LOS ANGELES GENERAL MEDICAL CENTER POLICY

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LEAVING AGAINST MEDICAL ADVICE	6/30/75	**211**
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Policy Owner(s): Office of Risk Management
Executive Sponsor(s): Chief Medical Officer

Departments Consulted:	Reviewed & approved by:	Approved by:
Office of Risk Management Quality Improvement Ethics Resource Committee Department of Psychiatry	Attending Staff Association Executive Committee Senior Executive Officer	(Signature on File) Chief Medical Officer (Signature on File) Chief Executive Officer

PURPOSE

To ensure that patient health, safety, and autonomy are protected as much as possible when a patient leaves against medical advice (AMA); to establish uniform practices in evaluating and documenting instances of patients leaving AMA; and to conform to all regulatory standards and requirements.

POLICY

I. Patients Held Pursuant to a Court Order

Patients who are held due to a legally executed (e.g., civil detention) court order, typically due to public health risk from communicable disease (e.g., active TB, COVID), may not leave the premises. If such patients attempt to leave despite the court order and verbal warnings, they may be placed into legal custody by contacting the on-site Sheriff's Department, including movement to the medical jail ward post arrest. However, such patients CANNOT be held against their will without a court order, even if they have a contagious communicable disease, and even if the treating physicians believe the individual creates a risk to the public. For such patients, contact should be made to the Department of Public Health (DPH), via the Epidemiology Department, to determine if obtaining a court order for hospitalization is appropriate. Even in such circumstances, the patient is free to leave pending DPH obtaining a court order.

II. Patient Placed on a Psychiatric Lanterman-Petris-Short (LPS) Act Hold

Patients placed on an LPS psychiatric hold (e.g., 5150, 5250, 5350) by law enforcement or a credentialed psychiatrist may not leave the premises at any given time (including AMA or otherwise). If the patient insists on leaving, initiate a Code Gold, and as deemed appropriate, physical restraint or pharmacological management should be considered for patients attempting to leave the premises. Only a credentialed psychiatrist or law enforcement official transferring custody to the Emergency Department at an LPS-certified facility may initiate an LPS-hold at a DHS facility.

III. Patient without a Court Order and Not on an LPS Hold

For patients not on an LPS hold, and/or not hospitalized pursuant to a court order, the ability to leave AMA depends on the patient's decision-making capacity, availability of a surrogate, and risk of harm to the patient.

A. <u>Patient with decision-making capacity</u>

A patient with decision-making capacity who is not hospitalized pursuant to a court order, and who is not on an LPS hold, has the right to leave the hospital, irrespective of hospital staff agreement. Note that this is true even for patients who are in legal custody with law enforcement, who may insist on returning to their correctional facility, which is equivalent to leaving the hospital AMA.

If the patient is a minor, the decision regarding leaving AMA shall be made by a surrogate unless the minor meets any of the below criteria indicating they have the legal right to make their own decisions. The primary surrogate decision-makers for minors who do not meet the below criteria are parents, guardians, or a court-appointed conservator; the Department of Family and Children Services (DCFS, which can be reached at 800-540-4000) is the default surrogate decision maker for any minor not meeting the below criteria if no other surrogates are available—hence there is always a surrogate available for minors due to the availability of DCSF. The minor is their own legal decision-maker if any of the below conditions are present:

1) A minor emancipated by court order
2) A minor on active duty with the Armed Forces
3) A married or previously married minor
4) A minor who is self-sufficient as deemed by meeting all of the below criteria:

   (a) The minor is 15 years of age or older.

   (b) The minor is living separate and apart from the minor's parents or guardian, whether with or without the consent of a parent or guardian and regardless of the duration of the separate residence.

   (c) The minor is managing the minor's own financial affairs, regardless of the source of the minor's income.

For the patient (or surrogate for a minor) to make an informed decision about whether to leave the hospital, the physician must attempt to explain to the patient the reasons for recommending continued hospitalization and treatment; the risks and consequences of leaving; the benefits of continuing hospitalization; and any alternatives, such as transfer to another facility or outpatient treatment, if appropriate in the specific situation. If the patient still insists on leaving the hospital, the staff must attempt to have the patient sign an AMA form. The provider should carefully document the above risks and benefits discussion held with the patient.

If the patient refuses to sign the AMA form, a notation should be made on the form

that the patient refused to sign, and the circumstances around the patient's departure should be documented in the medical record.

B. <u>Patient without decision-making capacity and with a surrogate</u>

For patients deemed not to have decision-making capacity, the provider will document in the medical record the basis for determining lack of capacity. In general, the elements of capacity to be assessed and documented include (see MC205): 1) understanding the patient's medical diagnosis; 2) understanding the benefits and risks of the treatment being offered; 3) understanding the benefits and risks of any alternative treatments; and 4) clearly communicating a choice.

For these patients, decision-making regarding leaving AMA reverts to an appropriate surrogate decision-maker, and all efforts should be made to contact an appropriate surrogate decision-maker. If the patient has a surrogate but there is insufficient time to contact them prior to the patient's imminent physical departure, an assessment must be made in real-time regarding risk of harm to the patient if they leave (see section III.C below). However, efforts should continue to contact the surrogate irrespective of and subsequent to that risk assessment. Once contact with an appropriate surrogate is established, the surrogate's authority to make medical decisions for the patient shall be honored, including the application or not of restraints or sedation to prevent the patient from leaving.

C. <u>Patient without decision-making capacity and without a surrogate</u>

All efforts should be made to redirect, coax, and encourage patients without capacity and without a surrogate to remain in the hospital. Only after such efforts have failed may physicians or nurses consider the potential to prevent patients from leaving against their will. To determine if the patient can be prevented from leaving the hospital against their will, an assessment must be made regarding the immediacy and severity of risk to the patient should they leave. Patients who lack capacity and lack a surrogate **must** be allowed to leave the hospital if they insist despite redirection/coaxing efforts **unless** the patient requires "immediate services for alleviation of severe pain, or immediate diagnosis and treatment of unforeseeable medical conditions, which, if not immediately diagnosed and treated, would lead to serious disability or death." [California Business and Professions Code Section 2397(a), (b),(c)(2) and (3)]

1. <u>Lack of Immediate Risk of Serious Disability or Death</u>

If it is determined that the patient leaving the hospital AMA **<u>would not</u>** place them at immediate risk of serious disability or death, *the patient must be allowed to leave*, and the basis for the assessment of risk, and all de-escalation efforts should be documented in the chart. The patient's safety in leaving the hospital must be assured as much as possible. Depending on the individual circumstances, this may include telling the patient whether he or she is able to drive safely, providing a

wheelchair to the hospital exit, and/or arranging transportation.

2. Immediate Risk of Serious Disability or Death Exists

If it is determined and documented that the patient leaving the hospital AMA **would** place the patient at immediate risk of serious disability or death, then the patient can be forcibly prevented from leaving. Examples of scenarios in which patients may be at immediate risk of serious disability or death include: disorientation sufficient to create risk of wandering in traffic, disorientation or intoxication with plans to drive, disorientation severe enough to preclude procurement of water or food in a timely manner, inability to procure shelter when weather conditions would create risk of exposure, or any other similarly severe condition that could post an immediate threat to the patient's health. The nature of the immediate risk of serious disability or death should be documented in the chart. Restraint may be applied by calling a Code Gold, resulting in application of physical restraints or sedation.

If sedation or physical restraints are applied, routine patient reassessment and monitoring by a licensed nurse and treating physician must be done according to the established restraints policy (MC 903). The primary physicians must also reassess at least daily the patient's capacity to leave AMA and the risk of serious disability or death, continue attempts to locate a surrogate decision-maker, and attempt to arrange a safe, less restrictive alternative to continued hospitalization.

IV. Procedure for All Patients Leaving AMA

A patient leaving AMA (irrespective of whether sections III. A, B, or C apply) should be discharged by the provider following standard operating procedure for a discharge, including placing a discharge order, completing medication reconciliation, prescribing any medications the patient may need, and completing a discharge summary.

When a patient leaves the facility AMA, the medical center staff shall not accompany the patient beyond the facility premises. All patients leaving AMA shall be reported via the Event Notification (MC 300) process to the Office of Risk Management.

RESPOSIBILITY

Attending Staff
House Staff
Allied Health Professionals
Nursing Staff

PROCEDURE DOCUMENTATION

Departmental Policy and Procedure Manuals

Attending Staff Manual
Nursing Services and Education Generic Structure Standards

REFERENCES

California Code of Regulations, Title 22, Section 70707
California Health and Safety Code
DHS Policy #315, Patients Who Sign Out Against Medical Advice
Medical Center Policies #205, 215, 903, 300, 303, 303.1
California Healthcare Association Consent Manual
Joint Commission Standards (Rights & Responsibilities of the Individual) [RI]

REVISION DATES

April 1, 1995; October 20, 1998; April 9, 2002; October 15, 2008; February 11, 2014; October 22, 2019; May 26,2022