



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

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



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REFUSED MEDICAL ATTENTION AND/OR TRANSPORT

Over the years there have been many changes regarding legal issues in EMS. As lawsuits in this country continue to increase, the EMS responders must be ever more vigilant in their practice. An area of increasing concern to every EMS agency and responder deals with Refusal of Medical Attention and/or Transport (RMA).

Every individual who receives an ambulance for emergency medical care has a right to refuse that care. However, long gone are the days of simply having the patient sign a simple form acknowledging the refusal of care and returning to service. Every pre-hospital care provider can remember the major calls in their careers such as the first shooting, or the plane crash. Most can remember the call from this morning. Some can remember the call from yesterday. But who can remember the RMA from two years? That is why excellent documentation is essential.

Calls involving RMAs are of no issue at the time they occur. Anytime there is an issue with an RMA it generally arises at a later date. For whatever reason, a person has chosen not to accept the help of the pre-hospital care provider. Now at a later time, that decision has come into issue. This is when it is particularly important that the patient care report be well written.

All patient care reports have a place for the patient to sign when they wish to refuse treatment and/or transport. However, in today's society a signature on the patient care report is simply not enough. It is important that the pre-hospital care provider not only remember when to complete an RMA but what to say when completing the PCR for a patient who refuses care.

With the majority of calls it is easy to determine whether or not there is a patient and whether or not there needs to be RMA documentation. The minority of calls are the ones which are of concern. How does one decide when to complete RMA documentation?

Everyone has been on the calls where they have had people who have been involved in a crash but did not want any treatment. The question then arises, "What do we do with that person?"

Deciding when to complete RMA documentation can be as simple as the issue of duty. We all learned about duty of care when we took our first EMT class. Every EMT has a duty to perform to within the recognized standard of care.¹ What then is the recognized standard of care in regards to an RMA?

¹ Beebe and Funk, Fundamentals of Emergency Care, Delmar Thompson Learning, 2001

The courts will generally require a direct relationship between two parties before they will impose a duty upon one of them. There are situations where the courts will allow a relationship to exist between the parties even though there is not a direct relationship between them.² A relationship must exist whereby a person has the right to rely upon the pre-hospital care provider for information and the pre-hospital care provider has the duty to provide the information. The pre-hospital care provider may be subject to liability if he has information which could benefit a person and the pre-hospital care provider does not provide the information to the person.³ In other words, if you arrive on scene and you have information which may be beneficial to a person and you do not provide the information, and as a result the person suffers harm, you may be subject to liability.⁴ Without a RMA there is no way to verify the pre-hospital care provider ever offered the information to the person or potential patient.

RMA documentation is as important as any patient care report. Unfortunately, pre-hospital care providers do not treat this document as important. Regional Emergency Medical Organization (REMO) has developed a Quality Improvement check sheet to look for certain information that should be contained in a patient care report (PCR) when the patient refuses treatment and/or transport. The check sheet has three main categories. The first category is competency and mental status. The second category deals with general patient issues such as medications, the history of the present illness and the physical exam. The third category reviews the RMA documentation.

To collect data, all PCRs involving RMA patients were reviewed for a one week period. During the week of December 15, 2003, REMO received two thousand four hundred seventy-one (2471) PCRs. Three hundred and twenty four of those were RMAs. The data obtained showed that pre-hospital providers do not adequately document RMAs. Only 47% of the PCRs reviewed stated the patient was alert and oriented to person, place and time. The history of the present illness was only present on 39% of the PCRs. These are only two examples of the concerns regarding documentation. Addendum A as attached hereto contains a complete list of the categories in the Quality Improvement check sheet and the percentage totals.

Having found the areas of deficiency, it has become necessary to develop a guideline to assist the pre-hospital care provider when completing the RMA documentation. Many agencies use a standardized form for a patient refusal with generic wording for every patient. Standardized forms can be good; however no two calls and no two patients are ever the same. Most standardized forms require the pre-hospital care provider to fill in the blanks and some have check boxes for the patients to initial. Since they are standardized, however, they generally do not allow the pre-hospital care provider to be specific about the facts of the calls.

The lack of specificity is where the problem arises on the PCRs. The pre-hospital care provider must provide specific details when completing the RMA documentation, just as the pre-hospital care provider would any other PCR and allow the standardized form to be a supplement to the properly completed PCR.

REMO has developed a Refused Medical Attention and/or Transport Policy which addresses the issue of documentation. The policy first explains the capacity to refuse medical attention. Sixteen documentation points are suggested for a thorough and complete PCR. The REMO Refused Medical Attention and/or Transport Policy is attached as Addendum B.

² Tenuto v Lederle Laboratories, 90 NY2d 606, 687 NE2d 1300, 665 NYS26 17

³ Eiseman v State of New York, 70NY2d 175

⁴ id at 187

REMO REFUSED MEDICAL ATTENTION and/or TRANSPORT POLICY

This RMA policy shall be followed for patients when the pre-hospital care provider determines the patient appears to be in need of medical attention and/or transport and is refusing the same.

While patients of sound mind and judgment have the right to refuse medical care, the patient's capability of making a rational decision often becomes an issue at a later date. For this reason it is imperative that this procedure be followed before a patient is allowed to sign a refusal. Whenever appropriate have a police officer on the scene to assist.

Capacity to Refuse Medical Attention

1. Patients must have the mental capacity to Refuse Medical Attention and/or Transport (RMA). There are limitations to assessing the mental capacity by the pre-hospital care provider. In determining mental capacity, the pre-hospital care provider should monitor various mental functions including speech, behavior, affect, mood, mental content, orientation, memory, intellect, judgment, and insight. Should the pre-hospital care provider have questions or doubt regarding the patient's decision making capabilities medical control should be contacted.
2. Patients who do not demonstrate sufficient mental capacity cannot RMA.
3. Adults who are alert, not intoxicated or influenced by alcohol or drug, not suicidal or homicidal, and able to understand consequences of not being transported to the hospital can legally refuse medical attention.
4. Patients under the age of eighteen (18) years of age cannot refuse medical attention (exceptions: See Minors policy). The patient's parent or guardian must assume responsibility for the patient.
5. If the pre-hospital provider has any questions or concerns regarding any RMA medical control should be contacted before leaving the scene. Consideration should be given to contacting medical control for any patient under 5 years of age or over 65 years of age.

Necessary Documentation Points

The following documentation should be on every PCR where a patient refuses medical attention. If any of the information can not be obtained, the PCR must state the reason why the information could not be obtained.

1. The PCR must define the competency and mental status of the patient by indicating the following:
 - 1.1. That the patient was alert and oriented to person, place and time?
 - 1.2. That the patient had clear and coherent speech?
 - 1.3. Was the patient cooperative?
 - 1.4. The PCR must indicate if the EMT detected the presence of alcohol or drugs.
2. The PCR must indicate if there are or are not any conditions precluding competence or a reason why this cannot be determined.
3. Document how EMS was called to the scene.
4. The history of the present illness.
5. The patient's medical history.
6. The patient's current medications.

7. All physical exam findings, vital signs and treatment provided to the patient up to the point where the patient refuses medical attention and/or transport.
8. The PCR must describe the conversation with the patient.
9. Document that the potential diagnosis, the limitations of the EMS diagnosis and consequences of refusal were explained to the patient.
10. Document that the patient understood the conversation including the potential consequences of the refusal (to include loss of life or limb).
11. Document that the patient was advised to contact their personal physician or seek further medical care on their own.
12. Document that the patient was advised to call EMS if they changed their mind or if their medical condition changes.
13. In cases where appropriate, document that Medical Control was established.
14. Document the capacity of the person who is making the refusal of medical attention (i.e. self, parent, guardian).
15. In the case of a minor the PCR should document who assumed custody of the minor.
16. RMA with the family (preferably) as the witness. A neutral party should be used as a witness if family is unavailable (i.e. police). EMS personnel should witness only as a last resort.

REMO RMA TOTALS 2004

Total PCRs received for the week the data was collected	2471
Total RMAs received for the week the data was collected	324
Category	Percent Yes
Competency/Mental Status	
Alert and Oriented to person, place and time	47%
Clear and coherent speech	16%
Cooperative	14%
Does the PCR indicate the presence of alcohol or drug usage?	4%
History of Present Illness / Physical Exam / General	
Does the PCR document the HPI or a reason why one was not obtained?	39%
Does the PCR indicate if there are or are not any conditions precluding competence or a reason why this cannot be determined?	25%
Does the PCR include the medical history or a reason why medical history is not stated?	63%
Does the PCR list the patient's medications or a reason why medications are not stated?	73%
Vital Signs: one set within normal ranges for age of patient or a reason why vital signs were not obtained	53%
RMA Documentation	
Does the PCR describe the conversation with the patient?	4%
Does the PCR describe that the patient states an understanding of the EMT when the EMT advises the patient to seek medical attention?	0%
Does the PCR state the patient was advised of possible severe or life threatening injuries that have not been found or described by EMS?	4%
Does the PCR state the patient was advised to seek medical attention or call EMS back if he/she decides they need attention?	10%
Is the PCR signed or is the reason documented for a lack of a signature by the patient?	94%
Signatures are estimated based upon the PCRs which indicated no signature was present and gives no reason for the lack of a signature	

REMO RMA Check Sheet

PCR Number: ____ - ____ - ____ - ____ - ____ - ____

The REMO RMA check sheet is a guide to use while completing a Refusal of Medical Attention for any patient. This form is an adjunct to RMA documentation and is a continuation of the PCR. A copy of this RMA check sheet is to be attached to the PCR for every RMA.

CAPACITY of patient or guardian making the refusal:

- _____ Alert and oriented to person, place, time and events
- _____ Clear and coherent speech
- _____ No known or presumptive specific medical, legal or psychological conditions precluding competence
- _____ The patient is willing and able to engage in meaningful conversation
- _____ No evidence of alcohol or mind altering drug use

If any of the above are not checked, or the patient is less than 5 or greater than 65 years old, consider contacting medical control.

REMO Physician Number _____ Signal Number _____

PRECAUTIONS AND WARNINGS to patient:

- _____ Explained the potential known and unknown problems including, but not limited to:

- _____ Explained potential for fatal or permanently disabling consequences including, but not limited to:

- _____ Advised patient to seek care with an Emergency Department or physician as soon as possible.
- _____ Advised the patient to call 9-1-1 or their local EMS if their condition changes or they change their mind regarding care and transport.

Patient:

I, _____, understand that people maintain the right to refuse medical care, treatment and/or transportation. I further acknowledge that I have been advised by members of the _____ [Agency], that they recommend that I receive medical care, treatment and/or transportation to the hospital emergency department for further evaluation by a physician. I further understand that I may refuse medical care, treatment and/or transportation, but do so at my own risk. I do not have any known physical or mental condition that would prohibit me from making an informed decision to refuse the medical care, treatment and/or transportation that has been offered and recommended.

The risk associated with refusal may include possible loss of limb or life or permanent disability. I have also been advised that if I develop any medical complaints or symptoms I should immediately contact an ambulance, hospital emergency department or my physician.

I hereby release _____ [Agency], its officers, agents, personnel, and employees from any and all claims, causes of action or injuries, of whatsoever kind or nature, arising out of or in connection with my refusal of medical care, treatment and/or transportation.

Patient or Guardian _____ Date _____

Print name and relationship to patient if not same _____

Witness Name _____ Witness Signature _____

Provider Name _____ Provider Number _____

_____ This patient was given the information noted above and refused to sign the form as requested.