

Health Law Quality & Liability - Professor Pope

Final Exam Scoring Sheet – Spring 2020

Multiple Choice (2 points each)						
1. A	5. C	9. B	13. A	17. D	21. C	25. A
2. D	6. D	10. C	14. D	18. C	22. D	26. C
3. A	7. C	11. D	15. A	19. B	23. C	
4. E	8. E	12. C	16. B	20. D	24. A	
TOTAL						52

Essay 1 (16 points)		
Section 1557	This facility must comply with section 1557 because it probably takes federal funds.	4
	The patient was clearly LEP, yet the facility provided no qualified interpreter.	
Informed Consent - DUTY	This duty is owed because there was a treatment relationship.	1
	The reasonable patient would want to know about the other option given the very different risk/benefit tradeoff.	2
	Arguably, the patient waived the duty.	2
	But given the LEP issues, it is unclear whether this was knowing and voluntary.	2
Informed consent-BREACH	The alternative was not disclosed.	1
	Had the PTF taken the alternative, her injuries would probably have been avoided.	2
	But the reasonable patient probably would not have taken the alternative even if the PTF would, because it is standard of care.	2
TOTAL		16

Essay 2 (16 points)		
Pro Argument	Many argued that this would perpetuate racism. Some argued it would not be accurate in any case.	8
Con argument	Many argued that the objective is to replace the income that would have been lost (not the income the PTF “should” have earned). Some argued that since women live longer, it would harm them to not consider gender.	8
TOTAL		16

Essay 3 (16 points)		
Battery	This was a non-consensual touching.	2
MRC – Vicarious	MRC may be vicariously liable in respondeat superior if the physician was employed.	4
	But this was probably outside the scope of employment.	
	Ostensible agency may be less likely since this is not the paradigm hospital ED context and the physician and patient had an ongoing treatment relationship.	
MRC – Direct	MRC may be liable for negligent retention. A reasonable clinic would have fired a physician for this conduct. Had that been done, PTF would not have been injured.	4
Affirmative defense - SOL	The suit was filed within a year of the newspaper article.	3
	The claims are barred if PTF was on notice of a claim before the article and she may have been (or “should” have been) on notice at the time of treatment.	3
TOTAL		16

Note: I use the above tables to tally scores. Your answer should be structured to address these issues and should include some macro organization with headings and paragraphs. But your answers should be written in the format of a memo or brief and not in a table.