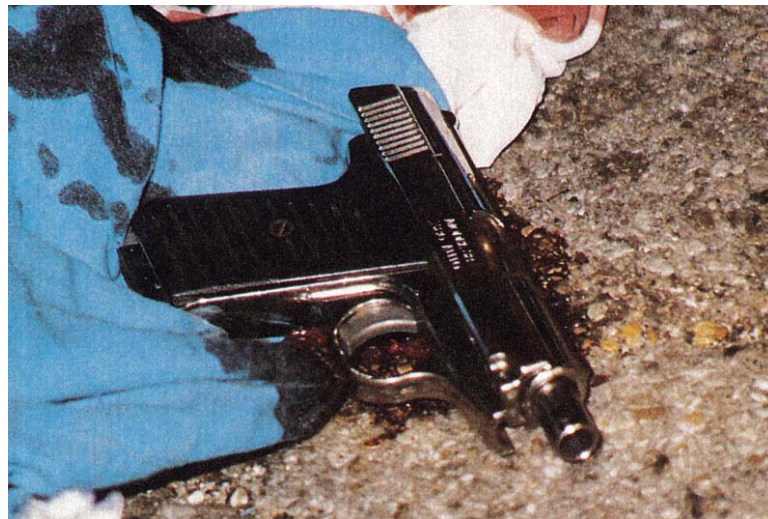


Will/Grundy EMS System

2nd Trimester CME
Medical/Legal
ALS/ILS/BLS



Legal Duties

- **Legal duties to patient, employer, medical director, and public**
 - **Set by statutes and regulations**
 - **Based on generally accepted standards**

Ethical Responsibilities

- **Principles that identify conduct deemed morally desirable**

Ethical Responsibilities

- **Responding with respect to the physical and emotional needs of every patient**
- **Maintaining mastery of skills**
- **Participating in continuing education/refresher training**
- **Critically reviewing performance and seeking improvement**
- **Reporting honestly**

Ethical Responsibilities

- **Respecting confidentiality**
- **Working cooperatively and with respect for other emergency workers and health care professionals**
- **Staying current with new concepts and modalities**
- **NAEMT Code of Ethics**
 - **Exemplifies ethical guidelines for paramedic**

Legal & Ethical Responsibilities

- **Failing to perform the job appropriately can result in civil or criminal liability**
- **Best legal protection is:**
 - **Appropriate assessment and care**
 - **Accurate and complete documentation**
- **Laws differ from state to state and area to area**
 - **Get competent legal advice**

Types of Law

- **Legislative law**
- **Administrative law**
- **Common law**
- **Criminal law**
- **Civil law**

Legislative Law

- **Made by legislative branches of government**
 - **City councils**
 - **District boards**
 - **General assemblies**
 - **Congress**

Administrative Law

- **Regulations developed by a governmental agency to provide details about the function and process of the law**
- **Regulatory agencies may hold disciplinary hearings regarding revocation or suspension of licenses**

Common Law

- **Case or judge-made law**
- **Derived from society's acceptance of customs or norms over time**
- **Based on decisions of state and federal judicial systems**
- **Court decisions may provide guidance in defining:**
 - **Acceptable conduct**
 - **Negligence**
 - **Interpretation of EMS statutes and regulations**

Criminal Law

- **Area of law in which federal, state, or local government prosecutes individuals on behalf of society for violating laws designed to safeguard society**
- **Violation punished by fine, imprisonment, or both**

Civil (Tort) Law

- **Area of law dealing with private complaints brought by a plaintiff against a defendant for an illegal act or wrongdoing (tort)**
- **Enforced by bringing a civil lawsuit in which plaintiff requests court to award damages**

How Laws Affect the Paramedic

- **Scope of Practice**
- **Medical Direction**
- **Medical Practice Act**

Licensure/Certification

- **Licensure**
- **Certification**

Motor Vehicle Laws

- **Motor vehicle codes usually define standards for equipping and operating emergency vehicles**
 - **Vary by state**
- **Review state codes regarding:**
 - **Reckless driving**
 - **Excessive speeds**
 - **Failure to consider roads and weather conditions**
 - **Inappropriate use/nonuse of sirens and lights**

Mandatory Reporting Requirements

- **Child abuse and neglect**
- **Elder abuse**
- **Spouse abuse**
- **Sexual assault**
- **Gunshot and stab wounds**
- **Animal bites**
- **Certain communicable diseases**
- **Content of report and to whom it must be made is set by law, regulation or policy**

Protection for the Paramedic

- **Infectious disease exposure notification**
 - **Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (PL 101-381)**
- **Immunity statutes**
 - **Governmental immunity**
 - **Good Samaritan laws**

Protection for the Paramedic

- **Special crimes against a paramedic**
- **If the scene is not safe, and it cannot be made safe– retreat from the scene and do not enter the area until it is properly secured**

The Role of the Courts

- **Trial court**
 - **Determines outcomes of individual cases**
 - **Cases may be determined by judge or jury**
- **Appellate court**
 - **Hears appeals of decisions by trial courts or other appeals courts**
 - **Decisions may set precedent for later cases**

Anatomy of an Injury Lawsuit

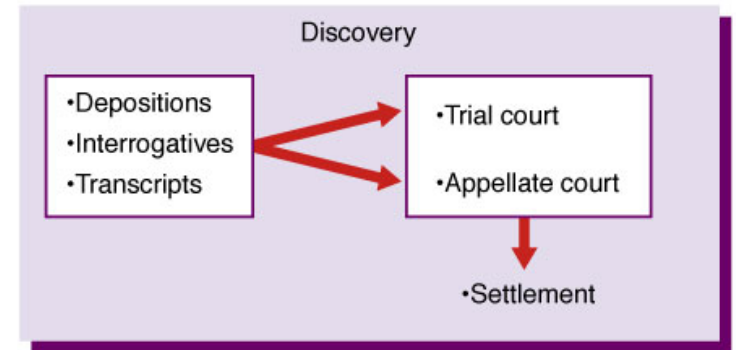
- Incident occurs
- Investigation conducted by plaintiff's representative
- Complaint is filed in court and served on defendant
- Complaint is answered by defendant



Figure 4-1

Anatomy of an Injury Lawsuit

- **Discovery occurs**
- **Trial is conducted**
- **Decision is handed down by judge or jury**
- **Decision may be appealed**
- **Settlement occurs**



Legal Accountability - Paramedic

- **Responsible to act in a reasonable and prudent manner**
- **Responsible to provide a level of care and transportation consistent with education/training and local protocol**
- **Negligence can result in legal accountability and liability**

Negligence

- **Lawsuits involving patient care usually result from civil claims of *negligence*: the failure to act as a reasonable, prudent paramedic would act in similar circumstances**

Components of Negligence

- **In most states, four elements must be proved for negligence to exist:**
 - **Duty to act**
 - **Breach of duty**
 - **Damages**
 - **Proximate cause**

Negligence - Defenses

- **Best protection for health care professionals against claims of negligence:**
 - **Training**
 - **Competent patient care skills**
 - **Thorough documentation of all patient care activities**

Negligence - Defenses

- **Good Samaritan laws**
- **Governmental immunity**
- **Statute of limitations**
- **Contributory negligence**
- **Liability insurance**

Special Liability Concerns

- **Liability of Paramedic Medical Director**
 - **On-line**
 - **Off-line**
- **Liability for “Borrowed Servants“**

Civil Rights

- **May not discriminate in providing service to a patient by reason of race, color, gender, national origin, or, in some cases, ability to pay**
- **Patients should be provided with appropriate care regardless of disease condition**

Off-Duty Paramedic

- **May not have authority to perform paramedic procedures that require delegation from a physician**
- **Varies from state to state**

Protection Against Negligence Claims

- **Appropriate education/training and continuing education**
- **Appropriate medical direction**
 - **On- and off-line**
- **Accurate, thorough documentation**
- **Professional attitude and demeanor**

Confidentiality

- **Confidential information**
 - **Patient history**
 - **Assessment findings**
 - **Treatment rendered**

Confidentiality

- **Release of information**
- **Requires written permission from patient or legal guardian**
- **Permission not required for release of select information**
- **Improper release of information or release of inaccurate information can result in liability**
 - **Invasion of privacy**
 - **Defamation**
 - **Libel**
 - **Slander**

Libel and Slander

- **Libel refers to false statements about a person made in writing or through the mass media with malicious intent or reckless disregard for the falsity of the statements.**
- **Slander refers to the false verbal statements about a person made with malicious intent or reckless disregard for the falsity of the statements.**

Consent

- **Conscious, competent patients have the right to decide what medical care and transportation to accept**
- **Patient must be of legal age and able to make a reasoned decision**

Consent

- **Patient must be properly informed**
 - **Nature of the illness or injury**
 - **Treatment recommended**
 - **Risks and dangers of treatment**
 - **Alternative treatment possible and the risks**
 - **Dangers of refusing treatment (including transport)**
- **Conscious, competent patient can revoke consent at any time during care and transport**

Consent

- **Informed consent**
- **Expressed consent**
- **Implied consent**
- **Involuntary consent**

Informed Consent

- **Informed consent is a patient consent signifying that he or she knows, understands, and agrees to the care rendered – a consent given based on full disclosure of information.**

Expressed Consent

- **Verbal or written consent to treatment is called expressed consent. Consent can also be expressed nonverbally by actions or simply by the patient allowing care to be rendered.**

Implied Consent

- **Implied consent presumes that unconscious or mentally impaired patients needing immediate emergency care would consent to lifesaving treatments if they were able to do so.**

Involuntary Consent

- **Involuntary consent refers to treatment that is granted by authority of law. Examples include caring for patients who are held involuntarily for mental health evaluation, and patients who may be held under arrest or in protective custody by law enforcement.**

Minors

- **In most states, a person is a minor until age 18, unless emancipated**
- **Unemancipated minors are not able to give or withhold consent**
 - **Consent of parent, legal guardian or court-appointed custodian is usually required**
- **Emergency doctrine applies to minors when parent or guardian cannot be contacted**

Mentally Incompetent Adults

- **If there is a legal guardian, consent may be given or withheld by guardian**
- **Emergency doctrine applies if no one legally able to give consent can be contacted**

Prisoners or Arrestees

- **Court or police who have custody may authorize emergency treatment**
- **Usually limited to care needed to save life or limb**

Refusal of Care or Transport

- **Patient must be conscious and able to make a reasonable decision**
- **Make multiple attempts to convince the patient to accept care**
- **Enlist help of others to convince patient**
- **Assure that patient is informed about the implication of the decision and potential for harm**

Refusal of Care or Transport

- **Consult medical direction**
- **Request patient and a disinterested witness to sign a "release from liability" form**
- **Advise the patient that he or she may call again for help if needed**
- **Attempt to get family or friends to stay with patient**
- **Document situation and actions thoroughly on patient care report**

Refusal of Care or Transport

- **Cases involving refusal of care are a significant cause of lawsuits against EMS agencies**
- **Always consult with medical direction**

Decisions Not to Transport

- **Involve medical direction**
- **Thoroughly document reasons for decision**

Abandonment

- **Terminating care when it is still needed and desired by patient, and without assuring that appropriate care continues to be provided by another qualified provider**
- **May occur in field or when a patient is delivered to emergency department**

False Imprisonment

- **May be charged by a patient who is transported without consent or who is restrained without proper cause or authority**
- **May be a civil or criminal violation**

Assault / Battery

- **Assault**
 - **Threatening, attempting or causing fear of offensive physical contact with a patient or other individual**

- **Battery**
 - **Unlawful touching of another person without consent**

Use of Force

- **Unruly or violent patients**
- **Use of restraints**
- **Involve law enforcement, if possible**
- **Use only force considered to be “reasonable” to prevent harm to the patient or others**
- **Must always be humane and never punitive in nature**

Transportation of Patients

- **Level of care during transportation**
- **Use of emergency vehicle operating privileges**
- **Choice of patient destination**
- **Payer protocols**

Resuscitation Issues

- **Withholding or stopping resuscitation**
 - **Procedure should be established by local protocols**
 - **Role of medical direction should be clearly delineated**

Resuscitation Issues

- **As a rule, patients who are pulseless should be resuscitated (unless directed otherwise by a physician), or unless one or more of the following is present ...**

Resuscitation Issues

- **Obvious clinical signs of death**
- **Resuscitation attempts which would place the rescuer at significant risk of personal injury**
- **Presence of documentation in the form of:**
 - **“NO-CPR” orders**
 - **“Do Not Resuscitate” (DNR) orders**
 - **“Do Not Attempt Resuscitation (DNAR) orders**
- **Or another reliable reason to believe that CPR is not indicated, warranted, or in patient’s best interest**

Advance Directives

- Status depends on state laws and local protocols
- Written patient statements of preference for future medical treatment
 - Living will
 - Durable power of attorney for health care
 - Do not resuscitate (DNR) orders
- Authority granted in part by Patient Self-Determination Act
- Medical direction must establish and implement policies for dealing with advance directives

DO NOT RESUSCITATE (DNR) REQUEST

MISSOURI DEPARTMENT OF HEALTH
BUREAU OF EMERGENCY MEDICAL SERVICES
OUTSIDE THE HOSPITAL DO NOT RESUSCITATE (DNR) REQUEST

DNR # 13132

I, _____, request limited emergency care as herein described.
(Name)

I understand DNR means that if my heart stops beating or if I stop breathing, no medical procedure to restart breathing or heart functioning will be instituted.

I understand this decision will not prevent me from obtaining other emergency medical care by outside the hospital care providers and/or medical care directed by a physician prior to my death.

I understand I may revoke this directive at any time.

I give permission for this information to be given to the outside the hospital care providers, doctors, nurses, or other health personnel as necessary to implement this directive.

I hereby agree to the "Do Not Resuscitate" (DNR) order.

▶ Patient/Appropriate Surrogate Signature (Mandatory)	Date
▶ Witness (Mandatory)	Date

REVOCATION PROVISION

I hereby revoke the above declaration.

Signature	Date
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I AFFIRM THIS DIRECTIVE IS THE EXPRESSED WISH OF THE PATIENT/PATIENT'S APPROPRIATE SURROGATE, IS MEDICALLY APPROPRIATE, AND IS DOCUMENTED IN THE PATIENT'S PERMANENT MEDICAL RECORD.

In the event of a cardiac or respiratory arrest, no cardiopulmonary resuscitation will be initiated.

▶ Physician's Signature (Mandatory)	Date
Physician - Printed Name	Physician's Telephone Number
Address	Facility or Agency Name

MC 300-1028 (8-04) DNR017

THIS DNR REQUEST FORM SHOULD BE KEPT WITH THE PATIENT IN A VISIBLE LOCATION AT ALL TIMES.
THIS FORM WILL NOT BE ACCEPTED IF IT HAS BEEN AMENDED OR ALTERED IN ANY WAY.

DO NOT RESUSCITATE (DNR) REQUEST

Figure 4-2

Potential Organ Donation

- **Identify the patient as a potential donor**
- **Establish communication with medical direction**
- **Provide emergency care that will help maintain viable organs**
 - **Airway management**
 - **Appropriate fluid resuscitation to maintain adequate perfusion**
 - **Eye care**
- **Careful documentation**

Death in the Field

- **In the field, determination of death usually is confirmed by the following signs:**
 - **No spontaneous electrical activity in the heart as confirmed by ECG in several leads**
 - **No spontaneous respirations**
 - **Absent cough and gag reflex**
 - **No spontaneous movement**
 - **No response to painful stimuli**
 - **Fixed and dilated pupils**
 - **Dependent lividity**
 - **Rigor mortis**

Death in the Field

- **When an apparent death is encountered in the field, the paramedic should:**
 - **Contact medical direction for guidance and follow established state and/or local protocols**
 - **Document any observations or unusual findings at the scene**
 - **Notify appropriate authorities per protocol (e.g., police, coroner)**
 - **Disturb the scene as little as possible**
 - **Provide emotional support to surviving family and friends at the scene**

Crime Scene

- **Protect self and other EMS personnel**
- **Care for the patient(s) as necessary**
- **Notify law enforcement if not already involved**
- **Observe and document any items moved or anything unusual at the scene**
- **Protect potential evidence**

Accident Scene

- **Protect self and other EMS personnel**
- **Care for the patient(s) as necessary**
- **Summon additional personnel if needed**

Documentation

- **Importance**
 - **If it is not written down, it was not done**
- **Memory is fallible**
 - **Claims may not be filed until years after an event**

Effective Patient Care Report

- **Completed:**
 - **Promptly**
 - **Thoroughly**
 - **Objectively**
 - **Accurately**
 - **Maintained**
- **Copy to become part of patient's hospital record**
- **Maintained at least for extent of statute of limitations**