



2. Individuals must be advised of the risks and consequences resulting from refusal of medical care to enable an informed decision regarding consent or refusal of treatment
3. An individual determined to lack decision-making capacity by EMS clinicians should not be allowed to refuse care against medical advice or to be released at the scene. Mental illness, drugs, alcohol intoxication, or physical/mental impairment may significantly impair an individual's decision-making capacity. Individuals who have attempted suicide, verbalized suicidal intent, or had other factors that lead EMS clinicians to suspect suicidal intent, should not be regarded as having demonstrated sufficient decision-making capacity
4. The determination of decision-making capacity may be challenged by communication barriers or cultural differences
5. EMS clinicians should not put themselves in danger by attempting to treat and/or transport an individual who refuses care. Law enforcement personnel should be requested if needed
6. Always act in the best interest of the patient. EMS clinicians, with the support of direct medical oversight, must strike a balance between abandoning the patient and forcing care
7. ***Special Considerations – Minors***  
It is preferable for minors to have a parent or legal guardian who can provide consent for treatment on behalf of the child
  - a. All states allow healthcare clinicians to provide emergency treatment when a parent is not available to provide consent. This is known as the emergency exception rule or the doctrine of implied consent. For minors, this doctrine means that the EMS clinician can presume consent and proceed with appropriate treatment and transport if the following six conditions are met:
    - i. The child is suffering from an emergent condition that places their life or health in danger
    - ii. The child's legal guardian is unavailable or unable to provide consent for treatment or transport
    - iii. Treatment or transport cannot be safely delayed until consent can be obtained
    - iv. The EMS clinician administers only treatment for emergency conditions that pose an immediate threat to the child
    - v. As a rule, when the EMS clinician's authority to act is in doubt, EMS clinicians should always do what they believe to be in the best interest of the minor
    - vi. If a minor is injured or ill and no parent contact is possible, the EMS clinician may contact medical direction for additional instructions

## **Quality Improvement**

**Associated NEMSIS Protocol(s) (eProtocol.01)** (for additional information, go to [www.nemsis.org](http://www.nemsis.org))

- 9914189 – General - Refusal of Care

## **Key Documentation Elements**

- Document patient capacity with:
  - All barriers to patient care in the NEMSIS element “eHistory.01—Barriers to Patient Care” (a Required National Element of NEMSIS)
  - Exam fields for “eExam.19—Mental Status” and “eExam.20—Neurological Assessment”
  - Vitals for level of responsiveness and [Glasgow Coma Scale](#)
  - Alcohol and drug use indicators