

Minor Patients Refusing Treatment or Transport

Supersedes:

Effective: 01-18-05

BACKGROUND

Under 105 CMR 170.355, ambulance services and their agents, including EMTs, have a duty, in the case of an emergency, to dispatch, assess and treat patients in accordance with the Statewide Treatment Protocols, and to transport patients to appropriate health care facilities in their operating area. No regulation, administrative requirement, protocol or policy permits ambulance services or their EMTs to discharge any emergency patient from their care absent a documented patient refusal.

In responding to a scene, an ambulance service and its EMTs may encounter minors refusing treatment and/or transport who have an emergency condition or the potential for one based on clinical assessment and mechanism of injury. This administrative requirement clarifies ambulance services' and EMTs' duties and responsibilities with regard to such minors. It is based on M.G.L. c. 112, §12 F, the Massachusetts law that identifies those minors who have legal standing to consent to medical care and treatment.

Definitions: A "minor" and "emancipated minor" are defined as follows:

- A. Minor: A person under the age of 18, who is not an emancipated minor (see below).
- B. Emancipated Minor: For the purposes of making decisions regarding medical care and treatment, an emancipated minor is a person under the age of 18 who is
 - a. Married, widowed or divorced;
 - b. The parent of a child;
 - c. A member of the armed forces;
 - d. Pregnant or believes herself to be pregnant; or
 - e. Living separate and apart from a parent/legal guardian and is managing his or her own financial affairs.

REQUIREMENTS

Although a minor cannot legally consent to medical treatment, consent is legally implied in an emergency. In assessing whether there is an emergency, particularly with regard to motor vehicle crashes, EMTs must include the mechanism of injury in their analysis

- A. A minor who is not emancipated cannot legally refuse medical care and / or transportation or legally sign a patient refusal. When an ambulance service and its EMTs are dealing with a minor, only a refusal of treatment and / or transportation made by a parent or legal guardian can be honored by an EMT.
- B. An emancipated minor does have the right to refuse medical care and / or transportation and to sign a patient refusal.

- C. EMTs must use reasonable care and judgment in ascertaining the age of the patient and determining if a minor is emancipated or not.
- D. OEMS will consider ambulance services and their EMTs to be in compliance with 105 CMR 170.355 when they treat / transport a minor who is refusing treatment / transportation and for whom a refusal by a parent or legal guardian cannot be reasonably obtained when, based on clinical assessment and mechanism of injury, that minor has an emergency medical condition or the potential for an emergency medical condition.
- E. OEMS will consider ambulance services and their EMTs to be in compliance with 105 CMR 170.355 when they treat / transport a minor claiming to be emancipated who is refusing treatment / transportation and whose emancipation status cannot be reasonably determined when, based on clinical assessment and mechanism of injury, that minor has an emergency medical condition or the potential for an emergency medical condition.
- F. As in all cases, the need for EMTs to document in detail their findings, actions and reasons for those actions cannot be overstated. This is even more imperative when dealing with minors and emancipated minors who express a desire to refuse EMS treatment and / or ambulance transport.

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Related SOP: Consent and Refusal of Medical Care