Identification of Unidentified Patients

Model Policy

January 2017
Updated January 2018

NEW YORK STATE | Missing Persons Clearinghouse

New York State Division of Criminal Justice Services
80 South Swan Street, Albany, New York 12210

www.criminaljustice.ny.gov

Attention Law Enforcement Officers

Law enforcement should take note that the protocols in the Identification of Unidentified Patients – Model Policy are not mandatory and law enforcement agencies should consult with local hospitals in their jurisdiction regarding unidentified protocol.

NEW YORK STATE OF OPPORTUNITY. Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

January 5, 2017

DHDTC DAL 17-03

Dear Chief Executive Officer:

The New York State Missing Persons Clearinghouse (MPC) has partnered with the New York State Department of Health (DOH) to provide hospital administrators with an Identification of Unidentified Patients – Model Policy.

The Clearinghouse is located at the New York State Division of Criminal Justice Services (DCJS). The Clearinghouse's statutory obligations and responsibilities are set forth in New York State Executive Law Sections 837, 837- e, 837-f, 837-f-1, and 838; Education Law sections 355, 6206, 6303, and 6450; and Part 6055 of Title 9 of New York State Codes, Rules and Regulations.

The MPC is responsible for providing support to law enforcement agencies handling cases involving children, college students, and vulnerable adults who have gone missing. A critical part of the Clearinghouse mission is coordinating three distinct statewide notifications similar in function to AMBER Alerts.

1. Missing Child Alert: Activated when a child under the age of 21 is missing and he or she is believed to be in danger due to special circumstances, such as a mental impairment or medical condition that places them at risk. Such an alert is often activated when a disappearance does not meet the threshold of a state AMBER Alert.

2. Missing College Student Alert: Activated when a college student of any age is missing and is deemed to be at credible risk of bodily harm or death.

3. Missing Vulnerable Adult Alert: Activated when an individual 18 or older with Alzheimer's, dementia, autism or other cognitive disorder, brain injury or mental disability is reported missing and is at credible risk of harm.

In the course of administering the Missing Vulnerable Adult Alert program, MPC staff became aware of several instances of a missing adult with Alzheimer's disease who was admitted to a hospital as an unidentified patient and police and family members were unable to locate the individual. After further investigation, the MPC discovered that there is not an existing standardized protocol among hospitals when admitting an unidentified patient. The inconsistent nature of assigning a temporary name to an unidentified patient and the interaction with law enforcement and family members leads to further traumatizing a family who is searching for a missing loved one. For example, early in 2016 an elderly gentleman who has Alzheimer's

disease was admitted to a hospital through the emergency department as an unknown patient. He was assigned the name “Trauma XXX”. Although law enforcement and family members inquired at the hospital several times, they were told the man was not a patient at the hospital. Hundreds of family members, friends and law enforcement personnel continued their search for the man over the period of a week until finally a doctor at the facility saw a news story on television about the missing man and recognized him as “Trauma XXX.” When the man’s son asked the hospital why they were unable to connect that his missing father, who had been at the hospital since the day he went missing, was the man law enforcement and the family had inquired about, he was told because they did not ask if anyone was admitted under the name of “Trauma XXX.”

As a result, the MPC and DOH convened a panel of experts to develop an Identification of Unknown Patients – Model Policy. Representatives from Albany Medical Center, Albany Memorial Hospital, Greater New York Hospital Association, New York Division of Criminal Justice Services, New York State Office of Alcoholism and Substance Abuse Services, New York State Office of Mental Health and the Samuel Stratton VA Medical Center came together to provide their expertise in the development of the policy.

The goal of the policy is two-fold: to provide hospital administrators with a consistent protocol throughout New York State when admitting an unidentified patient into a hospital and to have a standardized process of reacting to requests for information from police and family members of missing persons.

Key components of the model include:

- Citations of both federal and state laws that allow for disclosures to law enforcement when dealing with a missing/unidentified person case;
- Definitions of key terms used in the policy and that are helpful when implementing the protocol;
- A generalized procedure for hospital record keeping and the temporary naming of the unidentified patient.
- Guidance on steps to take to identify the patient, and;
- Administrative action to be taken after the patient is identified.

We hope that this model policy will provide you with a basic protocol that can be easily implemented at your facility and that this standardized process will lessen the trauma and anxiety a family faces when searching for a missing loved one and allow for the identification of an unknown patient in a more reasonable time frame.

Please contact the Department of Health or the Clearinghouse with any questions or concerns.

NYS Missing Persons Clearinghouse
Division of Criminal Justice Services
80 South Swan Street
Albany, NY 12210
800-346-3543
missingpersons@dcjs.ny.gov

Thank you.

Sincerely,

Ruth Leslie
Director
Division of Hospitals and Diagnostic &
Treatment Centers

Johanna Sullivan
Director
Office of Public Safety
Division of Criminal Justice Services

Identification of Unidentified Patients – Model Policy

This model policy has been prepared to assist hospitals and medical facilities in developing policies and procedures for missing and unidentified person's investigations consistent with New York State statutes and regulations. The information contained in this document is meant to provide guidance and highlight points to consider when drafting a policy to meet the needs of a particular community. This document is not intended to direct policy development nor does it purport to contain the only acceptable practices. It is recommended that each hospital and medical facility consult with its own legal advisor prior to adopting or amending a final policy regarding identification of unknown patients.

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Identification of Unidentified Patients – Model Policy

I. PURPOSE

This policy is designed to provide guidance to emergency department staff in developing procedures for the identification of unidentified patients that are admitted to the hospital.

II. POLICY:

When an unidentified patient is admitted to the Hospital, the admissions staff will coordinate efforts to determine the unidentified patient's identity.

III. DEFINITIONS:

A. **Adequate Identification** -- The ability of the patient, their escort or medical staff to identify the patient by name and one of the following, date of birth, address, social security number or the patient has written identification that contains that information. Examples of written identification are driver's license, non-driver ID card, birth certificate, passport, military ID, benefit card.

B. **Health Insurance Portability and Accountability Act of 1996 (HIPAA) --** The federal Department of Health and Human Services (HHS) established national standards for the security and privacy of health data. HIPAA privacy rules (45 CFR § 164.501 et seq.)

HIPAA allows disclosures to law enforcement in the following cases:

1. Court Order, Warrant, Subpoena, or Administrative Process: a Provider may disclose information in response to a court order, warrant, subpoena or other administrative process if certain conditions are satisfied. (45 CFR § 164.512(f)(1)(ii));

2. Identify Person: if law enforcement requests information to help identify or locate a suspect, fugitive, material witness or missing person, a Provider may disclose the following limited information: (a) name and address, (b) date and place of birth, (c) social security number, (d) ABO blood type and rh factor, (e) type of injury, (f) date and time of treatment, (g) date and time of death, and (h) a description of distinguishing physical characteristics. Other information related to the individual's DNA, dental records, body fluid or tissue typing, samples, or analysis cannot be disclosed under this provision, but may be disclosed in response to a court order, warrant, or written administrative request. (45 CFR § 164.512(f)(2)). The disclosure must be in response to a request from law enforcement, which may include a response to a "wanted" poster or bulletin;

3. Death: a Provider may disclose information to notify law enforcement about the death of an individual if the Provider believes the death may

have resulted from a crime;

4. Fugitive: a Provider may disclose information to law enforcement to identify or apprehend an individual who appears to have escaped from lawful custody. (45 CFR § 164.512(j)(1)(ii)(B));

5. Medical Examiners and Coroners: a Provider may disclose information about a decedent to medical examiners or coroners to assist them in identifying the decedent, determining the cause of death, or to carry out their other authorized duties. (45 CFR § 164.512(g)(1));

6. When considering disclosures to law enforcement, Providers should consider the following:

    a) If the law enforcement official making the request for information is not known to the Provider, the Provider must verify the identity and authority of such person prior to disclosing the information, e.g., by requesting identification. (45 CFR § 164.514(h));

    b) Except when required by law, a Provider should limit disclosures to the minimum necessary. (45 CFR §§ 164.502(b), 164.514(d)). When reasonable to do so, the Provider may rely upon the representations of the law enforcement official (as a public officer) as to what information is the minimum necessary for their lawful purpose. (45 CFR § 164.514(d)(3)(iii)(A));

    c) In all cases, a Provider should document the circumstances surrounding the disclosure to law enforcement in the log for accounting of disclosures as required by 45 CFR § 164.528.

C. **New York State Division of Criminal Justice** Services, Missing Persons Clearinghouse --The Missing Persons Clearinghouse is responsible for providing assistance to law enforcement agencies handling cases involving children, college students and vulnerable adults who have gone missing. The Clearinghouse maintains a 24/7 hotline at 800-346-3543.

D. **National Center for Missing & Exploited Children (NCMEC)** -- The leading nonprofit organization in the U.S. working with law enforcement, families and the professionals who serve them on issues related to missing and sexually exploited children.

E. **National Missing and Unidentified Persons System (NamUs) --** A national centralized repository and resource center for missing persons and unidentified decedent records. NamUs is a free online system that can be searched by medical examiners, coroners, law enforcement officials and the general public from all over the country in hopes of resolving these cases.

F. **National Crime Information Center (NCIC --** A computerized index of criminal-justice information (i.e., criminal-record-history information, fugitives, stolen properties, missing persons, unidentified bodies). Records contained in NCIC are provided by federal, state, local, and foreign criminal-justice agencies, as well as

authorized courts. The index is available to federal, state, and local law-enforcement and other criminal-justice agencies and is operational 24 hours a day, 365 days a year.

G. **Unidentified Patient** – When a patient is brought to the Emergency Department without any identification and is not able to self-identify or is unknown to hospital staff or the escort.

IV. PROCEDURE:

A. Upon the arrival of an unidentified patient:

1. The admission staff member will review the chart, personal belongings and hospital records to determine if there is any information regarding patient's identity;

2. The admission staff member will notify the Information Desk so that inquiries related to the unidentified patient are referred to the appropriate staff as well as public safety personnel.

3. The patient will be registered into the hospital database with a last name of **Unidentified** and a first name of either **Male** or **Female** which will be dependent on their gender. Should there be multiple unidentified patients admitted during a disaster or other such incident; they will be registered as follows: **Male Unidentified I**, **Male Unidentified II**, etc. Detailed physical descriptions should be entered into the database. This will enable staff to more readily search for a patient should there be an inquiry from the public or a family member.

B. If initial adequate identification efforts fail, the admissions staff will contact hospital public safety who may then contact the local law enforcement agency and request that a police report be completed for an unidentified living/deceased person. The law enforcement agency should be requested to enter the unidentified patient into the National Crime Information Center (NCIC) database as an Unidentified Living Person or an Unidentified Deceased Person (see attached NCIC Initial Entry Report).

C. The admissions staff as well as public safety officers should also monitor incoming e-mails and faxes from the New York State Missing Persons Clearinghouse. The Missing Persons Clearinghouse routinely sends out posters on active Missing Persons cases (Missing Child, Missing College Student and Missing Vulnerable Adult). These posters for the most part contain a photo as well as a description of the missing person. Additionally, a check of the following websites should be conducted in an attempt to identify the patient:

New York State Division of Criminal Justice Services
Missing Persons Clearinghouse Children
http://criminaljustice.ny.gov//missing/#/

National Center for Missing & Exploited Children
http://www.missingkids.org/search

National Missing and Unidentified Persons Systems
http://namus.gov

D. If there is a request from a law enforcement officer inquiring in regard to unidentified patients, the hospital staff will conduct a search of the admissions records to determine if there is a patient who may be a "possible match" for the missing person. The "possible match" information should be provided to the requesting law enforcement officer and every effort should be made to assist in identifying the patient. Refer to HIPAA privacy rules (45 CFR § 164.501 et seq.):

1. Law enforcement verification standards include but are not limited to:

   a) Official law enforcement agency email;

   b) Official law enforcement agency fax;

   c) In-person request of law enforcement officer with proper identification;

   d) Hospital Public Safety/Security personnel can also assist with law enforcement verification;

   e) Existing hospital policies.

2. Clinical information including but not limited to substance abuse and HIV testing should not be released to law enforcement.

E. If finger printing services are needed, the admissions staff or public safety personnel will contact the local law enforcement agency to request that fingerprints of the unidentified patient be taken and processed:

F. If identification has not been made through the process of fingerprinting, the admissions staff or public safety personnel shall make a referral to the Public Information Officer to obtain a photograph of the patient as well as significant facts that will help with identification. This information, along with the photograph, will be submitted to local media outlets, (print and TV) for assistance in identification. Consideration will be given to a specific locale if the patient's point of origin is known or suspected;

G. If the patient's condition makes it impossible for a photograph to be taken, details will be submitted for publication without the photograph;

H. If the patient is not identified within one week of publication of the photograph, the photograph and significant facts shall be submitted for publication in a wider area, until identification has been made.

I. A DNA sample can be collected by utilizing a DNA control kit and then forwarding the sample to one of the regional centers for classification and possible matching. Refer to attached list of regional centers;

J. When identification of a patient is made known, the Manager in the Admitting Department is to be notified immediately so that the system and all records may be updated;

K. The elements necessary for identification are: patient's name, address, date of birth, social security # (if known), and next of kin;

L. The Manager in the Admitting Department is responsible for ensuring that appropriate changes are made in the hospital's registration system;

M. The Manager in the Admitting Department is responsible for notifying the Medical Records department when it is deemed necessary to merge multiple patient record numbers.

V. Applicable Health Laws:

A. HIPAA privacy rules (45 CFR § 164.501 et seq.);

B. MHL § 33.13. Clinical records; confidentiality;

C. § 164.510 Uses and disclosures requiring an opportunity for the individual to agree or to object.

Note: The titles of those responsible for implementing this policy are generic and should be modified to coincide with the staff titles for each individual hospital.

Attachments:

- NCIC Unidentified Data Collection Entry Guide (NCIC Initial Entry Report)
- DNA Regional Laboratories

NCIC Initial Entry Report

Message Key **(MKE)** (*See Categories, page 2*)

☐ Unidentified Deceased (EUD) ☐ Unidentified Living (EUL)
☐ Unidentified Catastrophe Victim (EUV)

Date

Reporting Agency **(ORI)**

Body Parts Status **(BPS)**

☐ All 15 parts recovered - fresh **(ALF)**
☐ All 15 parts recovered - decomposed **(ALD)**
All 15 parts recovered - skeletal **(SKL)**

Body Parts Status **(BPS)** if incomplete body or skeleton, see body diagram page 7 for coding corresponding parts
N - Not Recovered **D** - Recovered Decomposed **F** - Recovered Fresh **S** - Skeletal

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
_	_	_	_	_	_	_	_	_	_	_	_	_	_	_

Sex **(SEX)**

☐ Male (M) Female (F)
Unknown (U)

Race **(RAC)**

☐ Asian or Pacific Islander (A) ☐ American Indian/Alaskan Native (I) Unknown (U)
Black (B) White (W)

Estimated Year of Birth Range **(EYB)** ☐☐☐☐ – ☐☐☐☐

Estimated Date of Death **(EDD)** ☐☐ – ☐☐ – ☐☐☐☐

Date Body Found **(DBF)** ☐☐ – ☐☐ – ☐☐☐☐

Approximate Height Range **(HGT)** ☐☐☐ – ☐☐☐

Approximate Weight Range **(WGT)** ☐☐☐ – ☐☐☐

Eye Color **(EYE)**

☐ Black (BLK) ☐ Green (GRN) ☐ Unknown (XXX)
☐ Blue (BLU) ☐ Hazel (HAZ) Multicolored (MUL)
☐ Brown (BRO) ☐ Maroon (MAR)
Gray (GRY) Pink (PNK)

Hair Color **(HAI)**

☐ Brown (BRO) ☐ Sandy (SDY) ☐ Blue (BLU) ☐ Purple (PLE)
☐ Black (BLK) ☐ Gray or Partially Gray (GRY) ☐ Green (GRE) Unknown or
White (WHT) ☐ Red/Auburn (RED) ☐ Orange (ONG) Completely Bald
Blond/Strawberry (BLN) Pink (PNK) (XXX)

Scars, Marks, Tattoos, and other Characteristics **(SMT)** *(See Checklist, page 8)*

Fingerprint Classification **(FPC)***

Originating Agency Case Number **(OCA)**

Miscellaneous **(MIS)** Information such as build, handedness, clothing description, hair description, and weather conditions at the time of death, place where the individual was found, should be included. If more space is needed, attach additional sheet.**

* Fingerprints, if available, may be submitted electronically via the CJIS Wide Area Network or in hard copy to the FBI, CJIS Division, Post Office Box 4142, Clarksburg, West Virginia 26302-9929.

** All dental information should be recorded on the NCIC Unidentified Person Dental Report and entered into NCIC as supplemental information.

Blood Type **(BLT)**

☐ A Positive (APOS) ☐ B Positive (BPOS) ☐ AB Positive (ABPOS) ☐ O Positive (OPOS) ☐ Unknown (UNKWN)
☐ A Negative (ANEG) ☐ B Negative (BNEG) ☐ AB Negative (ABNEG) ☐ O Negative (ONEG)
☐ A Unknown (AUNK) ☐ B Unknown (BUNK) ☐ AB Unknown (ABUNK) ☐ O Unknown (OUNK)

Circumcision? **(CRC)**	Footprints available? **(FPA)**	Body X-Rays available? **(BXR)**	Does the Unidentified Person have corrected vision? **(SMT)**	Corrective Vision Prescription **(VRX)**
☐ Was ☐ Was Not ☐ Unknown	☐ Yes ☐ No	☐ Full (F) ☐ Partial (P) ☐ None (N)	☐ Yes ☐ Glasses ☐ No ☐ Con Lenses	

Manner and cause of Death **(CDA)**

☐ Natural Causes (N) ☐ Suicide (S)
☐ Accidental (A) ☐ Unknown (U)
☐ Homicide (H)

Describe

Jewelry Type **(JWT)** (*See Checklist, page 20)*

Jewelry Description **(JWL)** (*See Checklist, page 20*)

DNA Profile Indicator **(DNA)**

☐ Yes
☐ No

DNA Location **(DLO)**

Medical Examiner/Coroner Agency Name and Case Number **(MAN)**

Medical Examiner/Coroner Locality **(MAL)**

Medical Examiner/Coroner Telephone Number **(MAT)**

Investigating Officer and Telephone Number **(MIS)**

NCIC Number **(NIC)**

NYS Public Forensic DNA Laboratories

DNA Laboratory	Address	General Phone #
Erie County Central Police Services Forensic Laboratory	45 Elm Street Buffalo, NY 14203	716-858-8219
Monroe County Crime Laboratory	85 West Broad Street Rochester, NY 14614	585-753-3535
Nassau County Office of the Medical Examiner, Division of Forensic Services	2251 Hempstead Turnpike Building R/DNA East Meadow, NY 11554	516-572-5193
NYC OCME, Department of Forensic Biology	421 E 26th Street New York, NY 10016	212-447-2030
NYSP Crime Laboratory	1220 Washington Ave. Building 30 Albany, NY 12226	518-457-1208
Onondaga County Health Department, Center for Forensic Sciences	100 Elizabeth Blackwell Street Syracuse, NY 13210	315-435-3800
Suffolk County Crime Laboratory	Forensic Services Building #487 PO Box 6100 725 Veteran's Memorial Highway Syracuse, NY 13210	631-853-5585
Westchester County Department of Laboratories & Research, Division of Forensic Sciences	10 Dana Road Valhalla, NY 10595	914-231-1630