

A Legal Perspective on the Use of AI

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1

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EMS/Mobile Healthcare
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3

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4

Collaboration with NEMSIS

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NEMSIS
BETTER DATA. BETTER CARE.

PCR Data QuickGuide:
FAQs on Creating, Amending, Retaining and Sharing Patient Care Report Data

EMS Body-worn Camera Quickstart Guide:
Legal Considerations for EMS Agencies

An Imaginary Barrier
How HIPAA Promotes Bidirectional Data Exchange With Emergency Services

5

Today's Roadmap

- 01 AI in EMS Today
- 02 The Regulatory Landscape
- 03 Where the Risks Live for EMS
- 04 Building Your Governance

NEMSIS

6

You ARE an AI User

- Siri and Alexa are AI
 - Netflix and Amazon Recommendations are AI
 - Facial Recognition is AI
 - Online Banking is AI
- ... And "Yes", your phone is spying on you!



7

What is "AI Technology"?

AI is a spectrum, not a single product — from spell-check to fully autonomous agents.

Embedded AI

Built into software to run basic tasks automatically

EXAMPLES

GPS mapping, spell-check, ePCR hard-stops

Generative AI

Creates content in response to a prompt

EXAMPLES

ChatGPT, Claude, Copilot, Gemini

Agentic AI

Acts with independent capability beyond a single prompt

EXAMPLES

QA/QI review agents, autonomous scheduling

8

SECTION ONE

AI in EMS Today

AI in EMS Today

Intelligent Dispatch

AI analyzes call data in real time to prioritize incidents and display the right resources faster.

Dynamic Routing

Machine learning models analyze traffic, weather, and events to find the fastest, safest routes to the scene and hospital.

Clinical Decision Support

AI integrates with EHRs and protocols to provide real-time guidance, drug dosing, and treatment recommendations.

Early Deterioration Detection

AI algorithms analyze vital signs and patient data to identify at-risk patients earlier—improving outcomes.

Automated Documentation

AI-powered voice recognition and smart summaries reduce paperwork and give clinicians more time with patients.

Quality Improvement & Predictive Analytics

AI reviews trends and outcomes to identify gaps, reduce errors, and predict future demand.



Real-World Impact

Reduced response times

Improved patient outcomes

Enhanced provider safety

Lower costs & better resource use

The Road Ahead

AI won't replace EMS professionals—it will empower them. The future is human + AI, working together to save more lives.



9

Examples of Current Use of AI



Dispatch & Call-Taking

Acuity/priority scoring, unit recommendation, predictive deployment



Documentation

e-PCR narrative auto-generation, spell-check, completeness prompts



Administration & HR

Scheduling, workforce analytics, recruiting screens, meeting notes



QA/QI & Compliance

Chart review, missing-element flags, trend and audit reporting



Billing & Coding

ICD-10/CPT suggestions, claim-denial prediction, mileage validation

10

AI and Documentation Training (Use Your Parameters)

Example: Training Scenario

Prompt to AI:

"Create a realistic EMS narrative for a 68-year-old male with an acute STEMI. The patient initially denies chest pain but later develops crushing substernal chest pain, becomes diaphoretic, receives aspirin and nitroglycerin, has a 12-lead ECG showing inferior STEMI, and is transported emergently to a PCI-capable hospital. Include accurate assessment findings, interventions, and a chronological narrative suitable for paramedic training."

AI-Generated Training Narrative (Example):

Unit 204 responded emergent to a private residence for a 68-year-old male reporting generalized weakness and nausea. Upon arrival, the patient was alert and oriented x4, seated on the couch, pale in appearance, and denied chest pain. Initial vital signs were BP 152/98, HR 84 sinus rhythm, RR 18, SpO₂ 97% on room air. During assessment, the patient developed sudden crushing substernal chest pain rated 9/10, radiating to the left arm, accompanied by diaphoresis and nausea. A 12-lead ECG demonstrated ST-segment elevation in leads II, III, and aVF, consistent with an inferior STEMI. Aspirin 324 mg PO was administered, followed by nitroglycerin 0.4 mg SL after confirming no contraindications. IV access was established, continuous cardiac monitoring initiated, and the receiving PCI-capable facility was notified with a STEMI alert. The patient remained hemodynamically stable during transport, reporting pain decreased to 5/10 upon arrival.



11

My Classroom

Attorney:

In your narrative, you wrote that the patient was "fully assessed," in the fourth line down, correct?

I'd like to direct your attention to your assessment section on page 2.

For the chest exam... it says:

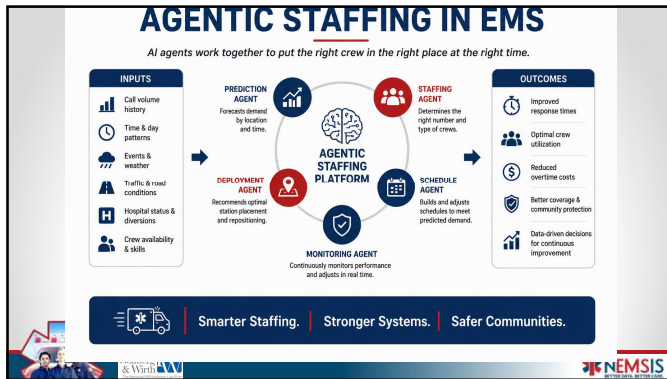
- Posterior: not assessed
- Multiple areas - anterior, left and right side: not assessed, correct?

That's your documentation, correct?

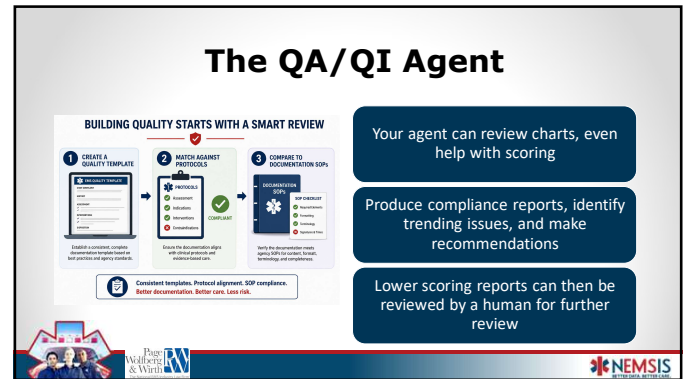
So when you told us you performed a "full assessment"... that's not actually true, is it?



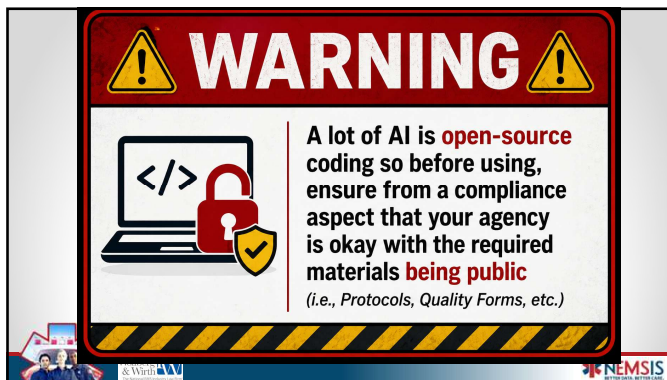
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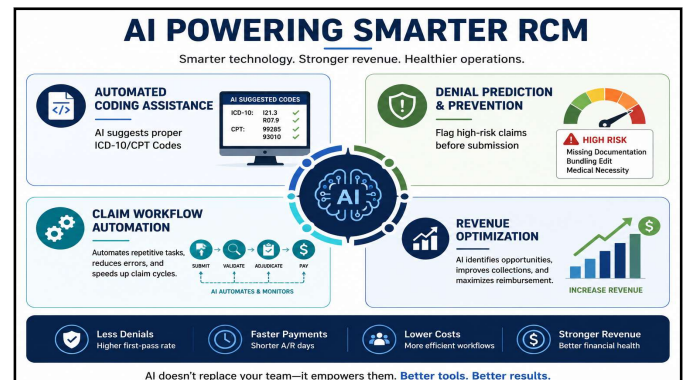
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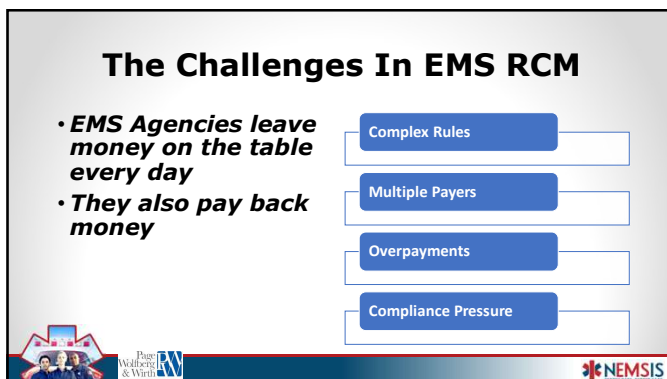
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15



16



17



18

The Federal Picture

No comprehensive federal AI statute

Exec Order 14365 – Not Binding

“Ensuring a National Policy Framework for AI” — signed Dec. 11, 2025. Directs a “minimally burdensome” national approach and creates an AI Litigation Task Force to challenge state laws seen as inconsistent with federal policy.

Encourages DOJ to go after state laws that are inconsistent with federal objectives

No Preemption

99-1

Senate vote to strip a proposed 10-year state AI moratorium from the “One Big Beautiful Bill Act”

19

Other Federal Laws Implicated

HIPAA — PHI Handled by AI Vendors

Any AI third party tool that touches PHI is likely a business associate. Agencies must confirm that a BAA is in place before deployment.

False Claims Act — AI-Driven Billing

OIG's Feb. 2026 compliance guidance flags AI-generated prompts to add diagnoses as a potentially abusive practice. A 2024 automated-coding FCA settlement (UCHealth, \$23M) shows this exposure is already active in billing.

Section 1557 (ACA) — Nondiscrimination in Clinical Algorithms

HHS OCR's nondiscrimination rule (added in 2024) reaches clinical algorithms used in patient care decisions. Predictive and dispatch-prioritization models built on historical call or location data need bias review before deployment.

20

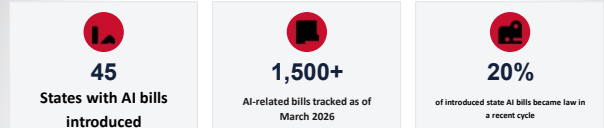
Examples of States With Significant AI Laws in Effect

A sample — not exhaustive. Check the law where you operate and where your patients live.

Colorado	California	Texas	Illinois	Utah
SB 26-189, effective Jan. 1, 2027 — covers automated decision-making that materially influences “consequential decisions” like employment.	Multiple targeted laws: AI transparency and training-data disclosure, deepfake rules, employment AI oversight, and consumer-protection enforcement.	Texas Responsible AI Governance Act (TRAIGA) consumer protections, anti-discrimination, and government AI governance.	Aggressive on workplace AI: notice for AI-assisted employment decisions, video-interview disclosures, and liability for disparate-impact discrimination.	AI: disclosure and transparency duties, chatbot interaction rules, and deceptive-practice prevention.

21

The Trend Line: More States, Faster



Practical takeaway: build a policy flexible enough to absorb new state requirements.

22

EMS Specific Bulletins

GENERATIVE AI IN EMS

Key Takeaways for Agencies



Example: New York EMS Advisory 26-01 (March 31, 2026), “The Use of Generative AI in EMS,” issued directly to agency administrators by the state EMS council.

23

NASEMSO's AI Guidance: Practical Safeguards

Approved by the NASEMSO Board of Directors, December 4, 2025

Human Review, Every Time

Any ePCR field populated by generative AI requires human review before submission.

Documentation Accountability

The EMS clinician remains fully accountable for accuracy regardless of AI assistance.

Audit Trails & Transparency

AI tools should log every suggestion made and whether it was accepted or edited

Vendor Vetting Before Deployment

Confirm PHI/PII will not train the vendor's model and is not stored outside compliant systems

24

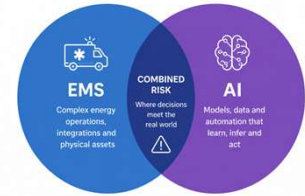
Legal Landscape Bottom Line

	Human in the Loop AI should support—not replace—clinical judgment. Humans remain responsible for decisions.
	Disclosure to Patients in Certain Cases Patients have the right to know when AI is used in their care in certain situations.
	Disfavoring “Black Box” AI AI systems should be explainable, understandable, and transparent—not opaque or secretive.
	Audits for Bias AI tools must be regularly audited to identify and reduce bias and ensure fair outcomes for all.
	Regulation of AI in Employment is Big AI used in hiring, evaluation, scheduling, and discipline must comply with evolving laws and regulations.

25

SECTION THREE

Where the Risks Live for EMS



26

EMS Is Different – Covered Entities

THE CORE TENSION

Many EMS AI use case touches Protected Health Information (PHI).

Patient trust
 HIPAA / state privacy law
 Public exposure

27

Example: Using AI for my PCR

The Problem

Entering a PCR narrative into an open-source tool (e.g., for grammar cleanup) can push PHI onto the open internet — often unintentionally.

Why it happens

Users frequently don't realize an “AI edit” request is itself a disclosure of protected health information to a third party that is now accessing PHI (business associate).

BEST PRACTICE

Never permit use of unapproved AI tools.

28

“Shadow AI” in EMS

Unauthorized AI use already happening in the field, station, and the office

	Communications & HR	Disciplinary memos, evaluations, and internal messages edited in public AI tools
	Billing & Analytics	Denial trends, coding suggestions, and financial data pasted into public AI
	Wearables & Ambient AI	Smart glasses and listening devices recording patient encounters “to help remember details”

29

The Dangers of Shadow AI

	HIPAA & PHI Exposure	PHI disclosed to third parties with no Business Associate Agreement or safeguards
	Cybersecurity Vulnerabilities	Ungoverned tools create a new, unmonitored attack surface for breaches
	Hallucinations & Liability	Confident but false AI outputs relied on for clinical, billing, or policy decisions
	Ambient Surveillance	Wearables passively capture patient conversations, radio traffic, and bystander discussions

Legal & Discoverability Risk Unauthorized AI interactions can become discoverable evidence in litigation

30



31



32

Pertinent Negatives

"72-year-old male fell approximately 8 feet from a ladder. Complains of right hip pain. Vitals stable."

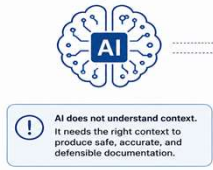
- AI never mentions denied:
 - Loss of consciousness.
 - Head strike.
 - Anticoagulant use.
 - Dizziness before the fall.
- Pertinent negatives that affect:
 - Trauma assessment
 - Spinal precautions
 - CT imaging decisions
 - Liability if an intracranial bleed is later discovered




33

WEAK CONTEXT IN AI

AI excels at completing a task—but lacks the situational understanding humans rely on.



- CLINICAL CONTEXT**
 - AI may hear "detailed chest pain" but miss that the patient later developed crushing chest pain.
 - AI DOESN'T KNOW:**
 - Change in condition
 - Patient deterioration
 - Clinical significance
- OPERATIONAL CONTEXT**
 - AI may not know why the crew was delayed or what happened at the scene.
 - AI DOESN'T KNOW:**
 - Active shooter scene
 - Hardest incident
 - Law enforcement holding the scene
 - Impact on response times or decisions
- LEGAL CONTEXT**
 - AI may include risky statements or omit facts that are important in court or during an audit.
 - AI MAY:**
 - Create liability
 - Omit critical facts
 - Not understand what matters legally or in an audit
- AGENCY CONTEXT**
 - AI does not know your agency's standards, protocols, or billing requirements.
 - AI DOESN'T KNOW:**
 - Documentation standards
 - Billing requirements
 - Medical director preferences
 - Local protocols

Provide the right context. Get better documentation. Protect your patients and your agency.



34

Bottom Line on Documentation

- Where it really helps**
 - Drafting an initial narrative for human review, or cleaning grammar/flow on a human-written narrative.
- Where it fails**
 - Context, hallucinations, pertinent false negatives
- Build in accountability**
 - Disclose AI use in the e-PCR audit log, and log any edits so review can be verified.
- BEST PRACTICE**
 - Human review is mandatory: AI may edit grammar and flow, but must never insert or delete facts about the encounter.



35

Risks: Clinical Care & Bias

- Accuracy risk**
 - Consumer healthcare AI tools have shown measurable error rates in diagnosis and treatment suggestions.
- Bias risk**
 - Disparities in how pain and symptoms are treated across patient groups.
- Protocol blindness**
 - AI tools may not know your agency's (or your state's) specific treatment protocols.
- BEST PRACTICE**
 - Route clinical questions to crew, protocol, and Medical Command and build in protocols



36

Risks: Employment & Labor Law

- Hiring & recruiting**
Resume screening and candidate ranking tools draw EEOC scrutiny and is regulated in some states
- Performance & workforce analytics**
Turnover prediction, engagement scoring, & coaching tools supplement — not replace — human evaluation (cobra effect)
- Collective bargaining - Unions**
New monitoring, scheduling, or discipline-adjacent AI tools can trigger bargaining obligations

BEST PRACTICE
Loop in HR, legal, and labor representatives early — especially in a unionized workforce.

37

Risks: AI Recording Devices

Wiretapping & consent laws



Covers: body-worn cameras, smart glasses, AI meeting notetakers, phones, and similar recording-capable devices.

If AI notetaking is used

- Notify all participants it's in use
- Store notes locally — not on an open-source platform
- Re-read AI-generated notes for accuracy

38

Risks: AI Recording Devices



EMS Body-worn Camera Quickstart Guide:
Legal Considerations for EMS Agencies
Version 1.0

Key Legal Considerations

- Federal HIPAA Standards
- State Invasion of Privacy Laws
- State Wiretap/Eavesdropping Laws
- State Open Records Laws
- Data Retention Requirements
- Body-worn Camera Policy



39

SECTION FOUR

Building Governance Framework

Turning today's discussion into a workable AI Technology Use Policy

40

Core Policy Guardrails

Five principles that belong in nearly every EMS AI Technology Use Policy.

- No PHI to AI tools without BAA and agency approval**
Approved, contracted AI only for anything touching patient information
- Human-in-the-loop, always**
AI drafts and suggests; a human reviews, edits, and remains accountable
- Audit logs on AI-assisted work**
Track AI use and edits in e-PCRs so review can be verified after the fact
- Vendor accountability**
Business Associate Agreements and encryption for any AI tool touching PHI, and control use
- Training over prohibition**
Outright bans rarely work — teach staff what's appropriate and what isn't

41

You Need a Policy on AI

— POLICY 2021

HIPAA Compliance for AI in Digital Health: What Privacy Officers Need to Know

by **FOLEY** FOLEY & LARDNER LLP

Artificial intelligence (AI) is rapidly reshaping the digital health sector, driving advance in patient engagement, diagnostics, and operational efficiency. However, for Privacy Officers, AI's integration into digital health platforms raises critical concerns around compliance with the Health Insurance Portability and Accountability Act and its implementing regulations (HIPAA). As AI tools process vast amounts of protected health information (PHI), digital health companies must carefully navigate privacy, security, and regulatory obligations.

The HIPAA Framework and Digital Health AI

WRITTEN BY: **FOLEY** FOLEY & LARDNER LLP

Author: **Michelle Monaghan**

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42

Call to Action



43

The AI Augmented Leader

- Automate Routine Tasks
- Surface insights quickly
- Frees leaders to lead

AI takes work off the desk so leaders can get back into leadership.



44

Leadership Roadmap



45

Embrace AI

"It is not necessary to change. Survival is not mandatory."

- W. Edwards Deming



46

Key Takeaways

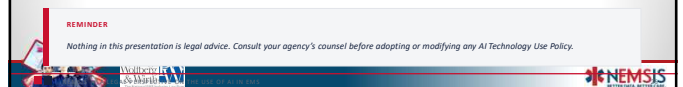
- 1 AI is already in your agency — the question is whether it's governed.
- 2 PHI and open-source AI don't without a BAA and guardrails
- 3 State law is the active battlefield — federal preemption has failed
- 4 AI supports human decisions in EMS; it never replaces them.
- 5 A clear, trained, and consistently enforced policy is essential



47

Next Steps

- 1 Inventory the AI Technology already in use across dispatch, e-PCR, and billing
- 2 Convene stakeholders — field, billing, legal, and labor — to draft a policy
- 3 Consult jurisdiction-specific counsel before finalizing any AI Technology Use Policy



48



49