



Monroe Livingston Region Program Agency

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To: All ALS Agencies

From: Jeremy T. Cushman, MD, MS, EMT-P *J. Cushman*
Regional Medical Director

Date: January 28, 2011

Re: Advisory 11-02: DOH Policy 11-01 Blood Draws for Law Enforcement

New York State Vehicle and Traffic Law (VTL) was amended this past year to allow an Advanced Emergency Medical Technician (EMT-P, EMT-CC or EMT-I) to draw evidentiary blood samples for the purpose of determining alcohol or drug content on the request of a law enforcement officer. All AEMT's are expected to review NYS DOH Policy 11-01 which is attached and details the expectations of the state with regards to VTL 1194(4)(a)(1).

The law enforcement agency and the EMS service(s) that serve that agency are expected to have identified, in advance, and preferably in writing, the expectations, training, and operational considerations of the EMS service in performing blood draws for the purpose of alcohol and/or drug content analysis pursuant to VTL 1194(4)(a)(1).

The region will not provide additional written guidance regarding the implementation of VTL 1194(4)(a)(1) and will rely on attached state policy 11-01 regarding the definition of "patient", documentation requirements, and considerations when drawing blood pursuant to VTL 1194(4)(a)(1).

With any questions, please do not hesitate to contact the Regional Program Agency.




New York State
Department of Health
Bureau of Emergency Medical Services

POLICY STATEMENT
Supersedes/Updates: 01-03

No. 11-01
Date: 1/04/2011
Re: Blood Draws for Law Enforcement
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In 2010, the New York State Vehicle and Traffic Law (VTL) was amended to authorize an advanced emergency medical technician (AEMT) to draw evidentiary blood samples for the purpose of determining alcohol or drug content solely at the request of a police officer. The law no longer requires the procedure to be performed by AEMT's under the supervision and at the direction of a physician. VTL section 1194(4)(a)(1) states:

*(1) At the request of a police officer, the following persons **may** withdraw blood for the purpose of determining the alcoholic or drug content therein: (i) a physician, a registered professional nurse, a registered physician assistant, a certified nurse practitioner, or an **advanced emergency medical technician as certified by the department of health...***

Preface

Please note that VTL §1194 is *permissive*. This means that an AEMT (Intermediate, Critical Care and Paramedic), is authorized to legally obtain a blood sample at the request of a police officer for the purpose of alcohol/drug screening, but the AEMT is not mandated to perform the procedure.

When the AEMT is acting pursuant to a request by a police officer relying on VTL §1194, the AEMT is acting independent of physician or medical control oversight. A patient/care-provider relationship between the AEMT and the person from whom the blood sample is to be taken does not exist. Consequently, it is important for AEMTs intending to act pursuant to VTL §1194 to prepare for such law enforcement requests. This policy is intended to assist AEMTs and EMS agencies in planning with respect to this law, but should not be considered complete and exclusive guidance.

Policy

1. VTL §1194 is permissive to all "AEMT" levels regardless of whether or not a particular level is authorized or utilized within a particular agency and/or region.
2. VTL §1194 permits, but does not require, an AEMT to draw blood for the purposes of blood alcohol and/or drug content analysis upon request of a police officer. Physician authorization is no longer required in order to comply with the request.
3. EMS agencies, employers, and other entities that could possibly place the AEMT in the position of receiving a request for blood draw pursuant to VTL §1194 should work with the AEMT to prepare for dealing with such requests. AEMTs, agency heads, medical directors,¹ legal advisors, and local police agencies should all be consulted regarding the following:
 - a. adequate AEMT training,
 - b. how requests will be made/received,
 - c. the proper handling of the blood specimen evidence,
 - d. appropriate documentation of the event.

¹ Even though VTL 1194 does not provide for a physician oversight role, medical directors still have a role in blood draw training and infection control procedures, and may be able to offer insight as to medical/legal documentation and consistency with procedures used in local emergency departments.

4. Patient care should not be compromised or delayed for the purpose of drawing a blood sample for law enforcement. Unstable patients should not have evidentiary blood samples drawn if the AEMT believes it will compromise prehospital medical care; instead, the patient should be transported to the hospital where a blood draw can be performed, as may be appropriate.
5. If an AEMT has been summoned only for the purpose of obtaining a blood sample pursuant to VTL §1194 and no obvious medical care is needed, the person submitting to the blood draw should not be offered medical care and transport.
6. The AEMT will make a determination of the need to provide medical care and transportation for the person from whom the blood draw is requested. If there is any uncertainty, the AEMT should contact a medical control physician and put the physician in contact with the ranking police officer present.
7. To document the chain of custody, any blood draw performed by an AEMT pursuant to VTL §1194 should be performed in the physical presence of the police officer who will be taking immediate custody of the blood sample.
8. The AEMT must confirm with the person from whom the blood sample is being requested and the supervising police officer that the person is consenting to the blood draw.
9. There are a number of different alcohol/drug blood sampling kits on the market and being used by police agencies. The AEMT should only use the kit supplied by the police officer at the time of the event and follow the specific instructions indicated within that kit. AEMTs and/or EMS agencies should not supply or stock their own kits.
10. General considerations when drawing evidentiary blood samples are:
 - a. Do not use alcohol on the person's skin prior to drawing blood samples.
 - b. If the person requires vascular access for medical purposes, draw the blood tubes from the police supplied testing kit prior to attaching intravenous lines or administering intravenous medications.
 - c. If the person does not require vascular access for medical purposes, draw only the blood tubes from the police supplied testing kit.
11. Although an AEMT may be asked to draw blood from a person who is not considered a patient, the details of the event and venipuncture of any blood draw performed by an AEMT pursuant to VTL §1194 should be documented on a standard paper or electronic Prehospital Care Report (PCR) consistent with current practice.

Conclusion

Although VTL §1194 authorizes the AEMT to function independent of the physician medical director, medical control, and the local EMS system, AEMTs, EMS agencies, medical directors, legal advisors, and police agencies should cooperatively work together to facilitate VTL §1194 blood draws at the local level. This policy is intended only as a guide to assist AEMTs, EMS and police agencies in planning for the police requests. It is not intended to be all inclusive and complete guidance. Agencies should proactively work together to address VTL §1194 issues unique to the local circumstances.