

# Chapter 3, Medical, Legal and Ethical Issues

---

## Table of Contents

- 1. Introduction to Medical, Legal, and Ethical Issues in Emergency Care A
- 2. Consent in Emergency Medical Care A
- 3. Confidentiality and HIPAA A
- 4. Advanced Directives and End-of-Life Issues A
- 5. Legal Aspects of EMT Practice A
- 6. Documentation and Reporting Requirements A
- 7. Ethical Responsibilities and the EMT in Court A

## 1. Introduction to Medical, Legal, and Ethical Issues in Emergency Care

- This report covers **medical, legal, and ethical issues** relevant to EMTs [1].
- It will explain the **ethical responsibilities** and **medical legal directives** and **guidelines** for EMTs [2].
- Key concepts include **confidentiality, consent to treat, refusal of care, and advance directives** [3].
- Topics like **organ donor systems, evidence preservation, and end-of-life issues** are also discussed [4].
- A basic principle is to **do no further harm** [6].

## 2. Consent in Emergency Medical Care

- **Consent** is the **permission to render care** [9].
- A patient must **give consent** for treatment [9].
- The foundation of consent is **decision-making capacity** [11].
  - This means the patient can **understand and process information** [11].
  - The patient can also **make an informed choice** [11].
- **Patient autonomy** is the patient's right to **make decisions about their health** [12].

- Factors for determining decision-making capacity include **intellectual capacity**, **legal age**, and **impairment** from alcohol, drugs, injury, or illness [13].
- **Express consent** means the patient **acknowledges they want care and transport** [14].
- For consent to be valid, it must be **informed consent** [15].
  - You must explain the **nature of treatment**, **risks**, **benefits**, **alternatives**, and **consequences of refusing care** [15].
- **implied consent** applies to patients who are **unconscious** or **incapable of making a rational decision** [16].
  - This is based on the **emergency doctrine** [19].
  - It is used when a **serious threat to life exists** [17].
  - Try to get consent from a **spouse or relative** if possible [20].
- **Involuntary consent** applies to patients who are **mentally ill**, in a **behavioral crisis**, or **developmentally delayed** [21].
  - Consent should be obtained from a **guardian or conservator** [22].
  - Local provisions may allow for **protective custody statutes** [23].
- For **minors**, the **parent or legal guardian** usually gives consent [25].
  - Some states allow **emancipated minors** to give consent [25].
  - emancipated minors may be **married**, in the **armed services**, or **parents** [26].
  - **School teachers or officials** may provide consent for injuries at school or camp [27].
  - In a true emergency with no consent available, **consent is implied** for minors [28].
- **Forcible restraint** is necessary for **combative patients** who are a danger to themselves or others [29].
  - forcible restraint is **legally permissible** with **medical control authorization** and **law enforcement assistance** [30].
  - Restraining without legal authority can lead to **civil and criminal penalties** [30].
  - Do not remove restraints en route unless they pose a risk [31].
  - Consider **ALS backup** for **chemical restraint** [32].
- Adults with **decision-making capacity** have the **right to refuse treatment** [34].
  - They can **withdraw from treatment** at any time [35].

- Refusal of treatment calls require **caution** and involvement of **medical control** [36].
- The decision to refuse should be based on **information provided by the EMT** [37].
- When treatment is refused, assess the patient's **ability to make an informed decision** [38].
- If the patient is confused or delusional, you **cannot assume the refusal is informed** [39].
- Providing treatment is often more defensible than failing to treat [40].
- Ensure your **safety** with law enforcement if needed [40].
- Encourage the patient to **permit treatment** and **call back** if their condition worsens or they change their mind [41].
- Advise the patient to **contact their own physician** [43].
- Ask the patient to sign a **refusal of treatment form** with a witness [43].
- **Thoroughly document all refusals** [44].

Consent Type	Description	Applies To
Express Consent	Patient directly agrees to care and transport	Conscious, rational, capable patients
Implied Consent	Assumed consent based on life threat	Unconscious or incapacitated patients
Involuntary Consent	Consent obtained from guardian/conservator or legal authority	Mentally ill, behavioral crisis, or developmentally delayed patients
Minor Consent	Usually parent/guardian, but can be minor in certain cases	Patients under legal age

### 3. Confidentiality and HIPAA

- Communication between the EMT and patient is **confidential** [45].

- Confidential information includes **history, assessment findings, and treatments** [46].
- Inappropriately releasing this information is **breach of confidentiality** [47].
- Records can usually be released only with a **patient signed release**, a **legal subpoena**, or for **billing purposes** [48].
- **HIPAA** (Health Insurance Portability and Accountability Act) strengthened privacy laws [49].
- HIPAA protects **patient information** obtained during medical treatment [51].
- This is called **Protected Health Information (PHI)** [52].
- PHI includes **medical information and identifiable information** [53].
- Failure to follow HIPAA can result in **civil or criminal action** [54].
- The general public is often allowed to record identifying patient information [55].
- EMTs should **avoid associating with their agency** on social media while off duty unless an official spokesperson [56].
- Conduct yourself with the **same professionalism** online as on duty [58].
- Recognize that **free speech has limitations** [60].

#### 4. Advanced Directives and End-of-Life Issues

- **advanced directives** are **written documents** specifying medical treatment for a competent patient who becomes unable to make decisions [66].
- A **Do Not Resuscitate (DNR) order** gives permission to **withhold resuscitation** [63].
- A DNR does **not** mean **do not treat** [64].
- You are obligated to provide **supportive measures** even with a DNR [65].
- advanced directives are often called a **living will** or **healthcare directive** [66].
- Valid DNR orders must meet specific requirements [67].
- These requirements include a **clear statement of the medical problem**, **signatures of the patient/guardian and physician/healthcare provider**, and an **expiration date within the preceding 12 months** [67].
- You may encounter **Physician's Orders for Sustaining Treatment (POST)** or **Medical Orders for Life-Sustaining Treatment (MOLST)** forms for terminally ill patients [70].
- These forms explicitly describe **acceptable interventions** and must be **signed by an authorized medical provider** [70].

- Contact **medical control** if you encounter these documents [71].
- Patients may name surrogates called **Durable Powers of Attorney for Healthcare** or **healthcare proxies** [72].
- Determining the **cause of death** is a **medical responsibility of a physician** [73].
- **presumptive signs of death** include unresponsiveness, lack of pulse/heartbeat, absence of chest rise/fall, no reflexes, no pupillary activity, no blood pressure, profound cyanosis, and decreased body temperature [74].
- **definitive signs of death** are obvious mortal damage, dependent lividity, rigor mortis, algor mortis, and putrefaction [75].
- **dependent lividity** is blood settling to the lowest point of the body [76].
- **rigor mortis** is the stiffening of body muscles, occurring 2 to 12 hours after death [78].
- **algor mortis** is the cooling of the body [80].
- **putrefaction** is the decomposition of body tissues, occurring 40 to 96 hours after death [81].
- The **medical examiner or coroner** must be notified in certain cases [82].
- These cases include **dead on arrival**, death **without previous medical care**, physician unable to state cause of death, **suicide**, **violent death**, **poisoning**, **accident**, suspicion of **criminal act**, and **infant/child deaths** [82].
- Limit your disturbance of a death scene [84].
- Keep **thorough notes** if emergency care is initiated at a death scene [84].
- Treat potential **organ donors** the same as any other patient [85].
- Your priority is to **save the patient's life** [85].
- Organ donor information may be on a **donor card** or **driver's license** [85].
- **medical identification insignia** (bracelets, necklaces, etc.) indicate conditions like DNRs, allergies, or serious medical conditions [85].

Valid DNR Requirement	Description
Clear statement of the patient's medical problem	Specifies the patient's condition
Signature of the patient or legal guardian	Provides authorization from the patient or their representative

Signature of one or more physicians or licensed HCPs	Confirms the medical order by a qualified professional
Dated within the preceding 12 months	Ensures the order is current

## 5. Legal Aspects of EMT Practice

- **scope of practice** outlines the **care you are able to provide** [88].
- It is usually defined by **state law** [88].
- The **medical director** further defines the scope of practice through **protocols or standing orders** [89].
- Authorization for treatment comes from the **medical director** [90].
  - This can be **online** (radio/telephone) or **offline** (standing orders/protocol) [90].
- Carrying out procedures **outside the scope of practice** can be considered **negligence** [90].
- The **standard of care** is the **manner in which you must act or behave** [91].
- It is defined as **how a person with similar training would act** under similar circumstances [92].
- Standards of care are established by **local custom, law** (statutes, ordinances, regulations, case law), **professional/institutional standards, EMS agency rules, textbooks, and state medical practices acts** [93].
- **duty to act** is an individual's **responsibility to provide patient care** [97].
- Once your ambulance responds or treatment begins, you have a **legal duty to act** [97].
- If off duty, you are generally **not legally obligated to stop and assist** [98].
- You must know **local laws and policies** regarding duty to act [99].
- **negligence** is the **failure to provide the same care** as a person with similar training in the same situation [101].
- Four factors must be present for negligence to apply: **duty, breach of duty, damages, and causation** [102].
  - **Duty** is the obligation to provide care [104].
  - **Breach of duty** means the EMT did not act within the standard of care [104].

- **Damages** means the patient was **physically or physiologically harmed** [105].
- **Causation** is a **cause and effect relationship** between the breach of duty and the damages [106].
- **res ipsa loquitur** means the EMT can be liable if an injury occurred, the EMT was in control, and injuries don't generally occur without negligence [108].
- **negligence per se** applies when conduct violates a statute, like an EMT performing an ALS skill outside their scope that causes injury [108].
- **torts** are **civil wrongs**, such as defamation or invasion of privacy [109].
- **abandonment** is the **unilateral termination of care** without the patient's consent or provision for continued care by a competent professional [111].
- Once care begins, you must continue until an **equally competent provider assumes responsibility** [112].
- abandonment can occur at the scene or in the emergency department [113].
- Obtain a **signature on your patient record** from the person accepting transfer of care [113].
- **Assault** is **unlawfully placing a person in fear** of immediate bodily harm, including threatening restraint [114].
- **Battery** is **unlawfully touching a person**, including providing medical care without consent [116].
- **Kidnapping** is **seizing, confining, abducting, or carrying away by force**, including transporting a patient against their will [117].
- **False imprisonment** is **unauthorized confinement of a person** [118].
- Serious legal problems can arise if a patient **rescinds consent** and is confined [118].
- **Defamation** is the **communication of false information** that damages a person's reputation [119].
- **Libel** is **written defamation** [119].
- **Slander** is **spoken defamation** [119].
- Statements on your run report should be **accurate, relevant, and factual** [119].
- **good samaritan laws** offer immunity for errors made in good faith when reasonably helping another person without expectation of compensation and acting within your training, provided you did not act in a grossly negligent manner [119].
- **Gross negligence** is **willful or reckless disregard** for a duty or standard of care [120].

- **Immunity statutes** may apply to EMS systems that are not governmental agencies [121].
- **sovereign immunity** limits liabilities for governmental entities [121].

## 6. Documentation and Reporting Requirements

- Compile **complete and accurate records** of all incidents [121].
- Records are an important **safeguard against legal complications** [121].
- If an action was not recorded, the court may perceive it as **not performed** [122].
- **Incomplete or untidy reports** suggest incomplete and inexperienced care [122].
- **nemesis** is the **National EMS Information System** [123].
- nemesis allows for the **collection, storage, and sharing of standardized EMS data** [124].
- Some states have **special mandatory reporting requirements** for healthcare providers [125].
- Mandatory reporting requirements may vary by state [126].
- These include reporting **child abuse, elder abuse**, and abuse of **at-risk adults** [127].
- Other mandatory reports include **injuries during a felony, drug-related injuries, childbirth, attempted suicides, dog bites**, certain **communicable diseases, assaults**, and **domestic violence** [128].
- Reporting is also mandatory for **sexual assault/rape, exposures to infectious diseases**, transport of patients in **restraints, crime scenes**, and the **deceased** [130].

## 7. Ethical Responsibilities and the EMT in Court

- EMTs have **ethical responsibilities** as healthcare providers [131].
- **Ethics** is a philosophy of **right and wrong, moral duties, and ideal professional behavior** [132].
- **Morality** is a **code of conduct** affecting character, conduct, and consequence [133].
- **bioethics** addresses **ethical issues in healthcare practice** [133].
- EMTs will face **ethical dilemmas** requiring evaluation and application of ethical standards [134].



- **Applied ethics** is how ethical principles are incorporated into **professional conduct** [135].
- Allow **rules, laws, and policies** to guide your decision-making [135].
- EMTs can be involved in court as a **witness** or a **defendant** [136].
- Cases can be **civil or criminal** [136].
- If subpoenaed, immediately **notify your service director and legal counsel** [137].
- As a witness, remain **neutral** and **review the run report** beforehand [138].
- As a defendant, an **attorney is required**, often supplied by your service [139].
- In a civil suit, defenses may include **statutes of limitations, governmental immunity, and contributory negligence** [140].
  - **Statutes of limitations** are the time frame for starting a case [140].
  - **Governmental immunity** may protect municipalities or entities from lawsuits or limit monetary judgments [140].
  - **Contributory negligence** is when the plaintiff's conduct contributed to their injuries [142].
- **Discovery** is when both sides obtain information, including **depositions** (oral questions) and **interrogatories** (written questions) [143].
- Most cases are **settled after discovery** and do not go to trial [146].
- If a case goes to trial, **damages** can be awarded [147].
  - **Compensatory damages** compensate the plaintiff for injuries [148].
  - **Punitive damages** deter the defendant from repeating behavior and are for reckless or intentional actions [149].
- If a judgment is against you, your **service or insurance carrier usually pays** [151].
- An EMT charged with a **criminal offense** should immediately get an **experienced criminal attorney** [152].