

# Medical, Legal, and Ethical Issues

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## National EMS Education Standard Competencies

### Preparatory

Applies fundamental knowledge of the emergency medical services (EMS) system, safety/well-being of the emergency medical technician (EMT), medical/legal, and ethical issues to the provision of emergency care.

### Medical/Legal and Ethics

- › Consent/refusal of care (pp 85–90)
- › Confidentiality (p 90)
- › Advanced directives (pp 90–92)
- › Tort and criminal actions (pp 98–100)
- › Evidence preservation (p 102)
- › Statutory responsibilities (pp 94–98)
- › Mandatory reporting (pp 101–102)
- › Ethical principles/moral obligations (pp 102–103)
- › End-of-life issues (pp 92–94)

### Knowledge Objectives

1. Define consent and how it relates to decision making. (p 85)
2. Compare expressed consent, implied consent, and involuntary consent. (pp 86–87)
3. Discuss consent by minors for treatment or transport. (p 87)
4. Describe local EMS system protocols for using forcible restraint. (p 88)
5. Discuss the EMT's role and obligations if a patient refuses treatment or transport. (pp 88–90)

6. Describe the relationship between patient communications, confidentiality, and the Health Insurance Portability and Accountability Act (HIPAA). (p 90)
7. Discuss the importance of do not resuscitate (DNR) orders and local protocols as they relate to the EMS environment. (pp 90–92)
8. Describe the physical, presumptive, and definitive signs of death. (pp 92–93)
9. Explain how to manage patients who are identified as organ donors. (p 94)
10. Recognize the importance of medical identification devices in treating the patient. (p 94)
11. Discuss the scope of practice and standards of care. (pp 94–97)
12. Describe the EMT's legal duty to act. (pp 97–98)
13. Discuss the issues of negligence, abandonment, assault and battery, and kidnapping and their implications for the EMT. (pp 98–99)
14. Explain the reporting requirements for special situations, including abuse, drug- or felony-related injuries, childbirth, and crime scenes. (pp 101–102)
15. Define ethics and morality and their implications for the EMT. (pp 102–103)
16. Describe the roles and responsibilities of the EMT in court. (pp 103–105)

### Skills Objectives

There are no skills objectives for this chapter.

## Introduction

A basic principle of emergency care is to do no further harm. As an EMT, you will usually have the opportunity to do considerably more for your patients than simply preventing further injury. A thorough understanding of medical, legal, and ethical issues related to EMS is essential. EMTs who act in good faith, follow an appropriate standard of care, and provide compassionate care usually avoid professional legal problems.

EMTs provide **emergency medical care**—immediate care or treatment. EMTs may be the first link in the chain of prehospital care. As the scope and nature of emergency medical care become more complex, litigation involving participants in EMS systems will likely increase. Providing competent emergency medical care that conforms to the standard of care will help you to avoid both civil and criminal actions. Consider the following situations:

- While transporting a patient to the hospital, he states, “I don’t want to go to the hospital anymore. You have to let me out.”
- You begin treating a child you suspect might be the victim of abuse, and a parent commands you to stop.
- Your partner takes out his smartphone to post something about the last emergency call.

What should you do? Even when emergency medical care is properly rendered, there are times when you may be sued by a patient who seeks monetary compensation. Administrative action, such as suspension of your state EMT certificate, may be brought against you for failure to abide by the regulations of your state EMS agency. For these reasons, you must understand the various legal aspects of emergency medical care.

You must also consider ethical issues. As an EMT, should you stop and treat patients who were involved in an automobile crash while you are en route to another emergency call? Should you begin CPR on a patient who, according to the family, has terminal cancer? Should you begin treatment on a child with obvious signs of death because the parents are begging you to do something?

## Consent

Typically, consent is required from every conscious adult before care can be started. A person receiving care must give permission, or **consent**, for treatment. An adult who is conscious, rational, and capable of making informed decisions has a legal right to refuse care, even though ill or injured. A patient may also consent to some aspects of care and deny consent for others. If the patient refuses care, you may not care for the patient. In fact, doing so may be grounds for both criminal and civil action. Consent can be expressed (actual) or implied.

The foundation of consent is decision-making capacity. **Decision making capacity** is the ability of a patient to understand the information you are providing, coupled with the ability to process that information and make an informed choice regarding medical care. It is important to keep in mind that the law allows the patient to make choices that may seem medically unsound and that might endanger the patient’s life. The right of a patient to make decisions concerning his or her health is known as **patient autonomy**. The terms *decision making capacity* and *competence* are often used interchangeably but there is a distinction: competence is generally regarded as a legal term and determinations regarding competence are typically made by a court of law, whereas decision making capacity is the term more commonly used in health care to determine whether or not a patient is capable of making health care decisions.

## YOU are the Provider

## PART 1

At 1720 hours, you are dispatched to a grocery store at 1175 N. Main Street for a man with a severe headache. You respond to the scene, which is located only a few miles away. The weather is clear, the temperature is 90°F (32°C), and the traffic is heavy.

1. Why is it essential that you obtain consent to treat the patient once you arrive?
2. Should you assess the patient’s competency or decision making capacity once you arrive?

The following factors should be considered when determining a patient's decision-making capacity:

- Is the patient's intellectual capacity impaired by mental limitation or any type of dementia?
- Is the patient of legal age (18 years of age in most states)?
- Is the patient impaired by alcohol or drug intoxication or serious injury or illness?
- Does the patient appear to be experiencing significant pain?
- Does the patient have a significant injury that could distract him from a more serious injury? (For example, a significant non-life-threatening injury can cause extreme pain and distract the patient from neck pain, which could indicate a more serious problem.)
- Are there any apparent hearing or visual problems?
- Is a language barrier present? Do you and your patient speak the same language?
- Does the patient appear to understand what you are saying? Does he or she ask rational questions that demonstrate an understanding of the information you are trying to share?

You should be familiar with various types of consent. These include expressed consent, implied consent, and involuntary consent.

### ► Expressed Consent

**Expressed consent** (or actual consent) is the type of consent given when the patient verbally or otherwise acknowledges that he or she wants you to provide care or transport. Expressed consent may be nonverbal. For example, if you ask a patient if you can check his or her blood pressure and the patient extends an arm to you, the patient is expressing consent nonverbally.

To be valid, the consent the patient provides must be **informed consent**, which means that you explained the nature of the treatment being offered, along with the potential risks, benefits, and alternatives to treatment, as well as potential consequences of refusing treatment, and the patient has given consent. Often, the prehospital environment requires that consent be obtained more quickly than in the hospital setting. Paramedics will often provide additional information if advanced life support interventions are necessary. In such cases, there is a greater potential for side effects and other adverse responses associated with drug administration and other forms of advanced care.

Informed consent is valid if given orally, but it may be difficult to prove at a later point in time. Rarely

do EMS providers have patients sign a consent form, so it is always advisable to document consent in your run report. Having someone witness the patient's consent may be helpful if the issue of consent is later challenged in court.

Remember, a patient may agree to certain types of emergency medical care but not to others. The patient's right to refuse treatment is discussed later in this chapter.

### ► Implied Consent

When a person is unconscious or otherwise incapable of making a rational, informed decision about care, and unable to give consent, the law assumes that the patient would consent to care and transport to a medical facility if he or she were able to do so

**Figure 3-1**. Patients who are intoxicated by drugs or alcohol, mentally impaired, or suffering from certain conditions such as head injury might be included in this category. The legal principle that allows treatment under such circumstances is called **implied consent**. Implied consent applies only when a serious medical condition exists and should never be used unless there is a threat to life or limb. For this reason, the principle of implied consent is known as the **emergency doctrine**. Sometimes what represents a "serious threat" may be unclear. This may result in legal proceedings and a **medicolegal** judgment, which should be supported by your best efforts to obtain consent and a thoroughly documented run report. In most instances, the law allows a spouse, a close relative, or next of kin to give consent for



**Figure 3-1**

When a serious threat to life exists and the patient is unconscious or otherwise unable to give consent, the law assumes that the patient would give consent to care and transport to the hospital.

an injured person who is unable to do so, and you should make every effort to obtain consent from an available relative before treating based on implied consent; however, treatment should never be delayed when the patient has imminently life-threatening injuries. It is also important to understand that if a patient being treated based on implied consent were to regain consciousness and appear capable of making an informed decision, the doctrine of implied consent would no longer apply. This often occurs with calls involving diabetic emergencies, overdoses, syncope, and seizures.

### ► Involuntary Consent

Assisting patients who are mentally ill, developmentally delayed, or who are in behavioral (psychologic) crisis is complicated. An adult patient who is mentally incompetent is not able to give informed consent. From a legal perspective, this situation is similar to those involving minors. Consent for emergency care should be obtained from someone who is legally responsible for the patient, such as a guardian or conservator. In many cases, however, such permission will not be readily obtainable. Many states have protective custody statutes allowing such a person to be taken, under law enforcement authority, to a medical facility. Under certain conditions, law enforcement and prison officials are legally permitted to give consent for any individual who is incarcerated or has been placed under arrest. However, a prisoner who is conscious and capable of making decisions does not necessarily surrender the right to make medical decisions and may refuse care. Know the provisions in your area and involve online medical control in the process.

### ► Minors and Consent

Because a minor might not have the wisdom, maturity, or judgment to give consent, the law requires that a parent or legal guardian, when available, give consent for treatment or transport

**Figure 3-2**. In every state, when a parent cannot be reached to provide consent, health care providers are allowed to give emergency care to a child. In some states, a minor can consent to receive medical care, depending on the minor's age and maturity. A great deal of confusion surrounds the issue of emancipated minors. **Emancipated minors** are people who, despite being under the legal age in a given state (in most cases the age is 18 years), can be legally treated as adults based on certain circumstances. For example, many states consider minors to be emancipated if they are married, if they are



**Figure 3-2**

The law requires that a parent or a legal guardian give consent for treatment or transport of a minor. However, you must never withhold lifesaving care.

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members of the armed services, or if they are parents. A minor who is a parent may also give consent for his or her own child. In addition, a minor is usually considered emancipated if living away from and no longer relying on his or her parents for support. A court may issue an order declaring a minor to be emancipated but this is not commonly seen. You should know your state's laws concerning the issues surrounding emancipation.

If a minor is injured and requires medical treatment in a school or camp setting, teachers and school officials may act **in loco parentis**, which means in the position or place of a parent, and can legally give consent for treatment of the minor if a parent or guardian is not available. You should still make an effort to obtain consent from a parent or legal guardian whenever possible; however, if a true emergency exists and the parent or legal guardian is not available, the consent to treat the minor is implied, just as with an adult. You must never withhold lifesaving care for a minor because a person authorized to provide consent is not available.

It is important to reach the parent or guardian as quickly as possible. Even though lifesaving interventions will not be delayed, it is possible other interventions at the hospital could be delayed until consent is obtained. Follow local protocol or consult medical control to determine if someone acting in loco parentis will need to accompany the child during transport and be present at the receiving hospital until a parent or guardian arrives.

## ► Forcible Restraint

**Forcible restraint** is sometimes necessary when you are confronted with a patient who is in need of medical treatment and transportation but is combative and presents a significant physical risk of danger to himself, rescuers, or others (Figure 3-3). Such behavior may result from an underlying psychiatric or behavioral condition, the effects of drugs, or a medical condition such as a head injury or hypoxia. Physically preventing such people from initiating any physical action is legally permissible and may be required before emergency care can be rendered. Typically, you should consult medical control for authorization to restrain or contact law enforcement personnel who have the authority to restrain people. In some states, only a police officer may forcibly restrain an individual. You should be knowledgeable about local laws. Restraint without legal authority exposes you to potential civil and criminal penalties. Restraint may be used only in circumstances of risk to the patient or others. When a patient is combative and poses a risk to the rescuer, it is advisable to wait for law enforcement to arrive on scene before attempting to treat the patient.

Your service should have clearly defined protocols to deal with situations involving restraint. It is important to remember that if the patient is conscious and the situation is not urgent, consent is required. Restraints should only be considered if the patient has a medical condition that appears serious or if

he or she suffers from an apparent behavioral disorder that poses a risk to the patient or others. After restraints are applied, they should not be removed en route unless they pose a risk to the patient, even if the patient promises to behave. It is essential you protect the patient's airway and monitor the patient's respiratory status while restrained to avoid asphyxia, aspiration, and other complications.

## The Right to Refuse Treatment

Adults who are conscious, alert, and appear to have decision making capacity have the right to refuse treatment or withdraw from treatment at any time. This is true even if doing so may result in death or serious injury. Such patients present you with a dilemma. Should you provide care against their will? Should you leave them alone? Calls involving refusal of treatment pose a high risk of litigation in EMS and require you to proceed very cautiously. You must be familiar with local policies regarding refusal of care. In all such cases, you should involve online medical control and document this consultation. A patient's decision to either accept or refuse treatment should be based on information that you provide. This information should include your assessment of what might be wrong with the patient, a description of the treatment that you feel is necessary, any possible risks of treatment, the availability of alternative treatments, and the possible consequences of refusing treatment. Be sure that the patient understands everything that you say and encourage the patient to ask questions. All of this information should be included in your patient care report. Many jurisdictions have pre-printed refusal forms to ensure that all of these items are documented or acknowledged.

When treatment is refused, you must assess the patient's ability to make an informed decision. Ask and repeat questions, assess the patient's answers, and observe the patient's behavior. If the patient appears confused or delusional, you cannot assume that the decision to refuse is an informed refusal. Patients who have attempted suicide, or conveyed suicidal intent, should not be regarded as having normal mental capacity. Remember, a single assessment finding will not usually enable you to determine whether the patient is capable of making an informed decision about health care. As with most medical conditions, it is the constellation of findings that will support your conclusion. When in doubt, providing treatment is a much more defensible position than failing to treat a patient. Do not endanger



**Figure 3-3**

Be sure that you know the local laws about forcible restraint of a patient. In some states, only a police officer has the authority to restrain a patient.

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yourself to provide care, and use the assistance of law enforcement to ensure your own safety.

Before leaving the scene where a patient has refused care, you should again encourage the patient to permit treatment and remind him or her to call 9-1-1 if he or she changes his or her mind or his or her condition worsens. Advise the patient to contact his or her personal physician as soon as possible. It is essential for you to ask the patient to sign a refusal of treatment form and to thoroughly document all refusals. Your documentation should include any assessment findings that you were able to make and all efforts that you made to obtain consent. Your documentation should also include a description of possible consequences of refusing treatment and transport. The patient's signature should be witnessed by a family member or police officer to help protect you from a later claim for negligence or abandonment. Both of these terms are discussed later in this chapter. A signed patient refusal form does not guarantee your protection against legal action, though it can help defend you when legal actions arise. Also, it is wise, and often required by local protocol, that you notify medical control of your actions; medical control can help guide your decisions.

You may also be faced with a situation in which a parent refuses to permit treatment of an ill or injured child. In this situation, you must consider the emotional impact of the emergency on the parent's

judgment. As with most cases of refusal, you can usually resolve the situation with patience and calm persuasion. You may also need the help of others, such as ALS personnel, medical control, or law enforcement officials.

When you are not able to persuade the patient, guardian, or parent to proceed with treatment, you must obtain the signature of the individual who is refusing treatment on an official release form that acknowledges refusal. Document any assessment findings, the emergency care that you provided, your efforts to obtain consent, your consultation with medical control, and the responses to your efforts. You should also obtain a signature from a witness to the refusal. Make every effort to have a responsible person, such as a police officer, serve as a witness to these events. Retain the documents with your records—they will be important in the event a legal claim is filed later. If the patient refuses to sign a release form, inform medical control and thoroughly document the situation and the refusal. In some cases, parents who have refused medical care for a child have been charged with child neglect. You might be called as a witness in such cases and you must be sure that all documentation is thorough and accurate. Remember, your safety is your first priority. Act in the best interest of your patient, but do not place yourself in danger attempting to care for a patient who is refusing care.

## YOU are the Provider

## PART 2

On arriving at the scene, you find the patient, a 32-year-old man, sitting on the sidewalk outside the grocery store. He is grabbing both sides of his head, but looks up and acknowledges your presence. You begin to assess the patient as your partner opens the jump kit and prepares to take his vital signs.

### Recording Time: 0 Minutes

<b>Appearance</b>	Grabbing both sides of his head; in obvious pain
<b>Level of consciousness</b>	Conscious and alert
<b>Airway</b>	Open; clear of secretions or foreign bodies
<b>Breathing</b>	Increased respiratory rate; adequate depth
<b>Circulation</b>	Radial pulses, bilaterally strong and regular; skin is pink, warm, and dry

Without talking to the patient, your partner begins to take his blood pressure and applies the pulse oximeter to his finger.

- Are you legally authorized to treat this patient? Why or why not?
- How does informed consent differ from implied consent?

### Words of Wisdom

When a patient, parent, or guardian refuses treatment or transport, protect yourself with both a thorough patient care report (PCR) and an official refusal form. Have the patient or other refusing party sign the form, document what you have done to ensure an informed refusal, and note the involvement of medical control in the situation. Be sure to submit the refusal form with your PCR.

### Words of Wisdom

Do *not* use a personal electronic device, such as a cell phone, to capture information from a call. Digital images such as photos of a patient's injuries or vehicle, or recordings made by crew members during a patient call, are considered protected health information (PHI) and a confidential part of the patient report. *Never* post PHI on social media.

## Confidentiality

Communication between you and the patient is considered confidential and generally cannot be disclosed without permission from the patient or a court order. Confidential information includes the patient history, assessment findings, and treatment provided. Disclosure of such information without proper authorization may result in liability for **breach of confidentiality**. In most states, records may be released when a legal subpoena is presented or the patient signs a written release. Patient information may also be shared with third-party billing personnel; this is not considered a breach of confidentiality.

## ► HIPAA

HIPAA is the acronym for the Health Insurance Portability and Accountability Act of 1996. Although this act had many aims, the section of the act that most affects EMS relates to patient privacy. The aim of this section of the act is to strengthen laws for the protection of the privacy of health care information and to safeguard patient confidentiality. It provides guidance on what types of information is protected, the responsibility of health care providers regarding that protection, and the penalties for breaching that protection.

HIPAA considers all patient information that you obtain in the course of providing medical treatment to a patient to be **protected health information (PHI)**. This includes not only medical information, but also any information that can be used to identify the patient. As an EMT, you have an obligation to guard all protected health information from unlawful disclosure, either written or verbal.

PHI may be disclosed for purposes of treatment, payment, or operations. This means you are permitted to report your assessment findings and treatment

to other health care providers directly involved in the care of the patient. Information may be used for internal quality improvement and training programs, but all identifying information must first be removed. There are also certain situations when you may be legally mandated to report your findings, such as in the case of child abuse or when you receive a subpoena. In most situations, except for treatment purposes, only the minimum amount of information necessary should be released. Failure to abide by the provisions of the HIPAA laws can result in civil and/or criminal action against your response agency and against you personally. Each EMS system is required to have a policy and procedure manual and a privacy officer who can answer questions. You can expect to receive further training on how this act impacts your specific response agency.

## Advance Directives

As an EMT, you will respond to calls in which a patient is dying from an illness. When you arrive at the scene, you may find that family members do not want you to try to resuscitate the patient. Without valid written documentation from a physician, such as an advance directive or a **do not resuscitate (DNR) order** (also known as a "do not attempt resuscitation" order), you may be placed in a very difficult position. A **competent** patient is able to make rational decisions about his or her well-being. An **advance directive** is a written document that specifies medical treatment for a competent patient, should he or she become unable to make decisions. Advance directives are most commonly used when a patient becomes comatose. An advance directive is often referred to as a living will but may also be referred to as a **health care directive**. Not all advance directives are directions to withhold care. Such care may include nutrition and medication for pain.

DNR orders give you permission not to attempt resuscitation **Figure 3-4**. Laws differ from state to

state; however, to be valid, DNR orders must meet the following requirements:

- Clear statement of the patient's medical problem(s)
- Signature of the patient or legal guardian
- Signature of one or more physicians or other licensed health care providers
- In some states, DNR orders contain an expiration date. DNR orders with expiration dates must be dated in the preceding 12 months to be valid.

You may also encounter Physician Orders for Life-Sustaining Treatment (POLST) and Medical Orders for Life-Sustaining Treatment (MOLST) forms when caring for patients with terminal illnesses. These explicitly describe acceptable interventions for the patient in the form of medical orders. These forms must be signed by an authorized medical provider in order to be valid; this may be a physician, physician assistant, or nurse practitioner, and varies by state. If you encounter these documents, contact medical control for guidance.

Some patients may have named surrogates to make decisions for them regarding their health care, in the event that they are incapacitated and unable to make such decisions for themselves. Such designations may be referred to as **durable powers of attorney for health care** or **health care proxies**. There are many different types of powers of attorney and not all are authorized to exercise medical decision making. When presented with a power of attorney at the scene of a medical emergency, you must read it carefully to ascertain its meaning and validity. If there is any question, you should contact online medical control for assistance. Do not delay emergency care while efforts to interpret the power of attorney are made. Keep in mind that a patient who remains conscious and competent does not surrender the right to make medical decisions. The person named in the power of attorney or health care proxy is only authorized to make decisions when the patient is no longer capable of doing so.

Remember, DNR does not mean "do not treat." Even in the presence of a DNR order, you are still obligated to provide supportive measures (oxygen, pain relief, and comfort) to a patient who is not in cardiac arrest. Each agency, in consultation with its medical director and legal counsel, must develop a protocol to follow in these circumstances.

There are a growing number of hospice (end of life) home health programs, so you may be faced with these situations often. Specific guidelines vary

**PREHOSPITAL MEDICAL CARE DIRECTIVE**  
(side one)

IN THE EVENT OF CARDIAC OR RESPIRATORY ARREST, I REFUSE ANY RESUSCITATION MEASURES INCLUDING CARDIAC COMPRESSION, ENDOTRACHEAL INTUBATION AND OTHER ADVANCED AIRWAY MANAGEMENT, ARTIFICIAL VENTILATION, DEFIBRILLATION, ADMINISTRATION OF ADVANCED CARDIAC LIFE SUPPORT DRUGS AND RELATED EMERGENCY MEDICAL PROCEDURES.

Patient: \_\_\_\_\_ Date: \_\_\_\_\_  
(Signature or mark)

Attach recent photograph here or provide all of the following information below:

Date of Birth \_\_\_\_\_

Sex \_\_\_\_\_ Race \_\_\_\_\_

Eye Color \_\_\_\_\_

Hair Color \_\_\_\_\_

Hospice Program (if any) \_\_\_\_\_

Name and telephone number of patient's physician \_\_\_\_\_

PHOTO

(side two)

I have explained this form and its consequences to the signer and obtained assurance that the signer understands that death may result from any refused care listed above (on reverse side).

Date \_\_\_\_\_

(Licensed health care provider)

I was present when this was signed (or marked). The patient then appeared to be of sound mind and free from duress.

Date \_\_\_\_\_

(Witness)

**Outside the Hospital Do - Not - Resuscitate Identification Card**

**Patient's Full Name** \_\_\_\_\_

I affirm that I have authorized an Outside the Hospital Do - Not - Resuscitate Order for this patient and have documented the grounds for the order in this patient's medical file.

**Attending Physician Signature** \_\_\_\_\_

**Attending Physician (print)** \_\_\_\_\_

**Address** \_\_\_\_\_ **Phone** \_\_\_\_\_

**Date** \_\_\_\_\_

I, \_\_\_\_\_ (name)

authorize emergency medical services personnel to withhold or withdraw cardiopulmonary resuscitation from me in the event I suffer cardiac or respiratory arrest.

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

I understand that I may revoke this order at anytime.

**Patient or Patient's Representative**

**Signature** \_\_\_\_\_

**Date** \_\_\_\_\_

**Figure 3-4**

**A.** An example of a wallet-sized DNR order. **B.** An example of a pocket-sized DNR order.

from state to state, but the following four statements may be considered general guidelines:

1. Patients have the right to refuse treatment, including resuscitative efforts, provided that they are able to communicate their wishes.
2. A written order from a physician is required for DNR orders to be valid in a health care facility.
3. You should periodically review state and local protocols and legislation regarding advance directives.
4. When you are in doubt or the written orders are not present, you have an obligation to resuscitate.

When presented with an advance directive, you should never become annoyed with family members and allow yourself to wonder, “Why did they bother to call 9-1-1 if they don’t want us to do anything?” The patients, and their families, should be treated with the utmost respect and empathy. If information and support is what they called you for, be sure to provide it—it is part of your job.

### Physical Signs of Death

Determination of the cause of death is the medical responsibility of a physician. There are both definitive and presumptive signs of death. In many states, death is defined as the absence of circulatory and

respiratory function. Many states have also adopted “brain death” provisions; these provisions refer to irreversible cessation of all functions of the brain and brain stem. Questions often arise as to whether to begin basic life support. In the absence of physician orders, such as DNR orders, the general rule is: If the body is still intact and there are no definitive signs of death, initiate emergency medical care.

Hypothermia is a general cooling of the body in which the internal body temperature becomes abnormally low. People have survived hypothermic incidents with temperatures as low as 64°F (18°C). In cases of hypothermia, the patient should not be considered dead until he or she is warm and dead. When the patient’s condition is unclear, or if you are unsure if you should initiate care, it is best to begin CPR immediately and contact medical control for guidance. Remember, not all incidents of hypothermia occur outdoors; for example, an older patient in a home without heat or who has been lying on a cold floor could be hypothermic.

### ► Presumptive Signs of Death

Most medicolegal authorities will consider the presumptive signs of death that are listed in [Table 3-1](#) adequate, particularly when they follow a severe trauma or occur at the end stages of long-term illness such as cancer or other prolonged diseases. These signs would not be adequate in cases of sudden death due to hypothermia, acute poisoning, or cardiac

## YOU are the Provider

## PART 3

Your partner reports that the patient’s blood pressure is very high. The patient tells you that he has “blood pressure problems” and experiences a bad headache whenever he does not take his Prinivil—the medication he takes for his blood pressure. He does not want to go to the hospital and tells you that the clerk called 9-1-1, not him.

### Recording Time: 4 Minutes

<b>Respirations</b>	24 breaths/min; regular and unlabored
<b>Pulse</b>	110 beats/min; strong and regular
<b>Skin</b>	Pink, warm, and dry
<b>Blood pressure</b>	200/110 mm Hg
<b>Oxygen saturation (Spo<sub>2</sub>)</b>	98% (on room air)

5. What should you do when a patient refuses treatment and/or transport?
6. What questions should you ask yourself to help determine whether you can transport this patient against his will?

## Words of Wisdom

### EMT Oath

"Be it pledged as an Emergency Medical Technician, I will honor the physical and judicial laws of God and man. I will follow that regimen which, according to my ability and judgment, I consider for the benefit of patients and abstain from whatever is deleterious and mischievous, nor shall I suggest any such counsel. Into whatever homes I enter, I will go into them for the benefit of only the sick and injured, never revealing what I see or hear in the lives of men unless required by law.

I shall also share my medical knowledge with those who may benefit from what I have learned. I will serve unselfishly and continuously in order to help make a better world for all mankind.

While I continue to keep this oath unviolated, may it be granted to me to enjoy life, and the practice of the art, respected by all men, in all times. Should I trespass or violate this oath, may the reverse be my lot.

So help me God."

Written by Charles B. Gillespie, MD

Adopted by the National Association of Emergency Medical Technicians, 1978.

### Table 3-1

### Presumptive Signs of Death

- Unresponsiveness to painful stimuli
- Lack of a carotid pulse or heartbeat
- Absence of chest rise and fall
- No deep tendon or corneal reflexes
- Absence of pupillary reactivity
- No systolic blood pressure
- Profound cyanosis
- Lowered or decreased body temperature

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arrest. Usually, in these cases, some combination of the signs is needed to declare death, not just one of them alone.

### ► Definitive Signs of Death

Definitive or conclusive signs of death that are obvious and clear to even nonmedical people include the following:

- Obvious mortal damage, such as decapitation
- **Dependent lividity**: blood settling to the lowest point of the body, causing discoloration of the skin (Figure 3-5)
- **Rigor mortis**, the stiffening of body muscles caused by chemical changes within muscle



### Figure 3-5

Dependent lividity is an obvious sign of death caused by discoloration of the body from pooling of the blood to the lower parts of the body.

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tissue. It develops first in the face and jaw, gradually extending downward until the body is in full rigor. The rate of onset is affected by the body's ability to lose heat to its surroundings. The rate of heat loss in a thin body is faster than in a fat body. A body on a tile floor has faster heat loss than a body wrapped up in a blanket in a bed. Rigor mortis occurs sometime between 2 and 12 hours after death

- **Putrefaction** (decomposition of body tissues). Depending on temperature conditions, this occurs sometime between 40 and 96 hours after death

### ► Medical Examiner Cases

Involvement of the medical examiner, or the coroner in some states, depends on the nature and scene of the death. In most states, when trauma is a factor or the death involves suspected criminal or unusual situations such as hanging or poisoning, the medical examiner must be notified (Figure 3-6). When the medical examiner or coroner assumes responsibility of the scene, that responsibility supersedes all others at the scene, including the family's. The following are a few examples of deaths that may be considered medical examiner cases:

- When the person is dead on arrival (DOA) (sometimes referred to as dead on scene [DOS])
- Death without previous medical care or when the physician is unable to state the cause of death
- Suicide (self-destruction)
- Violent death
- Poisoning, known or suspected



Figure 3-6

When trauma is a factor or the death involves an unusual or a suspected criminal situation, the medical examiner is required to investigate.

© Corbis.

- Death resulting from accidents
- Suspicion of a criminal act
- Infant and child deaths

You should make every attempt to limit your disturbance of a scene involving a death. Once you have adequately determined death based on local protocols, remove yourself from the scene. This is especially important if there is anything potentially suspicious about the death.

If emergency medical care has been initiated, be sure to keep thorough notes of what was done or found. These records may be important during a subsequent investigation.

In such instances, there is no urgent reason to move the body. The only immediate action that is required of you is to cover the body and prevent its disturbance. Local protocol will determine your ultimate action in these instances.

## Special Situations

### ► Organ Donors

You may be called to a scene involving a potential organ donor. Consent to organ donation is voluntary and knowing. Consent is evidenced by either a donor card or a driver's license indicating that the individual wishes to be a donor (Figure 3-7). You may need to consult with medical control when faced with this situation.

In specific circumstances, a patient who is not successfully resuscitated may be a potential organ donor. Certain centers can procure organs, including the kidneys and liver,

Figure 3-7

The patient may be carrying a donor card or driver's license indicating that he or she wishes to be an organ donor.

Courtesy of the U.S. Department of Health and Human Services.

in certain situations. These situations typically occur after in-hospital cardiac arrest but may be associated with certain specific out-of-hospital cardiac arrest situations that occur in close proximity to specialized centers. Be aware of your local centers and their protocols and capabilities.

You should treat a potential organ donor in the same way that you would any other patient needing treatment. Use all means necessary to keep that patient alive. Organs that are often donated, such as a kidney, heart, or liver, need oxygen at all times; you must give oxygen to the possible donor or the organs will be damaged and become useless.

Remember, your priority is to save the patient's life. Be sure to learn what the specific protocols are in your area regarding special situations such as organ donation.

### ► Medical Identification Insignia

Many patients will carry important medical identification and information, often in the form of a bracelet, necklace, key chain, or card that identifies patient history information. This may include a DNR order or information related to medications taken, allergies, diabetes, epilepsy, or some other serious condition (Figure 3-8). Some patients wear medical bracelets with a USB flash drive, which contains pertinent patient information, such as drug interactions, allergies, or emergency contact information. This information is often stored as a PDF file that can be read on most computers.

## Scope of Practice

The **scope of practice**, which is most commonly defined by state law, outlines the care you are legally able to provide for the patient. Your medical director further defines the scope of practice by developing



Figure 3-8

The patient may be carrying a medical identification card or wearing a bracelet or necklace that may indicate important medical information and possible DNR orders. In the case of MedicAlert, the EMS provider can obtain stored patient history information from the MedicAlert Foundation.

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Figure 3-9

Act or behave toward others in a way that shows your concern about their safety and welfare.

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protocols and standing orders. The medical director gives you the legal authorization to provide patient care through telephone or radio communication (online) or standing orders and protocols (off-line). It is your responsibility as an EMT to know your scope of practice and follow it. You and other EMS personnel have a responsibility to provide proper, consistent patient care and to report problems, such as possible liability or exposure to infectious disease, to your medical director immediately.

If you carry out procedures for which you are not authorized, you are practicing outside your scope of practice, which may be considered negligence or, in some states, even a criminal offense. The scope of practice should not be confused with the standard of care.

### Standards of Care

The law requires you to act or behave toward other people in a definite, definable way, regardless of the activity involved. Under given circumstances, you have a duty either to act or not. Generally speaking, you must be concerned about the safety and welfare of others when your behavior or activities have the potential for causing others injury or harm (Figure 3-9). The manner in which you must act or behave is called a **standard of care**.

Standard of care is established in many ways, among them local customs, statutes, ordinances, protocols, medical literature, textbooks, administrative regulations, and case law. In addition, professional or institutional standards have a bearing on determining the adequacy of your conduct.

### ► Standards Imposed by Local Custom

The standard of care is how a reasonably prudent person with similar training and experience would act under similar circumstances, with similar equipment, and in the same or similar place. For example, the conduct of an EMT who is employed by an ambulance service is to be judged in comparison with the expected conduct of other EMTs from comparable ambulance services in the same geographic area. These standards are often based on locally accepted protocols.

As an EMT, you will not be held to the same standard of care as physicians or other more highly trained professionals. In addition, your conduct must be judged in the light of the given emergency situation, taking into consideration the following factors:

- Any issues concerning the safety of the patient or rescuer
- General confusion at the scene of the emergency
- The needs of other patients
- The type of equipment available

In this context, an **emergency** is a serious situation, such as an injury or an illness that arises suddenly, threatens the life or welfare of a person or group of people, and requires immediate intervention.

Prevailing customs within a community are important elements in determining the standard of emergency care within that community. This means

**Figure 3-10**

In emergency situations, you will care for those with potentially life-threatening injuries or illnesses by practicing a standard of care—the accepted level of care expected in your profession for your level of training.

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the accepted standard of care can change from one community to another. Examples of prevailing customs include how hospital destinations are selected, when EMS helicopters are used, and protocols for cervical spine immobilization **Figure 3-10**.

### ► Standards Imposed by Law

In addition to local customs, standards of emergency medical care may be imposed by statutes, ordinances, administrative regulation, or case law. In many jurisdictions, violating one of these standards is said to create presumptive negligence. Therefore, you must become familiar with the particular legal standards that may exist in your state. In many states, this may take the form of treatment protocols published by a state agency.

### ► Professional or Institutional Standards

In addition to standards imposed by law, professional or institutional standards may be admitted as evidence in determining the adequacy of an EMT's conduct. Professional standards include recommendations published by organizations and societies that are involved in emergency medical care. Institutional standards include specific rules and procedures of the EMS system, ambulance service, or organization to which you are affiliated.

Two notes of caution: First, you must be familiar with the standards of your organization. Second, if you are involved in formulating standards for a particular agency, they should be reasonable and realistic so that they do not impose an unreasonable burden

## YOU are the Provider

## PART 4

The patient consents to EMS treatment and transport after you tell him he could be experiencing a serious medical emergency. You place the patient onto the stretcher. While loading the patient in the ambulance, the clerk asks, "What's wrong with him? Did I do the right thing?"

### Recording Time: 10 Minutes

<b>Level of consciousness</b>	Conscious and alert
<b>Respirations</b>	22 breaths/min; regular and unlabored
<b>Pulse</b>	104 beats/min; strong and regular
<b>Skin</b>	Pink, warm, and dry
<b>Blood pressure</b>	194/108 mm Hg
<b>Spo<sub>2</sub></b>	99%

En route to the hospital, you dim the lights in the ambulance, apply a cool compress to his forehead, and ensure that he is in a comfortable position. You then obtain his patient information and medical history.

- Does HIPAA affect the medical care you provide to your patients? What information are you allowed to discuss with family members, bystanders, the media, and others?
- How do you respond to the clerk's question in a professional manner without violating HIPAA regulations?

on EMTs. Regardless, providing the best emergency medical care should be every EMT's goal.

Many standards of care may be imposed on you. State health department regulations usually govern the scope and level of training. Court decisions have resulted in case law defining standards of care. Professional standards are also imposed. For example, the International Liaison Committee on Resuscitation (ILCOR), along with its member the American Heart Association (AHA), updates the standard for basic life support (BLS) and cardiopulmonary resuscitation (CPR) on a regular basis **Figure 3-11**.

Ordinary care is a minimum standard of care. In general, it is expected that any EMT who offers assistance will exercise reasonable care and act prudently. If you act reasonably, according to the accepted standard, the risk of a civil lawsuit is small. If you apply the standard practices you have been trained to use, you can likely avoid liability. For example, various organizations have defined standards for performing CPR. If you deviate from these standards, you may be liable for civil and possibly criminal prosecution. In addition, state regulatory agencies that oversee EMS operations can sanction EMS personnel for deviating from the standard of care.

### ► Standards Imposed by Textbooks

In the course of a lawsuit, an attorney will often ask an EMT if he or she recognizes various textbooks as being authoritative works in the field of EMS. Since virtually all EMS textbooks follow standards



**Figure 3-11**

Many standards of care are imposed on you as an EMT. If you deviate from these standards, legal action may be taken against you. Learn the standards of care for your level and organization.

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established by the National Highway Transportation Safety Administration (NHTSA), these textbooks are often recognized as contributing to the standard of care that is followed by EMTs. Local protocols or state standards may differ from material presented in textbooks. When such differences occur, you are bound to follow local protocols.

### ► Standards Imposed by States Medical Practices Act

In some states, EMS personnel are exempt from the licensure requirements of the Medical Practices Act because an EMT is regarded as a nonmedical professional. The practice of medicine is defined as the diagnosis and treatment of disease or illness. EMTs and others in the prehospital care chain assess the need for life support and begin care. Some states, however, have adopted legislation that establishes the scope of practice for EMS providers. Therefore, as an EMT you must be aware of the standards established by legislation in your state so you can be sure to provide care that is consistent with those standards.

### Certification and Licensure

Some states provide certification, licensure, or credentialing of people who perform emergency medical care. **Certification** is the process by which an individual, institution, or program is evaluated and recognized as meeting certain predetermined standards to ensure safe and ethical patient care. **Licensure** is the process by which a competent authority, usually the state, grants permission to practice a job, trade, or profession. **Credentialing** is an established process to determine the qualifications necessary to be allowed to practice a particular profession, or to function as an organization. The credentialing process for EMTs can vary by state. An EMS provider's credentials typically follow his or her name, eg, *John Smith, NREMT*.

Once certified, you are obliged to conform to the standards that are generally recognized nationally by various registry groups and provide an important link in nationwide EMS. You must ensure that your certification or licensure remains current and that your skill levels are kept up to date.

### Duty to Act

**Duty to act** is an individual's responsibility to provide patient care. Responsibility comes from either statute or function. A bystander is under no obligation to assist a stranger in distress and therefore has no duty

to act. There may be a duty to act in certain instances, including the following:

- You are charged with emergency medical response.
- Your service or department's policy states that you must assist in any emergency.

Once your ambulance responds to a call or treatment is begun, you have a legal duty to act. In most cases, if you are off duty and come upon a crash, you are not legally obligated to stop and assist patients. There may be some circumstances where this is not true, and you should be familiar with the laws and policies that apply in your service area. If you choose to intervene while off duty, you must continue to provide competent care until an equal or higher medical authority assumes care of the patient.

## Negligence

**Negligence** is the failure to provide the same care that a person with similar training would provide in the same or a similar situation. It is deviation from the accepted standard of care that may result in further injury to the patient. Determination of negligence is based on the following four factors:

1. **Duty.** The EMT has an obligation to provide care and to do so in a manner that is consistent with the standard of care established by training and local protocols.
2. **Breach of duty.** There is a breach of duty when the EMT does not act within an expected and reasonable standard of care.
3. **Damages.** There are damages when a patient is physically or psychologically harmed in some noticeable way.
4. **Causation.** There must be a reasonable cause-and-effect relationship between the breach of duty and the damages suffered by the patient. An example is dropping the patient during lifting, causing a fracture of the patient's leg. If an EMT has a duty and abuses it, thereby causing harm to another individual, the EMT, the agency, and/or the medical director may be sued for negligence. This is often referred to as **proximate causation**.

All four elements must be present for the legal doctrine of negligence to apply and for a plaintiff to prevail in a lawsuit against an EMS system or provider. It is also possible for an EMT or an EMS system to be held liable even when the plaintiff is unable

to clearly demonstrate how an injury occurred, under the theory of **res ipsa loquitor**. An EMT could be held liable under this theory if it can be shown that an injury occurred, that the cause of the injury was in the control of the EMT, and that such injuries generally do not occur unless there is negligence. For example, you and your partner are called to the home of a man with diabetes who has lapsed into unconsciousness. You find the patient lying on a couch with no visible signs of trauma. While loading the patient into the ambulance, your partner slips and the stretcher drops, causing the patient to sustain a facial laceration. The patient later files a lawsuit against you for negligence. Because the patient was unconscious, he is unable to describe exactly how he sustained a facial laceration. Under the theory of *res ipsa loquitor*, the patient may prevail in his lawsuit by showing that he was under your care, that he suffered an injury, and that his injury would not have occurred unless there was negligence.

In rare cases, the plaintiff may be able to establish liability by using the theory of **negligence per se**. This is a theory that may be used when the conduct of the person being sued is alleged to have occurred in clear violation of a statute. For example, if you were to perform an advanced life support skill, such as the intravenous administration of a cardiac medication, the plaintiff might allege that this was negligence per se. In that case, the plaintiff would not have to establish the circumstances surrounding your conduct. There would be no need to show that the medication was inappropriate for the patient because you clearly exceeded your scope of practice.

All forms of negligence come under the general category known as **torts**. Torts are simply defined as civil wrongs. They are not within the jurisdiction of US criminal courts. Examples of other tort actions are lawsuits for defamation of character and invasion of privacy.

## Abandonment

**Abandonment** is the unilateral termination of care by the EMT without the patient's consent and without making any provisions for continuing care by a medical professional who is competent to provide care for the patient. Once care is started, you have assumed a duty that must not stop until an equally competent EMS provider assumes responsibility. Failure to perform that duty is a serious legal and ethical matter that exposes the patient to harm and can result in civil action against you.

For example, suppose you arrive at the scene of a single-car crash and begin care of two injured patients. A passerby tells you of a two-car crash farther down the road in which five people are injured. You turn over care of the two injured patients from the first crash to the passerby, who is not a trained emergency care provider, and leave to go to the second crash. Abandonment may have occurred because you did not turn care of the patients over to a person who is trained and competent to provide emergency care that meets the needs of the two patients. Consider the following general questions when you are faced with making a decision such as this one:

- What problems may develop from your actions?
- How might the patient's condition worsen if you leave?
- Does the patient need care?
- Are you neglecting your duty to your patient?
- Is the person assuming care capable of providing the level of care needed by the patient?
- Are you abandoning the patient if you leave the scene?
- Are you violating a standard of care?
- Are you acting prudently?

Surprisingly, abandonment may also take place in the emergency department (ED) where you drop off your patient. A part of your obligation as an EMT is to provide hospital personnel with a report of your assessment findings, the care you provided, and any changes in patient status that occurred during transport to the hospital. The failure to do so could result in a delay in treatment or a misdiagnosis. In such a case, a claim for abandonment might be filed against the EMT who failed to provide the report. It is always a good idea for you to obtain a signature on your PCR from the person accepting transfer of care at the hospital. This will help protect you from accusations of abandonment.

### Assault and Battery and Kidnapping

**Assault** is defined as unlawfully placing a person in fear of immediate bodily harm. Threatening to restrain a patient who does not want to be transported could be considered assault. **Battery** is defined as unlawfully touching a person; this includes providing emergency care without consent. Assault and battery can be either civil or criminal in nature. Civil lawsuits for battery are common in health care. To

sustain a criminal case of assault or battery, it is generally necessary to prove the intent to cause harm. The element of intent is rarely present in the case of an EMS provider; therefore, criminal cases of assault and/or battery are rare. **Kidnapping** is the seizing, confining, abducting, or carrying away of a person by force. In theory, this might include a situation where a patient is transported against his or her will. In reality, criminal charges of kidnapping are almost unheard of in EMS because the EMT is almost always acting in a good faith effort to provide care to the patient. It is far more likely that an EMT could be the target of a civil lawsuit for **false imprisonment**. This is defined as the unauthorized confinement of a person that lasts for an appreciable period of time. Consider a patient who rescinds consent during transport and demands to be let out of the ambulance. If you refuse, you may be accused of false imprisonment.

Serious legal problems may arise in situations in which a patient has not given consent for treatment. Battery could be considered if you apply a splint to a suspected fracture of the lower leg, or use an EpiPen on a patient without the patient's consent. Under such circumstances, a patient might file a lawsuit for assault, battery, false imprisonment, or all three. Criminal charges are possible but far less likely. To protect yourself from these charges, make sure that you obtain expressed consent or that the situation allows for implied consent. Consult your medical director or service attorney if you have questions or doubt about a specific situation.

### Words of Wisdom

The best way to ensure you make good ethical decisions is to make the welfare of your patient your top priority.

### Defamation

As an EMT, you should also be aware of the laws involving defamation. **Defamation** is the communication of false information that damages the reputation of a person. Defamation that is in writing is referred to as **libel**, and defamation that is spoken is known as **slander**. A legal claim for defamation could arise out of a false statement on a run report, inappropriate comments made on social media or during "station house" conversations, or sharing "war stories" with friends, relatives, or neighbors. To avoid liability for such a claim and to protect the confidentiality of

patients, you must only communicate information about your patients to authorized people and you should be sure that the information contained in your run reports and other documentation is accurate and relevant. There is no reason to post information about your patient on social media. You should never comment on your patient's personal information when it is not relevant to your assessment or treatment of the patient.

### Good Samaritan Laws and Immunity

All states have adopted **Good Samaritan laws**, which are based on the common law principle that when you reasonably help another person, you should not be liable for errors and omissions that are made in giving good faith emergency care. However, Good Samaritan laws do not necessarily protect you from a lawsuit. Good Samaritan provisions vary significantly from state to state. Good Samaritan statutes in some jurisdictions provide immunity from a lawsuit while others provide an affirmative defense if you are sued for rendering care. In most cases, they do not prohibit the filing of a lawsuit, nor do they pertain to acts that could be considered wanton, gross, or willful negligence. To

be protected by the provisions of a Good Samaritan law, several conditions must generally be met:

1. You acted in good faith in rendering care.
2. You rendered care without expectation of compensation.
3. You acted within the scope of your training.
4. You did not act in a grossly negligent manner.

**Gross negligence** is defined as conduct that constitutes a willful or reckless disregard for a duty or standard of care.

Another group of laws grants immunity from liability to official EMS providers, such as EMTs, in some circumstances. These laws, which vary from state to state, do not provide immunity when injury or damage is caused by gross negligence or willful misconduct. In most cases, immunity statutes apply to EMS systems that are considered governmental agencies.

Most states have also adopted specific laws granting special privileges to EMS personnel, authorizing them to perform certain medical procedures. Many states also grant partial immunity to EMTs and physicians and nurses who give emergency instructions to EMS personnel via radio or other forms of communication. Consult your medical director or state EMS agency for more information about the laws in your area.

## YOU are the Provider

## PART 5

While reassessing the patient, he admits to using cocaine. You complete your reassessment and then call in your radio report to the receiving facility. The patient's blood pressure has improved and he tells you that his headache is not as bad as it was before.

### Recording Time: 16 Minutes

Level of consciousness	Conscious and alert
Respirations	18 breaths/min; regular and unlabored
Pulse	90 beats/min; strong and regular
Skin	Pink, warm, and dry
Blood pressure	166/94 mm Hg
Spo <sub>2</sub>	99%

You deliver the patient to the emergency department and give your oral report to the receiving nurse. After completing your patient care report (PCR), you and your partner return to service.

9. Should you report the patient's use of illegal substances to law enforcement personnel? Why or why not?
10. Why is it a good idea to have the receiving nurse sign your PCR acknowledging the transfer of care?

## Records and Reports

Because EMS providers are in a position to observe and gather information about diseases, injuries, and emergency events, an obligation to compile such information and report it to certain agencies may be imposed. Even if there is no such requirement, you should compile a complete and accurate record of all incidents in which you come into contact with sick or injured patients. A complete and accurate record of an emergency medical incident is an important safeguard against legal complications. The absence of a record, or a substantially incomplete record, increases the likelihood that you may have to testify on memory alone. This can prove to be wholly inadequate and embarrassing in the face of aggressive cross-examination.

You should consider the following two rules of thumb regarding reports and records:

- If an action or procedure is not recorded on the written report, it was not performed.
- An incomplete or untidy report is evidence of incomplete or inept emergency medical care.

You can avoid both of these potentially dangerous presumptions by compiling and maintaining accurate reports and records of all events and patients. PCRs also help the EMS system evaluate individual and service provider performance. These reports are an integral part of most quality assurance programs. Data extraction from PCRs is also used to conduct prehospital emergency care research, which may improve patient outcomes.

The National EMS Information System (NEMSIS) is a tool for the EMS profession. NEMSIS provides the ability to collect, store, and share standardized EMS data throughout the United States. This incredibly useful database can be used to improve the speed and accuracy of data collection. NEMSIS could, for example, provide early warning of a disease outbreak.

## Special Mandatory Reporting Requirements

### ► Abuse of Children, Older People, and Others

All states have enacted laws to protect abused children, and some have added other protected groups such as the older population and “at-risk” adults. Most states have a reporting obligation for certain people, ranging from physicians to any person. You

must be aware of the requirements of the law in your state. Such statutes frequently grant immunity from liability for libel, slander, or defamation of character to the individual who is obligated to report, even if the reports are subsequently shown to be unfounded, as long as the reports are made in good faith.

### ► Injury During the Commission of a Felony

Many states have laws requiring the reporting of any injury that is likely to have occurred during the commission of a crime, such as gunshot wounds, knife wounds, or poisonings. Again, you must be familiar with the legal requirements of your state.

### ► Drug-Related Injuries

In some instances, drug-related injuries must be reported. These requirements may affect how you approach documenting the care of a patient. However, it should be stressed that the US Supreme Court has held that drug addiction, in contrast to drug possession or sale, is an illness and not a crime. An injury as a result of a drug overdose, therefore, may not be within the definition of an injury resulting from a crime.

Some states, by statute, specifically establish confidentiality and excuse certain specified people from reporting drug cases, either to a government agency or to a minor’s parents, if, in the opinion of those people, withholding reporting is necessary for the proper treatment of the patient. Once again, you must be familiar with the legal requirements of your state.

### ► Childbirth

Many states require that anyone who attends at a live birth in any place other than a licensed medical facility report the birth. As before, you must be familiar with state requirements.

### ► Other Reporting Requirements

Other reporting requirements may include attempted suicides, dog bites, certain communicable diseases, assaults, domestic violence, and sexual assault or rape.

## Special Populations

Elder abuse is as prominent as child abuse in our society. Do not forget to be observant and report any suspicious signs or symptoms to the proper authorities.

Most EMS agencies require that all exposures to infectious diseases be reported. You may be asked to transport certain patients in restraints, which may also need to be reported. Each of these situations can present significant legal problems. You should learn your local protocols regarding these situations.

Not only do the events that need to be reported vary significantly from state to state but so do the methods and procedures by which such reporting must take place. For example, although all states require that suspected child abuse be reported, some states require that the report be filed with law enforcement, others with a designated child protection agency, and yet others with the ED. There are often time-sensitive provisions associated with reporting statutes. As has been noted earlier, it is important that you become familiar with reporting requirements of your state. Failure to report may result in disciplinary action, suspension of your privileges to practice as an EMT, a fine, or even criminal prosecution.

### ► Scene of a Crime

If there is evidence at an emergency scene that a crime may have been committed, you must notify the dispatcher immediately so that law enforcement authorities can respond. Such circumstances should not stop you from providing lifesaving emergency medical care to the patient; however, your safety is a priority, so you must ensure that the scene is safe to enter. At times, you may have to transport the patient to the hospital before law enforcement arrives. While emergency medical care is being provided, you must be careful not to disturb the scene of the crime any more than absolutely necessary. Notes and drawings should be made of the position of the patient and of the presence and position of any weapon or other objects that may be valuable to the investigating officers. If possible, do not cut through holes in clothing that were caused by weapons or gunshot wounds. Avoid walking through blood and try to avoid leaving footprints in the dirt or grass at or near a crime scene. When a sexual assault is suspected, try to persuade the victim not to shower or clean himself or herself. You should confer periodically with local authorities and be aware of their wishes regarding actions you should take at the scene of the crime. It is best if these guidelines can be established by protocol.

### ► The Deceased

In most states, EMTs do not have the authority to pronounce a patient dead. If there is any chance that life exists or that the patient can be resuscitated, you must

make every effort to save the patient at the scene and during transport. However, at times death is obvious. If a victim is clearly dead and the scene of the emergency may be where a crime was committed, do not move the body or disturb the scene.

## Ethical Responsibilities

In addition to legal duties, you have certain ethical responsibilities as a health care provider. These responsibilities are to yourself, your patients, your coworkers, and the public. **Ethics** is the philosophy of right and wrong, of moral duties, and of ideal professional behavior. It is often referred to as the study of morality. **Morality** is a code of conduct that can be defined by society, religion, or a person, affecting character and conscience. An entire field of ethics known as **bioethics** has evolved over the past several decades that addresses issues that arise in the practice of health care. Many such issues have drawn national attention, such as those dealing with the termination of life support, rationing of medical resources, and physician-assisted suicide. Ethical issues are present in nearly every EMS incident. As an EMT, you will be expected to conduct yourself in a manner that is consistent with the standards of your profession and to keep the best interests of your patients at the forefront of your conduct and decision making. The manner in which principles of ethics are incorporated into professional conduct is known as **applied ethics**.

You will encounter ethical dilemmas in the course of your employment that can be challenging to resolve. Examples might include the following:

- Your partner arrives at work smelling of alcohol.
- You are called to the scene of a belligerent driver who has seriously injured several children after causing a crash while drag racing.
- You are dispatched to a 9-1-1 call for chest pain. Your partner recognizes the address and tells you not to use the lights and siren since this is a "frequent flyer" who constantly calls 9-1-1 to get attention.
- You respond to the home of an older woman in cardiac arrest. One relative hands you DNR paperwork and states the patient didn't want to be resuscitated. Another relative demands that you do everything possible to save the patient.
- One of your coworkers is unable to attend a training session and asks you to sign him in, stating, "You know I would do it for you."

The manner in which you respond to each of these circumstances requires you to evaluate and apply your own ethical standards as well as those of your profession. Obviously, these choices can be difficult at times, particularly in those cases where your own personal standards of right and wrong do not necessarily agree with the standards of your profession. You know you should report that your partner may be intoxicated while on duty, even if he is a good friend. You might also want to honor the patient's DNR wishes, but medical control may order you to initiate care based on the family's request.

Your behavior both on and off the job will be a reflection of your personal ethical standards. News stories that depict EMS personnel engaging in any immature or illegal activities serve to lessen the public's confidence in the services EMTs provide. Illegal drug use or selling drugs, inappropriate use of emergency vehicles, inappropriate visitors entertained at the station, and use of alcohol on duty can impact negatively on the EMT and EMS in general and should be strictly forbidden.

You also may not stand by silently and watch as other EMS providers engage in misbehavior if you care about your patients, your coworkers, and the EMS system as a whole. Misconduct should be promptly reported to the appropriate chain of command. Similarly, you are obligated to report medical errors you make or witness to the medical director or another appropriate person as soon as possible.

As any group of professionals should, EMS providers should establish their own ethical standards and police the ethical behavior of their members. How can you make sure that you are acting ethically, especially with all the decisions you have to make in the field? First, you should consider all options available to you and the consequence of each option. Have decisions been made in the past regarding a similar situation; can an existing policy or rule be applied? How will the consequences of your decision provide the greatest benefit in view of all the alternatives? Involve online medical control in your decision making **Table 3-2**.

You must meet your legal and ethical responsibilities while caring for your patients' physical and emotional needs. Patient needs will vary depending on the situation, and you must be prepared to offer whatever physical and emotional support is necessary. In most cases that you will encounter as an EMT, there will be a rule, a law, or a policy that will guide your decision making and your actions. As a professional, you are bound to follow all such policies, rules, and laws even in those rare circumstances where your own personal sense of ethics might lead you to a different result. In

**Table 3-2****Ethical Decision Making Checklist**

	Yes	No
Is the decision in the best interests of the patient?	<input type="checkbox"/>	<input type="checkbox"/>
Is the decision based on logic and reason rather than emotion?	<input type="checkbox"/>	<input type="checkbox"/>
Does the decision protect the patient's rights?	<input type="checkbox"/>	<input type="checkbox"/>
Would you agree to the same decision if you were the patient?	<input type="checkbox"/>	<input type="checkbox"/>
Would you make the same decision again in similar circumstances?	<input type="checkbox"/>	<input type="checkbox"/>
Can you defend this decision to others?	<input type="checkbox"/>	<input type="checkbox"/>

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short, your professional ethics trump personal morals while on duty.

One unquestionable responsibility you have is honest reporting. Remember, absolute honesty in reporting is essential. You must provide a complete account of the events and the details of all patient care and professional duties.

### The EMT in Court

As an EMT, there are a number of different circumstances that might cause you to end up in court, either as a witness or a defendant in a civil lawsuit or as a witness or defendant in a criminal case. Regardless of the circumstances, being in court is often stressful. As a witness in a civil case, you may be called to testify about the condition of the plaintiff when you arrived at the scene of a crash and about the treatment that you provided. In a criminal case, you may be asked to describe a crime scene, the injuries that you found when you examined a crime victim, or to testify concerning any admissions or statements made to you by a criminal defendant.

Whenever you are subpoenaed to testify in any court proceeding, you should immediately notify the director of your service and legal counsel. As a witness you should remain neutral during your testimony. You are simply there to provide the facts as you observed them and not to take sides. In all likelihood, many of the questions that you will be asked will be based on the documentation you wrote at the

time of the incident. Be sure to review your run report prior to your court appearance **Figure 3-12**.

As a defendant in either a civil or criminal proceeding, your involvement will obviously be far more significant and the outcome will have far greater personal consequences. In either case, you will definitely require the assistance of an attorney. In a civil lawsuit, where you are being sued in your capacity as an employee or volunteer of an EMS system, your service or its insurance company generally will provide you with legal counsel.

A civil lawsuit begins with the service of a summons and complaint. The complaint will set forth the details of the plaintiff's case and will provide the theory on which the plaintiff is relying to recover a judgment against you and your service. If served with a summons, you must bring this to the attention of the head of your service immediately, because the complaint must be responded to within a set period of time that is usually within 20 to 30 days. The response to the complaint is called an answer and it will generally deny the claims set forth in the complaint and set forth one or more defenses on behalf of you and your service. A defense is essentially a reason why the plaintiff should not recover a judgment against you. Depending on the nature of the case filed against you, the type of EMS system that you work for, and the state where you work, there may be different possible defenses available to you. These may include the defenses of statute of limitations, immunity, or contributory negligence.

The **statute of limitations** is the time within which a case must be commenced. For example, in many

states, a claim for negligence must be commenced within 3 years. A case commenced beyond the 3-year period would be barred by the statute of limitations. In such a case, your attorney would include the defense of statute of limitations in the answer that is filed in response to the complaint.

Another possible defense is that of governmental immunity. **Governmental immunity** generally applies only to EMS systems that are operated by municipalities or other governmental entities. If your service is covered by immunity, it may mean that you cannot be sued at all or it may limit the amount of the monetary judgment that the plaintiff may recover. State laws vary significantly on both the statute of limitations and immunity, and you should understand the laws that apply in your state.

**Contributory negligence** is a legal defense that may be raised when the defendant feels that the conduct of the plaintiff somehow contributed to any injuries or damages that were sustained by the plaintiff. For example, you are treating a patient with chest pain and you feel that the administration of aspirin is indicated. You ask the patient if he is allergic to aspirin and he says no. Shortly after you administer the aspirin, the signs and symptoms of a severe allergic reaction develop in the patient. Later in the hospital, the doctor advises you that the patient's medical chart history indicates that the patient has an allergy to aspirin. The patient states that he forgot he was allergic to aspirin. In this case, the defense of contributory negligence might be raised since it was the patient's forgetfulness and his denial of an aspirin allergy that contributed to his allergic reaction.

The next phase of the case is known as **discovery**, and it is an opportunity for both sides to obtain information that will enable the attorneys to have a better understanding of the case and assist in negotiating a possible settlement or in preparing for trial. Discovery may include interrogatories, depositions, requests for production of documents, and physical examinations. **Interrogatories** are written questions that each side sends to the other, and **depositions** are oral questions asked of parties and witnesses under oath. On completion of the discovery phase, the parties may try to negotiate a possible settlement. Most cases are settled and do not go to trial. If a settlement is not able to be negotiated, the case will be set for trial. It is not uncommon for a case to take several years to get to trial.

At trial, each side will have an opportunity to present evidence that includes testimony of witnesses and documents such as medical reports and your run report. Witnesses may include experts such as physicians. Once both sides have concluded presenting



**Figure 3-12**

Court discussions will be based on your documentation. Make sure your documentation is neat, thorough, and accurate.

evidence, a judge or jury will render a decision or verdict. If a judgment is rendered against you or your service, the plaintiff may be awarded compensatory or punitive damages:

1. **Compensatory damages.** These damages are intended to compensate the plaintiff for the injuries he or she sustained such as medical bills, damages to personal property, lost earnings, and physical or emotional pain and suffering.
2. **Punitive damages.** Punitive damages are not commonly awarded in negligence cases and are reserved for those cases where the defendant has acted intentionally or with a reckless disregard for the safety of the public.

In most cases, if a judgment is rendered against you, your service or its insurance carrier will pay the judgment.

There is also the possibility that you could be arrested and charged with a criminal offense arising out of your employment as an EMS provider. Although these are rare occurrences, there have been EMTs who have been charged with crimes including theft of patient property, assault or sexual assault on a patient, operating a vehicle while under the influence of drugs or alcohol, or various drug-related offenses. Obviously, any arrest is considered very serious because a conviction could lead to imprisonment, the imposition of fines, and possible loss of the ability to practice as an EMT. Any EMT charged with a criminal offense should secure the services of a highly experienced criminal attorney immediately.

## YOU are the Provider

## SUMMARY

### 1. Why is it essential that you obtain consent to treat the patient once you arrive?

Consent is required from every conscious adult before care can be started. The adult patient who is conscious, rational, and capable of making informed decisions has a legal right to refuse care. The patient does not forfeit this right simply because you disagree or because it may not be the best medical decision. The law allows the patient to make choices that may seem medically unsound and might even endanger his or her own life. Failing to honor a competent adult patient's right to refuse care or transport may be grounds for both criminal and civil action against you.

### 2. Should you assess the patient's competency or decision making capacity once you arrive?

Your role is to assess the patient's decision making capacity. Although the terms *competence* and *decision making capacity* are often thought of interchangeably, there is a distinction. Competence is typically determined by a court of law, whereas decision making capacity refers to whether a patient is capable of making a rational decision. Assessing a patient's decision making capacity can often be complicated in the prehospital setting, and you may require the assistance of medical control to make the best decision.

### 3. Are you legally authorized to treat this patient? Why or why not?

At this point, you have not obtained consent from the patient to begin treating him; in fact, you haven't even

introduced yourself. Under most circumstances, you may not begin treatment of a mentally competent adult until he or she has given you permission, or consent, to do so. If the patient has decision making capacity—that is, he or she is conscious, alert, not under the influence of drugs or alcohol, and of legal age (18 years in most states)—you cannot legally provide care, even if the patient is obviously sick or injured. Providing care without the patient's consent may be grounds for both criminal and civil action, such as assault and battery.

### 4. How does informed consent differ from implied consent?

A patient's consent must be informed, which means you have explained the nature of the treatment being offered, including the potential risks, benefits, and alternatives to treatment, as well as any potential consequences of refusing treatment, and the patient has given consent.

Implied consent is based on the legal assumption that a critically ill or injured patient, who is physically unable to give consent (ie, unconscious, under the influence of drugs or alcohol), would consent to EMS treatment and transport if he or she were physically able to do so. Consent to treat is also implied when caring for a minor whose parents or caregivers are unable to be located; a minor cannot legally consent to or refuse medical care.

### 5. What should you do when a patient refuses treatment and/or transport?

When a patient refuses treatment and/or transport, it is not unreasonable to ask why he or she does not wish

# YOU are the Provider

## SUMMARY *continued*

to be treated. Many people refuse treatment because of financial concerns or the fact that they are scared. In this case, you should explain that his high blood pressure and severe headache could indicate bleeding in the brain or some other potentially life-threatening condition and that only a physician can diagnose his problem. Do not be afraid to advise the patient that his refusal could ultimately result in death; this is not a scare tactic, it is the truth and the patient has a right to hear it.

If, despite your best efforts to obtain consent to treat, a mentally competent adult still refuses, there is little else you can legally do. You should, however, inform medical control of the situation. In some cases, the physician may wish to speak directly to the patient.

### 6. What questions should you ask yourself to help determine whether you can transport this patient against his will?

When a patient refuses treatment, you must assess his or her decision-making capacity. Is the patient's mental condition impaired? Is the patient under the influence of drugs or alcohol? Is the patient of legal age? Is the patient a danger to himself/herself or others? These are but a few of the questions that must be answered.

In this case, there is no evidence that has been uncovered thus far that the patient's decision making capacity is impaired, and although he needs medical attention for his headache and blood pressure, you cannot legally force him to accept it, nor can you transport him against his will.

The best course of action is to ensure that the patient is aware of the potential consequences of his refusal—namely, death—and contact medical control to apprise him or her of the situation.

### 7. Does HIPAA affect the medical care you provide to your patients? What information are you allowed to discuss with family members, bystanders, the media, and others?

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) has many aims; however, the section of the act that most directly affects EMS relates to patient privacy. *Confidential patient information* includes patient history, assessment findings, treatment, etc. HIPAA provides guidance on why types of information are protected, the responsibility of health care providers regarding that protection, and penalties for breaching that protection. Confidential information

can be shared under conditions, such as for continuity of care and for billing purposes. *You should not allow HIPAA to affect the medical care that you provide to a patient.*

You must be very careful about what you discuss with family members, bystanders, the media, etc. You must protect the patient's confidential information. There may be times when this is difficult, especially with concerned family members. When in doubt about what to share, simply provide reassurance that everyone is doing his or her best for the patient.

### 8. How do you respond to the clerk's question in a professional manner without violating HIPAA regulations?

This is a great opportunity to praise a conscientious bystander who did the right thing. Thank the clerk, but do not provide him with any confidential patient information. For example, "You did the right thing during a stressful situation and we appreciate it. We are required to protect the patient's privacy, but I want to reassure you we will take excellent care of the patient from here."

### 9. Should you report the patient's use of illegal substances to law enforcement personnel? Why or why not?

The patient's use of cocaine is pertinent medical information that may have an impact on the care he receives at the hospital; therefore, it should be included in your patient care report and your oral report to the receiving facility. However, the US Supreme Court has held that drug use or addiction (in contrast to possession or sale) is an illness and not a crime. Therefore, you are not legally required to report the patient's admitted use of these substances to law enforcement personnel. If you are in doubt, consult with your EMS medical director. More important, you must be familiar with the reporting requirements of the state in which you function as an EMT.

### 10. Why is it a good idea to have the receiving nurse sign your PCR acknowledging the transfer of care?

Sign-off is important for several reasons. It ensures that an equal or higher medical authority has accepted care of the patient from you. It also provides a record of who accepted care of the patient in the event there are any questions later. Failure to appropriately transfer care at the receiving hospital may be considered abandonment. Your documentation should show that you have met this obligation.

## YOU are the Provider

SUMMARY *continued*

## EMS Patient Care Report (PCR)

<b>Date:</b> 4-19-17	<b>Incident No.:</b> 040109	<b>Nature of Call:</b> Headache	<b>Location:</b> 1175 N. Main St.		
<b>Dispatched:</b> 1720	<b>En Route:</b> 1721	<b>At Scene:</b> 1731	<b>Transport:</b> 1739	<b>At Hospital:</b> 1748	<b>In Service:</b> 1801

## Patient Information

**Age:** 32  
**Sex:** M  
**Weight (in kg [lb]):** 91 kg (200 lb)

**Allergies:** None  
**Medications:** Prinivil  
**Past Medical History:** Hypertension  
**Chief Complaint:** Severe headache

## Vital Signs

<b>Time:</b> 1735	<b>BP:</b> 200/110	<b>Pulse:</b> 110	<b>Respirations:</b> 24	<b>Spo<sub>2</sub>:</b> 98%
<b>Time:</b> 1741	<b>BP:</b> 194/108	<b>Pulse:</b> 104	<b>Respirations:</b> 22	<b>Spo<sub>2</sub>:</b> 99%
<b>Time:</b> 1747	<b>BP:</b> 166/94	<b>Pulse:</b> 90	<b>Respirations:</b> 18	<b>Spo<sub>2</sub>:</b> 99%

## EMS Treatment (circle all that apply)

<b>Oxygen @ __ L/min via (circle one):</b> NC NRM BVM		<b>Assisted Ventilation</b>	<b>Airway Adjunct</b>	<b>CPR</b>
<b>Defibrillation</b>	<b>Bleeding Control</b>	<b>Bandaging</b>	<b>Splinting</b>	<b>Other:</b> Dimmed lights, position of comfort

## Narrative

9-1-1 dispatch for a man with a severe headache. On arrival at the scene, found the patient, a 32-year-old man, sitting on the sidewalk outside convenience store, grabbing his head in pain. He was conscious and alert; his airway was patent, and his breathing was adequate. Patient states that his headache began a few hours earlier and that he has not taken his prescribed antihypertensive medication. No trauma was involved in this incident. Past medical history significant for hypertension. He denies loss of consciousness, nausea, or any other symptoms. Patient was initially hesitant to consent to EMS treatment and transport. However, after the potential complications of his refusal were explained to him, he agreed to EMS treatment and transport. Obtained vital signs and performed further assessment, which was unremarkable. Placed patient onto stretcher, loaded him into the ambulance, dimmed the lights, and placed him in a position of comfort. Began transport to the hospital and monitored his condition en route. Patient admitted to using cocaine, but he did not feel this was contributing to his condition. Patient remained conscious and alert during transport and stated that his headache was improving. Reassessment of his vital signs revealed that his blood pressure had improved. Delivered patient to emergency department staff and gave oral report to charge nurse.\*\*End of report\*\*

# Prep Kit

## ► Ready for Review

- Under most circumstances, consent is required from every conscious adult before care can be started. The foundation of consent is decision making capacity.
- You should never withhold lifesaving care unless a valid do not resuscitate (DNR) order is present.
- Because a minor might not have the wisdom, maturity, or judgment to give consent, the law requires that a parent or legal guardian give consent for treatment or transport.
- Adults who are conscious and alert and who appear to have decision making capacity have the right to refuse treatment or withdraw from treatment at any time, even if doing so may result in serious injury or death.
- You should include all information pertaining to patient refusals in your patient care report (PCR).
- Communication between you and the patient is considered confidential and generally cannot be disclosed without permission from the patient or a court order.
- Advance directives, living wills, or health care directives are most commonly used when a patient becomes comatose. Physician Orders for Life-Sustaining Treatment and Medical Orders for Life-Sustaining Treatment forms explicitly describe acceptable interventions for the patient in the form of medical orders.
- There are both definitive and presumptive signs of death. In many states, death is defined as the absence of circulatory and respiratory function.
- Consent to organ donation is evidenced by either a donor card or a driver's license indicating that the individual wishes to be a donor.
- Standard of care is established in many ways, among them local customs, statutes, ordinances, protocols, textbooks, administrative regulations, and case law. The scope of practice outlines the care you are able to provide for the patient.
- Once your ambulance responds to a call or treatment is begun, you have a legal duty to act. In most cases, if you are off duty and come upon a crash, you are not legally obligated to stop and assist patients.
- Determination of negligence is based on the following four factors: duty, breach of duty, damages, and causation. All four elements must be present for the legal doctrine of negligence to apply and for a plaintiff to prevail in a lawsuit against an EMS system or provider.
- Abandonment is the termination of care without the patient's consent and without making provisions for the transfer of care to a medical professional with skills at the same level or at a higher level than your own skills. Abandonment is legally and ethically a very serious act. Always try to obtain a signature on your PCR from the person accepting transfer of care.
- Assault is defined as unlawfully placing a person in fear of immediate bodily harm. Battery is unlawfully touching a person; this includes providing emergency care without consent. To protect yourself from these charges, be sure to obtain expressed consent whenever possible.
- To avoid liability for defamation, you must only communicate information about your patients to authorized people and you should be sure that the information contained in your run reports and other documentation is accurate and relevant.
- Good Samaritan laws are based on the common law principle that when you reasonably help another person, you should not be liable for errors and omissions that are made in giving good faith emergency care. Whereas some laws provide Good Samaritan protection for anyone who stops to render aid, others only provide protection for those with medical training.
- Records and reports are important; make sure that you compile a complete and accurate record of each incident. The courts consider an action or procedure that was not recorded on the written report as not having been performed, and an incomplete or untidy report is considered evidence of incomplete or inexperienced medical care.
- You should know what the special reporting requirements are involving abuse of children, older adults, and others; injuries related to crimes; drug-related injuries; and childbirth.
- You must meet your legal and ethical responsibilities while caring for your patients' physical and emotional needs.
- As an EMT, there are a number of different circumstances that might cause you to end up in court, either as a witness or a defendant in a civil lawsuit or as a witness or defendant in a criminal case.

# Prep Kit *continued*

## ▶ Vital Vocabulary

**abandonment** Unilateral termination of care by the EMT without the patient's consent and without making provisions for transferring care to another medical professional with the skills and training necessary to meet the needs of the patient.

**advance directive** Written documentation that specifies medical treatment for a competent patient should the patient become unable to make decisions; also called a living will or health care directive.

**applied ethics** The manner in which principles of ethics are incorporated into professional conduct.

**assault** Unlawfully placing a patient in fear of bodily harm.

**battery** Unlawfully touching a patient or providing emergency care without consent.

**bioethics** The study of ethics related to issues that arise in health care.

**breach of confidentiality** Disclosure of information without proper authorization.

**certification** A process in which a person, an institution, or a program is evaluated and recognized as meeting certain predetermined standards to provide safe and ethical patient care.

**compensatory damages** Damages awarded in a civil lawsuit that are intended to restore the plaintiff to the same condition that he or she was in prior to the incident.

**competent** Able to make rational decisions about personal well-being.

**consent** Permission to render care.

**contributory negligence** A legal defense that may be raised when the defendant feels that the conduct of the plaintiff somehow contributed to any injuries or damages that were sustained by the plaintiff.

**credentialing** An established process to determine the qualifications necessary to be allowed to practice a particular profession, or to function as an organization.

**decision-making capacity** Ability to understand and process information and make a choice regarding appropriate medical care.

**defamation** The communication of false information about a person that is damaging to that person's reputation or standing in the community.

**dependent lividity** Blood settling to the lowest point of the body, causing discoloration of the skin; a definitive sign of death.

**depositions** Oral questions asked of parties and witnesses under oath.

**discovery** The phase of a civil lawsuit where the plaintiff and defense obtain information from each other that will enable the attorneys to have a better understanding of the case and which will assist in negotiating a possible settlement or in preparing for trial. Discovery includes depositions, interrogatories, and demands for production of records.

**do not resuscitate (DNR) orders** Written documentation by a physician giving permission to medical personnel not to attempt resuscitation in the event of cardiac arrest.

**durable power of attorney for health care** A type of advance directive executed by a competent adult that appoints another individual to make medical treatment decisions on his or her behalf, in the event that the person making the appointment loses decision-making capacity.

**duty to act** A medicolegal term relating to certain personnel who either by statute or by function have a responsibility to provide care.

**emancipated minors** A person who is under the legal age in a given state but, because of other circumstances, is legally considered an adult.

**emergency** A serious situation, such as injury or illness that threatens the life or welfare of a person or group of people and requires immediate intervention.

**emergency doctrine** The principle of law that permits a health care provider to treat a patient in an emergency situation when the patient is incapable of granting consent because of an altered level of consciousness, disability, the effects of drugs or alcohol, or the patient's age.

**emergency medical care** Immediate care or treatment.

**ethics** The philosophy of right and wrong, of moral duties, and of ideal professional behavior.

**expressed consent** A type of consent in which a patient gives verbal or nonverbal authorization for provision of care or transport.

**false imprisonment** The confinement of a person without legal authority or the person's consent.

**forcible restraint** The act of physically preventing an individual from initiating any physical action.

# Prep Kit *continued*

**Good Samaritan laws** Statutory provisions enacted by many states to protect citizens from liability for errors and omissions in giving good faith emergency medical care, unless there is wanton, gross, or willful negligence.

**governmental immunity** Legal doctrine that can protect an EMS provider from being sued or which may limit the amount of the monetary judgment that the plaintiff may recover; generally applies only to EMS systems that are operated by municipalities or other governmental entities.

**gross negligence** Conduct that constitutes a willful or reckless disregard for a duty or standard of care.

**health care directive** A written document that specifies medical treatment for a competent patient, should he or she become unable to make decisions. Also known as an advance directive or a living will.

**health care proxies** A type of advance directive executed by a competent adult that appoints another individual to make medical treatment decisions on his or her behalf in the event that the person making the appointment loses decision making capacity. Also known as a durable power of attorney for health care.

**implied consent** Type of consent in which a patient who is unable to give consent is given treatment under the legal assumption that he or she would want treatment.

**informed consent** Permission for treatment given by a competent patient after the potential risks, benefits, and alternatives to treatment have been explained.

**in loco parentis** Refers to the legal responsibility of a person or organization to take on some of the functions and responsibilities of a parent.

**interrogatories** Written questions that the defense and plaintiff send to one another.

**kidnapping** The seizing, confining, abducting, or carrying away of a person by force, including transporting a competent adult for medical treatment without his or her consent.

**libel** False and damaging information about a person that is communicated in writing.

**licensure** The process whereby a competent authority, usually the state, allows people to perform a regulated act.

**medicolegal** A term relating to medical jurisprudence (law) or forensic medicine.

**morality** A code of conduct that can be defined by society, religion, or a person, affecting character, conduct, and conscience.

**negligence** Failure to provide the same care that a person with similar training would provide.

**negligence per se** A theory that may be used when the conduct of the person being sued is alleged to have occurred in clear violation of a statute.

**patient autonomy** The right of a patient to make informed choices regarding his or her health care.

**protected health information (PHI)** Any information about health status, provision of health care, or payment for health care that can be linked to an individual. This is interpreted rather broadly and includes any part of a patient's medical record or payment history.

**proximate causation** When a person who has a duty abuses it, and causes harm to another individual, the EMT, the agency, and/or the medical director may be sued for negligence.

**punitive damages** Damages that are sometimes awarded in a civil lawsuit when the conduct of the defendant was intentional or constituted a reckless disregard for the safety of the public.

**putrefaction** Decomposition of body tissues; a definitive sign of death.

**res ipsa loquitur** When the EMT or an EMS system is held liable even when the plaintiff is unable to clearly demonstrate how an injury occurred.

**rigor mortis** Stiffening of the body muscles; a definitive sign of death.

**scope of practice** Most commonly defined by state law; outlines the care that the EMT is able to provide for the patient.

**slander** False and damaging information about a person that is communicated by the spoken word.

**standard of care** Written, accepted levels of emergency care expected by reason of training and profession; written by legal or professional organizations so that patients are not exposed to unreasonable risk or harm.

**statute of limitations** The time within which a case must be commenced.

**tort** A wrongful act that gives rise to a civil lawsuit.

# Assessment in Action



You are dispatched to a home where you find a 65-year-old man reporting chest pain. The patient is alert and oriented. Assessment of his vital signs shows a pulse rate of 110 beats/min and irregular, a blood pressure of 140/90 mm Hg, and a respiratory rate of 22 breaths/min. He describes the pain as crushing. He has an extensive cardiac history and is taking numerous medications. The patient states he does not want to go to the hospital and that his friend was

overreacting by calling EMS. Your partner hands the patient a refusal form and states "Sign here; it says if you die, it's not our fault." In the ambulance, you tell your partner, "We should have tried to convince him to go to the hospital." Your partner replies, "Don't worry, he signed a refusal. We can't be held liable."

- Once your ambulance is dispatched to an emergency, you have an obligation to respond. This is known as:
  - scope of practice.
  - duty to act.
  - breach of duty.
  - mandatory reporting.
- Upon arrival at the scene, your partner began assessing vital signs without talking to the patient. This demonstrates:
  - effective interpersonal communication.
  - patient advocacy.
  - failure to obtain consent.
  - breach of duty.
- Suppose your partner had introduced himself and asked permission to examine the patient. If the patient nodded and extended his arm, this would be considered:
  - mature consent.
  - implied consent.
  - informed consent.
  - expressed consent.
- What is the best way to care for your patient once he tells you he does not want to go to the hospital?
  - Let him know how important it is that he accept transport to the hospital.
  - Ask him to sign a refusal form, releasing you from liability.
  - Order him to go to the hospital against his wishes.
  - Encourage him to call 9-1-1 again if his condition worsens.
- While caring for this patient, you hear a neighbor cry for help; a child is drowning just around the corner. You and your partner leave, telling the patient you must respond to this incident and will send another ambulance for him as soon as possible. This decision is an example of:
  - triage.
  - abandonment.
  - patient advocacy.
  - duty to act.
- On another call that day, your patient consented to treatment and transport after you told her she could be experiencing a serious medical emergency. This is an example of:
  - scope of practice.
  - implied consent.
  - servicing in the patient's best interest.
  - an EMS field impression.
- What ethical challenges were you presented with during this call?
- If a patient says he has used heroin recently, who should you tell about this?