

Medical Legal Responsibilities



Session Objectives

- This session will
 - Define medical legal terms
 - Identify some of the legal responsibilities of the School Health Official in an emergency situation
 - Discuss consent and confidentiality
 - Discuss documentation

Medical Legal Responsibilities

- Liability – The responsibility a person has for their actions or omissions.
- Negligence – Conduct which falls below the standards of behavior established by law for the protection of others against unreasonable harm.

Medical Legal Terminology

- Scope of Practice--Defines the procedures, actions, and processes that are permitted for the licensed individual
 - Education
 - Experience
 - Demonstrated competency

Anatomy of a Negligence Law Suit

- Duty to Act—Was there a responsibility for the plaintive to act
- Breach of the Duty—Did the plaintive fail to act or act in a way that was not within their Scope of Practice.
- Proximate Causation---Did the commission or omission contribute to the injury, or exacerbate the injury.
- Damages – Awards to the victim based on the injury incurred.

Good Samaritan Act

- RSMO 537.037—
- In good faith without compensation render emergency care.....
 - Not intended to cover acts of negligence
 - Not intended to cover a breach of duty to act
 - Not intended to cover out of Scope practices
 - It does not take away the victim's right to bring suit against the caregiver.

Consent

- School Officials act “in loco parentis” —in the place of the parents-- when the child is involved in school activities. To act in the best interest of the child.
- Medical Consent; RSMO 431.061
 - In Missouri, a person under the age of 18 cannot consent or refuse medical care

RMSO 431.061.1

- In addition to such other persons as may be so authorized and empowered, any one of the following persons if otherwise competent to contract, is authorized and empowered to consent, either orally or otherwise, to any surgical, medical, or other treatment or procedures, including immunizations, not prohibited by law:
 - (1) Any adult eighteen years of age or older for himself;
 - (2) Any parent for his minor child in his legal custody;
 - (3) Any minor who has been lawfully married and any minor parent or legal custodian of a child for himself, his child and any child in his legal custody;
 - (4) Any minor for himself in case of:
 - (a) Pregnancy, but excluding abortions;
 - (b) Venereal disease;
 - (c) Drug or substance abuse including those referred to in chapter 195;
 - **(5) Any adult standing in loco parentis, whether serving formally or not, for his minor charge in case of emergency as defined in section [431.063](#);**
 - (6) Any guardian of the person for his ward;
 - (7) Any relative caregiver of a minor child as provided for under section [431.058](#).

RSMO 431.063

- In addition to any other instances in which a lack of consent is excused or in which a consent is implied at law, a consent to surgical or medical treatment or procedures shall be implied where an emergency exists if there has been no protest or refusal of consent by a person authorized and empowered to consent, or, if so, there has been a subsequent change in the condition of the person affected that is material and morbid, and there is no one immediately available who is authorized, empowered, willing and capacitated to consent. For the purposes hereof, an "emergency" is defined as a situation wherein, in competent medical judgment, the proposed surgical or medical treatment or procedures are immediately or imminently necessary and any delay occasioned by an attempt to obtain a consent would reasonably jeopardize the life, health or limb of the person affected, or would reasonably result in disfigurement or impairment of faculties

Documentation

- The best defense for potential liability is good documentation of the event
- The documentation should Identify:
 - Who
 - What
 - When
 - Where
 - Why
 - How

Documentation

- School district requirements for documentation may vary.
- Forms may be different
- Reporting requirements may identify the time in which an incident must be documented

Documentaton—Example formats

- SOAP or SOAP-IER Format
 - S = Subjective—that which is based on opinion
 - “the student appeared flushed”, “ the student appeard pale”
- O = Objective – data obtained such as vital signs (Blood pressure, pulse, respiratory rate, temperature, Pain scale, Level of response)

Documentation Format

- Cheat-Cheated
 - C = Chief Complaint – In the student's own words, why are they in the Health Aid room? What does the student say is wrong, or what is it that is hurting or bothering them?
 - H = History– Recent medical, Past pertinent
 - E = Examination– the physical Assessment
 - What you felt, saw, smelled
 - Vital Signs
 - A = Assessment– the general impression
 - T = Treatment
 - E=Evaluation – did the treatment work? What was changed?
 - D = Disposition- Where did the student go? How did the student go?

Documentation

- A time line of events is important to decrease liability.
- The documentation should be able to have the reader develop a good idea of what happened.
- The documentation should give the reporter a good recall of the events even years later.

Documentation

- Documentation should be :
 - Timely –Completed as soon after the event as possible
 - Accurate – Do not “make up” or “fill in the blanks” for things you did not witness and do not know
 - Comprehensive – includes all the pertinent details and may include statements from witnesses.
 - Complete—Don’t leave anything out.

Documentation

- The purpose of documentation is to articulate the incident so that years later someone reading the account will have a good understanding of what occurred.
 - Spelling
 - Grammar
 - Use of Punctuation
- If it wasn't done, don't write it down. If it isn't written down, it wasn't done.

What's Wrong with this? (Actual charting notes)

- Large dark stool ambulating down hallway.
- He told Dr. Smith that he thought he was possessed by demons.
- “Cough with flame”
- She has no rigors or shaking chills, but her husband states she was very hot in bed last night”.
- “Both breasts are equal and reactive to light and accommodation.”

Scenario #1

- A student was cut across her forearm while working with a glass beaker in science class. The student is brought to you in the office with several large towels wrapped around her arm which are soaked with blood. The wound is deep and is still gushing blood. The student is pale and moist and complaining of feeling faint. 911 is called and you quickly lie the student down and elevate her arm while holding pressure. The wound continues to bleed freely. You elect to take a student's belt and fashion a tourniquet, which has stopped the bleeding by the time the paramedics arrive. Later you learn the student suffered nerve damage which could have been caused by the tourniquet. Were you negligent?

Scenario #1 Answer

- Consult your training, experience and demonstration of skill proficiency.
- Consult your medical protocols
- Although the tourniquet was the next step in this circumstance, and you are most likely not negligent, it does not stop the ability of the parents to bring a law suit for damages. Documentation is the next best defense.

Scenario #2

- A 17 year old Senior is injured during basketball practice. He collided with another player and fell to the floor unresponsive. You are summoned and arrive to find the student awake but appears dazed and cannot answer all questions. When paramedics arrive his thoughts appear more clear, but he still has difficulty ,knowing the date and his location. He does not want to be transported to the hospital. Can this student refuse treatment?

Scenario #2 Answer

- Since the student is 17 he can neither give consent or refuse treatment.
- Given the nature of the injury and the student's presentation, his ability to comprehend the seriousness of his injury is uncertain