2012
Arkansas EMS Expo
Handout Materials
Day Two—Billing Track
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Doug Wolfberg is an attorney and founding partner of Page, Wolfberg & Wirth. PWW represents private, public and non-profit EMS organizations, as well as billing companies, software manufacturers and others that serve the nation’s ambulance industry.

Doug has been involved in EMS for more than 30 years, becoming an EMT at age 16 — and his entire professional life since then has been dedicated to EMS. He was also an EMS instructor, and served as an EMS administrator at the county, regional, statewide and Federal levels, including the United States Department of Health and Human Services. His engaging and humorous presentation style has been featured at EMS conferences nationwide.

Doug’s work as an ambulance industry attorney and consultant focuses primarily on reimbursement, compliance, coding, business counseling and transactions, contracts and other areas of the firm’s practice. Doug is a Certified Ambulance Coder (CAC) and a founder of the National Academy of Ambulance Coding (NAAC). He is admitted to practice before the United States Supreme Court as well as numerous other Federal and state courts.

A prolific EMS writer, Doug has authored hundreds of articles and columns, and he is an author, co-author or contributor for many of the industry’s leading textbooks. He serves as a member of the Journal of Emergency Medical Services Editorial Board. Doug also served as a Commissioner of the Commission on Accreditation of Ambulance Services (CAAS).

Doug is a graduate of Penn State University and Widener University School of Law, where he received his law degree with high honors, graduating magna cum laude. He holds academic appointments as faculty at the Widener University School of Law and the University of Pittsburgh.

When not working as an attorney, consultant or educator, Doug is an avid bicyclist, and plays guitar in a Harrisburg, PA area rock band.
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Ryan Stark is an associate attorney with Page, Wolfberg & Wirth, LLC. He began his tenure with PWW as an intern during his second year of law school and then joined the firm full time after becoming a member of the Pennsylvania Bar.

Ryan helps PWW clients manage a wide variety of issues including employment concerns, contractual matters, and federal and state agency oversight actions. Ryan also works closely with clients to improve and expand their compliance with various state, federal, and local laws affecting the industry.

Closely monitoring important legislative and regulatory changes is one of Ryan’s primary duties for the firm, and he plays a big part in developing the firm’s industry alerts, compliance publications, and webinar materials. Ryan also participates as a speaker in many PWW seminars, conferences and webinars, including the firm’s signature ABC3 Conference.

Ryan is a graduate of Widener University School of Law and Indiana University of Pennsylvania, where he dual-majored in psychology and political science. Ryan is a member of national honor societies in psychology and political science. During law school, Ryan was a member of the moot court and trial advocacy honor societies. He also volunteered his time teaching constitutional law to local area high school students and is currently an active member of the Big Brothers Big Sisters program.

Ryan has also clerked for the Pennsylvania Department of Health and the Department of Public Welfare, where he participated in implementing many health policy initiatives. Before that, Ryan worked for a local hospital concentrating his efforts on healthcare compliance issues.
Arkansas EMS EXPO 2012
Day Two – Billing Track

Presented by
Douglas M. Wolfberg, Esquire
Ryan S. Stark, Esquire

Anyone having “residual affects” from last night?

There are simple treatments methods you can use . . .

Hopefully, you aren't TOO confused after yesterday . . .

And that the information we’ve shared hasn’t been TOO shocking . . .

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Upcoming 2012 abc³ Dates
Registration is open

abc³ St. Louis
May 23-24, 2012
May 20-22, 2012
May 22, 2012

abc³ Jacksonville
June 13-14, 2012
June 10-12, 2012
June 12, 2012

Fall 2012 abc³ – Hershey
October 24-25, 2012
October 21-23, 2012
October 23, 2012

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“HIPAA TV” Training Video Available for Purchase


Agenda – Day Two
- Making Sense of Medical Necessity
- Obtaining Better Documentation
- Alternative Revenue Sources
- The Liability of Apathy
- Understanding EMS Law
- Simple Advice: The Legacy of James O. Page

Overview
- Medical Necessity: Concept and Law
- The “Presumed Conditions” And How They Work
- Non-Emergency Criteria
- Physician Certification Statements

MAKING SENSE OF MEDICAL NECESSITY

Medical Necessity: Concept and Law
The “Big Mystery”

There are almost as many definitions of medical necessity as there are payers, laws and courts to interpret them!

Lack of objectivity inherent in these terms often leads to widely varying interpretations by physicians and payers.

And the decision as to whether the services were medically necessary is usually made by a payer reviewer who didn’t even see the patient!

The Basic Medicare Rule . . .

- Medicare covers ambulance services only if they are furnished to a patient whose medical condition is such that other means of transportation is contraindicated.

The Basic Medicare Rule . . .

- The patient’s condition must require both the ambulance transportation itself and the level of service provided in order for the billed service to be considered medically necessary.

What If It’s Not Medically Necessary?

- Overpayment demands
- Prepayment Review
- Audit
- Suspension
- Civil Monetary Penalties
- Exclusion

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What Really Matters? Pick Only One!

- Patient’s medical diagnosis
- Patient’s physical condition
- Patient’s medical history

The “Presumed Conditions” And How They Work

Presumption of Medical Necessity

- Contractors may presume the medical necessity requirement is met under certain circumstances

Again . . .

- The patient was suffering from an illness or injury, which contraindicated transportation by other means

1. Emergency

- Patient Was transported in an emergency situation, e.g., as a result of an accident, injury or acute illness

1. Emergency

- 911 call
- Evidence you took steps to promptly respond
- Nature of the call at dispatch
- Accident, injury or acute illness clearly described

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Example

“Ambulance I812 dispatched by 911 and responded immediately for reported chest pain”

2. Needed to Be Restrained

- The patient needed to be restrained to prevent injury to the beneficiary or others

2. Needed to Be Restrained

- Why did patient need to be restrained
- Type of threat
- Mental health commitment or transport
- Uncontrollable body movements

Not Good Enough . . .

- “Patient was secured to the stretcher with the cot straps”

Example

- “Patient had to be restrained in a supine position with a Reeves stretcher and four additional straps due to violent uncontrollable thrashing of his arms and legs”

3. Unconscious or In Shock

- The patient was unconscious or in shock
3. Unconscious or In Shock

- Level of consciousness
- Use of Glasgow coma scale
- Type of shock
- Signs and symptoms of the shock
- Syncopal episode, post-ictal from a seizure, postural hypotension
- Witness who saw patient unconscious

Example

- “Patient was alert and conversational and oriented to time, place, person and situation”

Example

- “Patient was unresponsive to voice, and only would respond to a sternal by opening his eyes”
- “Patient was unresponsive to voice or pain. GCS was 3”

4. Oxygen or Other Emergency Treatment

- Why was oxygen required
- Self administered
- Chronic condition or chronic condition with acute onset of symptoms
- Other treatments (IV, cardiac monitor, 12-lead, pacing, medication administration, airway management, etc.)

Example

- “Patient was placed on oxygen at 15 LPM via non-rebreather mask due to acute chest pain and SOB”
- “Patient was placed on oxygen at 6 LPM via nasal cannula due to ashen appearance and shallow breathing. Normally patient is on 2 LPM by nasal cannula”

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5. Signs/Symptoms of Acute Respiratory Distress

- The patient exhibits signs and symptoms of acute respiratory distress or cardiac distress such as shortness of breath or chest pain.

Example

- “Patient experienced severe SOB and was very anxious and agitated. Skin was cool and dry with nail beds cyanotic, O2 sat. was 89%.”

5. Signs/Symptoms of Acute Respiratory Distress

- What are the signs/symptoms
- When did they begin
- Respiratory rate
- Use of accessory muscles
- Level of distress
- Skin color, nail bed color
- Oxygen saturation level
- Breath sounds

6. Acute or Possible Stroke

- The patient exhibits signs and symptoms that indicate the possibility of acute stroke.

Example

- “Patient was found supine on living room couch, and responded to verbal commands. Could only move left arm and leg upon command. Right arm and leg were flaccid. Patient also has facial drooping to the right side and appeared anxious and upset because her speech was very slurred.”
7. Fracture of Possible Fracture
- The patient had to remain immobile because of a fracture that had not been set or the possibility of a fracture.

7. Fracture or Possible Fracture
- Upper or lower extremity
- Angulation
- Loss of use
- Distal pulses and sensation
- Skin color
- Splinting that was used

Example
- “Patient had severe leg pain and was screaming loudly. Left leg was angulated at appx. 45 degrees at mid thigh. Large hematoma the size of a soccer ball mid thigh. Was unable to move leg below the injury site. Traction splint applied with significant pain relief.”

8. Severe Hemorrhage
- The patient was experiencing a severe hemorrhage.

Example
- “Patient was bleeding from a gaping three inch laceration to upper left arm in biceps region. Blood was dark and oozing upon arrival with approx. blood loss of 100 cc on the floor. Controlled bleeding with multiple trauma dressing and direct pressure maintained during transport.”

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9. Must Be Moved By Stretcher
   - The patient could be moved only by stretcher

   **WHY?** List the reason(s)
   - What medical or physical condition requires patient to be transported by stretcher
   - What are patient’s physical limitations

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Example

- “Patient moved from upstairs bedroom via stair chair and transferred to stretcher at bottom of steps due to severe obesity and fact that patient was unable to walk due to severe shortness of breath upon exertion”

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10. Bed Confined Before and After Transport

   - The patient was bed-confined before and after the ambulance trip
   - But, must also document that other methods of transportation are contraindicated

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Example

- "Appx. 400 lb. patient was found in a hospital bed in the living room. Hoyer lift located nearby. Visiting nurse states patient only can be lifted out of bed by and patient can provide only minimal assistance”
   - "Patient found supine in upstairs bedroom. States he has not been able to get out of bed for two days because of severe dizziness when sitting up”

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If NO Presumed Conditions

- In the absence of any of the presumptive conditions additional documentation should be obtained to establish medical need where the evidence indicates the existence of these circumstances.

No Presumed Conditions

Need more documentation where:
- Condition would not ordinarily require movement by stretcher
- The individual was not a hospital inpatient (except in accident cases)

No Presumed Conditions

Need more documentation where:
- The ambulance was used solely because other means of transportation were unavailable
- The individual merely needed assistance in getting from his room or home to a vehicle

Non-Emergency Criteria: A Closer Look

Non-Emergency

- Non-emergency transportation by ambulance is appropriate (medically necessary) if either:
  1. Patient is bed-confined and it is documented that the patient’s condition is such that other methods of transportation are contraindicated; OR

Non-Emergency

2. If the patient’s condition, regardless of bed confinement, is such that transportation by ambulance is medically required
Non-Emergency

- Bed confinement is not the sole criterion in determining the medical necessity of ambulance transportation. It is one factor that is considered in medical necessity determinations.

42 CFR 410.40(d)

Bed Confined

- A beneficiary is bed-confined if he/she is:
  - Unable to get up from bed without assistance;
  - Unable to ambulate; and
  - Unable to sit in a chair or wheelchair

Bed Confined

- Need to describe why the patient:
  - Can't get up from bed
  - Can't walk
  - Can't sit in a chair or wheelchair

Example

- "Patient found in hallway of nursing home, strapped in wheelchair with strap around his chest. Staff state he cannot sit up straight on his own and must be within vision field of nurse’s station as he has serious coughing spells with airway problems"

Bed Confined

- Not synonymous with "bed rest" or "non-ambulatory"
- Bed confinement, by itself, is neither sufficient nor necessary to determine the coverage for Medicare ambulance benefits
- Bottom Line: It is not the sole criteria!

Non-Emergency: Key Question

- Can the patient be transported safely when strapped to a wheelchair, that is bolted to the floor and left unattended in the back of a moving wheelchair van?
Of course, let’s not forget about the “High Performance” wheelchairs...

Physician Certification Statement (PCS)

General Rule

- For most non-emergency transports, ambulance services need a written order certifying that Medicare’s medical necessity requirements are met.

PCS Not Needed For . . .

- Emergencies
- Non-emergencies for patients residing at home or in a facility who are not under the direct care of a physician

Must Have PCS For . . .

- All other non-emergency transports that are either scheduled or unscheduled, or repetitive or non-repetitive
PCS Types

- Scheduled, Repetitive Trips
  - Section 410.40(d)(2)

- Unscheduled/Non-Repetitive Trips
  - Section 410.40(d)(3)

Why?

- Appropriate documentation must be kept on file and upon request presented to the contractor
- But, the presence of a signed PCS does not alone demonstrate medical necessity – all other criteria must be met as well

Scheduled Repetitive

- PCS must be signed and dated by the attending physician before furnishing the services to the patient

Scheduled Repetitive

- PCS must be dated no earlier than 60 days in advance of the transport
- PCS may include the expected length of time ambulance transport would be required but may not exceed 60 days

“Repetitive”

- Medically necessary ambulance transportation that is furnished three or more times during a 10-day period or at least once per week for at least three weeks

Unscheduled/Non-Repetitive

- Should obtain a PCS from the patient’s attending physician within 48 hours after the transport, BUT . . .
Unscheduled/Non-Repetitive

- If unable to obtain a completed PCS from the attending physician within 48 hours
  - May obtain signature another authorized signer who is knowledgeable about the patient’s condition and who is employed by either the attending physician or the facility to which the patient is admitted.

Other Authorized Signers

- Physician Assistant (PA)
- Nurse Practitioner (NP)
- Clinical Nurse Specialist (CNS)
- Registered Nurse (RN)
- Discharge Planner

Unable to Obtain PCS

- May submit the claim after 21 days of the date of service if there is documentation of a good-faith effort to obtain the PCS

Good Faith Efforts

- USPS certified mail with return receipt
- Proof of mailing or other similar service demonstrating delivery of the letter as evidence of the attempt to obtain the PCS
- USPS Certificate of Mailing, Form 3817

PCS: Final Note

- “It is important to note that neither the presence nor absence of the signed physician certification statement necessarily proves (or disproves) whether the transport was medically necessary”
  
  Medicare Online Manual
- Exception in one jurisdiction for scheduled, repetitive trips

PCS: The Form

- No particular format required
  - May be a hand written statement
- Suppliers and physicians may develop their own certification form
- Ambulance staff should not complete the PCS forms
PCS: The Form

- It should contain a section that allows the physician to provide a narrative description of the patient’s physical condition at the time of the transport.

PCS: The Form

- Be a patient-specific form that is signed and dated by authorized personnel with printed name and credentials of signer.
- PCS should not be altered from its original format.

Summary

- Does the documentation tell you that the patient could only go by ambulance.
- If non-emergency, do you have a PCR from correct signer.
- If the documentation does not demonstrate medical necessity, so be it! Bill the patient.

OBTAINING BETTER DOCUMENTATION

These Days In EMS We Certainly Need Adequate Paperwork . . .
Overview

- Importance of Documentation
- Why Crews Don’t Want to Document and Your Response
- Ten (10) Steps to Obtain Better Crew Documentation

Importance of Documentation

Why Crews Don’t Want to Document and Your Response!

“I Didn’t Get Into EMS to Do Paperwork!”

“I Didn’t Get Paid Enough to Do This!”

RESPONSE: “Paperwork is more than a necessary evil and it has evolved into an essential aspect of patient care – but things will get better as we move to electronic records”

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“I Don’t Get Paid Enough to Do This!”
RESPONSE: “I agree that EMS is underpaid for the value we bring to society. We are all underpaid, but documentation is an essential part of our mission and is a critical part of our job responsibilities. I wish we could pay everyone more, but we are limited in part due to fixed or declining reimbursement levels”

“All You Care About is Billing These Calls!”
RESPONSE: “Proper reimbursement is essential to having the funds for equipment and personnel. Without good documentation, we don’t get the reimbursement we may be entitled to receive. We can’t afford in today’s economy to leave legitimate reimbursement on the table”

“You Can’t Tell Me What to Write!”
RESPONSE: “We are not telling you what to write. We are simply telling you that basic information necessary to make a billing determination is missing. We need you to explain how you found the patient, the patient’s mobility status, and how you moved the patient, which you did not do on the initial report.”

“It is Illegal to Change the PCR After I’ve Completed It!”

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“It is Illegal to Change the PCR After I’ve Completed It!”
- RESPONSE: “When errors or inaccurate information are on a chart, it is our duty to amend it so that it is complete and accurate. That is not illegal. Corrections or additions to medical records are common and are permissible as long as the correction or addition is accurate, truthful, and properly noted as an addendum or correction.”

Key Focus
- Importance of HONEST and COMPLETE documentation
- We are NOT “telling you what to write”

Key Focus
- Documentation should NEVER be changed just to get the claim paid – BUT we need enough documentation to make a determination if it should be paid and at what level of service
- Any corrections or addenda must be timely, accurate and honest!

Ten (10) Steps to Obtain Better Crew Documentation

Step #1 – Select the Right People
Select the Right People

- Hire slowly, fire quickly
- Make attitude as high a priority as skills
- Check background, work experience and references
- Assess reading comprehension and writing skills
  - Reading comprehension and English language skills on the post-secondary level

You Want to Avoid This Type of Documentation . . .

From Actual PCRs

- Headaches = headaches
- Surcured = secured
- Seziore = seizures
- Callor bone = collar bone
- Palped = palpated
- Diraha = diarrhea
- Sink-o-pee = syncope

From Actual PCRs

- Chief Complaint: “Multiple Aberrations”
- Fell off “min bike” landing on the “assault”
- Multiple “aberrations” to both legs

Step # 2 – Communicate Your Expectations

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Without a road map and a clear understanding of the “rules of the road,” it can be much harder for employees to get to where they need to go.

- Eric Harvey

Communicate Your Expectations

- Job descriptions
- Simple list of expectations – make documentation part of the “core list”
- Regular feedback – positive and negative
- Praise good results

“Andy’s Expectations”

- “Patients and incident responses are not an interruption of our day. They are the reason we exist!”

- Andy Lovell, Chief, Gloucester County (NJ) EMS (alovell@co.gloucester.nj.us)

Step #3 – Set the Example From the Top

- Front line supervisors must be on board – don’t tolerate anything less!
- Regular leadership training and periodic meetings of the “Leadership Team” – meetings that address issues and are not just “show and tell”

Do You Tolerate This?

Set the Example From the Top

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Step # 4 – Conduct Effective Initial and Ongoing Training

Conduct Effective Initial and Ongoing Training

- Orientation
- Annually
- Remedial (based on individual evaluation)

Use Documentation Examples!

- Focus on keys reimbursement areas of documentation
  - Emergent condition
  - Mobility status
  - Bed confined
  - How was patient found and moved
  - Why are other means of transport contraindicated

Use Documentation Examples

- Why does the patient require ambulance transport?
- Why must the patient be moved by stretcher?
- Examples should show the “correct” way to document the same facts

Example

- DOCUMENTED: “patient walked from bed to stretcher”
- WHAT REALLY HAPPENED: “90 y/o patient sitting semi-Fowlers in hospital bed was assisted to a seated position and then from bed to a standing position with full assist from crew. Pt shuffled 2–3 feet to the stretcher with the assistance of each crew member on each side supporting patient under his arms. Patient then pivoted onto stretcher and placed in semi-Fowlers position and secured with cot straps”

Focus on “Painting A Picture”

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Other Training Tips

- Consider “mock trials” and other participatory programs that show outcome of “good” and “bad” documentation
- Documentation training on site from guest speakers

Sharing Job Experiences

Step #5 – Establish Standards and What You Will Measure

- Find straightforward elements to measure
  - Signature compliance
  - All data elements completed
  - Number of PCRs returned for missing information
- Establish standards - what is acceptable and not acceptable

Step #6 – Make “Compliance QI” a Part of “PCR QI”

- QI staff need to know billing compliance
- Training of management team
- Identify “key elements for compliance”
- Develop a “PCR Review Checklist”
“PCR Review Checklist”
- Demographic information complete and accurate
- Documentation answers: Why does this patient need to go by ambulance?
- Mileage documented to the tenths
- Reason for transport to the destination documented clearly

“PCR Review Checklist”
- Visual description of patient condition is clear
- ALS assessment documented (if appropriate)
- All interventions and attempted interventions recorded

“PCR Review Checklist”
- Elements of medical necessity covered
- Bed confined elements are addressed (non-emergency)
- Assignment of Benefits signature rule met

Step #7 – Make Documentation A Key Element of Job Descriptions and Performance Reviews

Job Description Elements
- Essential Job Functions
  - Clinical Functions
  - Operational Functions
  - Compliance Functions – here is where you address documentation and other compliance issues!
Job Description Elements

- Summary of Position
- Organizational Relationships
- Required Knowledge, Skills and Abilities
- Certificates and Licenses Required
- General Qualifications
- Physical Requirements

Compliance Functions

- “Document in writing all relevant information in a concise, descriptive and accurate way in compliance with all applicable laws, regulations and protocols”

Compliance Functions

- “Ensures that all patient interventions are necessary due to patient condition, medical direction or protocols”

Compliance Functions

- “Documents all successful and unsuccessful treatment interventions”
- “Documents patient loaded mileage accurately and in accordance with company policy”

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Counseling/Performance Reviews

- *Weight* performance reviews over several key categories
  - Customer service and relationship development
  - Clinical Duties
  - Operational Duties
  - Compliance Duties

“Constructive Counseling”

- Inform individual that he or she is not meeting the standard or expectation
- Restate the standard
- Identify specific deficiency and how it impacts you and the organization

“Constructive Counseling”

- Outline changes that are necessary
- Provide additional training or assistance
- Emphasize the “good stuff”
- Be clear about what will happen if change does not occur

Step # 8 – Implement Incentive and Recognition Programs

Incentives need not be monetary
- In fact, they should not be monetary for volunteers – possible FLSA issue
- Combination of monetary and symbolic incentives

It Pays EMTs to Dot I’s and Cross T’s
In Vegas, They Get Bonus for Proper Paperwork, but City Touts Savings
By Joe Schoenmann
Las Vegas Sun, Wed, Apr 22, 2009 (2 a.m.)

Las Vegas pays its paramedics and EMTs a bonus said to be unique — for properly filling out paperwork.

Incentive/Recognition Programs

- Incentives need not be monetary
- Combination of monetary and symbolic incentives
### Incentive/Recognition Programs

- Praise in public
- Celebrate successes (or exceeding the standards)

### Positive Incentives

- Bonuses and cash incentives
- Paper and other types of “awards”
- Funny or unique (but tasteful) awards – get creative

### Positive Incentives

- Annual banquet recognition
- Letters of commendation
- Positive “critical incidents” for the file – in addition to the negative stuff

### Negative “Incentives”

- Verbal warnings
- Mark up of PCR errors
- Performance evaluation
- Disciplinary action
- Suspension or termination

### Step # 9 – Conduct Internal and External Audits
Internal and External Audits

- Starts at the crew level – both should read the report!
- Quarterly random audits
- Annual external audit
- Calculation of “error rates” for key indicators related to documentation

Step #10 – Implement a “System Review Team”

“We should work on our processes, not the outcome of our processes”

- W. Edwards Deming

“System Review Team”

- Not all problems are individual problems – many individual problems are signs of a bigger problem!
- “Track and Trend” system problems

“System Review Team”

- Multi-disciplinary team needed
  - Operations
  - Medical
  - Education
  - Billing

“System Review Team”

- Empowered from the top
- Reports to management and staff
- Implementation report

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Other Tips

- Provide resources and other assistance to improve reading and writing skills
- Community colleges and other social service agencies are there to help
- Web sites are a great tool

Closing Thoughts

- When people have performance problems, most will respond well to “constructive counseling” or other feedback and they will change their behavior for the good – when you handle it correctly

Closing Thoughts

- It is always best to work with people to help them along, so they can learn their job and have the opportunity to grow and develop in the organization

It Truly IS About TEAMWORK and Helping Each Other Out and Doing the Best We Can For Our Organizations and Community . . .
Break Time

ALTERNATIVE REVENUE SOURCES

Where has all the money gone?

2007 GAO Report
- On average, at least 40% of transports were Medicare
- On average, Medicare paid ambulance providers 6% below cost
- 17% below cost in remote or “super rural” areas
- GAO is updating this study – look for surveys

Budget Control Act of 2011
- Deficit reduction of $917 billion—no cuts to Medicare or Medicaid
- Joint Committee failed mission—automatic spending cuts of $1.2 trillion
- If Congress and President don’t reach an accord, for Medicare, there will be a 2% reduction in reimbursement

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MFP Adjustment

- Annual fee schedule adjustment is now modified (reduced) by the MFP (Multi-Factor Productivity) adjustment
  - 2011—1.1% - 1.2% = -0.1%
  - 2012—3.6% - 1.2% = 2.4%
- The fee schedule can drop from year to year!

Fractional Mileage

- Can no longer round up fractional mileage less than 100 miles
  - Estimated yearly loss in revenues to the industry is between $45 and $80 million

GPCI

- For 2011 localities with a Geographic Price Cost Index (GPCI) of less than 1.0 saw an additional increase in payment rates
- For 2012 the GPCI generally lower and more closely resembles the GPCI for 2009

Temporary Medicare Bonuses

- Bonuses
  - 2% Urban
  - 3% Rural
  - 22.6% Super Rural
- Will end after 2012 unless Congress and President extend or replace

Medicare Application Fee

- Fee adjusted annually
  - New enrollment or re-enrollment
  - New practice location
  - Revalidation process
  - Response to revalidation process
- 2011 - $505
- 2012 - $523

Possible Medicaid Reductions

- Medicaid payments generally do not cover cost of transports
- Some states have sought to address budget shortages by reducing Medicaid payments
  - Bundling
Medicaid Requirement
- Payment rates must be adequate to ensure that Medicaid beneficiaries have access to medical services
  - No Circuit Court consensus on whether prior cost study required to ensure payment rates bear reasonable relationship to provider costs

Competition
- Competitors who play by the rules
- Noncompliant competitors
  - Freebies
  - Swapping
  - Other inducements to referral sources such as facilities and municipalities

Costs are increasing!

Increased Costs
- Fuel
- Insurance
- Medical supplies and equipment
- Vehicle maintenance
- Benefits (such as health care)

Is there hope?
Medicare Hope?

- Medicare Ambulance Access Preservation Act of 2011 (S. 424, H.R. 1005) would establish until 1/1/18 a 6% adjustment for urban and rural areas and the 22.6% bonus payment for super rural areas.

Perhaps Not

- A Medicare Ambulance Access Preservation bill has been before Congress for more than 3 years.
  - Increasing focus on deficit reduction makes passage less likely.
  - Ambulance suppliers and EMS providers must be politically active.

Medicaid Hope?

- On May 6, 2011, CMS issued a proposed regulation that would create a standardized process that states would be required to follow in setting rates under their Medicaid program.

Proposed Medicaid Regulation

- States would conduct periodic reviews of a subset of medical services each year to ensure beneficiary access.
- All Medicaid services would be reviewed at least once every five years.

Proposed Medicaid Regulation

- To reduce payments rates for a service, states would need to complete an access review for that service within the prior 12 months.
- States would then be required to monitor for continued access to the service.
Proposed Medicaid Regulation

- If CMS determines that service rates are modified without the required analysis, CMS may disapprove a proposed state plan amendment including the reduced rate.

Medicaid Alternative Funding

- Federal Reimbursement Allocation (FRA)
- Missouri was one state to successfully apply it to EMS.

Missouri Medicaid

- Missouri Medicaid program
  - Known in Missouri as the "Missouri Health Net Program"
  - Funded by State & Federal funds
- 37% State Tax Money
- 63% Federal Tax Money

What is an FRA?

- An FRA is a method of ambulance provider assessment where the “tax” is provided to the state and the state Medicaid program uses the funds to earn federal matching dollars. The funds are then provided to the ambulance services in recognition of the large amount of uncompensated care provided.

How it Works

- Limited state funds has led to the creation of the "self-tax" where an industry (i.e. hospitals) will push a law to create a tax on themselves
- The tax is collected and turned over to the State
- The State then presents their funds to the Federal government

How it Works

- The federal government provides the additional 63 cents for every 37 cents in the state fund
- The combined monies are then given back to the EMS providers to pay for Medicaid patient services
- More info - contact Jason White jason.white3254@gmail.com
Don’t Leave Money On the Table!

Traditional Revenue Sources
- Alternative revenue sources ambulance providers have often pursued:
  - Fundraisers
  - Subscription plans
  - Grants
  - Paratransit services
- Some of these are more oriented to non-profit organizations

Fundraising
- Door-to-door solicitation
- Bingo
- Raffles
- Community fairs and dinners

Practical Pointers
- When it comes to fundraising, transparency is the key
- Provide details about mission, goals and services

Practical Pointers
- Also be sure to determine:
  - Are local permits or licenses required?
  - Are there any food safety or other safety issues involved?
  - Do we need insurance?

Subscription Plans
- Subscription in lieu of cost-sharing
- But, kickback violation unless:
  - Fees from subscribers cover expected cost-sharing amounts; or
  - Fees from Part B beneficiaries cover expected Part B cost-sharing
    - OIG Advisory Opinion 03-11
  - Also, be aware that some states do not permit subscription programs

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Grants

- Federal grants
  - FEMA Assistance to Fire Fighter Grants
  - HHS Network Development Grants
  - USDA Community Facilities Grants
  - HUD Community Development Block Grants

Grants

- State grants
  - Statutory distribution (sometimes limited to non profit companies)—towards purchase of ambulances, equipment, etc.
  - Federal/state pass-throughs (surge capacity response)

Paratransit Services

- Paratransit services (wheelchair, stretcher, etc.) when transport by ambulance is not appropriate

Paratransit Costs and Issues

- Up front costs—assessing profitability, additional employees, vehicle costs, insurance
- Maintenance costs
- Determining rates

Practical Pointers

- If you are considering getting into the paratransit business, you must also consider:
  - Is a separate license or certificate of public convenience required?
  - Can our application be protested by other carriers, possibly requiring hearings and appeals?

Practical Pointers

- Swapping issues
  - Still potentially applicable even though wheelchair van and other paratransit services are not Medicare-covered services
Other Sources Of Revenue

- Special operations EMS
- Rescue services
- HazMat services
- Charging for treatment without transport

Special Operations EMS

- Mass gathering (special events) EMS
- Wilderness EMS
- Tactical EMS
- Urban search and rescue EMS

Rescue Services

- Free persons entrapped in vehicles or other structures
- State/local law may address reimbursement

Rescue Service Considerations

- Does state or local law address?
- Is license/certification required?
- Will third party payer cover?
- Capital expenditures
- Training of personnel

Rescue Services

- Securing reimbursement
  - Reimbursement is not based upon contract
  - Reimbursement may be on theory of unjust enrichment for action necessary to protect others (more on that later)

HazMat Services

- Presents many of the same issues as rescue services
- Additionally
  - OSHA standards to be satisfied
  - Does State law impose financial responsibility on a particular party?

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Treatment Without Transport

- Nothing to prevent charge unless statute or ordinance provides otherwise
  - Better to have authorizing ordinance (Examples: Norfolk and Omaha)

Accident Tax Opposition

- Municipalities charging accident response fees impose a double tax
  - Illustrative of growing opposition is www.AccidentTax.com
  - Some states have passed laws that prohibit such fees, but some exclude rescue & HazMat response from these prohibitions

Practical Pointers

- If considering implementing accident/response/no-transport fees, consider the legal and political ramifications
  - Determine whether a billing statute/ordinance exists
  - Keep charges reasonable
  - Conduct targeted outreach to explain benefits

Preemption

- Ordinance is preempted if:
  - State law expressly provides that it preempts inconsistent local ordinances
  - The ordinance directly conflicts with a state statute
  - A state statute completely occupies the field the ordinance seeks to regulate

Unjust Enrichment

- Legal theory—A person cannot benefit from a service without some reasonable payment for it, even if there was no agreement in advance to pay for it

Case Study 1

- Cherryhill Township VFC—dispatched to auto accident
- Provided rescue services, including fire protection and traffic control
- Court denied “unjust enrichment” claim to collect on bill

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Case Study 1
- Court held Defendant benefitted due to services provided, but denial of reimbursement was not unjust
- Accident victim:
  - Did not request services
  - Had no control over dispatch
  - Not given notice expected to pay

Case Study 2
- Lima Fire Co.—dispatched to auto accidents
- Performed life-safety functions--Surveyed for hazards, assisted ambulance crew, removed debris
- Court granted “unjust enrichment” claims to collect on bills

When Is Reimbursement Likely
- A statute or ordinance requires payment by responsible party
- If ordinance provides for reimbursement, no statewide law preempts it
- If provided by government provider, taxes not collected for service

Public Relations Considerations
- Paying for a service not requested—Third party calls 911 after witnessing vehicle accident
- Person assessed participates in a subscription plan that doesn’t apply
- Less concern by public when insurers pay

Additional Revenue Sources
- Revenues from other providers
  - Leasing ambulances, other vehicles, equipment, facility and personnel
  - Management services
  - Billing services
Additional Revenue Sources
- Revenues from other providers
  - Dispatching services
  - Maintenance services
  - Continuing education programs
  - Community CPR and safety training

Billing Services
- HIPAA considerations
  - Business associate agreements
  - HIPAA confidentiality rules in operating policies and procedures

Nonprofit Organizations
- Typically organized under the state’s Nonprofit Corporation Law (NPCL)
- Charitable or community purpose
- Commitment to mission over profit
- IRS definitions under Section 501(c)

Fundamental Documents
- Articles of Incorporation
  - Define the general mission
  - “Registers” the corporation
- Bylaws
  - Rules adopted for the regulation and management of the business and affairs of the corporation

Tax Exemptions
- Section 501(c)(3) non-profit organizations are exempt from Federal income tax
- May be exempt from state corporate income tax and other state and local taxes

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IRS Determination

- Nonprofit organization must apply for IRS determination of tax exemption
- Must file an IRS Form 1023: Application for Determination of Tax-Exempt Status to obtain 501(c)(3) designation

Tax-Exempt Purpose

- 501(c)(3): Must have scientific, educational or charitable purpose
- IRS expansive view:
  - Charitable purpose includes lessening the burdens of government (Treasury Reg. 26 CFR § 1.501(c)(3)-1(d)(2))

Tax Exempt Organizations

- Note that some EMS nonprofits may be exempt under Section 501(c)(4) of the Internal Revenue Code
- Section (c)(4) has some key differences from (c)(3)
  - Donations ordinarily not deductible
  - Application for exempt status is Form 1024 instead of Form 1023

Statement Of Purpose

- Make statement of purpose broad, but restricted to charitable purposes
  - “The purpose of this organization is the provision of ambulance, medical transportation, and other services that may aid in the health and welfare of the communities served by the organization...”

Ultra Vires

- Ultra vires is a Latin phrase meaning "beyond the powers"
- In corporate law, ultra vires describes acts attempted by a corporation that are beyond the scope of powers granted by its purpose clause

Amendment Of Purpose

- Purpose clause needs to be amended if it does not encompass new revenue raising activity
- Provider will not be able to exempt charitable revenue from taxes if the activity is not covered by purpose clause
Non Profit “No No’s”
- No amount of political campaigning is acceptable
- Lobbying cannot be more than insubstantial amount of activities

Distribution Of “Profits”
- Profits (i.e., surplus revenues) must be applied to maintenance and operation of activities of corporation
- Cannot be distributed among members, directors or officers
  - IRS crackdown on excess payments to officers and directors

Distribution Of Profits
- Revenue in excess of expenses and large reserve is usually permissible, though this has been a factor in some IRS cases involving the exempt status of hospitals
- Revenue can’t benefit any person beyond reasonable compensation for services

Practical Pointers
- Even non-profit organizations may have taxable income
  - Unrelated business income (UBI)
  - Generally, income derived from activities which are not scientific, charitable or educational in nature
  - Exempt status is jeopardized if taxable activities are major portion of activities

Taxable Income
- Examples of income that may be deemed to be unrelated to charitable purpose:
  - Billing services for others
  - Management services for others
  - Paratransit services not related to medical transportation

Case Study
- **Orange County Agricultural Society v. IRS**
  - Incorporated to promote interests of agriculture and horticulture
  - Leased automobile racetrack for ½ of the racing and concession revenues

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Case Study

- Lease revenues amounted to approximately 30% of total revenues
- Court held:
  - Unrelated business income (UBI) disqualified Society as tax exempt
  - Rejected continuation of tax-exempt status and taxation of UBI only

Creating For-Profit Subsidiary

- Tax-exempt organizations may create for-profit subsidiaries
- Primary reason to do so is to preserve tax-exempt status by transferring unrelated business activities

Creating For-Profit Subsidiary

- Advantages
  - Transfer unrelated business activities to for-profit entity
  - Greater flexibility in attracting and compensating employees
  - Distributions in form of rent, dividends, etc., may be tax-exempt

Dissolution Of Non-Profit

- After paying liabilities:
  - No private inurement to any person
  - Board disposes of assets exclusively for exempt purposes
  - Court likely disposes of any remaining assets for exempt purposes
  - Follow dissolution procedures in State nonprofit corporation law

Summary

- Additional revenue sources are available
- What is good or available for one provider is not necessarily good for another

Summary

- Upfront research, homework and analysis is imperative
- Relevant statutes, ordinances and regulations must be identified and evaluated

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Our goal is to help you stay out of trouble so you aren’t caught with your pants down. . .

Our Goal Is to Convince You to Avoid Risky Behaviors . . .
Overview

- Key Risk Areas in EMS and Why People Sue You!
- A Case of Apathy
- Importance of Good Communication
- The Seven Expectations of the Public and Meeting Them

Top EMS Risk Areas

Biggest EMS Risk Areas

- Driving!
- Bad Refusals
- Bad tube placement and poor airway management
- Fraud, abuse, improper billing

Other Risk Areas

- Getting lost
- Stretcher and patient drops
- Equipment failures

Your People Are YOUR Best Protection!

Where Have All The Good People Gone????
Most lawsuits are NOT based on negligence, but on COMMUNICATIONS ISSUES and tiny instances of disrespect and inattention!

Our Changing EMS Family….
What’s Happened to US?

Key Issues

- Virtually 95% of EMS lawsuit “root cause” relates to BAD ATTITUDE!
- Rudeness and not communicating effectively are major contributors to dissatisfaction and lawsuits

Key Issues

- Burnout, Apathy, and yes, Laziness are major factors!
- “Second guessing” leads to disaster for the patient and the EMS agency
- Who is most likely to “second guess” what is wrong with a patient?
Case Study

The Liability of Apathy

A Case of Apathy

- James Smith, 24 yrs old, went to his aunt’s residence after a night of drinking and couldn’t get into the house
- Sat down on a wall in front of the house and fell asleep and fell from the wall and dropped 8 feet to the sidewalk below

Paramedics responded

- Medics approached pt and asked him his name and what was wrong
- Pt responded that he hurt his head and said several times that he hurt his neck

One medic said: “Get up. Are you drunk?” and “Get up or we’re going to call the police.”

They “snatched him up and threw each arm over their shoulders and dragged him to the stretcher”

In pt’s own words, his neck “snapped back” and “it was like somebody hit a light switch and I just went completely numb” below the neck

Alleged Facts

- Pt did not move his arms or legs after this point
- In pt’s own words, his neck “snapped back” and “it was like somebody hit a light switch and I just went completely numb” below the neck

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Medical Expert Testimony

- “[What the paramedics did was] unconscionable. Mr. Smith's quadriplegia is directly attributable to the actions of the paramedics.”

Case Outcome

- Paramedics made a motion to dismiss the case on the basis of "qualified immunity"
- Trial court denied the motion
- Appeals court affirmed the denial of the motion
- Case settled

The Importance of Good Communication

Four Types of Communications Problems

- Deserting the patient
- Devaluing the patient’s views
- Delivering information poorly
- Failing to understand patient’s perspectives

Solution: Put More CRAP in Your Approach!

- Be Courteous
- Show Respect
- Pay Attention to the other person
- Be Pleasant in all interactions

Put CRAP Back IN!

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Improving Communications

- Being well rested
- A professional appearance
- Equipment checked out
- Confident initial approach to the patient
- Sincere concern and empathy
- Verbal and non-verbal techniques to enhance communication

Improving Communication

- Getting down to the patient’s level...physically and verbally
- Warm, friendly introduction
- Explanation of what you are doing and why
- Reassurance but no guarantee
- Basic steps for physical comfort (blanket, pillow, etc.)

“Many emergency workers have been taught to fix broken brains, broken livers, and broken femurs while completely ignoring the people who own them.”
Thom Dick, “People Care”

“People don’t remember much about our medicine. But they do remember how we make them feel.”
Thom Dick, “People Care”

What is the Major Call Volume Growth Area in EMS?
The NEW Acronym for E.M.S.

- Elderly Management System

Most of What We Do As EMS Providers is SIMPLE STUFF . . .

BUT… This “Simple Stuff” Requires Caring, Compassion, Communication

Values and Principles

- Value honesty, trustworthiness and integrity
- Exhibit dignity and respect for one another
- Manage through leadership
- Focus on personal and professional growth
IT IS ALL ABOUT MEETING The Public’s EXPECTATIONS!

“Missed” Expectations EQUALS
- Unhappiness
- Lack of motivation
- Sloppiness
- Dissatisfaction
- Poor Documentation
- Poor patient care
- Legal Violations
- LAWSUITS!

The SEVEN Expectations We REALLY Have to Meet . . .

The Public Expects . . .
1. We will respond promptly!
2. We won’t get lost!

The Public Expects . . .
3. We will have trained, professional, respectful, “communicative” and caring staff!
4. We will have vehicles and equipment that actually work!

The Public Expects . . .
5. We won’t drop the patient!
6. We won’t have an accident in the ambulance!
7. We won’t “rip them off” or rip off those who pay us!

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Managing Expectations

Communicate the Expectations
• Job Descriptions
• Feedback
• Orientation and recurring training

Managing Expectations

Establish Effective “Introductory Periods”
Make sure it is the “right fit”

Managing Expectations

Set an Example
• The “sacred” responsibility of officers, managers, AND ALL OF US!

Managing Expectations

Don’t Tolerate Laziness or Sloppiness
Set up the house rules and enforce them

Managing Expectations

Instill “Pride and Ownership:
• It’s our “home away from home”
• Encourage “healthy individualization”
• That’s “MY TRUCK” can be good!
Managing Expectations

- Establish “Mentoring” Programs
  - Take advantage of your experienced people!
  - Nurture and develop our future!

Managing Expectations

- Establish “Multiple Channel” Feedback
  - Need “two way” communications not just “one way
  - Staff meetings, informal “get togethers,” suggestion group meetings, intranet

Managing Expectations

- Always Bring It Back to the “Patient and the Public”
  - Don’t accept “shoddy” patient care
  - Don’t accept anything less than “100% Service”

Treat Our Patients and EACH OTHER with Respect and Dignity!

3 Rules for Management

1. Be fair and consistent with everyone’s patients
2. Know where your people are coming from
3. No one has a job any more important than the next person

People DO NOT want to be in a work environment that is embarrassing, argumentative, back stabbing, gossipy, belittling, disrespectful, incompetent, sloppy, discriminatory and unprofessional!

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Treat EVERY Patient as if it was THEIR VERY FIRST CALL (or yours!)

Remember the First rule of Risk Management: BE NICE!!

It Really IS All About TEAMWORK AND BEING NICE and RESPECTFUL Toward Each Other!

Are you proud of your job?
By Del Jones, USA TODAY 5/24/05
Think it doesn't matter what that stranger at the party thinks when you tell him or her what you do for a living? Think again.

USA Today Survey
- Firefighters, EMS, Police in the top 3
- Lawyers in the bottom 4
- "Less than 1 in 10 chance the person you’re talking to believes your job carries great prestige"
“How much prestige the outside world assigns to a job plays a sizable role in YOUR job satisfaction”

Where Else Can You Find A Job Where You Can Have Such an Immediate and Positive Impact on Human Life?

Our Mission….

- To serve our communities by providing exceptional patient care and extraordinary customer service through compassion, knowledge, clinical sophistication and total integrity of our organization

“We make a living by what we get, we make a life by what we give.”

Winston Churchill

"It's not the years in your life that count. It's the life in your years"

Abraham Lincoln

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UNDERSTANDING EMS LAW

The Legal System

- Branches of Government
  - Legislative – Make the Laws
  - Representatives and Senators
  - Judicial – Interpret the Laws
  - Executive – Enforce the Laws
    - Agencies
    - Departments

The Legal System

- Regulation of EMS Practice
  - Local
    - Municipal laws – primary service ordinances
  - State
    - Department of Health – regulations protocols
    - Regional EMS Councils
  - Federal
    - HHS, CMS, etc.

The Legal System

- Types of Law
  - Administrative
    - DOH
  - Civil – citizens
  - Criminal – law enforcement

The Legal System

- Tort Law (Civil)
  - Unintentional torts
    - Malpractice actions
    - Other negligence actions
  - Intentional torts
    - False imprisonment
    - Assault/Battery, etc.

Negligence

- “The failure to act as a reasonably prudent EMS provider would act under similar circumstances.”

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Negligence

**Elements**
- Duty
- Breach
- Damages
- Proximate Causation

Duty to Act

- When does legal duty arise?
  - Off duty driving by scene of accident?
  - On the way to work?
  - If you stop and render aid?
  - When the pager goes off?

Breach of Duty

- Provider failed to uphold standard of care
- What is the standard of care?
  - Scope of practice
  - National standard curriculum
  - Local or regional protocols or standing orders
  - Expert witnesses

Breach of Duty

- **Malfeasance**
  - Performing a wrongful act
- **Misfeasance**
  - Performing a legal act in a harmful manner
- **Non-feasance**
  - Failing to perform a required act or duty

Damages

- Compensable losses
  - Medical expenses
  - Pain and suffering
  - Lost wages
  - Funeral expenses
  - Loss of consortium
  - Punitive damages

Proximate Causation

- Foreseeable consequences
- Your actions need to be the actual legal cause of the harm
  - Ex: you got there late but the time of death was before you should have gotten there
Who ultimately decides if you were negligent?

What is the biggest factor that will affect whether you will be sued?

Many lawsuits are not due to negligence. Many are due to tiny instances of disrespect and inattention . . .

Based on a quote by Thom Dick in JEMS

The Bottom Line

- Successful Malpractice suits against EMTs and paramedics are uncommon
  - Many suits dismissed, settled
- But, litigation is increasing and settlements are costly
- Even if you win the trial, you may be out of a job

Number One Risk: Accidents

- Tens of thousands every year
- Overuse of lights and sirens
- Not covered under many immunity statutes
- Held to standard of driver in an emergency situation

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Other Major Liability Concerns

- Bad Refusals and Consent
- Abandonment
- Improper Restraints

Why So Few Successful Lawsuits?

- Immunity Statutes
- Public Perception of EMS Providers
- Monetary Issues

Defenses and Immunity Laws

- Good Samaritan Immunity
- EMS Act Immunity
- Local Government Immunity

How Can Providers Reduce Their Chance of Being Held Liable?

- Follow Medical Direction:
  - Prospective
  - Concurrent
  - More of a “collaborative” practice model than a “subordinate” one

Stay Within Scope of Practice

- Pre-defined set of skills, interventions or other activities that a paramedic is authorized to perform
- Typically defined at state level
- Local medical directors also involved

Follow Medical Direction

- Follow:
  - Prospective
  - Concurrent
  - More of a “collaborative” practice model than a “subordinate” one

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Maintain Certification

- Issued by the state with local medical director oversight and approval of command status
- Continuing education requirements

Follow Vehicle Laws

- Special privileges
  - May have to obey all stop signs, traffic lights and speed limits
  - May have to ascertain right-of-way can ambulance proceed through red light or stop sign

Emergency Vehicle Laws

- Use of lights and sirens
  - Limited to emergency situations
  - Food runs, routine transports, etc. are NOT emergencies
  - May use lights OR sirens in ambulance

Reporting Requirements

- Suspected child abuse
- Elder Abuse
- Certain types of injuries

Consent and Refusals

CONSENT

Definition:
Informed authorization given by a patient, who is both mentally and legally competent, to emergency medical services personnel for the provision of medical care and/or transportation.

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Consent

- Prerequisites for consent
  - Legal capacity
  - Mental capacity
  - Knowledge
- Together, the elements of INFORMED CONSENT must be present AND DOCUMENTED!

Legal Capacity

- Minority
  - Generally, persons under the age of 18
  - State laws typically contain some exceptions
  - Adjudication of incapacity

Mental Capacity

- Intoxication
- Organic brain disease
  - Alzheimers
  - Senile dementia
- Situational capacity
  - Head trauma
- A finding of mental incapacity should require a relatively high threshold

Knowledge

- Information that a reasonable person would find necessary and material to medical decision-making

Methods of Consent

- Express
  - Verbal
  - Physical

Methods of Consent

- Implied
  - Recognized in all states
  - Elements
    - Pt unconscious/otherwise incapable of consent
    - Harm of failure to treat outweighs harm of proposed treatment

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Methods of Consent

- Legal/Involuntary
  - Court order
  - Law enforcement

Scope of Consent

- Scope of consent
  - Limitations on treatment or transport
  - Withdrawal of consent

Minors

- Parents/Legal guardians
- Parens patriae
- Emancipated minors:
  - Graduated from high school
  - Was married
  - Was pregnant
  - Court order

Patient Refusals

Basic Rule:
A properly informed patient who is both legally and mentally competent has a right to refuse any and all medical care, even if that medical care would save his life.

Refusal Guidelines

- A3 E3 P3
  - Assess (capacity)
  - Advise (of condition/proposed tx)
  - Avoid (confusing terminology)
  - Ensure (refusal is knowing/voluntary)
  - Exploit (uncertainty)
  - Explain (alternatives)
Refusal Guidelines

- Guidelines for refusals (continued)
  - Persist (don’t give up easily)
  - Protect (by documentation)
  - Protocols (comply)
    - Contact medical command
    - Get a signed refusal

Abandonment

- Termination of care without patient’s consent
- Termination of care without provisions for continued care when care is needed

Who is a “Patient?”

- Example
  - Busload of people involved in a minor, low-speed crash
  - None of the patients wish to be treated or transported
  - All are competent adults
- “Do we need to obtain refusal signatures from each patient?”

Patient Restraint

- Possible restraint situations
  - Violent patients
  - Patients who pose a threat to themselves or others
  - Restraints ordered by medical director and/or law enforcement

Patient Restraint

- Types of restraints
  - Physical
  - Chemical
- Restraints should typically be employed as a last resort
  - Attempt verbal de-escalation first

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### Patient Restraint

- **Avoid physical confrontation**
- **Ensure scene safety**
  - If scene cannot be made safe, retreat (either with or without the patient) is permissible
  - Request law enforcement assistance if required

### Crime and Accident Scenes

- If you believe a crime has been committed, involve law enforcement.
- Protect yourself and other EMS personnel

### Documentation Issues

- Preserve the scene as much as possible:
  - Observe and document anything moved;
  - Leave gunshot or stabbing holes intact if possible;
  - If something must be moved, notify investigating officers and document your actions.


**DOCUMENTATION**

- Purposes of patient care report
  - Effective patient care
  - QA
  - Data collection
  - Legal record
    - Substituted memory
    - Documentation of standard of care
    - Lawsuit prevention

**DOCUMENTATION**

- 1. Describe a snapshot of the scene
- 2. Describe a snapshot of the patient upon arrival
- 3. Create a video of patient care
- 4. Describe a snapshot of the patient upon delivery

**DOCUMENTATION**

Is the documentation:
- Concise, but thorough?
- Factual and objective?
- Written using correct terminology, spelling and abbreviations?
- Organized and legible?
- Complete and accurate?

**EMTALA and Hospital Diversions**

**The Hospital's Basic Duties**

- Any individual who comes to the hospital must be given a medical screening examination by qualified medical personnel
  AND
- If Emergency Medical Condition is present the patient must be given stabilizing treatment or appropriate transfer

**Hospital Owned Ambulance**

- Must transport the patient to the hospital that owns the ambulance, unless:
  - Communitywide EMS protocols direct transport to another destination (new in 2003)
  - Medical command physician directs transport to another destination

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Non-Hospital Owned Ambulance

- If on "hospital property," the hospital’s EMTALA obligations apply
- Even if the ambulance staff disregards a diversionary order and shows up anyway!

Best Practices

- Confirm that a true diversionary status exists
- Determine which resources are lacking at the hospital of the patient’s choice
- Consult with medical command regarding the destination issue and your patient’s insistence

Best Practices

- Ensure that patient is informed of:
  - The nature of the diversion
  - The unavailability of specific resources
  - The estimate wait time
  - The risks to his or her condition that could arise from the lack of specific resources, the wait time, or both

The Goal: Working Together to Advance the Organization’s Interests in Compliance with The Law…

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TEAMWORK!

Simple Advice

"There comes a time for each of us to be judged. The exact time, place and nature of the proceedings probably have a lot to do with individual spiritual beliefs. Regardless, at the end of life on earth, there is inevitably an inventory of one’s accomplishments."

James O. Page
Simple Advice, p. 19

"... a funny thing would happen when you first met this living legend. You were instantly put at ease by his casual nature and his welcoming charm. And then, an even funnier thing would happen the second time you met him: he would remember you, and the details of your prior meeting, no matter how much time went by.

Then you would think, if such an important man went out of his way to talk to me and remember me, well, then, I might just be important too. When Jim talked to you, he never looked around the room to see if there was anyone "more important" he could be talking to. Jim Page was a man of humility who truly believed that the EMT, paramedic or firefighter right in front of him was the most important person in the conversation."

Doug Wolfberg
James O. Page Memorial Service
September 16, 2004

Lawyer
Grandfather
State EMS Director
Writer
Husband

Publisher
Public Speaker
Fire Chief
Educator
Son

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Simple Advice

Note: the materials in this presentation are drawn from the books “Simple Advice” and “The Magic of 3 a.m.,” both published in 2002 by Jems Communications, and both written by James O. Page.

Above all, we need balance in our lives.

The Story Behind This “Simple Advice”

- A woman came to Jim asking for a divorce from her husband
- Her husband was an accomplished EMS provider and instructor but was "married to his job"

The Story Behind This “Simple Advice”

- Jim had just taken a CLE course on family law
- The course included information on family counseling and need fulfillment
- Jim got the counselor from the CLE course on the phone

The Story Behind This “Simple Advice”

- "The man took on his biggest rescue – saving his marriage"
- "Every lawyer keeps a mental tally of his worst defeats and greatest victories. Most of the victories have something to do with money. Not mine."

The Story Behind This “Simple Advice”

- "I was able to steer a rescuer and his family toward the help they needed to bring balance into their lives. And I consider that to be my greatest victory as a lawyer."
Keep a Balanced Life

- For many, EMS is more than a job, it’s an identity.
- It can be increasingly difficult to separate our personal identity from our professional identity.

“Sensitivity can be forgotten if not practiced.”

The Story Behind This “Simple Advice”

“Mrs. M had been married to her husband for 56 years.”
- “One night in his 77th year, Mr. M rose from bed to go to the bathroom. Later, his wife found him prone in the hallway.”

EMS arrived at Mrs. M’s house. They found the patient in a state of rigor mortis and concluded that no resuscitative effort should be made.
- When Mrs. M noticed that the rescuers were not attempting to aid her husband, she said “aren’t you going to do something?”
- “One of the rescuers turned to her and said ‘he’s dead’.”

Now that the bad part is over for Mrs. M, she can accept the fact that her husband was not salvageable, but she’ll never forget those cold and abrupt words, ‘He’s dead’.

“Just a slight softening of tone or inflection, just a moment of eye contact, just a tiny hint of personal concern, might have spared her months of agony.”
“I don’t mean to sound like some old fart with a fetish for kerosene, but what’s the deal with filthy, unkempt apparatus?”

The Story Behind This “Simple Advice”
- "We used kerosene on wiping rags" to clean the *underside* of our apparatus
- "We try to make ‘em shine on bottom, just like they do on top."

The Story Behind This “Simple Advice”
- We are “the community’s last resort for some of the worst kinds of bad things that happen – the kinds of things the cops are running away from when you arrive.”
- Our patients depend upon us arriving with our wheels intact – and with safe and reliable equipment!

A Rescue 11 Postscript
- Not only was Rescue 11 a source of nostalgic pride for Jim, he (characteristically) found a way to benefit others through his passion
- “To convince the public of the importance of rescue, we need to get their attention. Rescue 11 is a tool to get the public’s attention.”

“If you can laugh at yourself, and if you can tolerate being the butt of someone else’s joke, you’ll do ok.”
The Story Behind This
“Simple Advice”

- One of our “oldest traditions” is “joking, kidding, insulting, embarrassing, chiding or otherwise making fun of one another.”
- When a call comes in, everyone must function as a disciplined unit in dangerous circumstances.”

Teamwork

- In emergency services, we are “small groups of warriors” who face the enemy in a life-or-death struggle.
- Teamwork is essential, and every member of the team needs to know what every other member is made of.

The Story Behind This
“Simple Advice”

- Spectators and “rubber neckers” are merely acting in accordance with human nature.
- “Don’t get mad at a dog that licks its genitals in public, and don’t get mad at people who can’t resist trying to see what all the fuss is about – it’s part of their nature.”

Teamwork

- “The rituals of bonding and testing each other may look like frivolous play to outsiders.”
- “Instead, they are time-tested techniques for relieving stress, measuring one another’s character and building teamwork.”
“This is not a job for wimps or scatterbrains.”

The Story Behind This “Simple Advice”
- While stuck in an East Coast town on a Saturday night stayover, Jim read an article about an 18-year-old who died under a bridge – about 100 rescuers were involved.
- “Quite accidentally, I had stumbled onto a story that illustrates a situation that should no longer exist in emergency services.”
- “Too many resources in an emergency can be worse than not enough.”

The Story Behind This “Simple Advice”
- There must be a single incident commander
- “The incident commander is likely to be criticized, no matter how the rescue unfolds.”

Preventing “role combat” among various emergency services personnel “sure beats 200 politicians trying to devise a law which would require emergency services personnel to apply simple common sense.”

Simple Advice: The Legacy of James O. Page

Jim Page’s Five Suggestions for Managing Internal Strife in Your Organization’s Projects
“Power Follows Money”

- "If you really want to be in charge, find the money to make it happen and then accept responsibility for the money and the outcome.”

“One Boss at a Time”

- “To really make things happen, one person should be selected to be the boss, authority should be commensurate with responsibility, and the person selected should be protected from snipers.”

“Don’t Get Emotional”

- “Pick the proper time and place to raise questions and file complaints, and don’t get emotional. Tears kill credibility.”

“Join in or Shut Up”

- “If you have a chance to participate and don’t, you have forfeited the right to intervene or complain.”

“Virtue is its Own Reward”

- “The only kind of praise that’s worth a damn is that which you didn’t seek or expect.”

Jim Page’s Four Observations About “Sex, Lies and the Workplace”

Simple Advice:
The Legacy of James O. Page

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Number 1

- "If you engage in on-duty sexual activity, you will get caught eventually."

Number 2

- "Before you get caught, you will suffer lots of anxiety about your secrets and whether or not they'll be revealed."

Number 3

- "Order cannot be maintained in a working environment where two or more workers have a sexual relationship."

Number 4

- The price you'll pay for illicit sexual conduct is always greater than the pleasure derived."

Simple Advice:
The Legacy of James O. Page

"Ego trips most often occur in tunnels."

I really hate to burden you with all this dismal news and straight-laced advice. But if these words ever come to mind in a moment of brainless compulsion, and if they reverse the direction of your zipper, I will have done a good thing."
“So you want to be an EMS leader someday? . . . Be aware that you’ll be trying to lead people who aren’t easily impressed. They’ve seen life at its most miserable and death at its most gruesome.”

“When you’re decorating your new office, put all of your diplomas and awards in the closet.”

“When people start to address you as ‘Chief’ or ‘Director’ or ‘Mister,’ insist that they call you by your first name.”

“As the next few years come and go in our field, one of the most common words in our vocabulary will become obsolete. That word is ‘management.’ In this new age, managers will fail while leaders excel. People will refuse to be managed, but they will hunger for competent leadership.”

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