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Law



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There are numerous laws and regulations that govern the health care industry and profession. Laws and regulations are governed by federal and state legislature. Understanding how health care laws are put into place and action is essential for understanding laws in health care. Once it is understood how laws are put into effect it is easier to understand laws in the health care arena. One health care issue that is regulated by laws is SARS.

### Process of Laws

Laws begin as an idea or a particular need of the people. Laws pertaining to federal practices must originate in the house. Most legislation begins as a proposal in the two houses. Then, a hearing will be held to determine both public and special interest views of both houses. During the hearings, the committee that the bill goes to will consider the language of the bill and it can be amended or changed during this process. Once both the Senate and House agree to pass the bill, it will go to a committee of Senates and Representatives to work out any differences between the House and Senate versions of the bill. The final version of the bill must be agreed upon and approved by both House and Senate. When the two come to a final agreement, the bill will go to the President to be signed into law.

### Infectious Disease and Patient Safety

Health care providers have an ethical and legal responsibility to protect patients from infectious diseases. Health care facilities who fail to implement efficient infection control precautions risk patient safety resulting in a SARS outbreak. “ Improper sterilization of equipment exposed patients to diseases including HIV, Hepatitis, and bloodstream infections that risk patient safety”

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(Bailey & Ries, 2010, p. 141). A hospital or health care facility acquired infection exhibits signs about three days after a patient is admitted. Infections acquired in a hospital are defined as Nosocomial infections. Ineffective infection control creates safety concerns for patients because the result in most cases is death of the patient. Infections obtained in a medical facility are usually antibiotic resistant “ Bloodstream infections (BSIs) are a huge cause of death based on data from death certificates, these infections are the 10th leading cause of death in the United States (Wisplinghoff, Bischoff, Tallent, Seifert, Wenzel & Edmond, 2004, p. 309). Patient safety issues are responsible for a large number of lawsuits in the health care industry.

“ Health Grades Inc., a U. S. company that evaluates safety and quality concerns in health facilities, reported that rates of hospital-acquired infections in the United States rose by 20% between 2000 and 2003, contributing to around 9, 500 deaths” (Bailey & Ries, 2010, p. 141). Health care facilities have a legal obligation to protect patients from Nosocomial infection or any other harm while receiving medical care. When patients experience harm because of a lapse in infection control during the course of medical care, legal issues regarding liability result in a large class action lawsuits if more than one patient experienced harm. A health care organization is liable for a patient’s infection if negligence is the fault of the health care facility. To minimize the risk of lawsuits healthcare organizations should educate staff in infection prevention and ensure that proper procedures are followed by all health care professionals.(University of Michigan, 2002, p. 3).

When filing one case a class action lawsuit for patients in Canada, who contracted SARS claiming that the hospital failed to implement infection control precautions. In another case a number of Canadian hospitals improperly sterilized equipment put patients at risk of infection. Patients filed a class action suit claiming that those hospitals failed to provide safe patient care. “ The Women’s College Health Sciences Centre in Toronto filed a \$150 million class action lawsuit because ultrasound equipment was not properly disinfected, placing more than 900 patients at risk of infection” (Bailey & Ries, 2010, p. 142).

In another case a surgeon was sued for neglecting to communicate to a patient about a roll of gauze has been left in her abdomen resulting in a win for the patient. Another case involving an urologist who “ could not locate the tubing and balloon from a previous device implantation and decided to leave it rather than making an attempt to locate it. He was found negligent for deciding not to advise the plaintiff of the health risks and neglected to follow-up appropriately.” According to “ the Supreme Court of Canada in the 1956 case ruled that physicians have a fiduciary duty to act in a patients best interests as set out in various court decisions,” which remains a leading authority today (Bailey & Ries, 2010, p. 141).

## Responsibility

Controlling and regulating infection prevention is the responsibility of a number of agencies. OSHA drafted a publication of blood-borne pathogen rules and regulations require infection control training for all employees with a potential of exposure to blood and other bodily fluids thereby requiring all

healthcare workers to receive hepatitis B vaccinations. The Food and Drug Administration ensures that antimicrobial and chemical germicides are properly used on medical devices. The Environmental Protection Agency is responsible for testing hospital disinfectant products. The Joint Commission (TJC) is responsible in identifying and reducing the risk of infections in patients and healthcare workers (University of Michigan, 2002). Each of these organizations is responsible in developing an infection control program. Nosocomial infection complicates the stay of five to 15 percent of inpatients and hand washing in an important way to prevent the spread of germs according to the United States Centers of Disease Control and Prevention (Electronic Handbook of Legal Medicine, 2009, p. 3).

### Legality

Healthcare professionals and facilities have a legal responsibility to ensure patient safety and is a challenge for healthcare facilities to implement infection control procedures. “ In April 2003, in response to the SARS outbreak, the federal executive branch acted rapidly to add SARS to the list of quarantinable communicable diseases. At the same time, HHS amended the regulations to streamline the process of adding future emerging infectious diseases. Since the emergence of SARS, CDC has increased legal preparedness for future public health emergencies by establishing a multistate teleconference program for public health lawyers and a Web-based clearinghouse of legal documents” (Misrahi et al, 2004, p. 353). The Supreme Court of Canada ruled that physicians have a duty to put a patient’s best interest first. Nosocomial infection is dangerous and can result

in death of the patient and lead to lawsuits that usually do not end well for the healthcare facility.