Patient Discharge Against Medical Advice			
Signing Authority:	*Chief Nursing Executive*		
Approval Date:	16-05-2018	Effective Date:	16-05-2018

SCOPE:

This policy and procedure applies to all members of the Royal Victoria Regional Health Centre (RVH) interprofessional team who are involved with registered patients who leave hospital against medical advice (AMA). This includes all admitted inpatients as well as those registered in the Emergency Department (ED).

POLICY STATEMENT:

It is the policy of RVH to ensure the safety of all registered patients; including those patients who decide to discharge AMA.
Leaving AMA is a voluntary discharge and a withdrawal of consent under the Health Care Consent Act. Staff shall endeavour to ensure the patient's safety by informing them of the risks of their decision. It is expected that all team members shall adhere to the principles set out in this policy.

1. The patient must be deemed capable to refuse or withdraw consent to treatment.
2. If the patient is not capable, the team shall engage the Substitute Decision Maker (SDM) or Power of Attorney (POA) for treatment in the decision to leave or remain in hospital. Refer to the RVH Consent to Treatment Policy and Procedure.
3. The RVH team shall respect the wishes of capable patients withdrawing their consent for hospital admission and leave the hospital against medical advice. All capable patients have the right to discharge self unless:
    a. the patient is a child who is not capable of providing informed consent. As it relates to capacity and consent for treatment, there is no age definition within the Health Care Consent Act (HCCA). The law defines capacity as the ability to understand the treatment and appreciate the consequences and is not based on chronological age.
    b. the patient is held under the Mental Health Act (MHA).
4. Detailed documentation by the team members interacting with the patient shall occur when a patient leaves the facility against medical advice.

SDM removing child from hospital AMA:

5. Under the Child and Family Services Act (2017) section 125 Duty to Report, a child in need of protection is defined as a child who is or appears to be suffering from abuse and/ or neglect. Anyone who has reasonable grounds to suspect that a child is or may be in need of protection must promptly report the suspicion and the information upon which it is based to the Simcoe Muskoka Family Connexions (Children's Aid Society). Refer to the RVH Reporting Child Abuse Policy and Procedure.

6. The duty to report a child in need of protection to the Simcoe Muskoka Family Connexions (Children's Aid Society) applies to any child who is or appears to be under the age of 18 years who is removed from hospital AMA by the SDM or leaves the hospital AMA by themselves. More information on the Duty to Report can be found in Appendix I.
7. If there is a question about the applicability or jurisdiction of the Child and Family Services Act, due to the age of the child and/ or existence of developmental delays or any other factors, consultation with the Simcoe Muskoka Family Connexions (Children's Aid Society) is recommended.

DEFINITIONS:

Substitute Decision Maker (SDM): a person authorized under the Health Care Consent Act to give or refuse consent to treatment on behalf of patient who is incapable.

Power of Attorney (POA) for Treatment: a person legally authorized to give or refuse consent for treatment on behalf of a patient who is incapable.

Against Medical Advice (AMA): an admitted patient or a registered Emergency Department patient who has been seen by their physician or most responsible provider (MRP), who voluntarily discharges themselves from hospital thereby discontinuing treatment. Patients who leave the Emergency Department prior to seeing a physician will be deemed as being Left Without Being Seen (LWBS).

PROCEDURE:

1. When a patient expresses their intent to leave the hospital prior to the planned discharge date, the MRP shall be notified.
2. Every attempt should be made to determine the patient's reasons for wanting to leave and address the reason(s), if possible.
3. The patient shall be informed of all reasonably known risks of their decision by the MRP, when possible.
4. All pertinent discharge information, including but not limited to, patient teaching and prescriptions, shall be attempted to be given to the patient.
5. The patient shall be asked to sign an "Unauthorized Release Against Medical Advice" form.
6. If the patient is not capable, the discussion of risks, the pertinent discharge information and the signing of the AMA form must occur with the applicable SDM or POA. If the patient is under the care of a Guardian from the Office of the Public Guardian and Trustee (PG&T). The PG&T guardian shall be contacted for directions.

7. Documentation in the patient record shall include the discussion with the patient/SDM/POA regarding risk, discussions with the MRP, information given to the patient for discharge and the signed "Unauthorized Release Against Medical Advice" form.
8. The patient's physical status prior to discharge shall be documented. If the patient refuses to allow this status assessment, this shall be documented.
9. The MRP should also document any pertinent information in the patient's record regarding their discussion with the patient or SDM/POA.
10. If the patient leaves the hospital without signing the "Unauthorized Release Against Medical Advice" form the following shall be documented in the patient's record:
    a. whether the patient left before or after being informed of the likely consequences of not receiving treatment
    b. the circumstances under which the decision to leave was made
    c. the behavior of the patient or SDM/POA
    d. the patient's physical status prior to leaving
    e. that the physician was notified of situation
11. If the SDM or POA does not attend the hospital to sign the AMA form, reason for this non-attendance shall be documented in the patient's health record. A faxed copy of a signed AMA form is acceptable in conjunction with documentation of the reason for the fax copy versus original copy. The documentation is as important as the faxed form.
12. If the Simcoe Muskoka Family Connexions (Children's Aid Society) is contacted, all discussion, the outcome of the call(s), the case worker's name and any Simcoe Muskoka Family Connexions (Children's Aid Society) involvement shall be fully documented in the patient's health record.

CROSS REFERENCES:

RVH. (2014). *Policy and Procedure. Consent to Treatment Policy and Procedure.*

RVH. (2017). *Policy and Procedure. Reporting Child Abuse.*

REFERENCES:

Child and Family Services Act. S. 125 (1). (2017).

College of Nurses of Ontario (2013) Practice Guideline: Consent. Toronto, ON.

Grey Bruce Health Services (2007) Patient Discharges Against Medical Advice, Policy # VI-560

Hamilton Health Sciences (2010), Consent, Withdrawal of Refusal of Consent for Treatment Policy.

Health Care Consent Act, 1996 S.O. 1996 C. 2., Sched. A.

Ministry of Children and Youth Services. (2017) Protection Services for 16-17 year Olds. Retrieved from http://www.children.gov.on.ca/htdocs/English/professionals/childwelfare/brochure_youth_protection_services_en.pdf

North York General Hospital (2006) Consent to Treatment Policy #11-50

Substitute Decisions Act, (1992) S.O. 1992, c. 30

Appendix I: Child and Family Services Act Duty to Report

Child and Family Services Act, S.O. 2017 c. 14 Sched. 1
Note: this is not a replication of the complete Child and Family Services Act, only a partial replication of the Duty to Report section (section 125). If you have questions about the duty to report and your responsibility, please contact your manager or if evenings or weekends, the Hospital Service Leader.

Duty to Report – Section 125

DUTY TO REPORT

Duty to report child in need of protection

125 (1) Despite the provisions of any other Act, if a person, including a person who performs professional or official duties with respect to children, has reasonable grounds to suspect one of the following, the person shall immediately report the suspicion and the information on which it is based to a society:

1. The child has suffered physical harm inflicted by the person having charge of the child or caused by or resulting from that person's,
    i. failure to adequately care for, provide for, supervise or protect the child, or
    ii. pattern of neglect in caring for, providing for, supervising or protecting the child.
2. There is a risk that the child is likely to suffer physical harm inflicted by the person having charge of the child or caused by or resulting from that person's,
    i. failure to adequately care for, provide for, supervise or protect the child, or
    ii. pattern of neglect in caring for, providing for, supervising or protecting the child.
3. The child has been sexually abused or sexually exploited by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual abuse or sexual exploitation and fails to protect the child.
4. There is a risk that the child is likely to be sexually abused or sexually exploited as described in paragraph 3.

5. The child requires treatment to cure, prevent or alleviate physical harm or suffering and the child's parent or the person having charge of the child does not provide the treatment or access to the treatment, or, where the child is incapable of consenting to the treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to, the treatment on the child's behalf.

6. The child has suffered emotional harm, demonstrated by serious,

    i. anxiety,

    ii. depression,

    iii. withdrawal,

    iv. self-destructive or aggressive behaviour, or

    v. delayed development,

and there are reasonable grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child.

7. The child has suffered emotional harm of the kind described in subparagraph 6 i, ii, iii, iv or v and the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the harm.

8. There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph 6 i, ii, iii, iv or v resulting from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child.

9. There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph 6 i, ii, iii, iv or v and the child's parent or the person having charge of the child does not provide services or treatment or access to services ortreatment, or, where the child is incapable of consenting to treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to, treatment to prevent the harm.

10. The child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or the person having charge of the child does not provide the treatment or access to the treatment, or where the child is incapable of consenting to the treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition.

11. The child's parent has died or is unavailable to exercise custodial rights over the child and has not made adequate provision for the child's care and custody, or the child is in a residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody.
12. The child is younger than 12 and has killed or seriously injured another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to treatment.
13. The child is younger than 12 and has on more than one occasion injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately.

Ongoing duty to report

(2) A person who has additional reasonable grounds to suspect one of the matters set out in subsection (1) shall make a further report under subsection (1) even if the person has made previous reports with respect to the same child.

Person must report directly

(3) A person who has a duty to report a matter under subsection (1) or (2) shall make the report directly to the society and shall not rely on any other person to report on the person's behalf.

Duty to report does not apply to older children

(4) Subsections (1) and (2) do not apply in respect of a child who is 16 or 17, but a person may make a report under subsection (1) or (2) in respect of a child who is 16 or 17 if either a circumstance or condition described in paragraphs 1 to 11 of subsection (1) or a prescribed circumstance or condition exists.

Offence

(5) A person referred to in subsection (6) is guilty of an offence if,

(a) the person contravenes subsection (1) or (2) by not reporting a suspicion; and

(b) the information on which it was based was obtained in the course of the person's professional or official duties.

Professionals and officials

(6) Subsection (5) applies to every person who performs professional or official duties with respect to children including,

(a) a health care professional, including a physician, nurse, dentist, pharmacist and psychologist;

(b) a teacher, person appointed to a position designated by a board of education as requiring an early childhood educator, school principal, social worker, family counsellor, youth and recreation worker, and operator or employee of a child care centre or home child care agency or provider of licensed child care within the meaning of the *Child Care and Early Years Act, 2014*;

(c) a religious official;

(d) a mediator and an arbitrator;

(e) a peace officer and a coroner;

(f) a lawyer; and

(g) a service provider and an employee of a service provider.

Volunteer excluded

(7) In clause (6) (b),

"youth and recreation worker" does not include a volunteer.

Director, officer or employee of corporation

(8) A director, officer or employee of a corporation who authorizes, permits or concurs in the commission of an offence under subsection (5) by an employee of the corporation is guilty of an offence.

Penalty

(9) A person convicted of an offence under subsection (5) or (8) is liable to a fine of not more than $5,000.

Section overrides privilege; protection from liability

(10) This section applies although the information reported may be confidential or privileged, and no action for making the report shall be instituted against a person who acts in accordance with this section unless the person acts maliciously or without reasonable grounds for the suspicion.

Solicitor-client privilege

(11) Nothing in this section abrogates any privilege that may exist between a lawyer and the lawyer's client.

Conflict

(12) This section prevails despite anything in the *Personal Health Information Protection Act, 2004*.

Society to assess and verify report of child in need of protection

126 (1) A society that receives a report under section 125 that a child, including a child in the society's care or supervision, is or may be in need of protection shall as soon as possible carry out an assessment as prescribed and verify the reported information, or ensure that the information is assessed and verified by another society.

Protection from liability

(2) No action or other proceeding for damages shall be instituted against an officer or employee of a society, acting in good faith, for an act done in the execution or intended execution of the duty imposed on the society by subsection (1) or for an alleged neglect or default of that duty.

Society to report abuse of child in its care and custody

127 (1) A society that obtains information that a child in its care and custody is or may be suffering or may have suffered abuse shall report the information to a Director as soon as possible.

Definition

(2) In this section and in sections 129 and 133,

"to suffer abuse", when used in reference to a child, means to be in need of protection within the meaning of clause 74 (2) (a), (c), (e), (f), (g) or (j).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 127 (2) of the Act is repealed and the following substituted: (See: 2017, c. 14, Sched. 3, s. 6)

Definition

(2) In this section and section 129,

"to suffer abuse", when used in reference to a child, means to be in need of protection within the meaning of clause 74 (2) (a), (c), (e), (f), (g) or (j). 2017, c. 14, Sched. 3, s. 6.

Duty to report child's death

128 A person or society that obtains information that a child has died shall report the information to a coroner if,

(a) a court made an order under this Act denying access to the child by a parent of the child or making the access subject to supervision;

(b) on the application of a society, a court varied the order to grant the access or to make it no longer subject to supervision; and

(c) the child subsequently died as a result of a criminal act committed by a parent or family member who had custody or charge of the child at the time of the act.