

EMS, LAW, AND LIFE IN 2013



PREPARED FOR THE
UCLA PARAMEDIC REFRESHER
NOVEMBER 14, 2013
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WHY DO PEOPLE CALL 911?

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WHY PEOPLE CALL 911 **YOUR PERSPECTIVE** **MATTERS**

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Only in EMS



Your license & livelihood, reputation, assets, and freedom at stake 24/7/365!

How can you protect yourself?

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“Can you protect yourself without
compromising patient care?”

Providing the best possible and
most thorough patient care is the
ONLY way to protect yourself!

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Remember:

If you are going to be hauled into court,
You are going to be hauled into court.



Will you be ready?

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The World is Watching!

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What does
it see?



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What does it see?

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What does it see?

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What does it see?



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“BIG BROTHER IS WATCHING YOU”

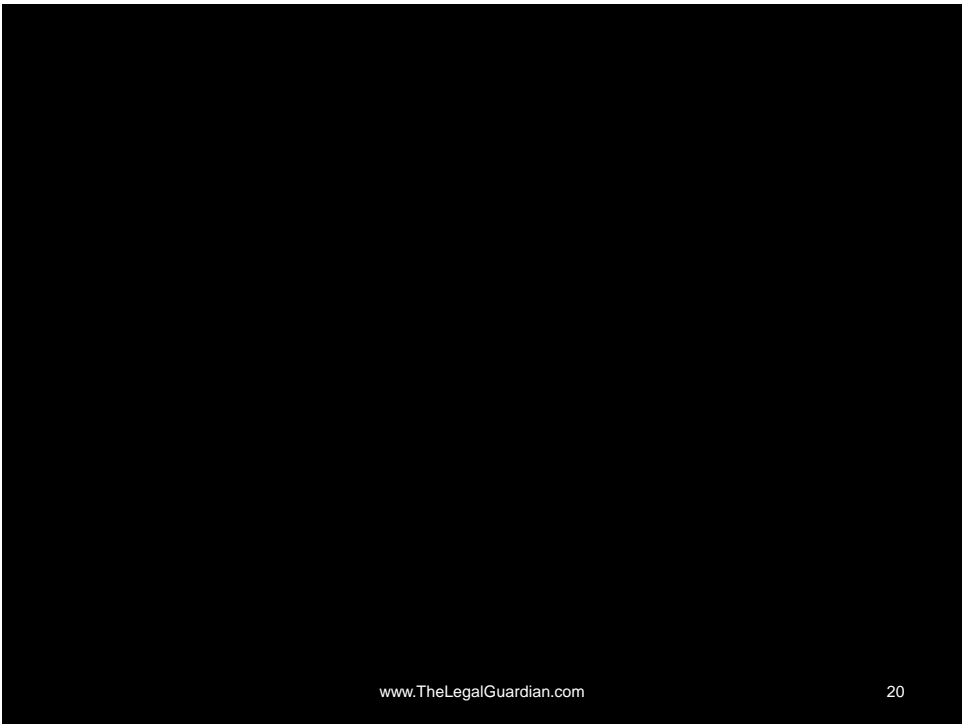
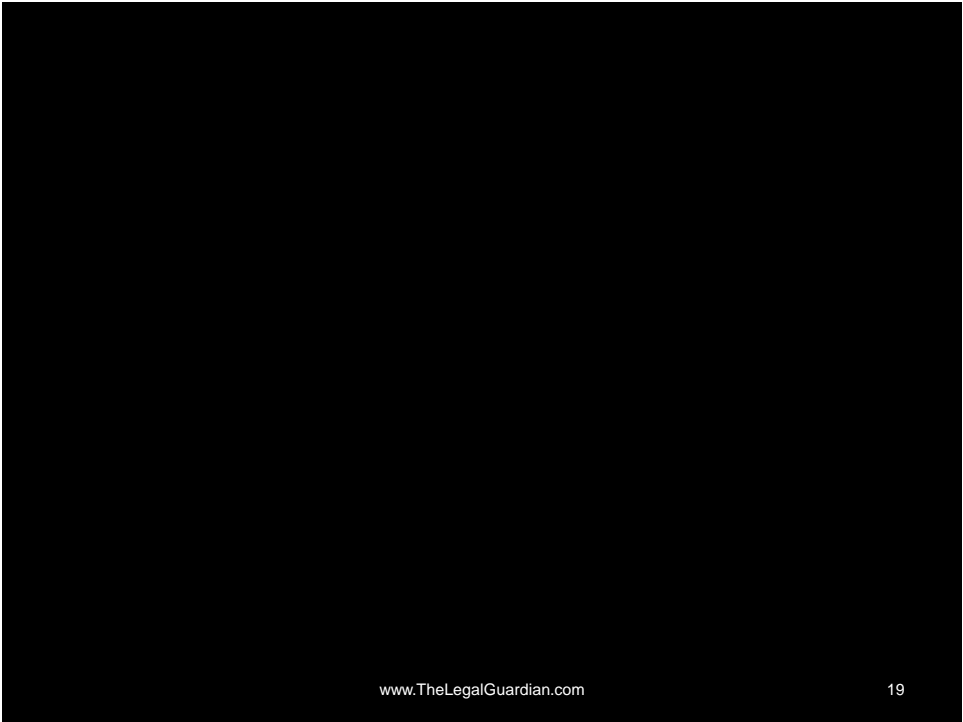
GEORGE ORWELL - 1984

WHO IS “BIG BROTHER”?

Say Hello to “Big Brother”



“The tongue like a sharp knife
kills without drawing blood.”
~ Buddha



Fired EMTs Deny Existence of 'Club'

"...It's not a big town. We hear all of the calls that go out, the [police officer] said...I couldn't understand why they were running with their lights and siren, so I followed..."

"...According to the police log, the EMT and his unidentified companion were found on the stretcher 'quickly getting dressed' and seemed very nervous when [officer] opened the rear doors..."

"...[the fired EMT] declined comment, but did say that a 'Code-3 Club' was just an urban legend..."

Former EMT Pleads Not Guilty in DUI Death of Teen

"...The former ambulance driver and emergency medical technician remains jailed with bail set at \$5 million. Charges include second-degree murder, gross vehicular manslaughter while DUI, and driving on a suspended or revoked license..."

"...Prosecutors said her work as an EMT made her fully aware of the dangers of drinking and driving..."

LOS ANGELES “Man” Wanted for Impersonating EMS Provider



Paramedic Fired for “Playing Doctor”

“...[the] Paramedic faces license revocation after administering intravenous solution and medication to his ill partner while on-duty at the station...”

“...It was all right there, and he needed it. I didn’t see the harm...”

Paramedic faces revocation for Saving Life

“...[We] don’t do Rapid Sequence Intubation [here], it’s that simple, said the county’s EMS coordinator. When [the Paramedic] chose to do the procedure, she knew she was violating local and state policies...”

“...When asked by the Judge if she would do it again, if faced with identical circumstances, [the Paramedic], through rolling tears told the Court: ‘Yes. *Of course. When faced with the choice between life or death, I will always choose life. That’s what I do.*’...”

“Call of Nature” No Defense in Ambulance Crash

“...I knew something was wrong at dinner, said the former ambulance driver. But when it hit me I had no other choice... it was either code-3 or code-brown...”

“...[the ambulance company] paid an undisclosed settlement to the plaintiff and has terminated the EMT. ‘We are implementing new policies that we expect will prevent incidents like this in the future’ one company spokesman said...”

What will “Big Brother” see in you?



- From day to day, what does YOUR story look like?
- How can YOU control what is said about YOU?
- How can YOU control what is said about your agency?
- How can YOU control what is said about EMS in general?

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“NEGLIGENCE”

It is the single most common cause
of action taken against EMS
providers...

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“NEGLIGENCE”
...and it is the ONE thing YOU
can control!

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Negligence

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The Rule

Negligence exists where one owes a duty, breaches that duty, and the breach is the actual and proximate cause of the plaintiff's damages.

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Negligence: Step-by-Step

Duty

☉ General Duty of Care

- To behave in such a way as to not place others at risk of harm

☉ Your Duty of Care

- To behave and perform as would a reasonable person in your area, with the same level of training, and in similar circumstances

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Negligence: Step-by-Step

Breach

- ⦿ You were supposed to do it
- ⦿ A reasonable* [provider] in your area would have done it
- ⦿ You didn't do it

*A reasonable person with the same level of training & certification, in the same locality, and under similar circumstances

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Negligence: Step-by-Step

Breach

- ⦿ You were not supposed to do it
- ⦿ A reasonable* [provider] in your area would not have done it
- ⦿ You did it

*A reasonable person with the same level of training & certification, in the same locality, and under similar circumstances

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Negligence: Step-by-Step

Causation

☉ Actual Cause

But for your act, the damage would not have occurred as, how, and when it did

☉ Proximate Cause

Unforeseeable, superseding, and intervening act sufficient to transfer liability

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Negligence: Step-by-Step

Damages

There **must** be some damage... otherwise, no harm, no foul

☉ Actual Damages

☉ Consequential Damages

☉ Punitive & Nominal Damages

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Negligence: Step-by-Step

Malpractice

◎ Malpractice

Malpractice is often considered as a stand-alone monster; one GIANT breach of duty

Malpractice can actually be the result of several, related and unrelated, seemingly smaller breaches of duty

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Negligence: Step-by-Step

Malpractice

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Want to find malpractice?

Look here:

- Protocol Violations
- Faulty Procedure
- Failure to Treat
- Failure to Transport/Follow-Up
- Failure to Document *(Don't miss: Document or Die!)*

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He who learns
but does not think, is lost!

He who thinks
but does not learn is in
great danger.

- Confucius





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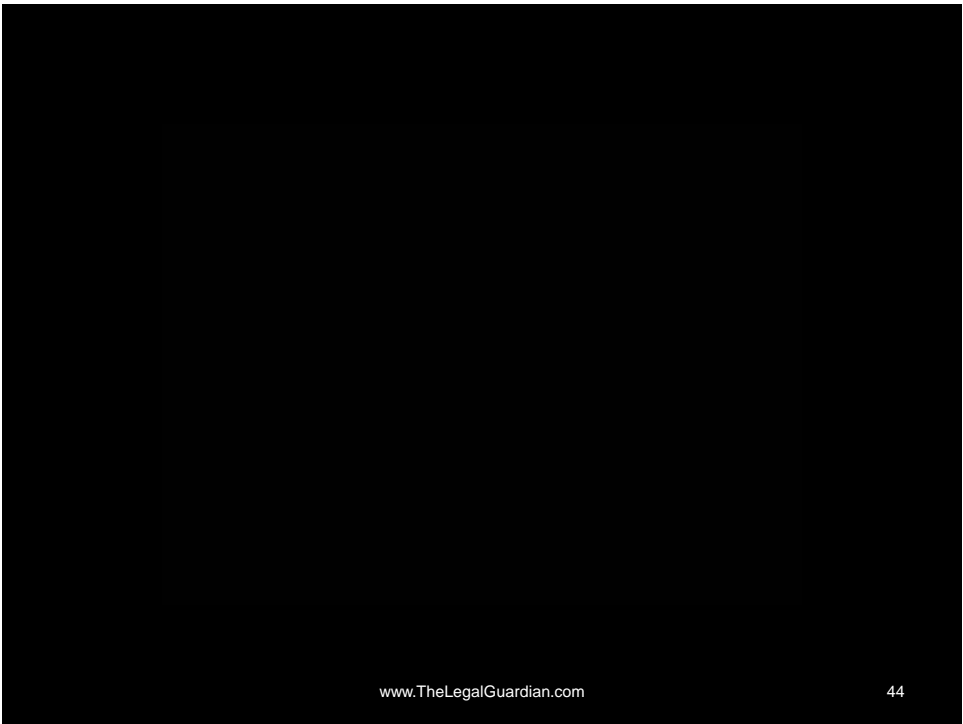
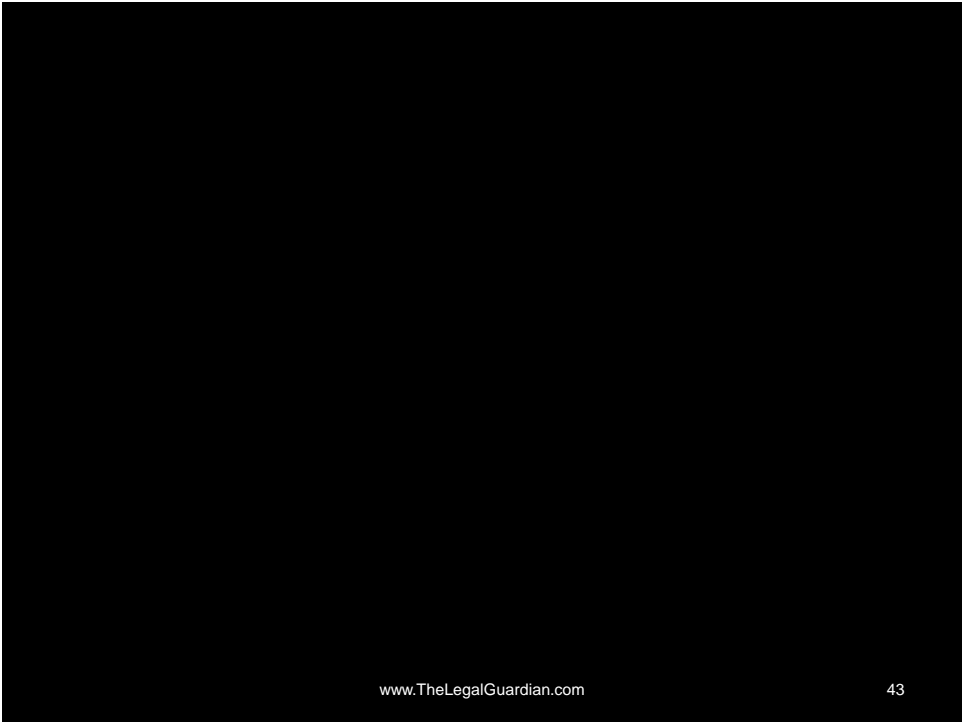
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The very aim and end of our
institutions is just this:

that we may think what we like and
say what we think.

- Oliver Wendell Holmes

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“Silence is Golden”

- Thomas Carlyle

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Let's talk about kids for a minute

There are only two things a child will share willingly; communicable diseases and its mother's age.

Dr. Benjamin Spock

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What is a Child?

Legally:

Any person under age 18



- Considered persons with rights
- Not “legally” competent
- Cannot technically give consent, may assent
- There are exception to consent rule

Consent and assent used interchangeable here

Consent

Verb:

- to permit, approve or agree;
- comply or yield

Noun:

- permission, approval, or agreement;
- compliance, acquiescence



Consent in General



- **Most significant legal issue related to pediatric patients**
- **Age of Consent: 18 years old**
- **Capacity to Consent:** Ability to understand and appreciate the nature and consequences of that to which the person is consenting

Exceptions to Age Requirements for Consent

1. Emancipated Minor
2. Minor Living Apart
3. Pregnancy/Abortion
4. Drug/ETOH Treatment
5. Family Planning
6. HIV/AIDS
7. Communicable Disease
8. Mental Health Treatment
9. Pregnancy/Birth
10. Rape
11. Sexual Assault
12. STD's
13. Suspected Child Abuse



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CONFIDENTIALITY



"The EMS provider **SHALL** inform the parent or guardian where implied consent is applied to justify treatment and transport"



Unless EMS is Called for:

1. Pregnancy
2. Contraception
3. Abortion
4. Sexual Assault
5. Rape
6. Mental Health
7. Communicable Disease
8. STD
9. HIV/AIDS
10. Drug/ETOH Treatment

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CONFIDENTIALITY



Pregnancy – Abortion – Contraception
Sexual Assault* – Rape – Mental Health
Drug/ETOH Treatment

The health provider is **NOT** permitted to inform a parent or legal guardian or share medical records without the minor's consent

*If provider reasonably believes parent is perpetrator.

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Parental Refusal on Behalf of Minor

- Generally, parent has the right to consent to or refuse medical care for a minor child
- If the parent's refusal of care equates to neglect, nearly all states allow for a temporary guardian to be appointed or some other method of state intervention in order to consent to the necessary treatment – **There is NO religion exception**

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Oh, you want to talk about
documentation?

Me, too!

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IF YOU DID NOT WRITE IT, YOU DID NOT DO IT!

...just because you wrote it does not mean you did it.

IF YOU DID NOT WRITE IT, THEY DID NOT SAY IT!

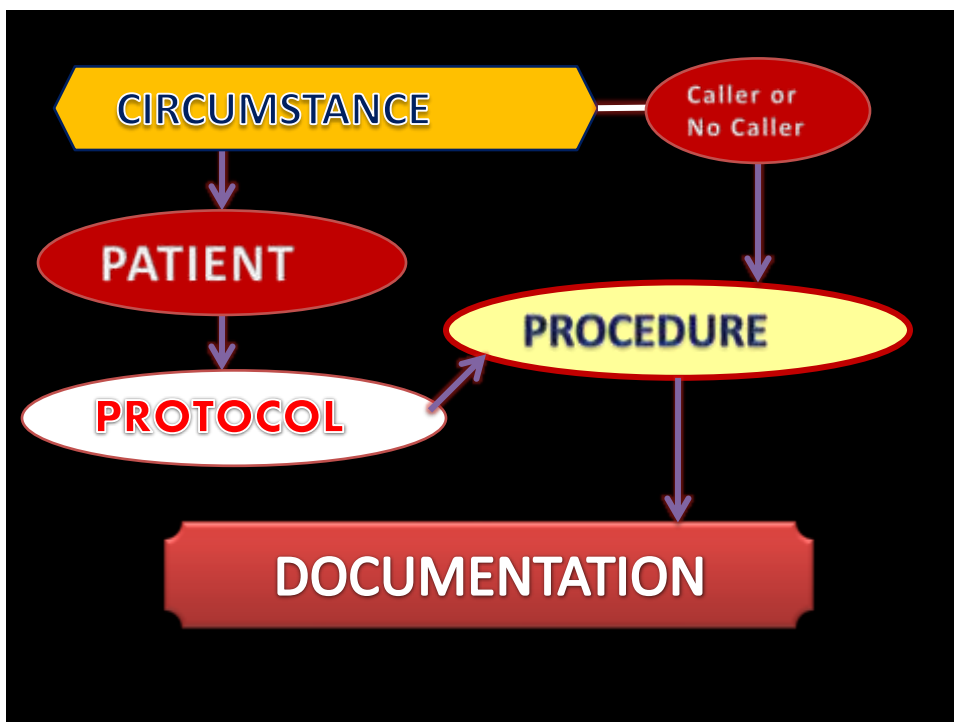
IF YOU DID NOT WRITE IT, YOU DID NOT SEE IT!

IF YOU DID NOT WRITE IT, YOU DID NOT SAY IT!

AAAA

A Legally Sufficient Narrative will Reflect the Provider's

1. **A**PPRECIATION OF THE CIRCUMSTANCES
2. **A**SSESSMENT OF THE PATIENT
3. **A**WARENESS OF ASSOCIATED PROTOCOLS
4. **A**PPPLICATION OF TECHNIQUE



CIRCUMSTANCE



Responded to an officer involved shooting.

CIRCUMSTANCE

ASSESSMENT

Responded to an officer involved shooting. Found 26 y/o M lying face down with multiple ESSUs to head. Pt was handcuffed. He had 2 large open wounds to the top of head with eversion of brain. LAPD also reports he was possibly hit by vehicle. Upon arrival pt was found to be unresponsive, pulseless, & apneic. Determination of death per Ref. 814 "Evisceration of Brain" @ 1951 hrs (Mia, Onk) by.

PROTOCOL



WTF?!?

Patient File No.	Insurance Carrier	Account No.
PATIENT c/o PAIN LT. LEG, PATIENT HAS BLOOD CLOT SAME.		
- TRANS ONLY -		
NO SIG WRO H/X		
Meds: <input type="checkbox"/> No Viagra type < 24 hrs		
Allergies: NKA / UNK /		
<input type="checkbox"/> Asthma <input type="checkbox"/> COPD <input type="checkbox"/> Current Complaint <input type="checkbox"/> Heart Disease <input checked="" type="checkbox"/> No Sig. Hx. <input type="checkbox"/> Seizure		
Time	DOB	Thrup

If patient was in no distress and no EKG and no pulse-ox, and no B/P machine, how did the provider get an odd number?

TRANSFER	Time	ID#	BP	Pulse	Resp.	EKG
	2130	1140	81	83	18	C
<input type="checkbox"/> Patient declined offer of LAFD transport			Signature of patient (or guardian) declining transport and receiving After Care			

VITALS/VS	Time	ID #	Blood Pressure 5 & Under BP < 70 Adult BP < 90	Pulse	R/I	Resp. RATE T Vol ↑ ↓ N	SpO2%	Time	ID#
	2042	2142	84	82	R	22	N		
	2043	1140	80	80	R	19	98		
EKG									

If patient was in no distress and the narrative illustrates the absolute minimum attention to detail, thus no clinical urgency for repeat vitals assessment, how easily could a juror be persuaded that these vital signs are made up?

RE: 20 MONTH OLD FOUND IN DADS ARMS. INVOLVED IN MINOR TA, IN CAR SEAT. BECAME UPSET WHEN HE SAW MOM BEING C-SPINED. PT APPEARS IN NO DISTRESS.

VITALS / MEDS	Time	ID #	Blood Pressure 6 & Under BP < 70 Adult BP < 90	Pulse	R/I	Resp. RATE T Vol ↑ ↓ N	SpO2%	EKG	Time
	17:31	2	Pt. Acting Normal						

"PT. ACTING NORMAL"

My Favorite!

[Redacted]		Insurance Carrier	Insurance No.
Ast. Hurt R+ Knee 10 OR 12 B-xx since about 6:00pm Hurts to Bend			
Mandy 1240 Magnolia - 24 Hrs Allergies: N/A / LAR /	[] Chronic Conditions [] Heart Disease []	[X] No Op. Hx. []	[] Suture [] Laceration
Time	Age	Temp / Tach	

Documentation on the P.A.T.I.O.

Prompt • Accurate • Thorough • Intelligent • Objective



Documentation on the PATIO

P.A.T.I.O.

- Prompt
 - **COMPLETE** the PCR Promptly
 1. At the hospital
 2. Prior to releasing the patient
 3. Immediately after the call
 4. As soon as is reasonable

Here is where you Say:

“Dude, you’re living in a dream world...

We are way too busy to complete every PCR at the hospital or on scene!”

Then I say:

“Really?”

And I push the button.





Documentation on the PATIO

P.A.T.I.O.

- **Accurate**
 - Make certain that the information on the PCR is correct; only **ACCURATE** information has any value
 1. Verify information
 2. Don't assume or guess
 3. Ask for clarification

Documentation on the PATIO

P.A.T.I.O.

- **Thorough**

Paint a Picture, Tell a Story

- What did you see, hear, smell, feel?
- What did they say? • What did you say?
- What did you do? • When did you do it?

Documentation on the PATIO

P.A.T.I.O.

- **Intelligent**

1. **Clear**
2. **Organized**
3. **Confident**
4. **Relevant**
5. **Correct (spelling & abbreviations)**

in·tel·li·gent (ĩn-těł'ə-jənt)

adjective

Showing sound judgment and rationality: Having intelligence

an intelligent decision; an intelligent solution to the problem.

Documentation on the PATIO

P.A.T.I.O.

- **Objective**

- 1. Stick to the FACTS**

- What do you know for sure?
- Attribute information to the source
 - Patient
 - Witness
 - Family Member or Bystander

- 2. Avoid Opinions**

Documentation & Career Considerations

- **Maintain Confidentiality**

- **Required** under Tort Law
- **Required** by HIPAA
- **Required** by the Your State
- **Required** by the Your County/Region
- **Required** by the Your Agency

Refusal of Care, Transport

**THE SINGLE MOST
DANGEROUS TYPE OF CALL
YOU WILL EVER HAVE!**

Non-Transports Require ACTION

A.C.T.I.O.N.

1. **Assess** – Patient, Situation
2. **Consider** – Causes, Consequences
3. **Talk** – Causes, Consequences, Wants, Needs
4. **Introduce** – Alternatives, Risks, Resources
5. **Offer** – Transportation to the Hospital
6. **Note** – Document, Witness



Refusal of Care, Transport

- **Make sure** the patient is **informed** in his or her decision
 - Explain **risks**
 - Explain **consequences**
 - Ask that the patient **repeat the information** back to you
- Consult with on-line medical direction
 - Suggest that the patient speak with the Physician or Base Hospital Nurse

Refusal of Care, Transport

- If necessary, attempt to get someone to stay with the patient.

Document or Die!

- Document the **entire situation** thoroughly
 - What you **saw, heard, smelled...**
 - What [everyone] **said, did, implied...**
 - Who was there: **Witness ID & statements...**
 - What **YOU said & did**

Refusal of Care, Transport

Advise the patient *[and patient's family]* he or she

...MAY...

...SHOULD...

...MUST...

call again for help

“Calamity is the test of integrity.”

- Samuel Richardson



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“The road to Hell is paved with
good intentions.”

- Unknown

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The right to be heard does not
automatically include the right
to be taken seriously.

- Hubert H. Humphrey



“That’s all I really have to say
about that.”

- Forrest Gump

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**DOING THE RIGHT THING
IS NOT ALWAYS EASY...**

**BUT IT’S ALWAYS THE
RIGHT THING.**

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THANK YOU!
GOOD LUCK AND STAY SAFE!

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