Old Narratives: New Providers

By: S. Heather Phillips, NREMT-P, VaAEM

2012 Virginia EMS Symposium

Norfolk, Virginia

Virginia Office of Emergency Medical Services
Virginia Department of Health

VDH Virginia Department of Health
Protecting You and Your Environment

DISCLAIMER

I am not an attorney!

This is an informational presentation.

If you are named in a lawsuit, seek professional counsel and representation by an attorney.

This is in no way intended to provide legal advice.

Virginia
OFFICE OF EMERGENCY MEDICAL SERVICES
Virginia Department of Health

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Experience???

How much time did you spend writing narratives in your BLS certification course?

- 1 hour?
- 3 hours?

How much time did you spend practicing patient evaluation?

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Exercise

Count the number of "e"s

IN THE TEXT ONLY!

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Volunteer EMT's & Paramedics are the backbone of Emergency Medical Services in the Commonwealth of Virginia!

Virginia
OFFICE OF EMERGENCY MEDICAL SERVICES
Virginia Department of Health

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

How many “E”s did you see?

MVC 6/18/96 Rodgers (fatality) v. Powell (firefighter)

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Volunteer EMT's & Paramedics are the backbone of Emergency Medical Services in the Commonwealth of Virginia!

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

How Many “E”s did you count this time?

MY GPS

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Do We All See Things The Same?

Volunteer EMT's & Paramedics are the backbone of Emergency Medical Services in the Commonwealth of Virginia!

Virginia
OFFICE OF EMERGENCY MEDICAL SERVICES
Virginia Department of Health

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Duties of EMS Personnel

- Duty to maintain current certification
- Duty to participate in training activities and requirements of your OMD
- Duty to maintain your equipment
- Duty to the patient
- Duty to provide care within your level of qualification and the level of agency licensure
- Duty to document completely, accurately, and in a timely fashion

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Scope of Practice

Licensure v. Certification

- Licensure: permits the practice of medicine in other professions, e.g. nursing
- Certification: an assertion of fact that the provider has completed training

Perform Emergency Medical Care – do not practice medicine

"The level & type of care that a provider can legally render under the state law & local EMS protocols"

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

The "GOLDEN RULE" of EMS

If you did not document it,

You did not do it!

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

You be the Judge:

You apply a splint to a patient's leg

You evaluate pulse, motor & sensory response before & after splint application

Patient is moved in the radiology department…

Patient goes to surgery and becomes a unilateral amputee

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Patient names you in a lawsuit

Your PPCR is subpoenaed

Your narrative states you applied a splint

What else does it say?

What doesn't it say?

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Perception

Often times, poor or incomplete documentation is perceived by jury members to be indicative of poor or incomplete care!

Will the jury members think you breached your duty to the patient?

Will they perceive your care as being less than the “standard”?

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Good Documentation…

"Cats Rule……"

Complete

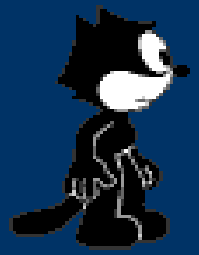
Accurate

Timely

Spike "Zilla"

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Poor Documentation = Potential Liability



VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Dogs Rule too!

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Key Area's of Liability to EMT's

Bad Refusals

- Failure to consider "competency"
- Failure to document

Negligence

- Ordinary negligence vs. Gross negligence

Abandonment

- Transfer of care
- Failure to document

Patient Care Issues

- Airway
- Spinal Immobilization
- Equipment Failure

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Bad Refusals

Failure to consider AND document "competency"

Know your state's requirements

Informed consent to refuse:

- 14 years of age
- Legally emancipated
- Is the patient "informed" of the potential consequences of the refusal

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Competence

Patient must have the capacity to grant consent

Doctrine of implied consent has been extended in most jurisdictions to include temporary incompetence secondary to intoxication

Contact medical direction / document

Virginia
OFFICE OF EMERGENCY MEDICAL SERVICES
Virginia Department of Health

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Commonwealth of Virginia:

VA Code § 54.1-2969.C

- Provides a minor in need of emergency care can be treated without consent of legal authority, but if the minor is 14 years or over and able to respond, he or she must be consulted for his or her consent.
- The authority to consent necessarily contains the authority not to consent, or in other words, to refuse.

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Negligent Tort

(civil action)

Elements:

- Duty to the plaintiff
- Breached the duty
- Plaintiff suffered injury as a result (damages)
- The injury was a reasonably foreseeable consequence (proximate cause)
  - Gross Negligence: conduct or a failure to act that is so reckless that it demonstrates a substantial lack of concern for whether an injury will result

Note: Government employees may be immune from ordinary negligence and still liable/culpable if found to be grossly negligent

Virginia
OFFICE OF EMERGENCY MEDICAL SERVICES
Virginia Department of Health

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Gross Negligence

Willful & wanton disregard

- Providing care beyond your scope of practice
- Unsafe driving
- Driving with emergency lights and sirens when there is no emergency suspected to exist
- Failure to contact medical direction when “out of the box” procedures are going to be used
- Abandoning a patient

Not all inclusive

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Abandonment

Failure to ensure your patient is turned over to the same or greater level of care, based upon the assessed and documented needs of the patient!

If you fail to document the transfer of care, the perception is perhaps you did not transfer care in accordance with the Standard of Care!

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Patient Care Issues

Often the result of a failure to document the care you provided, leading jurors to believe you did not perform skills consistent with the curriculum you attended.

- Failure to document continuous C-spine immobilization & rechecks.
- Failure to document equipment failure.

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Burden of Proof

Preponderance of the Evidence

- The greater weight of the evidence

Clear & Convincing Evidence

- A standard of proof higher than preponderance, maybe 75% - 90% (if you were to think of it in terms of percentages)

Beyond a Reasonable Doubt

- The highest standard of proof

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Mistakes???

The presiding judiciary seeks the truth…

Humans make mistakes

Do NOT lie or alter your report

Document what happened

- Can write addendum in follow up

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Basics in Documentation

Medical Record

Legal Document

C A T

VDH VIRGINIA DEPARTMENT OF HEALTH

Protecting You and Your Environment

Benefits of Proper Documentation

Writing clinical impressions may reduce the potential to miss things

Recording your observations thoroughly assists other healthcare providers in the continuum of care

Reduce the potential for liability – memory fades with time

Withstand litigation – if a medical record is CAT it may prevent a suit from progressing beyond the investigative stages

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Consequences of Poor Documentation

May lead to a claim you breached your duty to the patient

The main piece of evidence used to prove or destroy a case is the medical record

Medical records are permanent and usually secure; therefore, the record is presumed to be the truth

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

WHAT DO YOU SEE?

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

What did you see?

How many windows did you see on the trailer?

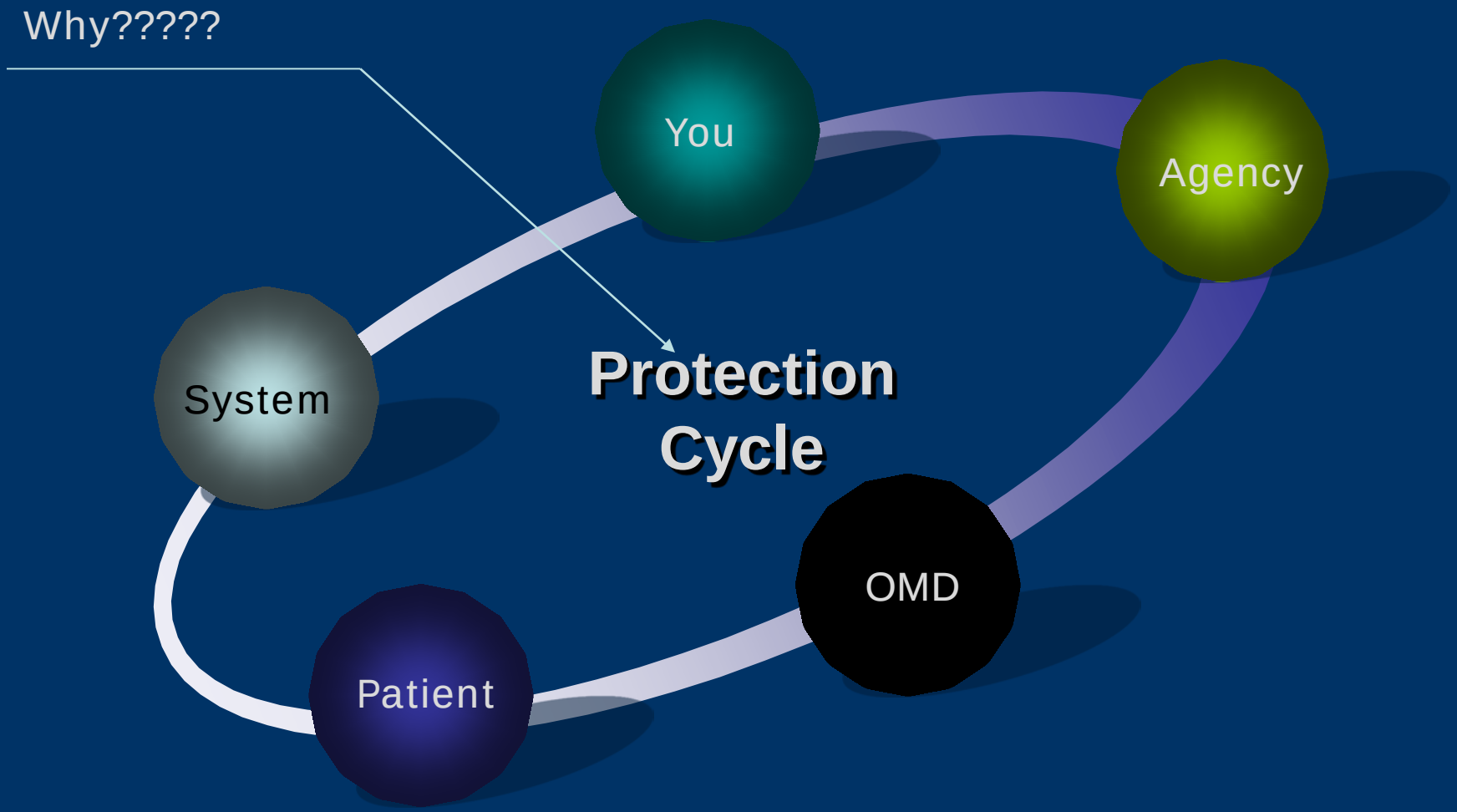
How many steps did the dog climb?

How many dogs were on the beach?

Virginia
OFFICE OF EMERGENCY MEDICAL SERVICES
Virginia Department of Health

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Cycle Diagram

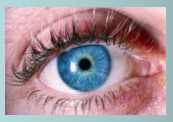


VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Paint a Picture! {with words}

Phase 1 | **Phase 2** | **Phase 3**

See



Interpret

Relay

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Rules of Documentation

Develop & practice a systematic approach

Consistency reduces the potential to miss a key piece of information

Never ignore negative findings – document pertinent negatives

- Things you find during your exam that warrant no care, but show evidence of your thorough performance

Never falsify any information on the chart

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Rules (continued)

Quote the patient

Document promptly

"res gestae statements"

Document legibly – neatness counts

Write in ink – preferably black

Be specific & objective

Only use medically acceptable abbreviations, if you are not sure, DON'T use it

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

VPHIB/NEMSIS

Computer Reports???

What is the reason for mistakes?

New EMS Regulations?

Time – 12 hours

Scope of Practice

Virginia
OFFICE OF EMERGENCY MEDICAL SERVICES
Virginia Department of Health

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Rules (continued)

If you must alter the document, do so cautiously and carefully. Corrections should be made with a single line drawn through the error and your initials beside the correction

Consent or refusal should be documented

Report should be complete – no blanks

– *Fill in blanks with "N/A" or "unknown"*

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Rules (continued)

Avoid omissions

Baseline vital signs should be obtained and recorded for every patient – if you are unable to obtain a complete set of vital signs, document why

Record your ongoing assessments, did your interventions / care result in improvement or no change

Document the transfer of care

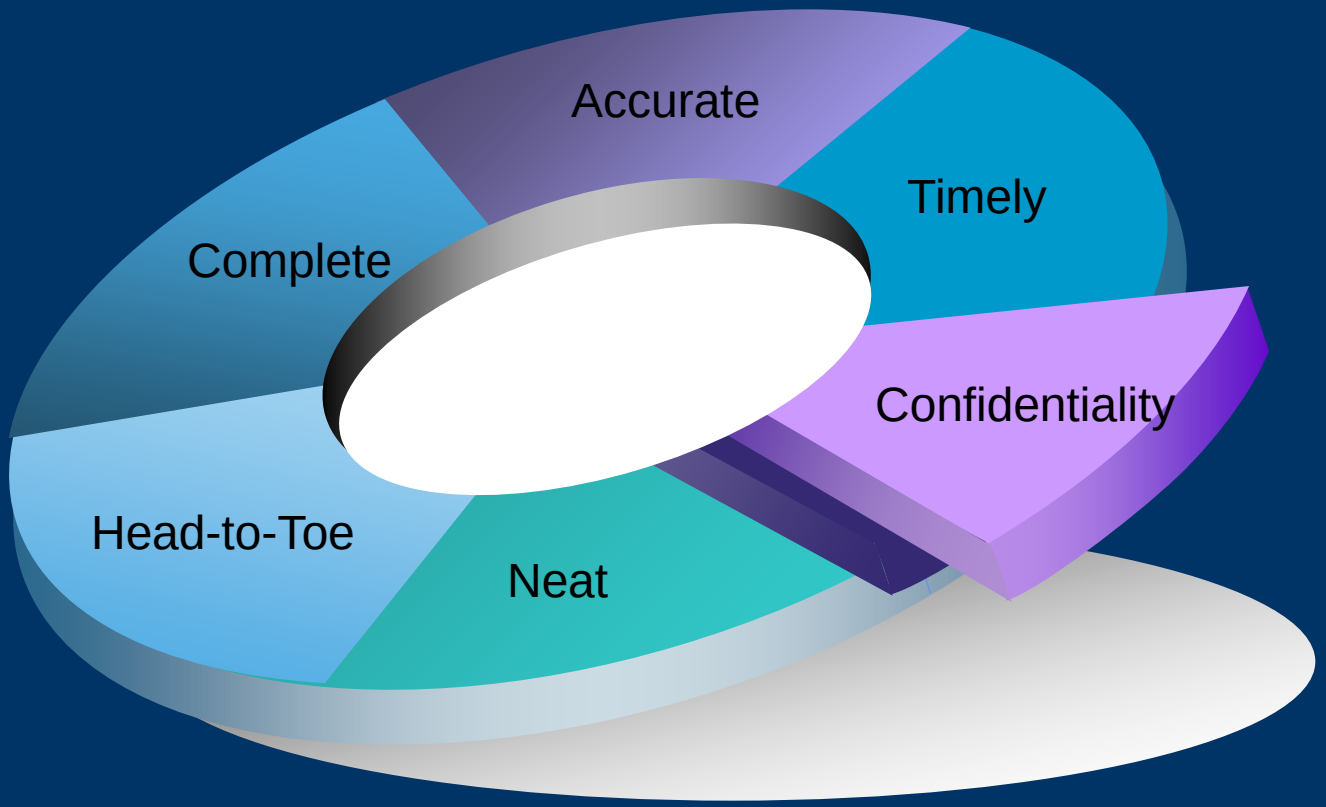
VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Protect Yourself with CAT Documentation

Virginia
OFFICE OF EMERGENCY MEDICAL SERVICES
Virginia Department of Health

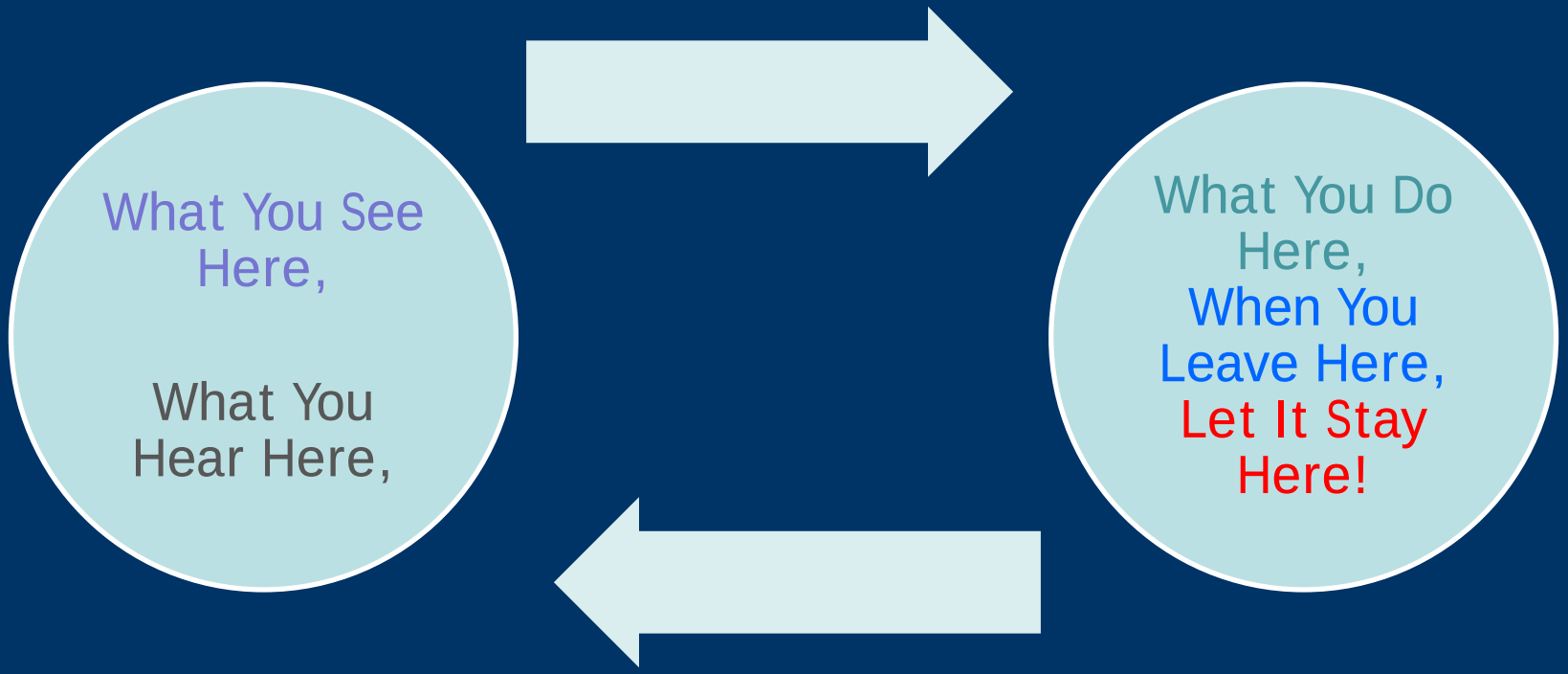
VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Documentation Chart



VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Confidentiality



VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

PHI

Disclosure

- Care
- Investigation
- Billing
- Training
  QM/QI

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

You be the Judge

You respond to a motor vehicle crash and find a female patient with a small contusion and laceration to her forehead.

The patient is refusing treatment &/or transport.

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

You be the Judge (continued)

The patient signs a refusal, but the refusal &/or narrative does not paint a picture of the advice you provided when you informed the patient of the potential consequences of the refusal.

The patient dies as a result of a sub-dural hematoma later that night.

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

The Medical Record

Your PPCR is the only record of events immediately after the accident…

- What does the record indicate?
- What information was not recorded?
- Could you be perceived as breaching your duty to the patient?
- Was your care sub-standard?
- Would the reasonable and prudent EMT testify that the standard of care was not adhered to?

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Devil's Advocate

Write each and every patient record as though you are a juror…

Try to detach yourself and look at your report from the outside looking in.

Did you "paint a picture"?

Is it thorough and accurate?

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Systematic Approach

CHART

What's Your System?

SOAP

Hx, Pe, Tx

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

SOAP Method

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Objective vs. Subjective

- **Factual**
- **Can be Measured**
- **Quantifiable**
- **Unbiased**
- **Verifiable**

- **Opinion**
- **Personal Belief**
- **Perspective of Writer's View**
- **Open to Interpretation**
- **Often Uncertain**

Dog is a German Shepherd

Dog is Cute

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

CHART Method

Chief Complaint

History

Assessment

Rx (Prescription for Treatment)

Transport

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

HPT Method

Hx = History

PE = Physical Examination

Tx = Treatment & Transport

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Consistency

Regardless of format:

"Cat"

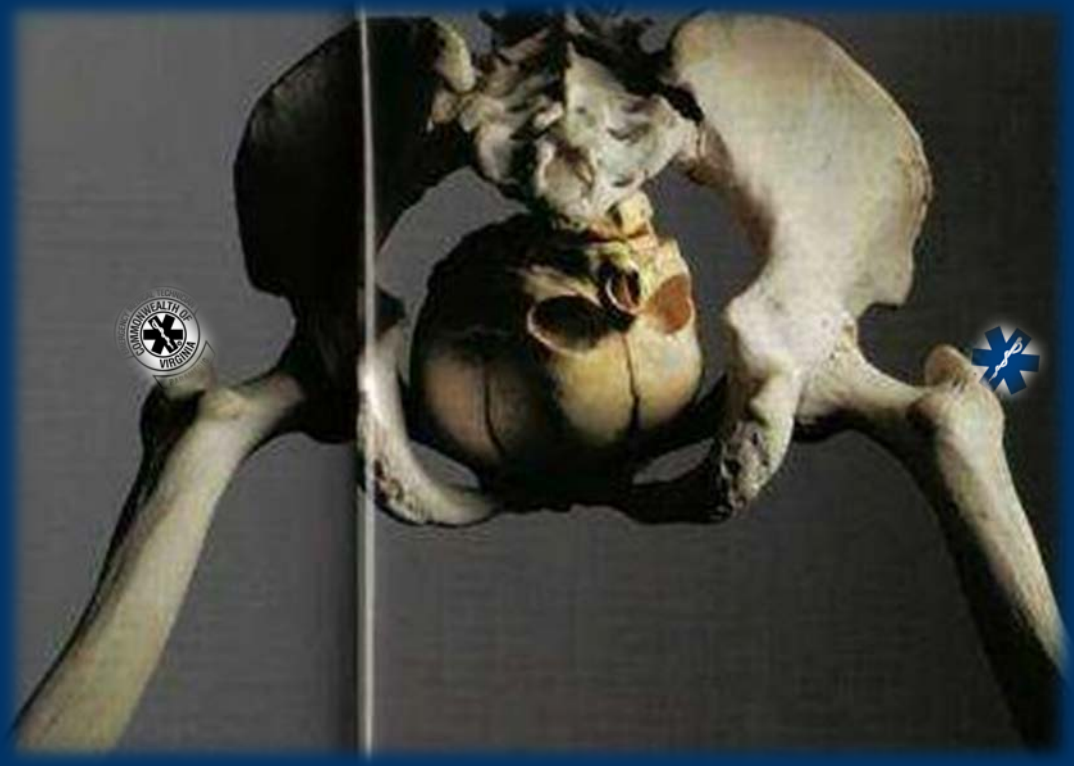
- Head-to-Toe every time
- Consistency
- Reduces mistakes
- Reduces potential for liability

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

TRUE Examples of poor documentation

Arrived on scene, pt sick to her stomack, said she ate some food that may be bad. V/S normal. Placed pt in POC and transported to ER.

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment



VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Improvements:

Pertinent Negatives?

Vital Signs – how do you know what is normal for that patient?

Skin temperature, texture, color?

Abdominal tenderness or rigidity?

Age of patient – is she in child bearing years?

Correct your spelling!

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Another TRUE example:

On scene found patient drunk. He's a regular who always gets drunk. He called for EMS to avoid going to jail. He stinks bad. We turned him over to PO.

Virginia
OFFICE OF EMERGENCY MEDICAL SERVICES
Virginia Department of Health

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

And another….

Caled 4 medcal raisins. Patience in floore. She wus sikk. She puuked on floore. Blud wus in the puok. She didn't waunt us so we lift.

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Proper Documentation

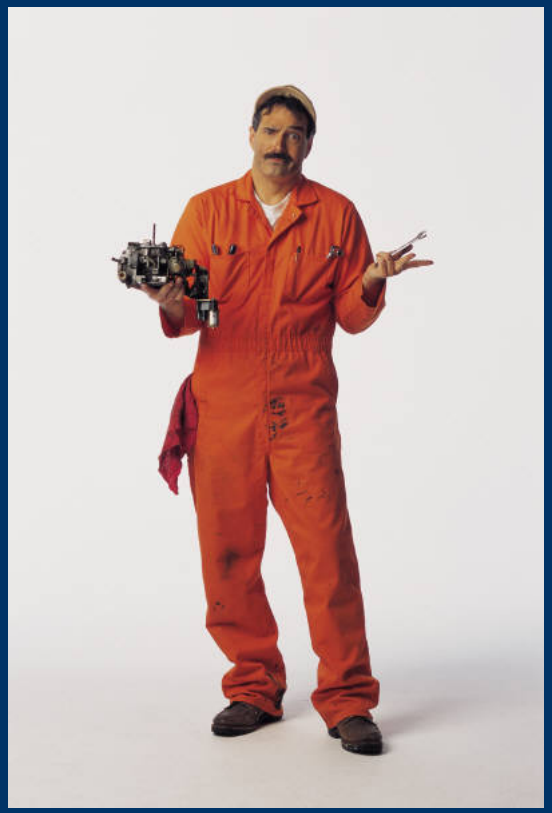
HX: Upon arrival, I found a 64 y/o female patient (Pt), lying prone on carpeted floor in living room. Pt states "I laid down on the floor because I am just too weak to stand". Pt's C/C is nausea, vomiting and weakness. Pt has been sick x 2 days and vomited x 3 within the last hour. Pt denies allergies, takes Atenolol for HTN and low-dose ASA. No GI hx. Pt states she ate soup yesterday evening but doesn't remember how much or what time.

PE: Pt CAO x 3, denies LOC, denies any trauma. Pt denies SOB &/or chest pain. V/S: B/P 108/62, P 94 & Regular, R 24 & non labored at time of exam, PERL, skin Pale/W/D. BBS = clear. Poor skin turgor. ABD soft & non-tender at time of exam. Pt denies diarrhea & states urinary function is normal. Distal pulses weak, grips =/strong. Balance of PE unremarkable. Noted vomitus on floor which appears to contain a small amount of dark colored blood.

TX: Evaluation and assist back to chair only. Pt refusing additional treatment &/or transport adamantly because her daughter is on the way. Pt states she will go POV to the hospital when her daughter arrives. I explained to the patient that she may be bleeding internally, which is a serious condition that warrants immediate transport and evaluation by a physician in an emergency department. I informed the patient of the potential risks associated with refusal and delay in care. I advised her to call us back immediately if her condition worsens or if she changes her mind. Pt still refusing transport AMA, pt signed refusal, witnessed by Troy Copeland, FF, Co. 1. Crew returned to quarters and I contacted medical control to advise them of the situation. *S. H. Phillips, NREMT-P*

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Who Is The "Professional"?



Buddy

S. Heather Phillips, NREMT-P
Terrance Andrews, EMT
Breanne Timbrook, EMT

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Did you write it down?

In Closing

Ask yourself

Consent

All findings

Pertinent negatives

Description of scene or events

Advice given to refusal patients

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

QUESTIONS???

Virginia
OFFICE OF EMERGENCY MEDICAL SERVICES
Virginia Department of Health

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment