Handbook for EMS Medical Directors

Section 3: Becoming a Medical Director
Objectives

After completing this section, the medical director will be able to:

1. Identify the scope of activities an EMS medical director may be involved in
2. Describe the education and training a medical director should receive
3. Recognize the types of affiliation agreements and their general features a medical director may need to consider
After completing this section, the medical director will be able to:

4. Discuss the various forms of compensation and liability coverage which need to be addressed

5. Understand the various areas that need careful consideration when addressing and potential limitations of the medical director’s authority
Objective 3.1
Identify the realm of activities in which a medical director will be involved
The medical director is an integral component of an EMS agency
- Authority over all clinical and patient care aspects of the EMS agency
- Specific job description dictated by local needs

EMS medical direction involves granting authority for EMS providers to practice, and accepting responsibility for their delivery of patient care
• Medical oversight and direction are essential to all EMS systems
  – Medical oversight ensures care is rendered by competent medical professionals, consistent with accepted standards
  – Medical direction is narrower than oversight as it defines treatments EMS providers render when presented with medical conditions
• EMS providers obtain certification or licensure through a department or office located within their state government

– Certification or licensure may not give permission for the EMS provider to function without being under the supervision of a licensed EMS agency and medical director
• Medical directors need to check with their state EMS office to determine what requirements for medical direction are specified
  – ALS agencies must have a medical director for paramedics to perform advanced therapies and patient care interventions
  – There is variability among state requirements for medical direction for BLS agencies and providers
EMS providers function under the supervision of a medical director for patient care related activities.

The medical director is responsible to ensure patient care activities performed by EMS providers are appropriate:
- Must be within their scope of practice
- Must be within the agency’s operational expectations
• EMS providers are dually accountable to their agency’s hierarchical structure
  – It is critical the medical director work collaboratively with agency’s leaders
  – Collaboration will aid in ensuring the EMS program administrative, operational and clinical components are cohesive and complementary
• There are many components of EMS agency operations in which the medical director should be engaged:
  – Education and training activities
  – Protocol and policy development
  – Quality improvement activities
  – Liaison with other components of the health care system
  – Oversee remediation of providers related to their patient care functions
Objective 3.2

Describe the education and training a medical director should receive
• Specific qualifications, responsibilities, and authority differ across states and among individual EMS agencies

• Several organizations establishing consensus standards and professional associations have described education and training requirements for EMS medical directors
Physicians who complete a residency in emergency medicine are exposed to the fundamentals of EMS systems as part of their core education.
The American Board of Emergency Medicine (ABEM) announced (September 2010) the creation of an EMS subspecialty certification for physicians:

- ABEM expects to begin examination process in 2013
- Eligibility requirements and additional information can be accessed at ABEM Web site
EMS fellowship training programs will become fully accredited by Accreditation Council for Graduate Medical Education (ACGME)

- Additional fellowship information can be accessed at the ABEM Web site or the NAEMSP Web site
• An EMS medical director must hold a current unrestricted license to practice medicine or osteopathy issued by their state’s Board of Medicine
• Many states require completion of an EMS medical director training course
• Initial medical director training may be available at the local, regional and state level
  – Many states have their own training course
  – Many states will accept completion of a nationally recognized course
    • Training course may be offered at national conferences
  – On-line courses are available
• If Board Certified in Emergency Medicine (ABEM or AOBEM), there may only be a requirement to complete the state’s medical director training program.

• If not Board Certified in Emergency Medicine, many states require current certification in:
  - Advanced Cardiac Life Support (ACLS)
  - Advanced Trauma Life Support (ATLS)
  - Pediatric Advanced Life Support (PALS)
  - Completion of the state’s medical director training course.
• There are variations in what states require for initial medical director training and continuing education

• Contact your state EMS office for assistance in specific requirements and locating class offerings
• Numerous consensus positions or standards can be found addressing the initial and continuing education of a medical director

• Many professional associations have position descriptions, educational materials, and supporting materials that can be accessed on their Web sites
• The EMS agency needs to provide support and specific training for the medical director
  – Orientation to introduce personnel and understand the organization’s structure and operations
  – Orientation should include a tour of all facilities and orientation to apparatus and equipment typically used
• If agency vehicles will be operated by the medical director then the agency needs to provide an Emergency Vehicle Operator’s Course (or equivalent approved course)

• OSHA (29 CFR Part 1910.1030) requires the agency to provide infection control training prior to medical director performing any field activities or ride-alongs
• If the agency provides specialized response components (e.g. HazMat, Tactical EMS) there may be additional training necessary

• The agency needs to provide access to and orient the medical director to existing standard operating procedures, training curriculums, and protocols
• Requirements vary from state to state
  – Some states will require annual or biannual updates
  – If not required by the state, many agencies may prefer specific certifications (e.g. ACLS, ATLS, PALS) are maintained
• National and state conferences may offer continuing education and networking opportunities
Objective 3.3

Recognize the types of affiliation agreements and their general features a medical director may need to consider.
• When agreeing to be a medical director, a written agreement with the agency is needed and may be required by state rules or statues
• Agreements need to provide:
  – Position description
  – Expected tasks
  – Performance criteria
  – Compensation (if any)
  – Provided resources
  – Liability coverage
  – Process for dispute resolution
Affiliation agreements can vary from agency to agency

- Need to understand ramifications of the written agreement and the advantages and/or disadvantages of the form of relationship
- Seek independent legal and tax professional consultation
- Ensure adequate protection and expectations are clearly defined regardless if position is uncompensated or compensated
• Forms of affiliation agreements include
  – Hire/Employee
  – Independent Contractor
  – Memorandum of Understanding (MOU) and Memorandum of Agreements (MOA)
Medical director becomes competitively hired or appointed within the agency

- Agency size, complexity, scope and needs may dictate if position is appointed, part-time or full-time position
- May have perceived advantages such as benefit coverage or automatic tax related deductions
- May have perceived disadvantages by being accountable to an agency supervisor or potential employee restrictions on lobbying activities
• Agencies may contract for medical direction services
  – Agreement is governed by contract law
  – General requirements include contract purpose, legal issues, identification of the parties, an offer and acceptance to perform services, what agreed upon resources, responsibilities, penalties, and process for contract termination
  – Contracts can cover either uncompensated or compensated relationships
• Typically define and clarify the relationship between two parties
  – An agreement between parties to cooperatively work together on a project
  – May have perceived disadvantages in areas of legal representation and liability coverage
  – Can cover either uncompensated or compensated relationships
• A position description will identify the duties and responsibilities, but will not identify how they are performed
  – Performance expectations are a measurement tool for understanding if duties and responsibilities are met
• EMS agency’s administration should clearly communicate the performance expectations
  – Both the agency and medical director must understand and ensure a balance between performance expectations and time commitments
• This information is often included in the position’s job description, contract, MOU or MOA content
Performance expectations are specific, measurable, realistically achievable, results or outcomes oriented, and have associated time lines where appropriate.

- The Handbook contains specific examples of sample performance expectations.
Objective 3.4
Discuss the various forms of compensation and liability coverage which need to be addressed
• Depending on the scope of services required, the medical director may or may not receive compensation and/or benefits

• The EMS agency’s resources will vary depending on locale
  – Many may require charitable contribution of the medical director’s time and expertise
  – In any case, the medical director needs to ensure their personal protection for both liability and injury
The EMS agency needs to provide support and resources which may include:

- Agreed upon compensation (hourly or salaried)
- Materials and personnel assets (e.g. costs associated with uniform, equipment, travel, continuing education, or professional organization memberships)
- Liability protections
• Each state identifies and controls Worker’s Compensation insurance policies
  – Coverage is mandatory for employers to cover employees for injuries incurred in the course and scope of employment
• Understand how the affiliation agreement relationship may be impacted by the form of agreement

  – Worker’s compensation may be a recognized benefit with employee/employer relationships
  – Worker’s Compensation coverage is almost never included with contractual, MOU or MOA agreements
• Affiliation agreement considerations continued
  – An EMS agency may require medical director to obtain Worker’s Compensation insurance for the medical director and staff the medical director may employ
  – An EMS agency may require the medical director to indemnify and hold agency harmless from claims for these obligations
• Check with the agency’s leadership for specific Worker’s Compensation requirements
• If the EMS agency requires specific certifications to be maintained, the agency may bear some of the obligation to support the medical director in those activities.
• Professional journal subscriptions or conference attendance may be negotiated.
• Expectations must clearly be stated in the job description and affiliation agreements.
• If the medical director receives compensation but is not an EMS agency employee, the medical director will be individually responsible for all federal and state taxes including:
  – Social Security
  – Medicare taxes
  – Self-employment related taxes
  – Obligations including federal and state income tax withholding
• In this situation, the medical director should consult an independent tax professional for guidance
• Any form of affiliation agreement should describe how the agreement can be terminated, including:

  – Timing of intent to terminate on either party’s behalf - typically 90 days notice is minimum

  – How property owned by the agency is returned

  – How compensation is adjusted or reconciled

  – How liability protection is addressed for any future cases that relate back to the time covered by the medical director’s activity
• Typical physicians malpractice insurance may extend to some of the EMS medical director activities, but it is unlikely to provide coverage for all potential liabilities.

• The medical director must have a clear understanding of who, what and when their activities are covered and which are excluded by the agency’s liability policies.
• Coverage needed includes:
  – Medical malpractice coverage
  – Errors and omission insurance
  – Covered under the agency’s general liability policy
  – If considered to be serving in a agency’s leadership role then directors and officer’s insurance coverage may be also needed
• Obtaining adequate liability coverage can be challenging

• Resources include
  – Agency’s insurance carrier
  – A rider to your clinical practice’s insurance policy
  – An independent insurance broker who deals in "unique" coverage circumstances (large, national/international broker)
  – Specific commercial insurance coverage for EMS physicians
  – Insurance available through professional organizations
Seek independent consultation with an attorney familiar with liability issues regardless if medical director position is uncompensated or compensated
Medical malpractice is an act of commission or omission by a health care provider when care deviates from accepted practice standards which results in a patient’s injury or death.

– The policy must include coverage for risk and liabilities that occur in the field setting where patient care has been provided.
Errors and omission insurance helps provide coverage for defense costs and damage awards associated with professional liability claims

- Must cover the risk associated with any non-patient care activities (e.g., oversight and training exposures)
- Typically does not cover intentional, fraudulent or illegal activities, and many policies will not cover punitive damages
• EMS agencies generally have a commercial general liability policy which should extend coverage to their medical director

• Issues related to employment practices are a large area of general liability exposure for the medical director
  – Employment Practices Liability (EPL) provides coverage for these types of claims
  – The agency may provide this coverage if the medical director is involved in employment-related activities or decision making
• Provides coverage against legal defense costs and indemnity for the agency’s directors and officers
• Provides coverage for personnel in legal claims that assert internal mismanagement or performance of wrongful acts while acting in agency director or officer capacity
• Medical directors need to require EMS agency to include indemnification in the service agreement

  – Indemnification simply means the EMS agency will agree to assume financial responsibility associated with defending claim and will be responsible for monetary awards if an individual prevails in a lawsuit related to performance of medical director duties
• Without an indemnification clause, the medical director could be held personally liable for financial damages awarded
Objective 3.5
Understand the various areas that need careful consideration when addressing and potential limitations of the medical director’s authority.
• The medical director is recognized as a leader of an EMS agency, but the position is not the only leadership position in the agency

– The medical director is responsible for overseeing the patient care components of the agency’s operations, and must work in concert with the agency’s administrative and operational leaders
• A medical director is expected to comply with accepted professional, moral and ethical activities

  – Actions must be performed in accordance with standard workplace practices and carried out in a non-discriminatory manner
• There are a few areas where the lines between clinical, administrative and operational practice become blurred and seem to carry over into the different realms
  
  – The medical director supervises the EMS providers’ medical practice
  
  – The provider’s employer is generally responsible for the hiring, promoting, terminating or other employment actions
• Depending on the agency type, the medical director’s involvement with hiring and advancement of personnel may be limited
  – May be requested to assist in development of medical qualifications and credentialing or review of applications or resume information as it pertains to medical knowledge or credentialing
  – Actual decisions to hire or promote individuals will not likely be a decision that directly involves the medical director
If the medical director also functions as a managing partner of the agency (e.g., private or hospital based agency), the involvement in hiring and promotional decisions may more directly involve the medical director.
• The medical director is responsible for clinical application of patient care policies, procedures and protocols
  – When concerns arise regarding the clinical performance of providers, the medical director may be involved in identifying those concerns and recommending appropriate remedial actions but may not be further involved in decisions regarding disciplinary action
• There may be workplace regulations related to performance investigations
  – Include requirements for specific steps and notifications
  – Determinations and development of remediation plans involves collaboration with administrative leaders in the EMS agency
  – The medical director should be knowledgeable of these due process requirements prior to the initiation of any investigative process
• There may be occurrences in which the medical director chooses to limit or suspend a provider’s privileges to provide patient care
  – Any further actions related to the provider’s continued agency affiliation based on patient care restrictions are the agency administration’s responsibility and may also be subject to state or local regulations
• Limiting or revoking a member’s privileges to provide patient care continued
  – The medical director must recognize agency level disciplinary actions related to direct employer-employee relationship are separate from the medical director’s clinical responsibilities
  – The medical director should not become involved in those specific deliberations unless the medical director has a dual management role in the agency
Budget and procurement activities can be highly structured and governed by regulatory requirements

- The medical director may provide input and recommendations specific to patient care needs and initiatives

- Final decisions on budgeting and expenditures, including regulatory compliance, should be carried out by the agency’s administrative leadership
• Budget and procurement activities continued

  – The medical director, when working in concert and agreement with the agency’s administrative leadership, may become engaged in advocacy for budgetary needs with elected and appointed governmental leaders.
• The medical director should always maintain awareness of potential professional, political, or financial conflicts of interest that may arise
  – If a conflict of interest exists, ensure your agency is made aware of this in writing
• Awareness of potential conflicts of interest continued
  – As a contractor, the medical director cannot be compelled to participate in a decision or action that they believe to be a conflict of interest

• The *Handbook* has conflict of interest examples and suggested steps for resolution