

Case 5 - healthcare legal and ethical problems and remedial action plans

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Legal and ethical issues are approaches to regulating practices through developed and accepted set of rules. Law defines a set of rules that are established by an authority, either territorial or organizational, with the aim of regulating behavior of members of the authority. Failure to comply with the set rules leads to penalties in the form of punishment. Ethics however defines practices that have been observed and accepted by a society. They are developed and acceptable culture that are implemented by conscience of members of the society and non-compliance does not necessarily lead to punishment, though may elicit social ridicule and isolation. This paper reviews legal and ethical issues that face California Hospital Medical centre. The scope of operation of the hospital involves interaction with patients. This identifies rights and obligations of either party in a care agreement to identify the scope of the law. An identified weakness in the hospital's legal issues is with respect to confidentiality. This is because the organization partners with other care providers in its service delivery. It for example works closely with mental hospital, an initiative that requires transfer of patients' information from one facility to another. This weakness presents a possible threat to patients' confidentiality because their information can be used against them, following breach of confidentiality, or can be made public. Patients' confidentiality is a very fundamental legal issue in health care and majorly relates to patients' information and how such information should be handled. Boyd defines confidentiality as the duty not to disclose information to a third party. Such a duty requires that a recipient to a piece of information protect the information from further disclosure. Confidentiality

closely relates to an individual's right to privacy that prevents other people from knowledge of an individual's private life. A person breaches another's confidentiality when he or she releases information, which he or she was trusted with, without the other party's permission. An example of breach of confidentiality in the California Hospital Medical Centre is the disclosure of a patient's information to any other party such as the patient's relatives or another care personnel, provided that the patient has not consented to such a disclosure. Such a breach is however illegal as provided for by " Health Insurance Portability and Accountability Act" that protects both " privacy and confidentiality" (Boyd, 2007, p. 26). There are however circumstances where physicians are exempted from the legal provisions for confidentiality (Boyd, 2007). The legal provision for confidentiality however has a number of implications. It limits access of information for care provision and induces costs of ensuring safety of information (Miller, 2008). California Hospital Medical centre for example faces the problem of information transfer to other care personnel in other areas of specialization and other facilities. Information that could for instance be used by the mental facility to manage a patient's condition in the medical hospital is therefore not transferable to the mental hospital without the patient's consent, an issue that limits the professional practice to a patient's will (Miller, 2008). One of the possible action plans to the confidentiality problem facing the hospital is development of patient education forums to facilitate consent for transfer of information for care purposes. The hospital can also establish internal facilities to develop patients' confidence that their information is safely kept within the hospital (Boyd, 2007; Miller, 2008). The hospital's recruitment of volunteers

whom it fails to monitor identifies ethical weaknesses. This is because while professional physicians are already trained to understand the obligation to observe ethics, the volunteers are not keen on following ethical values. The lack of strict supervision over the volunteers also identifies ethical vulnerability to ethical problems. An example of an ethical problem that the organization faces is breach patients' informed consent by the volunteers. The ethics seeks to honor a patient's autonomy with respect to making decisions but the volunteers are likely to ignore patient's opinions to force what they, volunteers, believe is right. While the volunteers may not be informed about, or bound by ethical requirements as employees are, their actions stands a chance of ruining the hospital's reputation when the patients disclose that the hospital's personnel lack ethics (Ashcroft, Dawson, Draper and McMillan, 2007). One of the suitable action plans against the volunteer's breach of ethical issues is through a vigorous orientation on ethical requirements to ensure that the volunteers are informed of involved ethical issues. Another possible action plan towards ensuring ethics among the volunteers is through stipulating disciplinary measures against breach of ethical provisions. This will deter the volunteers from ethical breaches (Ashcroft, Dawson, Draper and McMillan, 2007). References Ashcroft, R., Dawson, A., Draper, H. and McMillan, J. (2007). Principles of health care ethics. New Jersey, NJ: John Wiley & Sons. Boyd, M. (2007). Psychiatric nursing: Contemporary practice. Philadelphia, PA: Lippincott Williams & Wilkins, 2007 Miller, R. (2008). Problems in healthcare law. Sudbury, MA: Jones & Bartlett Learning.