

Legal aspects of health care argumentative essay

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Nowadays, most healthcare organizations are well equipped with standards and laws concerned in the provision of health care supervision and management. Yet, many health care organizations face legal issues regarding their conduct especially with regards to patients' rights, institutional legal responsibility, opposing trust and relationship with the employees. The article entitled Traditional Theories of Liability enumerated four theories of liability dealing mostly with the patients concerns.

These theories of liability are as follows: Negligence (or Direct Liability) for Injuries Caused by Cost Containment Measures discusses that health care organization can be held responsible for the negligence committed that can cause impairment to the patient under their supervision. In simple terms, negligence is a careless act of the health care provider towards a patient. A health care provider is held liable for a negligent act according to Tiwari and Baldwa if “ the damage is so obvious that there is no need for any proof of negligence like operating on the wrong part of the body of the patient or undertaking a wrong process of operating (Tiwari & Baldwa, 2001).”

The Corporate Negligence Doctrine stresses out on the responsibility of the hospital itself to provide health care to its patient. As stated by Randall, “ Corporation negligence will hold an organization liable for the careless performance of a provider when the organization was negligent in hiring or supervising the provider itself (Randall, 1999) .”

Respondeat Superior Doctrine, as pointed out by Randall, “ the employer is held responsible for the neglectful acts of an employee provider even though the employer itself has not acted negligently (Randall, 1999).” The employer

(hospital itself) is held liable for the careless act inflicted by an independent contractor.

According to Randall, “Ostensible agency liability is a type of explicit liability in which a health care organization can be apprehended liable for a health care provider's negligence (Randall, 1999).”

A case where in the negligence of the doctors and other medical providers were committed was the case of Darryl Dukes versus U. S. Healthcare, Inc., Germantown Hospital and Medical Center; William W. Banks, M. D; Charles R. Drew Mental Health Center; Edward B. Hosten, M. D. Darryl Dukes, having an ear problem, consulted his physician, William W. Banks.

As stated on the case provided by FindLaw,” Darryl underwent a surgery and Banks organized a recommendation asking for blood studies. Darryl handed that medical recommendation to the laboratory of Germantown Hospital and Medical Center but the hospital declined to carry out the tests. The hospital did not provide any explanation for their negative response (“D. C. Civil Action No. 93-cv-00577”, 2006).” After that, Dukes sought for a second opinion from Dr. Edward B. Hosten, M. D who also asked him to undergo a blood test. Dukes medical condition got worse and he died. It was stated by the article provided by the FindLaw that “Darryl's blood sugar level was very high. That condition purportedly could have been detected through a well-timed blood test(“D. C. Civil Action No. 93-cv-00577”, 2006).”

The case, dealing more on the negligence of the medical provider, had gone through a long and critical process. As cleared by the case, “Dukes’familyfiled a suit against organization through which Darryl, being a

member of Health Maintenance Organization, accepted his medical treatment. The HMO is considered responsible for the wrongful conduct of doctors and other health care providers which is under the discussion of ostensible theory (" D. C. Civil Action No. 93-cv-00577", 2006)." The case was dismissed and the court granted the HMO's motion because according to the statement on the article (FindLaw), " any ostensible agency claim ought to be made on the basis of what the assistance arrangement provides and is consequently associated to it(" D. C. Civil Action No. 93-cv-00577", 2006)"

References

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