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A Practitioner’s Guide to Patient Refusals
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We have no conflicts of interest to disclose

PHI is de-identified

No legal advice intended and no attorney-client relationship created
Objectives

1. Examine the clinical, legal, ethical and operational issues associated with patient refusals.

2. Analyze the legal impact of provider-initiated refusals and alternative transport destinations.

3. Demonstrate the role of documentation in reducing legal liability for patient refusals.
Freedom from Unwanted Medical Care

A competent person has a liberty interest under the Due Process Clause in refusing unwanted medical treatment.

Care, Treatment and Transport Against Patient Wishes

- Assault
- Battery
- False Imprisonment
- Intentional Infliction of Emotional Distress
Capacity: The patient’s ability to make a decision

- Is the patient alert and oriented?
- Can the patient recall information from short and long-term memory?
- Does the patient demonstrate cognitive ability by answering simple math or word problems?
- Have you ruled out any problems that could alter capacity? (Blood sugar, pulse oximetry, AEIOUTIPS)
In simple terms, explain to the patient your field diagnosis.

Ask the patient to reply with their understanding.
Risks

Explain the risks of refusing medical treatment – including death and permanent disability.

Explain the benefits of emergency care. (e.g. care will begin immediately)

Did the patient verbalize understanding of the risks?
Education

Did you educate the patient on their options?

Remind the patient they can call 911 if their decision changes or if their condition changes or worsens.
Decision / Documentation

Document assessment, discussion, and the patient’s decision.

Does the patient have a plan to seek further medical evaluation? (“I’ll make an appointment with my doctor” “My wife will drive me to the hospital””)
Several studies have shown that patient refusal rates drop when the patient speaks to the physician on the phone.
EMS-Initiated Refusals and Alternative Transport Destinations

- The jury is still out
- Research shows that EMS-initiated refusals are tricky for paramedics.
- Medical control consults are still recommended.

Can Paramedics Safely Refuse Transport of Non-Urgent Patients?

Alex J. Fraess-Phillips

Abstract

Objective
The goal of this search was to review the current literature regarding paramedic triage of primary care patients and the safety of paramedic-initiated non-transport of non-urgent patients.

Methods
A narrative literature review was conducted using the Medline (Medline Industries, Inc.; Mundelein, Illinois USA) database and a manual search of Google Scholar (Google: Mountain View, California USA).

Results
Only 11 studies were found investigating paramedic triage and safety of non-transport of non-urgent patients. It was found that triage agreement between paramedic and emergency department staff generally is poor and that paramedics are limited in their abilities to predict the ultimate admission location of their patients. However, these triage decisions and admission predictions are much more accurate when the patient’s condition is the result of trauma and when the patient requires critical care services. Furthermore, the literature provides very limited support for the safety of paramedic triage in the refusal of non-urgent patient transport, especially without physician oversight. Though many non-transported patients are satisfied with the quality of non-urgent treatment that they receive from paramedics, the rates of under-triage and subsequent hospitalization reported in the literature are too high to suggest that this practice can be adopted widely.

Conclusion
There is insufficient evidence to suggest that non-urgent patients can safely be refused transport based on paramedic triage alone. Further attempts to implement paramedic-initiated non-transport of non-urgent patients should be approached with careful triage protocol development, paramedic training, and pilot studies. Future primary research and systematic reviews also are required to build on the currently limited literature.

CMS Emergency Triage, Treat, and Transport (ET3) Model

- Voluntary 5 year payment model (starts January 2020)
- Medicare patients only
- Anthem is also trying a similar model
- Medical triage line incorporated in the 911 call center
- 15.7% of Medicare ED transports are treatable outside the ED (CMS)
Liability

“Among the allegations contained in the lawsuit is the fact that the paramedics failed to document the refusal...”
In a July 23 press conference, Hillsborough County Administrator Mike Merrill confirmed that the crew did fail to take Galloway’s vitals and they also failed to do a medical evaluation, according to an internal investigation. The medics "did not do their job" and violated standard procedure, Merrill said.
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<tr>
<th>Demographics:</th>
<th>Narrative:</th>
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<tr>
<td>Complete</td>
<td>Dispatched to residence for female with c/o difficulty breathing. Upon arrival, found patient A/O x4…patient states she is fine and does not want to go to hospital. Feels better after use of rescue inhaler. Pt agreed to let us check vitals – all within normal ranges. Pt released to care of herself and husband with instructions to call 911 if symptoms return.</td>
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<tr>
<th>Vital Signs: Obtained</th>
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<th>Chief Complaint:</th>
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<tr>
<td>Difficulty breathing</td>
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<th>Past Medical History:</th>
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<tr>
<td>Asthma</td>
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| Medications: Listed   |                               |
Demographics:
Complete

Vital Signs: Not documented

Chief Complaint: Not documented

Past Medical History: Not documented

Medications: Not documented

Narrative:
Unit responded to a MVC and the patient refused treatment. All signatures were obtained and unit is back in service without incidents.
Demographics:

Name listed as “Refused All, Female”
Vital Signs: Not documented
Chief Complaint: “No complaints or injury/illness noted”
Past Medical History: Not documented
Medications: Not documented

Narrative:

EMS dispatched to an unknown age female with AMS, requested by [Sheriff's Office]. EMS responded and arrived on scene to find an elderly white female with a purple fleece blanket wrapped around her shoulders. Subject has an open airway and warm, dry skin. As soon as EMS personnel approached subject, she immediately became defensive and said she did not request EMS nor did she want us. EMT asked patient various questions to confirm that subject was in her right state of mind and all questions were answered correctly. Subject did seem to ramble and not make any sense. When asking subject if we could check her vitals, she refused and refused to even give us her name. EMS unit back in service.
Patient was A&Ox4. Could accurately describe the events leading up to call and demonstrated the ability to recall events in the past.

The patient stated, “I understand that I am potentially having a heart attack and could die as a result of this condition, but I do not wish to be transported to the hospital”.

Medical control was contacted and spoke with patient. Physician’ name and instructions documented.

The patient was advised to call 911 if the condition changed, worsened, or if he wanted to go to the hospital.

Take away
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