

Right of Refusal in EMS

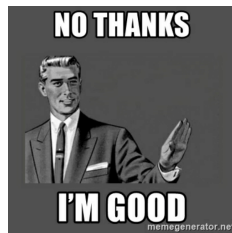
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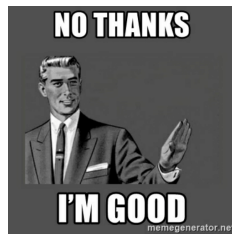
Right of Refusal in EMS

- Introduction
- Legal duty to act
- Capacity
- Documentation



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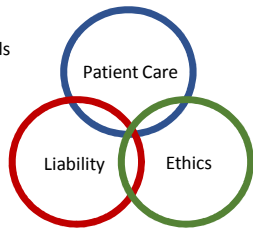


Hackman vs AMR April 2004



Introduction

- Most dangerous EMS calls
- Up to 30% calls



Liability

- Definition: legal responsibility for injury or damages

2) such Person and its Subsidiaries, taken as a whole, including all of its assets, liabilities, and obligations, and taking into account the effect of such Person's financial condition, including its assets, liabilities, and obligations, on the ability of such Person to pay its debts as they become due. The term "liability" shall mean any (x) right to payment, whether or not such right is presently enforceable, and (y) any obligation to pay, whether or not such obligation is presently enforceable.

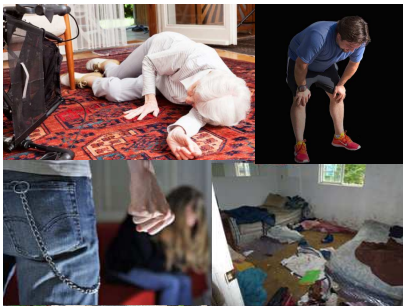
Medical Negligence

- Four distinct elements must be shown
 - Duty of care
 - Failure to meet duty of care
 - Damages
 - Causation



This is how to get in trouble

- Incomplete assessment
- Missing signs or symptoms of major illness
- Inadequate documentation
- Negative outcome

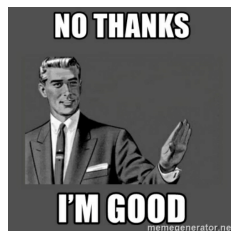


What do we know about refusals?

- Scandinavian group – systematic review of 67 articles world-wide
- General non-conveyance rates: 3.7 to 93.7%
 - Hypoglycemia 12.2 - 84.3%
 - Falls 11 - 56%
 - Pediatrics 13.2 - 27.7%
 - Opiate overdose 6.0 - 77.0%
- Most often had neurological or trauma related complaint
- Vulnerable patients
 - children and elderly, significantly high representation in refusals
- At < 24hrs, 6.1% patients re-enter EMS system
- Within 48 hrs, 19% visit Emergency Department

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Legal Duty to Act as EMS provider



- Respond to call
- Medical Assessment
- Provide care
- Transport, when transport is warranted

Medical Assessment

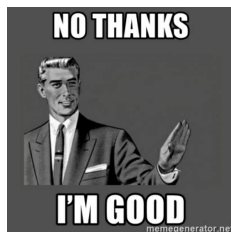
- Document reason for 911 call
- Document reason the patient gives you
- Vital signs
- Evaluate patient social situation, environment, and safety
- Full exam with pertinent positives and negatives

Provide care

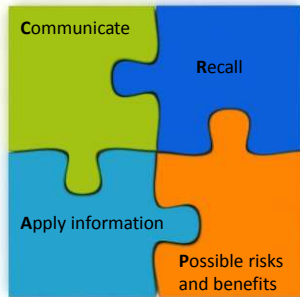
- Education about condition
- Treatment options
- Encourage patient to contact 911 if anything changes
- Provide informed consent
- Respect patient autonomy

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Capacity



Who cannot refuse care?



Barriers to assessing ability to refuse care?

- Language barrier
- Unknown baseline
- Cultural barrier
- Drug and/or alcohol intoxication
- Domestic abuse/violence



Red Flags that Decisional Capacity May be Impaired

• Denial of medical conditions or possibility of adverse outcomes
• Drug or alcohol intoxication
• Confusion at any point during the interview
• Major trauma involving: <ul style="list-style-type: none"> ◦ Head injury ◦ Significant blood loss ◦ Severe injury
• Frequent reversals of decisions
• Any behavior that suggests the patient is a danger to self or others
• Emotional upset
• Signs of psychosis such as auditory or visual hallucinations
• Distortion of reality
• Fear of legal, economic, or social repercussions

Brenner © 2013 Prehospital and Disaster Medicine

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Documentation

- Duty to act fulfilled
- Patient capacity and competence
- Informed consent



Documentation

- Retrospective review of all EMS calls during 2018 in small agency in Ohio
- Population 174,000
- 4147 EMS calls total
- 3280 EMS patient contact
- 492 cases (15%) with refusal of care



Documentation

- 492 cases (15%) with refusal of care
- Subgroup 50 randomly selected EMRs evaluated
- Most common conditions:
 - trauma or MVC 58%
 - syncope 20%
- 4 elements of capacity
 - Ability to communicate 88%
 - Recall, Application, Risk/Benefits only total 6%



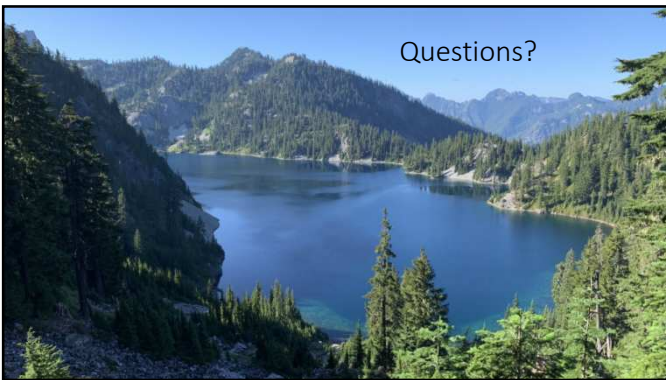
Current Standard of Practice

- Written forms
- Verbal communication
- Communication from medical control

Take Home Points

- Duty to act fulfilled
- Patient capacity and competency
 - 1. Communicate
 - 2. Recall
 - 3. Apply and appreciate information
 - 4. Possible risks and benefits
- Informed consent

Questions?



References

- Becker TK, Gausche-Hill M, Aswegan AL, et al. Ethical challenges in Emergency Medical Services: controversies and recommendations. *Prehosp Disaster Med.* 2013;28(5):488-497. doi:10.1017/S1049023X13008728
- Ebben RHA, Vloet LCM, Speijers RF, et al. A patient-safety and professional perspective on non-conveyance in ambulance care: A systematic review. *Scand J Trauma Resusc Emerg Med.* 2017;25(1):1-20. doi:10.1186/s13049-017-0409-6
- Brenner JM, Aswegan AL, Vearrier LE, Basford JB, Iserson K V. The Ethics of Real-Time EMS Direction: Suggested Curricular Content. *Prehosp Disaster Med.* 2018;33(2):201-212. doi:10.1017/S1049023X18000110
- <http://thelegalguardian.com/hackman-v-amr/>
