Care and Transport
Policy:	Patient care may only occur after proper and informed consent from the patient or patient's legal guardian is obtained or when conditions exist where waiting for consent would endanger the life and/or limb of the patient.

I. Purpose

This procedure provides the criteria and process for obtaining informed consent prior to the treatment of a patient.

II. Definitions

- A. Informed Consent: Is the legal responsibility on the part of the Provider to obtain permission to care for a patient that is based in the recognition of patient's autonomy, dignity, and the present mental capacity for self. With informed consent, the patient is aware of, and understands, the risk(s) of any care provided, procedures performed, medications administered, and the consequences of refusing treatment and/or transport. They should also be aware of the options available to them if they choose not to accept evaluation and/or treatment.
- B. Implied Consent: In potentially life-threatening emergency situations, consent for treatment is not required. The law presumes that if the individual with a real or potential life-threatening injury or illness were conscious and able to communicate, he/she would consent to emergency treatment. In life-threatening emergency situations, consent for emergency care is not required if the individual is one or more of the following:
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;
 2. Suffering from impaired mental capacity;
 3. A minor who is suffering from what appears to be a life-threatening injury or illness; and where parents or guardian are not present.
- C. Substituted Consent: This is the situation in which another person consents for the patient, as in minors, incapacitated patients, incarcerated patients, and those determined by courts to be legally incompetent.

- D. Competency: Exists when the person is entitled by law to have their wishes respected regarding treatment. For most cases, a person 18 years and older is considered a legal adult.
- E. Medical Capacity: Exists when there is no functional impairment of the person to make well-reasoned decisions. In general, a person possesses Medical Capacity if they meet the following three criteria:
 - 1. Understands the nature and consequences of the proposed treatment.
 - 2. Has sufficient emotional control, judgment, and discretion to manage their own affairs.
 - 3. Is not significantly impaired by drugs or alcohol. For example;
 - Unable to walk
 - Difficult to arouse or history of being difficult to arouse
 - Inappropriate behavior even for being intoxicated
 - Potential for airway compromise

III. **Procedure**

- A. ADULT – A mentally competent adult has the right to refuse treatment and/or transport. However, the paramedic and/or medical control physician (by phone or radio) should explain thoroughly the alternatives and potential consequences of this action. A medical control physician should always be consulted if in doubt as to the competency or capacity of a patient, or if the paramedic feels it is detrimental to leave the patient.
- B. MINORS – Consent or refusal of treatment/transport of minors (less than 18 years of age) must be given by the child's parent or legal guardian. Although less desirable, consent or refusal may be given by a responsible adult (over 18) caretaker if the parent has deliberately left the minor in the care of this adult, and the adult is competent and capable. If unsure whether it is appropriate to allow someone to give consent or refuse treatment of a minor, a medical control physician should be consulted.

IV. **Special Notes**

- A. Minors
 - 1. Strictly speaking, persons under the age of 18 are not considered legally capable, and therefore cannot refuse care. Clear legal exception include;
 - a. Minor is emancipated – not formally recognized in Minnesota but generally refers to any minor who is living apart from and is financially independent from their family.
 - b. Minor is married.
 - c. Minor is in the armed forces.
 - 2. The minor encounter decision tree will be used to determine whether it is prudent to release the minor from care. (See algorithm at end of policy).
 - 3. An attempt should be made to contact the minor's legal guardian to obtain permission to release the minor. The name, phone number, and address of the

person contacted must be documented in the Refusal of Care, Treat and Release, and Patient Care report

B. Intoxicated Persons

EMS is often called to evaluate people who are intoxicated. Not all intoxicated people need ambulance transport and not all people who have recently consumed alcohol are clinically intoxicated. The results of Alcohol Breathalyzer test do not in and of themselves determine Medical Capacity. A person may be legally intoxicated (prohibited from driving a car) but continue to exhibit Medical Capacity. However, alcohol is a complicating factor when conducting a history, physical exam and when making treatment and transport decisions. When called to evaluate a person where alcohol is involved, several questions need to be answered.

- Is transport indicated / would not going to the hospital be against medical advice?
- Is the person significantly impaired from the alcohol?
- Does this person have decision making Medical Capacity?

Significantly impaired from alcohol

Any signs of the following indicate the patient **does not have Medical Capacity** and is to be transported under a Transport Hold or remanded into the care of a law enforcement officer.

- Unable to walk
- Difficult to arouse or history of being difficult to arouse
- Inappropriate behavior even for being intoxicated
- Potential for airway compromise

Clinically Sober

Alcohol affects different people differently due to a number of factors – determining who is clinically sober is based on physical exam findings that must include the following:

- Cooperative
- No physical manifestation of intoxication, e.g., slurred speech, ataxia, unsteady gait, et cetera

If transport is indicated and the patient is clinically sober but refuses transport the patient **has Medical Capacity** and may refuse Against Medical Advice. Consider Medical Control contact for advice in making this determination.

- C. When determining Medical Capacity the following mnemonic (CURVES) can be used; C – Choose and Communicate. Patients must be able to choose from among the options before them. Furthermore, their choice must be made without coercion or manipulation, although appropriate persuasion is permitted. Each patient must be able to communicate his or her preferences, whether verbally, in writing, or through the use of signals.

U – Understand. The patient must understand the relevant risks, benefits, alternatives, and consequences of any planned intervention or course of action.

R – Reason. The patient must be able to reason and provide adequate explanations for accepting or declining each intervention.

V – Value. The patient’s decision should be consistent with his or her value system. Providers should strive to be aware of and understand the patient’s values, and they must also be aware that patient values and goals may change with time. It is not required that the providers agree with or adopt the patient’s value system.

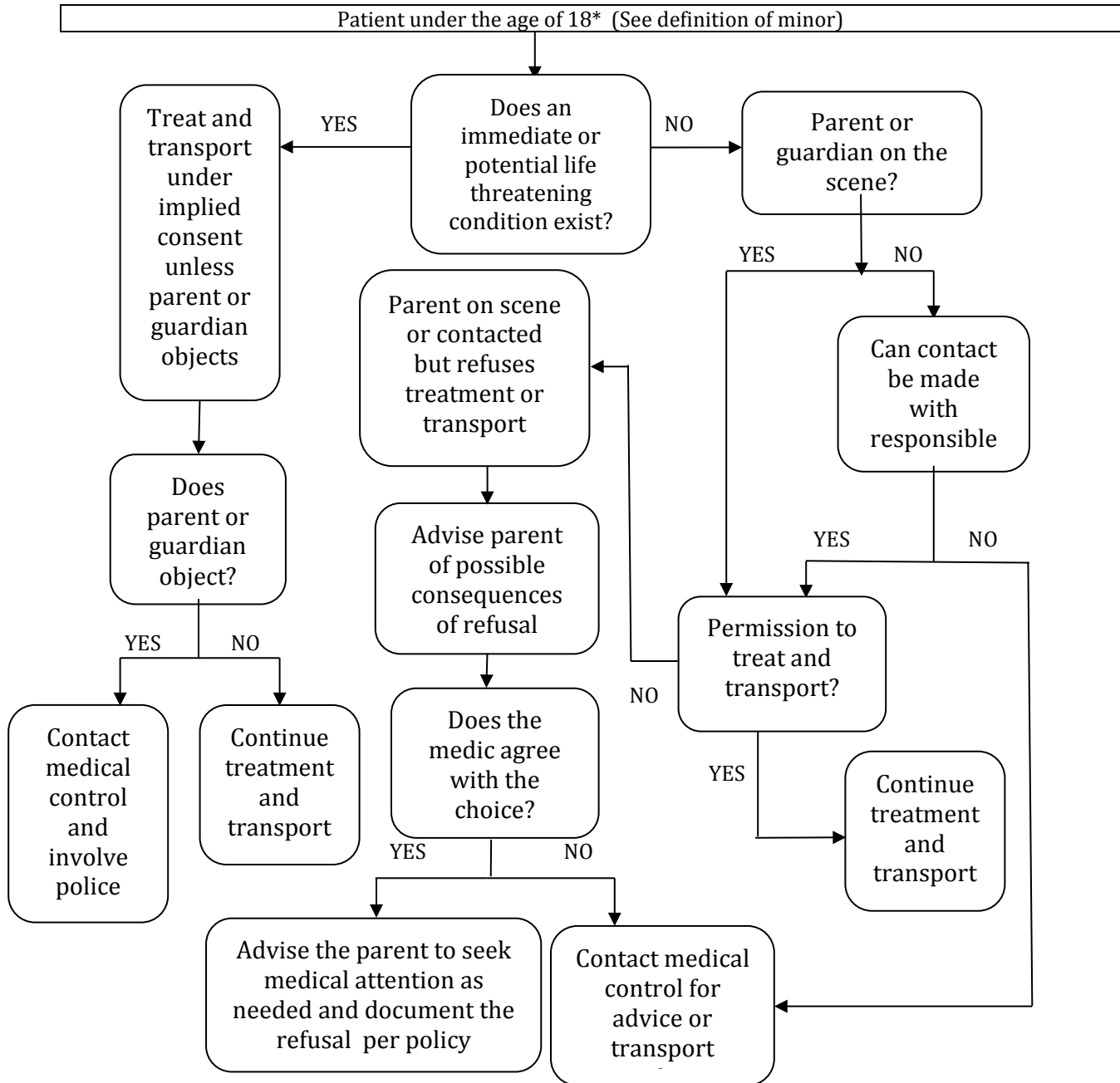
If the patient lacks the ability to choose and communicate, understand, reason, or value (to a degree consistent with the benefits and risks of the decision), adequate decision-making capacity is not present. In such cases, the provider must next determine if emergency treatment should be rendered, provided that two additional requirements are met;

E – Emergency. A true emergency exists, meaning that there is serious and imminent risk to life or limb.

S – Surrogate. No surrogate decision maker or legal document detailing the patient’s desires is immediately available.

- D. Emergency care for life-threatening conditions should never be delayed or withheld to carry out legal consent procedures.
- E. When they can, providers must request and receive a patient’s consent to evaluate and/or treat them for any suspected medical condition.
- F. The HEMT/SMFD provider must evaluate and/or treat those patients who are unable to provide informed consent due to their illness, injury or circumstances, i.e. hypoxia, hypoglycemia, head injury.
- G. The HEMT/SMFD provider must honor a patient’s refusal of evaluation and/or treatment if they have the legal competency and present mental capacity to refuse that evaluation and/or treatment.
- H. The HEMT/SMFD provider must inform the patient of the risks and potential alternatives to refusing and be reasonably certain they understand.

DECISION TREE FOR THE TRANSPORT OF MINORS BY HEMT



*A minor is any person under the age of 18 unless:

1. Minor is emancipated – living apart and financially independent of their parents.
2. Minor is married.
3. Minor is in the armed forces.
4. The above circumstances are a simplification of the laws concerning emancipated minors. When in doubt concerning the ability of a minor to consent for care, contact medical control for advice.

A babysitter or relative **CAN consent for emergency medical care if he/she was entrusted with the minor’s care by the parent or guardian.

For any doubt about the refusal or permission to transport, contact medical control for advice.

Previous Versions: