

LAC+USC MEDICAL CENTER POLICY

Subject: DRAWING OF BLOOD ON PERSONS UNDER ARREST FOR DRIVING UNDER THE INFLUENCE (DUI) OF ALCOHOL AND/OR DRUGS	Original Issue Date: 12/90	Policy # 180
	Supersedes: 5/13/14	Effective Date: 3/27/20
Departments Consulted: Office of Risk Management Quality Improvement Medical Administration	Reviewed & Approved by: Attending Staff Association Executive Committee Senior Executive Council	Approved by: (Signature on File) Chief Medical Officer (Signature on File) Chief Executive Officer

PURPOSE

To describe the LAC+USC Medical Center policy to address those circumstances under which emergency personnel may draw blood on DUI arrestees brought to the facility by law enforcement agencies for evaluation of medical or surgical problems.

BACKGROUND

California law states that if lawfully arrested, a person who drives a motor vehicle is deemed to have given consent to chemical testing of his or her blood, breath, or urine to determine the alcohol and/or drug content of his or her blood. The testing shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle in violation of the law. Neither written nor verbal consent from the patient is required.

California law provides statutory immunity to hospital personnel who are involved in collecting a person's blood without the DUI arrestee's consent.

The Supreme Court decision of Missouri v. McNeely, clarified that absent a specific court order or patient consent, exigent circumstances are needed for law enforcement to request a blood draw.

POLICY

LAC+USC Medical Center will make every reasonable effort, on behalf of the arresting agency, to draw blood on DUI arrestees for the purpose of blood collection when brought to the facility for evaluation of medical or surgical problems. The arrested patient is provided with necessary medical care and the drawing of blood will not interfere with the delivery of emergency medical care to the patient.

Only licensed physicians and nurses may draw blood for testing related to a DUI.

The provider who is drawing blood on the arrested patient will inform the patient of the intent to draw the blood for the arresting officer. If the arrested patient will not give verbal consent or there is not a specific court order for the blood draw, the arrested patient's blood will be drawn only when law enforcement indicates circumstances requiring immediate action exist and when doing so does not put the healthcare provider or the patient at a safety risk.

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Blood shall not be drawn from a violent or struggling patient where the drawing of a blood sample poses a safety risk to the health care provider or patient. Staff will not attempt to obtain a blood alcohol test if forceful physical restraint is required on the part of staff or law enforcement personnel to obtain the test.

Patients with hemophilia or a heart condition and are using an anticoagulant under the direction of a licensed physician and surgeon are **exempt** by statute from the requirement to submit to a DUI blood test.

If the person arrested is deceased, unconscious or cannot refuse the test for other reasons, his/her consent has been deemed to have been given and the blood sample can be drawn.

Issues regarding the drawing of blood on persons under arrest for DUI of alcohol and/or drugs should be referred up the chain of command or to the Office of Risk Management in a timely fashion so as not to create unnecessary delays in specimen collection. (See Medical Center Policy 103: Medical Chain of Command and Medical Center Policy 546: Staff Rights).

PROCEDURE

1. Patients in custody of law enforcement must be registered according to hospital policy.
2. The patient is provided with necessary medical care for injury or illness and the drawing of blood will not interfere with the delivery of emergency medical care to the patient.
3. Law enforcement must submit a written request for the procedure by initiating form HS 10001: Request for Specimen by Peace Officer (Attachment I).
4. Drawing of the blood is to be performed in a reasonable manner, according to medically acceptable practices, without undue force by the person collecting the blood sample.
5. The qualified provider drawing the blood must fill out the appropriate sections of the request form and provide the request form to the requesting officer for further completion.
6. The specimen and original copy of the completed request form is given to the requesting officer. The canary copy of the completed request form is placed in the patient's medical record.
7. If the provider determines the patient has expressly refused the blood draw and attempting to obtain a blood specimen would require undue coercion or possible injury to the patient or to the provider, the appropriate box is checked on the request form. The provider signs, dates and prints his/her name at the bottom of the request form and gives the original copy of the request form to the law enforcement officer. The canary copy is maintained in the patient's medical record.

RESPONSIBILITY

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Administration
Attending Staff
Housestaff
Mid-Level Providers
Nursing Staff
Phlebotomists

PROCEDURE DOCUMENTATION

Emergency Medicine Policy and Procedure Manual
Nursing Services and Education Unit Structure Standards

REFERENCES

California Vehicle Code, 23612
68 Ops.Cal.Atty.Gen. 189 (1985)
DHS Policy #377
DHS Policy #154
Medical Center Policy #103
Medical Center Policy #546
Missouri v. McNeely (133 S.Ct. 832, 184 L.Ed.2d 645, 81 USLW 3364)

REVISION DATES

September 1, 1995; February 9, 1999; March 12, 2002; May 5, 2005; February 22, 2010;
May 13, 2014; March 27, 2020