Pennsylvania Court Overturns EMS Medical Director

Detailed procedures can help or hurt quality of EMS care

A recent case from the Commonwealth of Pennsylvania shows an unusual ruling by a court upholding the Department of Health's decision to overturn an EMS medical director's withdrawal of medical control from a paramedic. Leonard Rubin, DO, the medical director for Cheltenham Township EMS, appealed an order from the Department of Health, which had overturned Rubin's decision to withdraw medical command authorization (MCA) from paramedic Jeremy Fox. The Department further ordered that all references to the withdrawal of MCA be removed from Fox's records and that Fox wasn't obligated to report the withdrawal on any future licensing applications, or to any future EMS agency or medical director.

It is the first of its kind to reverse the decision of an EMS medical director with respect to a medical control decision. In most states, EMS medical directors generally have significant latitude in requiring remediation as well as in withdrawing or limiting medical control supervision of an individual EMS provider. The complex bureaucratic process involved in this case appears to undermine the authority of the medical director, and potentially leaves the medical director without sufficient recourse to enforce his supervisory authority over patient care.

Background

Pennsylvania law requires a person to obtain MCA in order to be a paramedic. MCA is defined as "permission given by the service's ALS medical director to perform, on behalf of an ALS ambulance service, ALS services under medical command or in accordance with department-approved regional EMS medical treatment protocols."

The regulations further state that the medical director determines whether "to grant, deny or restrict MCA to a paramedic who seeks to provide EMS on behalf of an ALS ambulance service." The medical director is required to document how the decision is made. If she or he denies or restricts an individual's MCA, it must be done "in a written document provided to the individual." After initially granting MCA, the medical director is required to review each paramedic's MCA annually to insure that the paramedic "has demonstrated competence ... in performing each of the services that fall within the scope of the individual's MCA." Pursuant to the annual review, the medical director may renew MCA, renew with a requirement of continuing education in any field deemed appropriate, restrict MCA or withdraw it entirely.

If the medical director determines that MCA should be restricted, the restriction "must not preclude the individual from performing the services specified within the scope of the individual's certification or recognition as permitted by the medical treatment protocols for the region." Thus, acceptable restrictions include a requirement for on-scene supervision, or permitting certain skills to be performed only with on-line medical control.

A paramedic can appeal denial of MCA to the regional EMS medical director and request a hearing, after which the regional EMS medical director will render a written decision. If the paramedic then disagrees with the regional EMS medical director's decision, they may appeal to the Department of Health, which will review the record and may hear additional argument and evidence. It will then issue a final decision.

The Cheltenham Township case

Fox was hired in January 2009 and Rubin granted restricted MCA for initial service precepting. Fox obtained full MCA within a few months but then went on six months leave for a non work-related injury.

Fox returned to work under a rotating preceptor arrangement and, a few days later, responded to a motor vehicle crash along with two other paramedics, Mike Riley and Michael Smaltini. Riley was precepting Fox during this incident. Fox administered two doses of Versed to the patient to facilitate intubation, in violation of statewide protocol. He administered the first dose without obtaining on-line medical control; the second dose was authorized.

The record indicates that Riley witnessed Fox administer the first dose but didn't attempt to prohibit him. Fox prepared a patient care report after the call, and Riley edited it. All three paramedics submitted an incident report. Rubin interviewed...
Riley and Smaltini but didn't interview Fox. He commented that the overall care appeared to be good, and that the authorization for the second dose of Versed was tacit approval of the first dose, which had been given in violation of protocol.

Although Rubin required Fox to take an airway course, he didn't restrict his MCA due to his years of service. Two weeks later, Rubin withdrew Fox's medical control, but didn't provide the form or any formal paperwork to Fox indicating that his MCA was withdrawn, instead presuming that the service would do so. Fox was notified of the withdrawal verbally by Smaltini and the EMS service director at a meeting during which he was also terminated.

Fox appealed to Benjamin R. Usatch, MD, the Montgomery County regional EMS medical director. Subsequently, Rubin changed the withdrawal to a restriction, requiring 100 hours of continuing education before the restriction would be lifted. Rubin intended to restrict Fox from working until he completed the continuing education. Fox appealed the restriction. It was dismissed and Fox appealed to the Department of Health.

The department heard the issue of whether Rubin's withdrawal and subsequent restriction of Fox's MCA comported with its regulations. The hearing officer determined that Rubin had never directly spoken with Fox and never offered Fox the opportunity to rebut the allegations. He further found that Rubin failed to document the reasons for the withdrawal of MCA, and that further investigation should have been done after the incident.

The hearing officer also determined that Riley was supposed to be precepting Fox but that there was clearly a lack of supervision when Fox administered the first dose of Versed. Ultimately, the hearing officer found that Rubin failed to meet his burden, and that there was insufficient evidence showing that Fox was incompetent enough to warrant withdrawal of MCA.

Rubin appealed to the court on the grounds that a protocol violation is sufficient, in and of itself, to warrant withdrawal of MCA. The court found that Rubin had performed an inadequate investigation by failing to interview Fox, and that he had failed to justify the disparity in discipline of Fox and Riley, and agreed with the Department to overturn Rubin's decision.

This case provides a look into the very detailed procedural requirements for restriction or withdrawal of EMS medical control in Pennsylvania. Many states do not afford EMS this level of due process under similar circumstances. The presence of this detailed process appears to undermine the authority of the EMS medical director while providing EMS personnel with significant rights to have a decision reviewed. Whether this ultimately helps or hurts the quality of EMS care is an issue to consider.

Reference:
Dr. Leonard Rubin, Cheltenham Township Emergency Medical Services Medical Director, and Cheltenham County Emergency Medical Service v. Jeremy Fox, 60 A.3d 179 (Commonwealth Court of Pennsylvania).

EMS People
Edward Van Horne Named AMR President

On June 21, Envision Healthcare Corporation, the parent company of American Medical Response (AMR) Inc. announced that Edward "Ted" Van Horne has been appointed president of American Medical Response. Previously, Van Horne was the chief executive officer for AMR's south region.

Van Horne began his EMS career in 1988. Since joining AMR, he has served as the director of operations in San Bernardino County, Calif., and vice president of business development for the west region.

Van Horne replaces Mark Bruning, who stepped down in January. William A. Sanger, chief executive officer of Envision Healthcare, has been serving as interim president.

According to AMR.net, AMR provides medical transportation services in 40 states and the District of Columbia, employs more than 17,000 paramedics, EMTs, registered nurses and other professionals, and transports more than three million patients nationwide annually.

Also in June, AMR's parent company changed its name from Emergency Medical Services Corporation to Envision Healthcare Corporation. The Greenwood Village, Colo.-based company was purchased by an affiliate of Clayton Dublier & Rice, a private equity firm.

In addition to AMR, Envision Healthcare operates EmCare Holdings Inc., the nation's leading provider of outsourced emergency department and facility-based physician services and Evolution Health, which provides comprehensive care to patients across various settings, many of whom suffer from advanced illnesses and chronic diseases.

On the same day as the announcement of VanHorne's appointment, Envision Healthcare Holdings, Inc., the indirect parent of Envision Healthcare Corp., filed a registration statement with the U.S. Securities and Exchange Commission proposing to raise up to $100 million in an initial public offering of common stock. As of press time, the number of shares and expected price had not been disclosed.