NATIONAL CENTRE OF EXCELLENCE AND INNOVATION FOR MARITIME SECURITY

VALUES AND ETHICS

Introduction to the Duty of Care

NCoEI-VE-001-DOC

Copyright IAMSP Certification Group, 2011, 2017 | Author:

Objectives

By the end of this module, you will be able to do the following:

- Define the concept of the Duty of Care
- Identify where a standard of care is owed
- Identify three key questions associated with the concept
- Describe the concept of “reasonable”

Copyright IAMSP Certification Group, 2011, 2017 | Author:

Why is this Important?

You may be called upon to make decisions that can have a significant impact on the lives of others

May involve committing and act or failing to commit and act

Copyright IAMSP Certification Group, 2011, 2017 | Author

Definition – Duty of Care

A requirement that a person act toward others and the public with watchfulness, attention, caution and prudence that a reasonable person in the circumstances would.

Copyright IAMSP Certification Group, 2011, 2017 | Author:

When Applied

Where the individual affected by the decision has a reasonable expectation that persons will exercise due care or perform in accordance with certain requirements

Copyright IAMSP Certification Group, 2011, 2017 | Author

Examples

When visiting the hospital

- We expect to be diagnosed by competent medical personnel

When seeking legal advice

- We expect that the lawyer is has passed the bar and is competent to practice

When hiring an engineer

- We expect that the engineer is competent.

Copyright IAMSP Certification Group, 2011, 2017 | Author:

Reasonable Person Test

Would an individual of sound mind come to the same conclusion given the same conditions, information, training and experience?

Copyright IAMSP Certification Group, 2011, 2017 | Author

Three Questions

The concept of the Duty of Care can be addressed in terms of three standard questions

- Is a standard of care owed?
- Have those impacted by the decision or proximal to the decision been identified?
- Have all reasonable steps been taken to minimize the potential for harm and the extent of the harm?

Copyright IAMSP Certification Group, 2011, 2017 | Author

Question 1 – Owed?

Is there a standard of care owed?

- Injury

Are there required practices set down authoritatively on how to respond to certain circumstances?

Copyright IAMSP Certification Group, 2011, 2017 | Author

Is it Owed?

The premise about whether or not there is a standard of care owed is based on social norms and the presumed intent that one should not cause unnecessary harm.

Copyright IAMSP Certification Group, 2011, 2017 | Author

Impact and Proximity

Have all those persons or entities that might be affected (directly or indirectly) by the decision or action been identified?

Copyright IAMSP Certification Group, 2011, 2017 | Author

Identifying the Impacted

	Immediately	In the Future
Close Proximity	Those that suffer a consequence because the action was directed against them	Those that suffer consequences because of the nature of the consequences arising from the action
Some Separation	Those that suffer a consequence because of the nature of the action (collateral damage)	Those that suffer consequences because of the nature of the consequences and its overall effects

Copyright IAMSP Certification Group, 2011, 2017 | Author

Example

	Immediately	In the Future
Close Proximity	The pirate that is killed during the attack	Crew members suffer consequences as those that survive take it out on them
Some Separation	Those in close proximity to the pirate that may be hit by shrapnel, etc	The families of those crew that are killed or injured in the attempt to rescue them.

Copyright IAMSP Certification Group, 2011, 2017 | Author:

Question 3 - Mitigation

Have all reasonable steps been taken to reduce the potential for harm and to reduce the potential harm that can be done?

Copyright IAMSP Certification Group, 2011, 2017 | Author:

Showing Reasonable

To show that an act was reasonable, then you need to be able to argue that an individual with similar training, experience and information would make the same decision under the same conditions

Sources

- Standing Operating Procedures (SOP)
- Training
- Similar actions where same actions were taken under the same conditions and found to be appropriate.

Copyright IAMSP Certification Group, 2011, 2017 | Author

What is reasonable?

Based on internal and external factors

- Internal
  - Training
  - Experience
  - Personality
- External
  - Conditions
  - Information
  - Social or Accepted Norms

Copyright IAMSP Certification Group, 2011, 2017 | Author:

Review

Three major questions

- Is a standard of care owed?
- Have those persons proximal to the decision been identified?
- Have all steps been taken to prevent unnecessary harm?

Reasonability of the actions

- Would an individual with similar training, experience and background arrive at the same conclusion under those conditions with that information?

Copyright IAMSP Certification Group, 2011, 2017 | Author

Review

The Duty of Care is the basis against which negligence arguments are made

- Must be integrated into decision making cycles appropriately
- Must be exercised consistently and prudently
- Highly recommended to be documented

Copyright IAMSP Certification Group, 2011, 2017 | Author

About the Author

Allan McDougall is one of the Directors within the National Center of Excellence and Innovation in Maritime Security. He has over thirty years' experience across his military, federal public service, and private sector experience in roles that have had the potential to directly and indirectly impact the safety, security, and economic well-being of the organizations and communities affected by them.

Copyright IAMSP Certification Group, 2011, 2017 | Author: A...

Prepare for the Quiz

This concludes IAMSP-AWR-001-DOC

Copyright IAMSP Certification Group, 2011, 2017 | Author: