

First a salute  
to our  
Veterans  
and  
Thank You!



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# Ron Kendrick/ Office of EMS

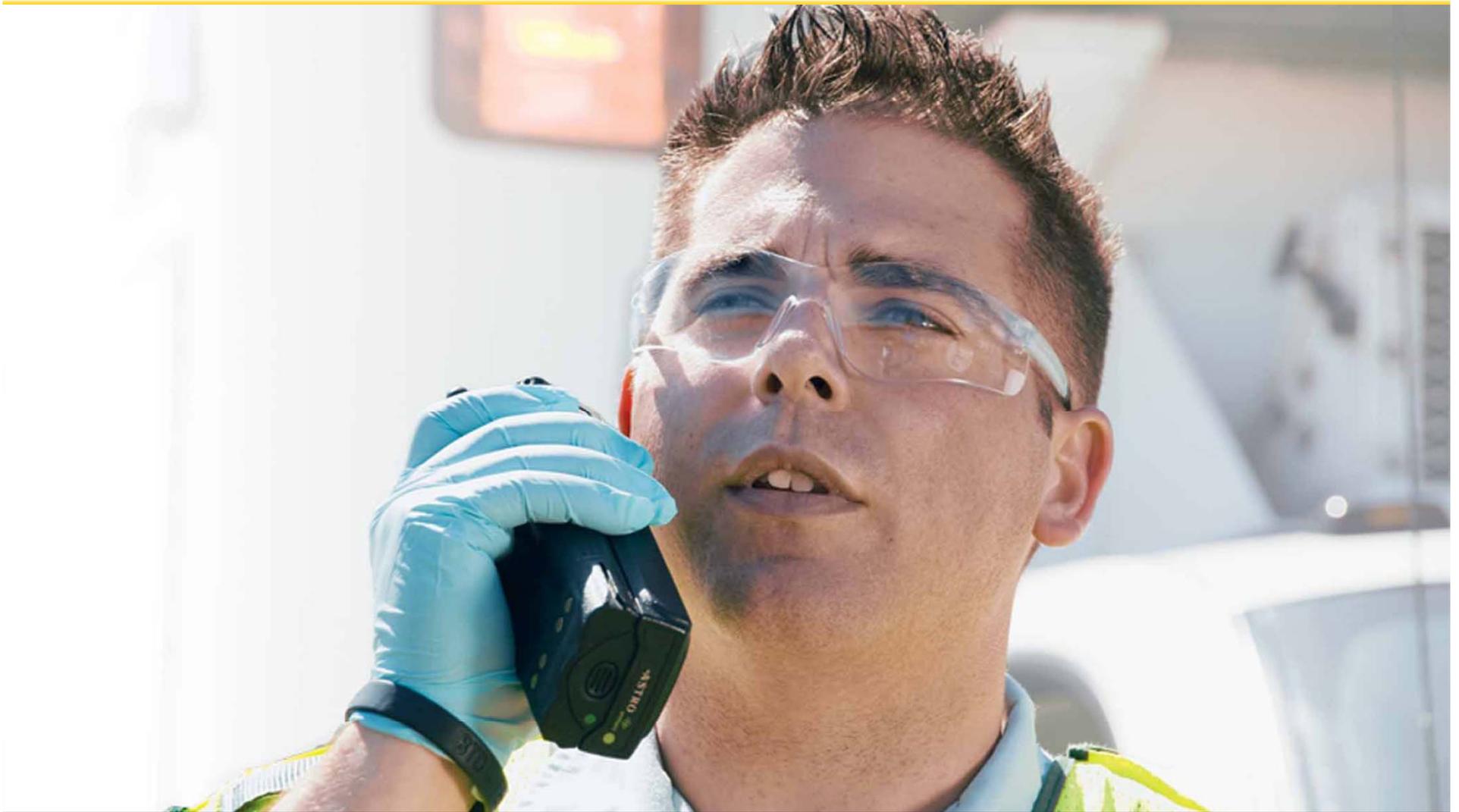
- Investigator/Inspector Office of EMS
- Education Coordinator
- EMT-I
- CPR Instructor
- 35 years with Clintwood Rescue, 20 years as Captain and 13 as Operations Manager
- 20 years Law Enforcement experience in traffic and as a Criminal Investigator



We all make mistakes

# 4

## Medical, Legal, and Ethical Issues



# OBJECTIVES

- 4.1** Define key terms introduced in this chapter. Slides [11–12](#), [14](#), [16–22](#), [24](#), [26–32](#), [34–35](#), [39](#)
- 4.2** Describe your scope of practice as an EMT. Slides [11–12](#)
- 4.3** Differentiate between scope of practice and standard of care. Slide [12](#)
- 4.4** Given a variety of scenarios, determine which type of patient consent applies. Slides [16–19](#)

*continued*

# OBJECTIVES

- 4.5** Given a variety of ethical dilemmas, discuss the issues that must be considered in each situation. Slides [13](#), [30](#)
- 4.6** Explain legal and ethical considerations in situations where patients refuse care. Slides [20–23](#)
- 4.7** Discuss the EMT's obligations with respect to advance directives, including do not resuscitate orders. Slide [24](#)

*continued*

# OBJECTIVES

- 4.8** Given a variety of scenarios, identify circumstances that may allow a claim of negligence to be established. Slides [27–30](#)
- 4.9** Explain the purpose of Good Samaritan laws. Slide [30](#)
- 4.10** Identify situations that would constitute a breach of patient confidentiality. Slide [32](#)

*continued*

# OBJECTIVES

- 4.11** Identify situations that would constitute libel or slander. Slide [32](#)
- 4.12** Recognize medical identification devices and organ donor status. Slides [33–34](#)
- 4.13** List items that may be considered evidence at a crime scene. Slide [39](#)

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# OBJECTIVES

- 4.14** Describe ways in which you can minimize your impact on evidence while meeting your obligations to care for your patient. Slides [36](#), [38](#)
- 4.15** Recognize situations that may legally require reporting to authorities. Slide [39](#)
- 4.16** Given a scenario involving an ethical challenge, decide the most appropriate response for an EMT. Slides [22](#), [45–46](#)

# Topics

- Scope of Practice
- Patient Consent and Refusal
- Other Legal Issues

# Scope of Practice

12 VAC5-31-1050: EMS personnel **shall** only perform those procedures, skills, or techniques for which he is currently licensed or certified, provided that he is acting in accordance with local medical treatment protocols and medical direction provided by the OMD of the licensed EMS agency with which he is affiliated and within the scope of the EMS agency licenses as authorized in the Emergency Medical Services Procedures and Medications Schedule as approved by the board.



Virginia Office of Emergency Medical Services  
Scope of Practice - Formulary for EMS Personnel

This SOP represents *practice maximums*.

CATEGORY		FR	EMT	AEMT	I	P
<b>Analgesics</b>	Acetaminophen		●	●	●	●
	Nonsteroidal anti-inflammatory		●	●	●	●
	Opiates and related narcotics			●	●	●
<b>Anesthetics</b>	Otic			●	●	●
	General - initiate			●	●	●
	General - maintenance			●	●	●
	Ocular			●	●	●
	Inhaled-self administered		●	●	●	●
	Local			●	●	●
<b>Anticonvulsants</b>				●	●	●
<b>Glucose Altering Agents</b>	Glucose Elevating Agents			●	●	●
			●	●	●	●
			●	●	●	●
	Glucose Lowering Agents			●	●	●
<b>Antidotes</b>	Anticholinergic Antagonists				●	●
	Anticholinesterase Antagonists	●	●	●	●	●
	Benzodiazepine Antagonists				●	●
	Narcotic Antagonists		●	●	●	●
	Nondepolarizing Muscle Relaxant Antagonist					●
	Beta/Calcium Channel Blocker Antidote				●	●
	Tricyclic Antidepressant Overdose				●	●
	Cyanide Antidote				●	●
	Cholinesterase Reactivator	●	●	●	●	●
<b>Antihistamines &amp; Combinations</b>				●	●	
<b>Biologicals</b>	Immune Serums				●	●
	Vaccines		●	●	●	●
	Antibiotics		●	●	●	●

Investigational medications and procedures which have been reviewed and approved by an Institutional Review Board (IRB) will be considered to be approved by the Medical Decision Committee solely within the context of the approved study. Investigators involved in IRB approved research are asked to present their study plans to the MDC for informational purposes so that the committee can maintain an awareness of on-going pre-hospital research in the Commonwealth. Those who desire to conduct non-IRB reviewed pilot projects, demonstration projects, or research are asked to present those proposals to the MDC prior to their implementation for review and approval by the MDC.

April 6, 2011  
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[http://www.vdh.state.va.us/OEMS/  
Training/index.htm](http://www.vdh.state.va.us/OEMS/Training/index.htm)

Category: **Part I General Provisions**

**Article 1 Definitions**

**12VAC5-31-10.**

**12VAC5-31-0010.564**

Source

"Standard of care" means the established approach to the provision of basic and advanced medical care that is considered appropriate, prudent and in the best interests of patients within a geographic area as derived by consensus among the physicians responsible for the delivery and oversight of that care. The standard of care is dynamic with changes reflective of knowledge gained by research and practice.

# Standard of Care

- Care expected from EMT with similar training for patient in a similar situation
- Meeting standard of care reduces risk of legal action.....
- Scope of practice: what you can do
- Standard of care: how you should do it

# Ethics

- Morals or standards governing actions
- Not always required by law
- “Golden Rule” standard
- Very important in EMS
- Good ethical behavior—what you do when no one is looking....honesty

# Patient Consent and Refusal

# Patient Consent

- Permission from patient to assess, treat, and transport
- Expressed consent
  - Must be informed
- Implied consent
  - Assumed consent
  - Follow local laws and protocols

# Consent for Children

- Minors (under 14) are not permitted to provide consent for treatment
- Obtain from parent or legal guardian
- Possible exceptions (check local law)
  - In loco parentis
  - Emancipated minors
  - Life-threatening illness or injury
  - Minors who have children
  - Minors serving in armed forces

# Va. Attorney General Opinion

- Under Code Section 54.1-2969
- A minor is under 18 years of age
- Consent of any legal authority is 14 yoa

# Consent for Mentally Incompetent Adults

- Adult patients incapable of informed decisions about care
- State and local laws and protocols permit transport of such patients under implied consent – get law enforcement to assist

# Involuntary Transportation

- Patient considered threat to self or others
- Court order
- Usually requires decision by mental health professional or police officer (protective custody)
- If patient restrained, must not risk legal liability

# Refusal of Care

- Patient may refuse care or transport
  - Legally able to consent
  - Mentally competent and oriented
  - Fully informed of risks
  - Sign release form
- Despite all precautions, EMT may still be held liable

# If in Doubt About Refusal

- Discuss decision with patient
- Ensure patient understands risks
- Consult medical direction
- Ask to contact family member
- Contact law enforcement
- Listen to patient to determine why refusing care

# Think About It

- What are the risks of beginning treatment and/or transport without getting consent from the patient?
- What if the patient refuses to sign the refusal of care form?

# Things to Consider During Refusal

- Have witnesses to refusal
- Inform patient that if changes mind, can call back
- If possible have friend or relative remain with patient
- Document, document, document

# Advance Directives

- Legal document expressing patient's wishes if patient unable to speak for self
- Durable Do not resuscitate order (DDNR)
- Living will (cannot be honored)
- Does not prevent EMT from providing comfort measures

# Other Legal Issues

# Duty to Act

- Obligation to provide care
- While on duty, EMT obligated to provide care if no threat to safety
- Duty to act not always clear
  - Off duty
  - On duty, out of jurisdiction
- Follow local laws and protocols
- Follow own conscience



Another Jurisdiction – No regulatory requirement to assist however OMD may cover you if you are traveling through jurisdiction and local EMS need assistance, again local laws would dictate whether you could provide care or not but must be with an agency and permitted by agency OMD!

# Negligence

- Something was not done, or was done incorrectly
- Must prove:
  - EMT had duty to act
  - Breach of duty—EMT failed to provide standard of care expected or failed to act
  - Proximate causation—patient suffered harm because of EMT action or inaction

*continued*

# Negligence

- Negligent EMT may be required to pay damages

# Abandonment

- Once care initiated, may not be discontinued until transferred to medical personnel of equal or greater training
- Failure to do so may constitute abandonment

# Good Samaritan Laws

- Grant immunity from liability if person acts in good faith within level of training
- Rarely applies to on-duty personnel (paid)
- May not cover EMTs in some situations
- Does not protect persons from gross negligence or violations of law



§ 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.



A. Any person who:

1. In good faith, renders emergency care or assistance, without compensation, to any ill or injured person (i) at the scene of an accident, fire, or any life-threatening emergency; (ii) at a location for screening or stabilization of an emergency medical condition arising from an accident, fire, or any life-threatening emergency; or (iii) en route to any hospital, medical clinic, or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance.



# Another Reason to Volunteer!?

# Think About It

- You arrive on the scene of a patient in cardiac arrest. The family says she has a DNR, but don't know where it is. How should you handle this?
- You are off duty and arrive on the scene of a vehicle crash. Police and EMS have not yet arrived. Are you legally obligated to stop and render aid?

# Confidentiality

- Information on patient's history, condition, treatment considered confidential
- Can be shared with other health care personnel as part of patient's continuing care
- Otherwise must be obtained through subpoena

# Medical Identification Devices



# Organ Donor

- Person with completed legal document allowing donation of organs and tissues in event of death
- May be identified by family members, donor card, driver's license
- Receiving hospital and/or medical direction should be advised per protocol

# Crime Scenes

- Location where crime was committed or anywhere evidence may be found
- Once police have made scene safe, EMT's priority is patient care
- Know what evidence is
- Take steps to preserve evidence



# Examples of Evidence

- Condition of scene
- Patient
- Fingerprints and footprints
- Microscopic evidence

# Evidence Preservation

- Remember what you touch
- Minimize impact on scene
- Work with police
- If patient transported on your stretcher, the sheet may be valuable source of evidence (Red bag and preserve for LE)
- Document thoroughly

# Mandatory Reporting Guidelines

- Child, elderly, or domestic abuse
- Sexual assault
- Stab/gunshot wounds
- Animal attacks
- Check local laws and protocols



## EMS Providers are Mandated Reporters

Virginia EMS providers, volunteer and career, are identified as one of these mandated reporters. Mandated reporters must report the following to APS and law enforcement:



# Chapter Review

# Chapter Review

- Medical, legal, ethical issues part of every EMS call.
- Morals are how a person expresses beliefs of right and wrong.
- Consent may be expressed or implied

*continued*

# Chapter Review

- If a competent patient refuses care or transport, you should make every effort to persuade him, but you cannot force him to accept care or go to the hospital.
- Negligence is failing to act properly when you have a duty to act.

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# Chapter Review

- Abandonment is leaving a patient after you have initiated care and before you have transferred the patient to a person with equal or higher training.

# Remember

- EMTs must use good judgment and decision-making skills when dealing with patient consent and refusal.
- Avoiding negligence implies using good judgment; critical thinking is an essential component for avoiding liability.

*continued*

# Remember

- EMTs hold responsibility for patients' protected health information; exercising care when dealing with this information is a legal and ethical obligation.

# Critical Thinking

- You respond to a motor vehicle crash and find a seriously injured patient. He has no pulse and you are about to begin CPR when someone says, “Don’t do that! He’s got cancer and a DNR!” No one has the DNR at the scene. Do you start CPR and transport the patient?

- 
- Share everything.
  - Play fair.
  - Don't hit people.
  - Put things back where you found them.
  - Clean up your own mess.
  - Don't take things that aren't yours.
  - Say you're sorry when you hurt somebody.
  - Wash your hands before you eat.
  - Flush.
  - Warm cookies and cold milk are good for you.
  - Live a balanced life - learn some and think some and draw and paint and sing and dance and play and work every day some.
  - Take a nap every afternoon.
  - When you go out in the world, watch out for traffic, hold hands and stick together.
  - Be aware of wonder. Remember the little seed in the Styrofoam cup: the roots go down and the plant goes up and nobody really knows how or why, but we are all like that.
  - Goldfish and hamsters and white mice and even the little seed in the Styrofoam cup - they all die. So do we.
  - And then remember the Dick-and-Jane books and the first word you learned - the biggest word of all - LOOK.

# Thank You!