Declining/Consenting to Emergency Medical Care or Transport

I. PURPOSE

The purpose of this policy is to establish the requirements and criteria for (1) **PERSONS** and **PATIENTS** with decision making capacity to decline medical care, treatment and/or ambulance transport; (2) minors to consent to medical care, treatment and/or ambulance transport; (3) the procedure to be used for providing medical care, treatment and/or ambulance transport for conserved persons; (4) documenting declination of medical care, treatment, and/or ambulance transport in the Electronic Heath Record ("EHR"); and (5) the requirements for Base Hospital contact in situations where patients decline medical care, treatment and/or ambulance transport.

II. DEFINITIONS

A. The following definitions apply to this policy:

1. **PATIENT** is an individual encountered by prehospital personnel who demonstrates any known or suspected illness or injury OR is involved in an event with significant mechanism that could cause illness or injury OR who requests care or evaluation
2. **PERSON** is an individual for whom 9-1-1 was activated by a third party and has no medical complaint or injury.

III. DECLINING MEDICAL CARE/TRANSPORT

EMS personnel must presume an individual is competent to consent to or refuse care. The party alleging a lack of capacity has the legal burden of proving it. Document encounters accordingly; anyone forcing treatment on an unwilling **PERSON** or **PATIENT** must be able to prove both the necessity of the treatment and the incapacity of the individual.

A. **PERSONS** and **PATIENTS** presumptively have decision-making capacity if they can:

1. Communicate the need for treatment, the implications of receiving and of not receiving treatment, and alternative forms of treatment that are available, and
2. Relate the above information to their personal values and then make and convey a decision.
3. Exhibits no evidence of altered mental status that impairs their ability to make an informed decision regarding medical care, treatment and/or ambulance transport.

B. **PERSONS** and **PATIENTS** must meet the following criteria to decline medical care and transport:

1. Be an adult (over 18 years of age), or a minor if the minor meets the criteria set forth in Section 4007(VI); and
2. Be legally and mentally competent and capable of declining medical care, treatment, and/or ambulance transport; and

3. Have decision making capacity by demonstrating that they understand the nature and consequences of declining proposed health care; and
4. Their decision-making capacity is not impaired due to drugs, alcohol, organic causes, or mental illness; and
5. Can make and communicate a decision regarding the proposed health care in their primary language, which may require the use of an interpreter.

C. PERSONS DECLINING CARE, TREATMENT OR TRANSPORT

1. Before EMT or paramedic prehospital personnel allow a **PERSON** to decline care, they must perform an initial assessment. The initial assessment must include at least the following and at the **PERSON's** baseline:
   a. A visual assessment of (a) airway, (b) breathing and (c) circulation;
   b. Level of consciousness; and
   c. Glasgow coma scale.

2. The initial assessment must be documented in the EHR. Based on the findings from the initial assessment, prehospital personnel should determine whether additional assessments are necessary and/or whether an assessment should be completed by a higher level of care before a PERSON declines care.

D. PATIENT'S DECLINING CARE, TREATMENT OR TRANSPORT

1. Before EMT or paramedic prehospital personnel allow a **PATIENT** to decline care, the following requirements must be met:
   i. EMT prehospital personnel are only authorized to complete a declining medical care/transport for a **PATIENT** that meets "BLS Patient Conditions" in Policy 4012.
   ii. Paramedic prehospital personnel are authorized to complete a declining medical care/transport if the **PATIENT** meets Section (D)(2) criteria.

2. If a **PATIENT** is legally and mentally capable of declining care, treatment and/or transport:
   a. Complete a full assessment with the **PATIENT's** consent and document the assessment thoroughly.
   b. Honor the **PATIENT's** request to decline medical care, treatment and transport.
   c. Advise the **PATIENT** to follow-up with their primary care physician or other healthcare provider. The advice given shall be documented in the EHR. The following statement is recommended: "After our assessment it is

recommended that you receive medical treatment and ambulance transport to the hospital for evaluation by a physician. If you feel that you do not wish to be transported and you do not require immediate care in the emergency department. You should seek care with your regular healthcare provider or a doctor's office or clinic within 24 hours. If you have worsening or persistent symptoms or change your mind and desire ambulance transport, call 9-1-1."

d. Complete the approved declination of care/transport form and obtain the **PATIENT's** or the legal guardian's/conservator's signature;

3. If the **PATIENT** cannot legally refuse care or is mentally incapable of refusing care and requires medical care/transport due to a life-threatening emergency:
   a. Treat and transport only as necessary to prevent death or serious disability.
   b. Document that the **PATIENT** had a life threatening emergency and required immediate treatment/transport to the hospital, and lacked the decision making capacity to understand the risks and consequences of refusal (implied consent).
   c. Assessment findings shall also be documented to support a decision to treat/transport.

IV. 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. Prehospital personnel should seek assistance from family members, friends, or a Base Hospital MICN/Physician.

B. Prehospital personnel must contact the Base Hospital if any of the following criteria are met:
   1. A **PATIENT** requires involuntary treatment or transport;
   2. A **PATIENT's** refusal of care or transport poses a threat to the **PATIENT's** well-being;
   3. Any situation in which Base Hospital contact would be beneficial in resolving treatment or transport conflicts.

C. Prehospital personnel should consider contacting the Base Hospital in any situation where Base Hospital contact would be beneficial to resolving treatment or transport issues.

D. Base Hospital Communication Requirements
   1. Base Hospital should have the opportunity to talk to the **PATIENT** and to evaluate the appropriateness of the **PATIENT's** decisions to decline care, treatment and/or transport.

2. Before contacting Base Hospital, prehospital personnel should obtain and be prepared to report to the Base Hospital the circumstances leading to an EMS response, including assessment and care rendered, the **PATIENT's** stated reasons for refusal, and the **PATIENT's** plan for transportation and follow-up care, if applicable.

V. REQUIRED DOCUMENTATION FOR THE PATIENT REFUSING CARE:

A. Document the **PATIENT** assessment thoroughly.

B. Describe the rationale for determining that the **PATIENT** had "decision making capacity" in the EHR narrative to reflect that the patient had the mental capacity to make a sound decision when refusing care/transport.

C. The prehospital provider must include, in addition to any other relevant information, the following pertinent facts in the EHR:
   1. The **PATIENT's** decision-making capacity was not impaired due to drugs, alcohol, organic causes, or mental illness.
   2. The indications that the **PATIENT** understood the risks and consequences of refusing care and/or transport.
   3. Anything that caused the prehospital personnel to believe the **PATIENT** was mentally capable of refusing care, treatment and/or declining transport.
   4. What the **PATIENT** specifically said about why they are refusing care, treatment and/or transport.
   5. The prehospital personnel's efforts to encourage the **PATIENT** to seek care.
   6. The person(s), if any, who agreed to look after the **PATIENT**.
   7. Whether base hospital contact was made, and if so, the base hospital's guidance to the prehospital provider and the **PATIENT**.

VI. MINORS/CONSERVED PERSONS

A. Less than 18 years of age alone is not a sufficient basis for determining if someone is incompetent.
   1. The law specifically deems minors capable of providing consent in certain medical situations.
   2. Physical or mental disorders alone are not a sufficient basis for finding incompetency.
   3. The nature and consequence of the medical condition must be explained in terms a minor would understand.
   4. Believing that the patient is making an unwise or "wrong" medical decision is not a sufficient basis for finding the patient incompetent.

5. Competency is situation specific. A minor deemed incompetent in one situation may not be considered incompetent in all situations.

B. A minor who has a condition or injury which is considered an emergency but whose parent or guardian is unavailable to give consent is permitted to give consent for medical services.

C. Minors who do not have a condition or injury which is considered an emergency, and whose parent or guardian are unavailable to give consent, can only give consent to medical care and/or transport if they meet one of the following criteria:
   1. Is 18 years or less, may consent to medical care related to the prevention or treatment of pregnancy
   2. Is 12 years of age or older who may have been sexually assaulted or raped may consent to medical care related to the diagnosis, treatment and the collection of medical evidence. In these cases, unless the minor is under the age of 12, you are not permitted to inform a parent or legal guardian without the minor's consent unless the parent or guardian is the one believed to have committed the assault.
   3. Is 12 years of age or older and who may have come into contact with an infectious, contagious, or communicable disease may consent to medical care related to the diagnosis or treatment of the disease, if the disease or condition is one that is required by law or regulation adopted pursuant to law to be reported to the local health officer, or is a related sexually transmitted disease, as may be determined by the State Public Health Officer.
   4. Emancipated (generally over the age of 15) by the minor meeting one of the following conditions:
      a. Has entered into a valid marriage, or has established a valid domestic partnership, regardless of whether the marriage or the domestic partnership has been dissolved.
      b. Is self-sufficient living apart from parents and managing his/her own financial affairs; or
      c. Has received a declaration of emancipation (must provide proof).
      d. Is on active duty with the Armed Forces of the United States.

D. The parent of a minor child or a legal representative of the patient (of any age) may consent to or decline care and/or transport for a minor. If the parent/guardian is not at the scene, consent/refusal of care may be obtained over the telephone. Verify the name and relationship of the individual to the patient. Attempt to have another person validate the consent/refusal with the parent/guardian. Document exactly as if the parent/guardian was present on scene.

E. Do not release the child to the custody of a relative or friend unless the individual has been authorized by the parent/guardian to make medical decisions for the child.

F. If the patient is 18 years of age or older, but there is a reason to suspect that the patient has been conserved, seek consent from the conservator.

G. If the parent/guardian or conservator is unavailable and treatment can be safely delayed:
   1. Request law enforcement assistance and release the minor to law enforcement;
   2. Document thoroughly.

H. If the parent/guardian or conservator is unavailable and treatment cannot be safely delayed because of an acute life-threatening injury or illness:
   1. Treat and transport to the extent necessary to prevent death or serious disability (implied consent).

I. If the parent/guardian or conservator is available but refuses to consent for necessary, emergency treatment:
   1. Explain the risks of declining care/transport;
   2. Be persuasive – get help from family members, friends, or a Base Hospital MICN/physician to encourage care/transport.
   3. Request law enforcement assistance.
   4. If indicated, report the incident to the local child welfare agency pursuant to Policy 1007.

VII. PATIENT'S UNDER ARREST/DETAINED

A. An individual detained (*e.g.,* 5150 detention), under arrest, incarcerated, is legally capable of consenting to and/or refusing medical care.
   1. If an individual who is detained, under arrest or incarcerated refuses care, follow the procedure in Section IV.