

# The Legal Guardian

PROTECTING YOU WHO PROTECT OTHERS

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OCTOBER 2007



## PROFESSIONAL RESPONSIBILITY II: WHAT IS YOUR DUTY?

Legally speaking, “Duty” can mean different things when used in differing contexts.

As Captain Obvious can tell you, there is the duty for EMS providers to respond, the duty to act in accordance with established protocols and under medical direction, the duty to maintain the proper certifications, and so on.

What about the duty to treat all patients with the same level of respect and dignity? There are laws against discrimination, but there are no laws that say you must “*be nice.*”

How far does the duty to serve as a patient advocate extend? In the vast majority of U.S. jurisdictions, EMS providers are quick to report suspected abuse or neglect as required; though the same individuals almost never report the incompetence of another provider. Have you?

Finally, from Hollywood movies & TV to small-town newspapers, rescue workers are regarded as heroes on the job. However, little is ever heard about an EMS “hero’s” responsibilities away from the ambulance or rescue squad.

Professional Responsibility is less a creature of statutory law than the humanistic merger of ethics and morality over the backdrop of EMS. Although, the line is a fine one, and a failure to comport with that for which you are professionally [though perhaps not statutorily] responsible can land you in some very, very hot water.

### EQUAL RESPECT

As children, most of us heard the golden rule: *Do unto others as you would have done unto you.* And we generally live by it... until three in the morning when the same local homeless person

has a drunken stomach ache again. Or when the nervous mom calls because her son had a “terrible bad” dream (*I was actually on that call*). For every EMS veteran reading this, there are a hundred stories of pure witlessness. Yes, the world is overfilled with intellectually challenged and hapless individuals and they all know your number.

But, if you stop and think about it, there is really only one reason people call 911:

*Because they [believe] they are in over their heads and cannot get out.*

If you take a moment to reflect on the circumstances from that perspective, you will better appreciate that everyone is owed the same degree of respect, courtesy, and professionalism; the duty of equal respect exists in your commitment to the whole of EMS.

### UNCONDITIONAL ADVOCACY

Advocating for patients against the perils and pitfalls of the outside world rests at the very core of EMS.

On the other hand, advocating for patients, with the same degree of vigilance, against the known incompetence of another EMS provider—perhaps a friend—is virtually unheard of, though no less critical for the patients who are being mistreated or under-served.

In last month’s edition of this newsletter, I explored the various types of EMS provider. Recall that there are the naturals, those who work hard to be good, and those who have slipped through the cracks. If you have any time at all on the job, you know all three.

It is with the third provider that your greatest challenge exists, though, in reality, there should be no challenge at all: What to do

about an incompetent provider in your ranks?

I predict that most of you have or continue to struggle with that dilemma. But, you are asking the wrong question.

Instead your questions should be these:

1. Am I safe in that provider’s hands?
2. Is my family safe in that provider’s hands?
3. When will that provider’s incompetence cost me my career?

If you believe in the purpose and potential of EMS, then you know what to do. You just have to do it.

Right now there is a child playing and laughing and enjoying life, but one day that child and his or her parents will depend on that incompetent provider for another happy family holiday that he or she cannot deliver, which means that at this moment, that family is depending on you to do the right thing before it is too late. That is your Professional Responsibility.

And if you don’t, then you forfeit your right to cry at the funeral that provider caused—even when the loss is yours.

### BEING A REAL HERO

Professional athletes, rock stars, and Hollywood celebrities are often viewed as role models, but they are not real.

EMS providers, on the other hand, are as real as it gets; you live in the community, your presence is practically ubiquitous, and the goals and aspirations that put you in the seat of that ambulance or rescue squad can be reasonably shared by the young, wide-eyed onlookers who wonder what it takes to be just like you.

While you won’t likely be asked for too many autographs, you are a role model and aspiring young EMTs and Paramedics will emulate your behavior, whether you like it or not.

So what is your responsibility? I guess that depends on your own sense of integrity. That’s who you are when nobody is looking.

## There’s Nothing Basic about BLS

Much of what is written for The Legal Guardian focuses on Paramedics. As it is, Paramedics carry a substantial portion of liability among EMS providers. However, BLS Providers are not immune from the legal perils & pitfalls that face your ALS colleagues.

While BLS professionals are not generally required to know drug dosages, intubation techniques, or manual defibrillation protocols, **you are still held to the high standards of care** (*within the specified scope of practice*) as every other emergency health care professional. No matter the assignment, BLS providers are equally responsible for providing compassion, understanding, skill, and hope for the darkest moments in the lives of strangers.

Whether your job is transporting the elderly between urban medical facilities, assisting Paramedics with transportation, or responding as the frontline provider to 911 calls in rural America, never let it be said that importance is measured by level of certification.

Importance is a measurement of your own commitment to excellence.

## WHAT IS DEFAMATION?

Defamation is one of those legal concepts that everyone knows from TV and Movies, but most don't quite understand. Likewise it is one of those legal perils that EMS providers face every time a "war story" is told.

### Defamation Simply Defined:

*"A statement about the plaintiff, communicated to a third party, which causes damage to the plaintiff's reputation"*

There are a variety of additional, more complex rules and exceptions, but for our purposes here, this will do.

The two types of defamation are **Libel & Slander**. Libel is (generally) written, Slander is spoken. Because Defamation involves one's reputation and affects one's livelihood in the future, lawsuits and settlements can be very costly to a defendant.

Although truth is among the recognized defenses to a defamation claim, defending a lawsuit is very time consuming and even more expensive. My only goal is to keep EMS Professionals safe, so just keep that in the back of your mind next time you are in the nurses station of the ER or at the bar near the lake and the stories from the street begin to flow.

### SLANDER

Defamatory statement that is **spoken**, either **publicly or privately** to a third party who reasonably believes and acts on it.



### LIBEL

Defamatory statement that is **written** or, in some cases, **broadcast** over public airwaves, read or heard by a third party who reasonably believes and acts on it.

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## THE LEGAL GUARDIAN: ON SITE TRAINING, EDUCATION, AND INFORMATION



David Givot

Like everything else about EMS, the legal issues facing providers are ubiquitous, ever changing, and can vary from situation to situation.

Moreover, like in EMS, failure to recognize [legal] warning-signs can lead to devastating consequences.

Historically, EMS Provider agencies across the Country have attempted to stave off the specter of litigation and liability through policies, posters, memos, and the like. With mixed—and less than favorable—results.

With thousands of 911 calls as a Paramedic, hundreds of teaching hours, and three years of Law School behind me, I see clearly that the best defense to the perils of legal action for EMS providers is **never having to be a defendant**.

My series of interesting, informative, relevant, and—if I do

say so myself—entertaining educational programs offer EMS Professionals the tools to understand, recognize, and prevent the kinds of legal entanglements that can end careers and ruin lives.

EMS providers have always been hands-on type people, I know I am. **Memos and tacit reminders are not enough.**

*...the best defense to the perils of legal action for EMS providers is never having to be a defendant.*

Providers learn what I teach them, because I have been there. I have responded to the calls, managed the emergencies,

and washed the blood from my hands just like every one of them.

I speak the language and I teach from the same perspective. And, with what I teach, each can be safer by knowing more about how to protect themselves and the agency they represent.

I will come to you. Let me teach them before it's too late.

**310/699-0070**