

Health law: regulation and compliance essay sample

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Healthcare has brought on rapid changes for all specialties, addressing proficiencies established by medical facilities in caring for increasingly complex patients in this changing environment. Employees are constantly confronted with legal and ethical dilemmas in clinical decision making; in addition those professionals need to be aware of the way in which the law regulates their professional careers. Legal and ethical issues have been an increased concern when having to produce important decision in their clinical careers. Furthermore, all healthcare professionals are individually accountable through the law to their patients (McHale & Tingle, 2009). Medical professionals can be sued directly by their patients due to their neglect making him or her responsible; furthermore government has been addressing many of the perceived needs of the employee by involving the employer through laws since 1964.

Employment Legal Issue

St John's Hospital; a seven hospital system has agreed to settle a class action lawsuit for \$13.6 million that alleged hospitals in the Detroit, Michigan area have conspired to keep wages for nurses artificially low (Greene, 2009).

Law Suit

This lawsuit was transpired based on evidence that local hospitals were freezing the current pay scale for nurses so that they don't shop around from one hospital to another. Due to the nursing shortage, it has become extremely difficult to hire nurses and to keep them content. If nurses find a higher salary somewhere else, they would choose to work there instead.
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Hospitals have been in desperate need to retain nurses, furthermore offering competitive hourly wages and signing bonuses which aids in retention.

The nursing profession has become extremely demanding due to shift changes and shortage creating dissatisfaction and burnout.

Employment Discrimination

The legal foundation for all citizens to pursue the profession of their choosing and to advance in their chosen careers subject to the limitations of only their individual qualification, talents, and energies is represented by The Title VII of the Civil Rights Act of 1964 (University of Phoenix, 2006). The government regulates many phases of the employment relationship, including laws affecting recruitment, penalties, and terminations. The basis of the law is that people must be judged primarily by their job performance. In most circumstances federal laws preempts or overrules state laws. However, there are some exceptions. For example, one occurs when there is not a federal law relating to a topic, in which case the states can then regulate. Another exception occurs when the court has already reigned that the state does not conflict with Federal law, in which case the state law is implemented (University of Phoenix, 2006).

This legislation defines unlawful employment discrimination as the failure or refusal to hire an individual, or to discharge an individual, or to discriminate against any individual with respect to compensation or other terms, conditions, or privileges of employment because of that individual's race, color, religion, sex, or national origin. In addition, limiting, segregating, or classifying employees or applicants for employment in any way that would

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deprive them of employment opportunities or otherwise adversely affect their status as employees because of race, sex, color, religion, or national origin is also injustice.

Medical Law

Having a basic understanding of the law is important because what is illegal to do is always unethical. Without healthcare laws, justice and injustice would have little or no meaning, in addition he or she would intuitively make the right decisions based on what is right or wrong. Honestly, do they think what the hospitals are doing is the right way to retain nurses and do business? Legally, no law is represented that can stop or prove that hospitals in Michigan are doing this, but if nurses are unionized, this type of treatment could go against any contract which is signed by the employees and the company. Laws are rules or actions prescribed by an authority such as the federal government and the court system that have a binding legal force. Medical law addresses legal rights and obligations that affect patients and protect individual rights, including those of healthcare employees (Fremgen, 2005).

Health Care Privacy and Security

Confidentiality about delicate data is essential to preserve the patient's self-worth. However, in order to receive payment from third-party payers such as insurance companies, the patient's diagnosis may have to be revealed no matter how embarrassing it is for the patient. Modern medicine and technology have meant that patient privacy issues have become of concern

among patients, medical professionals, and ethicists. In many cases, patients have become fearful of admitting to what could be uncomfortable facts, such as drug misuse, sexually transmitted diseases, and mental health issues.

Some may argue that the laws, regulations and standards that were created in 1996 were because of concerns with patient confidentiality. While these are mostly designed to protect the public, it is also for administrative regulations to ensure accreditation and subsequently secure reimbursement funds for organizations. The federal law that was created to protect patient health information is known as The Health Insurance Portability and Accountability Act (HIPAA) (University of Phoenix, 2006).

Legal Requirements

Health standardization can be beneficial and thus regulations and laws pave the way for organizations to deliver a minimum of care to patients who require health care, regardless of setting. “ These legal requirements have a significant impact on how patient-specific health care information is maintained and secured in health care information systems” (Wagner et al., 2009, Chapter 3). Licensing, certification and accreditation are all important aspects of running a health care organization. Ensuring the business holds these and are able to be well maintained is key to staying in business in the health care world. The legalities of each are critical in maintaining the minimum standard of each requirement and ensures standardization of each area. Although these can become cumbersome at times, they are necessary in order to maintain continuity of care.

The Privacy Rule

Under HIPAA, patients must award written consent or permission to release their protected health information (PHI) for treatment, payment, and other health care causes. The privacy rule applies to PHI, which refers to any individually identifiable information that relates to all past, present, and future physical or mental conditions or the provision of health care to an individual. For example, data such as patients name, age, gender, and medical diagnosis are all PHI. This material can be transcribed in any form, including electronic transmission.

HIPAA requires the covered individuals to limit the revelations to only the slightest information essential to carry out the medical treatment.

Furthermore, the information can be conveyed to vendors, such as health insurance companies, if they have obtained written assurance from the vendor the data will be protected. Even when a patient has passed on, the standards to protect PHI are still in effect (University of Phoenix, 2006).

Know the Law

Before pursuing a lawsuit, know the law and know your rights as an employee. Furthermore, understand the American legal system and be aware that individual laws may be interpreted differently by other states. Also laws do vary from state to state. That is why health care professional need to have an excellent understanding of the legal system for a number of reasons (University of Phoenix, 2006). The advanced state of medical technology creates new legal, ethical, moral, and financial problems for the

consumer and the health care practitioner. There are demands for mutual partnership from the physician and the rest of the health care team on behalf of the patient because they have become more aware of their legal rights and they have become more involved in their health care needs. Court cases and judgments have had a larger impact than ever on the way health care professionals practice business in the medical field.

Conclusion

Agreements may be formed between two parties that may bind a legal contract, furthermore in the medical profession; contract law may address a breach or neglect of a legally binding agreement if failure to perform any promises or to carry out any terms of the contract is present, which may be what this lawsuit is all about. The health care provider, such as a medical doctor, has a number of confidentiality requirements to the patient.

Additionally, retaining authorization and patient consent for disclosure of any medical information and authorizing patient admission to medical facts.

Medical professionals encounter dilemmas that are not often experienced by others, moreover complications in advancement of medical science and technology has made medical decisions increasingly complicated.

Understanding the legal implications for both the employee and the employer will aid in practicing medicine in any setting, in addition without moral structure for one's actions, people would be free to do whatever he or she wants.

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