

# Health Law Quality & Liability - Professor Pope

## Midterm Exam Scoring Sheet - Spring 2022

Multiple Choice (2 points each)						
1. D	5. F	9. C	13. B	17. A	21. F	25. C
2. D	6. C	10. B	14. A	18. C	22. D	
3. D	7. A	11. C	15. B	19. B	23. B	
4. E	8. C	12. D	16. D	20. A	24. D	
<b>TOTAL</b>						<b>50</b>

Essay 1 (10 points)		
<b>Clarity</b>	Organization, headings, paragraphs, white space	<b>1</b>
<b>Refuse New Pt</b>	The physician may refuse to accept new patients because they are unvaccinated. It is not relevant whether this is a “good” reason because she does not need one. It is sufficient that this is not refusal for an invidious discrimination (race, disability).	<b>3</b>
<b>Refuse existing Pt</b>	It is more complicated for the physician to stop seeing current existing patients because they are unvaccinated. Again, the reason is irrelevant. It is sufficient that the physician provides the terminated patients with sufficient notice to obtain alternative care.	<b>3</b>
<b>Reasons do not matter</b>	The physician’s reasons for refusing new patients or for firing existing patients do not matter, so long as the reason is not invidiously discriminatory. Vaccination status does not fit any of those protected categories.	<b>3</b>
<b>TOTAL</b>		<b>10</b>

Essay 2 (15 points)		
<b>Clarity</b>	Organization, headings, paragraphs, white space	<b>3</b>
<b>UMH</b>	No violation. The patient was never on UMH property.	<b>3</b>
<b>SPRMC</b>	Violation for transferring un-stabilized patient without following the required steps (or even doing a screening). The patient was on UMH property.	<b>3</b>
	Violation for not reporting the illegitimate transfer from/by MRH.	<b>3</b>
<b>MRH</b>	Violation for transferring to SPRMC without following required steps such as SPRMC agreement. The patient was on MRH property.	<b>3</b>
<b>TOTAL</b>		<b>15</b>

Essay 3 (25 points)		
<b>Clarity</b>	Organization, headings, paragraphs, white space	<b>1</b>
<b>Informed consent</b>	<b>Duty 1:</b> Duty is established in MA as it is in MN/IA. The surgeon must disclose RBA information that a reasonable patient would find significant.	<b>3</b>
	<b>Duty 2:</b> A reasonable patient would find the risks of concurrent surgery significant both because they were avoidable and because they were significant.	<b>3</b>
	<b>Breach:</b> The risks (or even existence) of concurrent surgery were not disclosed.	<b>3</b>
	<b>Injury:</b> Plaintiff must have suffered risks not just have been exposed to them. It is unclear whether this prospective plaintiff was injured.	<b>2</b>
	<b>Causation 1:</b> Plaintiff will claim she would not have had the surgery at this time/place if she had known it would be concurrent.	<b>2</b>
	<b>Causation 2:</b> It may be difficult to establish that a reasonable would not have had the surgery at this time/place if she knew it would be concurrent. It depends on whether there were better alternative options available (non-concurrent surgery in the same time frame and at a facility of the same caliber as MGH).	<b>2</b>
	<b>Causation 3:</b> It may be difficult to establish that plaintiff would probably not have her injuries if the surgery had not been concurrent.	<b>2</b>
<b>Battery</b>	<b>Theory 1:</b> Patient agreed to have attending do the surgery. Instead, trainees did it.	<b>2</b>
	<b>Theory 2:</b> Patient agreed to have a “regular” surgery. But instead got a materially different type of surgery” “concurrent” surgery.	<b>2</b>
<b>Abandonment</b>	The surgeon left the patient’s OR and was unavailable during key aspects of the procedure. The trainees were not an adequate substitute.	<b>4</b>
<b>TOTAL</b>		<b>25</b>