



## OFFICE OF EMERGENCY MEDICAL SERVICES

### Administrative Requirements Manual

EFFECTIVE: 1/18/05      AUTHORIZATION:                      PAGE: 1 of 2

A/R TITLE: Responding to Scenes Involving Minors Refusing Treatment or Transport

SUPERSEDES: August 21 2000 OEMS Advisory, "Out-of-Hospital Treatment of Minors"

### **PURPOSE:**

To provide guidance and clarification to EMS services and EMTs with regard to their duties and responsibilities when responding to a scene involving minors who want to refuse treatment and/or transportation.

### **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 medical 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 purpose of making decisions regarding medical care and treatment, an emancipated minor is a person under the age of 18 who is

1. married, widowed or divorced;
2. the parent of a child;
3. a member of the armed forces;
4. pregnant or believes herself to be pregnant; or
5. living separate and apart from a parent/legal guardian and is managing his or her own financial affairs.

### **REQUIREMENTS:**

A. 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.



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B. 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.

C. An emancipated minor does have the legal right to refuse medical care and/or transportation and to sign a patient refusal.

D. EMTs must use reasonable care and judgment in ascertaining the age of the patient and determining if a minor is emancipated or not.

E. The Department 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.

F. The Department 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.

G. 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.

H. The Department encourages each service to develop policies with its own legal counsel to establish guidelines for the treatment and transport of minors who may refuse treatment that include, but are not limited to, the manner in which EMTs will ascertain age and emancipation status, procedures for dealing with uncooperative minors, and documentation of determinations made at the scene.