Emergency Consent / Refusal to Consent

I. NEED FOR CONSENT:
Consent is required for medical care. Treating a patient without consent may be construed as battery.

II. AUTHORIZATION TO CONSENT TO TREATMENT:
A. Adults:
Any competent person 18 years of age or older may consent to treatment.

B. Minors (persons under 18 years of age):
The following minors are legally authorized to consent to treatment:
1. A minor who is currently or has ever been married.
2. A minor mother.
3. A minor who is legal custodian of a child may consent to treatment for herself or child.
4. A minor requiring treatment for suspected or actual pregnancy.
5. A minor requiring treatment for suspected or actual venereal disease.
6. A minor requesting treatment for suspected or actual drug or substance abuse.

C. Persons in Legal Custody (Police holds):
The patient's consent must be obtained in accordance with "A" and "B" above.

D. Mentally Incompetent Patient in Emergency Situation:
The EMT shall rely on emergency consent as discussed herein.

E. Suicidal Patient
Patients who have attempted suicide, verbalized suicidal intent, or when other factors lead the EMT to suspect suicidal intent, should be regarded as not having decision making capacity.
The EMT shall rely on emergency consent as discussed herein.

III. REFUSAL TO CONSENT:
A. General Rule:
Conscious and mentally capable adult patients as well as those minor patients who are legally required to be treated as adults for consent purposes have the right to refuse to permit any medical treatment.
Such refusal must be honored, whether grounded upon a doubt that the contemplated procedure will be successful, a concern about its possible or probable results, a lack of confidence in the treating party, a religious belief, or a mere whim.

B. Exceptions:
Judicial exceptions have been made where a consenting party is refusing to consent to treatment of a minor who is in clear and imminent danger of irreversible harm, death or disability.

C. Mandatory Criteria to Allow a Patient to Refuse Transport:
When the EMT believes transport is indicated (and if in doubt, confirmed with medical control), these elements, known as “ACDC” must be satisfied and documented to allow a patient to refuse.
Point of emphasis: **All Elements**, A then C, then D, then C must be fulfilled:

1. **AUTONOMY:**
   a. Patient is an **independent adult** (or emancipated minor) with, at least at baseline; mental competence who is not a ward (does not have a guardian).
   b. The patient usually makes decisions for himself/herself. [If the patient is a minor, the responsible adult (parent or guardian), must be present and meet the ACDC criteria, and the patient must be medically stable.]

2. **CAPACITY:** At the moment in question, the patient has decision-making capacity.
   The patient:
   a. Has normal intelligence.
   b. Has a normal mental status, and is alert and oriented
   c. Is NOT under the influence of alcohol or another drug.
   d. Has normal (or situational appropriate) Vital Signs, i.e., the patient is not so hypoxic, hypotensive, or otherwise medically unstable that it affects his/her mental status/ability to process information.
   e. Is appropriately conversant, and does not appear to be having hallucinations, bizarre delusions or other form of acute psychosis or delirium.
   f. Has a normal, or baseline, neurological exam/coordination/gait.
   g. Does NOT have suicidal or homicidal ideation.

3. **DISCLOSURE:** The EMTs fully disclose the specific risks of refusing transport, which (as applicable) may include severe worsening of their acute condition, resulting in death, permanent disability, etc.

4. **COMPREHENSION:** The patient fully understand the risks he/she incurs by refusing transport, including death, permanent disability, etc. and clearly demonstrates such to the EMTs.

D. **DNR:**

EMT providers should adhere to the New Mexico Administrative Code 7.27.6 “EMERGENCY MEDICAL SERVICES ADVANCE DIRECTIVES” in the absence of a properly executed EMS DNR order, whether written or as evidenced by an EMS DNR medallion (bracelet or necklace medallion).

NMAC 7.27.6.9 B (3) (d & e), states **“if the EMS DNR order is not located, continue the regular resuscitation protocol and contact medical control for consultation”**.

IV. **Implied Consent:**

When an emergency condition exists where there is an immediate threat to the life or health of the patient, (i.e., where immediate treatment is required to prevent deterioration or aggravation of the patient's condition), and the patient is unable to participate in the decision making process, the presumption that a reasonable person would request medical assistance is implied. The EMT may rely upon implied consent to treat patients (within
the scope of practice) provided the patient has an emergent condition. Implied consent may be supported, in one or more of the following ways:

**Emergency Consent / Refusal to Consent (continued)**

A. Assessment of the patient:
   1) The patient’s complaint,
   2) Any important circumstances,
   3) Significant patient medical history, and
   4) Complete physical assessment including vital signs and mental status. This should include evaluation for signs of drug and/or alcohol use/intoxication; physical or mental conditions affecting judgment such as injury, developmental disability, mental illness or suicidal ideation.

B. On orders from a physician either on scene or via voice contact.

C. Documentation in the patient record, indicating the nature of the threat to the patient’s life or health.