

Blood Draw Standards in Hospitals



Objective

At the conclusion of this webinar participants will be able to discuss new requirements for patient consent or a court-approved search warrant for law enforcement to compel practitioners to take blood samples as forensic evidence to prosecute crimes of impaired driving.





The Perfect Storm

- Conflict between state and federal laws could become problematic in Missouri
 - 4th Amendment of U.S. Constitution
 - BIRCHFIELD v. NORTH DAKOTA
 - MISSOURI v. MCNEELY
 - Missouri laws and regulations
 - **R.S.Mo. 577.029** – directing health care providers to perform a blood draw at the request of a law enforcement officer
 - **R.S.Mo. 577.031** – granting health care providers and facilities immunity for any claims relating to such blood draws

2018 Legislative Advocacy

- [Senate Bill 870](#) and [Senate Bill 951](#) of the 2018 state legislative session were signed into law by Governor Parson
 - require patient consent or a court-approved search warrant for law enforcement to compel practitioners to take blood samples as forensic evidence to prosecute crimes of impaired driving
 - retain current law precluding blood draws that would endanger the patient's life or health

EMTALA

- Responsibility of hospital staff to assess patients being presented by officers for legal blood alcohol testing to differentiate those who require MSE and those who only may receive forensic testing
 - requests care — EMTALA applies
 - prudent lay — person concern — EMTALA applies
 - Intoxicated — EMTALA applies
 - law enforcement brings suspect for blood alcohol testing only- EMTALA may not apply, but the proof of documentation of a general assessment lies with the hospital

**What if the officer insists on testing
but refuses medical care?**

Case Scenario

Patient is brought to ED by law enforcement having just been involved in a traffic crash. The patient is unconscious. The officer wants a blood drawn for forensic purposes. What do you do?

Case Scenario

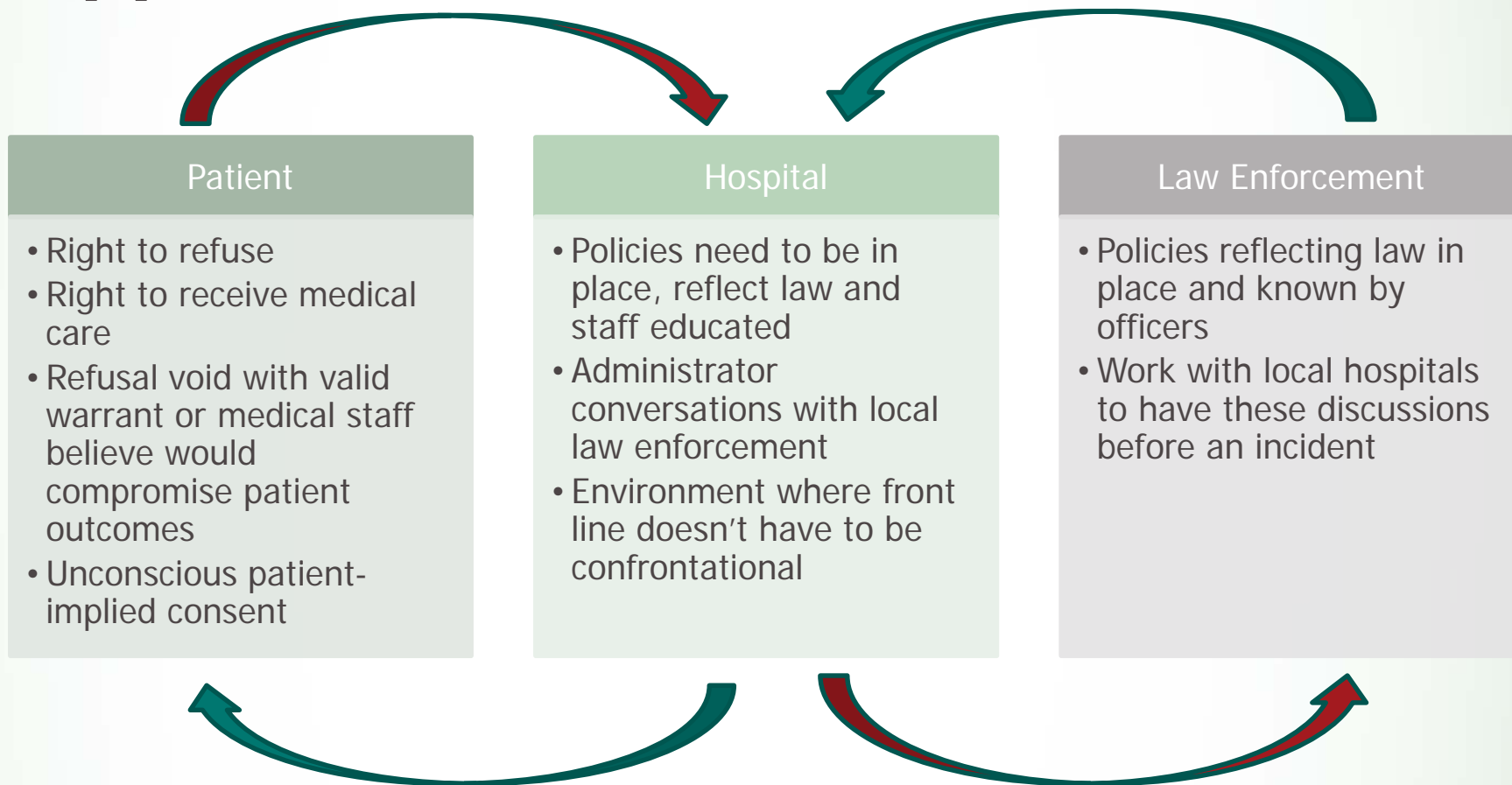
Patient is brought to ED by law enforcement post traffic crash involving multiple cars which left several people, including children, dead. The officer wants blood drawn for forensic purposes. The patient has multiple visual injuries, unstable vital signs, but is conscious. The patient states they are not giving blood tests to law enforcement. There is no warrant currently. What do you do?

Case Scenario

Patient brought to ED post high speed chase ending in a crash. No one was harmed. The patient is unconscious. The officer requests blood alcohol testing and presents a warrant.

You refuse to draw blood because the hospital policy states that blood alcohol levels only are drawn with patient consent. The officer demands drawing the blood and become belligerent. Tensions raise. What do you do?

Application



Resources

- MHA Staff
 - Meghan Henderson, Associate General Counsel, mhenderson@mhanet.com
 - Sarah Willson, VP Regulatory and Clinical Affairs, swillson@mhanet.com

Questions?

Thank You