**Millburn-Short Hills Volunteer First Aid Squad**

**TITLE:** **Refusal of Medical Attention**

**PURPOSE:**

In the interest of providing clear guidance to responding EMS personnel, the Millburn-Short Hills Volunteer First Aid Squad and RWJBH have reviewed the current practices and legal precedent regarding Refusals of Medical Attention ("RMA") and Informed Consent. The goal of this document is to improve patient care and standardize the approach to prehospital refusals by identifying situations in which these refusals may, or may not be, appropriate.

**DEFINITIONS:**

**Informed Consent**

The process of disclosure and decision making

In order to give Informed Consent, the adult patient must have decision making capacity, the ability to understand the proposed treatments (risks, benefits and alternatives) and appreciate the consequences of his/her decision.

**Decision Making Capacity (DMC)**

The ability to understand the nature of one's own medical condition and the benefits, risks and burdens of any course of treatment and/or care

Decision making capacity should not be confused with the legal term "competency". A person may be incompetent to make some decisions, such as financial, yet retain the ability to make decisions about their health care. Similarly, a person may not have been declared incompetent, but may lack the capacity to make health care decisions. In evaluating Decision Making Capacity, the following should be considered:

1) Understanding: Can the patient describe in their own words what is happening right now?
    a. "What problem are you having right now?"
2) Appreciation: Can the patient describe other possible outcomes?
    a. "What do you think will happen if you refuse care?"
3) Reasoning: Can the patient describe why they have reached a decision?
    a. "Why are you refusing care?"
4) Communication: Can the patient clearly and consistently express their choice?

**High Risk Criteria**

1) The patient has a recent history of drug / alcohol ingestion with appreciable impairment such as slurred speech or unsteady gait

2) The patient has a recent history of head injury with loss of consciousness, amnesia, or repetitive questioning

3) The patient presents with clinically significant abnormal vital signs (see ALS Utilization policy)

4) Lethargic or slow to respond, falling asleep during conversation

**Surrogate Decision Maker**

An individual recognized to act on behalf of another to make decisions only when an individual is without Decision Making Capacity or has given permission to involve others

The Surrogate Decision Maker must be an adult (at least 18 years old) with Decision Making Capacity. The following shall be the order of priority for determining who may serve as a Surrogate Decision Maker:

1) Court-appointed guardian
2) The health care representative designated by the patient's Advance Directive or surrogate decision maker on a POLST form (If a conflict exists between documents, contact Tour Chief / Supervisor and/or Medical Command)
3) A close and caring family member or a domestic partner
    i. A "family member" shall mean, in order of priority, the resident's spouse in a marriage or a civil union, adult son/daughter, parents, or next of kin (brothers/ sisters, grandchildren, grandparents, aunts/uncles, nieces/nephews or cousins)
    ii. A "domestic partner" means a person who is in a relationship that satisfies the definition of a domestic

partnership set forth in N.J.S.A. 26:8A-4(b)

iii. A civil union is described at N.J.S.A. 37:1-30

4) Another person who demonstrates care and concern for the patient, and who may have an ongoing relationship with the patient, who functions as the patient's family if no close family member is available.

## POLICY:

1) ***RMA Criteria & Capacity:*** Patients who present to EMS personnel have the right to refuse any and all medical attention provided they meet the criteria listed below and have the capacity to refuse care / transport as defined:
    a. Criteria:
        i. The patient is at least 18 years of age
        ii. If less than 18 years of age, the patient is an emancipated minor as defined:
            1. Is married or has been married
            2. Has entered military service
            3. Is CURRENTLY pregnant
            4. Has been previously declared by a court or administrative agency to be emancipated
            ***Note: A minor may consent on behalf of his or her child even if the minor is not emancipated.***
        iii. Patients subject to a court decree of incapacity are not legally able to refuse care
    b. Capacity to Refuse Care / Transport. In order to accept an RMA, the following must be met:
        i. The patient is not confused / altered such that he or she does not have Decision Making Capacity (e.g., not A&Ox4, GCS <15)
        ii. The patient is not a danger to self or others (e.g., no suicidal or homicidal ideations / attempts)
        iii. The patient is able to demonstrate Decision Making Capacity
            1. If perceived to be a danger to self or others, RMA is not appropriate regardless of Surrogate Decision Maker presence / wishes.

    **If High Risk Criteria exist, consider contacting a Tour Chief / Supervisor and/or medical command to discuss Decision Making Capacity**

2) ***Minors:*** Minors (any patient under the age of 18 - unless determine to be emancipated) may not refuse medical attention unless a Surrogate Decision Maker of that minor does so on behalf of the minor patient. In the event that a Surrogate Decision Maker is

refusing care for a patient that meets the criteria below, contact the crew chief/squad officer/captain/and/or Medical Command for guidance:

a. In cases where life or limb threatening illness or injury exists
b. When suspicion of abuse or neglect exists
c. If the Surrogate Decision Maker does not meet the criteria defined above for legal competence and/or capacity to refuse care / transport

3) ***Patients Lacking DMC:*** When the patient lacks Decision Making Capacity due to mental status (psychiatric condition, mental incompetence), physical condition, or age (minor) the patient's Surrogate Decision Maker may act on behalf of the patient.

4) ***Durable Power of Attorney:*** 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. If no such documentation is available, you may obtain refusal signature from a Surrogate Decision Maker as long as it is being done in good faith and there is no evidence or knowledge that the person is misrepresenting him/herself as such person.

5) ***Telephone Refusals:*** Telephone consent of a Surrogate Decision Maker should only be used when a written consent cannot be obtained. Telephone refusals must be thoroughly documented in the patient care report and include the name of the individual spoken to, as well as their relationship to the patient. Consider calling medical command so the physician may speak with the individual refusing care via telephone.

6) ***Patients in Police Custody:*** While a patient ***CURRENTLY IN POLICE CUSTODY*** gives the police department the option to have the patient transported via ambulance, only a patient's Surrogate Decision Maker may sign a RMA on behalf of the patient. At no time should a police officer sign an RMA on behalf of the patient regardless of the patient being in police custody. Case law has previously established that police officers have a duty to preserve the health and safety of a person in custody, including ensuring prompt medical assistance. In the event that a Police Officer is attempting to refuse care on behalf of the patient, request a squad officer/captain to the scene, as well as the PD supervisor. Also, consider contacting medical command for guidance.

**PROCEDURE:**

1) RWJBH-MH personnel should begin a thorough patient assessment and establish the patient's level of consciousness, orientation and Decision Making Capacity.
2) If the patient is deemed to be legally competent and can demonstrate Decision Making Capacity and chooses to refuse medical attention, he or she must be informed by the EMS crew of the potential medical consequences of refusing treatment and/or transport.
3) Refusals should be thoroughly documented on the Pre-hospital Care Report (PCR).
4) The EMS crew must attempt to obtain the patient's signature for release from care, along with at least one witness on the Pre-hospital Care Report. The printed name and phone numbers of all witnesses should also be recorded in the Pre-hospital Care Report if possible.
5) Additional resources (i.e., crew chief, captain, squad officer, medical control) may be utilized by the crew at their discretion.
6) Patients can consent to treatment and then refuse transport, in such cases provide the treatment and then proceed with the refusal. ALS providers must contact medical command for patients that have been treated and are then refusing transport, i.e., hypoglycemia, before obtaining the refusal.
7) In the event that a patient is determined to meet ALS criteria, by either BLS or ALS the following must be done prior to accepting a refusal:
    a. BLS units
        1. Ensure that ALS is responding to the scene
        2. Do not cancel ALS if decision is based solely on patient's desire to RMA
    ii. If ALS is unavailable, contact a squad officer and/or Medical Command and explain the situation.
        1. Whenever possible, have the patient speak directly with the medical command physician on a recorded line.

8) If a patient refuses medical attention and also refuses to sign the release from care within the Pre-hospital Care Report, document the event thoroughly in the PCR narrative and notify Dispatch that the patient has refused medical attention by action.

**In the event that the crew feels threatened by the patient, or feels that the patient might be a potential threat, the crew shall leave the scene immediately (if they have not already done so), and notify Dispatch of the patient's direction of travel / location and a brief description of the patient's appearance, which Dispatch shall notify the police department of immediately.**

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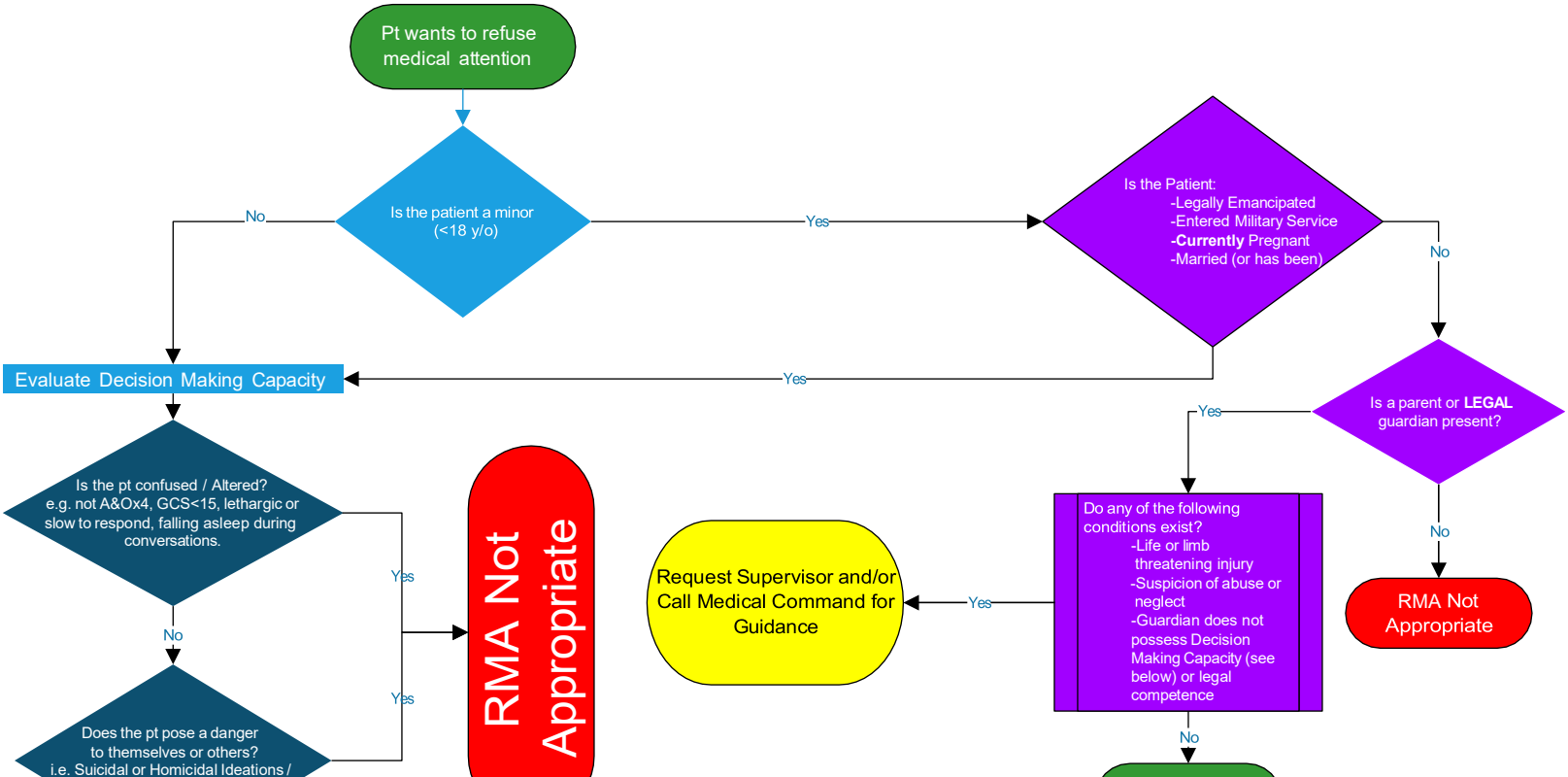
# RMA Algorithm




**Decision Making Capacity:**

*Attempt to remove any barriers to communication, including translation issues and ensuring that no person in the patient's environment is unduly influencing the patient.*

*1) Understanding – Can the patient describe in their own words what is happening right now?*
*"What problem are you having right now?"*
*2) Appreciation – Can the patient describe other possible outcomes?*
*"What do you think will happen if you refuse care?"*
*3) Reasoning – Can the patient describe why they have reached a decision?*
*"Why are you refusing care?"*
*4) Communication – Can the patient clearly and consistently express their choice?*

**High Risk Criteria:**

- Does the pt have a recent Hx of drug/alcohol ingestion with appreciable impairment such as slurred speech or unsteady gait?
- Does the pt have a recent history of head injury with loss of consciousness, amnesia, or repetitive questioning? (Implied Consent)
- Does the patient present with clinically-significant abnormal vital signs (See ALS Utilization policy)?

****Additional Considerations:**

*If the patient meets ALS criteria, by ALS or BLS assessments, the following must be done prior to accepting an RMA:*

**BLS Units**
- Ensure ALS is requested and responding to the scene
- If ALS is unavailable, Contact a Supervisor and / or Medical Command, Whenever possible have the patient speak directly with the physician

**ALS Units**
- Contact Medical Command and explain the situation
- Whenever possible have the patient speak directly with the physician

**** Please refer to the RMA policy 3.3.3 in regards to Surrogate decision makers and patients in police custody**

*IF ANY QUESTIONS/CONCERNS ARISE, A SUPERVISOR AND/OR MEDICAL COMMAND MAY BE CONTACTED AT ANY TIME AT THE DISCRETION OF THE CREW*