Chapter 4 -
Medical_Legal_and_Ethical_Issues

OBJECTIVES

4.1 Define key terms introduced in this chapter. Slides 11–12, 14, 16–22, 24, 26–32, 34–35, 39
4.2 Describe your scope of practice as an EMT. Slides 11–12
4.3 Differentiate between scope of practice and standard of care. Slide 12
4.4 Given a variety of scenarios, determine which type of patient consent applies. Slides 16–19

continued

4.5 Given a variety of ethical dilemmas, discuss the issues that must be considered in each situation. Slides 13, 30
4.6 Explain legal and ethical considerations in situations where patients refuse care. Slides 20–23
4.7 Discuss the EMT's obligations with respect to advance directives, including do not resuscitate orders. Slide 24

continued
OBJECTIVES

4.8 Given a variety of scenarios, identify circumstances that may allow a claim of negligence to be established. Slides 27–30

4.9 Explain the purpose of Good Samaritan laws. Slide 30

4.10 Identify situations that would constitute a breach of patient confidentiality. Slide 32

continued

OBJECTIVES

4.11 Identify situations that would constitute libel or slander. Slide 32

4.12 Recognize medical identification devices and organ donor status. Slides 33–34

4.13 List items that may be considered evidence at a crime scene. Slide 39

continued

OBJECTIVES

4.14 Describe ways in which you can minimize your impact on evidence while meeting your obligations to care for your patient. Slides 36, 38

4.15 Recognize situations that may legally require reporting to authorities. Slide 39

4.16 Given a scenario involving an ethical challenge, decide the most appropriate response for an EMT. Slides 22, 45–46
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MULTIMEDIA

• Slide 14  Legal Issues in Healthcare Video

CORE CONCEPTS

• The scope of practice of an EMT
• How a patient may consent to or refuse emergency care
• The legal concepts of negligence, torts, and abandonment
• What it means to have a duty to act
• The responsibilities of an EMT at a crime scene

Topics

• Scope of Practice
• Patient Consent and Refusal
• Other Legal Issues
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Scope of Practice

• Regulations and ethical considerations that define extent or limits of job duties
• May include skills and procedures
• Determined by national, state, local laws, statutes, and protocols

Standard of Care

• Care expected from EMT with similar training for patient in a similar situation
• Meeting standard of care reduces risk of legal action
• Scope of practice: what you can do
• Standard of care: how you should do it
Ethics

- Morals or standards governing actions
- Not always required by law
- “Golden Rule” standard
- Very important in EMS
- Good ethical behavior—what you do when no one is looking

Legal Issues in Health Care Video

Click here to view a video on the topic of legal issues in health care.

Patient Consent and Refusal
Patient Consent

- Permission from patient to assess, treat, and transport
- Expressed consent
  - Must be informed
- Implied consent
  - Assumed consent
  - Follow local laws and protocols

Consent for Children

- Minors not permitted to provide consent for treatment
- Obtain from parent or legal guardian
- Possible exceptions (check local law)
  - In loco parentis
  - Emancipated minors
  - Life-threatening illness or injury
  - Minors who have children
  - Minors serving in armed forces

Consent for Mentally Incompetent Adults

- Adult patients incapable of informed decisions about care
- State and local laws and protocols permit transport of such patients under implied consent
Involuntary Transportation

- Patient considered threat to self or others
- Court order
- Usually requires decision by mental health professional or police officer
- If patient restrained, must not risk legal liability

Refusal of Care

- Patient may refuse care or transport
  - Legally able to consent
  - Mentally competent and oriented
  - Fully informed of risks
  - Sign release form
- Despite all precautions, EMT may still be held liable

If in Doubt About Refusal

- Discuss decision with patient
- Ensure patient understands risks
- Consult medical direction
- Ask to contact family member
- Contact law enforcement
- Listen to patient to determine why refusing care
Think About It

- What are the risks of beginning treatment and/or transport without getting consent from the patient?
- What if the patient refuses to sign the refusal of care form?

Things to Consider During Refusal

- Have witnesses to refusal
- Inform patient that if changes mind, can call back
- If possible have friend or relative remain with patient
- Document, document, document

Advance Directives

- Legal document expressing patient’s wishes if patient unable to speak for self
- Do not resuscitate order (DNR)
- Living will
- Health care proxy
- Does not prevent EMT from providing comfort measures
Other Legal Issues

Duty to Act

- Obligation to provide care
- While on duty, EMT obligated to provide care if no threat to safety
- Duty to act not always clear
  - Off duty
  - On duty, out of jurisdiction
- Follow local laws and protocols
- Follow own conscience

Negligence

- Something was not done, or was done incorrectly
- Must prove:
  - EMT had duty to act
  - Breach of duty—EMT failed to provide standard of care expected or failed to act
  - Proximate causation—patient suffered harm because of EMT action or inaction

continued
Negligence

- Negligent EMT may be required to pay damages
- *Res ipsa loquitur* (the thing speaks for itself): legal concept important in negligence cases

Abandonment

- Once care initiated, may not be discontinued until transferred to medical personnel of equal or greater training
- Failure to do so may constitute abandonment

Good Samaritan Laws

- Grant immunity from liability if person acts in good faith within level of training
- Rarely applies to on-duty personnel
- May not cover EMTs in some situations
- Does not protect persons from gross negligence or violations of law
Think About It

- You arrive on the scene of a patient in cardiac arrest. The family says she has a DNR, but don’t know where it is. How should you handle this?
- You are off duty and arrive on the scene of a vehicle crash. Police and EMS have not yet arrived. Are you legally obligated to stop and render aid?

Confidentiality

- Information on patient's history, condition, treatment considered confidential
- Can be shared with other health care personnel as part of patient’s continuing care
- Otherwise must be obtained through subpoena

Medical Identification Devices
Organ Donor

- Person with completed legal document allowing donation of organs and tissues in event of death
- May be identified by family members, donor card, driver’s license
- Receiving hospital and/or medical direction should be advised per protocol

Safe Haven Laws

- Allow person to drop an infant or child at any fire, police, or EMS station
- States have different guidelines for ages of children included
- Protect children who may otherwise be abandoned or harmed by parents unwilling or unable to care for them

Crime Scenes

- Location where crime was committed or anywhere evidence may be found
- Once police have made scene safe, EMT’s priority is patient care
- Know what evidence is
- Take steps to preserve evidence
Examples of Evidence

- Condition of scene
- Patient
- Fingerprints and footprints
- Microscopic evidence

Evidence Preservation

- Remember what you touch
- Minimize impact on scene
- Work with police
- If patient transported on your stretcher, stretcher sheet may be valuable source of evidence
- Document thoroughly

Mandatory Reporting Guidelines

- Child, elderly, or domestic abuse
- Sexual assault
- Stab/gunshot wounds
- Animal attacks
- Check local laws and protocols
• Medical, legal, ethical issues part of every EMS call.
• Morals are how a person expresses beliefs of right and wrong.
• Consent may be expressed or implied

• If a competent patient refuses care or transport, you should make every effort to persuade him, but you cannot force him to accept care or go to the hospital.
• Negligence is failing to act properly when you have a duty to act.
Chapter Review

- Abandonment is leaving a patient after you have initiated care and before you have transferred the patient to a person with equal or higher training.

Remember

- EMTs must use good judgment and decision-making skills when dealing with patient consent and refusal.
- Avoiding negligence implies using good judgment; critical thinking is an essential component for avoiding liability.

Remember

- EMTs hold responsibility for patients’ protected health information; exercising care when dealing with this information is a legal and ethical obligation.
Questions to Consider

• Define scope of practice, negligence, duty to act, abandonment, and confidentiality.
• What steps must you take when a patient refuses care or transportation?
• What types of evidence may be found at a crime scene? How should you act to preserve evidence?

Critical Thinking

• You respond to a motor vehicle crash and find a seriously injured patient. He has no pulse and you are about to begin CPR when someone says, “Don’t do that! He’s got cancer and a DNR!” No one has the DNR at the scene. Do you start CPR and transport the patient?

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