PSM 409 Legal, Political and Regulatory Environment of Emergency Medical Services

Course Description: This is an upper-level baccalaureate course for students interested in the field of legal, political and regulatory environment of Emergency Medical Services (EMS). This course introduces the EMS professional to the legal aspects of EMS. Students explore issues in malpractice, consent and refusal of treatment, Occupational Safety and Health Administration (OSHA), employment issues, and risk management. EMS students gain insights into the legal liabilities in EMS.

Prerequisites: None

Course Objectives:

Module 1: Basic Framework of the United States Legal System

The students will:
1. Identify federal and state laws, which affect EMS.
2. Describe how the three branches of government work together to form laws and regulations that apply to EMS.
3. Differentiate between statutory law and case law, and be able to explain their applicability to the EMS world.
4. Possess a basic understanding of administrative and regulatory law, and be familiar with how administrative laws apply to the EMS system.
5. Identify several situations where EMS personnel could be subject to various provisions of the criminal laws.
6. List checks and balances built into the EMS system.
7. Describe the legal systems in the U.S., with federal and state courts, and their impact on EMS.
8. Within the context of the U.S. legal system, describe what challenges EMS organizations face in ensuring compliance with various laws.

Module 2: The Many Faces of Negligence

The students will:
1. Identify the elements of a negligence claim, and apply situational factors to each element.
2. Recognize common EMS negligence scenarios, and explain how to avoid them.
3. Identify the burden of proof placed upon a plaintiff in an EMS negligence case.
4. Apply knowledge of negligence to the special factors involved in EMS patient refusals to explain their special “high risk” nature.
5. Analyze best practices in the areas of training record keeping and equipment logs and their significance in defense of a negligence claim.
6. Distinguish best practices to avoid liability during emergency vehicle operations.

Module 3: History of EMS Law

The students will:
1. Examine the “White Paper,” and understand how the principles contained therein apply to the current EMS system.
2. Grasp how the National Highway Transportation Act has shaped the development of EMS.
3. Comprehend Emergency Medical Treatment and Active Labor Act and how it affects EMS.
4. Explain Consolidated Omnibus Budget Reconciliation Act and its purpose.
5. Identify how “KKK-A-1822 Federal Specs for Ambulances and revisions” were developed with future application of National Fire Protection Association specifications.

Module 4: Forming an EMS System

The students will:
1. List and explain the primary differences between public and private EMS services in the areas of funding, oversight and regulatory issues.
2. Analyze the strengths and weaknesses of different structural concepts for EMS.
3. Examine the role of the EMS medical director, and describe the role of the medical director in the EMS system.
4. Describe the various EMS reimbursement systems and federal regulations on billing for advanced life support and basic life support ambulance transports.

Module 5: Safety Considerations

The students will:
1. Identify security issues faced by EMS personnel, including the scene, patient transport, and emergency rooms in hospitals.
2. Discuss the steps EMS personnel can take to enhance their personal safety while at the scene, during transport, and at hospital emergency rooms.
3. Describe the risks of exposure to infectious disease, and discuss the key elements of an infection control policy.
4. Describe why Congress established OSHA and its applicability to EMS, including those in public service in various jurisdictions and those employed in private EMS companies.
5. Describe the background and purpose of the Ryan White Care Act and how that statute impacts the EMS.
6. Discuss workers’ compensation system and the concept of an administrative system to compensate injured employees without regard to whether the employee was “at fault” when injured.

Module 6: Employment

The students will:
1. Analyze the issues associated with recruiting and retaining EMS personnel, and identify best practices in each area.
2. Describe the importance of background checks, and be familiar with the rules and regulations governing employer and employee rights during background checks.
3. Develop a basic understanding of the Civil Rights Act of 1964, and relate its provisions to the hiring of emergency medical technicians.
4. Identify the applicability of the Immigration and Naturalization Act, the Rehabilitation Act of 1973, and the Fair Credit Reporting Act, and analyze the ways in which each statute governs hiring practices.
5. Identify the critical incident stress management services available to EMS and the importance of confidentiality for those who receive such services.
Module 7: Staffing

The students will:
1. Review best practices in staffing of EMS personnel, including background checks (criminal history and credit history).
2. Identify the advantages of conducting skills testing of EMS applicants.
3. Describe the staffing requirement in your state for an ambulance responding to a scene and transporting a patient to the hospital.
4. Describe why affirmative action consent decrees were issued in the 1970s, requiring dual hiring or dual promotions.
5. Identify best practices in managing EMS personnel to avoid Equal Employment Opportunity Commission complaints concerning racial or religious discrimination.

Module 8: Compensation and Benefits

The students will:
1. Describe the Equal Pay Act, and apply its implications to a modern EMS organization.
2. Analyze the Fair Labor Standards Act, and gain an understanding of its basic provisions that apply to EMS, including hours of work and overtime pay requirements.
3. Develop an understanding of the Family Medical Leave Act, and identify its applicability to the EMS organization.
4. Identify the components of the Uniformed Services Employment and Re-employment Rights Act, and identify best practices for EMS organizations who have service members going into active military service.
5. Describe 401(k) plans and cafeteria plans and the advantages to employees to participate in such employer plans.

Module 9: Operational Laws

The students will:
1. Define sexual harassment, identify the components of a sexual harassment claim, and describe best practices for preventing or handling such issues.
2. Identify the components of the Americans with Disabilities Act, and apply the components to common scenarios faced by EMS organizations.
3. Describe the Age Discrimination in Employment Act.
4. Identify the responsibilities of the EMS organization in a “Drug-Free Workplace” program.
5. Identify the issues associated with random drug testing and other substance abuse issues.
6. Analyze the issues associated with EMS blood draws for police-related matters, and be able to apply the analysis to the needs of the individual EMS organization.

Module 10: Funding Laws

The students will:
1. Develop a conceptual understanding of the Federal Anti-Kickback Statute as it relates to Medicare/Medicaid billing.
2. Identify business practices that could potentially place the EMS organization in violation of the Federal Anti-Kickback Statute.
3. Define “Whistleblower Protection,” identify the many areas within EMS where a “whistleblower” may have protections, and analyze best practices for the EMS organization to handle these issues.
4. Identify the various methods of “fee for service” arrangements, and identify pros and cons of each type of arrangement.
5. Describe the special issues associated with an EMS service that is a “Not-For-Profit” organization under the Internal Revenue Service code.
6. Analyze the role of the EMS organization in grant writing and grant acceptance.

Module 11: Legal Pitfalls of Discipline, Terminations, Layoffs

The students will:
1. Define due process, and apply the concepts of due process to common situations encountered during employment investigations in EMS organizations.
2. Describe the concept of retaliation, and review best practices to minimize the risk of a retaliation claim.
3. Define the Workers Adjustment and Retraining Notification Act, and define its purpose and compliance requirements.
4. Identify the importance of adequate policy manuals, and be able to apply the concepts to several scenarios within the EMS organization.
5. Explain “Employment-at-Will” legal doctrine, which applies in many states, and its effect on EMS personnel issues.
6. Discuss “Right-to-Work” statutes, which apply in some jurisdictions, and how these laws affect EMS personnel issues.
7. Analyze the issues associated with severance and layoffs, and form conclusions with best practices for the EMS organization.

Module 12: Records Retention

The students will:
1. Gain an understanding of the components of the Health Insurance Portability and Accountability Act and analyze the issues that face EMS organizations in the areas of compliance, training and handling violations.
2. Analyze the issues associated with maintaining patient confidentiality with regard to written reports and other patient documents.
3. Identify the confidentiality requirements for employment records, and develop a basic understanding of public records law.
4. Draw conclusions on best practices for maintaining patient, employment and other necessary records that EMS organizations possess.

Module 13: National EMS Representation

The students will:
1. Identify where EMS falls in the political structure of the U.S.
2. Develop an understanding of how EMS fits into various types of interagency operations and how the National Incident Management System affects EMS organizations.
3. Identify the pitfalls associated with the position of the EMS within the governmental structure of the U.S.
4. Analyze how local EMS organizations can play a role in the national EMS response programs.
Module 14: Professional Organizations

The students will:
1. Identify the professional organizations that play a role in the EMS field, and describe what role each organization plays.
2. Identify key standards written by the organizations and how they apply to the EMS organization.
3. Gain a general understanding of EMS accreditation and the steps EMS organizations must take to achieve accredited status.

Module 15: Lobbying for Change

The students will:
1. Define “lobbying” and the role lobbyists play in the development of EMS legislation.
2. Describe the various rules and regulations associated with lobbying and how to avoid ethical violations.
3. Analyze the pros and cons of political activity at both the local and national levels.
4. Explain the role that organized labor and other professional organizations play in the political process.

Outcomes:
1. Identify potential legal and political issues in EMS.
2. Describe legal lessons learned from recent cases, and identify best practices in EMS to avoid legal liability.
3. Analyze and apply legal rules and political issues to manage risk.
4. Formulate political and legal conclusions and recommendations based on the analysis.
5. Locate and apply recent legal and legislative online resources.

Textbook:
“EMS and the Law,” Jones and Bartlett, Jacob Hafter and Victoria L. Fedor “EMS Law - Legal Lessons Learned,” Lawrence Bennett

Supporting References:
No single source available at this time.

Method of Instruction:
Lecture, class discussion, audiovisual, demonstration, illustration, practical application by students.

Assessment:
Students will be evaluated for mastery of learning objectives by methods of evaluation to be determined by the instructor.
**Attendance Policy:**
The faculty of Southern Illinois University Carbondale affirm the importance of prompt and regular attendance on the part of all undergraduate students. Quality instruction clearly depends upon active participation in the classroom or its equivalent learning environment. This concept is further expounded upon in the *Southern Illinois University Carbondale Undergraduate Catalog*. Students who are absent from more than one-third (1/3) of a course’s instructional hours will seriously jeopardize their grade for the course. Students who stop attending or never attend a class without officially dropping that class will be awarded a grade of WF for the class. The WF grade is designed for students who enroll in a course but don’t attend or quit attending and do not drop the course. When awarding the WF grade the last date of attendance or nonattendance must be reported along with the grade.

**Academic Dishonesty Policy:**
Students may be subject to disciplinary proceedings resulting in an academic penalty or disciplinary penalty for academic dishonesty. Academic dishonesty includes, but is not limited to, cheating on a test, plagiarism, and collusion.

**ADA Statement for Students Requiring Special Accommodations:**
As per Section 504 of the Vocational Rehabilitation Act of 1973 and the American Disabilities Act (ADA) of 1990, if accommodations are needed, inform your instructor as soon as possible.

**Safety Instructions:**
Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency. If you are located on a military installation, and depending on the type emergency a senior military member may take control; of the situation and direct you on the action to take. Please follow their instructions and do as asked. Similarly, if you are at a community college, their security personal may arrive and take control of a situation please follow their instructions as well.