



POLICY

CATEGORY: Blood Demand	PAGE NUMBER: 1 of 4
SUBJECT: RCMP Demand for Blood Samples for Alcohol and Drug Testing	DISTRIBUTION: Hospital Wide Manuals
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An RCMP officer may demand that a physician take a blood sample from a patient in two situations:

- (i) where the RCMP officer has made a demand for a blood sample from the patient and the patient has agreed to provide the blood sample; or
- (ii) where the RCMP officer has a warrant.

In both situations, the blood sample can be taken only when it will not endanger the life or health of the person.

SPECIAL POINT:

Section 257 (1) of the *Criminal Code* states that no qualified medical practitioner is guilty of an offence only by reason of his refusal to take a blood sample from a person for the purposes of section 256 or to cause a blood sample to be taken under his direction. Further, section 257 (2) relieves the medical practitioner from any criminal or civil liability for anything necessarily done with reasonable care and skill in the taking of such a blood sample.

DEFINITIONS:

Blood Demand: a demand made by a peace officer pursuant to section 254(3)(b) of the *Criminal Code* for a patient to provide a sample of blood.

Warrant for Blood Alcohol: a warrant issued by a justice pursuant to section 256(1) of the *Criminal Code*.

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POLICY:

1. Blood Demand: (Situations when an impaired driving suspect cannot provide a breath sample and is ABLE to consent).

Section 254 (3) (b) of the *Criminal Code* gives the RCMP the authority to require a patient to provide a blood sample by making a Blood Demand to the patient. This section authorizes an officer to make a demand for a blood sample when the prerequisites for demanding a breath sample exist and there are reasonable and probable grounds to believe that the patient **cannot provide a breath sample because of his/her physical condition or that it would be impractical to obtain a breath sample.**

In response to a Blood Demand, a patient may either refuse or agree to provide the blood sample.

The RCMP officer shall advise the physician or other staff member that he intends to make a Blood Demand of a patient. The physician or staff member shall permit the officer to have access to the patient unless to do so would endanger the life or health of the patient. Once the officer has made the Blood Demand and the patient agrees to provide the blood sample, it is STHA policy that the patient's written consent be obtained.

The patient has the right to REFUSE a Blood Demand, although it is a criminal offence to refuse a lawful demand.

In summary, after a Blood Demand has been agreed to by a patient, and before taking the blood sample, the physician must be satisfied:

1. The patient is consenting to the taking of the blood sample; and
2. The taking of the blood sample will not endanger the life or health of the patient.

Blood will only be taken from a patient if that person provides written consent OR when the RCMP produce a Warrant to Obtain Blood Samples (see below). Taking blood without proper consent or a warrant (which can only be obtained when a patient is incapacitated) may be considered assault and battery.

2. Warrant for Blood Sample: (Situations when a patient is UNABLE to consent):

If a physician is presented with a warrant issued pursuant to section 256 of the *Criminal Code*, then the physician may take or have a qualified technician take "such samples of the blood of the person" named on the warrant that in the opinion of the physician or

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technician "are necessary to enable a proper analysis to be made in order to determine the concentration, if any, of alcohol or drugs in the person's blood."

Once the physician has seen and read the warrant, **at the time the physician takes the blood sample, the physician must be of the opinion that:**

1. By reason of any physical or mental condition of the person that results from the consumption of alcohol or a drug, the accident or any other occurrence related to or resulting from the accident, the person is **unable to consent** to the taking of samples of his/her blood, and
2. The taking of the blood samples from the person would not endanger the life or health of the person.

****See the attached flow sheet (Appendix "A").**


A copy of the warrant provided by the RCMP shall be placed on the patient's chart.

There may be occasions that the RCMP requests a blood alcohol or drug result as they have become aware that the physician has done the test for medical reasons. This result **cannot** be released without the permission of the patient or unless the hospital is provided with a warrant to release the result to them.

REFERENCES:

1. Grant, A. E., Ashman, A. A., "A Nurses Practical Guide to the Law", Canada Law Book Inc., 1997, pp. 110-111.
2. Rozovsky, L., *The Canadian Law to Consent to Treatment*", Butterworths Canada Ltd., 3rd Edition, December 2003, pp.38-40.
3. Criminal Code of Canada 2007, sections 254, 256, 257.

Reviewed and approved by:


Chairperson of CPAC (signed and date)

Reviewed and approved by:


Chief Executive Officer (signed and date)

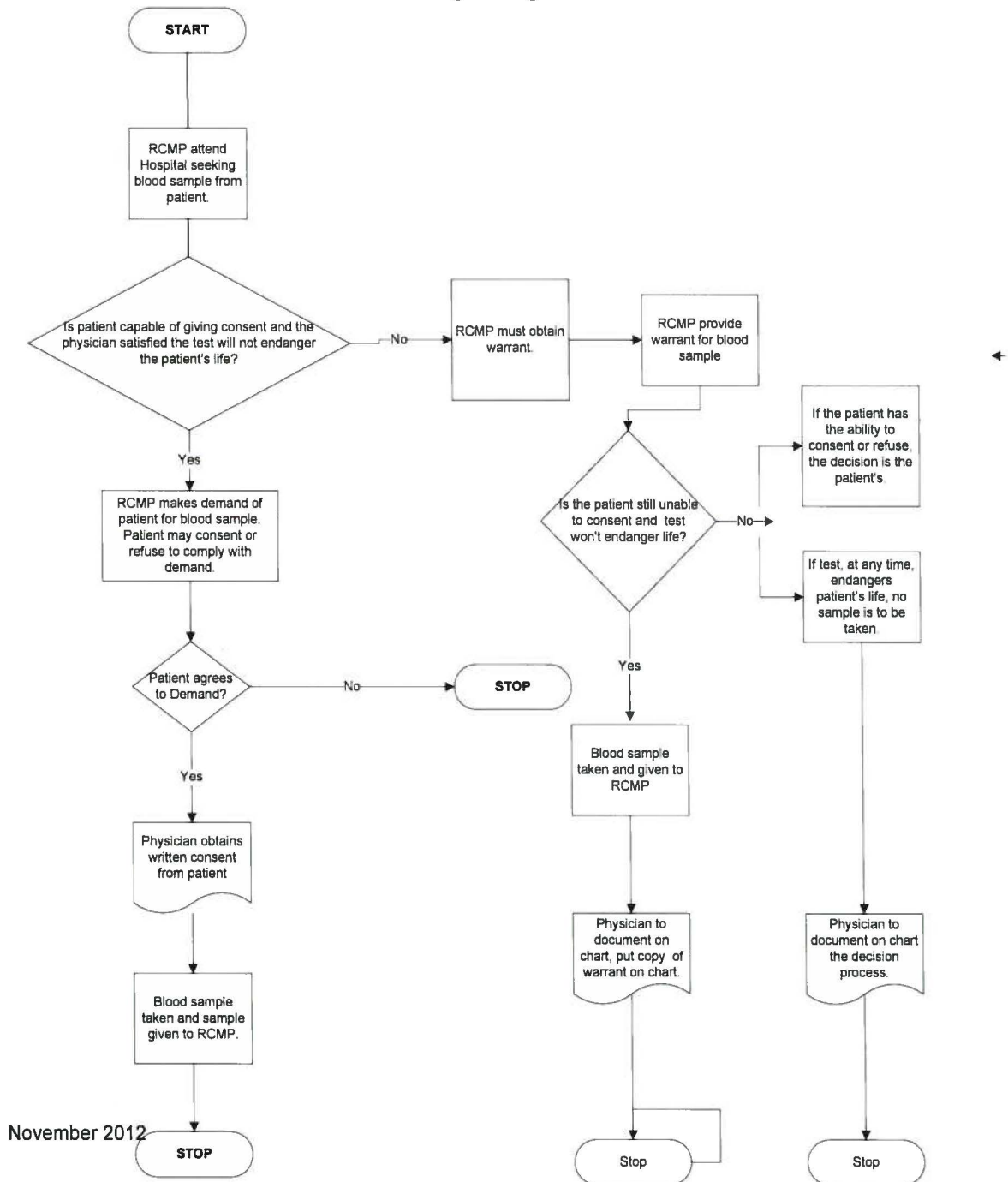
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Appendix A

**RCMP Requests for Blood Samples for Alcohol and
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