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NORTHWEST COMMUNITY EMERGENCY MEDICAL SERVICES SYSTEM
EST 1972

System Memo: # 421

Date: August 1, 2023

To: All System members

From: Matthew T. Jordan, MD, FACEP
EMS System Medical Director

RE: **Clarification on EMS response to petition forms – determining decisional capacity and risk assessments – BHE care/transport**

Quick reminders for EMS clinicians re: patients with Behavioral Health Emergencies (BHEs)

- A signed Petition form does not, by itself, compel EMS to be beckoned and/or to transport a patient.
- A signed court order (Writ) does compel transport (but usually by law enforcement).
- A patient being oriented X 4 is not, by itself, helpful in determining decisional capacity.
- Newly disoriented patients should always seek medical attention.
- Almost all patients with BHEs are A&O X 4 and some are still not of sound mind (decisional) and may still pose an imminent risk for harm to themselves or others.
- The more important determination concerns what the petition says and what the caller or sending facility staff is alleging the patient did or said.
- A patient denying that they are ill or saying that the info put on the petition is false does not really show sound mind. Along the same lines, a patient refusing to discuss the petition information also does not show proper mindset or capacity.
- Hospital or skilled nursing facility staff do not routinely fill out paperwork taking someone's constitutional rights away on a mere whim. So, **EMS clinicians importantly need to stop solely focusing on the patient's orientation alone**. A more directed history about the petition info and current patient status needs to occur and be documented per the BHE SOPs. This interaction is what decides the patient's capacity and ability to refuse EMS care and/or transport
- For example, a question i often ask is, "Why would the staff [caller] feel that you are suicidal?" And further, "What do you think happened that compelled them to believe that you are no longer safe here?" If all of these answers are appropriate and the patient appears to have legal and decisional capacity WITHOUT RISK OF IMMINENT HARM to self or others, then yes, a valid refusal can occur. Valid does not always mean that it is a wise choice.
- If there is a signed Petition on scene and EMS *is* transporting, bring the form to the receiving facility and give it to the clinical staff accepting the patient in the handover report. It is still a valid document to be considered in the patient's health care decisions, even though EMS did not complete it. EMS personnel shall complete an ePCR per System standards of documentation.

These are difficult discussions but often where the crux of the patient's true capacity determination lies.

Lastly, another question in a different vein is, what will happen if the patient is allowed to refuse? If a patient resides in a skilled nursing facility, will the NH staff allow the patient to continue to remain there despite the petition certificate? This needs to be determined prior to obtaining an EMS refusal.

Work with OLMC to reach the best mutually agreeable patient disposition.

It has been helpful in the past to contact the person's mental health counselor/psychologist/psychiatrist from the scene who may be instrumental in persuading the patient to consent to transport.

If there is concern or doubt about the best course of action, EMS may seek an Override or contact me directly.

Be very careful to ensure patient and clinician safety during transport and transfer into the ED. Be very clear in your OLMC report that security assistance may be needed upon your arrival.

There are increasing incidents of clinician and/or patient harm from patients who had not been searched for weapons and not appropriately secured to a stretcher. A manipulative patient should never be allowed to put you or themselves at risk. Take all necessary safety precautions.