

Health Law Quality & Liability - Professor Pope
Final Exam Scoring Sheet – Fall 2021

Multiple Choice (1½ points each)								
1. A	5. D	9. A	13. B	17. E	21. D	25. C	29. B	
2. D	6. C	10. C	14. A	18. D	22. B	26. B	30. A	
3. A	7. A	11. A	15. B	19. A	23. B	27. B		
4. B	8. B	12. D	16. D	20. C	24. B	28. C		
TOTAL								45

Short Essay 1 (10 points)		
Clarity	Organization, headings, paragraphs, white space	1
3 Types of DED	Even if the hospital lacks a licensed ED, it may have a DED for EMTALA purposes. If the hospital has a DED, then it must comply with EMTALA.	2
	The hospital has a DED if it holds out a unit as a DED.	2
	The hospital has a DED if it de facto operates as a DED.	2
Specialized resources	Even if the hospital lacks any type of DED, it must accept transfers for patients who need its specialized capabilities.	3
TOTAL		10

Short Essay 2 (10 points)		
Clarity	Organization, headings, paragraphs, white space	1
EMTALA	EMTALA does not apply. This UCC is not a licensed DED. Nor is it held out or operated as a DED.	4
Abandonment	The UCC has no duty to treat this patient unless it already agreed to treat her. This is unlikely in this setting. (While <i>Dinter</i> permits medical malpractice without a Tx relationship, it cannot permit an abandonment action.)	4
Direct	Arguably, the UCC should have referral policies for these situations.	1
TOTAL		10

Short Essay 3 (10 points)		
Clarity	Organization, headings, paragraphs, white space	1
Vicarious	Neither respondeat superior nor non-delegable duty doctrine apply.	1
	Apparent agency is typically applied to ED physicians, radiologists, and pathologists. It is unclear that it extends to food service.	1
Direct	Duty: Expert can probably establish that a reasonable hospital would not have left the food unattended.	2
	Breach: Hospital left food unattended.	2
	Causation: Had the hospital not breached, the plaintiff probably would not be injured.	2
TOTAL		10

Long Essay (25 points)		
Clarity	Organization, headings, paragraphs, white space	1
Dr. Ferrell	While PTF lacks a surgical expert, this is a foreign object case. PTF can pursue medical malpractice with <i>res ipsa</i> .	4
	Lying about the error may support IIED.	2
Hennepin H	HH is vicariously liable for torts of Ferrell committed within the scope of employment.	3
R Nurses	PTF expert is probably qualified. Malpractice: nurses failed to discover embolism.	3
Dr. Clooney	PTF expert is probably qualified to opine on whether Clooney should have left instructions.	3
Ramsey H	RH is vicariously liable for torts of nurses committed within SOE.	3
	RH may be vicariously liable for Clooney as an ostensible agent.	3
	RH may be directly liable for understaffing, though causation may be tough.	3
TOTAL		25