

# Monterey County EMS System Policy



Policy Number: 4030  
Effective Date: 7/1/2019  
Review Date: 6/30/2022

## PRE-HOSPITAL CONSENT AGAINST MEDICAL ADVICE (AMA)

### I. PURPOSE

To establish guidelines for obtaining consent to prehospital medical treatment or transportation, and for dealing with patients who are unable or unwilling to give their consent.

### II. POLICY

REFUSAL OF CARE applies to patients who by direct examination, mechanism of injury, or by initiating a patient relationship by dialing 9-1-1 for medical care for themselves, are refusing medical care and/or transportation.

Refusing care requires a patient be legally and mentally capable of doing so by meeting all the following criteria:

- A. Is an adult (18 years or older), or if under 18 is legally emancipated.
- B. Understands the nature of the medical condition/injury, and the risks and consequences of refusing care.
- C. Exhibits no evidence of:
  1. Altered level of consciousness.
  2. Alcohol or Drug ingestion that impairs judgement.
- D. Is oriented to Person, Place, Time, and Situation

***Emergency medical treatment may be required under implied consent to patients that are not deemed legally and mentally capable under the above criteria. Treat only as necessary to prevent death or serious disability, and transport as soon as possible.***

### III. PROCEDURE

- A. If the patient is legally and mentally capable of refusing evaluation, treatment, and/or transport;
  1. Reasonable effort should be made to convince the patient to agree to accept the proposed medical treatment and transport. However, a competent adult/emancipated minor has the legal right to refuse care.
  2. Advise the patient of all risks associated with refusal

3. Have the patient sign the *Release of Medical Responsibility* form. A witness shall also sign. It is preferred a relative, friend of the patient, other bystander, or responder from a separate agency sign as a witness.
  4. Consider contacting the Base Station for assistance if the patient has a potentially life threatening condition, there is question about the patient's capacity, or if base station participation is thought to be beneficial in convincing the patient to accept the proposed medical care or transport.
  5. Document thoroughly. Complete PCR.
- B. If the patient is not legally and mentally capable of refusing evaluation, treatment, and/or transport; determine if an authorized person is available to give consent for the patient.
1. If the authorized representative consents to the proposed medical care, treat and transport accordingly.
  2. If the authorized representative refuses to give consent, follow the process outlined above for patient refusal.
  3. If the authorized representative is not available, initiate care considered appropriate for the patient's needs and attempt to contact an authorized representative.
  4. If the patient does not appear to need immediate care or transport, attempt to contact the authorized representative prior to starting patient care or transport; this should be done within a reasonable timeframe.
  5. If contact with the authorized representative is not possible or if contact is unable to be made, treat the patient under implied consent.
- C. Base Hospital contact should be considered, as necessary, for advice or assistance in obtaining consent from a reluctant patient or authorized person.

***Base Hospital or Law Enforcement contact should be considered for advice or assistance in obtaining consent from a reluctant patient or authorized person. The law presumes that an individual is competent to consent or refuse. 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.***

#### IV. NOTES

- A. A minor who presents written evidence of legal emancipation can personally consent to prehospital medical treatment as described above. This evidence can be either a written *Declaration of Emancipation* from the County Superior Court, or an Identification Card from the Department of Motor Vehicles indicating emancipation.
- B. A person detained under Welfare and Institutions Code Section 5150, or someone under arrest, does not, by that fact alone, lose any authority to make decisions regarding prehospital medical treatment. No person may be presumed to lack capacity because they have been evaluated or treated for mental disorder, regardless of whether such evaluation or treatment was voluntarily or involuntarily received.

- C. If a patient is treated or transported without consent, based on the belief that the patient lacked sufficient capacity to make a healthcare decision, then patient care documentation must reflect the reason or reasons for this belief and show why this belief was reasonable.

## V. REFUSAL OF SERVICE

Refusal of service applies to those individuals where no patient-caregiver relationship has been established. There has been no direct examination of the individual because they are refusing all EMS services, including an offer of assessment and transportation if warranted.

- A. BLS and ALS personnel may honor a refusal of service.
- B. The individual must meet all of the following criteria:
  - 1. Does not have a complaint suggestive of potential illness or injury
  - 2. Does not request evaluation for potential illness or injury
  - 3. Does not have obvious evidence of illness or injury
  - 4. Has not experienced an acute event that could reasonably lead to illness or injury
  - 5. Is not in a circumstance or situation that could reasonably lead to illness or injury
- C. Actions to be taken include the following:
  - 1. Honor the refusal.
  - 2. Complete an ePCR detailing the circumstances of the refusal of service.
  - 3. If multiple individuals at one event refuse service, document each name on one ePCR.
    - It is not necessary to complete a separate ePCR for each individual who refuses.

## County of Monterey EMS Release of Medical Responsibility (Supplemental Checklist)

Prior to completion of the EMS/Patient relationship, all of the following shall be evaluated. All areas outlined on this form should be addressed and documented on the Patient Care Report (PCR).

<i>All items in this checklist should be accomplished and documented on the PCR</i>	
1. Patient assessment was performed. Includes a full set of vital signs. Patient's pertinent medical history and medications also assessed.	
2. History of the event obtained.	
3. Patient or decision-maker for the patient has been determined to be capable of refusing medical treatment and or transportation. If the patient is a minor or incompetent adult, a legal guardian or person with a durable power of attorney for healthcare decisions has been identified.	
4. Risk of refusing medical treatment and/or transport, up to and including death, is explained.	
5. Benefits of medical treatment and transport explained.	
6. Patient was clearly offered medical treatment and/or transportation.	
7. Release of Medical Responsibility form completed, explained, signed, and witnessed.	
8. Patient confirmed to have a thorough understanding of the risks and benefits involved in making this health decision.	
9. Patient advised to seek medical attention for complaint(s).	
10. Patient advised to immediately call 9-1-1 for medical assistance if condition continues or worsens.	
11. Base hospital consultation was obtained if this would potentially help in gaining acceptance by the patient for treatment and/or transport.	
12. Attempt made to leave the patient in the care of another person who would be able to assist the patient or call 911 should the patient's condition deteriorate.	
13. Supervisor was notified if any of the above items were not accomplished in the termination of the Patient/EMS relationship.	