Legal and Ethical Issues

Covers Lesson 1–2 of the U.S. Department of Transportation First Responder National Standard Curriculum.

OBJECTIVES

At the completion of this lesson, each student should:

Know how to (from cognitive or knowledge information) . . .

1–3.1 Define the Emergency Medical Responder scope of care. (p. 22)
1–3.2 Discuss the importance of Do Not Resuscitate [DNR] (advance directives) and local or state provisions regarding EMS application. (pp. 27–28)
1–3.3 Define consent and discuss the methods of obtaining consent. (pp. 24–26)
1–3.4 Differentiate between expressed and implied consent. (pp. 25–27)
1–3.5 Explain the role of consent of minors in providing care. (p. 26)
1–3.6 Discuss the implications for the Emergency Medical Responder in patient refusal of transport. (pp. 24–25)
1–3.7 Discuss the issues of abandonment, negligence, and battery, and their implications to the Emergency Medical Responder. (pp. 28–30)
1–3.8 State the conditions necessary for the Emergency Medical Responder to have a duty to act. (pp. 28–29)
1–3.9 Explain the importance, necessity, and legality of patient confidentiality. (pp. 30–32)
1–3.10 List the actions that an Emergency Medical Responder should take to assist in the preservation of a crime scene. (pp. 33–34)
1–3.11 State the conditions that require an Emergency Medical Responder to notify local law enforcement officials. (p. 32)
1–3.12 Discuss issues concerning the fundamental components of documentation. (p. 34)

Feel comfortable enough to (by changing attitudes, values, and beliefs) . . .

1–3.13 Explain the rationale for the needs, benefits, and usage of advanced directives. (pp. 27–28)
1–3.14 Explain the rationale for the concept of varying degrees of DNR. (pp. 27–28)
RETRO REVIEW

Review the main points of Chapter 1, “Introduction to EMS Systems” with the students. Explain that EMS systems are always evolving and that effective EMS professionals never stop seeking ways to improve their skills and knowledge. Encourage them to learn as much as they can about their local EMS system and to see how they can help to improve it.

Distribute the scored quizzes from Chapter 1 and review each question. Clarify or address any concerns the students may have about the answers.

CHAPTER 2 INTRO

Explain that as Emergency Medical Responders, your students are going to be making some very important decisions when responding to medical emergencies. It is critical that each person in the class understands the legal and ethical concepts that go into those decisions in order to provide the best care possible for the patients and to protect themselves and other responders.

Ask the following questions from the beginning of Chapter 2 in the text and see what answers the class comes up with. (Don’t neglect the opportunity to delve deeper into the answers and discuss the legal and ethical questions highlighted by each question.)

- Should an off-duty Emergency Medical Responder stop to aid victims of an automobile crash?
- Should you release information about a patient you cared for to an attorney over the telephone?
- May a child with a suspected broken arm be treated, even if a parent is not present?
- What should happen when a patient who needs emergency medical care refuses it?

Conclude the introduction by having the students turn to the National Standard Objectives and the Additional Learning Tasks in the beginning of the chapter. Have them follow along as you explain each objective/task and briefly answer any questions as needed.

PRESENTATION OUTLINE

The following suggested Presentation Outline is based on the First Responder, 8th Edition text. To further your students’ understanding of the subject, watch for the symbol “‡” in the outline. It appears next to each topic that can be expanded and discussed within the context of the chapter’s First on Scene feature.

I. LEGAL DUTIES
   A. Scope of Care
   B. Standard of Care
   C. Ethical Responsibilities‡
II. CONSENT
   A. Competence
   B. Refusal of Care
   C. Expressed Consent
   D. Implied Consent

III. DO NOT RESUSCITATE (DNR) ORDERS

IV. NEGLIGENCE

V. ABANDONMENT

VI. CONFIDENTIALITY

VII. REPORTABLE EVENTS

VIII. SPECIAL SITUATIONS
   A. Organ Donors
   B. Medical Identification Devices
   C. Crime Scenes

IX. DOCUMENTATION

CHANGING SHOES

Review the chapter’s First on Scene scenario (pp. 21, 25, 32, and 34) and then initiate a class discussion using the following questions. Encourage the students to use their own life experiences and imaginations to provide answers.

▼ Topic 1: Have you ever been the first person on the scene of an accident like this? Were you (or would you be) apprehensive about what you might find? Do you think it’s common for emergency responders to be nervous when responding to potentially bad collisions?

Although not all will admit it, most people—regardless of time working in the EMS field—will feel apprehension when arriving at a bad vehicle collision. Encourage the students to share their feelings and make sure to emphasize that we are all more alike than we are different and that most of the others in the class will identify with what they are saying.

▼ Topic 2: Would it be tough to decide between taking the time to check on the people in the collision (knowing that it may further delay emergency personnel from responding to an already isolated location) or to go to the nearest phone and call for help (which may prove deadly to someone who needs an airway opened or severe bleeding stopped)? What would you do?

This should inspire a great conversation. There are very compelling arguments for both sides of this issue. See if, by discussing all sides, your class comes to the conclusion that the most correct answer is actually a mix of the two answers offered. It would be most appropriate to check for immediate life threats and to then find a way to call for help. This is a wonderful opportunity to compliment the students who came to that conclusion because they were obviously thinking critically, not just trying to decide between the options offered.

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Topic 3: Did the fact that Heather had already started caring for the collision victims really affect her ability to leave once the car showed up? Why?

Absolutely! The text makes it very clear that initiating care and then leaving is abandonment. Follow up by asking the students, “In what situation would it be okay for Heather to leave once the car arrived?” You’ll get some creative, yet incorrect, answers! But at least one person in the class should realize that if a person in the arriving car has a level of medical training higher than Heather’s, then it wouldn’t be abandonment if she turned the care over to them and then left the scene.

Topic 4: Whenever sending others to call for help at an emergency scene, there is always the chance that they may choose not to get involved and simply disappear. Are there any ways that Heather could increase the chances that the people in the car will actually call for help? If, after 30 to 40 minutes, the car had not returned and no rescue personnel arrived, what would Heather’s next option be?

The simple answer is no. In this situation, as that car drives away, there is no realistic way for her to ensure that they call for help. She can, however, increase her chances by asking them to return and tell her what the emergency operator said, or even asking one of the adults in the car to stay behind and help care for the patients while the others continue on the phone. See if the class comes up with any other good suggestions. As for the follow-up question, what would the class do? Ideally they will answer that Heather should either send Mike to make the call or (if she feels unsafe with staying alone) leave with him to make the call once the patients are as stable as she can get them.

THE REAL DEAL

This exercise is designed to enhance student understanding of the concepts presented in this chapter and how they apply to real people and situations. The students should be supplied with the accompanying handout (Handout 2–2), which can be used in class or assigned as homework. The dominant focus of the exercise should be on getting the students to imagine themselves in different situations, evaluating how they might think or react in those situations, and to develop the habit of looking at situations from more than one point of view.

Option One: Ask for a volunteer to read The Real Deal scenario (found on Handout 2–2) and then initiate a class discussion using the associated questions. Make sure to keep the class on track and the discussion moving.

Option Two: Assign Handout 2–2, and have the students complete it at home and turn it in at the start of the next class meeting. You can then either add written comments and return the papers, or initiate a class discussion with the student answers.
In-Class Discussion Guide

1. Do you think the firefighters should have attempted to resuscitate this patient? Why or why not? Did they legally have a choice?

   This whole subject will undoubtedly create a good discussion in your class. You may even find some pretty strong feelings on both sides of the issue so moderate well! After you have gotten thoughts from a good cross section of the class, move into the legal questions. Refer to the information that was presented in this chapter and explain that a family’s insistence that the patient not be resuscitated, without a legal DNR order, is not a valid reason to withhold care. Furthermore, remind the students that this unresponsive patient could be treated using the definition of implied consent, right? See if your class agrees or disagrees and why.

2. Imagine that you were one of the firefighters in this scenario, and you truly felt that it would be wrong to try and resuscitate this patient. What would you do?

   Explain that EMS can sometimes seem like a minefield of ethical dilemmas. What if you believe one thing . . . but the law clearly states the opposite? How do you reconcile that? Emphasize to the class that EMS laws and regulations were created to standardize the systems so as to provide the best care to the highest number of people . . . but concede that those regulations may not always seem like the best option in every situation. Encourage the class to get involved in their local EMS system and to work to improve it in the ways that they see it can be improved.

3. How would you feel if it was your loved one who had gone home to pass away peacefully, only to have rescuers try to resuscitate her? Would you have tried to stop them?

   Most students should be able to empathize with this situation—regardless of their own personal experiences with death and dying. Some may even say that they would be willing to try to stop the firefighters.

4. Do you think that situations like this ever really happen? How could they best be prevented?

   Not only do these situations actually happen, but this scenario is based on an actual emergency call. They do happen. Take the time to educate the class about advance directives and DNRs specifically. Encourage them to share that knowledge with others in their life who may want to prevent these types of situations from happening in the future.

ASSIGNMENTS

Have the students read Chapter 3, “Well-Being of the Emergency Medical Responder,” in the textbook prior to the next class. If you are using one of the Brady supplemental workbooks to enhance student understanding, also assign Chapter 3 in that resource.

If you have chosen to use Option Two of The Real Deal resource, you should assign and distribute Handout 2–2.
EVALUATION

Chapter Quiz: Distribute copies of the Chapter Quiz (Handout 2–1) to evaluate student understanding of this chapter. The test should be administered in a closed-book setting.

TestGen: You may wish to create a custom-tailored test using Prentice Hall TestGen for First Responder, 8th Edition to evaluate student understanding of this chapter.

REINFORCEMENT

Handouts: If student responses during class discussions or quiz performance indicate that some students have not fully mastered the chapter content, consider assigning some or all of the reinforcement handouts for this chapter.

PowerPoint: Chapter 2 is a great resource during the Class

Student CD: Student CD-ROM: Packaged free with each textbook, this CD-ROM provides animations, simulations, and videos; scenarios; games and puzzles; multiple-choice questions; an atlas of injuries; and a glossary.

Companion Website: Tied chapter-by-chapter to the text, this free site includes an on-line study guide that provides immediate feedback as well as links to other EMS-related sites.

◆ BREAK ◆
CHAPTER 2—QUIZ

Write the letter of the best answer in the space provided.

1. If an Emergency Medical Responder continues to bandage the wounds of a fully responsive and competent patient who has refused care, he or she could be charged with:
   a. assault and battery
   b. abandonment
   c. negligence
   d. attempted kidnapping

2. Emergency Medical Responders are usually required to complete special reports for all of the following situations, EXCEPT:
   a. exposure to infectious diseases
   b. suspected elder abuse
   c. a patient with gunshot wounds
   d. suspected coronary disease

3. ______ is the primary patient-care-related reason that Emergency Medical Responders are sued.
   a. Lack of skill
   b. Abandonment
   c. Negligence
   d. Poor communication

4. If a patient refuses care, the Emergency Medical Responder should:
   a. Ask the patient to read and sign a release form.
   b. Restrain the patient until advanced care arrives.
   c. Ask the patient to consult offline medical direction.
   d. Question the patient's religious reasons for refusing care.

5. Which of the following provides an example of implied consent?
   a. A patient who silently nods his head when an Emergency Medical Responder asks for permission to provide care.
   b. A patient who refuses to respond to any of an Emergency Medical Responder’s questions.
   c. A minor whose parents want to take the patient to their own doctor.
   d. An Emergency Medical Responder caring for an unresponsive patient.

6. Before providing patient information to a(n) ______, you would need a release form signed by the patient.
   a. EMT who has been called to care for the patient
   b. medical insurance company
   c. attorney
   d. emergency department physician

7. Can a person with a head injury and an altered level of consciousness legally refuse medical care?
   a. Yes, as long as the patient is coherent enough to read and sign a release form.
   b. No, because the patient could not be considered conscious and competent.
   c. It depends on the patient's age.
   d. No, only medical control can make this determination.

8. Which of the following is NOT an example of a duty to act?
   a. An off-duty Emergency Medical Responder who is the only witness to a vehicle accident.
   b. An Emergency Medical Responder employed by a factory and summoned to help with an injured worker.
   c. An Emergency Medical Responder working as an ambulance driver who is dispatched to a medical call.
   d. An off-duty Emergency Medical Responder offers to help an injured bicyclist who accepts the offer.
9. A DNR order is:
   a. A type of living will that determines who should make medical decisions if the patient becomes incapacitated.
   b. A legal form authorizing a licensed physician to remove life support systems from a comatose patient.
   c. A document, usually signed by a person and his physician, that prevents the transfer of an unresponsive patient from a hospital to a skilled nursing facility.
   d. A legal document that indicates that the patient does not wish to have her life prolonged through resuscitative efforts.

10. Expressed consent is also known as _____ consent.
   a. informed
   b. implied
   c. informal
   d. communicated
CHAPTER 2—THE REAL DEAL

Review the following real-life situation and then answer the questions that follow.

“So . . . what happens now?” Your sister says as she gently strokes your mother’s thin, pale arm.

“I guess we call 9-1-1,” you shrug. You hadn’t really thought about this part when your elderly mother chose to stop all treatment and go home for the end. For two days now it’s been a constant parade of family and old friends stopping by the house to see her—burdened with lasagnas and pies and baked hams and green beans. Although Mom was barely able to speak you could tell that she enjoyed seeing everyone one last time.

And now, with a sink full of dirty dishes and leftovers wrapped in shiny foil packets in the refrigerator, she is gone. It happened in the comfortable silence when your and Donna’s reminiscing and laughter had trailed off and it was just the three of you. Mom had stirred and opened her eyes—which were now as clear and sparkling as those of a teenaged girl.

She had nodded slowly at you, patted Donna’s trembling hand, and then went to sleep for the last time. A lifetime of aprons, Sunday peach cobblers, and easy, white smiles came to a soft end.

A lump had grown painfully in your throat and you fought it, but that made tears stream from your eyes anyway. After calling 9-1-1 you had pulled the old, purple afghan up to your mother’s shoulders and gently stroked her forehead. You weren’t sure exactly what it was, but you could actually feel that she was gone. Even her skin was somehow lifeless.

“This is the way it should be for everyone,” Donna wiped her nose and whispered hoarsely as a siren grew louder outside. Soon the curtains were flashing with red light and the sound of slamming truck doors overpowered the solitude in the living room.

“How long has she been down?” The first firefighter asked, struggling through the entryway with an impossibly large duffle bag.

“Uh . . . I don’t know . . . maybe five or ten minutes,” This all seemed a bit more hectic than you had anticipated.

“Oh, please step aside,” The firefighter dropped the bag and turned to the firefighter who had entered behind him. “Randy, help me get her onto the floor and yell at Bernadette to grab the AED.”

“No, no . . . “You held your hands up and looked frantically at Donna. “She was terminal . . . and . . . she wanted to die at home.”

“Does she have a DNR?” The firefighter pulled the afghan off of your mother and tossed it onto the couch.

“Um . . . I don’t know what a DNR is,” you grabbed the afghan and held it to your chest as Donna lowered her face into her hands and started sobbing.

“Then we have to try and resuscitate her,” the man said as he and Randy lifted your mother’s lifeless body from her recliner onto the floor of the living room.

1. Do you think the firefighters should have attempted to resuscitate this patient? Why or why not? Did they legally have a choice?
2. Imagine that you were one of the firefighters in this scenario, and you truly felt that it would be wrong to try and resuscitate this patient. What would you do?

3. How would you feel if it was your loved one who had gone home to pass away peacefully, only to have rescuers try to resuscitate her? Would you have tried to stop them?

4. Do you think that situations like this ever really happen? How could they best be prevented?
CHAPTER 2—REWIND

Write the word(s) that best complete each sentence in the space provided.

1. An Emergency Medical Responder may be guilty of ______ if the following elements can be established: duty, breach of duty, damages, and causation.

2. The term ______ ______ ______ refers to what is legally permitted to be done by some or all individuals trained or licensed at a particular level.

3. If your state has ______ ______ laws, you may be protected from civil liability if you act in good faith to provide care to the level of your training and to the best of your ability.

4. Medical ______ devices worn or carried by a patient can provide important medical information.

5. A ______ ______ ______ allows you to be judged based on what is expected of someone with your training and experience working under similar conditions.

6. Ethics can be simply defined as “______.”

7. A _____ or _____ _____ can refuse to let you care for a child.

8. ______, which went into effect in 2003, establishes strong accountability for the use and sharing of patient information.
CHAPTER 2—THE BASICS

Complete the following lists.

1. List the four specific elements that must be present in order to prove negligence.

2. Name the two kinds of consent.

3. List the two charges that can be filed against EMTs who treat competent patients against their will.
4. List the five core values that make up the I CARE mnemonic.

5. Name four medical conditions commonly found on medical alert jewelry.
CHAPTER 2—ANSWER KEY

HANDOUT 2–1: CHAPTER 2 QUIZ
1. A
2. D
3. C
4. A
5. D
6. C
7. B
8. A
9. D
10. A

HANDOUT 2–2: THE REAL DEAL
Suggested answers are found within the lesson plan for this chapter.

HANDOUT 2–3: CHAPTER REWIND
1. negligence
2. scope of care
3. Good Samaritan
4. identification
5. standard of care
6. behavior
7. parent; legal guardian
8. HIPAA

HANDOUT 2–4: THE BASICS
1. duty to act, breach of duty, damages, causation
2. expressed, implied
3. assault, battery
4. integrity, compassion, accountability, respect, empathy
5. heart problems, diabetes, epilepsy, allergies