



TRANSITION SERIES  
**TOPICS** FOR THE **EMT**

TOPIC **3**

Legal Issues in EMS

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## Objectives

- Discuss legal terms commonly associated with EMS laws and regulations.
- Understand patient rights as applied to emergency and health care.
- Identify the EMT's role in organ donation and other special reporting situations.

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Discuss objectives.



## Introduction

- Legal issues impact every patient contact.
- Laws designed to protect both the patient and the care provider.
- If EMTs do not adhere to the legislation that they must operate within, severe legal punishment may result.

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Legal issues are integrated into every part of each call to which an EMT responds. They provide a basis for emergency care and serve to protect those who provide and receive the care.

Stress that an EMT may get sued for any good reason, bad reason, or no reason at all.

Thus it is important to follow your state's legal framework for EMS, your risk of being named in a lawsuit may be reduced:

- If you behave ethically
- Maintain the standard of care
- Properly complete your documentation



## Legal Terms

- The EMT must be familiar with laws pertaining to EMS
- In most all instances, each state has a version of these laws

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Although these are common legal concepts the EMT probably learned in their initial EMT-Basic class, they bear worth mentioning again due to the importance of them on EMS practices, and the fact that EMS lawsuits continue to rise:

- Scope of practice
  - Negligence
  - Intentional torts
  - Duty to act
  - Good Samaritan laws
  - Sovereign immunity
  - Statute of limitations
  - Medical direction
  - Ethical behavior
- 
- Your alert and oriented patient has stated he has a severe phobia of stethoscopes and has asked you and your partner not to use one during your assessment. Immediately following the conversation your partner removes his stethoscope and says he is using it anyways. Which of the following charges could result from this action? Assault

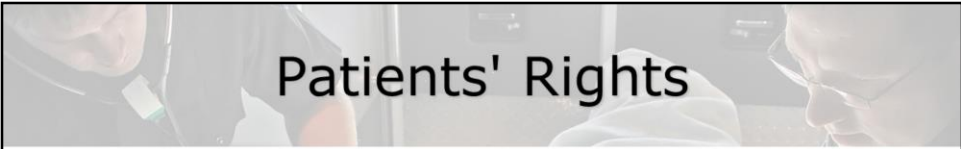
**Figure 3-1** An EMT may be required to testify in court in a variety of legal settings.



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## Patients' Rights

- Every patient that summons EMS has certain “rights.” These include:
  - Advance Directives
  - Organ Donation
  - Transport

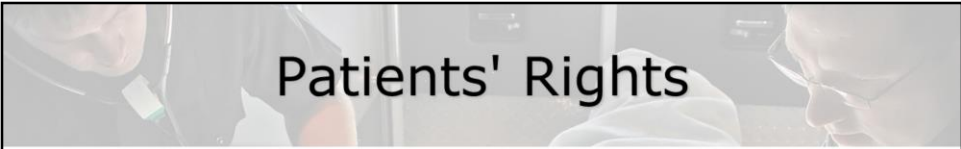
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Although there is too much information to list here for the legal rights of the patient, these are similar to the information taught in initial EMT-Basic classes.

The instructor should try asking the class participants to share their knowledge of what each right means, and then provide clarification or correction as needed.



## Patients' Rights

- Every patient that summons EMS has certain “rights.” These include:
  - Privacy and Confidentiality
  - Access to Emergency Care
  - Consent
  - Ability to Refuse Care

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## Special Reporting Situations

- EMS providers are legally bound to report certain types of emergencies
- These mandatory reporting points may vary state to state
- EMTs should remain abreast of what their state requires and learn the reporting system used

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EMTs and other health care professionals are required to report certain types of incidents.

Know the requirements in your state.

Some special reporting situations include the following:

- Suspected abuse or neglect
- Potential crime scenes
- Suspected infectious disease exposure
- Treatment of incapacitated patients
- Dog bites

The instructor should try asking the class participants to share their knowledge of what each reporting system means, and then provide clarification or correction as needed.





## Case Study

EMS is summoned to a local high school football game for an “unknown medical” emergency. Upon your arrival you are escorted by security to a remote section of the bleachers where a 17-year-old senior student is “acting strangely.” As soon as you near the patient you smell a strong odor resembling that of ETOH.

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Review case presentation with class.



## Case Study

- Scene Size-Up
  - Young male, 17 years of age
  - A few of his friends are present; there is no indication of aggression from any of them
  - Patient is of normal height and weight, and is located near a set of steps leading to the ground
  - Security is on scene, and PD is en route

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Discuss case presentation with class.



## Case Study

- Primary Assessment Findings
  - Patient is arousable with loud verbal stimuli
  - Airway is intact
  - Breathing is fast, but adequate
  - Peripheral perfusion is intact
  - No signs of trauma or struggle
  - Odor resembling that of ETOH about the patient

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Discuss as needed.



## Case Study

- Based on the presentation thus far, what legal issues present due to his age?
- How is consent obtained for this patient since he is obviously incapacitated?
- The patient keeps mumbling “Leave me alone.” Is this a legal refusal of care?

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The first legal concern is how to obtain consent for treatment due to the patient's age.

Technically, since the patient is not yet 18 years of age, parental consent would be the best to obtain but is obviously not available at this time.

Despite the patient being underage, the fact that the patient does not have a normal mental status, the patient can be treated based upon “implied consent”.

Even though the patient may make coherent statements at times, if they are not alert and competent, then they are treated appropriately.

If there is a concern however, the PD can place the patient under protective custody so that treatment and transport can be rendered.

An alert oriented adult patient is complaining of severe abdominal pain. Expressed and informed consent must be obtained prior to providing emergency care.



## Case Study

- Secondary Assessment
  - During your secondary assessment the patient becomes violent and starts swinging wildly at you and calling you names.
  - With the assistance of your partner and the PD, you physically restrain the patient until you have him secured to the cot with soft restraints.
  - Transport begins to the hospital with PD following behind you.

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Discuss case progression.



## Case Study

- What additional legal concerns have now presented?
- What can the EMTs do to protect themselves from litigation in this case?
- Does medical direction have any oversight in how the patient is being cared for?

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With the physical restraining of the patient, the concept of assault/battery may apply.

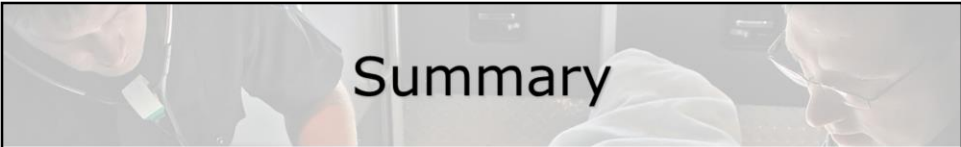
In addition, is the concept of the patient being transported against their will. In this case however, its unlikely the patient would have a strong case against EMS given their mental state and physical aggression towards the crew.

The best defense in this situation is:

- To repeatedly explain to the patient what you are doing
- As well as thoroughly document why you restrained the patient
- How you restrained the patient
- Constantly you were reassessing the patient during the restraining to ensure the patient was not compromised

Medical direction should always be consulted when the patient either refuses treatment or has to be restrained.

This communication should also be documented in the PCR.



## Summary

- So long as there is EMS, there will be laws governing EMS.
- The EMT is solely responsible for staying abreast of laws that apply in his state.

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Discuss summary statements as needed.



## Summary

- The best defense for preventing a lawsuit is to provide conscientious care to the patient, maintain the standard of care, follow state guidelines, and provide quality documentation on the patient care report.

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Discuss summary statements as needed.