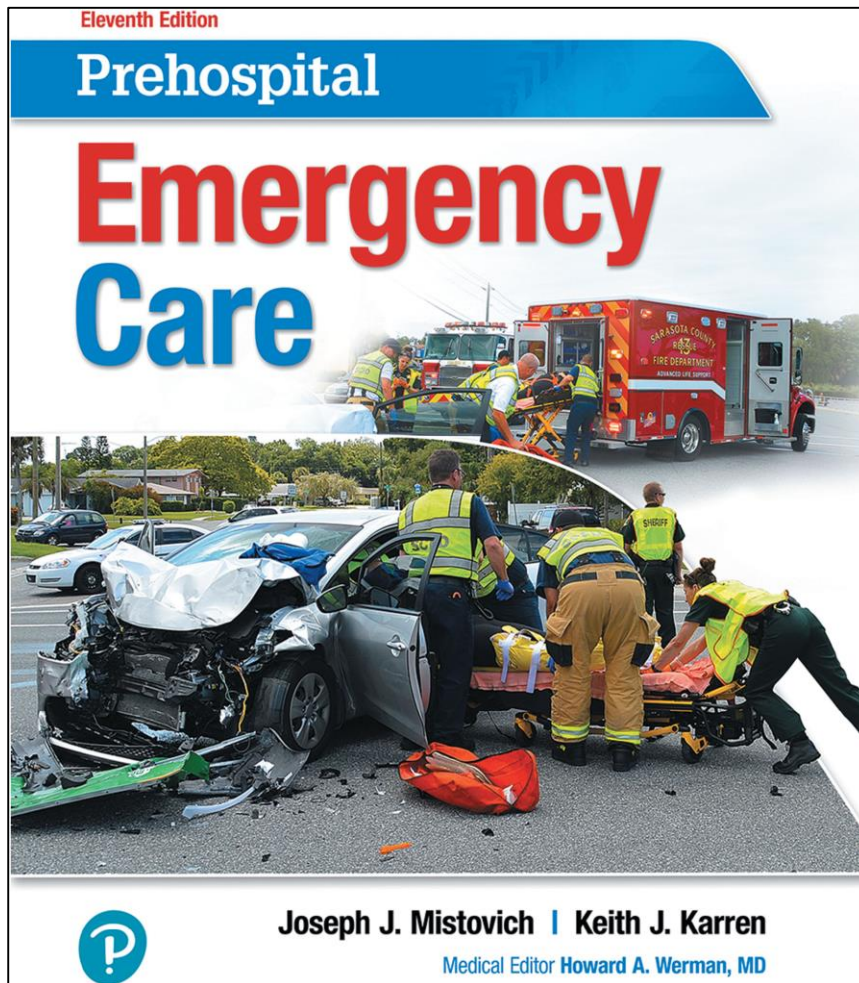


Prehospital: Emergency Care

Eleventh Edition



Chapter 3

Medical, Legal, and Ethical
Issues



Introduction

- Every EMS call involves legal and ethical decision making.
- Although most instances are clear, some are not.
- In some cases EMTs must weigh complex information to act in the patient's best interests.



Scope of Practice (1 of 12)

- Legal Duties
 - Scope of practice
 - Standard of care



Scope of Practice (2 of 12)

- Legal Duties
 - Scope of practice
 - The actions and care that EMTs are legally allowed to perform by the state in which they work
 - Establishes boundaries among professionals



Scope of Practice (3 of 12)

- Legal Duties
 - Scope of practice
 - Defining scope of practice
 - **National EMS Scope of Practice Model**
 - **National EMS Education Standards**
 - State laws, regulations, policies



Scope of Practice (4 of 12)

- Legal Duties
 - Standard of care
 - Two principles:
 - Did the EMT provide the **right** assessment and care?
 - Did the EMT perform the assessment and care **properly**?



Scope of Practice (5 of 12)

- Legal Duties
 - Duty to act
 - The legal obligation to provide service.
 - Duty to act exists while you are on duty with your service.
 - Duty to act does not exist when you are not on duty (in most states).
 - Other criteria may apply.



Scope of Practice (6 of 12)

- Legal Duties
 - Good Samaritan laws
 - Protect a person who is not being paid for his services from liability for acts performed in good faith except in cases of gross negligence



Scope of Practice (7 of 12)

- Legal Duties
 - Good Samaritan laws
 - You must:
 - Render care to the best of your ability.
 - Work within the scope of practice and to the standard of care.
 - Act professionally.



Scope of Practice (8 of 12)

- Legal Duties
 - Other legal protections
 - Sovereign immunity is afforded in some cases to government employees.
 - Statutes of limitations restrict the amount of time a person has to file a lawsuit.
 - Contributory negligence on the part of the patient.



Scope of Practice (9 of 12)

- Legal Duties
 - Medical direction
 - The legal right to function as an EMT is contingent on approval by medical direction.



Scope of Practice (10 of 12)

- Legal Duties
 - Medical direction
 - With regard to medical direction, you must do the following:
 - Follow approved standing orders and protocols
 - Communicate with medical direction when needed



Scope of Practice (11 of 12)

- Legal Duties
 - Ethical Responsibilities
 - Ethics
 - Branch of philosophy focused on the study of morality
 - Morals
 - Concepts of right and wrong



Scope of Practice (12 of 12)

- EMT Code of Ethics
 - Places welfare of the patient above all else when providing medical care
 - **Serve the needs of the patient**
 - **Maintain skill mastery**
 - **Remain abreast of changes in EMS**
 - **Critically review performances**
 - **Report with honesty**
 - **Work harmoniously with health care team**



Issues of Patient Consent and Refusal (1 of 11)

- Competent patients have the right to accept or refuse emergency medical care.
- You must obtain consent, or have the legal right to do so, before providing care.



Issues of Patient Consent and Refusal (2 of 11)

- Types of Consent
 - Informed consent
 - Expressed consent
 - Implied consent
 - Minor consent
 - Involuntary consent



Issues of Patient Consent and Refusal (3 of 11)

- Advance Directives
 - Based on patients' right to self-determination
 - Documents the wish of the chronically or terminally ill patient not to be resuscitated
 - Legally allows the health care provider to withhold resuscitation



Issues of Patient Consent and Refusal (4 of 11)

- Advance Directives
 - Types
 - Do not resuscitate (DNR)
 - Living will
 - Health care durable power of attorney (health care proxy)
 - Physician's orders for life-sustaining treatment (POLST)



Issues of Patient Consent and Refusal (5 of 11)

- Advance Directives
 - Issues in advanced directives
 - Determining validity of the document
 - Interpreting the orders
 - Conflict between the DNR or POLST and wishes of the family



Issues of Patient Consent and Refusal (6 of 11)

- Advance Directives
 - Responding to advanced directive issues
 - If in doubt, consider initiating immediate treatment.
 - Contact medical direction.
 - Continue treatment until the issue is resolved.
 - Document thoroughly.



Issues of Patient Consent and Refusal (7 of 11)

- Refusing Treatment
 - A patient has the right to refuse care, even if it will result in death.
 - For the patient to refuse, he must demonstrate the mental capacity to do so.



Issues of Patient Consent and Refusal (8 of 11)

- Refusing Treatment
 - Capacity
 - Patient is lucid and able to make rational and informed decisions
 - Patient does not have altered mental status (e.g. is not under the influence of drugs or alcohol)



Issues of Patient Consent and Refusal (9 of 11)

- Refusing Treatment
 - Capacity
 - The patient must be informed of and fully understand the treatment and the potential risks or consequences of refusing treatment.
 - The patient must sign the release form, or if he refuses, attempt to have someone witness the refusal.



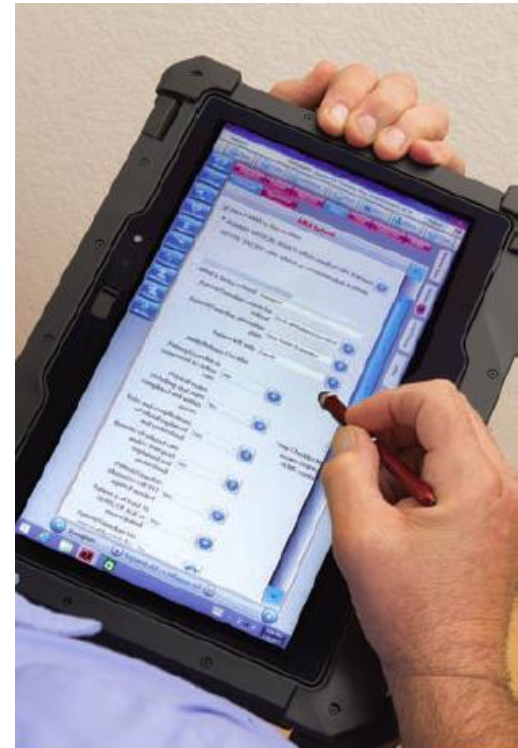
Issues of Patient Consent and Refusal (10 of 11)

- Protecting Yourself in Refusal Situations
 - Complete a thorough assessment.
 - Make sure the patient is competent.
 - Exhaust your attempts to persuade the patient.
 - Consult medical direction as needed.
 - Clearly document what you told the patient and his response to it.
 - Encourage patient to seek help later or through different means.



Issues of Patient Consent and Refusal (11 of 11)

- Protecting Yourself in Refusal Situations
 - Always keep complete and accurate documentation.



Other Legal Aspects of Emergency Care (1 of 27)

- Negligence
 - A breach of legal duty creates a liability.
 - Two types of negligence exists
 - Criminal negligence
 - Civil negligence



Other Legal Aspects of Emergency Care (2 of 27)

- Negligence
 - Negligence is a tort in which:
 - There was no intent to do harm
 - But there was a breach of duty to act



Other Legal Aspects of Emergency Care (3 of 27)

- Negligence
 - Elements to prove negligence:
 1. The EMT had a duty to act.
 2. The EMT breached the duty to act.
 3. The patient suffered harm or injury.
 4. The injury was a result of the breach of duty (proximate cause).



Other Legal Aspects of Emergency Care (4 of 27)

- Negligence
 - Associated legal principles
 - **Res ipsa loquitur**
 - “The thing speaks for itself.”
 - The inappropriate actions are obvious.
 - Negligence **per se**
 - The act is negligent simply because it violates a statute or regulation.



Other Legal Aspects of Emergency Care (5 of 27)

- Intentional Torts
 - Various types of intentional torts
 - Abandonment
 - Assault
 - Battery
 - False imprisonment
 - Defamation (slander and libel)



Other Legal Aspects of Emergency Care (6 of 27)

- Intentional Torts
 - The difference between intentional tort and negligence is that negligence is a failure to meet the standard of care whereas intentional tort is knowingly committed.



EMTs Transferring Care to a Flight Crew for Transport to a Trauma Center

You must always transfer care of the patient to a professional of equal or better training to avoid charges of abandonment.



Other Legal Aspects of Emergency Care (7 of 27)

- Confidentiality
 - Do not speak to the press, your family, friends, or the public about details of the emergency care you provided to a patient.
 - Releasing confidential information requires a written release form signed by the patient or a legal guardian.



Other Legal Aspects of Emergency Care (8 of 27)

- Confidentiality
 - By law, you can release information if:
 - Needed in order to continue medical care.
 - Mandatory reporting laws apply.
 - Required by police as part of a potential criminal investigation.
 - A third-party billing form requires the information.
 - You are subpoenaed.



Other Legal Aspects of Emergency Care (9 of 27)

- Health Insurance Portability and Accountability Act (HIPAA)
 - Federal law protects the privacy of patient health care information.



Other Legal Aspects of Emergency Care (10 of 27)

- Health Insurance Portability and Accountability Act
 - HIPAA and EMS
 - You may discuss patient-specific information only when there is a medical necessity.
 - You must receive training in your agency's policies.
 - Patients must be provided with privacy policies.



Other Legal Aspects of Emergency Care (11 of 27)

- Consolidated Omnibus Budget Reconciliation Act (COBRA)
- Emergency Medical Treatment and Active Labor Act (EMTALA)
 - Federal regulations that ensure access to emergency health care regardless of ability to pay



Other Legal Aspects of Emergency Care (12 of 27)

- COBRA and EMTALA
 - EMS involvement
 - EMS becomes involved when patients are being transferred from a hospital to another medical facility.
 - The patient must first be stabilized to the best of the medical facility's ability.
 - The ambulance crew performing the transfer must be qualified and capable of managing the patient and his condition.



Other Legal Aspects of Emergency Care (13 of 27)

- COBRA and EMTALA
 - Protecting yourself in transport and transfer situations
 - Obtain written certification for the transfer from the transferring physician.
 - Ensure you can provide the level of care needed during transport.
 - Know where you are going and take the quickest possible route.



Other Legal Aspects of Emergency Care (14 of 27)

- Special Situations
 - Organ donation
 - Organs can be donated only if there is a legal signed document giving permission.
 - A signed donor card is a legal document; driver's license organ donor status provides an intent to donate organs.



Other Legal Aspects of Emergency Care (15 of 27)

- Special Situations
 - Medical identification insignia
 - Bracelets, necklaces, or cards



Other Legal Aspects of Emergency Care (16 of 27)

- Special Situations
 - Medical alert tattoo
 - Not universally accepted yet
 - May be overlooked as body art



Other Legal Aspects of Emergency Care (17 of 27)

- Special Situations
 - Recognizing death in the field
 - Generally, if the patient is still warm and does not exhibit any obvious signs of death, begin resuscitation.
 - There is an exception for patients with hypothermia.



Other Legal Aspects of Emergency Care (18 of 27)

- Special Situations
 - Recognizing death in the field
 - For patients with an advanced directive
 - Absence of a pulse and breathing
 - Completely unresponsiveness to any stimuli
 - No eye movement or pupil response
 - Absence of a blood pressure
 - No reflexes



Other Legal Aspects of Emergency Care (19 of 27)

- Special Situations
 - Recognizing death in the field
 - For patients with no advanced directive
 - Decapitation
 - Rigor mortis
 - Decomposition
 - Dependent lividity



Other Legal Aspects of Emergency Care (20 of 27)

- Special Situations
 - Cases requiring investigation by the coroner or medical examiner
 - Homicide or suicide
 - Violent death
 - Crash-related death
 - Unusual scene characteristics
 - Sudden infant death syndrome (SIDS)
 - Dead on arrival (in some locations)



Other Legal Aspects of Emergency Care (21 of 27)

- Special Situations
 - Crime Scenes
 - Your first concern upon approaching a crime scene should be for your own safety.
 - Recognizing a possible crime scene requires a high index of suspicion.
 - Potential crime scenes require police support.



Other Legal Aspects of Emergency Care (22 of 27)

- Special Situations
 - Crime Scenes
 - Wait until the police declare that the scene is safe.
 - Even when the police declare the scene safe, it can still be potentially dangerous.
 - Once the scene is secure, your priority is emergency care of the patient.



Other Legal Aspects of Emergency Care (23 of 27)

- Special Situations
 - Crime Scenes
 - Avoid disturbing potential evidence.
 - Take one way in and out.
 - Touch only what you must; tell a police officer if you move or touch anything.
 - Do not use a crime scene telephone.



Other Legal Aspects of Emergency Care (24 of 27)

- Special Situations
 - Crime Scenes
 - Avoid disturbing potential evidence.
 - In the absence of police permission, move the patient only if he is in danger or must be moved for you to provide care.
 - Observe and document carefully.
 - Do not cut through holes in clothing.



Other Legal Aspects of Emergency Care (25 of 27)

- Special Situations
 - Crime Scenes
 - Avoid disturbing potential evidence.
 - Do not cut through any rope knot or tie.
 - Do not cover the patient with a sheet.
 - If the crime is rape:
 - Do not wash the patient or allow the patient to wash.
 - Ask the patient not to change clothing, use the bathroom, or take anything by mouth.



Other Legal Aspects of Emergency Care (26 of 27)

- Special Situations
 - Special reporting situations
 - Abuse
 - Crime
 - Drug-related injuries



Other Legal Aspects of Emergency Care (27 of 27)

- Baby Safe-Haven Laws
 - Designed to prevent child abandonment.
 - Allow a parent to relinquish custody of an unharmed infant to a proper authority.
 - An EMS station may be a designated safe haven.



Lesson Summary (1 of 3)

- Emergency care involves medical, legal, and ethical issues.
- Scope of practice identifies what care can legally be performed.
- Standard of care identifies the accepted level of care.
- Medical direction is required for medical oversight of an EMS system.



Lesson Summary (2 of 3)

- A competent adult can refuse care.



Lesson Summary (3 of 3)

- Consent applies in all patient care situations.
- Four elements must be proven to establish negligence.
- HIPAA, COBRA, and EMTALA apply to EMS.
- There are special considerations in responding to crime scenes.



Questions?

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