CHAPTER 4

Medical, Legal, and Ethical Issues



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National EMS Education Standard Competencies (1 of 2)

Preparatory

Uses simple knowledge of the EMS system, safety/well-being of the EMR, and medical/legal issues at scene of an emergency while awaiting a higher level of care.

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National EMS Education Standard Competencies (2 of 2)

- Consent/refusal of care
- Confidentiality
- Advance directives
- Tort and criminal actions
- Evidence preservation
- Statutory responsibilities
- Mandatory reporting
- Ethical principles/moral obligations
- End-of-life issues

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Introduction

- Laws differ from one location to another, so EMRs should learn specific laws that apply in their state and local jurisdiction.
- Do not lose sight of these concepts:
  - Above all else, do no harm.
  - Provide all your care in good faith.
  - Provide proper consistent care, be compassionate, and maintain your composure.

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Duty to Act

- If you are employed by an agency as an EMR and you are dispatched to scene of an accident or illness, you have a duty to act.
  - You must proceed quickly to the scene and provide emergency medical care within the limits of your training and available equipment.
- Failure to respond or render necessary emergency care leaves you and your agency vulnerable to legal action.



FIGURE 4-1 EMRs dispatched to an emergency scene.
Courtesy of Captain David Jackson, Saginaw Township Fire Department.

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Standard of Care

- Standard of care is the manner in which you must act or behave.
- You ***must*** meet two criteria:
  - Treat patient to the best of your ability.
  - Provide care that a reasonable, prudent person with similar training would provide under similar circumstances.

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Scope of Care

- Scope of care is defined by
  - US Department of Transportation's *Emergency Medical Responder Educational Standards*
  - Medical protocols or standing orders (regional or state)
  - Online medical direction

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Ethical Responsibilities and Competence (1 of 2)

- Treating a patient ethically means doing so in a manner that conforms to accepted professional standards of conduct.
  - Stay up-to-date on skills and knowledge.
  - Review your performance and assess your techniques.
  - Evaluate your response times.
  - Try to follow up patient outcomes.
  - Take continuing education classes.
  - Participate in quality improvement activities.

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Ethical Responsibilities and Competence (2 of 2)

- Ethical behavior requires honesty.
  - Always provide complete and correct reports to other EMS providers.
  - Never change a report except to correct an error.

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Consent for Treatment (1 of 4)

- Consent simply means giving approval or permission.
- Expressed consent
  - Patient actually lets you know—verbally or nonverbally—that he or she is willing to accept treatment. Ideally the consent will be expressed and also informed.
  - Sometimes called actual consent.
  - Patient must be of legal age and able to make a rational decision.
    - Discuss “emancipated minor” as defined in your state law.

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Consent for Treatment (2 of 4)

- Implied consent
  - Patient does not specifically refuse emergency care.
  - Do not hesitate to treat an unconscious patient.
- Consent for minors
  - Under the law, minors are not considered capable of speaking for themselves.

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Consent for Treatment (3 of 4)



FIGURE 4-2 Do not delay or withhold emergency
medical treatment from a patient who is a minor.

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- Consent for minors (cont'd)
  - Emergency treatment must wait until a patient or legal guardian consents to treatment.
  - If permission cannot be quickly obtained, do not hesitate to give appropriate medical care.

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Consent for Treatment (4 of 4)

- Consent of patients with a mental illness
  - If person appears to be a threat to self or others, place this person under medical care.
  - Know your state's legal mechanisms for handling these patients.
  - Do not hesitate to involve law enforcement agencies.

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Patient Refusal of Care (1 of 2)

- A competent adult has a legal right to refuse treatment.
- Help person understand consequences of refusing care by explaining:
  - Treatment
  - Reason that the treatment is needed
  - Potential risks if treatment is not provided
  - Alternative treatments that might help

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Patient Refusal of Care (2 of 2)

- Patient refusals should be documented on your patient care record according to your agency protocols.

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Advance Directives (1 of 3)

- An advance directive is a document that specifies what a person would like to be done if he or she becomes unable to make his or her own medical decisions.
- A living will
  - Written document drawn up by a patient, a physician, and a lawyer.
  - States types of medical care person wants or wants withheld.

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Advance Directives (2 of 3)

- A durable power of attorney for health care
  - Allows a patient to designate another person to make decisions about medical care.
- A do-not-resuscitate (DNR) order
  - Written request giving permission to medical personnel to withhold resuscitation in the event of cardiac arrest.
- Additional terms for these types of orders:
  - MOLST or POLST

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Advance Directives (3 of 3)

- If you are unable to determine if an advance directive is legally valid, begin appropriate medical care.
  - Some states have systems in place, such as bracelets, to identify patients with advance directives.

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Abandonment

- Abandonment occurs when a trained person begins emergency care and then leaves the patient before another trained person takes over.
- Once you have started treatment, you must continue it until a person who has at least as much training arrives and takes over.

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People Dead at Scene (1 of 2)

- If you see any signs that a person is alive, you should begin providing care.
- You cannot assume a person is dead unless one of these conditions exists:
  - Decapitation
  - Rigor mortis
  - Tissue decomposition
  - Dependent lividity

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People Dead at Scene (2 of 2)

- If any signs of death are present, consider the patient to be dead.
- It is important that you know the protocol your department uses in dealing with patients who are dead at scene.



FIGURE 4-3 Learn the protocol for dealing with
patients who are obviously dead at the scene.

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Negligence

- Negligence occurs when a patient sustains further injury or harm because care administered did not meet the standard of care.
- These four conditions must be present:
  - Duty to act
  - Breach of duty
  - Resulting injuries
  - Proximate cause

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Confidentiality (1 of 2)

- Most patient information is confidential.
  - Patient history
  - Assessment findings
  - Treatment provided
  - Your communication with patient
- Information should be shared only with other medical personnel who are directly involved in the patient's care.

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Confidentiality (2 of 2)

- In certain situations, you may release confidential information to designated individuals.
- Health Insurance Portability and Accountability Act of 1996 (HIPAA)
  - Strengthens laws for the protection of privacy of health care information and safeguards patient confidentiality.

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Good Samaritan Laws

- Protect citizens from liability for errors or omissions in giving good-faith emergency care.
- Vary considerably from state to state.
- May no longer be needed.
  - Provide little or no legal protection for an EMS provider.

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Regulations

- Become familiar with federal, state, local, and agency regulations that affect your job.
- Certification or registration may be required to work as an EMR.
- You are **always** responsible for keeping certifications or registrations current.

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Reportable Events (1 of 2)

- Reportable crimes include:
  - Knife wounds
  - Gunshot wounds
  - Motor vehicle crashes
  - Suspected child or elder abuse
  - Domestic violence
  - Dog bites
  - Rape

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Reportable Events (2 of 2)

- Learn which crimes are reportable in your area and know your agency's procedures for reporting these crimes.
- Failure to notify proper authorities of reportable events may result in penalties against you or your agency.

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Crime Scene Operations (1 of 3)

- Many emergency medical situations are also crime scenes.
- Keep these considerations in mind:
  - Protect yourself.
  - If you determine that a crime scene is unsafe, wait in a safe location until law enforcement personnel tell you that the scene is safe for entry.
  - Your first priority is patient care.

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Crime Scene Operations (2 of 3)

- Considerations (cont'd):
  - When you are assessing the scene, document anything that seems unusual.
  - Move patient only if necessary.
  - Touch only what you need to touch to gain access to patient.
  - Preserve crime scene for investigation.
  - Do not cut through knife or bullet holes in patient's clothing.

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Crime Scene Operations (3 of 3)



FIGURE 4-4 Try to cause as little disruption to a crime scene as possible without compromising patient care.
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- Considerations (cont'd):
  - Be careful where you place equipment.
  - Keep nonessential people away.
  - Work with the appropriate law enforcement authorities on scene.
  - Consider writing a short report about incident.

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Documentation (1 of 2)

- Your documentation is the initial account describing patient's condition and care administered.
  - Serves as a legal record of your treatment.
  - Provides a basis for evaluating the quality of care provided.
  - Should be clear, concise, accurate, and readable.

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Documentation (2 of 2)

- Documentation should include:
  - Condition of patient when found.
  - Patient's description of injury/illness.
  - Patient's initial and repeat vital signs.
  - Treatment you gave patient.
  - Agency and personnel who took over treatment of patient.
  - Any reportable conditions present.
  - Any infectious disease exposure.
  - Anything unusual regarding situation.

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Summary (1 of 3)

- As an EMR, you have a duty to act when you are dispatched on a medical call as a part of your official duties.
- You should understand differences between expressed consent, implied consent, consent for minors, consent of patients with mental illness, and right to refuse care.

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Summary (2 of 3)

- Advance directives give a patient the right to have care withheld.
- You should understand the concepts of abandonment, negligence, and confidentiality, as well as purpose of Good Samaritan laws.

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Summary (3 of 3)

- Certain events that deal with contagious diseases, abuse, or illegal acts must be reported to the proper authorities.
- Crime scene operations are a complex environment.
- Your job is not complete until paperwork (documentation) is done.
- Understanding and following these concepts will help you to be a good EMR.

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Review

1. Emergency medical responders have the legal duty to act:
   A. only when they are being compensated by a certified agency.
   B. if they witness an emergency scene while not on duty.
   C. even when outside of their response jurisdiction.
   D. if they are employed by an agency as EMRs.

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Review

Answer:

D. if they are employed by an agency as EMRs.

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Review

2. Patients are legally able to make a decision regarding their care if they:
   A. are of legal age according to state law.
   B. have injuries that are life-threatening.
   C. refused transport to the hospital prior to becoming unresponsive.
   D. have bystanders who can verify their competency.

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Review

Answer:

A. are of legal age according to state law.

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Review

3. EMRs have the ethical responsibility to:
   A. provide care only when a paramedic is present.
   B. discuss details of each case with their coworkers and families.
   C. transport all patients to the closest hospital.
   D. conform to accepted professional standards of conduct.

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Review

Answer:

D. conform to accepted professional standards of conduct.

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