

Legal Essentials of Health Care Administration

George D. Pozgar, MBA, CHE

Consultant

GP Health Care Consulting, International

Annapolis, Maryland

Surveyor

The Joint Commission

Oakbrook Terrace, Illinois

Legal Review

Nina M. Santucci

General Counsel

Essex Corporation

Columbia, Maryland



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PREFACE

This book is an abridged version of *Legal Aspects of Health Care Administration, 10th Edition*, which has been widely used by health care professionals and students in both undergraduate and graduate health care programs. The legal topics presented in the following chapters lay a strong foundation in health law. Although this book is a must for students taking introductory legal courses, it is of particular value as a supplemental reading in other courses as well. It is a sound reference book for those who wish to become more informed about how the law, ethics, and health care intersect.

Essentials provides an understanding as to what steps the providers of care, legislative bodies, patients, patients' families, and patient advocates can take to help prevent the wide variety of harmful events surrounding patient care. It presents a review of health law topics in an interesting and understandable format, leading the reader through the complicated maze of the legal system.

To assist the reader in applying the substantive material in this book, actual court cases are presented. The decisions in cases discussed are generally governed both by applicable state and federal statutes and common-law principles. When reviewing a case, the reader must keep in mind that the case law and statutes of one state are not binding in another state.

The first chapter begins with an historical perspective on the development of hospitals, illustrating both their progress and failures through the centuries. As the book progresses,

there is broad discussion of the legal system, including the sources of law and government organization. The text continues with a basic review of tort law, criminal issues, contracts, civil procedure and trial practice, and a wide range of real-life legal and ethical dilemmas that caregivers have faced as they wound their way through the courts. The final chapters provide an overview of various ways to improve the quality and delivery of health care.

The content of this book serves as a reminder to its readers that they must learn from the mistakes and tragedies experienced by others in order to avoid repeating them. The legal cases and resulting headlines should be a reminder of the responsibility the caregiver has to the profession he or she has chosen and that the knowledge gained from studying this book should be heeded to help prevent becoming the next headline:

- **Medicare Won't Pay Hospitals for Errors**

Beginning Oct. 1, Medicare no longer will pay those extra costs for eight preventable errors, including catheter-caused urinary tract infections, injuries from falls, and leaving objects in the body after surgery. Nor can hospitals bill the injured patient for those extra costs.

—*The Associated Press, 2008*

- **Robert Courtney Pleads Guilty to 20 Felony Counts**

Ultimately investigators discover he has diluted 72 different medications in

98,000 prescriptions for 4,200 patients since 1992. As a result civil suits are named and hundreds of families will never know if adequate dosages could have saved their loved ones. Courtney is sentenced to 30 years in federal prison for his crime. This episode truly looks at the darkest side of greed, Robert Courtney, a man who preyed on the weakest of victims and took away their only weapon in the fight against cancer.ⁱ

—*American Greed*,
February 27, 2008

- **Health Insurer Fined for Dropping Breast Cancer Patient**

Patsy Bates, 52, a hairdresser from Lakewood, had been left with more than \$129,000 in unpaid medical bills when Health Net Inc. canceled her policy in 2004. On Friday, arbitration judge Sam Cianchetti ordered Health Net to repay that amount while providing \$8.4 million in punitive damages and \$750,000 for emotional distress.

• • •

“It’s hard to imagine a policy more reprehensible than tying bonuses to encourage the rescission of health insurance that helps keep the public well and alive,” Cianchetti wrote in the Bates decision.

—*Baltimore Sun*, February 23, 2008

- **Incubator Fire Critically Burns Newborn**

Oxygen ignited inside a special hood worn by a newborn infant in a hospital, burning the boy’s head and face and leaving him in critical condition.

—*THE CAPITAL*, January 24, 2008

- **John Ritter’s Doctors Cleared of Negligence in Actor’s Death**

A jury cleared a cardiologist and a radiologist Friday of negligence in the diagnosis and treatment of actor John Ritter, who died of a torn aorta in 2003. Jurors found that the radiologist advised Ritter to follow up with treatment by a physician after a body scan two years before his death. Ritter didn’t follow the order.

—*The Huffington Post*,
March 14, 2008

- **Doctor Charged with Stealing 94-Year-Old Mother’s Savings**

A physician was accused yesterday of stealing his 94-year-old mother’s life savings of more than \$800,000 after taking control of her finances through a power of attorney, leaving her virtually impoverished.

—*THE CAPITAL*, January 24, 2008

- **Mature Human Embryos Created from Adult Skin Cells**

... opponents of research on human embryos lashed out at the approach.

—*The Washington Post*,
January 18, 2008

- **Hospitals Delay Cardiac Arrest Action**

No one knows precisely how many patients go through cardiac arrest and resuscitation. Estimates range from 370,000 to 750,000, the researchers report. Only about 30% survive long enough to go home.

—*U.S.A. Today*, January 3, 2008

- **Half of Doctors Mum About Medical Mistakes**

Washington—Nearly half of all U.S. doctors fail to report incompetent or unethical

Note: i. <http://www.cnn.com/id/23291456>.

cal colleagues, even though they agree that such mistakes should be reported, researchers said on Monday.

They found that 46 percent of physicians surveyed admitted they knew of a serious medical error that had been made but did not tell authorities about it.

—Reuters, December 3, 2007

- **Nursing Home Citations Climb 22%**

More nursing homes are being cited for serious violations as inspectors face increasing pressure to crack down on dangerous conditions

—U.S.A. Today, November 28, 2007

- **R.I. Hospital Fined for Brain Surgery Errors**

Rhode Island Hospital has been fined \$50,000 and reprimanded by the state Department of Health after its third instance this year of a doctor performing brain surgery on the wrong side of a patient's head.

—U.S.A. Today, November 28, 2007

- **The Quaid Twins: Fighting for Their Lives**

At the hospital on Nov. 18, they were allegedly among three patients given 1,000 times the recommended dose of heparin, a drug used to prevent IV catheters from clotting.

—People, December 10, 2007

- **Infant's Family Speaks Out Following Hospital Deaths**

Hospital officials said six premature babies were accidentally given adult doses of heparin at Methodist's newborn intensive care unit. The mistake was caught and the six were treated, but two of them . . . died . . . officials said.

—Indiana News, September 19, 2006

When reviewing the various cases in this book, the reader should consider what happened, why things went wrong, what the relevant ethical and legal issues are, and how the event could have been prevented. The reader should also consider if one fact in a particular case changed, how the outcome might be different. What would the fact be? The cases presented in the text have been chosen because of their continuing frequency of occurrence.

*Author's Note: This text is educational in nature and should not be considered a substitute for legal advice on any particular issue. Moreover, each chapter presents an overview, rather than an exhaustive treatment, of the various topics.

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