Litigious Society (Lawsuits): we believe that we have the right to sue those who have done us wrong

Criminal Law: an act against an individual or organization, which offends society, this is considered an act against society.

Tort Law: is concerned with the injury to a person, body, property, or reputation by another individual.

Legal Awareness: a state in which, one has knowledge on and is well informed of relevant matters which are required or appointed by law.

Legal Guidance: Provide direction or advice as to a decision or course of action in legal matters.

Legislation: The act of making or enacting laws, which are made by the different levels of government.

Regulations: writing the penalties for breaking the law and how they are going to enforce these laws.

Policies: made by the organization.

Procedures: how we can guarantee that these laws etc will be met.

Rules: Standards that are practiced.

Consent: You must have permission from an give first aid / emergency care. If the person can’t give consent it is implied consent (minor no parent).

Refusal of Care: some ill or injured people may refuse care. You must respect their wishes. Document and contact EMS to deal with situation.

Abandonment: once you start care you must continue until EMS arrives, or someone more trained takes over. You can be held legally responsible for leaving or stopping giving care.

Confidentiality: while making a rescue or giving care, you may learn an ill or injured person that is confidential. Do not share information with anyone, except Law Enforcement and EMS.

Duty of Care

- The law requires professional recreation providers to exercise care towards others and to protect them from unreasonable risk or injury.
Lifeguard & the Law

**Breach of Duty**
- The key issue on which negligence cases are determined
  - Determining Breach of Duty
    a. Establish a minimum standard and decide has been breached
    b. Through a Reasonable Persons Test
    c. Professional Standard of Care not met
    d. Improper Supervision
    e. Improper or lack of maintenance of Equipment and Facilities

**Negligence**
- An unintentional harm caused by a failure to meet the standard of care.

**For Negligence to exist 4 conditions must BE MET**
1) The defendant owed a duty of care to the Plaintiff
2) The defendant breached that duty of care (standard of Care)
3) Injury or damage did occur.
4) The breech was the proximate cause or causation of the injury or damage.

For the court to award money to the plaintiff, that person must have experienced injury to either their person or their property

A) Damages are assessed for financial loss as a result of
   1) The medical expenses past and in future
   2) The cost of extended care past and future
   3) Physical Impairment

**Activity**
- You will be given a pretend rescue
- 2 groups, one person will be the judge, one person the plaintiff and lawyer, and defendant and lawyer and judge.
- The lawyers and plaintiff/defendant will plan and argue the case in a mock court.

**Situation:** Billy was swimming with his friend Andrew. Andrew had persuaded Billy to swim in the deep end, even though Billy is not a strong swimmer. Andrew makes his swims to the deep end while Billy uses the wall to make his way down. Billy then lets go of the side and becomes DNS. The Lifeguards don’t notice Billy because they are busy talking to each other. By the time they notice Billy has gone uncurious. Billy is rushed to hospital and is produced DOA (dead on arrival)