Chapter 3
Medicolegal and Ethical Issues

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  - Legal Duties to the Patient, Medical Director, and Public
  - Ethical Responsibilities
  - Duty to Act

Overview
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  - Expressed Consent
  - Implied Consent
  - Children and Mentally Incompetent Adults
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Overview

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- Special Situations
  - Potential Organ Donors
  - Medical Condition Identification Insignia
  - Considerations at Possible Crime Scenes

Scope of Practice

- Legal duties to the patient, medical director, and public
  - EMTs provide for the well-being of the patient by rendering necessary interventions outlined in the scope of practice

Scope of Practice

- Defined by state legislation
  - Enhanced by medical direction through the use of protocols and standing orders
  - Referenced to the National Standard Curricula
  - Legal right to function as an EMT-Basic may be contingent on medical direction
Ethical Responsibilities

- Make the physical/emotional needs of the patient a priority
- Practice/maintenance of skills to the point of mastery
- Attend continuing education/refresher programs
- Critically review performances, seeking ways to improve response time, patient outcome, communication
- Honesty in reporting

Duty to Act

- The legal responsibility of EMS providers is to render emergency care when called upon or presented with an opportunity to do so

Duty to Act

- Contractual or legal obligation must exist
  - Implied
    - Patient calls for an ambulance and the dispatcher confirms that an ambulance will be sent
    - Treatment is initiated
Duty to Act

- Formal
  - Ambulance service has a written contract with a municipality
  - Specific clauses within the contract should indicate when service can be refused to a patient

Negligence

- Deviation from the accepted standard of care resulting in further injury to the patient

Standard of Care

- The minimum accepted level of care normally provided by EMS in a given area
Negligence

- Components
  - Duty to act
    - The EMT had a responsibility to provide care
  - Breach of the duty
    - Failure to provide care or provided inappropriate care
  - Injury/damages were inflicted
    - Physical
    - Psychological
  - Proximate cause
    - The actions of the EMT-Basic caused the injury/damage

Failure to render aid because an incompetent patient refused care is grounds for abandonment or negligence.

Abandonment

- Termination of care of the patient without ensuring the continuation of care at the same level or higher
- Legal duty to act may not exist
Consent

- Expressed consent
  - Patient must be of legal age and able to make a rational decision
  - Patient must be informed of the steps of the procedures and all related risks
  - Must be obtained from every conscious, mentally competent adult before rendering treatment

All competent adult patients have the right to refuse treatment, transport, or both.

Consent

- Implied consent
  - Consent assumed from the unresponsive patient requiring emergency intervention
  - Based on the assumption that the unresponsive patient would consent to lifesaving interventions
Implied consent applies to patients with altered mental status.

Consent

- Children and mentally incompetent adults
  - Consent for treatment must be obtained from the parent or legal guardian
    - Emancipation issues
    - State regulations regarding age of minors

When life-threatening situations exist and the parent or legal guardian is not available for consent, emergency treatment should be rendered based on implied consent.
Refusal of Treatment

- The patient has the right to refuse treatment
- The patient may withdraw from treatment at any time

Refusal of Treatment

- Refusals must be made by mentally competent adults following the rules of expressed consent
  - The patient must be informed of and fully understand all the risks and consequences associated with refusal of treatment/transport, and must sign a “release from liability” form
  - When in doubt, err in favor of providing care

Documentation is a key factor to protect the EMT-Basic in patient refusal of treatment or transport.
Refusal of Treatment

- Before leaving the scene:
  - Try again to persuade the patient to go to a hospital
  - Ensure the patient is able to make a rational, informed decision
  - Inform the patient why he or she should go and what may happen to him if he does not
  - Consult medical direction as directed by local protocol
  - Consider assistance of law enforcement
  - Document any assessment findings and emergency medical care given
  - Have the patient sign a refusal form

The EMT-Basic should never make an independent decision not to treat or transport.

Assault and Battery
Assault

- The threat or attempted offensive physical contact, or fear of such contact

Battery

- Touching a patient without consent
- Providing emergency care when the patient does not consent to the treatment

Advance Directives

- A written document that patients use to state what treatment they wish to receive or refuse, in the event that they become unable to express their intent
  - Living wills
  - Durable power of attorney
  - Do not resuscitate (DNR) orders
Advance Directives

- Patient has the right to refuse resuscitative efforts
- In general, requires written order from physician
- State and local legislation/protocols

When in doubt or when written orders are not present, the EMT-Basic should begin resuscitation efforts.

Patient Confidentiality

- Confidential information
  - Patient history gained through interview
  - Assessment findings
  - Treatment rendered
Patient Confidentiality
- Release of confidential information
- Requires a written release form signed by the patient
- Certain cases when a release is not required
  - Other health care providers need to know information to continue care
  - State law requires reporting incidents
  - Third-party payment billing forms
  - Legal subpoena

Patient Confidentiality
- Health Insurance Portability and Accountability Act (HIPAA) of 1996
  - Deals with the security, confidentiality, and proper use of patient information
  - Requires patients to be informed of agencies' privacy policies
  - Severe penalties for failure to comply
  - Follow your agency's guidelines

Special Reporting Situations
- Established by state legislation and may vary from state to state
**Special Reporting Situations**
- Commonly required reporting situations
  - Abuse
    - Child
    - Elderly
    - Spouse
  - Crime
    - Wounds obtained by violent crime
    - Sexual assault
    - Infectious disease exposure
    - Patient restraint laws
    - Mentally incompetent

**Potential Organ Donors**
- Requires a signed legal permission document
  - Separate donor card
  - Intent to be a donor on the reverse of patient’s driver’s license
- A potential organ donor should not be treated differently from any other patient requesting treatment

**Potential Organ Donors**
- EMT-Basic’s role
  - Identify the patient as a potential donor
  - Establish communication with medical direction
  - Provide care to maintain viable organs
Medical Identification Insignia

- Bracelet, necklace, card
  - Indicates a serious medical condition of the patient
    - Allergies
    - Diabetes
    - Epilepsy
    - Others

Crime Scenes

- Dispatch should notify police personnel
- Responsibility of the EMT-Basic
  - Emergency care of the patient is the EMT-Basic’s priority
  - Do not disturb any item at the scene unless emergency care requires it
  - Observe and document anything unusual at the scene
  - If possible, do not cut through holes in clothing from gunshot wounds or stabbings

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