Miami Valley Risk Management Association
Presents:

Fire & EMS Provider Liability in Ohio

**Mr. Laux can provide continuing education hours**

When: Tuesday April 29, 2014
Where: City of Mason Fire Station #51, 4420 N. Mason Montgomery Rd
Time: 9:00 - Noon
Cost: $20

Greg Laux, Attorney with Wood & Lamping LLP in Cincinnati, is assigned to the firm’s State and Local Government Law and Litigation Practice Groups. Greg provides counsel to a number of the firm’s municipal clients, including MVRMA members’, the City of Mason and the City of Springdale. Greg spent time before law school as a professional firefighter and EMT and has developed experience in the areas of fire and EMS liability. Greg is an active member of the Cincinnati Bar Association Local Government Law Committee, Health Care Law Committee and the Community Service Committee of the Young Lawyers Section.

Dr. Sunny Wang, was born and raised in Taipei, Taiwan. Her family immigrated to Vancouver, Canada when she was 13 years old. Sunny came to the United States for college and joined a student-run campus-wide EMS organization. Inspired by her volunteer experiences as an EMT/firefighter, Sunny decided to go to medical school. She chose emergency medicine as a specialty because she loves the fast-paced working environment and the challenge of keeping up with the breadth of knowledge and skills required to be a quality emergency room physician. She is also proud of the fact that emergency physicians possess skills that are useful for any community, such as responding to out-of-hospital emergencies and assisting in mass casualty incidents.

Course Description:

This session will examine many high risk areas for Fire and EMS personnel, including:

- Duty to Rescue- Do Firefighters and EMTs owe a duty to rescue others in need?
- Exceptions to No-Duty to Rescue
- Ohio Political Subdivision Tort Liability Act-Chapter 2744 Ohio Revised Code
- The Firefighter’s Rule
- Ohio Good Samaritan Act- R.C. 2305.23
- Informed Consent, Patient Refusals, and the Importance of Proper and Thorough Documentation.

Please contact Starr Markworth with any questions, smarkworth@mvrma.com -register through the MVRMA website www.mvrma.com or through the link below
Summary of Topics Covered in Presentation

I. Duty to Rescue – Do Firefighters/EMTs owe a duty to rescue others in need?
   A. General Rule
   B. On-Duty Firefighters
   C. Off-Duty Firefighters
   D. Application to Volunteer Firefighters
   E. Special Situations – small boat, chartered airplane, private bus

II. Exceptions to No-Duty to Rescue Rule
    A. Existence of Special Relationship (lifeguard, babysitter, parent)
    B. Rescuer Is Cause of Victim’s Peril
    C. Voluntary Undertaking and Detrimental Reliance
    D. Extreme Circumstances
       1. Soldano v. O’Daniels (Cal. 1983)

III. Ohio Political Subdivision Tort Liability Act – Chapter 2744 of Ohio Revised Code
    A. Political Subdivision Immunity Analysis
       1. First Tier – immunity
       2. Second Tier – exceptions to immunity
       3. Third Tier – reinstatement of immunity
    B. Case Illustrations – Willful, wanton, and reckless misconduct
       1. Reynolds v. Village of Oakwood (2nd Dist. 1987) (combined fire & police department, similar to Amberley Village)
       2. Hunter v. City of Columbus (10th Dist. 2000) (leading case on liability for first responders who exceed speed limit listed in departments internal SOPs/SOGs)
       4. Burlingame v. Estate of Burlingame (“Burlingame I”) (5th Dist. 2011) (discussion of different standards for willful, wanton, and reckless misconduct under R.C. 2744.01(B)(1))
       5. Anderson v. City of Massillon (Ohio 2012) (Ohio Supreme Court standard on “willful and wanton misconduct”)

IV. The Firefighter’s Rule
    A. General Rule
    B. Rationale
    C. Exceptions
       1. Injury caused by homeowner’s willful or wanton misconduct
       2. Injury was a result of a hidden trap on the premises
       3. Injury caused by owner’s/occupier’s violation of statutory duty
       4. Failure of homeowner to warn of a known hidden danger

V. Ohio Good Samaritan Act – R.C. 2305.23
    A. General Rule
    B. Exception – people who render care with the expectation of being paid in return for rendering services
    C. Case Illustration – Van Horn v. Watson – California Supreme Court case holding that the California Good Samaritan Act does not apply to individuals who render non-medical assistance to others; outlier decision, heavily criticized

VI. Informed Consent, Patient Refusals, and the Importance of Proper and Thorough Documentation
    A. Elements of Consent
    B. Mental Capacity
1. Minors
2. Intoxication
3. Organic Brain Disease
4. Situational Medical Crises

C. Patient Refusals
   1. The Importance of Proper and Complete Documentation on Patient Care Reports
   3. The Importance of Appropriate Documentation of Events Likely to Lead to a Lawsuit Being Filed
      a. Writing Used to Refresh Memory – Ohio Evid. R. 612
      b. Past Recollection Recorded – Ohio Evid. R. 803(5)