

## The EMS Darwin Awards

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## The Darwin Awards

- Recognizing individuals who contribute to human evolution by self-selecting themselves out of the gene pool...



## Jet Assisted Take Off



## Unfortunate Husband



- “Paramedics were dispatched to the scene. They loaded the husband on the stretcher and began carrying him to the street. One of them asked the wife how the injury had occurred. When she told them, they began laughing so hard that they dropped the stretcher, and broke the guy’s collarbone.”

## AZ Man Hospitalized after Shooting Himself in the Penis

- Chandler, AZ (Aug. 9, 2011) AP Wire
- 27 year old Joshua Seto put a pistol in the waistband of his pants when it discharged

Insert Picture Here

## Man Sues Doctor for Amputating His Penis

- New York Daily News (Aug. 18, 2011)
- 61 year old Phillip Seaton underwent a routine circumcision in Louisville, KY
- Physician removed penis when he discovered penile cancer during procedure

No Picture Here Either

## Objectives

- Staying Out of Trouble
- Personal Conduct vs. Management
- Mistakes vs. Preventable Errors
- New and Exciting Ways of Getting Into Trouble!

## The Rules Have Changed



## The back of that card...



## Liability

- Criminalization of Medicine
- Civil Liability
  - Immunities
- Administrative Liability

## Social Media

- Number One Employment-Related Area
- Pictures and Video
- Workplace Conduct



## The Today Show



## Pictures and Video

- ED Nurses Fired for Posting Cell Phone Pictures of Patient on Facebook
- NYC Paramedic Fired for Posting Murder Victim Pictures on Facebook
- Firefighter Suspended for Putting Patient's Photo on Facebook
- Firefighter Criminally Charged After Posting Patient Photos on Website

## Risks

- Job Termination
- Action Against Your Certification
- Civil Liability - Intentional Infliction, Defamation
- Criminal Liability under HIPAA and State Statutes

## Policy Elements

- Just Don't Do It - ZERO Tolerance
- Cannot Sufficiently De-Identify under HIPAA
- No Reasonable Work-Related Reason

## But What If...?

- Any Photographs Taken On-Duty Become the Property of the Department
- Any Scene or Patient Photos Become Part of the Patient Record
- No Use of these Photographs Without Agency Authorization

## Cellular Telephones

- No Personal Calls while On a Call or Operating a Vehicle
- Authorized Phone Use While Driving Only with Hands-Free
- Use During Downtime Cannot Cause Op



## Workplace Conduct

- Firefighter Disciplined for Ridiculing and Disparaging Department Members Online
- Paramedic Sued by Patient for Posting Details about Sexual Assault
- Paramedic Fired over Racially Derogatory Animated Video

## Xtranormal.com



## Social Media

- The Rules and Policies for Workplace Conduct Apply Online as Well - PERIOD
- Hostile Work Environment
- Discriminatory Conduct
- You CAN Regulate Legal Off-Duty Conduct
- Don't Friend Your Patients or Your Subordinates

## National Labor Relations Board

- Protected Concerted Activity
- AMR Connecticut Case
- All for One or One for All?

## Workplace Computers

- Reasonable Expectation of Privacy
- Computers, Cell Phones, Email Accounts
- Text Messages...

## False Credentialing

- Cleveland Fire Department Probes Cheating on EMS Exam
- Cambridge EMT Indicted for Falsifying Training Records
- Ohio Fire Chief Investigated for "Enhancing" Continuing Education Hours

## Ramifications

- Loss of Certification
- Criminal Charges - Fraud, Official Misconduct
- Federal and State False Claims Act Claims

## False Claims

- Denver
- Justice Department Seeks Ambulance Operator's Documents
- Anti-Kickback Violation for Providing Discounts for Medicare Patients

## False Claims

- Murfreesboro, TN
- 35 Count Indictment
- Fraudulent Claims for Ambulatory Patients
- \$434,000

## False Claims

- Philadelphia, PA
- Four People Indicted for Healthcare Fraud
- Ambulatory Patients

## False Claims

- Fort Wayne, IN
- 12 Months in Prison and \$400K Restitution
- Medical Transport Fraud Scheme

## Ramifications

- Anti-Kickback and Federal False Claims
- State False Claims - Treble Damages

## Boundary Issues

- NH EMT on Trial for Allegedly Touching a Female Patient
- OR Paramedic Sentenced to Three Years in Prison for Fondling Female Patients
- FL Paramedic Arrested for Felony Sexual Battery
- IN EMT Charged with Fondling a Patient

## More Boundaries

- FDNY EMT Accused of Groping Patient
- Jury Awards 14 Year Old Girl \$12.5 Million Who was Molested in Ambulance
- \$3.25 Million Civil Verdict in Paramedic Sexual Assault Case

## Unappreciated Epidemic

- Up to 50% of EMS Providers Report Sexual Overtures
- Virtually NO States have Laws Preventing Sexual Contact Between Providers and Patients
- “Public Health, Safety and Welfare”

## Policies

- Prevention of Incidents - Separation & Documentation
- Chaperone Provisions
- No Social Interactions with Patients for 30 Days
- No Social Media Interactions

## Beware

- Cleveland Jury Finds Paramedic Accused of Assaulting Two Patients NOT GUILTY

## Bonus Round!

- Los Angeles Fire Department Engine Used as Backdrop in a Porn Film Shot at Venice Beach
- Only Reason No Discipline Issued was Two-Year Limit in City Charter

## Conclusions

- Use Your Brain!
- Control Your Online Conduct
- False Credentialing and False Claims
- Boundary Issue Controls

# The EMS Darwin Awards

Thank you for Coming