Chapter 6
Medical Legal Issues

Lesson 6.1
Legal System
Learning Objectives

• Describe the basic structure of the legal system in the United States.
• Relate how laws affect the paramedic’s practice.
• List situations that a paramedic is legally required to report in most states.

Legal Duties

• Paramedics have legal duties to:
  – Patient
  – Employer
  – Medical director
  – Public
• Defined by statutes, regulations based on commonly accepted standards

Legal Duties

• Ethical responsibilities
  – Responding with respect to physical, emotional needs
  – Maintaining mastery of skills
  – Participating in continuing education/refresher training
  – Critically reviewing performance, seeking improvement
  – Reporting honestly
  – Working cooperatively with respect for other personnel, professionals
  – Staying current with new concepts, modalities
Legal Duties

- Failing to perform EMS duties properly can result in civil, criminal liability
- Best legal protection is providing appropriate assessment, care with correct, full written documentation

Types of Law

- Legislative law
  - City councils
  - District boards
  - General assemblies
  - Congress
  - Power defined by statutes, state constitutions, U.S. Constitution

- Administrative law
  - Regulations developed by governmental agency to provide details about function, process of law
  - Examinations
  - License
  - Maintenance of records
  - Regulatory agencies hold disciplinary hearings on revocation, suspension of licenses
  - EMS bureau
Types of Law

• Case or judge-made law
  – Derived from societal acceptance of customs of behavior
  – Based on state, federal judge decisions
  – Offer guidance in defining acceptable conduct, negligence, interpretation of state statutes, regulations that apply to EMS

Types of Law

• Criminal law
  – Federal, state, local governments prosecute law violators
  – Enacted to protect society
  – Punishable by fine, imprisonment, or both

Types of Law

• Civil law (tort law)
  – “Private” complaints by plaintiff against defendant
  – Illegal acts or wrongdoing (tort)
  – Most EMS activities that result in litigation are civil suits
How Laws Affect Paramedics

• Paramedics must have knowledge of medical malpractice to avoid litigation
• Scope of practice
  – Range of duties, skills allowed, expected when necessary
  – Set by state law or regulation
  – Defines boundaries between lay person, EMTs, MDs
  – Violation is a criminal offense

Why is it necessary to define the scope of practice for a profession?

How Laws Affect Paramedics

• Medical direction
  – Required component of practice
  – Online (direct), off-line (indirect) depending on state, local requirements
  – Policy guidelines dealing with physicians on scene
How Laws Affect Paramedics

• Medical practice act
  – Governs medical practice
  – Protects public, health care profession
  – Varies by state
  – Designates restricted acts that prohibit certain tasks from being performed by nonphysicians
  – Authorize physicians to delegate to nonlicensed personnel
  – May provide authorization of and withdrawal of dependent practice

How Laws Affect Paramedics

• Licensure and certification
  – Required by state or local authorities
  – Process of occupational regulation
  – Governmental agency (e.g., state medical board) grants permission for those who meet qualifications to engage in profession
  – Also granted by nongovernmental certifying agency or professional association

How does licensure or certification help to ensure the safety of your community?
How Laws Affect Paramedics

• Motor vehicle laws
  – Standards for equipping, operating emergency vehicles
  – Codes vary by state

Mandatory Reporting Requirements

• Must report certain cases
  – Abuse
  – Neglect of children, older adults
  – Spouse abuse
  – Rape
  – Sexual assault
  – Gunshot wounds
  – Stab wounds
  – Animal bites
  – Communicable diseases

Mandatory Reporting Requirements

• Report content set by law, regulation, policy
• Penalties if not satisfied
• Immunity for reporting person
  – Lessens fear of legal consequences should the report be false
  – Statutes prohibit lawsuits against filers, offer defense in court in event of lawsuit
Imagine that your state requires the reporting of gunshot wounds. Your patient has a small-caliber flesh wound. This patient also refuses care and begs you not to tell anyone so that her privacy will be protected. What will you do?

Protection for Paramedics

- Some regulations provide legal protection
  - Notification of exposure to infectious disease
  - Protection provided by immunity statutes, laws that describe special crimes against EMS
  - Vary by state, local jurisdictions

Protection for Paramedics

- Notification of infectious disease exposure
- Ryan White Comprehensive AIDS Resources Emergency Act of 1990
  - Requires responders be advised if they have been exposed to infectious diseases
  - Requires employers name designated communications officer, coordinate organization in case of exposure
  - Notified within 48 hours of exposure so postexposure management begins
Reflect on the time before the Ryan White Act of 1990. At that time, why would some health care facilities not report significant infectious disease exposures to EMS personnel?

Protection for Paramedics

- Ryan White Treatment Modernization Act of 2006
  - Signed into law
  - Portion of original act was stricken from legislation
  - 2009, dropped language was reinstated
  - Many states require responders to be notified of exposure

Immunity Statutes

- Ancient English common law protects state, governmental entities from litigation
- “King can do no wrong” concept
- Modern law, governmental agencies not liable for negligent acts of their employees
Immunity Statutes

• Many states want to discard doctrine or limit application
  – Exercised immunity may apply only to governmental agency, not individual employee, operator of emergency vehicle
• Immunity statutes vary throughout the country

Immunity Statutes

• Good Samaritan laws exist in some form in all 50 states
  – Encourage persons to help without fear of lawsuit
  – Giving first aid in good faith, in manner that another person with similar training would, covered by law
  – Does not protect health care workers for gross negligence, reckless disregard, willful/wanton misconduct
  – Does not protect paid, on-duty EMS personnel

Imagine that there are no Good Samaritan laws in your state. Would this affect your decision about whether to stop and give aid to an ill or injured person while off duty?
Crimes Against Paramedics

- Special crimes against paramedics
  - Assault or battery victims while on duty
  - Ordinances provide same level of protection as law enforcement to deter crimes
  - Illegal to harm, threaten EMS crews, obstruct patient care
  - Use good judgment, work closely with dispatch center, avoid dangerous situations
  - Retreat from scene if not safe, reenter when secured

What are the protective ordinances in your area?

Legal Process

- Injury lawsuit
  - Incident in which person feels injured as a result of negligent patient care (plaintiff)
- Plaintiff hires attorney
- Attorney investigates, decides complaint has merit
  - Patient care reports
  - Textbooks
  - Journal articles
  - Local protocols
Legal Process

• Complaint prepared, filed in court
• Complaint, summons served on defendant, litigation process initiated
  – Summons served by sheriff, authorized person
  – Requires defendant to answer complaint or risk losing case
• All parties involved retain defense attorney

Legal Process

• Discovery
  – Document exchange
  – Depositions
  – Interrogatories
• Depositions
  – Testimonies taken under oath outside courtroom
  – Answer questions from attorney for other side
  – Court reporter prepares transcript
Consider a case that occurred five years ago. How important will your written documentation be regarding that case?

Legal Process

• Interrogative
  – Lawsuit questions answered in consultation with party’s lawyer, answers given to other lawyer
• During discovery, each side is entitled to all key information
  – Patient care reports
  – Computer dispatch records
  – Radio message recordings
  – Quality improvement materials

Legal Process

• After discovery, settle out of court or go to trial
• During trial, both sides of case are presented
• Judge, jury determine liability, damages awarded to plaintiff
Legal Process

- Appeals based only on errors in law made by trial court
- Settlement may occur at any stage of litigation
  - Plaintiff agrees upon amount of money, promises no pursuit of claim

Lesson 6.2
Paramedic Legal Accountability

Learning Objectives

- Describe the four elements involved in a claim of negligence.
- Describe measures paramedics may take to protect themselves from claims of negligence.
Paramedic Legal Accountability

• Responsible to act reasonably, prudently
  – Provide level of care consistent with education, training, local protocol
  – Failed responsibilities result in legal liability

Components of Negligence

• Failure to act as a reasonable, prudent paramedic would act in similar circumstances
• Duty to act existed
• Actions performed at level that deviated from standard care (breach of duty)
• Damage to patient occurred

Certain advanced life support interventions have an increased risk of causing harm to the patient compared with basic life support skills. As a paramedic, what advanced life support interventions do you think you will perform that have this increased risk?
Components of Negligence

• Breach was proximate cause of damage
• Duty to act
  – Formal
  – Contractual
  – Informal
  – Volunteer
  – Assume duty to act, continue to act

Components of Negligence

• Duty to act
  – Respond, render care
  – Obey laws, regulations
  – Operate emergency vehicles reasonably, prudently
  – Provide care, transportation to expected standard, consistent with scope of practice, local medical protocols
  – Continue care, transportation through appropriate conclusion
Components of Negligence

- Breach of duty
  - Standard of care established by court testimony, referenced to public codes, standards, criteria, guidelines related to the situation
  - States often consider national standards when defining acceptable care
  - Written national, state standards violations easier for plaintiff to prove

Components of Negligence

- Breach of duty may occur by
  - Malfeasance: performing wrongful, unlawful act
  - Misfeasance: performing legal act in harmful manner
  - Nonfeasance: failure to perform a required act, duty
  - Res ipso loquitur: implies facts so clear injury could be caused only by negligence
  - Negligence per se, negligence shown by statute, ordinance violated, injury resulted

What are some examples of malfeasance, misfeasance, and nonfeasance?
Components of Negligence

• Damage to the patient or other individual (plaintiff)
  – Medical expenses
  – Lost earnings
  – Conscious pain, suffering
  – Wrongful death

• Compensable damages
  – Punitive damages
    – Punish person at fault
    – Deters others from causing future harm
    – Not covered by malpractice insurance

• Punitve damages
  – Punish person at fault
  – Deters others from causing future harm
  – Not covered by malpractice insurance

Components of Negligence

• Proximate cause
  – Plaintiff must prove negligent act, lack of action, caused injury, made existing injury worse
  – Prove injury, further harm was foreseeable
  – Calls for expert witnesses
  – Address issues of duty, standard of care, conflicting views of causation

Components of Negligence

• Potential negligent areas
  – Transportation to medical facility contrary to medical direction advice
  – Trauma center designation
  – Special patient care needs
  – Facility capabilities
  – Failure to maintain equipment, supplies, vehicles
  – Reckless driving
Defenses to Negligence Claims

• Training
• Competent patient care skills
• Full documentation of care activities
• Good Samaritan laws
• Governmental immunity

Defenses to Negligence Claims

• Statute of limitations
  — Limit number of years after incident a lawsuit can be filed
  — Set by law, may differ for cases with adults, children
  — Varies from state to state
• Contributory negligence
  — Plaintiff may be found to have contributed to own injury
  — Damages awarded may be reduced based on plaintiff’s contribution to injury

Defenses to Negligence Claims

• Liability insurance
  — Malpractice insurance
  — Coverage for legal defense, potential judgments against policyholder
• Primary insurance
  — Personal policies
  — Certain limits of coverage for types of risks insured against
Defenses to Negligence Claims

• Umbrella insurance
  – Liability insurance policies
  – Carried by employers
  – Additional limits of coverage, apply to on-duty employees performing within scope of practice
  – May not cover employee’s liability, separate individual policy needed, expensive
  – Group plans less expensive, offer better coverage

What kind of liability insurance protects you now as an EMT-Basic provider? What type of liability insurance protects you as a student paramedic in a clinical experience?

Defenses to Negligence Claims

• Special liability concerns
  – Unique to prehospital care
  – Medical director
  – “Borrowed servants”
  – Civil rights
Defenses to Negligence Claims

- Liability of paramedic medical director
  - Vicarious liability, medical direction physician legally responsible for prehospital patient care
  - Online, off-line medical direction
  - Responsible in absence of direct supervision

Defenses to Negligence Claims

- Liability for borrowed servants
  - Legal doctrine, servant who serves two “masters”
  - EMT employed by municipality, supervised by paramedic
  - Creates liability for supervising paramedic, employer, medical direction physician
  - Liability amount depends on degree of supervision, control given to paramedic by employer

Civil Rights

- First measure enacted in 1866
- Law prohibited race discrimination
- Modified, illegal to discriminate based on
  - Race
  - Color
  - Sex
  - Religion
  - National origin
  - Ability to pay for health care
Civil Rights

- Violations could include treatment, transport without proper consent
- Rehabilitation Act of 1973
  - Prohibits discrimination based on a person’s handicap
  - Applies to programs receiving federal funding
- Americans with Disabilities Act, Title II
  - Equal accessibility for public services
  - Receiving appropriate care regardless of condition

Protection Against Negligence Claims

- Education, training, continuing education, skills retention
- Appropriate quality improvement
- Appropriate medical direction, online and off-line
- Accurate documentation
- Professional attitude, demeanor

Do you think that an effective quality management program can decrease the risk for negligence lawsuits? How?
Think back to a call you took as an EMT that did not go well and the patient did not do well. Did that call meet any of the elements of negligence? What measures could you take to prevent the recurrence of that type of situation?

Lesson 6.3
Paramedic-Patient Relationships

Learning Objectives

• Describe the paramedic’s responsibilities regarding patient confidentiality.
• Outline the process for obtaining expressed, informed, and implied consent.
• Describe legal complications relating to consent.
Learning Objectives

• Describe actions to be taken in a refusal-of-care situation.
• Describe legal considerations in situations that require the use of force.
• Describe legal considerations related to patient transportation.

Paramedic-Patient Relationship

• Legal relationship between patient and paramedic
  – Confidentiality
  – Consent
  – Transportation
  – Use of force, restraining

Confidentiality

• Legal, ethical duty
• Consent not needed
  – To other health care workers involved in care
  – Law enforcement involved
Confidentiality

- Potential liability
  - Invasion of privacy
  - Defamation
  - Information released with malicious intent, reckless regard
  - Protected health information (PHI) released to persons not legally entitled to obtain it

Have you ever been in a situation where you or a colleague said something about a patient that you think may have violated confidentiality? What did you do about it?

Confidentiality

- HIPPA
  - Mandatory compliance
  - Protect privacy of patient’s PHI
  - Disclose minimum needed for treatment
  - Billing
  - Operations
  - Safeguard physically, administratively
  - Grant certain rights to patients regarding information
Confidentiality

- HIPPA compliance required for
  - Health plans
  - Health care clearinghouses
  - Health care providers, EMS
  - Administrative transactions

Confidentiality

- Protected health records
  - Name
  - Social security number
  - Address
  - Medical information

What are some effects HIPAA has on EMS providers?
Confidentiality

- Defining confidentiality
  - Patient’s history
  - Assessment findings
  - Treatment rendered
  - Electronic
  - Written
  - Verbal
  - Written permission to release information

Exceptions Not Requiring Release

- Federal, state, local law requires release
- Health care fraud, abuse detection
- Public health activities, required by law, as part of investigation
  - Child, adult abuse, neglect
  - Domestic violence
  - Adverse events, product defects
  - Notify person of exposure to communicable disease

Exceptions Not Requiring Release

- Oversight activities
  - Audits
  - Government investigations
  - Inspection
  - Disciplinary proceedings
  - Administrative, judicial actions undertaken by government to oversee health care system
Exceptions Not Requiring Release

- Court required judicial, administrative proceedings
  - Subpoena
- Limited law enforcement situations
  - Warrant for request
  - Locate suspect
  - Stop crime

Exceptions Not Requiring Release

- Military, national defense/security, other special government functions
- Avert serious threat to health, safety of person or public
- Workers’ compensation purposes
- Coroners, medical examiners, funeral directors for identification purposes

Exceptions Not Requiring Release

- Organ donor organizations
- Research purposes (strict oversight)
- Inmates in custody
  - Correctional institution to render care
  - Protect patient’s health, others’ safety
  - Safety, security of correctional facility, law enforcement
Im proper Release of Information

- Invasion of privacy
  - Release private life details without legal justification
  - Expose person to ridicule, notoriety, embarrassment
  - True information not a defense for invasion of privacy

- Defamation
  - Untrue statement regarding character, reputation without legal privilege, consent
  - Libel is false statements in writing through mass media, malicious intent
  - Slander is false verbal statements with malicious intent

Consent

- Patient rights defined by legislation, judicial system through malpractice litigation
- Basic concept of law/medical practice is patient’s rights
  - Decisional capacity
  - Patient’s right to choose what medical care, transport to receive
Consent

• Must be of legal age, able to make reasoned decision
  – Nature of illness, injury
  – Treatment recommended
  – Treatment risks, dangers
  – Alternative treatments, associated risks
  – Dangers of refusing treatment

Types of Consent

• Informed consent
  – Signifies patient knows, understands, agrees to care rendered
  – Given based on full disclosure
• Expressed consent
  – Verbal, written consent to treatment
  – Also nonverbal by patient allowing care

Types of Consent

• Implied consent
  – Presumes unconscious patient would consent to lifesaving care
  – Victims of shock
  – Head injuries
  – Alcohol, drug intoxications
  – Patient regaining consciousness can revoke consent
Types of Consent

• Involuntary consent
  – Treatment granted by authority of law
  – Patients held involuntarily for mental health evaluation
  – Patients under arrest, protective custody
  – Follow established policies, procedures

Special Consent Situations

• Difficulty obtaining consent
  – Minors
  – Adults without decisional capacity
  – Institutionalized patients
  – Prisoners
  – Must obtain consent from parent, legal guardian, state agency representative, legal authority
  – Life-threatening situations with consent delay, treat patient
  – Contact medical direction with consent issues
  – Document all events

Special Consent Situations

• Minors
  – Under age 18 unless emancipated
  – Emancipated minors have legal release from parental control
  – Married minors
  – Minor parents
  – Armed forces minors
  – Self-supporting, independent minors
Special Consent Situations

- Unemancipated minors
  - Minors under parental control
  - Not legally able to give, withhold consent
  - Parent, legal guardian, court-appointed custodian consent required
  - In life-threatening situations with consent delay, treat patient, document thoroughly

- Adults without decisional capacity
  - May be impaired from disease, injury, anxiety, mental illness, mental retardation, alcohol/drug use
  - In life-threatening situations with consent delay, treat patient
  - Care without consent only in life-threatening illness/injury, only when legal guardian is not present
  - Involve medical direction

- Prisoners, arrestees
  - Have right to make medical treatment choices
  - Court, police may authorize treatment in case of refusal to consent
  - Authority of law provides consent through emergency doctrine
Special Consent Situations

• Refusal of care, transport
  – Religious beliefs
  – Inability to pay
  – Fear
  – Lack of understanding of procedures
  – Encourage family, friends to persuade acceptance of care
  – May call for help again

• Refusal of care, transport
  – Major cause of EMS lawsuits
  – Advise medical risks
  – Document thoroughly
  – “Release of liability” signed by patient, witness
  – Contact medical direction at scene for persuasion by physician
  – Document of refusal, critical legal document
Imagine being called to care for a patient who clearly is having signs and symptoms of a heart attack but is alert and refusing care. How will you feel? What strategies will you use to try to persuade the patient to allow your care and transport?

Consent Legal Complications

- Abandonment
  - Improper termination of care, care given to those without proper training, expertise
  - At scene, emergency department
- False imprisonment
  - Intentional, unjustifiable detention of person
  - Charges brought by patient transported without consent, restrained without proper cause or authority

Consent Legal Complications

- Assault
  - Creation of apprehension
  - Unauthorized handling, treatment of patients
  - Threatening to restrain the patient unless the patient “quiets down”
Consent Legal Complications

- Battery
  - Physical contact without consent, legal cause
  - Drawing blood without permission, authorization
  - Document unusual situations, actions
  - Medical direction, law enforcement involvement when needed

Use of Force

- Unruly, violent patients are possibly unable to make sound decisions about care
  - Law enforcement officials have authority to place patient in protective custody, permitting treatment
  - Restrain only when done safely and if there is a threat to self or others

Transportation

- After care has begun, continue care until
  - Transferred to other appropriately trained health care workers
  - Care is no longer needed
  - Patient ends patient-caregiver relationship
- Use of emergency vehicle operating privileges
  - Operate according to laws, regulations, policies
  - Operate in manner that safeguards patient, crew, public
Transportation

• Right-of-way privileges
  – Travel slightly faster than posted speed limit
  – Move safely into opposite lane of traffic
  – Safely enter, pass through red light intersections
  – Use audible, visual warning devices
  – Park in unauthorized areas
  – Privilege abuse not recommended

Your supervisor decides that exceeding the posted speed limit (even with audible and visual warning devices) is too dangerous to the community. The supervisor disallows it on all but cardiac arrest calls. What will you do?

Transportation

• Choice of patient destination
  – Based on needs, hospital capability, location, capacity
  – Honor choice if possible
  – Involve medical direction if not possible
Transportation

• Payer protocols
  – Health care plan restrictions affect when, where medical care can be performed
  – Medicare, largest single ambulance service payer
  – Complex rules of reimbursable services, transports
  – Knowledge of programs necessary for EMS agency payment
  – Helps patient decide what services are likely to be covered by insurance policies
  – Not a factor in life-threatening situations
  – Poor documentation may cause claims to be rejected

Lesson 6.4
Resuscitation, Crime Scene, and Documentation

Learning Objectives

• Outline legal implications related to resuscitation and patient death.
• List the paramedic’s responsibilities at a crime scene.
Resuscitation

• Legal, ethical considerations for
  – Patient
  – Family
  – EMS crew
  – Medical direction

Withholding/Stopping Resuscitation

• Pulseless patients should be resuscitated unless
  – Clinical signs of obvious death
  – Attempts that would place rescuer at risk of physical injury
  – Do not resuscitate documentation by patient, surrogate
Resuscitation

• CPR not indicated according to AHA when
  – Unwitnessed deaths associated with serious, chronic, debilitating disease
  – Terminal state of fatal illness
  – Traumatic arrests with extended response, transport times

• Provide CPR, life support on unclear issues
• Determining to stop resuscitation
  – Follow local protocol
  – Medical direction should be defined

• AHA model for discontinuing resuscitation in prehospital setting
  – No resuscitation after adequate trial of basic life support along with advanced cardiac life support
  – Determination made by EMS authorities, medical directors
Resuscitation

- Determination made by EMS authorities, medical directors, who generally ensure
  - Successful tracheal intubation
  - IV access achieved, rhythm-appropriate medications and countershocks for ventricular fibrillation/pulseless ventricular tachycardia administered according to protocols
  - Persistent asystole, agonal electrocardiographic patterns present, no reversible causes identified

Advanced Directives

- Patient Self-Determination Act of 1990
  - Requires all facilities that accept Medicare, Medicaid recognize any kind of advance directive
  - Durable power of attorney for health care
  - Do not resuscitate order
  - Living wills
  - Right to die with dignity
  - For patients with terminal illness

You are called to care for a debilitated older adult patient in full cardiac arrest. The family members tell you that they want nothing done and are sobbing and begging you not to resuscitate the patient. They do not have the written documentation needed by your agency to permit the do not resuscitate order. What will you do? How will you feel about your decision?
Advanced Directives

• No CPR orders not to be confused with advance directives
  – Advance directives require physician interpretation, formulated into treatment plan
  – Treatment plan may include no CPR orders
  – Medical direction must establish policies for advanced directives

Advanced Directives

• Dying patient who asked not to be resuscitated
  – Immediately contact medical direction to determine care
  – Provide comfort measures if no medical intervention is decided

Potential Organ Donation

• Key role in evaluation of potential donors
  – Identify appropriate patients
  – Establish medical direction communication
  – Provide emergency care, maintain vital organs
Potential Organ Donation

- Identifying donors
  - Search for donor card
  - Driver’s license indication
  - Talk to next of kin
  - Family has right to make donation decision

Potential Organ Donation

- Identified potential donor
  - Contact medical direction
  - Notify organ procurement agencies
  - Record all patient care, vital signs, scene events that may affect evaluation
Potential Organ Donation

• Vital, heart beating donors can donate
  – Heart
  – Liver
  – Kidneys
  – Lungs
  – Pancreas

• Meet criteria for brain death
  – Heartbeat, circulation maintained until organs are harvested

Potential Organ Donation

• Nonvital, no heartbeat donors can donate
  – Corneas
  – Skin
  – Bones
  – Tendons
  – Heart valves
  – Saphenous veins
  – Up to 24 hours after cardiac death

Potential Organ Donation

• Preserving organ function
  – Airway management
  – Proper fluid resuscitation to maintain blood pressure and organ perfusion
  – Eye care, lubrication/saline solution for nontransported deceased
Death in Field

• Determination confirmed if
  – No spontaneous heart electrical activity, ECG confirmed
  – No spontaneous respirations
  – Absent cough, gag reflex
  – No spontaneous movement
  – No painful stimuli response
  – Fixed, midpoint pupils
  – Dependent lividity
  – Rigor mortis

Death in Field

• Apparent death encountered
  – Contact medical direction, follow protocols
  – Document observations, unusual findings
  – Notify appropriate authorities
  – Disturb scene as little as possible
  – Provide emotional support

Crime Scene Responsibilities

• Important managing roles
  – Patient care is primary focus
  – Preserve evidence when possible
• Personal safety, first priority
  – Do not enter unsafe scenes until secured
Crime Scene Responsibilities

- Direct radio communication with law enforcement
  - Scene safety
  - Number of patients
  - Need for more resources
  - Police not on scene, maintain contact with dispatch center, relay information
  - Law enforcement in charge of scene, provides protection for EMS

At the scene of a shooting, you see a patient with slow, gasping respirations, but the police will not let you enter the crime scene. How do you think you will feel?

Crime Scene Responsibilities

- Scene safety considerations
  - Approach scene only if it is secured
  - Approach from safe direction, easy exit
  - Constant radio contact, police, dispatch
  - Survey, assess scene before approaching patient
  - Keep unnecessary persons away
  - Bystander conversations when necessary
Documentation

• Legal record of patient care in field
  – Permanent part of hospital record
  – Records first items reviewed in lawsuits, malpractice
  – Claims may be filed years later

Effective PCR Characteristics

• Completed promptly
  – Essential to becoming part of hospital record
• Completed thoroughly
  – Cover assessment, treatment, relevant facts
• Completed objectively
  – Observations, no assumptions, no conclusions

Effective PCR Characteristics

• Completed accurately
  – Precise descriptions
  – Avoid abbreviations, jargon
Effective PCR Characteristics

• Confidentiality maintained
  – Follow policy for information release
  – Obtain consent when possible
  – Store records in secure location, limited access
  – Store to extent of statute of limitations
  – Personal injury lawsuits can happen 2 to 6 years later
  – Minor records kept longer, statute of limitations begins after age 18

Think back to the first call you were on when a patient refused medical care. Can you remember exact details about his or her level of consciousness, what you said about the risks of refusing care, and what you told the patient to do if the problem got worse? Do you think all those facts are in the written documentation of that call in the event of litigation?

Summary

• U.S. legal system structure is composed of five types of law
  – Legislative law
  – Administrative law
  – Common law
  – Criminal law
  – Civil law

• Law requires that paramedics perform within their scope of practice, follow all legal guidelines applicable to their practice
Summary

• To safeguard against litigation, paramedic must be knowledgeable of legal issues, effects of these issues

• Paramedics and health care workers may be required by law to report some cases
  – Abuse or neglect of children and older adults and spouse abuse
  – Cases that involve rape, sexual assault, gunshot wounds, stab wounds, animal bites, some communicable diseases

Summary

• Some state, federal regulations require notification of EMS exposure to infectious disease, include immunity statutes, have laws that describe special crimes against EMS personnel

• Lawsuits related to patient care usually result from civil claims of negligence
  – Refers to failure to act as a reasonable, prudent paramedic would act in such circumstances

Summary

• Protection against claims of negligence has three elements: training; competent patient care skills; full documentation of all patient care activities

• Confidential information includes any details about the patient that are related to the patient’s history
  – Assessment findings, treatment given
  – Release of these details requires written permission from patient or legal guardian, with some exceptions
Summary

• Mentally competent adult with decisional capacity has the right to refuse medical care, even if decision could result in death or permanent disability
• Four other legal complications related to consent are abandonment, false imprisonment, assault, battery

Summary

• Adult patient with decisional capacity has certain rights, including to decide what medical care (and transportation) to receive
  — Basic concept of law and medical practice
• Legal responsibilities for patient continue until patient care is transferred to another member of the health care system, or patient no longer requires care

Summary

• Legal issues related to patient transport include level of care during transportation, use of the emergency vehicle operating privileges, choice of patient destination, payer protocols
• Resuscitation issues that relate directly to EMS include withholding or stopping resuscitation, advance directives, potential organ donation, and death in the field
Summary

- Emergency medical services play two important roles when responding to crime scenes: (1) focusing on patient care, (2) preserving evidence at the scene when possible
- In legal field, general belief is that “if it was not written down, it was not done”
  - Thoroughness and attention to detail are vital in documentation

Questions?