



Big Decisions in the Field and their **Legal Implications**

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Presentation Overview

- Real incidents from Wildlands Studies
- Field and Administrative Decisions
- Legal Liability
- Outcomes/Organizational Changes



Field Based Decisions and the Law

- The role of the Lawyer
- Protecting organization /protecting student
- Legal response considerations

Emergency Evacuation from Amazon

- Student falls ill – vomiting, falls over, slurred speech
- Evacuation – jungle to 10,000 ft in 24 hours
- Brain swollen
- Father flies in (day 4)
- Air ambulance to Lima;
eventually San Diego



Emergency Evacuation from Amazon

KEY FACTORS

- Team in extremely remote location
- Severity unknown
- Clinics in Cuzco
- No improvement in condition



Emergency Evacuation from Amazon

ACTION STEPS

- Immediate evacuation to best clinic
- On-going communication with family
- 2 staff members accompany student
- Transfer medical care decisions to father

LEGAL IMPLICATIONS of...

- Appropriate evacuation decision (10,000 elevation gain in 24 hours)
- Aggravate injury?
- Exposed her to danger to get her out of danger
- Clinic choice
- Competency of evacuation staff

LEGAL IMPLICATIONS of...

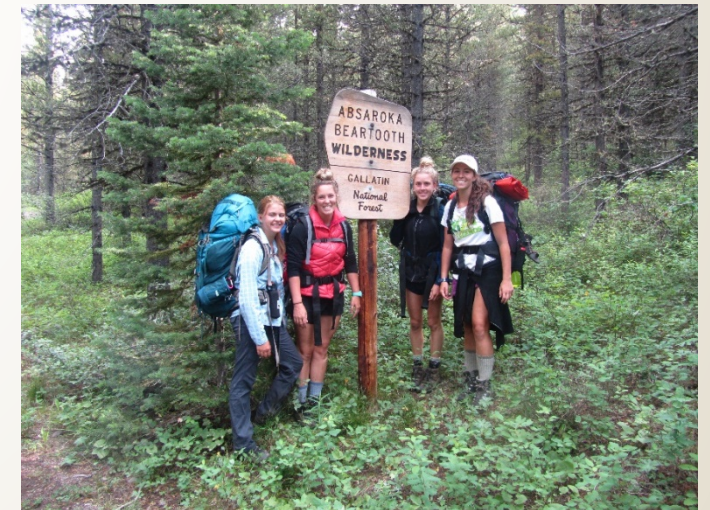
- Caring for young adults
 - Releasing medical care to parent
 - When stop follow up with family

ORGANIZATION CHANGES

- Additional medical questions on application
- Clear identification of risks for participants
- Scouting appropriate medical care
- Detailed discussion of hygiene
- Understand complexity of international evacuation

PHYSICAL and MENTAL FITNESS in YELLOWSTONE

- 12 students on 15 day course
 - 1 week camping and 1 week remote backpacking
 - **Student #1** (female) weighs 210 at 5'11"; inhaler
 - **Student #2** poorly developed social skills
 - Atypical behavior
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- Day 3: Instructor calls -
wants both removed from program



PHYSICAL and MENTAL FITNESS in YELLOWSTONE

KEY FACTORS – Student #1

- Cannot keep up with group
- Using inhaler repeatedly
- Wants to complete program

KEY FACTORS – Student #2

- Refuses to dress appropriately for cold weather
- Can't make basic decisions - self care, meals, hike prep
- Unaware her behavior significantly different

PHYSICAL and MENTAL FITNESS in YELLOWSTONE

ACTION STEPS

- Obtain detailed information from instructor
- Discuss risks if continue to backpack
- Confer with other long-standing instructors
- Give instructor options
 - Require professional medical diagnosis
 - change backpack route
- Instructor angry, believes his viewpoint not valued

What are the **LEGAL IMPLICATIONS** of...

- Who has responsibility for determining suitability
- What is appropriate suitability inquiry
 - *Do you have any condition that would cause you to be a danger to yourself or others?*
- No disclosure of medical condition?

What are the **LEGAL IMPLICATIONS** of...

Removing a student

- Align Mission and risk management
- Professional medical diagnosis
- Who makes the call?



Operational Changes

- Additional screening questions added
- Doctor's review used significantly in screening
- Consulted multiple instructors for review
- Added case as pre-program planning material

FIRE DANGER in BIG SUR

- Full program, run last 18 years
- Access severely limited;
- Bridges damaged both directions
- Entry through gated army base via mountain road
- Wildfires common during late summer
- Evacuation means entire community limited to army road



FIRE DANGER in BIG SUR

KEY FACTORS

- ➡ Know area well
- ➡ Clear evacuation plan
- ➡ Able to adjust program at last minute
- ➡ Increased helicopters – air evacuation coverage
- ➡ Potential vs actual fire danger

FIRE DANGER in BIG SUR

SMALL GROUP QUESTIONS

- What are the risks?
- Can we effectively manage risks?
- Who decides, and how, to accept risk?
- Assess liability if something goes wrong



FIRE DANGER in BIG SUR

ACTION STEPS

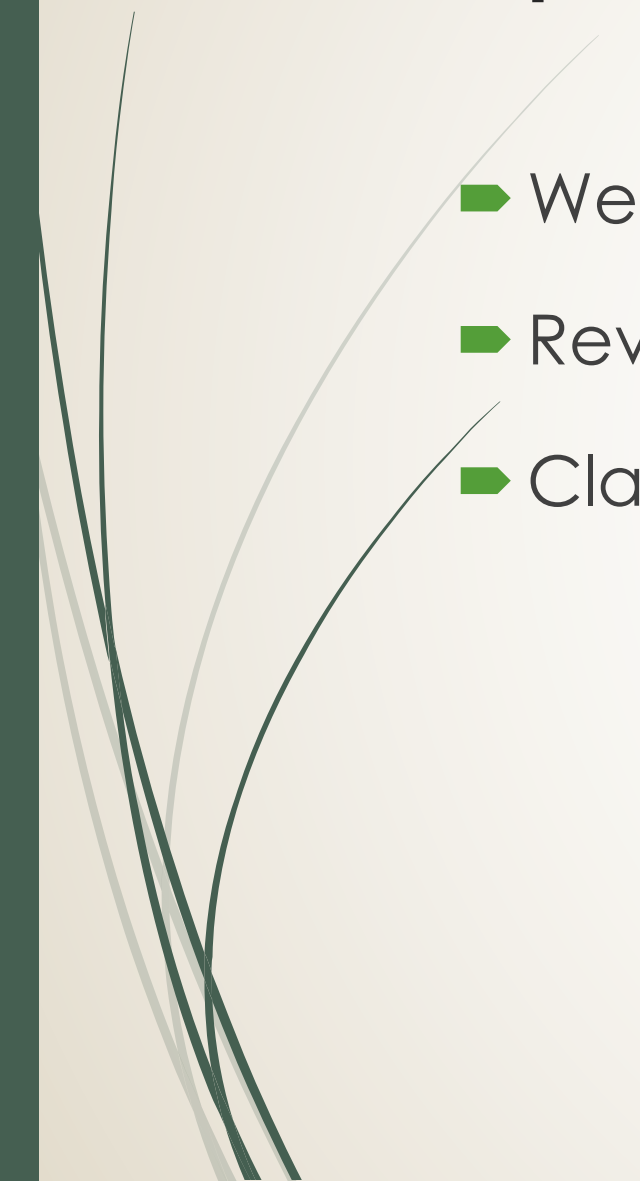
- Ran course with two simultaneous plans
- Extensive risk management plan
- Worked directly with on-site reserve manager for evac
- Purchased team specific evac and medical insurance
- Had participants acknowledge additional risks

Legal Implications...

- Does limited access increase risk/liability?
- Implications of participants accepting risks
- Does potential for fire impact liability?
- Was purchasing evacuation insurance wise?



Operational Changes

- Weigh this program's risk against similar programs
 - Review domestic program insurance requirement
 - Clarity in disclosure and acceptance of risks
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ACTION STEPS FOR YOU

- Align mission, risk, and management of risk
- Inform, train on alignment and risk tolerance in field
- Review risk management plans for liability vs right thing to do. Can you have both?