Legal Notes

**High Risks for Lawsuits** Most lawsuits filed against EMS personnel allege negligence or a failure to act. Many involve allegations of misplaced endotracheal tubes, problems related to patient restraint, or medication errors and omissions. Be aware of high-risk areas in EMS practice, make sure that you closely adhere to your system’s treatment protocols, and document your care in detail.

**Defenses to Charges of Negligence**

If you are accused of negligence, you may be able to avoid liability if you can establish a defense to the plaintiff’s claim. The following is a list of potential defenses to negligence:

- **Good Samaritan laws.** If the paramedic can establish that his actions were protected by a Good Samaritan law, liability may be avoided. Note that such laws generally do not protect providers from acts of gross negligence, reckless disregard, or willful or wanton conduct, and they do not prohibit the filing of lawsuits.

- **Governmental immunity.** These laws do not offer much protection for the individual paramedic accused of negligence. Though governmental immunity laws vary from state to state, the current legal trend is toward limiting this type of protection.

- **Statute of limitations.** This is a law that sets the maximum time period during which certain actions can be brought in court. After the time limit is reached, no legal action can be brought regardless of whether or not a negligent act occurred. Statutes of limitations vary from state to state, so carefully review the laws in your state. Note that they may vary for different negligent acts and for cases involving children.

- **Contributory or comparative negligence.** Some state laws will reduce or eliminate a plaintiff’s award of damages if the plaintiff is found to have caused or worsened his own injury. For example, imagine that a patient involved in a car crash complained of neck pain but refused to let the paramedics properly immobilize his spine. The paramedics explained the risks of refusing treatment, but the patient signed a “release-from-liability” form anyway. Later, the patient learns that he has permanent spinal-cord damage and sues the paramedics for negligence. Many courts will find that the paramedics were not negligent because, by refusing necessary treatment, the patient contributed to the exacerbation of his own injury.

To protect yourself against claims of negligence, you should receive appropriate education, training, and continuing education; receive appropriate medical direction, both on-line and off-line; always prepare accurate, thorough documentation; have a professional attitude and demeanor at all times; always act in good faith; and use your own common sense. In addition, it is essential for all paramedics to be covered by liability insurance. Although many employers and agencies carry coverage, it is a good idea to obtain your own because your agency’s coverage may be inadequate.