

CHAPTER 3

MEDICAL LAW AND ETHICS

CHAPTER OUTLINE

Classification of the Law.....44

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LEARNING OBJECTIVES

Upon completion of the lessons for Chapter 3, students should be able to:

- 3.1 Define and spell the terms to learn for this chapter.
- 3.2 Differentiate between criminal and civil law.
- 3.3 Identify the four Ds of negligence.

- 3.4 Discuss what can be done to avoid a claim of abandonment.
- 3.5 Discuss informed consent.
- 3.6 Discuss the role of the medical assistant relating to legal issues in the medical office.
- 3.7 Explain the importance of the Hippocratic Oath today.
- 3.8 List the seven main points of the AMA Principles of Medical Ethics.
- 3.9 List and discuss the main points of the AAMA Principles of Medical Ethics.
- 3.10 Discuss what is meant by the medical assistant's standards of care.
- 3.11 Describe the Patient's Bill of Rights.
- 3.12 Explain the HIPAA guidelines concerning the patient's right to privacy and confidentiality in the medical office.

CERTIFICATION LINK

CMA (AAMA)

Medicolegal guidelines and requirements

Licenses

Legislation

RMA

Medical law

Medical ethics

CMAS (AMT)

Medical office management

Risk management and quality assurance

LESSON MATERIALS

Instructional Materials

- Textbook—*Comprehensive Medical Assisting: Administrative and Clinical Competencies*, 3rd Edition, Beaman et al.
- Instructor resources—*Comprehensive Medical Assisting Instructor's Resource Manual: Administrative and Clinical Competencies*, 3rd Edition, Beaman et al.
- Lesson plans and Powerpoint Presentation

Application of Technology—Technology-related assignments

- LCD projector
- Computer with audio output and speakers
- Internet connection

PowerPoint Presentation

Lesson One

- 1.** Title Slide
- 2.** Lesson Objectives
- 3-16.** Classification of the Law
- 17-18.** Critical Thinking Question
- 19.** Classification of the Law
- 20.** Critical Thinking Question
- 21.** Classification of the Law
- 22.** Critical Thinking Question
- 23.** Classification of the Law
- 24.** Critical Thinking Question
- 25-27.** Classification of the Law
- 28.** Critical Thinking Question
- 29-35.** Classification of the Law
- 36-37.** Professional Liability
- 38.** Critical Thinking Question
- 39.** Professional Liability
- 40.** Critical Thinking Question
- 41-46.** Professional Liability

47. Critical Thinking Question

48-51. Professional Liability

52. Critical Thinking Question

53-54. Professional Liability

55. Critical Thinking Question

56-62. Professional Liability

63. Questions?

Lesson Two

1. Title Slide

2. Lesson Objectives

3. Patient and Physician Relationship

4. Critical Thinking Questions

5-11. Patient and Physician Relationship

12. Figure 3-2

13-31. Patient and Physician Relationship

32. Critical Thinking Questions

33-34. Patient and Physician Relationship

35. Figure 3-5

36. Patient and Physician Relationship

37. Critical Thinking Question

38. Questions?

Lesson Three

1. Title Slide

2. Lesson Objectives

3. Documentation

4. Critical Thinking Questions

5-15. Documentation

16-20. Public Duties of Physicians

21. Critical Thinking Question

22. Public Duties of Physicians

23. Critical Thinking Question

24. Public Duties of Physicians

25. Critical Thinking Question

26. Public Duties of Physicians

27. Critical Thinking Question

28. Public Duties of Physicians

29. Critical Thinking Question

30. Public Duties of Physicians

31. Critical Thinking Question

32. Public Duties of Physicians

33-35. Drug Relations

36. Critical Thinking Questions

37-38. Drug Relations

39-52. Role of the Medical Assistant in Preventing Liability Suits

53. Questions?

Lesson Four

1. Title Slide

2-3. Lesson Objectives

4. Critical Thinking Question

5-6. Code of Ethics

7. Medical Ethics

8. Critical Thinking Question

9-10. Medical Ethics

11. Critical Thinking Question

12-15. Medical Ethics

16. Critical Thinking Questions

17-18. Medical Assistant's Principles of Medical Ethics

19. Box 3-4

20. Critical Thinking Question

21-23. Medical Assistant's Principles of Medical Ethics

24. Critical Thinking Question

25-31. Medical Assistant's Principles of Medical Ethics

32-43. HIPAA and Confidentiality

44. Figure 3-7

45. Critical Thinking Questions

46. HIPAA and Confidentiality

47. Figure 3-8

48-53. Ethical Issues and Personal Choice

54. Questions?

End-of-Chapter Answers

ANSWERS TO COMPETENCY REVIEW

1. See the glossary.

2. Both parties must agree to roles, and a valuable commodity (consideration) is exchanged. In the medical office, money is exchanged for services.
3. Both the AAMA and AMT call for medical assistants to place the welfare of patients above all else (human dignity), respect confidentiality, and continue their study.
4. A physician informs the patient about the risks, benefits, and alternatives to an invasive procedure.
5. Answers may vary but should include professional responsibility to keep ethical standards.
6. Breaking a criminal law can lead to fines or imprisonment and is considered damaging to the public. Civil law usually has monetary penalties and is considered a breach of contract between two parties or damage done by one party to another.
7. The physician must have a duty to the patient, must have been derelict in duty to the patient, and that dereliction must have directly caused damages.
8. They protect members of the public from caring for wounded citizens in less than ideal situations. In the medical office, where a duty to the patient exists, a medical assistant is required to care for the patient. However, outside that duty, the medical assistant does not need to care for a victim. Good Samaritan laws protect the medical assistant from being sued by the victim.
9. If the medical assistant is familiar with the law, the assistant is less likely to break it.
10. Answers will vary.

ANSWERS TO PREPARING FOR THE CERTIFICATION EXAM

1. b, 2. b, 3. d, 4. d, 5. b, 6. b, 7. a, 8. e, 9. b, 10. b

ANSWERS TO CRITICAL THINKING QUESTIONS

1. Yes. All states within the United States have adopted Good Samaritan laws that protect a health care professional from liability while giving emergency care to an accident victim.
2. The physician who declares an organ donor's time of death is not allowed to perform the transplant or be a part of the transplant case.
3. The individual should make his or her wishes known to their family members. A donor may also want to indicate his or her wish to be an organ donor in a living will along with what he or she considers acceptable life-sustaining measures.

ANSWERS TO ON THE JOB

1. Dr. Spring should have known about the fertility treatment and the six weeks of bleeding.
2. It is the physician's responsibility to obtain informed consent. It is Nancy's role to educate the patient.
3. She should have notified the physician, who should call the husband back.
4. No; the emergency room physician is treating the patient.
5. If Nancy had not notified the physician of pertinent information, she can be part of the case. Ultimately, though, the physician is responsible for informed consent and signing off on the history.

CHAPTER 3—STUDENT WORKBOOK ANSWER KEY

STUDY GUIDE

I. Law and Liability

1. Classification of Law

- A. ***Criminal*** law is made to protect the public as a whole from the harmful acts of others.
- B. ***Civil*** law concerns relationships between individuals or between individuals and the government.
- C. ***Contract*** law is concerned with a breach or neglect of an understanding between two parties.

2. Civil Law

- A. ***Tort*** law falls under civil law and covers acts that result in harm to another.
- B. ***Negligence*** occurs when the patient is injured as a result of the health care professional not exercising the ordinary standard of care.
- C. When an individual is being threatened with imminent bodily harm, the person doing the act could be charged with ***assault***.
- D. A violation of the personal liberty of another person through unlawful restraint is known as ***false imprisonment***.

3. The Four Ds of Negligence

- i. ***Duty***

ii. *Dereliction or neglect of duty*

iii. *Direct cause*

iv. *Damages*

4. Name 4 Intentional Torts

i. *Assault*

ii. *Battery*

iii. *False Imprisonment*

iv. *Invasion of Privacy*

5. Standard of Care

A. Asserts that the physician must provide the same *knowledge, care, and skill* that a similarly trained physician would provide under the same circumstances in the same locality.

B. Physicians are expected to perform the same acts that *reasonable and prudent* physicians would perform.

C. If the physician violates the standard of care, he or she is liable for *negligence*.

II. Patient–Physician Relationship

1. Physician Rights

A. Both the physician and the patient must agree to ***form a relationship*** if there is to be a contract for service and treatment. The patient must confide ***truthfully*** to the physician in order to receive proper treatment.

B. Physicians have the right to ***expect*** payment for the treatment given.

2. Patient Rights

i. ***Give consent or permission for all treatment.***

ii. ***Expect the standard of care.***

iii. ***Expect confidentiality by physician and employees.***

iv. ***Privacy.***

3. Patient Obligations

i. : the patient is expected to follow the physician's instructions.

ii. ***The patient is expected to*** pay the physician.

4. Common Exceptions to Informed Consent

A. A physician does not have to inform a patient about risks that are ***commonly*** known.

B. If the physician feels that the disclosure of risks may be ***detrimental*** to the patient, then he or she is not responsible for disclosing them.

C. If the patient requests that the physician ***not*** disclose the risks.

5. Categories of Minors Who Can Give Consent

i. *Mature minor*

ii. *Emancipated minor*

6. Legal Implications to Consider When Treating a Minor

i. *When does a minor have the right to confidentiality?*

ii. *Who is financially responsible?*

iii. *Who is the minor's legal guardian?*

7. Durable Power of Attorney (DPOA)

A. Allows an agent or *representative* to act on behalf of the patient.

B. Agent may be a *spouse, grown child, friend*, or an *attorney*.

C. Used when a patient becomes physically or *mentally incapacitated*.

8. Uniform Anatomical Gift Act

A. Allows a person **18** years or older and of sound mind to make a gift of any or all parts of his or her body for the purposes of organ transplantation or medical research.

B. A physician who is not involved in the transplant will determine the *time of death*.

C. No *money* is allowed to change hands for organ donations.

III. Documentation and Regulations

1. When a Medical Record Is Subpoenaed for Court

- A. Copy only the parts of the record that are ***requested***.
- B. Send a ***certified copy*** unless the original record is subpoenaed.
- C. Place a ***receipt*** for the subpoenaed record in the patient's file.

2. Considerations for Testifying in Court

- i. ***Be professional***
- ii. ***Remain calm, dignified, and serious***
- iii. ***Do not answer questions you do not understand.***
- iv. ***Only present facts surrounding the case.***
- v. ***Do not memorize your testimony ahead of time.***
- vi. ***Always tell the truth***

3. Childhood Vaccines and Toxoids Required by Law

Diphtheria, tetanus toxoids, pertussis vaccine (DTP)

- i. Pertussis vaccine (whooping cough)
- ii. Measles, mumps, rubella (MMR)
- iii. Poliovirus vaccine, live
- iv. Poliovirus vaccine, inactivated
- v. Hepatitis B vaccine
- vi. Tuberculosis test⁴.

4. Drug Regulation Agencies

- A. The ***Food and Drug Administration (FDA)*** has jurisdiction over testing and approving drugs for public use.
- B. The ***Drug Enforcement Administration (DEA)*** is a branch of the U.S. Department of Justice.
- C. The ***Drug Enforcement Administration (DEA)*** regulates the sale and use of scheduled drugs.

5. Requirements for Controlled Substances

- A. Controlled drugs must be kept in a ***double-locked*** cabinet.

B. Any theft must be immediately reported to both the regional **DEA** office and local police.

C. Federal regulations require a **written** inventory of drug supplies.

6. Role of the Medical Assistant as Related to Controlled Substances

A. Does not **dispense** controlled substances.

B. Must be knowledgeable about the **regulations** governing the documentation and control of drugs.

C. Must always **report** any unusual patient behavior indicating addictive drug use.

7. MA's Role Related to Drug Administration

A. May administer medication only under the **direct** supervision of a physician.

B. When preparing medications for administration, check the medication **three** times.

i. ***Before removing it from the shelf***

ii. ***Before preparing the dosage***

iii. ***Before returning the medication to the shelf***

IV. Medical Ethics

1. Ethics and Medical Ethics

A. Branch of philosophy related to **morals** or **moral** principles.

B. Medical ethics refers to the **moral** conduct of people in medical professions.

C. The members of the medical profession set *principles* and *standards* for themselves.

2. Areas Covered in the AAMA Code of Ethics.

i. *Human dignity*

ii. *Confidentiality*

iii. *Honor*

iv. *Continued study*

v. *Responsibility for improved community*

3. Pledge Made under the AAMA Code of Ethics

A. Render service with full *respect* for the *dignity* of humanity.

B. Uphold the honor and high *principles* of the profession and accept its *disciplines*.

C. Seek to continually improve the *knowledge* and *skills* of medical assistants for the benefit of patients and professional colleagues.

4. HIPPA is organized into 3 parts:

i. Privacy regulations

ii. Transaction standards

iii. Security regulations

5. The Patient's Bill of Rights

A. Is now called the Patient Care Paternship.

B. Describes the *patient–physician* relationship.

6. HIPAA

A. Defined as the *Health Insurance Portability and Accountability Act of 1996*.

B. Regulates the *privacy* of patient health information.

KEY TERMINOLOGY REVIEW

Students' answers may vary.

1. **Bioethics:** ethical decisions pertaining to life issues such as stem cell research, in vitro fertilization, and abortion rights
2. **Contributory negligence:** patient's contribution to the injury, which if proven would release the physician as the direct cause
3. **Informed consent:** permission or approval given by a patient who is informed by the physician about the possible consequences of both having and not having certain procedures and treatment
4. **Living will:** document that allows patients to request that life-sustaining treatments and nutritional support not be used to prolong their lives
5. **Practice of medicine:** diagnosing and prescribing treatment or medication

APPLIED PRACTICE

1. A. Res ipsa loquitur – “the thing speaks for itself”

B. Respondeat superior – “let the master answer”

C. Guardian ad litem – “an adult who will act in court on behalf of the child”

LEARNING ACTIVITY: TRUE/FALSE

1. F

2. T

3. F

4. F

5. T

CRITICAL THINKING

1. Students’ answers should reflect the information as noted in the AMA Principles of Medical Ethics in Chapter 3.

2. Students’ answers may vary and can be used as a starting point for class discussion.

Privacy should be mentioned.

3. Students’ answers may vary but should include the definition of Good Samaritan.

RESEARCH ACTIVITY

Students’ answers may vary.

