

UNIVERSITY OF FLORIDA COLLEGE OF MEDICINE – JACKSONVILLE

Resident Manual

BLOOD ALCOHOL TESTING

Residents should assist law enforcement officers by drawing blood for blood alcohol determinations in misdemeanor cases, such as driving while intoxicated, at the request of a police officer. When a person charged with a misdemeanor refuses to allow the blood to be taken, the physician or qualified person should not proceed. Under Florida law the person cannot be forced to have a blood alcohol test in this situation. If a patient is unconscious, or otherwise incapacitated, and cannot give informed consent, a blood alcohol test may be performed at the request of law enforcement. Under Florida law, the person's consent is implied in this situation. In cases involving death, or serious bodily injury (conditions where there is a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ), a person has no right of refusal of blood alcohol testing. The law enforcement officer may use reasonable force, if necessary, to allow the physician or other qualified person to draw blood for blood alcohol testing. Florida law has no provision for use of reasonable force by medical personnel, nor does the law mandate cooperation of physicians or other qualified medical personnel. The law does relieve the hospital and the medical personnel from liability for blood alcohol testing pursuant to law enforcement request.

1. At request of law enforcement

- a. A blood or urine test for alcohol or drugs at the request of a law enforcement officer may only be done with the patient's consent, except as provided below.
- b. A blood or urine test for alcohol or drugs may be done upon a patient who is incapable of consent by reason of unconsciousness or mental or physical condition, upon confirmation by the law enforcement officer of her/his belief that the patient was operating a motor vehicle under the influence.
- c. A blood test for alcohol or drugs at the request of a law enforcement officer may be done without the patient's consent upon confirmation by the law enforcement officer of his/her belief that the patient was operating a motor vehicle under the influence and caused the death or serious bodily injury of another. The law enforcement officer may use reasonable force if necessary to require such person to submit to the blood test. However, a blood draw shall not be done if it cannot be done in accordance with the applicable standard of care.

2. Mother and Newborns

A blood or urine test for alcohol or drugs of a mother or her newborn may only be done with the patient/mother's consent. For a newborn, Shands Legal Services should be notified in the event that Emergency care is required and the test is needed in order to provide appropriate care.

3. Other

A blood or urine test for alcohol or drugs of a patient, other than as discussed above, may only be done with the patient's consent. If the patient is unable to consent, an alternate decision-maker is unavailable to consent and the test is needed in order to provide emergency care, the test may be done without the patient's consent. Documentation shall be made in the medical record of the reasons for the inability to obtain consent.

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For further assistance in issues regarding consent for treatment, the following may be called:
Shands Legal Services Department: (352-265-8051)
Self-Insurance Program Office (352-265-8028)