



**SAMPLE POLICY FOR THE REFUSAL OF CARE, TRANSPORTATION OR
RECOMMENDED DESTINATION – Version 1.4**

Disclaimer:

This policy is provided as a sample educational tool for ambulance services and is not intended as legal advice. This policy does not account for specific variation in state laws, local protocols or medical practice, and the implementation of any such policy must be done in conjunction with your legal counsel and medical control authorities. Use of this policy does not constitute an attorney-client relationship with Page, Wolfberg & Wirth, LLC.

PURPOSE:

To establish guidelines for the management and documentation of situations where patients refuse treatment or transportation, or insist on transportation to a destination other than that recommended by the ambulance personnel.

GUIDELINES:

- I. Patient Assessment
 - A. Providers should attempt to obtain a history and physical, in as much detail as is permitted by the patient.
 - B. Conduct Three Assessments: Providers should attempt to assess three major areas prior to permitting a patient to refuse care and/or transportation:
 1. Legal competence
 - a. Ensure that patients is at least 18 years of age in order to refuse care

- 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 a 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 from no acute medical conditions that might impair his or her ability to make an 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); hypothermia, hyperthermia, etc.
 - c. Attempt to determine if patient lost consciousness for any period of time
 - d. If any conditions in (a) – (c) impair patient's decisionmaking ability, patient *may* not be competent to refuse care and your documentation should clearly establish that the patient understood the risks, benefits and advice given to him

II. Medical Command

- A. Contact medical command for refusals of ALS care
- B. Contact medical command if you believe patient is in need of further medical attention yet refuses care; medical command may be able to help persuade patient
- C. Obtain medical command approval of any refusal where required by protocol
- D. If instructed to divert from the intended emergency room, determine if the hospital presently lacks the staff, beds and/or resources to care for the patient in the emergency department

III. Who May Refuse Care

- A. The patient
 - 1. If patient is legally, mentally and situationally competent, the patient has a right to refuse care. Obtain refusal signature.
 - 2. Implied consent -- if patient is unconscious and seriously injured or in need of further medical attention, treat and transport patient despite patient's inability to consent or the unavailability of another party to provide consent.
- B. Parent
 - 1. A custodial parent (i.e., a parent with a legal right to custody of a minor child) may refuse care on behalf of a minor child. Obtain refusal signature from parent.
 - 2. A parent of a patient who is 18 years of age or older may not refuse care on behalf of his or her child (unless the parent also happens to be a legal guardian – see below)
 - 3. A minor (i.e., under 18 years of age) may refuse care for his or her child. Obtain refusal signature from the minor parent.
- C. Guardian

1. A legal guardian is one who is appointed by a court to act as “guardian of the person” of an individual who has been found by a court to be incapacitated
2. Legal guardian may also be appointed in lieu of parents for a minor
3. 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 a legal guardian of the patient.

D. Health Care Agent (“Attorney in Fact”)

1. A person appointed by the patient in a durable power of attorney document may refuse care on behalf of the patient if the power of attorney contains such authorization.
2. 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 a 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.

E. Incompetent Patient

1. If patient is incompetent, and no other authorized individual is available to provide a refusal signature, patient may be treated and transported as long as you act in good faith and without knowledge that the patient or authorized individual would refuse care.
2. Take all reasonable steps to secure treatment or transportation for a patient who is legally or mentally incompetent to refuse care, but do not put yourself or your crew in jeopardy

IV. Refusal Procedure

- A. If patient refuses care, or insists on being transported to a facility that is on bypass or a facility other than the destination recommended by the ambulance personnel, utilize “Patient Refusal Form” approved by the ambulance service as attached to this policy
- B. Conduct assessment as outlined in Section I above

- C. Contact Medical Command if necessary
- D. Determine who may sign refusal form as outlined in Section III above
- E. Complete all sections of Refusal Form
- F. Review form with patient or authorized signer
- H. Provide detailed explanation of possible risks and danger signs to patient or other authorized signer
- I. Inform the patient to call 911, call their doctor or go to an emergency department if symptoms persist or get worse or any of the danger signs you inform them of appear
- J. Read the "Patient Advice" section of the refusal form to patient or authorized signer
- K. Complete the "Patient Advice" section of the form by filling in the appropriate blanks and by documenting the advice or instructions you gave to the patient on the appropriate line.
- L. Obtain the signature of the patient or authorized signer. If the patient refuses to sign, document this fact on the Refusal Form as well as the trip sheet.
- M. Have the patient or authorized signer date the form
- N. Obtain signature of a witness; preferably the witness should be someone who witnessed your explanation of risks and benefits to the patient, heard you read the "Patient Advice" to the patient, and who watched the patient sign the form. If no witness is available, a crew member may sign as a last resort. Witnesses may include law enforcement personnel. All witnesses should be 18 years of age or older if possible. If no witnesses are available, leave blank. Write the witnesses' address and telephone number on the back of the refusal form.
- O. The crew member who obtained the refusal and completed the Refusal Form should also sign the form on the appropriate line.
- P. Complete trip sheet in addition to Refusal Form. Trip sheet narrative must include the following documentation:
 - 1. Competency assessments (listed above).
 - 2. Results of history and physical exam.

3. The clinical symptoms upon which the need for transport was based.
 4. Information provided to fully inform the patient and/or other authorized individual of the consequences of their refusal of treatment/transport.
 5. The patient's understanding of the risk and complications of his/her choice to refuse.
 6. Medical command instructions, if any
 7. Alternatives offered
 8. Crew signatures
- Q. Provide a HIPAA "Notice of Privacy Practices" to the individual and document that the Notice was furnished