Ethics and Professionalism

Pea Ridge Fire Department
EMS refresher

Introduction

- Ethics
  - Personal or societal principles that determine what is right and wrong
- Laws
  - Enforceable sanctions for violations
  - Obligations for paramedics

Introduction

- Paramedics work within several types of laws.
  - Both federal and state
- You must understand the laws and ethics related to emergency care.
  - Failure to perform your job can result in civil/criminal liability.

Introduction

- Ethics
  - Deals with the study of the distinction between right and wrong
- This text is only a framework.
  - Laws and obligations vary among states.

Medical Ethics

- There are two types.
  - Personal
  - Professional
- In cases where they conflict, you must put your personal ethics aside.

Medical Ethics

- Medical ethics are related to the practice and delivery of medical care.
  - Your understanding of medical ethics must be consistent with the codes of your profession.

Medical Ethics

- The Declaration of Geneva
  - Drafted by the World Medical Association in 1948
  - Taken by medical students after completion of their studies
- *Code of Ethics for EMS Practitioners*
  - Issued by the National Association of Emergency Medical Technicians in 1978
  - Still in use
  - Pledge to a number of ethical codes

Medical Ethics

- Your state, service, or company may have its own codes, policies, and rules.
- The ICARE Program was developed by EMS students and educators.
- All codes stem from concern for patients.

Medical Ethics

- Apply three basic ethical concepts when making a decision:
  - Do no harm.
  - Act in good faith.
  - Act in the patient's best interest.

Medical Ethics

- Paramedics must be accountable for their actions at all times.
- Professional ethics are also important.
- Always be respectful of patients.
- Report misbehavior and medical errors.

Medical Ethics

- The most successful and fulfilled paramedics:
  - Are patient advocates
  - Engage in training and professional development
  - Put the good of the team first
- You are responsible for the future of EMS.

Ethics and EMS Research

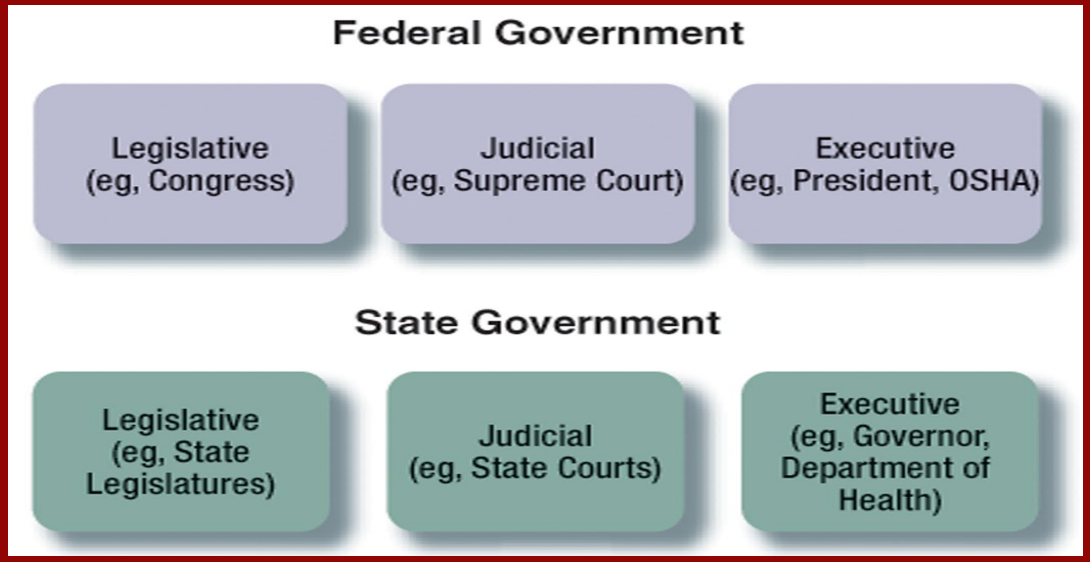
- EMS practices have largely evolved from grassroots efforts.
  - Properly randomized, controlled studies are uncommon, but are emerging.
- Remember, do no harm.

Ethics and EMS Research

- EMS care still relies on anecdotal experience.
  - Some procedures prove not to be helpful.
- Conducting studies on patients without informed consent is an ethical dilemma.

The Legal System in the United States

- Federal and state government make, administer, and interpret laws affecting paramedics.
  - Three branches of government



Types of Law

- Two types of law govern paramedics in court:
  - Civil
  - Criminal

Courtesy of Oregon State Police.

Types of Law

- Civil law addresses responsibility.
- Most lawsuits result from vehicle crashes.
- Criminal prosecution can also result from a civil act.

Types of Law

- Criminal charges most likely:
  - Assault
  - Battery
  - False imprisonment
  - Defamation, libel or slander

The Legal Process

- Begins when a complaint is filed
- Process may take several years
  - Discovery period
  - Motions
  - Settlement process or trial

The Paramedic and the Medical Director

- The relationship is complex.
- Paramedic must answer to:
  - Medical director
  - Licensing agency
  - Employer
- Despite overlap, distinctions are important.

The Paramedic and the Medical Director

- Legislation may require a medical director.
  - Supervises paramedic
  - Paramedic is not the medical director's agent
- The medical director may issue remedial requirements.

The Paramedic and the Medical Director

- Many paramedic activities require orders from a physician.
- If conflicts arise, online medical control should resolve them.
- Borrowed servant doctrine protects your institution.
  - Don’t follow orders that fall outside your scope of practice.

EMS-Enabling Legislation

- Defines EMS structure
- Designates responsibilities to government agencies
- Provides framework for practice
  - Know EMS legislation in your state.

Administrative Regulations

- Set by bureaucracies at state and federal levels
  - Affect and define rules for practice
- Allow an administrative agency may take action against a paramedic's license

Licensure and Certification

- Terms often confused
- Certification
  - Certain levels of credentials
  - Criteria met for minimum competency
- Licensure
  - Privilege granted by government authority
  - Credentialing possibly adopted

Discipline and Due Process

- Licensing action may be taken if an infraction occurs.
  - Paramedic has a right to due process.
    - Notice
    - Opportunity to be heard

Medical Practice Act

- Defines minimum qualifications of health service providers
- Defines skills practitioners can use
- Establishes means of licensure/certification
  - May also include relicensure requirements

Scope of Practice

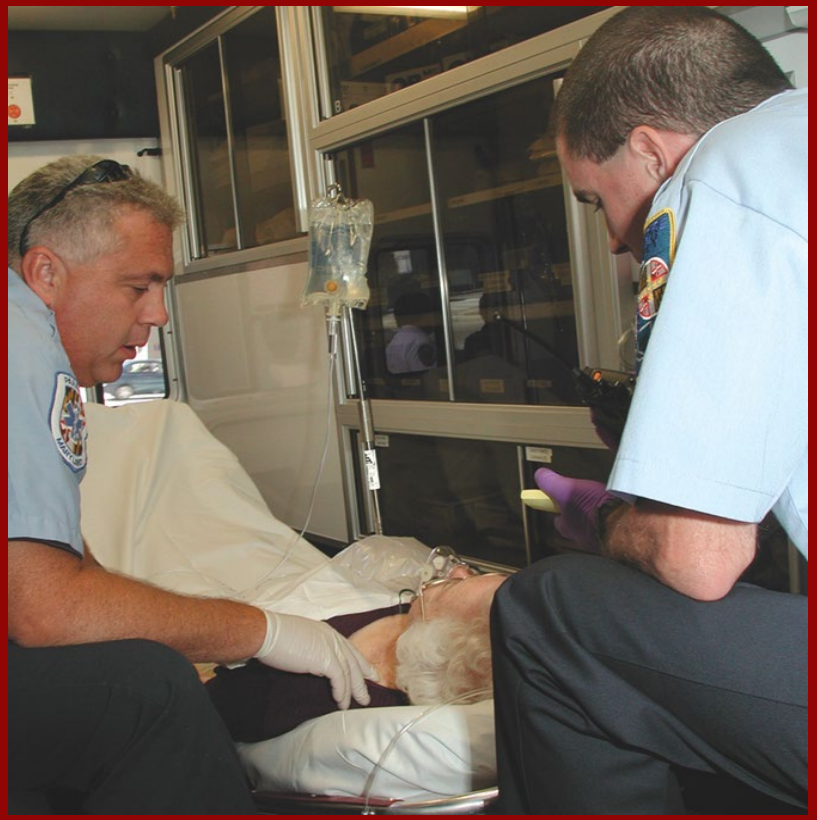
- Care paramedic may perform according to the state under its license or certification
  - The medical director might not permit paramedic to perform all skills/give all medications.
- Practicing outside scope of practice: negligence or a criminal offense

Health Insurance Portability and Accountability Act

- HIPAA
  - Stringent privacy requirements
  - Provides for criminal sanctions and civil penalties

Health Insurance Portability and Accountability Act

- Information can be disclosed:
  - For treatment
  - For payment
  - When authorized
- Privacy officer required
  - Ensures PHI is not released illegally



Health Insurance Portability and Accountability Act

- Requires that patients are provided a copy of your service's privacy policies.
- Some states have patient confidentiality laws.

Health Insurance Portability and Accountability Act

- Medical information can be released without patient's authorization:
  - Legally mandated reporting
  - Authorized data collection
  - Research by public health agencies
  - Authorized requests by law enforcement
  - Pursuant to a valid subpoena
  - For a medical need

Health Insurance Portability and Accountability Act

- HIPAA implications for electronic communication
  - Some agencies prohibit camera-enabled phones while on duty.
  - Ensure everyone understands information should not be posted on social media.
  - Ensure no patient identifiers are present if scene is captured in photographs or videos.

Emergency Medical Treatment and Active Labor Act

- EMTALA
  - Established to combat "patient dumping"
  - Decisions not based on finances
  - Know local transport selection protocols
  - Guarantees medical screening exam and treatment
  - Regulates patient transfers

Emergency Vehicle Laws

- Most states have specific statutes.
  - Define emergency vehicle
  - Dictate what traffic should do
- Emergency vehicles must be operated safely.
  - Most states have a higher standard for EMS.
  - If a crash occurs, EMS is usually at fault.

Transportation

- Patients should be transported to hospital of their choice when possible/reasonable.
- Paramedics can be liable if the patient is:
  - Transported to an unequipped facility
  - Not transported and later deteriorates

Crime Scene and Emergency Scene Responsibilities

- Use extreme caution.
  - Do not move or touch anything unless absolutely necessary.
  - Limit personnel who enter the scene.
  - Patient may carry evidence in rape cases.
  - Protect scene from contamination.
  - When in doubt, attempt resuscitation.

Mandatory Reporting

- Each state has its own requirements.
  - Virtually every state has laws for reporting child and elder abuse.
    - Many states have immunity provisions.
    - Failure to report is a crime.

Coroner and Medical Examiner Cases

- EMS systems have a list of procedures.
- Notify police in these situations:
  - Homicide
  - Suicide
  - Violent or sudden, unexpected death
  - Death of a prison inmate

Paramedic–Patient Relationships

- Always do what is best for the patient.
- Decisions should be based on standards of good medical care.
  - Not possible legal consequences

Consent and Refusal

- You must obtain consent before providing care. To provide consent, a patient must:
  - Be of legal age
  - Possess decision-making capacity
- Patients can refuse care.

Consent and Refusal

- Informed consent
  - Must be obtained from every adult with decision-making capacity
- To obtain informed consent:
  - Describe the problem and proposed treatment.
  - Discuss risks and alternatives.
  - Advise the patient of consequences of refusal.

Consent and Refusal

- Expressed consent
  - Patient gives you permission to provide care
- Implied consent
  - Consent that is assumed when an adult is unconscious or too ill/injured to verbally consent
- Consent can never be involuntary.

Decision-Making Capacity

- Refusals must be informed.
- Decision-making capacity is the ability of the patient to:
  - Understand information.
  - Process information.
  - Make a choice.

Decision-Making Capacity

- If a conscious patient with decision-making capacity refuses treatment:
  - Cannot be treated without a court order
  - Consult with medical control.
  - Use your people skills.

Decision-Making Capacity

- It may not be clear as to whether or not a patient has decision-making capacity.
- Many factors can affect decision-making capacity.
- Contact medical control if necessary.
- Consider calling for assistance or law enforcement.

Decision-Making Capacity

- Psychiatric emergencies present problems of consent.
  - Police officers are generally the only persons with authority to restrain and transfer a patient against his or her will.

Decision-Making Capacity

- If patient refuses treatment:
  - Inform the patient that if he changes his mind, you will help him.
  - Maintain a courteous and sympathetic attitude.
  - Urge the patient to seek further medical evaluation.
  - Make sure someone will be with the patient after you leave.
  - Never threaten the patient.

Decision-Making Capacity

- Documentation of patient refusals is critical.
- Litigation may arise.
- Document all findings of assessment and mental status.
- Report should be signed:
  - By the patient
  - By an impartial observer

Minors

- Obtain consent from a legal guardian.
  - *In loco parentis* if guardian is unavailable
- Notify law enforcement and medical control if a parent refuses necessary treatment.
  - State may assume custody

Minors

- Emancipated minors
  - Treated as legal adults because of qualifying circumstances

Violent Patients and Restraints

- You can only use force in response to a patient's force against you.
- Only restrain medical patients who are a danger to themselves or others.

Negligence and Protection Against Negligence Claims

- You have no protection for gross negligence.
- Negligence occurs when:
  - There was a legal duty to the patient.
  - There was a breach of duty.
  - The failure to act was the proximate cause of injury.
  - Harm resulted.

Negligence and Protection Against Negligence Claims

- Behaving according to established standards and procedures is the best protection.
  - Consider insurance coverage.
- Foreseeability is one aspect of negligence.
  - Injury or harm could have been predicted.

Negligence and Protection Against Negligence Claims

- Negligence is typically divided into three categories:
  - Malfeasance
  - Misfeasance
  - Nonfeasance

Elements of Negligence

- Duty
  - This is prescribed by law.
  - Do no further harm to patient.
  - You are obligated to respond to calls while working.
    - This typically does not apply while you are off duty.
    - Make sure appropriate personnel respond.

Elements of Negligence

- Duty (cont'd)
  - You must perform within a standard of care when providing assistance.
  - You cannot abandon the patient once care begins.
  - You must maintain licensure or certification and skills.
  - EMS systems can be held to a legal duty.

Elements of Negligence

- Breach of duty
  - Occurs if the paramedic failed to perform within the standard of care.
    - What a reasonable paramedic would do in a similar situation
  - Some states distinguish between ordinary and gross negligence.
  - *Re ipsa loquitur* or negligence per se may apply.

Elements of Negligence

- Proximate cause
  - Improper action or failure to act caused harm.
- Harm
  - Usually physical injury
  - May also include emotional distress, loss of income, loss of spousal consortium, etc.

Abandonment

- Termination of care without the patient's consent.
  - Implies continuing need for treatment
- Once you respond, you cannot leave until a provider with equal or higher training takes responsibility.

Abandonment

- Complete a written report.
- Some situations may not require transport but are not considered abandonment.
  - Medical director will provide protocols.
  - Generally, encourage transport.
- Know your service's protocols.

Patient Autonomy

- Patients have the right to direct their own care
  - This applies in almost every case.
  - Respect and honor patient's rights.
    - Regardless of perceptions of others
    - Even if patient's death is result

Patient Autonomy

- Resolve ethical conflicts through communication.
  - If you disagree with a physician, discuss it.
  - Always act as a patient advocate.

Advance Directives

- Express what medical care (if any) the patient wants if he or she can no longer articulate personal wishes
- Differs from state to state
  - Laws are often very strict.
  - Know and follow state laws.

Living Will and Health Care Power of Attorney

- Types of advance directives
  - Related to end-of-life medical care
  - Sometimes called durable powers of attorney
- Various types of powers of attorney
  - Not all authorize health care

Living Will and Health Care Power of Attorney

- Review the power of attorney carefully.
  - Contact medical control when in doubt.
- Living wills generally require a precondition.
  - A living will often contains a health care power of attorney.
  - Consult medical control if it does not.

Living Will and Health Care Power of Attorney

- Surrogate decision maker
  - Has no authority until the patient becomes incapable.
  - Defer to patient whenever possible.

DNR Orders

- Describes which life-sustaining procedures, if any, should be performed
  - Laws differ among states.
  - May include a physician order or medical jewelry.

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 _____

PHOTO

Hospice Program (if any) _____
Name and telephone number of patient's physician _____
_____

(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)

DNR Orders

- Generally, DNRs must:
  - Clearly state medical condition
  - Have patient/guardian signature
  - Have signature of one or more physicians
- You must still provide supportive measures if a patient is not in cardiac arrest.

Withholding or Withdrawing Resuscitation

- A decision relies on common sense and reasonable judgment.
- Consider:
  - Time to reach definitive care
  - Likelihood of survival
- Rare survival cases should not guide your decisions.

Withholding or Withdrawing Resuscitation

- State laws vary.
- If resuscitation has begun, cessation may be appropriate in cases of:
  - Blunt trauma arrest
  - Prolonged rescue or response time
  - Lengthy medical resuscitation efforts

Withholding or Withdrawing Resuscitation

- Halting resuscitation is especially difficult with pediatric patients.
- Seek training, review literature, and have open discussions regarding resuscitation.
  - Understand consequences of interventions.
  - When in doubt, contact medical control.

End-of-Life Decisions

- You will often deal with patients at the very end of their lives.
  - Treat patients with respect and empathy.
  - Never question their reasoning.
- Providing information and support is part of your job.

End-of-Life Decisions

- Avoid imposing your own moral code.
  - Respect the patient's wishes, even if you disagree.
- You may encounter confusing scenarios.
  - Resuscitate until paperwork is confirmed.
  - Avoid hostile encounters with family members who disagree with the patient's wishes.

End-of-Life Decisions

- Medical orders for life-sustaining treatment (MOLST)
  - Similar to DNR, but more expansive
  - May apply with impending pulmonary failure
  - Guide use of CPR, intubation, feeding tubes, antibiotics, palliative care

End-of-Life Decisions

- Organ donation
  - Keeping a patient alive for an organ donation is a major ethical issue.
  - Understand state laws.
  - EMS plays a vital role in securing transplants.

Defenses to Litigation

- Your first defense is an open, informative, trust-based relationship with patients.
- When this is not possible, several defenses may be used, including:
  - Statute of limitations
  - Contributory negligence

Good Samaritan Legislation

- Provides immunity from liability
  - Passed to encourage public to help
  - Some protection for EMS personnel
- Does not apply while on duty
  - Legal duty applies
- Must do all you can, within your knowledge

Governmental and Qualified Immunity

- Governmental immunity
  - Sovereign immunity
  - Limits
    - Types of lawsuits that can be filed
    - Time frames
    - Amount of money that can be recovered

Governmental and Qualified Immunity

- Qualified immunity
  - Common complaints:
    - Improper restraint
    - Excessive force
    - Deviation from standard of care
  - Only liable when paramedic violated a clearly established law

Employment Law and the Paramedic

- Laws affect your relationship with your employer.
  - Involvement in legal issue with employer is more likely than being sued
- Employer–employee relationship involves complex state and federal laws.

Americans With Disabilities Act (ADA)

- Protects qualified persons with disabilities from employment discrimination
  - All aspects of employment (hiring, salary, etc.)
- For ADA protection, a person must:
  - Have a disability that limits life activities
  - Possess the basic qualifications and be able to perform the essential job functions

Americans With Disabilities Act (ADA)

- Employers cannot inquire about disabilities or require a medical exam until after the job offer is made.
  - Reasonable accommodations must be provided.
- Employers are not required to give preference to disabled employees.

Title VII of the Civil Rights Act

- Prohibits discrimination based on race, color, religion, gender, national origin
  - Also prohibits sexual harassment
- Applies to all aspects of employment
  - Generally, a pattern over time, not single incident

Sexual Harassment

- One of the most common Title VII claims
- Two types:
  - *Quid pro quo*
  - Hostile environment
- Can occur between any combination of sexes, sexual orientations, or gender identities
- No precise definition of harassment

Sexual Harassment

- Typically includes:
  - Sexual comments
  - Display of offensive material
  - Unwelcome advances, touching
  - Inappropriate personal inquiries
- Employers obligated to prevent harassment
  - Must investigate all claims promptly
  - Must provide training

Additional Federal Laws Dealing With Discrimination

- Pregnancy Discrimination Act
- Equal Pay Act of 1963
  - Men and women who perform equal work in the same workplace must receive equal pay.
- Age Discrimination in Employment Act of 1967

State Laws

- Deal with discrimination in the workplace
- Compared to federal law:
  - Address same issues
  - Sometimes provide more rights
  - Do not usually require 15 or more employees

Family Medical Leave Act (FMLA)

- Up to 12 weeks unpaid leave per year
  - For eligible employees
  - Under certain circumstances
- States' own versions
  - May provide more rights

Occupational Safety and Health Administration (OSHA)

- Regulates safety in the workplace.
  - States may enforce tighter regulations.
- Covers all employers.
  - Additional responsibilities in health care
  - Standards are often changing
- Do all you can to avoid injuries.

Ryan White Act

- Provides safeguards and protections for health care workers exposed or potentially exposed to certain designated diseases.
  - Notify your infection control officer if you believe you have been exposed.

National Labor Relations Act (Wagner Act)

- Many EMS services are unionized.
- Establishes:
  - Rights of unions and union workers
  - Regulates unfair labor practices by employers
- Become familiar with your rights and the union laws in your state.

Thank You

Please move to the next section