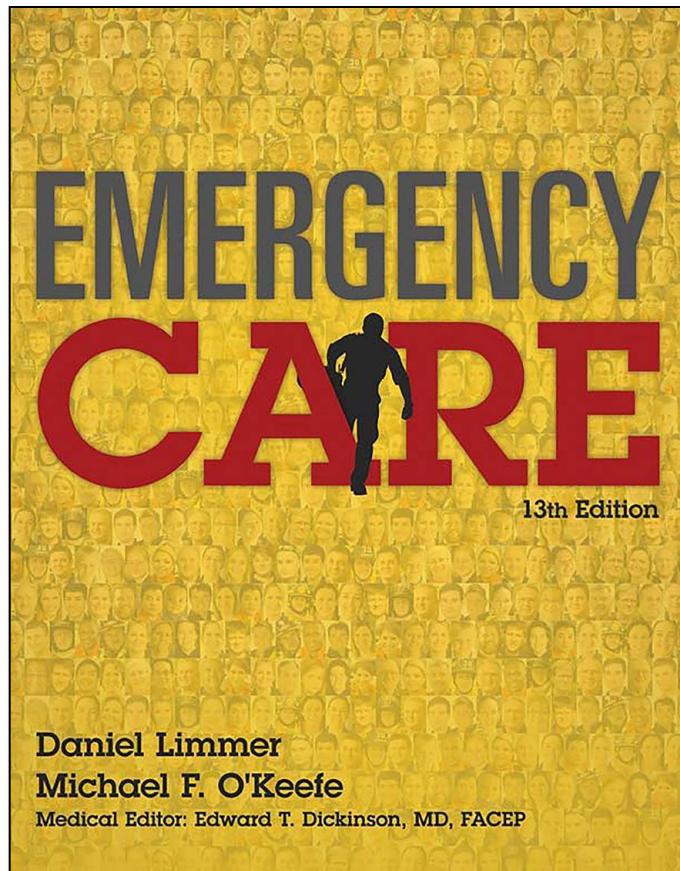


Emergency Care

THIRTEENTH EDITION



CHAPTER 4

Medical/Legal and Ethical Issues

Scope of Practice

Scope of Practice

- Regulations and ethical considerations that defines the scope, or extent and limits of an EMT's job
- May include skills and procedures
- Determined by national, state, local laws, statutes, and protocols

Standard of Care

- Care that would be expected from an EMT with similar training when caring for a 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

Patient Consent and Refusal

Consent

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

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Consent

- Children and mentally incompetent adults
 - Minors not legally permitted to provide consent or refusal for treatment
 - Obtain from parent or legal guardian
 - Possible exceptions (check local law)
 - *In loco parentis*
 - Emancipated minors

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Consent

- Children and mentally incompetent adults
 - Possible exceptions (check local law)
 - Life-threatening illness or injury
 - Minors who have children
 - Minors serving in armed forces

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Consent

- Children and 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

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Consent

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

When a Patient Refuses Care

- Patient may refuse care or transport under the following circumstances:
 - Patient must be legally able to consent.
 - Patient must be awake and oriented.
 - Patient must be fully informed.
 - Patient will be asked to sign a "release" form.
- Despite all precautions, EMT may still be held liable.

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When a Patient Refuses Care

- Take all possible actions to persuade the patient to accept care and transport.
 - Spend time speaking with the patient.
 - Listen carefully to try to determine why the patient is refusing care.
 - Inform the patient of the consequences of not going to the hospital.

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When a Patient Refuses Care

- Take all possible actions to persuade the patient to accept care and transport.
 - Consult medical direction.
 - Ask the patient if it is all right if you call a family member—or advise the patient that you would like to call a family member.

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When a Patient Refuses Care

- Take all possible actions to persuade the patient to accept care and transport.
 - Call law enforcement personnel if necessary.

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?

When a Patient Refuses Care

- Subjecting the patient to unwanted care and transport has actually been viewed in court as assault or battery.
- Have witnesses to refusal.
- Inform patient that if they change their mind, they can call back.

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When a Patient Refuses Care

- If possible, have friend or relative remain with patient.
- Document attempts thoroughly.

Do Not Resuscitate Orders and Physician Orders for Life-Sustaining Treatment

- Legal document expressing patient's wishes if patient unable to speak for self
- Do not resuscitate order (DNR)
 - May be part of an advance directive
 - May be part of a Physician Order for Life-Sustaining Treatment (POLST)
- Should also be familiar with living wills and health care proxies

Other Legal Issues

Negligence

- Something that should have been done 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

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Negligence

- Must prove:
 - Proximate causation
 - Patient suffered harm because of EMT action or inaction
- Negligent EMTs may be required to pay damages.

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Negligence

- *Res ipsa loquitur* (the thing speaks for itself)
 - Legal concept important in negligence cases

Duty to Act

- Obligation to provide care to a patient
- Duty to act is not always clear.
 - Off duty
 - On duty but out of jurisdiction
- Follow local laws and protocols.
- Follow own conscience.

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Duty to Act

- Abandonment
 - Once care is initiated, it 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 rescuer acts in good faith within level of training
- Rarely apply to on-duty personnel
- May not cover EMTs in some situations
- Do 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

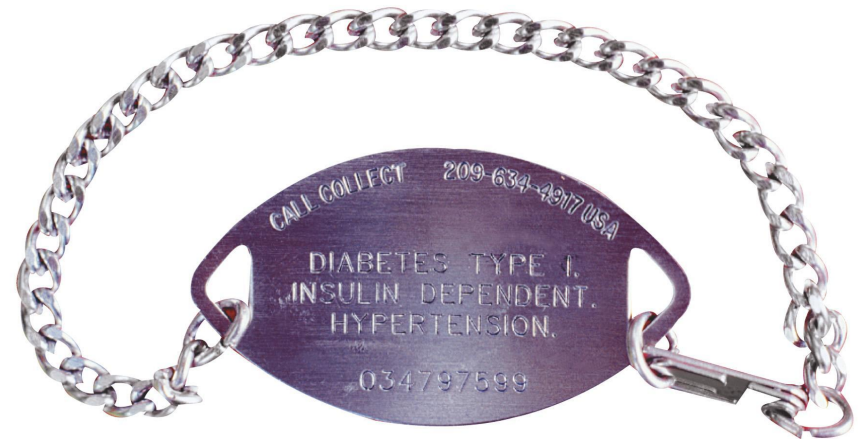
- Information on patient's history, condition, treatment considered confidential

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Confidentiality

- Privacy Rule of the Health Insurance Portability and Accountability Act (HIPAA)
 - Information shared with other health care personnel as part of patient's continuing care
 - Otherwise must be obtained through subpoena

Medical Identification Devices



Example of a medical identification device (front and back).

Special Situations

- Medical identification devices
 - For particular medical conditions
 - Necklace, bracelet, or card
 - Conditions include:
 - Heart conditions
 - Allergies
 - Diabetes
 - Epilepsy

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Special Situations

- Organ donors
 - 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

Special Situations

- Safe haven laws
 - Allow person to drop off 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.

Crime Scenes

- Examples of evidence
 - Condition of the scene
 - The patient
 - Fingerprints and footprints
 - Microscopic evidence

Crime Scenes

- Preservation of evidence
 - Remember what you touch
 - Minimize your impact on the scene
 - Work with the police

Special Reporting Requirements

- Child, elderly, or domestic abuse
- Violence (gunshot wounds or stabbings)
- Sexual assault
- Situations where restraint may be necessary

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Special Reporting Requirements

- Intoxicated person with injuries
- Mentally incompetent people with injuries
- Check local laws and protocols.

Chapter Review

Chapter Review

- Medical, legal, and ethical issues are a part of every EMS call.

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Chapter Review

- Consent may be expressed or implied. If a patient who is awake and oriented and has the capacity to fully understand his situation 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.

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Chapter Review

- Negligence is failing to act properly when you have a duty to act. As an EMT, you have a duty to act whenever you are dispatched on a call. You may have a legal or moral duty to act even when off duty or outside your jurisdiction.

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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.

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Chapter Review

- Confidentiality is the obligation not to reveal personal information you obtain about a patient except to other health care professionals involved in the patient's care, under court order, or when the patient signs a release.

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Chapter Review

- As an EMT, you may be sued or held legally liable on any of these issues. However, EMTs are rarely held liable when they have acted within their scope of practice and according to the standard of care and have carefully documented the details of the call.

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Chapter Review

- At a crime scene, care of the patient takes precedence over preservation of evidence; however, you should make every effort not to disturb the scene unnecessarily and to report your actions and observations to the police.

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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.

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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?