Disclaimer

- The consultant is not an attorney and does not provide legal advice. The information contained in this presentation is not intended and should not be construed as legal advice or direction.
- The consultant plans to share knowledge and practical experience with the attendees.
- All attendees are advised to obtain professional legal advice from an attorney before implementing any material change in their billing, administrative, operational, or documentation policies or any other matter which is governed by law or regulation.

Seminar Topics and Agenda

- Welcome and Introductions
- Negligent Documentation
- Documentation
  - Clinical/Operational Aspects
  - Reimbursement Issues
  - Legal and Compliance Issues
- Case Reviews
- Questions and Answers

Key Areas of EMS Liability

- Patient Care Issues
  - Airway management issues
  - Spinal immobilization issues
  - Equipment failures
  - Inadequate training and policies
  - Refusals (Abandonment)
  - Billing (Fraud and Abuse)

However, 80% of all EMS lawsuits are not directly related to patient care!

Medical Record Documentation

“Poor documentation and recordkeeping is the leading precipitating cause of failed medical malpractice lawsuits”
“Negligent Documentation”

May, 1995

DeTarquino v. Jersey City, plaintiff suffered injuries as a result of an alleged assault by a Jersey City police officer.

An ambulance was called and responded with two EMT’s

During transport, the patient apparently vomited, but the trip sheet did not indicate vomiting

In fact, the check box on the PCR indicated it was negative!

Case Facts

• The hospital apparently concluded that the patient was not seriously injured
• The patient was discharged from the hospital and taken back to the county jail by the police
• A few hours later – patient reportedly had an episode of grand mal seizures
• Declared brain dead on May 11, 1995
  – Cause of death: epidural hematoma

NJ EMS Immunity Law

• NJ Immunity Provision (NJSA 26:2K-29)
  – “No EMT . . . shall be liable for any civil damages as the result of an act or the omission of an act committed while in training for or in the rendering of intermediate life support services in good faith . . .”

The Question!!!

Does the immunity apply only to training and the rendering of patient care, or does it also include the preparation of the PCR and other documentation?

Initial Verdict

• Trial Court:
  – Dismissed the lawsuit against the EMT’s
  – Found that NJ immunity statute protected the technicians from liability
Outcome of the Appeal
Superior Court - June 28, 2002
The court held that the NJ immunity statute, does not include immunity for negligence in the preparation of a report

What are the limitations of the EMS related immunity laws in your state??

Critical Areas of Concern
• Improving Patient Care
  – Continuous Quality Improvement
  – Quality Assurance
• Privacy and Confidentiality
  – HIPAA
  – Restricted Medical Conditions
• Reimbursement Issues
• Risk Management and Compliance

“Can We Change the Chart”
“Can we change the chart once we turn it in?”
– Yes, authors can change entries or add additional information after initial submission
  • Should be appropriately noted and dated
  • Should be properly marked as an amendment or additional entry
– Written errors should always be corrected with strikeout lines, initials and date – (No white-out)
– Supplemental pages can be used if more space is necessary
– Computer software should log and track amendments and changes

The Patient Care Report (PCR)
Your Substituted Memory!

Sample Narrative # 1
• Unit responded to scheduled non-emergency transport at XYZ Nursing Home of a 78-year-old female for a test. Patient stable placed on MLS and transported without incident.
Revised Narrative # 1

- Unit # 6 requested by company dispatch to respond to XYZ skilled nursing facility Room 314 Bed-1. Patient being transported for an MRI of left shoulder.
- Upon arrival, we found a 78 y/o female patient, fully awake, alert and oriented. Patient complaining of minor, non-radiating pain in L shoulder area. Injury occurred 3 weeks ago after falling from wheelchair. Pain described pain level as a 1 out of 10. Pt unable to ambulate and is wheelchair confined due to severe Parkinson’s Disease. Patient experiences frequent falls when attempting to ambulate or move in her wheelchair.
- Patient transferred from hospital bed to MLS using a two person sheet lift.

Documentation

- PCR should reflect YOUR independent findings:
  - Assessment
  - Observations
  - Monitoring
  - Special Handling:
    - Isolation Precautions, Flight Risk, Restraints, Special Positioning, Special Devices, etc
- Don’t just copy or re-write the wording of a PCS or information found in other medical records

PCR Completion

COMMON DOCUMENTATION FORMATS

S.O.A.P or S.O.A.P.I.E.R.
- Subjective - What the patient “feels”
- Objective - Physical Observations - Measurements
- Assessment - Analysis – Findings - Conditions
- Plan - Plan of Treatment
- Interventions - Treatment and Transport
- Evaluation - Assessment and Treatment Response
- Revision - Report and Revise as necessary

DOCUMENTATION FORMATS

C.H.A.R.T.
- Chief Complaint
- History
- Assessment
- Rx or Treatment
- Transport

CLINICAL ASPECTS

Documentation should include:
- All Pertinent Findings
- All Pertinent Negatives
- Every Action Taken
EMS DOCUMENTATION
Case Studies, Compliance and More!

Sample Narrative # 2

- Findings:
  - Sinus Bradycardia @ 20 pm with 4 breaths per minute
  - Is the chief complaint correct?
  - What information was provided on the suspected causes of the medical event?

- Outcome:
  - Patient was successfully resuscitated!

Sample Narrative # 3

- Chief complaint: 911 Delta response to above location for 57 male patient involved in MVC earlier today, now unresponsive in cardiac arrest.
  - Present illness: Bystanders present denied the victim complained of anything prior to him collapsing. No one witnessed the collapse, they found him, summoned 911 and began CPR. XYZ EMS on location, report received from crew, BLS measures being taken and AED did not fire.

Sample Narrative # 3

- What about the AED?
  - Did it malfunction or did the AED work correctly?

Sample Narrative # 4

- Arrive on location, long inclined, very icy driveway caused EMS to hand carry equipment to the residence.
  - C-spine stabilization taken, endotracheal intubation with 8.0, 22 cm at lips. Placement verified by auscultation, visualize tube passing chords, 15 CC inflate, lungs clear, abdomen quiet, thick yellow mucus noted in ETT.
  - IV initiated with 18 gauge left antecubital, times one successful - NSS wide-open

Sample Narrative # 4

- Great documentation of intubation and other treatment!
  - Great picture of exactly what occurred; assessment and all treatment modalities

CLINICAL ASPECTS

- Describe a snapshot of the scene
  - Describe a snapshot of the patient upon arrival
  - Create a written “video” of patient care
  - Describe a snapshot of the patient upon delivery
Your documentation should minimally include:

- Service Name and Crew Members
- Date and all related Response and Call Times
- Origin and Destination of Transport
- Nature of the Call at the Time of Dispatch
- Describe the Scene (applicable in both emergency and non-emergency situations)

**CLINICAL ASPECTS**

- Identify Patient’s Chief Complaint
- Identify Mechanism of Injury
- Identify Onset of Illness or Injury
- Describe Patient’s Condition including all Signs and Symptoms
- Describe Treatment and Patient’s Response

- Establish Chronological Timeline of Care
- Describe patient’s Pertinent Medical History
- Identify Medications / Allergies
- Include your Observations and of the other responders and bystanders
- Include all vital signs and detailed assessment information

**CLINICAL ASPECTS**

- Specifically reflect the Patient’s Mental Status (consent!!)
- Describe the Medical Command Consult, Orders and/or Protocol Usage
- Describe Patient’s Condition at Hospital
- Describe Transfer of Care

“Spelling and the Use of Proper Grammar are Important and Essential Elements”

Always Double Check what you and your partner write!

Documentation is the foundation for your defense in any major event (accidents, injuries, incidents, investigations, lawsuits)
How was patient found?  (supine, in bed, bed rails up, seated, standing, etc)

How was patient moved?  (two-person sheet lift; standing pivot; walked to stretcher; ambulatory with assistance to stretcher)

How was patient transported?  (on stretcher; were chemical/hard restraints used; in captain’s chair, etc)

Was patient monitored enroute? (vitals; change in condition; positioning; response to treatment; etc.)

Where was patient delivered? (to hospital bed, room number, MRI table, wheelchair, etc.)

Chronology of Care Documentation

Structure Fire

- Early January, 11:40 p.m., snowing and cold
- House Fire - 2 blocks from Trauma Center
- Fire Dept. rescues 3 unconscious, apneic patients within 10 minutes
- First E.M.S Unit is a Supervisor Vehicle - 3 minute response time
- Second Unit - ALS Ambulance sets up Triage with Portable O2 and other equipment

Structure Fire

- 4 year old, apneic, taken to triage area - Airway, O2, BVM
- While extricating to ambulance, 16 year old male, apneic, taken to ambulance.
- A second 4 year old is brought to triage by Fire Dept. Transported by a third Unit which was requested by Supervisor

Structure Fire

- 2 patients in first Unit -
  - Supervisor, F.D. Captain - 1st 4 year old
  - Paramedic from Unit taking care of 16 year old
- Portable O2 runs out on 4 year old
- F.D. says he will go back to triage to get more (almost a block away)
- Supervisor says no and transports to Trauma Center 2 blocks away, bagging without supplemental O2 Transport Time <2 minutes
- Second Unit transports the other 4 year old twin
- Supervisor takes 1st patient to Trauma Room A
- Other patients taken to rooms B and C

Structure Fire

- Outcome:
  - 4 year old has acute brain damage
  - 16 year old treated and released after 1 day
  - 4 year old treated and released after 2 days
  - Fire Dept involvement with ambulance service and family

- What are the issues?
- Is this negligence or gross negligence?
- What would you have done?
- Why was the documentation important?
Cardiac Arrest # 1

- Early March, 11:40 a.m., sunny and warm
- School Athletic Track
- 46 y/o stocky, white Italian male, off-duty police jogging
- Becomes unconscious with agonal respirations
- First E.M.S Unit is a newly appointed ambulance service
- 3 minute response time
- Second Unit - from old service "jumps the call" but arrives simultaneously
- Portable O2 and BVM, Monitor (Hairy Chest)
- Intubation attempts not successful
- Conflict at scene

Cardiac Arrest # 1

- CPR and BVM used intermittently
- Alternative ALS airway measures not attempted (EOA, Digital and Nasal)
- Total Transport Time: 7 minutes Total Call Time: 20 Minutes
- Patient DOA
- Documentation Issues - 2 line narrative
- What other care was not performed?
- Is this negligence or gross negligence?
- What would you have done?
- What should have been performed and documented?

Problem Areas

- Personal Opinions and Biases
- Improper Abbreviations
- Illegibility
- Improper Correction of errors
- Omissions
- Poor Choice of Words

Inadequate Phrases may include:

- “Transport without incident”
- “Patient was stable”

How could we improve these phrases?

Specific Issues

- All crew members should sign and indicate their certification level
- Correct pickup and destination points
- Mileage (Odometer) readings
  - Tenths of miles?
- Obtain PCS Form on selected transports

Is the documentation:

- Concise, but thorough?
- Factual and objective?
- Written using correct terminology, spelling and abbreviations?
- Organized and legible?
- Complete and accurate?
- Any unusual circumstances?
  - Arrival or Transport was delayed?
  - Any danger to patient or crew?

J.R. Henry Consulting Inc.
www.emsconsult.org      (412) 736-4163
EMS DOCUMENTATION
Case Studies, Compliance and More!

The “A B C D” Approach

✓ Adopt and Adapt!
  • Policies, Procedures and Training
✓ Be Nice!
✓ Consistent and Compliant
✓ Documentation!

Special Thanks to Mr. Rick Rice and to All of You for Attending

J.R. Henry Consulting Inc.
www.emsconsult.org (412) 736-4163