EMS COUNCILS
NOTES FOR THE INSTRUCTOR

This unit presents an overview of the derivation, types and benefits of EMS Councils. As this unit begins the instructor should ask how many students have active EMS regional councils. There are an estimated 120 across the United States.

You will use Overhead Transparencies (OHTs) to describe the composition and benefits of EMS Council participation. Encourage the students to become active in their EMS Council. If possible, accomplish this by using student input to demonstrate the benefits of participation in EMS Councils.

EMS COUNCILS

In this unit you will be encouraged to participate in regional EMS councils by becoming aware of membership benefits. At the completion of this unit you should be able to:

1. List the groups most commonly associated with EMS councils, and the reasons that professional contact with them might be beneficial, and
2. Cite several possible benefits of EMS council membership.

In this unit we will do the following:

1. Listen to a lecture on the four types of EMS councils and typical group representation patterns,
2. Discuss the benefits of EMS council participation.

NOTETAKING OUTLINE

1. Definition of EMS Council

2. EMS Councils, Four Levels

   A.

   B.

   C.

   D.

3. Typical Representation on EMS Councils

   A.

   B.

   C.

4. Benefits of Council Participation

   A.

   B.

   C.

   D.

EMS COUNCILS
BACKGROUND READING FOR STUDENTS

DEFINITION OF EMS COUNCIL An EMS Council is merely a group of interested people organized to guarantee that the highest possible level of emergency medical care is provided to its constituency. The EMS Council's ultimate goal is the reduction of mortality and morbidity in the referenced service area. Thus, the Council is a necessary link between planners, EMS providers, consumers, and the Emergency Program Manager.

The Emergency Program Manager should be aware of the fact that there are several different types of EMS councils. For example:

1. A LOCAL EMS COUNCIL composed of representatives from one municipality/jurisdiction.

2. A REGIONAL EMS COUNCIL composed of representatives from several municipalities and/or from several local EMS councils

3. A STATE EMS COUNCIL (often designated the "Governor's Advisory Council") composed of representatives selected from the entire state and/or from the regional EMS councils, and

4. A MULTI-STATE EMS COUNCIL which draws it's representation from several states in a geographic region. Note that not all regions have developed multi-state EMS Councils.

GENERAL FUNCTIONS OF EMS COUNCILS

Usually, the EMS Council functions as a planning and coordination body. In addition, it provides an ideal forum for problem resolution. A further general function is for the Council to serve as a distributor of grant monies.

NOTE: The following material deals largely with the regional EMS Council, since it is the organization that offers the greatest potential benefit to the Emergency Management Coordinator. However, participation in the local EMS council is presumed.

TYPICAL REGIONAL EMS COUNCIL MEMBERSHIP: There are many membership models for a regional EMS Council. Generally, there are no requirements at the federal or state level for membership composition of an EMS Council. Most EMS Councils determine their own membership composition, which is then stated in their corporate by-laws. Usually, membership is offered to EMS planners and providers, public health and safety agencies, and community leaders. There is a definite role for Emergency Program Managers in the Council: disaster preparedness. It is a commonly held misconception that consumer participation on EMS councils is federally mandated. It is not a requirement,

although it is certainly desirable to have comsumers as Council members. Several miscellaneous groups also appear frequently on EMS Council rosters: media representatives, attorneys, civic groups, and jurisdictional representatives.

BENEFITS OF PARTICIPATION:

1. COORDINATION: The regional EMS council can assist with the coordination of operational areas such as mutual aid situations and in the administrative planning for these activities. For example, in the planning stage an emergency operations protocol can iron out many command and control dilemmas before they become operational problems at the scene of a disaster. Coordination of training activities can also produce cost savings as well as greater inter-jurisdictional cooperation. If, for example, regional seminars are offered the total number of attendees will be greater. At the same time the total expense to each individual jurisdiction will be reduced (since the expense is shared by all the participating jurisdictions).

2. FUNDRAISING: The regional EMS Council often serves as a mechanism for the review and ultimate distribution of federal and state grants. In addition, if the Council is recognized by the Internal Revenue Service as a non-profit (501c3) corporation it may also solicit tax-deductable donations from the public and from private foundations.

3. LEGISLATIVE ACTIVITY: Regional EMS Councils are in a unique position to comment on and/or review proposed state rules and regulations that impact on EMS. In addition, EMS Councils often review the health plans of quasi-governmental groups, such as the regional Health Systems Agency. Further opportunity for legislative input is available by service on the state-level EMS Council.

EMS PROVIDER: Although it is relatively rare, a few Councils actually employ field EMS personnel, own ambulances, and provide patient care and transportation.

LEGAL ISSUES
NOTES FOR THE INSTRUCTOR

This unit presents an overview of legal concepts that are unique to EMS. Point out to the class that extensive note-taking is not necessary since the legal definitions given are extracted from Black's Law Dictionary and included in the Content.

Give special emphasis to the need for the students to actually check laws in their own jurisdiction and state. As the instructor, you should have researched most of these laws prior to this class session.

There are two activities at the end of this unit. Depending on time remaining you may assign only one or both of them. Each takes about fifteen to twenty minutes to fully complete. Before beginning these activities remind the class that they must put themselves in the EMTs position in order to successfully complete these activities.

Sample answers are included in this guide for both of the activities.

LEGAL ISSUES

In this unit you will be oriented to the basic meaning and application of EMS legal concepts.

At the end of the unit you should be able to:

1. offer general definitions of pertinent legal terms,
2. Explain appropriate guidelines for the application of consent and abandonment concepts to emergency medical cases,
3. explain the importance of timely, complete, and accurate records from a legal standpoint.

In this unit we will do the following:

1. Learn about pertinent legal concepts.
2. Complete a group activity focusing on legal concerns.

NOTETAKING OUTLINE

1. Legal Concepts

A. Types of laws:

1.

2.

3.

B. Good Samaritan Statutes

C. Abandonment

D. Consent

1. Implied

2. Express

E. Negligence

F. Detrimental Reliance

G. EMS Medical Records

LEGAL ISSUES
BACKGROUND READING FOR THE STUDENT

1. General Observations regarding the law: the student should be aware of the fact that the law is not static. Consequently, this unit deals with what are currently recognized as broad, general legal principles. Laws also vary from state to state, and from region to region. Thus, students are encouraged to obtain copies of codes and ordinances from their own state and region. In addition, legal advice should be sought for specific legal insight.

   This unit does not cover material on the powers of jurisdictions during an emergency. Emergency Program Managers should already have a working knowledge of these matters. Regardless of your prior exposure to legal concepts it is usually constructive to have your jurisdictional attorney explain the fine points of local and state laws.

2. TYPES OF LAWS

   A. ADMINISTRATIVE LAW

      "That branch of public law which deals with the various organs of the sovereign power...and prescribes in detail the manner of their activity..." Black's Law Dictionary, Fourth Edition, Revised.

1. EMS example of administrative law: rules and regulations promulgated by a state health department to govern the provision of ambulance services (i.e., types of vehicles, equipment required, etc.).

B. CIVIL LAW

"That rule of action which every particular nation, commonwealth, or city has established peculiarly for itself... that division of municipal law which is occupied with the exposition and enforcement of civil rights..." Black's Law Dictionary, Fourth Edition. Revised.

1. EMS example of civil law: patient confidentiality (right to privacy) requirements, negligence.

C. CRIMINAL LAW

"That branch or division of law which treats of crimes and their punishments. In the plural--"criminal laws"--the term may denote the laws which define and prohibit the various species of crimes and establish their punishments." Black's Law Dictionary, Fourth Edition, Revised.

1. EMS example of criminal law: Carrying a concealed

weapon without an authorizing permit; assault and battery*.

* ASSAULT is defined as..."An intentional, unlawful offer of corporal injury to another by force...under such circumstances as create well-founded fear of imminent peril, coupled with the apparent present ability to execute attempt, if not prevented."

BATTERY is defined as..."Any unlawful beating, or other wrongful physical violence or constraint, inflicted on a human being without his consent... An unlawful touching of the person of another...The actual offer to use force to the injury of another is assault; the use of it is battery, which always includes an assault; hence the two terms are commonly combined in the term "assault and battery." Black's Law Dictionary, Fourth Edition, Revised.

NOTE: EMS providers may be charged with assault and battery if treatment is given without proper patient consent.

3. OTHER TERMS

A. TORT "A civil wrong; a violation of a duty owed to a plaintiff by operation of law rather than by contract." Physician's Glossary to Medical-Legal Terms, Mary E. Dufner, editor. Note that a tort is considered to be a part of civil law.

1. EMS example of a tort: negligence*:
an improperly secured patient falls off of a stretcher injuring his back.

*Negligence is defined as..."The failure to exercise the degree of care that an ordinarily prudent person would exercise under the same circumstances, and the result of which is the breach of a legal duty." Physician's Glossary to Medical-Legal Terms, Mary E. Dufner, editor.

B. CONSENT

"A concurrence of wills. Voluntarily yielding the will to the proposition of another; acquiescence or compliance therewith." Black's Law Dictionary, Fourth Edition, Revised.

1. IMPLIED CONSENT "That manifested by signs, actions, or facts, or by inaction or silence, which raise a presumption that the consent has been given." Black's Law Dictionary, Fourth Edition, Revised.

2. EXPRESS CONSENT "That directly given, either [orally] or in writing. It is positive, direct, unequivocal consent, requiring no inference or implication to supply its meaning." Black's Law Dictionary, Fourth Edition, Revised.

C. GOOD SAMARITAN DOCTRINE

"One who sees a person in imminent and serious peril through negligence of another cannot be charged with contributory negligence, as a matter of law, in risking his own life or serious injury in attempting to affect a rescue, provided the attempt is not recklessly or rashly made... negligence of a volunteer rescuer must worsen position of person in distress before liability will be imposed." Black's Law Dictionary, Fourth Edition, Revised.

The actual wording of good samaritan acts, or statutes, varies widely from state to state. However, certain common elements emerge. Generally, in order to claim good samaritan status the rescuer must:

1. Act in good faith, and
2. Act as a reasonable person, and
3. Serve without compensation

Usually, liability arising from operation of a motor

vehicle is exempted from good samaritan protection (i.e., if you cause a motor vehicle accident and are charged that incident will be decided based on the merits of the case).

Implied in the concept of acting as a "reasonable person" is the notion of a standard of care, which is based on your level of training and experience. Thus, the standard of care that an EMT-Paramedic is held to is considerably higher than that to which a boy scout with Basic First Aid training would be held. Essentially, as your level of training (and, presumably, your level of skill) increases, your ability to actually perform at more sophisticated levels is also supposed to increase.

The good samaritan doctrine arises from the concept known as sovereign (or governmental) immunity. A sovereign, or king, could do no wrong, legally, since his authority, it was believed, derived directly from God. Eventually, it evolved that employees of the king, acting as his agents, could also do no wrong. In addition, people who performed governmental functions, such as extinguishing fires and helping the injured, could also be immune from civil liability. However, it must be stressed that you must be serving without compensation in order to be considered a good samaritan in most states.

At any rate, most good samaritan statutes only provide immunity from liability, not from having a civil suit filed against you. Generally, anyone can sue anyone else at any time for anything. Whether a defendant will be found liable (which is another way of saying that a defendant was responsible for a civil wrong) and whether a judgment (a court decision) with damages (a money award granted by a court) will be rendered are entirely different matters. Operational EMS personnel have been advised not to place their hopes for legal vindication only in their state's good samaritan act. Instead, they have been encouraged to obtain departmental and/or personal medical malpractice insurance.

Recent legal activity indicates that the concept of governmental immunity (and the good samaritan doctrine) has eroded considerably.

D. ABANDONMENT may be defined as terminating a medical relationship between a rescuer and a patient without the patient's consent. The medical relationship does not necessarily begin with an EMS unit's arrival on the scene, but may result from telephone contact between a patient and the EMS agency dispatcher. Generally, for an on-scene rescuer to avoid a suit brought for abandonment he must have the patient's consent to discontinue treatment; or he may discon-

tinue treatment if:

1) The rescuer becomes physically exhausted,

   OR

2) Another rescuer of equal or greater ability assumes care/responsibility for the patient,

   OR

3) The patient is resuscitated/rescued,

   OR

4) A physician pronounces the patient dead.

E. DETRIMENTAL RELIANCE is a form of tort (or civil wrong) which can result when a jurisdiction claims to offer a service (such as disaster planning) to the public, the public has knowledge of this commitment and relies on it to their detriment. This concept is also known as equitable estoppel.

4. EMS MEDICAL RECORDS

A variety of medical records--incident report forms, triage tags, etc.--are used in the pre-hospital EMS system. Ideally, they should complement patient data needs that are to be determined in the hospital emergency department.

A. COMPONENTS

EMS incident report forms are the most common type of pre-hospital medical record.They are completed on each

patient, usually as the incident unfolds or shortly after the ambulance arrives at the hospital. They satisfy a number of information needs--manpower allocation, treatment appropriateness, etc. EMS incident report forms, also known as 'run sheets', typically contain the following information:

1. DEPARTMENTAL DATA: Incident number, medic number, Ambulance unit number, Assisting Fire/EMS unit numbers, Type of call (non-emergency, routine transport, etc.), Apparatus mileage, Dispatch/arrival/ In-service times, Date, Alarm box number, Crew information (Senior EMT/ Paramedic, Driver, etc.)

2. PATIENT DATA:

   a. GENERAL: Name, Address, Incident location, Age, Sex, Race (optional), Next of kin, Patient's physician, Current medications, Allergies, Residency data.

   b. FINDINGS: Description of patient condition, including Chief complaint, Past medical history, Vital signs, EKG, etc. Often these findings are organized into the following format:

      1. Subjective--chief complaint

      2. Objective--patient examination

3. Assessment-- impressions

4. Plan--therapy

Note that the findings are often accompanied by a "stick-man" figure with notations on sites of injuries, etc.

c. TREATMENT: Includes emergency care rendered prior to ambulance arrival (with names of those who provided the care, if possible), as well as the care the EMS unit provides. This care may include:

1. Airway management

2. Oxygen therapy

3. Medications administered:

a. Type and amount

b. Time and route of administration

c. Observed effects

d. Authorizing physician

4. Cardiopulmonary resuscitation (CPR)

5. Medical anti-shock trousers (MAST)

6. Wound treatment

7. Electrocardiogram (EKG) with paper tapes attached.

8. Splinting/Immobilization of fractures

9. Burn care

10. Cardiac defibrillation

11. Intravenous therapy initiated:

    a. Type and amount
    b. Administration site
    c. Time and observed effects
    d. Authorizing physician

12. Psychological first aid

13. Blood drawn for later analysis

14. Any difficulties associated with any of the foregoing

3. HOSPITAL DATA: This data helps to assure continuity of care between the EMS unit and the hospital. Usually, it includes: Receiving department (emergency room, direct admission to ICU, etc.), Patient disposition, Signature of nurse/doctor receiving the patient from the EMTs, Patient billing code, Pharmacy re-supply information, Personal property transferred, Insurance information, etc.

4. MISCELLANEOUS: Notation of equipment left/damaged at the scene or at the hospital, Statement of patient refusal of treatment and/or transport, Communications difficulties (interpersonal and radio), Police involvement (including names and unit numbers), Billing statement, Weather conditions, Report distribution data, etc.

B. GENERAL FEATURES OF ALL MEDICAL RECORDS It is wise for the Emergency Program Manager to review EMS medical records to insure that they will meet your needs in a disaster. In addition, bear in mind that several features are common elements that impact on all records. In order to be useful reports should be:

1. Written
2. Accurate
3. Timely
4. Legible
5. Complete
6. Pertinent

Bear in mind that a well-designed form actually encourages proper completion. If a lawsuit arises the outcome may hinge on a single document. Consequently, completeness is a high priority.

Remember that a report, any report, should be capable of refreshing the writer's memory. It is not uncommon for a lawsuit to be filed three to five years after the occurance of an incident. This means that record maintanence is also a concern.

ACTIVITY ONE

THE FACTS

Two EMT's, under your supervision, respond to a heart attack call.

-While enroute, they approach an intersection where it is apparent another accident has occurred.

-They stop their vehicle and discover that a child has been struck by an auto.

-Simultaneously, with their discovery of the child's condition, they are advised to expedite their original response due to the heart attack patient's condition. He has gone into cardiac arrest.

YOUR FUNCTION

Within your groups, determine what the two EMT's should do. Decide what liability exposure they engender. Finally, describe how this liability could be reduced or eliminated. Appoint a reporter to present your findings. You will hvae a total of 15 minutes for this activity.

INSTRUCTOR NOTE

There are several acceptable solutions to Activity 1. For example, the crew could stop at the incident where the child was struck by an auto; and have another unit dispatched to the original incident. Or vice versa. Another possibility is to drop off one crew member at the "child struck" incident while the other continues to the original incident; additional personnel are requested for both incidents.

It appears that a there is some liability exposure for abandonment. This could be reduced considerably by insuring that both patients get medical care without any significant delays.

ACTIVITY TWO

THE FACTS

You are the senior member of a two-person BLS ambulance crew responding to a drug overdose call. You arrive on the scene and find a fifteen year old female that has taken an undetermined number of sleeping pills and consumed 1/2 pint of whiskey. The assessment of the patient and the situation reveals, in part, that:

1. She recently separated from her husband.
2. Her speech is becoming slurred.
3. She will not allow you to obtain her blood pressure.
4. Pulse and respirations are becoming weaker.
5. She refuses treatment and transportation, and has repeatedly stated that she "...wants to die".

YOUR FUNCTION

Within your group determine:

1. What actions you would take, if any.
2. What liability exposure this situation, and your response to it, present.
3. How, from a management standpoint you can reduce your liability risk.

Choose a reporter from your group to advise the class of your findings. You will have ten (10) minutes to complete this activity.

INSTRUCTOR NOTE

Acceptable answers for Activity 2 include:

1. Possible actions: You may take the patient, wait for her to lapse into unconsciousness, or leave her (since you do not have consent).

2. Liability: If you do take the patient you may be charged with assault and battery.

   If you wait for the patient to lapse into unconsciousness you will have inplied consent, but the delay may cause medical complications.

   If you leave the patient you may be sued for abandonment.

3. Risk reduction: Determine in advance what procedures are necessary to take a patient without consent (courts, law enforcement,etc.). Finally, remember, that legally and ethically it is better to take a patient against her will (and risk an assault and battery charge), than it is to abandon them (and perhaps cause an untimely death).

WORKSHOP

A workshop has been scheduled at the conclusion of Day One in order to provide students with an opportunity to share their concerns about EMS operational and administrative matters with you and with the other Emergency Program Managers. Attendance at this workshop is optional. The workshop, itself is in an unstructured format. Consequently, the students are encouraged to jot down items that they would like to discuss as they are broached during Day One. This will help to jog their memory during the workshop.

You are advised to give your solutions to problems that they present. As the instructor, your best preparation for this unit is to read current EMS books and periodicals so that you will have the most up-to-date information on EMS problems and solutions.