

HIM-1311: LEGAL ASPECTS OF HEALTH CARE

Cuyahoga Community College

Viewing: HIM-1311 : Legal Aspects of Health Care

Board of Trustees:

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Academic Term:

Fall 2021

Subject Code

HIM - Health Information Management

Course Number:

1311

Title:

Legal Aspects of Health Care

Catalog Description:

Introduction of legal and ethical issues applicable to health information including confidentiality; release of information; legislative process; the court system; legal vocabulary; retention guidelines; patient rights/advocacy; advance directives and ethics.

Credit Hour(s):

3

Lecture Hour(s):

2

Lab Hour(s):

2

Requisites

Prerequisite and Corequisite

ENG-1010 College Composition I; and MA-1010 Introduction to Medical Terminology, or MA-1020 Medical Terminology I.

Outcomes

Course Outcome(s):

Apply legal processes impacting health information

Essential Learning Outcome Mapping:

Written Communication: Demonstrate effective written communication for an intended audience that follows genre/disciplinary conventions that reflect clarity, organization, and editing skills.

Objective(s):

1. Differentiate between the legal health record and a designated record set
2. Identify the role of the custodian of health records
3. Articulate health record access and release of information.
4. Articulate the admissibility of health records per Federal Rules of Evidence and Uniform Rules of Evidence
 - a. Hearsay rule
 - b. Business exception rule of evidence
5. Compare the types and sources of law that govern the healthcare industry
6. Identify the steps in the legal process
7. Identify the United States Legal System, court systems and legal procedures
8. Apply professional liability theories to situations of wrongdoing
9. Articulate patient rights regarding healthcare decisions, purpose and types of consents, and advance directives
10. Identify legal issues in health information management, including factors that govern the creation and maintenance of the health record

Course Outcome(s):

Demonstrate compliance with external forces

Objective(s):

1. Identify legislation at the federal and state levels that affects health record content and retention
 2. Differentiate between court orders, *subpoena ad testificandum*, *subpoena duces tecum*, and search warrants
 3. Articulate the external forces which mandate health record content, licensure of practitioners, and accreditation agencies of health care organizations
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Course Outcome(s):

Identify the Components of risk management related to health information management

Objective(s):

1. Identify the role of the risk manager in a health care environment
 2. Articulate problem analysis methods (e.g., cause and effect analysis, risk identification and assessment, and root cause analysis) as related to
 - a. Privacy and security breaches
 - b. Disaster planning and recovery
 3. Articulate the use of incident reports related to sentinel events or incidents that may occur in a health care setting
 4. Articulate the risk related to physician privileges, licensure, malpractice and the National Practitioner Data Bank
 5. Identify the purpose of medical staff credentialing
 6. Demonstrate the differences among licensure, certification and accreditation
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Course Outcome(s):

Identify the impact of policy on health care

Objective(s):

1. Articulate governmental policy-making process
 2. Identify public health initiatives
 - a. Affordable Care Act
 - b. Accountable care organization
 - c. Patient-centered home
 3. Differentiate between the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule and the Security Rule.
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Methods of Evaluation:

1. Assignments: Homework, internet research, discussion board items, writing assignments, reading the textbook or articles
2. Minor assessments in the form of quizzes and/or tests
3. Internet research assignments
4. Midterm examination
5. Final examination

Course Content Outline:

1. Workings of the American legal system
 - a. Types of law
 - i. Public and private law
 - b. Sources of law
 - i. constitution
 - ii. statutes
 - iii. administrative decisions and regulations
 - iv. judicial decisions
 1. *stare decisis*
 2. *res judicata*
 - c. Branches of government
 - i. legislative branch
 - ii. judicial branch

- iii. executive branch
 - iv. quasi-legal requirements
- 2. Court systems and legal procedures
 - a. Court systems
 - i. jurisdiction
 - ii. court structure
 - b. Legal process
 - i. beginning the lawsuit
 - 1. plaintiff
 - 2. defendant
 - 3. complaint
 - ii. discovery
 - 1. depositions
 - 2. interrogatories
 - 3. production of documents and things
 - 4. physical/mental examination
 - 5. requests for admission
 - 6. pretrial conference
 - iii. trial
 - 1. opening statements
 - 2. presentation of the plaintiff's case
 - a. direct examination
 - b. cross examination
 - c. objections
 - i. sustained
 - ii. overruled
 - d. motion for directed verdict
 - 3. presentation of the defendant's case
 - a. direct examination
 - b. cross examination
 - c. objections
 - i. sustained
 - ii. overruled
 - 4. closing statements
 - 5. directions to the jury
 - 6. verdict
 - 7. overturn of the verdict
 - 8. role of jury
 - 9. role of judge
 - 10. appeal
 - 11. satisfying the judgement
 - c. Alternative dispute resolution
 - i. alternative dispute resolution
 - ii. mediation
 - iii. arbitration
 - iv. negotiation and settlement
- 3. Principles of liability
 - a. Healthcare relationships
 - i. physician - patient relationship
 - ii. hospital - patient relationship
 - iii. hospital - physician relationship
- 4. Theories of liability
 - a. nonintentional torts
 - i. negligence
 - ii. malpractice
 - iii. medical malpractice
 - iv. duty of care
 - v. breach of duty of care

1. state laws and regulations
 2. written material
 3. facility's policies and procedures
 4. expert testimony
 - vi. causation
 - vii. damages
 1. nominal
 2. actual
 3. punitive
 - b. *res ipsa loquitur*
 - c. vicarious liability
 - d. corporate negligence
 - e. failure to warn
 - f. intentional torts
 - i. assault and battery
 - ii. defamation
 - iii. invasion of privacy
 - iv. medical abandonment
 - v. breach of contract
5. Defenses and limitations on liability
- a. statute of limitations
 - b. charitable immunity
 - c. governmental immunity
 - d. good Samaritan statutes
 - e. contributory negligence
 - f. comparative negligence
 - g. assumption of risk
- Patient record requirements
- a. Function and use of the medical record
 - b. Legal requirement for medical record content
 - i. content of the medical record
 1. statutory provisions
 2. regulations
 3. accrediting standards
 4. institutional standards
 5. professional guidelines
 - ii. timely and complete medical records
 1. authorship
 2. authentication
 3. completeness
 4. corrections to the record
 - a. by healthcare provider
 - b. paper-based
 - c. electronic
 - d. by the patient
 - iii. Health Insurance Portability and Accountability Act (HIPAA)
 - c. Retention requirements
 - i. statutes and regulations
 - ii. other external forces
 - iii. bases for decision
 - d. Record destruction
 - i. destruction in the ordinary course
 - ii. destruction due to closure
 - e. Access to health information
 - i. Health Insurance Portability and Accountability Act (HIPAA)
 - ii. Preemption analysis for state regulations
 - f. Ownership health information

- i. patient
 - ii. provider
 - g. Notice of use and disclosure
 - i. notice of information practices
 - ii. consent
 - iii. authorization
 - iv. HIPAA regulations
 - v. preemption
 - h. Access by or on behalf of the patient
 - i. general principles of disclosure of information
 - 1. release of information
 - 2. minimum elements
 - 3. HIPAA regulations
 - 4. core elements of a valid release of information form
 - 5. common defects of an invalid release of information form
 - 6. minimum necessary standard
 - 7. emancipated minors
 - ii. continuum of ownership
 - iii. third parties
 - iv. reasonable fees
 - i. Access by the researcher
 - i. department of health and human services
 - ii. institutional review board
 - iii. HIPAA regulations
 - j. Access by the business associate
 - k. Access pursuant to reporting laws
 - l. Access to adoption records
- Confidentiality and informed consent
 - a. Confidentiality
 - b. Constitutional basis
 - c. Statutory basis
 - i. federal level
 - ii. state level
 - iii. common law basis
 - d. Informed consent
 - i. historical development
 - ii. scope of informed consent doctrine
 - iii. who may consent to treatment
 - 1. minor patients
 - 2. legally incompetent patients
 - iv. emergency situations
 - v. information to be disclosed
 - vi. situations requiring informed consent
 - Judicial process of health information
 - a. Medical records as evidence
 - i. evidence
 - 1. admissible
 - 2. hearsay
 - ii. business record exception
 - iii. foundation and trustworthiness requirements
 - iv. sample questions presented to the custodial of records
 - v. privilege
 - b. Response to legal process
 - i. subpoenas
 - 1. definition
 - 2. types
 - a. *subpoena ad testificandum*
 - b. *subpoena duces tecum*
 - 3. common elements of a valid *subpoena*

- ii. court orders
 - iii. show cause order
 - iv. response methods
- Specialized patient records
 - a. Differences between specialized patient records and generalized patient records
 - b. Types
 - i. drug and alcohol abuse
 - 1. confidentiality
 - 2. patient identification
 - 3. patient notice
 - 4. release of information
 - 5. disclosure with written patient authorization
 - 6. release of information form
 - 7. components of a valid authorization
 - 8. notice accompanying disclosure
 - 9. disclosure without written patient authorization
 - a. medical emergencies
 - b. research activities
 - c. disclosures pursuant to court orders
 - d. audit activities
 - 10. miscellaneous issues
 - 11. effect of state laws
 - 12. disposition of records
 - 13. enforcement and penalties
 - ii. mental health and developmental disability care
 - 1. content requirements
 - 2. privacy restrictions
 - a. patient identification
 - 3. release of information
 - 4. disclosure without written patient authorization
 - 5. disclosure pursuant to court order
 - iii. home health care
 - iv. genetic information
- Risk management and quality management
 - a. Risk management
 - i. general principles
 - ii. patient record requirements
 - 1. documentation
 - 2. security
 - iii. confidentiality
 - iv. incident reports
 - 1. definition and purposes
 - 2. discoverability and admissibility
 - b. Quality management
 - i. peer review privileges
 - ii. national practitioner data bank
 - 1. requirements for the reporting of medical malpractice payments
- HIV information
 - a. Testing
 - i. background information about HIV/AIDS
 - ii. voluntary testing
 - iii. mandatory testing
 - iv. anonymous testing
 - b. Patient confidentiality
 - c. Legal challenges
 - i. employment challenges
 - ii. improper disclosure challenged
- Computerized patient records

- a. Accreditation and licensure issues
 - i. creation and storage
 - ii. authentication
- b. Liability issues
 - i. admissible evidence
 - ii. security issues
 - iii. physical security
 - iv. personnel security
- c. Risk prevention techniques
- d. Electronic health issues
 - i. Internet
 - ii. electronic mail
 - iii. digital imaging
 - iv. telemedicine
- Healthcare fraud and abuse
 - a. Fraud and abuse
 - i. major laws addressing fraud and abuse
 - ii. law enforcement agencies
 - b. Compliance programs

Resources

Sayles, Nanette B and Gordan, Leslie L. (2020) *Health Information Management Technology: An Applied Approach*, Chicago: AHIMA.

McWay, Dana C. (2020) *Legal Aspects of Health Information Management*, Clifton Park: Thomson/Delmar Learning.

Brodnik, Melanie S. *Fundamentals of Law for Health Informatics*. 3rd. Chicago, IL.: AHIMA, 2017.

Mcway, Dana C. *Today's Health Information Management: An Integrated Approach*. 1st. Clifton Park, NY : Thomson Delmar Learning, 2008.

Resources Other

1. Web assignments relevant to current Health Insurance Portability and Accountability Act (HIPAA) regulations.
2. Web assignments relevant to current American Recovery and Reinvestment Act (ARRA) regulations.
3. Web assignments relevant to Fraud and Abuse and the Office of the Inspector General (OIG)

Instructional Services

OAN Number:

Transfer Assurance Guide OHL021

CTAN Number:

Career Technical Assurance Guide CTHIM002

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