NSP MEDICAL PROFESSIONALS ARE GOOD SAMARITANS

Historically, tied into the fabric of patrolling, is the quiet support and care which patrollers who are doctors and patrollers who have advanced medical training bring to our great organization's mission of caring for an injured skier. This small group of patrollers always contribute to improving the medical care at NSP member ski areas. It is NSP's medical committee Physicians and patrollers with advanced medical training; e.g. paramedics and nurses who freely give their time to NSP and have helped develop NSP's OEC program. It is these medical professionals who have developed the OEC program to the point where NSP is now the premier provider of outdoor emergency care. NSP's reputation might have started with an idea formed by Minnie Dole at Stowe, Vermont, to provide first aid care to injured skiers, but, with the help of NSP's medical professionals, NSP is now known as the "gold standard" for providing emergency care to the snowsports enthusiasts throughout the world.

With the above said, the question is posed as to what NSP can do to encourage its medical professionals to contribute their time and professional expertise to patrolling activities. One thing we can do is to be honest and educate these professionals as to their legal exposure in patrolling. Interesting enough, analyzing these individuals' legal exposure reveals that they are favorably treated by the law and favorably treated as to their insurance coverage.

The new OEC 5th Edition represents an effort by NSP to clearly assert that in many states a doctor or medical professional may be held at a higher level of training than an OEC technician, that being their level of professional training. This is an honest statement set forth in the new OEC 5th Edition meant to directly inform NSP's medical professionals of the level of training they may be held to. At first this statement might be worrisome to some doctors and medical professionals; however, in my thirty years of providing legal advice to members of the National Ski Patrol medical community, I have had the opportunity to discuss this issue with many patrolling doctors and I discovered the following positive information.

First, although a doctor or other medical professional might be held to his or her level of training, the OEC training, with very few exceptions, sets forth a level of training which represents how any medical professional should handle an injury on the slopes. The primary exception to this rule is when the doctor or the medical professional *carries with them*, while patrolling, tools or drugs which are not ordinarily carried by a patroller. For example, if a doctor carries an advanced airway kit with him, he would probably be required to intubate the unresponsive patient, if required to maintain the patient's airway. If a doctor carries with him certain IV solutions, syringes or prescription drugs in the event of an injury on the slope, he might be required to administer such controlled substances because such use is within his standard of training. But if a doctor equips his or her patrol pack with same items as other patrollers normally do, the emergency first aid required is pretty much the same as other OEC trained technicians. Therefore, medical professionals applying the first aid techniques taught by the OEC 5th Edition, and carrying in their patrol pack the normal supplies maintained by a patroller, will result in the medical professional preforming first aid generally at the same level of training as an OEC technician. For this reason, on the slopes, a medical professional's

standard of training is generally the same as any OEC technician. Two exceptions to this general rule deal with dislocations and tracheotomies. Some doctors are trained to reduce dislocations outside of a hospital environment; however, doctors normally do not reduce a dislocation without first obtaining an x-ray. In addition, trauma surgeons and emergency physicians may be trained to perform emergency tracheotomies with limited resources while OEC technicians are not trained in such techniques; however most doctors, like OEC technicians, are not trained in emergency tracheotomies confirming the general rule set forth above that a medical professional's standard of training is generally the same as any OEC technician. However, most doctors do know more about "diagnosing" medical conditions than the general knowledge of an OEC technician, like heart conditions, and therefore may have a responsibility to do a more detailed history and physical of the injured skier than the physical taught to an OEC technician. Medical professionals who have such specialized emergency training have to carefully use their judgment when making the decision to perform such procedures on the slopes and must remember their higher level of training for diagnosing medical conditions for injured skiers. Once again, circumstances requiring such emergency procedures are very rare and, in almost every circumstance, do not raise to the level where the medical professional, who has the specialized emergency training, must decide to perform the procedure on the slopes rather than wait to when the individual could be turned over to an ambulance or taken to the hospital, for proper higher level of care and the use of diagnostic tools such as x-rays.

The previously described level of medical professional training may explain how OEC training brings the medical professional within the insurance policy of a ski area; in fact, if the medical professional is acting as a volunteer patroller, it is reasonable to conclude that every ski area insurance policy covers the medical professional while he or she acts as a volunteer patroller. The requirement to be covered by a ski area policy is almost uniformly the act of being a volunteer member of the ski area's ski patrol; there is no exception for doctors or other medical professionals This conclusion is reinforced by the fact that the ski area affirmatively accepts the medical professional as a volunteer patroller at the ski area, thus the medical professional becomes an "agent of the mountain" pursuant to the Joint Statement of Understanding NSP has developed with the National Ski Areas Association. In fact, insurance policies of those insurance carriers which provide coverage to the majority of ski areas generally *cover medical professionals, such as doctors, nurses and paramedics, up to the level of their training for their "immediate care" of the injured skier or the individual who has suddenly taken ill at the designated ski area.* Even though these policies appear to cover medical professionals, *it is always the medical professional's responsibility to made sure the ski area maintains adequate insurance to protect the medical professional and to make sure that they are protected by a particular state's Good Samaritan and licensing laws.* The legal advisors who volunteer their time to NSP should be able to assist in this effort.

The insurance policies do not cover the medical professional for follow up care in an ambulance or hospital. In effect, the ski area insurance industry has acknowledged that medical professionals patrol at ski areas and have designed their insurance policies to provide the appropriate coverage for such professionals.

In addition to the ski area's insurance policy, medical professionals may also have

coverage from their own medical malpractice insurance policy. Some medical malpractice insurance policies will also cover a medical professional no matter where he or she performs medical services. To be sure that there is coverage, the medical professional should contact his or her malpractice insurance company. So a medical professional, unlike the average patroller, may have double insurance covering what he or she does in first aid at the ski area; (1) the ski area's patroller insurance and (2) the medical professional's own insurance.

However, once again, NSP medical professionals may have it even better than that from a legal perspective. Many states have specific provisions written into their Good Samaritan statutes to encourage medical professionals to volunteer and take care of injuries as they see them. These Good Samaritan laws are specially tailored for medical personnel such as doctors. In addition, the general Good Samaritan laws which cover volunteer patrollers are usually more specific in their wording to make it clear that the laws cover licensed medical professionals. For example, Maryland's Good Samaritan law specifically states that it covers: "An individual who is licensed by this State to provide medical care."[1] Another example is the California statute licensing doctors which states: "No licensee, who in good faith renders emergency care at the scene of an emergency, shall be liable for any civil damages as a result of any acts or omissions by such person in rendering the emergency care. . . . The immunity granted in this section shall not apply in the event of a willful act or omission."[2] For medical professionals, in most if not all states, it is clear that when they are volunteering their services such as in the act of patrolling, they are protected by their state's Good Samaritan laws for their efforts.

NSP's medical professionals might be held to a higher standard of training than the training taught in NSP's OEC 5th Edition, but they also have the advantage of being better legally protected and, in many cases, better insured. These individuals have given so much to our organization and, in fact, are always there helping guide NSP in its core purpose of providing quality emergency care to injured skiers. So when you see one of these doctors or advanced medical professionals, take the time to say "thank you". Patrollers should understand how these individuals have helped guide our organization to improve NSP's outdoor emergency care training and how they can help you, as a patroller, become a better patroller.

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[1] See Cts. and Jud. Proc., *Md. Ann. Code* § 5-603(b)(1) (2011)
[2] California Business & Professions Code, Section 2395