

Health Law Quality & Liability - Professor Pope

Midterm Exam Score Sheet (Spring 2024)

Multiple Choice (40 points – 1.6 points each)							
1. D	5. B	9. D	13. A	17. C	21. F	25. E	
2. A	6. A	10. C	14. C	18. D	22. C		
3. B	7. C	11. B	15. B	19. D	23. D		
4. D	8. C	12. C	16. A	20. D	24. A		
TOTAL							40

Essay 1 (10 points)		
Clarity	Organization, headings, paragraphs, white space	1
Treatment relationship	Physician and Patient were in a treatment relationship. Not only was Physician treating Patient but also Physician had formally agreed to treat Patient.	2
Patient Terminated	Patient terminated the treatment relationship. Patient fired Physician. Physician confirmed and documented this termination.	2
Abandonment	Abandonment is an issue when Physician terminates the treatment relationship. That did not happen here. Instead, Patient terminated the relationship. Plus, the challenged conduct occurred AFTER the termination when there was no longer a treatment relationship.	3
No claim otherwise	Even if Physician had terminated, Physician gave adequate notice. Patient had a new Physician such that continuity of care was unbroken. Patient was not harmed by the Physician's refusal.	2
Reformation	Physician contacted Patient after termination – but not in a way that created a “new” treatment relationship. Physician only confirmed details of the termination.	+
TOTAL		10

Essay 2 (10 points)		
Clarity	Organization, headings, paragraphs, white space	1
Abandonment	Patient was in a treatment relationship, receiving and seeking healthcare services.	1
	Hospital terminated the treatment relationship when it refused to continue providing the healthcare services that were being provided and that were already scheduled.	1
	Hospital terminated the treatment relation with zero notice, which is almost by definition inadequate notice. This likely distressed Patient and delayed needed treatment.	1
Section 1557	While private, Hospital almost certainly received federal funding, so must comply with 1557.	1
	Patient was denied healthcare services.	1
	Patient was denied healthcare services because of his gender identity.	2
ADA	While section 1557 directly applies to discrimination based on gender identity, Patient may also be protected by the ADA because gender dysphoria is arguably a disability. Hospital denied treatment because of this disability.	2
TOTAL		10

Essay 3 (20 points)		
Clarity	Organization, headings, paragraphs, white space	2
EMTALA applies to only some hospitals	EMTALA applies only to hospitals. It has no application to other healthcare settings where abortions might be performed (e.g., freestanding clinics).	5
	EMTALA does not even apply to “all” hospitals. It applies only to those hospitals that participate in Medicare and have DEDs.	3
EMTALA applies only to EMCs	EMTALA does not categorically authorize abortions in hospitals. It does not authorize elective abortions. And it does not apply to inpatients and outpatients of the hospital.	4
	EMTALA authorizes (requires) abortions only when necessary to stabilize an EMC.	4
EMTALA intent	The Biden Administration did not create any “new” rule regarding abortions. EMTALA always coincidentally applied to abortions because of the general stabilization requirement.	2
TOTAL		20

Essay 4 (20 points)		
Clarity	Organization, headings, paragraphs, white space	2
EMTALA applies	Patient arrived on Hospital property seeking treatment.	2
	Hospital has an ED and most probably participates in Medicare.	
Screening	Hospital administered what was apparently a standard screening.	4
	Ivanka claims it was not “normal.” But it is unclear what “normal” modifies.	
	The screening need not comply with the SOC applicable to hospitals. It must comply only with the policies and practice of this specific hospital.	
Stabilization	Ivanka had an EMC.	4
	Because Hospital was unaware of the EMC, it had no duty to stabilize it. Alternatively, if there was an EMC, Hospital stabilized that EMC even if it did not stabilize the other EMC about which it was unaware.	
Screening 2	Hospital had a duty to screen when Ivanka returned the next day. She was again on Hospital property seeking treatment.	2
	Hospital apparently performed an appropriate screening.	
Stabilization 2	Hospital did not stabilize the EMC that it discovered by the second screening.	3
	But that is permissible. Hospital arranged for an appropriate pre-stabilization transfer. It prepared a certification, called ahead, and otherwise complied with the transfer rules.	
RCH Refuse Transfer	Normally hospitals with specialized capabilities must accept transfers for such capabilities when they have capacity.	3
	RCH refused the transfer from MRMC even though it had capacity.	
TOTAL		20