Who’s in charge?

Medical and Operational Scene Control

There is an age-old question in EMS: “Who’s in charge”? Answering that question is not always as easy - or as straightforward - as it seems.

In fact, that question usually generates more questions than it does answers: are we talking about who’s in charge of an incident scene? That may be the fire department. What if the scene involves a potential crime? That may be law enforcement. What if the incident involves hazardous materials? That may be a haz mat team.

Are we talking about who’s in charge of patient care for the sick or injured involved in the incident? Maybe that would be the EMS agency. Are we talking about incident command of a mass casualty incident (MCI)? That may be any of the above, though it is usually the first responding agency under a unified incident command structure.

As we’ve already made clear just from the questions raised above, there is never a “one size fits all” answer to the question of who’s in charge. First and foremost, you’ll need to consult your own state’s laws. Though it’s not common to see a clear answer to this question in state law, some states have attempted to regulate this issue, and it would be important to know what your particular state’s laws have to say.

Let’s look at one common “who’s in charge” question that arises in EMS. If an ambulance crew is comprised of an EMT and a paramedic, is the paramedic always “legally responsible” for all patient care issues? And, if so, is this true even if it’s a strictly BLS call?

In medicine, many states follow the so-called “Captain of the Ship” doctrine, a common law rule which holds a surgeon responsible for any and all negligent acts or omissions that occur inside the operating room, even if they were someone else’s fault. However, there are no cases of which we’re aware that have expressly applied this same doctrine to a paramedic in the ambulance. Therefore, a court properly applying principles of negligence law would be compelled to judge each member of the crew, and the ambulance service, by the standard of care applicable to them. That is, the paramedic and EMT must each act, respectively, as would a reasonably prudent paramedic or EMT.

While it is generally considered to be within the standard of care for a paramedic to perform an assessment and then “hand off” a patient to a BLS provider for transport after determining no ALS interventions are necessary (even Medicare has adopted this rule in its ambulance reimbursement policies), that doesn’t mean the paramedic is off the hook for all legal responsibility.

First, the paramedic can be legally liable if his or her decision to hand off care to the EMT was negligently made, and the patient suffers harm as a result. On the other hand, if the paramedic acted reasonably in handing off care to an EMT, and the EMT becomes the primary caregiver, then of course the EMT is responsible to uphold the standard of care applicable to an EMT. If the paramedic is driving the ambulance and the EMT is providing care in the patient
compartment, the paramedic would not ordinarily be responsible for the EMT's negligent acts or omissions, unless the paramedic knew or had reason to know of them and took no action to prevent harm to the patient.

Of course, these are general legal principles, and how the law might be applied in any particular case can't always be predicted. Paramedics and EMTs can best prevent legal liability by ensuring that they always work together in the best interests of patient care.

However, when you look outside the context of EMS, the “who’s in charge” question often becomes more murky. Certainly if one or more patients are involved in an incident, EMS should always be included in the command decision process. Nevertheless, EMS may need to defer to the fire officer in charge where there are hazards involved that require mitigation before patient care can effectively be rendered. Likewise, if there is an unsafe scene due to a dangerous person with a weapon, then EMS should of course defer to law enforcement. Running into an unsafe scene just because you’re “in charge” could leave you “in charge and dead.”

In many systems, MCIs are handled differently, with agencies all subscribing to a unified incident command structure. Your agency’s MCI command policies should be followed in these incidents.

At the end of the day, the question of “who’s in charge” is not always easily answered. It is best addressed at the local level, with the various public safety agencies - police, fire, EMS, emergency management and others - sitting down in advance to pre-define appropriate roles and responsibilities. The worst possible outcome would be for disputes to erupt on an incident scene, in a time of crisis, which, of course, has the potential to cause chaos and substantial operational disruption.

With chaos and disruption could come potential legal liability for everyone involved. Therefore, this is one of the critical aspects of public safety response that must be determined in advance. Then all of the EMS practitioners within your agency must be educated in your agency’s policies and procedures, and must aim to work cooperatively with other public safety agencies to ensure that smooth, efficient and high-quality services are delivered to those in need.