Applied Law and Ethics in Health Care 1st edition Pardew Solutions Manual

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Solution and Answer Guide

Pardew, Applied Law & Ethics in Health Care, CY23, 9780357623879, Chapter 1, The Big Business of Health Care and You

Table of Contents

Study Questions 1

Cases For Discussion 1

Study Questions

1. Frontline health care professionals can help prevent medical malpractice lawsuits by:
   - Representing themselves and their employers in a professional manner.
   - Know the applicable laws and regulations.
   - Understand their scope of practice.
   - Maintain positive patient interactions.
   - Minimize the nonmedical and nonlegal variables involved in malpractice.
   - Abide by HIPAA's regulations regarding patient confidentiality.
2. The owner of a sole proprietorship has unlimited personal liability and does not have the tax advantages of an LLC or a corporation. There is no legal separation between you and your business in a sole proprietorship.
3. Unlike a partnership, a person's interest in a corporation is represented by stock, and the risk for the corporation's debt does not extend past the amount invested; except for very rare situations (called piercing the corporate veil), the personal assets of a corporation's shareholder are not at risk to cover corporate liability.
4. A provider may be tempted to achieve maximum financial reward by not ordering tests or procedures or prescribing medicine.
5. Personal health information has become a lucrative target for illegal actions on the internet. Health care companies have more liability than just HIPAA violations, and they now need to be stalwart defenders of their technologies' security.

Cases For Discussion

1. The Central Texas Medical Foundation and Brackenridge Hospital should be held vicariously liable for Dr. Villafani's treatment of the plaintiff. The Foundation and Brackenridge Hospital had control over the details of Dr. Villafani's work, so the court concluded he was the Foundation's "borrowed employee" when he treated plaintiff. Consequently, St. Joseph's could not be vicariously liable under the theory of respondeat superior, in part, because St. Joseph's had no control over Dr. Villafani's work at Brackenridge. *St. Joseph Hosp. v. Wolff*, 94 S.W.3d 513 (Tex., 2002).
2. Parkview may be held vicariously liable for Christian's misconduct even if the actions in question ran directly counter to Parkview rules or policies, such as the Confidentiality Agreement and the Acknowledgment Regarding Access to Patient Information. The

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employee's conduct was likely incidental to her duties at work because it was "of the same general nature" as her authorized job duties, which included use of the electronical medical records, management of schedules and communication, and other tasks that required access to patients' charts. While this case was settled before trial, it is likely Parkview should be found vicariously liable given the facts in this case. *SoderVick v. Parkview Health Sys.,* 148 N.E.3d 1124 (Ind. App. 2020).

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Instructor Manual

Pardew, Applied Law and Ethics in Health Care, ISBN 9780357623879; Chapter 1: The Big Business of Health Care and You

Table of Contents

Purpose and Perspective of the Chapter 2
Chapter Objectives 2
Key Terms 2
What's New in This Chapter 4
Chapter Outline 4
Discussion Questions 6
Additional Resources 6
Internet Resources 6
Appendix 7
Generic Rubrics 7
Standard Writing Rubric 7
Standard Discussion Rubric 8

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Purpose and Perspective of the Chapter

The purpose of this chapter is to give the learner an understanding of their crucial role in the health care system. Chapter 1 advises how understanding legal and ethical responsibility will protect these new health care professionals, their employers, and their patients. The chapter discusses differences among skill sets, scope of practice, and standards of care with information about how to proceed if there is a concern about employer assigned tasks. Patient protections in terms of patient rights and mandatory reporting for public health are addressed. Finally, the chapter reviews types of business entities and health care organizations that a learner may be working in as well as the benefits and challenges of remote health care, telemedicine.

Chapter Objectives

The following objectives are addressed in this chapter:

01.01 Recognize the importance of your role on the front lines of the health care industry.

01.02 Differentiate among registration, certification, and licensure for health care providers.

01.03 Identify proper protocol when a health care professional is asked to perform a task outside the scope of practice.

01.04 Summarize what is meant by personal protection and provider protection.

01.05 Compare standard of care for medical assistants and for different health care professionals.

01.06 Summarize laws and standards that protect patients.

01.07 Identify the different types of legal entities.

01.08 List the main types of managed care organizations.

01.09 Explain the risks and rewards of telemedicine.

Key Terms

Agent: One who has authority to act on behalf of another.

Bylaws: Regulations adopted by a corporation or association to govern its internal affairs.

Capitation: Payment in a lump sum to providers, HMOs, and health care facilities to deliver health care to a segment of the population.

Certification: Endorsement by an accredited professional organization that the holder has specific expertise as evidenced by passing an examination.

Conglomerate: A corporation diversifying operations by acquiring varied businesses.

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Directors: Those elected and terminated by stockholders to manage a corporation.

Dividends: Distributed profits of a corporation.

Fee-for-service: Basis of professional billing, either so much per hour or per identified procedure.

Investment: Expenditure of resources (money, effort, etc.) intended to secure income or profit.

Joint venture: A group of persons together performing some specific business undertaking that is limited in duration or scope.

Legal entity: An individual or organization that has legal capacity to contract, incur and pay debts, and sue and be sued.

Negligence: Failure to act with reasonable and prudent care given the circumstances.

Negotiated fee schedules: The amount an insurance company or other third-party payer will reimburse for a specific medical procedure.

Notice: An announcement of pertinent information to those who have a right or obligation to know.

Officers: Persons holding formal positions of trust in an organization, especially those involved in high levels of management.

Per capita payment: Pay equally according to the number of individuals.

Reasonable person: A prudent person whose behavior would be considered appropriate under the circumstances.

Registration: Recordation and maintenance of professionals' license related administrative information.

Respondeat superior: Legal theory that holds employers

responsible for the behavior of an employee working within the scope of employment.

Scope of practice: The tasks and services that a qualified health care professional is considered competent and allowed to perform pursuant to their license, or, if no license, their education, and experience.

Shares: Units of stock giving the possessor part ownership in a corporation.

Standards of care: The amount of care that a reasonable person in similar circumstances would exercise.

Stockholders: Those who hold an interest in a corporation.

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Utilization review: A process by which hospitals review patient progress to efficiently allocate scarce medical resources.

Vicariously liable: Legally obligated for the acts of others who are acting as their agent.

[return to top]

What's New in This Chapter

The following elements are improvements in this chapter from the previous edition:

- New content on certification; scope of practice; vicarious liability; health care delivery systems; surprise billing; HSAs; and technology and medicine, including impact of COVID-19 upon telemedicine and health information on personal electronic devices.

[return to top]

Chapter Outline

In the outline below, each element includes references (in parentheses) to related content. "CH.##" refers to the chapter objective.

I. Introduction to the Business of Health Care (01.01)

   a. This section reviews the complexity of the US health care system. It notes the general complexity of the business as well as the new allied health care professional's potentially dire role as a frontline worker and the heavy responsibility that holds. It mentions the conflicts between care delivery, cost containment and compliance. The competing interests between government, providers, patients, payers, and employers are also raised. Finally, this section discusses competition for cost control, market share and new product innovation with the emergence of Managed Care.

II. The Front Line Is You (01.01)

   a. This section discusses that the Allied Health Professional needs to understand that they are on the front line of the health care industry most in contact with patients. Therefore, these professionals need to be aware of their legal and ethical responsibility and understand how their professional behavior has an impact on the legal and ethical standing of the organization as well as their own careers.
   b. Study Question #1: 15 minutes: Reviewing what the allied health professional can do to minimize risk of malpractice.

III. The Importance of Legal Knowledge (01.01, 01.02, 01.03, 01.04, 01.05, 01.06)

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a. This section introduces concepts of standard of care, licensure, registration, and certification, as well as scope of practice. Personal and provider protection are discussed as well as patient protection and the Patient Bill of Rights.
b. Suggested Activity #1: 15 minutes total. Discuss the licenses and certifications that are available in the area and who issues them.
c. Cases for Discussion #1: 30 minutes total. Discuss the case of Brackenridge Hospital and Resident Dr. Villafani performed tracheostomy with a breathing tube, which resulted in bleeding and permanent brain damage to the patient. The question is: Who, if anyone, should be held vicariously liable for Dr. Villafani's treatment of the plaintiff?
d. Cases for Discussion #2: 40 minutes total. Discuss the case of Parkview Health System's OB/GYN case where patient Ms. SoderVick sued under assertion of respondeat superior after an employee violated HIPAA privacy provisions.

IV. The Business Structure: Legal Entities (01.07)
a. This section introduces the business structures that can be found in health care, from small structures like a solo practice to the conglomerate and informs about the concept of DBA.
b. Suggested Activity #2: 30 minutes total. Find online resources for state corporations and research legal entity registrations with year created and other significant information.
c. Study Question #2: 15 minutes: compare and contrast sole proprietorships and partnerships
d. Study Question #3: 20 minutes: compare corporations and partnerships.

V. Health Care Delivery and Compensation System (01.08)
a. This section describes fee-for-service as well as managed care entities and features. The description and challenges of fee-for-service are discussed. The Managed Care Organization (MCO) is defined along with associated delivery systems such as HMO, PPO and others. A case study describing Amazon Care is featured illustrating commercial and provider collaboration in managing care. The Affordable Care Act subsection defines the ACA, the purpose, and the features of the law.
b. Suggested Activity #3: 45 minutes total. Group discussion about what types of plans individuals may prefer and the variety of health insurance features.
c. Study Question #4: 15 minutes total. Identifying the conflicts of MCO bonuses for providers who reduce testing.

VI. Technology and Medicine (01.09)
a. This section mentions how the COVID pandemic influenced the increased use of telemedicine and includes an insert that visits this concept in some depth. Here also are mentioned personal electronic devices with health metric monitoring expansion of electronic health records and associated

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technology. Telemedicine subsection delves into the use of video visits and transmitted monitoring, the development of best practices for remote health care services, and the legal challenges of telemedicine.

b. Suggested Activity #4: 30 minutes total. Discussion of group's experiences with telemedicine and how these services compare to in-person health care.
c. Study Question #5: 15 minutes total. Identifying the risks associated with technology in health care.

[return to top]

Discussion Questions

Refer to the Cases for Discussion at the end of the chapter. You can assign these cases and questions several ways: in a discussion forum in your LMS; as whole-class discussions in person; or as a partner or group activity in class. Answers appear in the Solution and Answer Guide.

[return to top]

Additional Resources

Internet Resources

- Legal entities:

  U.S. Small Business Administration. (n.d.). Choosing your business structure. In Starting & managing. Retrieved from https://www.sba.gov/business-guide/launch-your-business/choose-business-structure

- Managed care organizations:

  U.S. Centers for Medicare & Medicaid Services. (n.d.). Health insurance plan & network types: HMOs, PPOs, and more. Retrieved from https://www.healthcare.gov/choose-a-plan/plan-types/

- American Telemedicine Association. Retrieved from https://www.americantelemed.org/

[return to top]

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Appendix

Generic Rubrics

Providing students with rubrics helps them understand expectations and components of assignments. Rubrics help students become more aware of their learning process and progress, and they improve students' work through timely and detailed feedback. Customize these rubrics as you wish. The writing rubric indicates 40 points and the discussion rubric indicates 30 points.

Standard Writing Rubric

Criteria	Meets Requirements	Needs Improvement	Incomplete
Content	The assignment clearly and comprehensively addresses all questions in the assignment. 15 points	The assignment partially addresses some or all questions in the assignment. 8 points	The assignment does not address the questions in the assignment. 0 points
Organization and Clarity	The assignment presents ideas in a clear manner and with strong organizational structure. The assignment includes an appropriate introduction, content, and conclusion. Coverage of facts, arguments, and conclusions are logically related and consistent. 10 points	The assignment presents ideas in a mostly clear manner and with a mostly strong organizational structure. The assignment includes an appropriate introduction, content, and conclusion. Coverage of facts, arguments, and conclusions are mostly logically related and consistent. 7 points	The assignment does not present ideas in a clear manner and with strong organizational structure. The assignment includes an introduction, content, and conclusion, but coverage of facts, arguments, and conclusions are not logically related and consistent. 0 points
Research	The assignment is based upon appropriate and adequate academic literature, including peer reviewed journals and other scholarly work. 5 points	The assignment is based upon adequate academic literature but does not include peer reviewed journals and other scholarly work. 3 points	The assignment is not based upon appropriate and adequate academic literature and does not include peer reviewed journals and other scholarly work. 0 points
Research	The assignment follows the required citation guidelines. 5 points	The assignment follows some of the required citation guidelines. 3 points	The assignment does not follow the required citation guidelines. 0 points
Grammar and Spelling	The assignment has two or fewer grammatical and spelling errors. 5 points	The assignment has three to five grammatical and spelling errors. 3 points	The assignment is incomplete or unintelligible. 0 points

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Standard Discussion Rubric

Criteria	Meets Requirements	Needs Improvement	Incomplete
Participation	Submits or participates in discussion by the posted deadlines. Follows all assignment. instructions for initial post and responses. 5 points	Does not participate or submit discussion by the posted deadlines. Does not follow instructions for initial post and responses. 3 points	Does not participate in discussion. 0 points
Contribution Quality	Comments stay on task. Comments add value to discussion topic. Comments motivate other students to respond. 20 points	Comments may not stay on task. Comments may not add value to discussion topic. Comments may not motivate other students to respond. 10 points	Does not participate in discussion. 0 points
Etiquette	Maintains appropriate language. Offers criticism in a constructive manner. Provides both positive and negative feedback. 5 points	Does not always maintain appropriate language. Offers criticism in an offensive manner. Provides only negative feedback. 3 points	Does not participate in discussion. 0 points

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