Chapter 2: Medical/Legal Aspects of Advanced Prehospital Care

Best Protection
- Your best protection from liability is to perform systematic __________________________________________________________________, provide appropriate medical care, and maintain accurate and complete ____________________________________.

Legal Duties and Ethical Responsibilities (1 of 2)
- Promptly respond to the ____________________________________ of every patient.
- Treat all patients and their families with ____________________________________ knowledge.
- Participate in ____________________________________ education.

Legal Duties and Ethical Responsibilities (2 of 2)
- Critically review your performance, and constantly seek improvement.
- Report honestly and with respect for patient ____________________________________.
- Work cooperatively and with respect for other emergency professionals.

Each EMS response has the potential of involving EMS personnel in the ____________________________ system.

Sources of Law (1 of 2)
- ____________________________________—based on the U.S Constitution.
- ____________________________________—derived from society's acceptance of customs and norms.

Sources of Law (2 of 2)
- ____________________________________—created by law-making bodies such as Congress and state assemblies.
- ____________________________________—enacted by governmental agencies at either federal or state levels.

Categories of Law (1 of 3)
- ____________________________________: division of the legal system that deals with wrongs committed against society or its members.
  - Punishable by fines, ____________________________________, or both

Categories of Law (2 of 3)
- ____________________________________: division of the legal system that deals with non-criminal issues and conflicts between two or more parties.
  - Law suits
  - Punishable by fines or

Categories of Law (3 of 3)
- ____________________________________: a civil wrong committed by one individual against another.

Components of a Civil Lawsuit
- Incident
- Investigation
- Filing of ____________________________________
- Answering complaint

- ____________________________________
- Trial
- ____________________________________
- Appeal

Laws Affecting EMS and the Paramedic

Medical Practices Act
- Usually defines the ____________________________________ qualifications of those who may perform various health services and establishes a means of certification of health professionals
Scope of Practice
- Range of duties and skills paramedics are ______________________________ and expected to perform.

You may function as a paramedic only under the direct supervision of a licensed __________________________ through a delegation of authority.

Licensure and Certification
- ___________________________________ refers to the recognition granted to an individual who has met predetermined qualifications to participate in a certain activity.
- ___________________________________ is a process used to regulate occupations generally granted by a governmental body to engage in a profession or occupation.

Motor Vehicle Laws
- Vary from state to state, and govern operation of emergency vehicles and the equipment they carry.
- In Texas, an ambulance may break certain traffic laws if:
  - Emergency lights AND ______________________________ are on, and
  - On a ______________________________ emergency

Mandatory Reporting Requirements
- Spouse abuse
- ______________________________ abuse and neglect
- Elder abuse
- ______________________________ assault
- Gunshot and stab wounds
- Animal bites
- ______________________________ diseases

Legal Protection for the Paramedic
- ___________________________________—exemption from liability granted to governmental agencies.
- Good ______________________________ Laws—provide immunity to certain people who assist at the scene of a medical emergency.
- ______________________________ CARE Act—requires notification and assistance to paramedics who have been exposed to certain diseases.
- Local laws and regulations.

Legal Accountability of the Paramedic

Negligence
- Deviation from accepted ______________________________ of care recognized by law for the protection of others against the unreasonable risk of harm.
- Always exercise the degree of care, skill, and judgment expected under like circumstances by a similarly trained, reasonable paramedic in the same community.
  This is called????
  ______________________________ of ______________________________

Components of a Negligence Claim
- Duty to ______________________________.
- Breach of ______________________________.
- Actual ______________________________.
- Proximate ______________________________.

Duty to Act
- A formal contractual or informal ______________________________ obligation to provide care.

Breach of Duty
- An action or inaction that violates the ______________________________ of care expected from a paramedic.
Breaches of Duty
- performance of a wrongful or unlawful act by a paramedic.
- performance of a legal act in a harmful or injurious manner.
- failure to perform a required act or duty.

Actual Damages
Refers to compensable physical, psychological, or financial ________________________.

An action or inaction that immediately caused or worsened the damage is called ________________________ cause.

Defenses to Charges of Negligence
- Good Samaritan laws
- ______________________________________ immunity
- Statute of ____________________________________
- Contributory or comparative negligence
  - Could reduce or eliminate award of damages if plaintiff is found to have caused or worsened his own injuries

Special Liability Concerns
Medical Direction
A paramedic’s medical director and on-line physician may be sued if:
- Medically ____________________________ orders were given to the paramedic;
- There was a ____________________________ to authorize the administration of a necessary medication;
- The paramedic was directed to take the patient to an ____________________________ facility;
- ____________________________ supervision of a paramedic is proven.

Borrowed Servant Doctrine
While supervising an EMT-I or ____________________________, a paramedic may be liable for any negligent act that person commits.
- An ____________ can be held accountable for any negligent acts by an EMT

Civil Rights
If medical care is withheld due to any discriminatory reason, a paramedic may be sued.
- Examples:
  - ____________________________
  - Creed
  - Color
  - Gender
  - National origin
  - Ability to ____________________________ (in some cases)

Off-Duty Paramedics
- Performing procedures that require delegation from a physician while off-duty may constitute practicing medicine without a ____________________________.

Paramedic-Patient Relationships
Legal Principles (1 of 5)
- ____________________________ is the principle of law that prohibits the release of medical or other personal information about a patient without the patient’s consent.

Legal Principles (2 of 5)
- ____________________________ is an intentional false communication that injures another person’s reputation or good name.

Legal Principles (3 of 5)
- ____________________________ is the act of injuring a person’s character,
name, or reputation by false statements made in writing or through the mass media with malicious intent or reckless disregard for the falsity of those statements.

39 **Legal Principles (4 of 5)**
- ____________________________ is the act of injuring a person's character, name, or reputation by false or malicious statements spoken with malicious intent or reckless disregard for the falsity of those statements.

40 **Legal Principles (5 of 5)**
- A paramedic may be accused of invasion of privacy for the ____________________________ of confidential information, without legal justification, regarding a patient's private life, which might reasonably expose the patient to ridicule, notoriety, or embarrassment.
- ____________________________ laws allow for a fine up to $10,000 per violation for violating confidentiality

41 **The fact that the information released is ____________________________ is not a defense to an action for invasion of privacy.**

42 **Consent**
- The granting of ____________________________ to treat a patient.
- You must have consent before treating a patient.
- Patient must be ____________________________ to give or withhold consent.

43 **Informed Consent**
- Consent based on full disclosure of the nature, ____________________________ , and benefits of a procedure.
- Must be obtained from every competent ____________________________ before treatment may be initiated.
- In most states a patient must be ____________ years of age or older to give or withhold consent.
- In general, a parent or ____________________________ must give consent for children.

44 **Expressed Consent**
- ____________________________, non-verbal, or written communication by a patient who wishes to receive treatment.
- The act of calling for EMS is generally considered an expression of the desire to receive treatment.
- You must obtain consent for ____________________________ treatment provided.
- A patient can ____________________________ part or all of any treatment

45 **Implied Consent**
- Consent for treatment that is presumed for a patient who is mentally, physically, or emotionally ____________________________ to give consent.
- It is ____________________________ that a patient would want life-saving treatment if able to give consent.
- Also called emergency ____________________________ .

46 **Involuntary Consent**
- Consent for treatment granted by a ____________________________ order.
- Most commonly encountered with patients who must be held for mental- health evaluation or as directed by law enforcement personnel who have the patient under arrest.
- May be used on patients whose disease threatens a ____________________________ at large.

47 **Special Consent Situations (1 of 2)**
- Minors
  - Usually a person under ____________ years of age.
Consent must be obtained from a ____________________________ or legal guardian.

- Mentally ____________________________ adult

Consent must be obtained from the legal guardian.

Who Can Consent for Minors?

- Parent
- Legal ____________________________
- Adult ____________________________ or ____________________________

- Adult aunt or uncle

Special Consent Situations (2 of 2)

- For Minors & Mentally incompetent adults...
  - If a parent or legal guardian cannot be found, treatment may be rendered under the doctrine of ____________________________ consent.

Emancipated Minors

Person under 18 years of age who is:

- ____________________________
- Pregnant
- A ____________________________
- A member of the armed forces
- Financially ____________________________ living away from home

Emancipated minors may give informed consent.

Withdrawal of Consent

- A patient may ____________________________ consent for treatment at any time, but it must be an informed refusal of treatment.

An example of a release-from-liability form.

Refusal of Service

- Not every EMS run results in the ____________________________ of the patient to the hospital.
- Emergency ____________________________ must always be offered to the patient, no matter how minor the injury or illness.

If a Patient Refuses (1 of 4)

- Is the patient legally ____________________________ to refuse care?
- Make multiple, sincere attempts to ____________________________ the patient to accept care.
- Enlist the help of others (e.g. patient's family or friends) to convince patient to accept care.

If a Patient Refuses (2 of 4)

- You must prove that the patient is mentally competent
- Make sure the patient is ____________________________ in his or her decision.
- Consult with ____________________________ medical direction.

If a Patient Refuses (3 of 4)

- Have the patient and a disinterested ____________________________ sign a release-from-liability form.
- Advise the patient he or she may call again for help.

If a Patient Refuses (4 of 4)

- Attempt to get someone to ____________________________ with the patient.
- ____________________________ the entire situation thoroughly.

Determining Mental Capacity to Refuse Care

- Is pt ____________________________ ?
- Does patient answer all ____________________________ correctly?
  - Name, address, phone #, SS#, kid's names, etc
Consider ____________________________ test

______________________________ correct answers

Completely document mental status including what questions were asked

Some EMS systems have ____________________________ for procedures to follow when a patient refuses care.

Problem Patients

• Victim of drug overdose
• Ill or injured minor with no adult to provide consent for treatment

Problem Patients

• Attempt to develop ____________________________ and some rapport with patient.
• Regardless of type of problem patient, always document encounter in detail.

Legal Complications Related to Consent (1 of 4)

• ____________________________ is the termination of the paramedic-patient relationship without assurance that an equal or greater level of care will continue.

Legal Complications Related to Consent (2 of 4)

• ____________________________ is an act of unlawfully placing a person in apprehension of immediate bodily harm without his or her consent.
• ____________________________ is the unlawful touching of another person without his or her consent.

Legal Complications Related to Consent (3 of 4)

• False ____________________________ is the intentional and unjustifiable detention of a person without his or her consent or other legal authority.

Legal Complications Related to Consent (4 of 4)

• ____________________________ force is the minimal amount of force necessary to ensure that an unruly or violent person does not cause injury to himself, herself, or others.

Patient Transportation

• ____________________________ the same level of care as was initiated at the scene.
• Know the closest, most ____________________________ facility.
• ____________________________ the patient’s choice of facility without putting patient care in jeopardy.

Resuscitation Issues

Advance Directives

• A document created to ensure that certain treatment choices are honored when a patient is unconscious or otherwise unable to express his or her choice of treatment.
• CANNOT be honored by EMS in pre-hospital setting in Texas

A Living Will allows a person to specify what kinds of medical treatments he or she should receive.

Do Not Resuscitate Order (DNR) indicates which, if any, life-sustaining measures should be taken when the patient’s heart and functions have ceased.

DNR’s

• In Texas, ONLY the ____________________________ OOH DNR form can be excepted by EMS
• OOH includes: ER’s, residences, nursing homes, etc
• Photo copy is acceptable
• Bracelet or necklace can also be accepted
• Official DNR from another US state may also be honored
Some systems have developed ____________________________ that address organ viability after a patient’s death.

A death in the field must be appropriately dealt with and ____________________________ by following local protocol.

Crime and Accident Scenes (1 of 2)
• If you believe a ____________________________ has been committed, involve law enforcement.
• Protect ____________________________ and other EMS personnel.
• Initiate patient care only when the scene is ____________________________ .

Crime and Accident Scenes (2 of 2)
Preserve the scene as much as possible:
• ____________________________ and document anything moved;
• Leave gunshot or stabbing holes ____________________________ if possible;
• If something must be moved, ____________________________ investigating officers and document your actions.

Documentation
• Complete ____________________________ after patient contact.
• Be thorough.
• Be ____________________________ .
• Be accurate.
• Maintain patient confidentiality.
• Never ____________________________ a patient care record.