LEGAL IMPLICATIONS

3

- Harassment
- Discrimination
- Americans with Disabilities Act of 1992 (ADA)
- Confidentiality
- Recourse
- Negligence
- Occupational Health and Safety Act (OSHA)
- Documentation

OVERVIEW

Suggested instructional time for this lesson: 1-1/2 hours

Introduction

Legal and ethical issues are a vital element of daily life for emergency medical personnel. What should an emergency medical technician (EMT) do if an accident victim refuses care? Can a child be treated when her parents are not at home? These issues arise daily for EMS professionals. It is important to familiarize instructor trainees, not only about those issues which, through legislative action, regulate employment practices, but also about legal issues that apply in a training environment.

Lesson Objectives

Through group discussion and question and answer sessions, the EMS instructor trainee will be able to:

- Define harassment and explain how the law applies to instructors
- List the elements of an equal opportunity statement
- Describe informal and formal grievance procedures
- State two responsibilities instructors must fulfill toward students
- State the four essential elements in a claim of negligence and explain each
- State three duties of the instructor that, if breached, could result in a negligence claim

Materials Needed

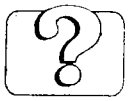
- Overhead projector and screen
- Flipchart (prepared objectives)
- Flipchart and markers

Instructional Strategies

- Lecture
- Discussion
- Question and Answer
- Visual Aids
- Activities
- Guest Lecturer

INSTRUCTOR NOTES

Go over objectives using a flipchart prepared before class. Post prominently in the room.



Ask a question

Ask class for possible problems.

LESSON PLAN

Lesson Objectives

I. EMS Instruction

A. Exponentially increased impact

B. Possible problems in the EMS system

- Declining volunteerism
- Turf problems
- Political problems
- Budget problems

C. Responsibilities as EMS instructors

1. All contractual obligations must be met

ADDITIONAL INFORMATION

I. The opportunity and responsibility of teaching

A. Exponentially increased impact

By teaching, EMS instructors can do a great deal for their community. Each individual instructor can only care for a certain number of people, but through teaching others, many people can be trained to serve their communities.

By teaching, EMS instructors have a great responsibility. The well-being of every future patient of every student depends upon how well we do our jobs as teachers.

B. Possible problems in the EMS system

1. Declining volunteerism

2. Turf problems

3. Political problems

4. Budget problems

Despite these problems, the EMS system works well. It works well because of the work you put into it.

C. Responsibilities as EMS instructors

1. All contractual obligations must be met

All courses must be taught according to the proposed curriculum. If the course is due to meet every Tuesday and Thursday for 9 weeks, and the instructor dismisses the class early on Thursdays to coach his child's soccer team, could a student who fails the course and the state test sue you?

INSTRUCTOR NOTES

LESSON PLAN

2. Clearly defined standards

3. Respectful and fair treatment

Ask a question

What legal issues have been addressed in the courses you've taken? Which do you feel should be emphasized?

II. Legal issues and their classroom application

A. Regulation of employment practices

ADDITIONAL INFORMATION

2. Clearly defined standards

Students must know what is expected of them. They must also be kept up-to-date on their performance levels. Instructors must provide written notice of exactly why a student is deficient and what they can do, if anything to remedy the deficiency. They must be given a chance to have more than one evaluator check their work, to avoid "s/he doesn't like me" claims. This is particularly important if the evaluator works for a competitor or has other conflicts of interest.

3. Respectful and fair treatment

Students and instructors have the right to be treated with respect and to receive fair treatment. If a conflict arises, the parties involved are encouraged to follow an appropriate grievance procedure. Grievance procedures may be available through the facility where the course is held or within state and local organizations sponsoring the course. If no procedure has been formalized, it is advisable to create one. See the section below for more information about both informal and formal processes.

II. Legal issues and their classroom application

Instructors will be held accountable for transgressions in the classroom in much the same way as employers and workers are accountable in the workplace.

A. Regulation of employment practices

For issues that specifically regulate employment practices and not training environments, instructors need to be aware of legislation and inform students. National Standard Curriculum courses are performance-based, used to prepare EMS professionals for on-the-job experiences. Guidance on applicable legal issues, such as patient care and consent, are included in many of the National Standard Curriculum courses. Even when course materials do not include specific information on legal concerns, instructors should take a proactive, preventative stance. Consult with the institute or sponsoring agency counsel for state-specific laws, regulations, and for the interpretation of policy. In the discussion of negligence later in this lesson, we will look at both the work environment application and negligence in the classroom.

INSTRUCTOR NOTES	*LESSON PLAN*
	B. Instructor accountability
Ask a question Ask students for their definitions of harassment and list them on the board.	**III. Harassment**
	A. Types of harassment
	B. Sexual harassment
	1. Definition

ADDITIONAL INFORMATION

B. Instructor accountability

Instructors need to be aware that they will be held accountable for their behavior. Practices, standards, and behaviors that are regulated or proceduralized will be discussed in this lesson in terms of the legal recourse that can be taken for alleged misconduct. Additionally, the organization sponsoring the training, for which the instructor functions as a representative, can also be held liable for instructor misconduct, as well as the facility in which the course is being held.

III. Harassment

A. Types of harassment

Harassment includes all behavior that serves to embarrass, demean, disgrace, humiliate, or intimidate another. Even though some behavior may seem acceptable, if it is embarrassing or intimidating to another, it constitutes harassment. Therefore, as an instructor, professional conduct is essential. Racy jokes may be welcomed by some, but they are inappropriate in the classroom, because they may offend others. Remarks intended as a joke may be intimidating to a sensitive student, e.g., kidding about an exam grade.

B. Sexual harassment

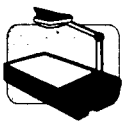
Sexual harassment is illegal in the workplace and the classroom, according to *Title VII of the 1964 Civil Rights Act*. Instructors must be aware that their behavior, even if intended as friendly banter, can be misinterpreted. Individuals who believe themselves to have been sexually harassed have recourse through the legal system.

1. Definition

Sexual harassment is defined as any unwelcome sexual advances, requests for sexual favors, or conduct of a sexual nature when:

- Submission is implicitly or explicitly made a condition of employment
- Submission/rejection is used as the basis for an employment decision
- Conduct substantially interferes with work performance

INSTRUCTOR NOTES



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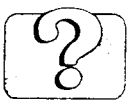
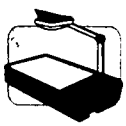


Ask a question

Do you know of any cases of sexual harassment in your EMS community?



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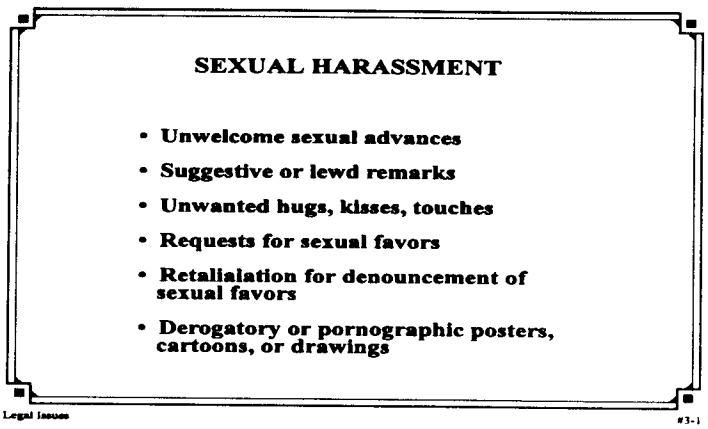
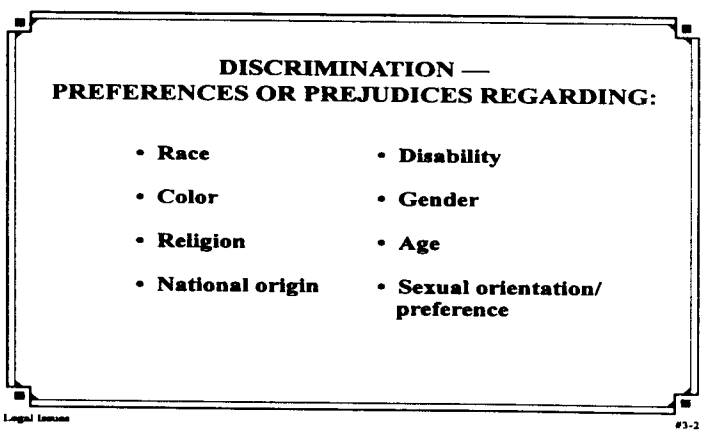
LESSON PLAN

2. Examples



Discrimination IV.

A. Preferences vs. prejudices



B. Equal opportunity statement

ADDITIONAL INFORMATION

- Conduct creates an intimidating, hostile, or offensive environment

2. Examples

Some behaviors that have been identified as sexually harassing are:

- Unwelcome sexual advances
- Suggestive or lewd remarks
- Unwanted hugs, kisses, touches
- Requests for sexual favors
- Retaliation for complaining about sexual harassment
- Derogatory or pornographic posters, cartoons, or drawings

IV. Discrimination

A. Preferences vs. Prejudices

Everybody has individual preferences. Discrimination occurs when preferences lead to the unfair treatment of other individuals who may have different preferences or attributes. Preferential treatment of a favorite student is another form of discrimination. All students should be treated equally.

B. Equal Opportunity statement

The EMS community is committed to the principle that access to study or employment opportunities be accorded to each person on the basis of individual merit and without regard to race, color, religion, national origin, disability, gender, sexual orientation/preference, or age (except where these factors are bona fide occupational qualifications).

INSTRUCTOR NOTES

Display OH #3-3

LESSON PLAN

C. Americans with Disabilities Act (ADA)

1. Purpose of the Act

ADA PREVENTS DISCRIMINATION IN:

- **Recruitment**
- **Hiring**
- **Promotion**
- **Pay**
- **Training**
- **Job assignments**
- **Benefits**
- **Firing**

Legal Issues #3-3

2. Definitions

   - Disability
   - Major life activities
   - Essential job function
   - Reasonable accommodation

3. Job analysis and functional job descriptions

ADDITIONAL INFORMATION

C. Americans with Disabilities Act of 1992 (ADA)

1. Purpose of the Act

Specific legislation prevents discrimination against mentally or physically challenged individuals, under the Americans with Disabilities Act of 1992 (ADA). The intent of ADA is to prevent job discrimination in all employment practices, including recruitment, hiring, promotion, training, pay, job assignments, benefits, firing, etc.

ADA specifically addresses the employment of a qualified applicant with a disability, who can perform essential job functions, with or without reasonable accommodation. NOTE: ADA does not impose affirmative action obligations.

2. Definitions

Disability: physical or mental impairment that substantially limits a major life activity.

Major life activities: hearing, seeing, breathing, performing manual tasks, walking, caring for oneself, learning, or working

Essential job functions are those basic job duties essential to performance.

Reasonable accommodation must be provided, unless it would be an undue hardship, defined as a significant difficulty or expense.

3. Job analysis and functional job descriptions

Functional job descriptions define exactly what the basic duties will be in specific jobs, such as a paramedic. These duties may include such things as lifting stretchers into an ambulance. If a person's disability precludes them from performing essential job functions, it is not discriminatory to refuse employment in that particular position.

Within the EMS profession, functional job descriptions have been identified via job analysis for specific positions. Each job analysis will include physical requirements and those additional skills deemed necessary to perform to a given level of competence. For example, the National Registry has

INSTRUCTOR NOTES

Ask a question

you aware of any discrimination that has occurred or was alleged to have occurred during an EMS course in your state?

Do you have any questions about discrimination?

LESSON PLAN

4. Entrance requirements for EMS training

5. Classroom application of ADA

ADDITIONAL INFORMATION

conducted a job analysis for the EMT-Basic position. The results identified reading and interpretation as an essential skill for EMT-Basic and above. Refer to Appendix B for documentation of the National Registry's Purpose of Establishment as well as the job analysis for an EMT-Paramedic, including:

- Environmental conditions
- Worker characteristics
- Physical demands
- Comments
- Skill level requirements

4. Entrance requirements for EMS training

   Check with your State EMS office or the National Registry for additional functional job descriptions, accommodation policies, and the entrance requirements for specific EMS courses.

5. Classroom application of ADA

   In the event a mentally or physically challenged individual is enrolled in a course, instructors must make reasonable accommodation approved by the State EMS office to assure them of the full benefit of the instruction.

   Those accommodations made in the classroom may not be the same as those approved for certification.

INSTRUCTOR NOTES

Ask a question

Can you give me an example of a breach of confidentiality?

- Citing exam grades
- Compromising a patient's privacy

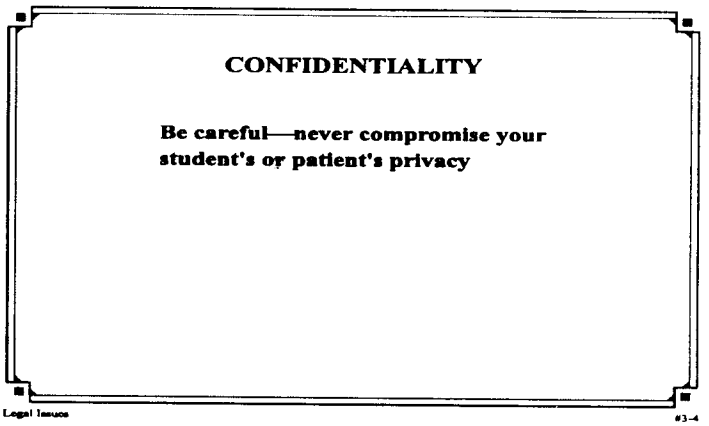
Display OH #3-4

LESSON PLAN

V. Confidentiality

A. Employment practices

B. Classroom application



ADDITIONAL INFORMATION

V. Confidentiality

Existing legislation regulates and establishes criteria for the release of confidential information.

A. Employment practices

For the EMS practitioner, work-related confidential information includes patient histories, assessment findings, and treatment rendered. Written permission, signed by the patient, is required for release, except for specific exceptions.

B. Classroom application

In the classroom, access to education records is limited to students and when under 18 year of age, to their parents. Education records include files and other documents containing information directly related to each student, and are maintained by an institution or organization. Information such a student's name, address, telephone number, major field of study, etc. may be released if the institution gives public notice of intention to publish and the student does not object. Students and their parents *must* be allowed access. Exceptions to the restrictions can be made to school officials with legitimate educational interest, for studies in which the records are purged of personally identifying data, and by judicial order.

Instructors must be careful when using examples in class not to reveal any information that compromises a patient's privacy. This admonition also applies to information about your students. It is inappropriate, for example, to mention exam grades within the hearing of other students.

INSTRUCTOR NOTES

Ask a question

Is anyone aware of standard grievance procedures for your locality, state, or specific institutions?

LESSON PLAN

VI. Recourse

A. Purpose

B. Grievance Processes

1. Informal
2. Formal

ADDITIONAL INFORMATION

VI. Recourse

A. Purpose

Individuals have recourse against unfair treatment. If discrimination results in adverse circumstances for a student, such as the inability to complete a course of study, legal recourse may be appropriate. For example, if an instructor's behavior, comments, or attitude substantially interferes with learning by creating an intimidating, hostile, or offensive environment, a student could have the instructor removed from the faculty through a grievance procedure and could invoke a civil suit for damages.

B. Grievance Processes

Grievance procedures are established processes that can be used to redress perceived wrongs, whether it involves personnel, course administration, evaluation, or other students. These can be informal or formal processes.

1. Informal process

The first step in trying to resolve a complaint through an information process is to go to the other party involved, if that would not cause undue stress or adverse repercussions (such as confronting a sexual harasser). The next step is to bring the issue to the attention of other individuals responsible for the course, in an effort to seek informal resolution.

2. Formal process

If attempts to resolve the conflict informally are unsuccessful, or if the individual chooses not to seek redress informally, it is important that a formal grievance procedure be filed. The filing should specify exactly to whom a written complaint should be directed, as well as the detailed information that should be included in the complaint. It must also specify when, and in what form, the complainant will receive a response.

Typically, a written complaint would detail (1) the event(s) and fact(s) upon which the complaint is based and (2) the issue(s) in question.

INSTRUCTOR NOTES	*LESSON PLAN*
	VII. Negligence A. Context of responsibilities 1. To whom are we responsible? ■ To our students ■ To our students' patients 2. Relationships between all parties ■ Institutes ■ Clinical sites ■ Hospitals 3. Gray areas in the law ■ Law is hard to find ■ Not many cases have been decided ■ Claims are being made, but they don't always go to court ■ Law is dynamic, always changing

ADDITIONAL INFORMATION

A student may not agree with the results of an evaluation. For example, if a student fails the practical exams required by most states to practice specific EMS functions, the student can challenge exam.

VII. Negligence

As an instructor of EMS personnel, it is your responsibility to prepare your students to face the reality of functioning within the health care field and the all of the special risks and responsibilities that entails.

A. Context of responsibilities

1. To whom are we responsible?

   - To our students
   - To our student's patients

2. Relationships between all parties: institutes, clinical sites, hospitals, etc.

3. "Gray areas" in the law

   - Not many cases decided
   - Law is hard to find
   - Claims being made, but they don't go to court
   - Law is dynamic, always changing

INSTRUCTOR NOTES

LESSON PLAN

4. Can I be sued?
   a. Examples
   b. Lawsuits against EMS personnel can and do occur
      (1) Vehicle operations
      (2) Poor patient care

B. Four elements of negligence

Ask a question

Who can tell me the elements necessary to a claim of negligence?

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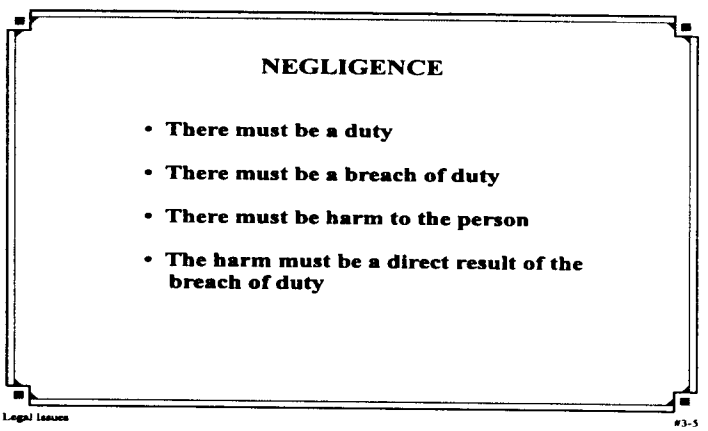

ADDITIONAL INFORMATION

4. Can I be sued?

a. Examples

If a plumber's work can be found negligent, the people who have water damage can sue. People in wrecks are entitled to be fairly compensated for their loss. If a doctor, adequately trained, fails to function according to that training, e.g., cuts off the wrong leg, prescribes medicines with a serious side effect, go about an operation incorrectly, s/he can be sued.

b. Lawsuits against EMS professionals can and do occur

(1) Vehicle operations

Most common cases involve vehicle operations. Safe driving is critical. An Ohio medic was convicted for his part in a vehicle wreck and was sent to jail.

(2) Poor patient care

EMS professionals also get sued for poor patient care, just like doctors, hospitals, and nurses

B. Four elements of negligence

1. There must be a duty

2. There must be a breach of duty

3. There must be harm to the person

4. The harm must be a direct result of the breach of duty

INSTRUCTOR NOTES	*LESSON PLAN*
Ask a question Describe the duties of an EMS professional to his or her patients.	C. Duty 1. Moral vs. legal duty
Write on flipchart Record responses on a flipchart labelled Duties.	2. Due care 3. Standard of care a. Differs from standard for physicians or nurses b. How and where standard is established for EMS providers
Ask a question Ask students what breach of duty means.	D. Breach of duty 1. Gross negligence is the criteria in some states, not just mere or regular negligence. However, gross negligence remains undefined, except by juries.

ADDITIONAL INFORMATION

C. Duty

1. Moral vs. legal duty

Does anyone owe a duty to a blind person walking toward traffic? When does the law impose a duty on EMS personnel? Do we have to stop at every wreck? Do we have to help a person who "goes down" in a K-Mart? NO. We don't have to stop at every wreck, or help every injured person, just because we have the training. However, if and when we do get involved, then we have a duty to the patient.

2. Due care

We owe the patient the duty of due care. We must take care of the patient the same way any other reasonably proficient person of similar training would take care of the person, i.e., a doctor must care as other doctors, and so on.

3. Standard of care

a. Differs from standard for physicians and nurses

The standard of care for EMS personnel is not the same as for a doctor or a nurse. We are compared to other reasonably trained, reasonably proficient EMS care providers.

b. How and where standard is established for EMS providers

The descriptions for standard of care procedures for EMS personnel can be found in textbooks and Department of Health materials such as skill sheets. Expert witnesses, such as EMS professionals with substantial experience, can also establish what a reasonably trained, reasonably proficient EMS provider would do.

D. Breach of duty

1. Gross negligence is required in some states, not just mere or regular negligence. However, gross negligence remains undefined, except by juries. The criteria include whether the EMS personnel's actions represented a significant departure from the standard of care.

INSTRUCTOR NOTES	*LESSON PLAN*
	2. Duty of due care can be breached by acts or commissions 3. Informed consent a. Refusal of treatment b. Refusal forms E. Documentation on the job 1. What to document 2. Guidelines for documentation

ADDITIONAL INFORMATION

2. Duty of due care can be breached by acts or omissions (failure to act).

   Any investigation will attempt to find what care was given and why, as well as what care was not given and why not. Most law suits regarding patient care are brought for the failure to act when some action should have been taken.

3. Informed consent

   Informed consent means that a person is given reasonable detailed information about what is going to happen and what the consequences are. For example, "I would like to start an IV. Have you ever had one before? This will hurt a little when I do it, but it will enable me to give you medications and fluids via the most direct route. All right?"

a. Refusal of treatment—if a patient refuses treatment, advise them of the worst possible consequences. They must be informed of the consequences of not accepting treatment.

b. Refusal forms—protect yourself by having them sign a refusal form, if they are able. Have it witnessed by as many witnesses as possible, and even by their family. This highlights the absolutely critical need for thorough documentation.

E. Documentation on the job

1. What to document

   Get a patient's baseline and change of condition data. For your own protection, get trip sheets, because prehospital charts are inadequate. They only ask you to state what you did and perhaps why. They do not ask you to explain what you did not do and why. If you decide not to do something that could be considered reasonable treatment, document your reasons. The rule is, if it isn't written down, it didn't happen.

2. Guidelines for documentation

   These reports should be kept forever. However, the statute of limitations is 2 years, or for minors, 2 years after their 18th birthday.

INSTRUCTOR NOTES	*LESSON PLAN*
	F. Harm 1. The person must be harmed 2. The harm must be the direct result of the breach of the standard of care G. Measure of damages 1. Medical bills 2. Lost wages 3. Loss of life's pleasure, quality of life, and pain and suffering
Conduct activity this activity, participants will use what they have learned about the definition of negligence to evaluate potential liability in a series of classroom-based scenarios.	H. Activity 3.1—Negligence 1. Break participants into small groups (3-4 people), and ask the groups to select a timekeeper and a reporter (preferably people who have not done so before). 2. Show overhead #3-5. Review four elements of negligence. 3. Ask participants to turn to the scenarios for Activity 3.1 in Appendix A. 4. Each group will have 20 minutes to identify level of liability *and the basis for liability.* 5. When time is up, moderate discussion on liability for each scenario.

ADDITIONAL INFORMATION

F. Harm

1. The person must be harmed

   Even if you do something, for example, drop a patient or fail to immobilize them, if your action did not harm them, they do not have an essential component of negligence.

2. The harm must be a direct result of the breach of the standard of care

   It may be difficult to sort out what injury resulted from a breach of standard and what was incurred from the injury the EMT is treating. Resolution is often obtained through expert testimony.

G. Measure of damages

If negligence is proven, there are a variety of damages.

1. Medical bills

2. Lost wages

   For example, a 25 year old person, at $25,000 per year, for 40 years, equals 1 million.

3. Loss of life's pleasures, quality of life, pain and suffering

H. Activity 3.1—Negligence

Refer to the scenario cards in Appendix A.

INSTRUCTOR NOTES	*LESSON PLAN*
	I. Good Samaritan Law
	J. Why do people sue, and how can I prevent it?
	VIII. **Occupational Health and Safety Act of 1970 (OSHA)**
	A. Purpose
	B. Instructors should educate students regarding applicable regulations

ADDITIONAL INFORMATION

I. Good Samaritan Law

Local statutes apply.

J. Why do people sue, and how can I prevent it?

People sue because they are mad and feel that they have been poorly treated. People do, however, accept human mistakes. If you make a mistake, admit it, be humble, and apologize. Be nice to all patients. And never talk crudely or rudely about an unconscious patient. It will come back to haunt you.

VIII. Occupational Health and Safety Act (OSHA) of 1970

A. Purpose

The Occupational Health and Safety Act (OSHA) of 1970 regulates employment environments and practices to ensure the health and safety of our nation's workforce. These regulations are enforceable by law and penalties will be applied for non-compliance. The law applies to employers, who must make the place of employment free of recognized hazards and comply with OSHA standards, and employees, who must comply with the standards that apply to their conduct on the job.

B. Instructors should educate students regarding applicable regulations

EMS instructors need to make students in EMS courses aware of applicable on-the-job OSHA regulations for the courses they teach. For example, OSHA regulates procedures and practices for employee protection regarding exposure to blood-borne pathogens. Instructors teaching courses in which this is an issue should educate students during course delivery.

INSTRUCTOR NOTES

Ask a question

What are our duties to our students in the classroom?

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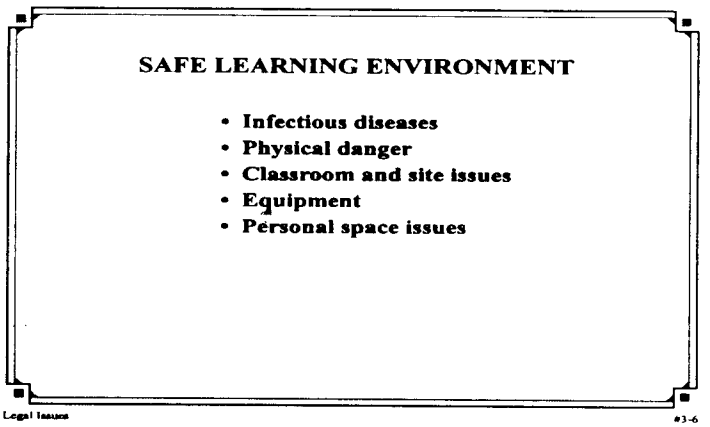
LESSON PLAN

IX. Negligence in the Classroom

A. Duty to provide a safe learning environment



ADDITIONAL INFORMATION

IX. Negligence in the Classroom

A. Duty to provide a safe learning environment

- Infectious diseases

  Instructors have a duty to their students to take reasonable, adequate precautions to maintain an environment free of infection. This includes appropriate cleaning of CPR mannequins and protection from needle sticks, e.g. AIDs.

- Physical danger

  EMS courses involve a certain amount of risk. Instructors must take reasonable precautions to protect students from physical danger and inform them of potential risks. For example, extraction day, lifts, and carries all pose a potential threat. Instructors should make every effort to ensure that the students are physically able to complete a task as well.

- Classroom and site issues

  Instructors should attempt to safeguard students' well-being when the class location may pose a danger, e.g., snow covered stairs or a potential fall in the pole room of a fire house. An incident like this actually occurred, in which people had a scenario set up in a pole room in a fire hall. It was dark. Students were told there was a victim in the room and when they entered the room one of the students fell through the hole.

- Equipment

  Class equipment should be in good working order. Old equipment should be replaced, e.g, rescue equipment, long spine board.

- Personal space issues

  Instructors of EMS curriculum have a responsibility to instruct students in appropriate and respectful interaction with another, particularly when the situation requires physical contact that may be embarrassing to another. In the extreme, it is possible that inappropriate patient assessments could be interpreted as sexual assault or harassment.

INSTRUCTOR NOTES	*LESSON PLAN*
Ask a question Who can tell me about the doctrine of assumed risk? ■ Person must be warned ■ Person proceeds anyway ■ Person is injured by the identified danger	B. Duty to warn C. Doctrine of assumption of risk D. Duty to provide adequate instruction

ADDITIONAL INFORMATION

As stated before, not only must you never talk rudely or crudely to an unconscious patient, you must never touch any patient, or speak about them, in a crude or rude manner. As students interact, it is the instructors responsibility to ensure that this standard of behavior is enforced in the classroom. Although students can be held responsible for their own behavior, an instructor will be held accountable for a failure to maintain a safe learning environment as well.

B. Duty to warn

Where there are risks, we must warn our students and protect them. Proper warning and reasonable precautions will help in our defense, in the event of injury or disease.

C. Doctrine of assumption of risk

- Person must be warned
- Person proceeds anyway
- Person is injured by the identified danger

In a case where it can be established that the student knowingly assumed the risk, recovery is not available under the law.

D. Duty to provide adequate instruction

This is a gray area under the law, for the same reasons stated above: there are not many precedents, precedents are hard to find, cases are being settled out of court, and the law is dynamic and always changing. As we've discussed, juries do and will continue to decide these cases as they appear in courts of law. The question is, "Do you think there would be people on a jury that would say we had a duty to teach students according to established standards of care? Do you think that a judge might find that we had a duty?"

Here are some examples to consider:

WHAT IF WE TAUGHT ...

... students to toss I.V. needles in the garbage and someone contracted AIDs cleaning out the rig?

INSTRUCTOR NOTES

Ask a question

Do you have any questions about negligence and how it applies in the classroom?

LESSON PLAN

E. Duty to the students' future patients

X. Increasing documentation and other safeguards

Use the list of questions to help define areas of needed improvement:

- How well drafted are your clinical agreements?
- Who is responsible for the student while on clinical rotation?
- Who does the student turn to if there are problems?
- Are all of these policies in writing?
- What insurance requirements do you have for the students?
- Are the program administrators insured if a student inadvertently hurts a patient?
- Are the individual instructors insured?

ADDITIONAL INFORMATION

... students the wrong technique in tying off, or failed to instruct them to keep clear during a defibrillation?

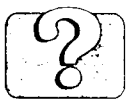
E. Duty to the student's future patients

The same question applies here as well; will juries and judges determine the instructor had a duty. In all probability, there will be claims and the courts will find a duty. Injured people are looking in all directions for someone responsible for their injuries who may be able to pay some of the astronomical hospital bills.

X. Increasing documentation and other safeguards

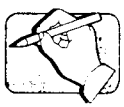
Prudence demands that we do all that we can to protect ourselves, our students, and our student's future patients. Use the list of questions to help define areas of needed improvement.

INSTRUCTOR NOTES



Ask a question

Tell me which records you feel it is important to keep.



Write on flipchart

Record responses on a flipchart labelled Records. Then use this list to fill in any blanks.

- Attendance records
- Class outlines for each of the classes taught
- Copies of each handout
- Skill verification record
- Examination and reexamination records

LESSON PLAN

A. Types of records

B. Communication

1. Between instructors
2. To course coordinator
3. Establish what happened

XI. Summary

ADDITIONAL INFORMATION

A. Types of records

Identify essential records and ensure the system includes an adequate recordkeeping process.

B. Communication

1. Between instructors

Instructors should discuss with one another what was covered, what was omitted and why, and what seemed to give the students problems. These items should be documented.

2. To course coordinator

Individual student deficiencies should be reported—confidentially—to the course coordinator as well as the student.

3. Establish what happened

This communication and documentation establishes exactly what the course material contained and whether the student's performance was reasonable proficient for that level of training. You should have dates documented, so that in response to a charge of negligence, you can clearly state something like this, "Yes, that subject was covered on January 20, 1992. The student was instructed to perform the procedure in this manner."

XI. Summary

The intention of this lesson is to increase awareness regarding issues with legal implications. By no means should the information contained here be construed as legal advice in a specific circumstance. Specific legal advice regarding the status of a particular incident should be obtained from private counsel.

INSTRUCTOR NOTES | *LESSON PLAN*

References

ADDITIONAL INFORMATION

References

Westlaw Electronic Research: 1232g. Family Educational and privacy rights (access of records)

Richard A. Hernan, Jr., Attorney at Law.

Bill Meadows, Manager of Division of Educational Development, Office of EMS, Virginia Department of Health.

SEXUAL HARASSMENT

- Unwelcome sexual advances
- Suggestive or lewd remarks
- Unwanted hugs, kisses, touches
- Requests for sexual favors
- Retalialation for denouncement of sexual favors
- Derogatory or pornographic posters, cartoons, or drawings

DISCRIMINATION — PREFERENCES OR PREJUDICES REGARDING:

- Race
- Color
- Religion
- National origin
- Disability
- Gender
- Age
- Sexual orientation/ preference

ADA PREVENTS DISCRIMINATION IN:

- Recruitment
- Hiring
- Promotion
- Pay
- Training
- Job assignments
- Benefits
- Firing

CONFIDENTIALITY

Be careful—never compromise your student's or patient's privacy

NEGLIGENCE

- There must be a duty
- There must be a breach of duty
- There must be harm to the person
- The harm must be a direct result of the breach of duty

SAFE LEARNING ENVIRONMENT

- Infectious diseases
- Physical danger
- Classroom and site issues
- Equipment
- Personal space issues