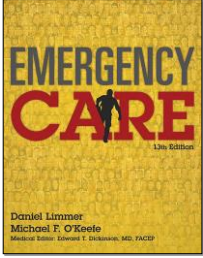


Emergency Care

THIRTEENTH EDITION



CHAPTER 4

Medical/Legal and
Ethical Issues

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Scope of Practice

- EMT is governed by medical, legal, and ethical considerations
- Extent and limits of an EMT's job
- Skills and medical interventions that can be performed
- Determined by national, state, local laws, statutes, and protocols

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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

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Expressed Consent


- Permission from patient to assess, treat, and transport
- Adults who are of legal age and mentally competent
- Must be informed
 - Understand risks



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Implied Consent

- Also called "assumed" consent
- Unconscious patient
 - Physically or mentally incapacitated
- A rational patient would consent



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Children and 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* (daycare/schools)
 - Emancipated minors
 - Life-threatening illness or injury
 - Minors who have children
 - Minors serving in armed forces

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Consent

- Adult patients incapable of informed decisions about care
 - State and local laws and protocols permit transport of such patients under implied consent



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

- (continued)
- 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.
 - 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?



Assault and Battery

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

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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

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Other Legal Issues

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Negligence

- Something not done, or done incorrectly
- Must prove:
 1. *EMT had duty to act*
 2. *Breach of duty*
 - EMT failed to provide standard of care
 3. *Proximate causation*
 - Reasonable cause-and-effect relationship
 4. *Damages*
 - Patient suffered harm because of EMT action or inaction

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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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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.



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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

<https://www.legis.nd.gov/cencode/t32c03-1.pdf>

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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?

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Confidentiality

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

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Medical Identification

- For particular medical conditions
 - Heart conditions
 - Allergies
 - Diabetes
 - Epilepsy
- Necklace, bracelet, or card



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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



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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



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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.



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Crime Scenes

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



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Crime Scenes

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



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Special Reporting Requirements

- Child, elderly, or domestic abuse
- Violence (gunshot wounds or stabbings)
- Sexual assault
- Situations where restraint may be necessary
- Intoxicated person with injuries
- Mentally incompetent people with injuries
- Check local laws and protocols.

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Consider

- What is the difference between implied and expressed consent?
- What four conditions must be present to prove negligence?

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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?

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