

Ethics and Law for the Medical Office Chapter 3

LEARNING OBJECTIVES

LESSON 3.1: ETHICS AND HEALTH CARE

(SLIDE 1 OF 2)

1. Identify key differences between law and ethics.
2. List reasons for medical assistants to study ethics.
3. Identify specific rights that patients have in relation to health care.
4. Correlate the concept of duties to the actions expected of health professionals.
5. Be a patient advocate.

LEARNING OBJECTIVES

LESSON 3.1: ETHICS AND HEALTH CARE

(SLIDE 2 OF 2)

6. Report illegal and/or unsafe activities and behaviors affecting patient care to proper authorities.
7. Describe how certain ethical issues generate ethical conflict in society.
8. Describe ways to separate and prioritize personal and professional ethics.

INTRODUCTION TO MEDICAL ETHICS

- Society tolerates a wide range of beliefs about what is moral or “right”
- Laws regulate public behavior
 - Laws based on society’s beliefs about right and wrong
 - Interpretation of law also based on beliefs about right and wrong
- Normal, acceptable behavior, called etiquette or manners
 - Emotional response to breach of manners may be as strong as breach of morals
 - Patients may have negative emotional response to breach of manners

REASONS TO STUDY ETHICS

(SLIDE 1 OF 2)

- Intellectual growth
 - Develop skill to analyze complex problems
 - Justify choice between actions that have social and moral consequences
- Responsibility for future generations and humanity as a whole
 - Awareness that today's choices affect future generations
 - Ordinary people should have input into social choices

REASONS TO STUDY ETHICS

(SLIDE 2 OF 2)

- Need to make fair choices about health care resources
 - Need to make informed choices
 - Cannot respond only to special interests
- Need to make ethical choices resulting from technologic change
 - Affects ability to deal with new situations
- Health professionals need skills to improve health care for individuals and society

ETHICAL CONCEPTS

- May be derived from religious traditions
- May arise from social belief systems
- May be embodied in political documents
 - Declaration of Independence
 - U.S. Constitution and Bill of Rights

RIGHTS

(SLIDE 1 OF 2)

- Right is a claim that is expected to be honored
- Natural rights
 - Right to life
 - Associated with abortion (“right to life”)
 - Physicians traditionally did not assist with terminating life
 - Right to privacy
 - Woman’s right to control reproduction
 - Patient’s right to confidentiality

RIGHTS

(SLIDE 2 OF 2)

- Natural rights
 - Right to autonomy
 - Individual's right to make independent decisions about health care
 - Must be based on adequate information (informed consent)
 - Right to the means to sustain life
 - Justice in distribution and access, at least related to medical need
 - Difficult to determine how much health care is necessary for all

DUTIES

- Commitment to act in a certain way
- Five important duties for health professionals
 - Do no harm (nonmaleficence)
 - Do the best possible (beneficence)
 - Be faithful to reasonable expectations (fidelity)
 - Tell the truth (veracity)
 - Give each person a fair share (justice)

BE A PATIENT ADVOCATE

- Concept of fidelity includes expectation that patients' needs come first
- Medical assistant functions as an advocate for patients by suggesting appropriate community referrals to the physician

REPORT UNSAFE OR ILLEGAL BEHAVIOR

- Always follow up within the organization by documenting and reporting to the supervisor
- If no action is taken after reasonable period of time, the situation should be reported to the next person in the chain of command
- If medical assistant has followed up within organization without resolution of an unsafe or illegal situation, he or she should report incident to the appropriate government agency

ETHICAL CONFLICT

(SLIDE 1 OF 6)

- May be conflict within society about the relative hierarchy of certain rights and duties
 - Reproductive issues and abortion
 - Allowing the “morning-after” pill to be sold over the counter
 - Limits on abortion, such as ban on partial-birth abortion

ETHICAL CONFLICT

(SLIDE 2 OF 6)

- Stem cell research
 - Obtaining stem cell lines
 - Funding of stem cell research
 - Federal funding limited to stem cell lines that existed in 2001
 - Researchers claim that these are not adequate for vital research

ETHICAL CONFLICT

(SLIDE 3 OF 6)

- Genetic engineering and cloning
 - Genetic engineering is making, altering, or repairing genetic material
 - Used in production of food
 - Cannot foresee all consequences

ETHICAL CONFLICT

(SLIDE 4 OF 6)

- Genetic engineering and cloning
 - Cloning is reproducing genetically identical individuals
 - Human cloning prohibited in several states but no federal legislation
 - Concern about cloned animals being used for food
 - Gene therapy is giving individuals new genes

ETHICAL CONFLICT

(SLIDE 5 OF 6)

- Refusing or withholding treatment and physician-assisted suicide
 - Life-saving and life-prolonging treatment chosen by individual
 - Patient Self-Determination Act (1990)
 - Rely on written instructions if individual no longer can speak for self
 - Physician-assisted suicide and euthanasia
 - Euthanasia illegal in all states
- Only one state (Oregon) allows physician-assisted suicide

ETHICAL CONFLICT

(SLIDE 6 OF 6)

- Advance directives
 - May specify care to be given or avoided and name a person to make medical decisions if the individual should become incompetent.
 - Patient may want to provide for donation or any organs
 - DNR orders should be kept in the medical record
 - A living will gives instructions on how to treat a patient who becomes incompetent

PERSONAL, PROFESSIONAL, AND ORGANIZATIONAL ETHICS

- Professional ethics take precedence over personal beliefs and morals
- Medical assistant cannot withhold from the physician information given by the patient related to medical condition
 - Cannot legally suggest another treatment plan if they don't agree with physician

PROCESS USED TO MAKE ETHICAL DECISIONS

(SLIDE 1 OF 4)

- Gathering information
 - Background about the situation
 - Facts related to the specific problem
 - Information about the people involved, their knowledge of the situation, and their mental capacity
 - The impact of any laws or institutional policies that relate to the situation
- Identifying conflicting values
 - Conflict may be about ideals or practicalities
 - Individual wishes may conflict with duties or rights

PROCESS USED TO MAKE ETHICAL DECISIONS

(SLIDE 2 OF 4)

- Determining relative importance of conflicting claims
 - Clarify goals
 - Weigh conflicting values
 - Two positions may have almost equal weight
 - Individual or group must give more weight to one issue depending on context
 - The decision may not conform with the values of other individuals or groups

PROCESS USED TO MAKE ETHICAL DECISIONS

(SLIDE 3 OF 4)

- Exploring alternatives
 - Important to consider the possible outcomes of actions that may be taken
 - Helpful to identify as many courses of action as possible
 - Helpful to predict the consequences of each action
 - Helpful to project how different goals would be met or not met by following each possible course of action

PROCESS USED TO MAKE ETHICAL DECISIONS

(SLIDE 4 OF 4)

- Choosing and justifying one alternative
 - Conflicting claims require choices
 - Ways to justify a decision
 - By presenting logical arguments
 - By social justification
 - By projection of consequences
 - By refuting alternative claims
- Implementing the decision
 - Final step
 - Decision can always be reconsidered

LEARNING OBJECTIVES

LESSON 3.2: LAW AND PROFESSIONAL LIABILITY

(SLIDE 1 OF 3)

9. Identify similarities and differences between public law and private law.
10. Differentiate between criminal law and civil law.
11. List and explain the elements of a valid contract.

LEARNING OBJECTIVES

LESSON 3.2: LAW AND PROFESSIONAL LIABILITY

(SLIDE 2 OF 3)

12. State the rights and duties of each party in the physician-patient relationship.
13. Incorporate the Patients' Bill of Rights into personal practice.
14. Define standard of care, and describe how this concept affects the behavior of health professionals.
15. Describe the medical assistant's role in obtaining informed consent.

LEARNING OBJECTIVES

LESSON 3.2: LAW AND PROFESSIONAL LIABILITY

(SLIDE 3 OF 3)

16. Explain the principles of negligence and professional negligence as they apply to the behavior of health professionals.
17. Explain the purpose and need for professional liability insurance.

DIFFERENCE BETWEEN PUBLIC LAW AND PRIVATE LAW

- Criminal law (public law) relates to acts that threaten society as a whole
- Civil law (private law) settles disputes between individuals or groups of people
 - Damage is compensated
 - Contracts are part of civil law

LAWSUITS

(SLIDE 1 OF 2)

- Both civil and criminal lawsuits are tried in the same court system
 - Plaintiff initiates the case
 - Defendant is individual or group against whom the lawsuit is brought
 - Criminal activity is harmful to society and punished even if no one was injured by the act itself
 - For a civil lawsuit, injury or damage must have occurred for legal liability (responsibility) to exist

LAWSUITS

(SLIDE 2 OF 2)

- An injury can result in both a criminal lawsuit and a civil lawsuit
 - Criminal because the illegal act threatens society
 - Civil because there was damage or injury to the victim(s)
 - Criminal case must be proved “beyond a reasonable doubt”
- Proof in civil case held to lower standard: “preponderance of the evidence”

SPECIALIZED AREAS OF LAW

- Constitutional law
- International law
- Administrative law
 - Laws regulating agencies of the federal government, such as the IRS

CREATION OF LAWS

- Common law based on tradition and court decisions (also called case law)
- Statutory laws are created by enactment of a legislative body
 - Bills are written by and voted on by legislators
 - Bills are passed into law by the President on federal level and by the governor on state level
 - After being passed, a law is often called an act, especially if it has several parts
 - Ordinances are laws enacted by cities and towns

CRIMINAL LAW

- Branch of law that describes offenses against the public welfare
- Crime (malfeasance): Commission of an unlawful act
 - Felony: Serious crime
 - Misdemeanor: Lesser offense

NONVIOLENT CRIMES

(SLIDE 1 OF 2)

- Most common type of crime related to health care
- Crimes related to the death of a patient
 - Manslaughter: Unintentional causing of a death
 - Wrongful death
 - Criminal negligence (death related to seriously inappropriate treatment)
 - Assisted suicide and euthanasia are usually considered murder

NONVIOLENT CRIMES

(SLIDE 2 OF 2)

- Financial crimes
 - Larceny: Stealing without violence
 - Embezzlement: Appropriation of money or property from employers or clients
 - Fraud: Deliberate deception carried out to secure unfair or unlawful gain
 - Billing for services not provided
 - Billing for services provided to imaginary patients
 - Performing unneeded services
 - Using a code for a higher level of service than for the service provided

CIVIL LAW

(SLIDE 1 OF 2)

- Most medical office legal disputes have to do with civil liability
- Usually related to patient care or relationships between patients and the medical office
- Breach of contract: Failure to meet the terms of a contract

CIVIL LAW

(SLIDE 2 OF 2)

- Torts: Injuries or wrongs against people or property
 - Intentional: Person knows or should know the consequences of his or her actions
 - Unintentional: Any injury that is caused by mistake or unintended consequences
- Misfeasance is an act that was performed improperly and causes wrong or injury
- Nonfeasance is an act that should have been performed but was not

PHYSICIAN-PATIENT RELATIONSHIP

(SLIDE 1 OF 7)

- Physician-patient relationship is a legal contract
 - Any contract may be implied or expressed
 - Expressed contract may be verbal or written
 - Agreements between physician and patient are usually implied or verbal
- Contract is mutual agreement to perform a legal act for consideration (services) or payment

PHYSICIAN-PATIENT RELATIONSHIP

(SLIDE 2 OF 7)

- Some individuals are not legally able to be a party to a contract or give informed consent
 - Children younger than 18
 - The mentally ill or mentally incompetent
 - Individuals who are temporarily mentally incapacitated
 - Individuals under threat or duress
 - Individuals who have been found incompetent to handle their affairs

PHYSICIAN-PATIENT RELATIONSHIP

(SLIDE 3 OF 7)

- Individuals younger than 18 with adult status (emancipated minor)
 - In the armed services
 - Married
 - If a court order has been obtained certifying status

PHYSICIAN-PATIENT RELATIONSHIP

(SLIDE 4 OF 7)

- Rights of the physician
 - Responsible for the patient unless the patient is informed in writing
 - Arranges for someone else to cover their patients when they are not available
 - Has right to accept or decline to treat a patient
 - Has right to choose to limit the medical practice to a particular size or certain specialty
 - Has right to decide where to practice and when to schedule office hours and procedures
- May not make arbitrary decisions not to treat or refuse to treat individual patients

PHYSICIAN-PATIENT RELATIONSHIP

(SLIDE 5 OF 7)

- Rights and duties of the patient
 - Agrees to keep appointments, give accurate information, follow directions, and pay for the service
 - Has right to refuse treatment and to receive complete information about procedures
 - Has right to select physician and to receive continuity of care
 - Has right to expect confidentiality concerning his or her care
 - Has right to be treated with respect and dignity
 - Has right to receive complete information about treatment

PHYSICIAN-PATIENT RELATIONSHIP

(SLIDE 6 OF 7)

- Terminating the physician-patient relationship
 - Physician must notify patient in writing
 - Send letter using Certified Mail with Return Receipt requested
 - Letter needs to state reason for termination of care
 - Letter needs to describe how medical records will be made available
 - Copies of all correspondence should be kept in patient's medical record

PHYSICIAN-PATIENT RELATIONSHIP

(SLIDE 7 OF 7)

- Terminating the physician-patient relationship
 - Common reasons for a physician's terminating care of a patient
 - Physician moves
 - Physician retires
 - Physician dies
 - Physician closes practice for other reasons
 - Patient regularly and continually breaks appointments
 - Patient regularly and continually refuses to follow medical advice
 - Failure to notify the patient properly can result in lawsuit for abandonment

PATIENTS' BILL OF RIGHTS

- Apply the Patients' Bill of Rights as it relates to:
 - Choice of treatment
 - Consent for treatment
 - Refusal of treatment
- Apply Health Insurance Portability and Accountability Act (HIPAA) privacy rules relating to privacy

PERSONAL AND PROFESSIONAL LIABILITY

- Liability means “legal responsibility”
- Negligence is the failure to act or to refrain from acting as a reasonable person would do in the same situation

STANDARD OF CARE

(SLIDE 1 OF 2)

- Defines the level of appropriate care that is legally required of any health care professional
- Person without special training is held only to the standard of a “reasonably prudent person”
- Medical assistant is generally held to a professional standard
 - Medical assistant must know state law
 - If legally allowed to administer medications, physician must be present in the office

STANDARD OF CARE

(SLIDE 2 OF 2)

- Professional standard of care must be equivalent to other practitioners in that area with the same education and training
- In a serious emergency, health care professionals can give care for which they have been trained but which may not fall into their area of expertise
- All medical office personnel should be able to activate the emergency medical services system
 - Medical assistants should be trained in cardiopulmonary resuscitation (CPR)
 - Delay in treatment in an emergency may be considered a breach of contract

INFORMED CONSENT

(SLIDE 1 OF 4)

- Consent may be expressed or implied
- Consent may be verbal or written
 - Written consent forms for surgery, invasive procedures, HIV testing

INFORMED CONSENT

(SLIDE 2 OF 4)

- Explanation and obtaining consent is responsibility of person performing procedure
 - Includes potential risks of procedure
 - Includes potential discomfort and common side effects
 - Includes probable results if procedure is not performed

INFORMED CONSENT

(SLIDE 3 OF 4)

- Patient must understand in order to give informed consent
- Medical assistant obtains and witnesses signature
 - If patient does not understand, medical assistant arranges additional explanation

INFORMED CONSENT

(SLIDE 4 OF 4)

- State law may require special consent forms for release of information
 - HIV testing
 - Drug and alcohol rehabilitation
 - Service for mental health problems
- Patient can withdraw consent to release information at any time

PROFESSIONAL NEGLIGENCE

- Professional negligence is often called malpractice
- Health professional must be sure that he or she is acting within the limits of his or her profession
- Medical assistant held to the standard of a licensed professional who commonly performs a procedure

REQUIREMENTS TO PROVE PROFESSIONAL NEGLIGENCE

(SLIDE 1 OF 2)

- Proving professional negligence requires “4 Ds of malpractice”
 - Duty: Professional has a duty to the injured person
 - Derelict: Professional failed to meet the duty
 - Direct cause: Failure to meet the duty was the direct cause of injury
 - Damage: Failure to meet the duty caused the damage or injury

REQUIREMENTS TO PROVE PROFESSIONAL NEGLIGENCE

(SLIDE 2 OF 2)

- Doctrine of res ipsa loquitur used when patient has no direct knowledge of how injury occurred
 - Res ipsa loquitur means “the thing speaks for itself”
 - Injury can only occur if there was negligence
 - Example: wrong organ removed during surgery
- A bad outcome does not always mean that the physician was negligent

PROFESSIONAL LIABILITY INSURANCE

(SLIDE 1 OF 2)

- Professional liability insurance gives financial protection for an individual's own negligent actions
- Physicians are also protected if they are sued for negligent actions of their employees
 - Actions must occur during the course of employment
 - Doctrine of respondeat superior allows an employer to be sued for negligent actions of his or her employees
 - Respondeat superior means "let the master answer"

PROFESSIONAL LIABILITY INSURANCE

(SLIDE 2 OF 2)

- Medical assistants and other health professionals may decide to purchase their own liability insurance through a professional organization
- Good Samaritan Act protects health care professionals from being sued for giving emergency care

MALPRACTICE LITIGATION

- Litigation is a term for the process of taking a lawsuit through the courts
- Most potential malpractice lawsuits are settled before going to trial

INITIATING A LAWSUIT

(SLIDE 1 OF 2)

- Requests for medical records from an attorney may indicate a possible lawsuit
- Patient must sign a document releasing physician from requirement for confidentiality
 - Copy of medical record reviewed by attorney(s)
 - Incomplete and/or altered records decrease credibility

INITIATING A LAWSUIT

(SLIDE 2 OF 2)

- Most malpractices are accepted on a contingency basis
 - Attorney receives a percentage of the settlement or judgment
 - No fee if the case is lost

RESPONSES TO A POSSIBLE LAWSUIT

(SLIDE 1 OF 2)

- Company that provides malpractice insurance is notified whenever there is the is a possible malpractice lawsuit
- Insurance company initiates negotiations to settle the case without going to court
- If a court case does occur, health professionals may be called to testify, or documents may be required in court

RESPONSES TO A POSSIBLE LAWSUIT

(SLIDE 2 OF 2)

- Subpoena: Commands the presence of a witness
- Subpoena duces tecum requires presence of a piece of evidence, such as the original medical record
 - Original record always accompanied by employee
 - Employee remains with the record at all times to prevent alteration or tampering

ALTERNATIVE DISPUTE RESOLUTION

- Used instead of a trial
- Mediation uses a facilitator to help two parties in conflict to settle their differences
- Arbitration is a process whereby a decision is made by the neutral party to settle the dispute
 - Nonbinding arbitration: the parties do not have to accept the decision
 - Binding arbitration: the parties agree to be bound by the decision of the arbitrator
- If mediation or nonbinding arbitration fails, a court case may follow

TORT DEFENSES

(SLIDE 1 OF 2)

- Privilege
 - Special immunity from liability because of one's role or an organization's policies
 - Example: in a hospital, a physician may order restraints for a dangerous patient
 - Hospital policy for use of restraints must be followed
 - Defense against a lawsuit for false imprisonment

TORT DEFENSES

(SLIDE 2 OF 2)

- Statute of limitations usually begins at one of three points:
 - When injury occurred
 - When individual first realized that an injury had occurred
 - When a minor reaches the age of majority or some other specific age (such as 21)

LEARNING OBJECTIVES

LESSON 3.3: FEDERAL AND STATE LAWS AFFECTING THE MEDICAL OFFICE

(SLIDE 1 OF 2)

18. Describe and explain the laws regulating controlled substances and prescription medications.
19. List and explain several laws that protect employees of medical offices.
20. Describe how provisions of the Health Insurance Portability and Accountability Act (HIPAA) affect the medical office.

LEARNING OBJECTIVES

LESSON 3.3: FEDERAL AND STATE LAWS AFFECTING THE MEDICAL OFFICE

(SLIDE 2 OF 2)

21. List and explain the situations where mandatory reporting is required by the medical office.
22. Describe how states regulate the practice of medicine and health occupations.
23. Differentiate between licensing and voluntary accreditation for health care facilities.

CONTROLLED SUBSTANCES

(SLIDE 1 OF 4)

- The Drug Enforcement Administration (DEA) enforces the Controlled Substances Act of 1970
 - Regulates the prescription, dispensing, and administering of controlled substances
 - Physicians must register with the DEA and renew their registration every year

CONTROLLED SUBSTANCES

(SLIDE 2 OF 4)

- Schedule I controlled substances
 - Highest potential for abuse
 - Not accepted for medical use in the United States
- Schedule II controlled substances
 - Ordered from a manufacturer or a distributor using the Federal Triplicate Order Form DEA 222
 - May not be refilled

CONTROLLED SUBSTANCES

(SLIDE 3 OF 4)

- Schedule III-V controlled substances
 - Do not require the special triplicate form
 - Invoices and packing slips must be kept for 2 years
- Controlled substances must be stored away from other medications in a secure, locked area

CONTROLLED SUBSTANCES

(SLIDE 4 OF 4)

- Inventory sheet must be maintained on these drugs
 - Should be counted every shift (daily in medical office) and signed by two people
 - Record of the daily inventory must be submitted to the DEA every 2 years
 - If wasted or destroyed, two witnesses must sign the inventory sheet
 - If stolen, local police must be alerted immediately

PRESCRIPTIONS

(SLIDE 1 OF 2)

- Prescription is an order to a pharmacist to dispense a supply of medication
- Prescription pads must always be stored in a secure location to avoid theft

PRESCRIPTIONS

(SLIDE 2 OF 2)

- Measures should be taken to avoid theft of prescription pads and alteration of information
 - Store in a secure location
 - Write out amounts in words, as well as numbers
 - Use prescription blanks only for prescriptions
 - Do not sign prescriptions in advance
 - Use tamper-resistant prescription pads

FEDERAL AND STATE LAWS PROTECTING EMPLOYEES

(SLIDE 1 OF 8)

- Hiring and firing
 - Employees are protected by federal Equal Opportunity Employment laws (Title VII of the Civil Rights Act of 1964) and the Federal Age Discrimination Act of 1967
 - Illegal to discriminate in hiring on the basis of race, sex, religion, national origin, or age
 - Organizations with more than 15 employees
 - Complaints submitted to the federal Equal Employment Opportunity Commission (EEOC)
 - Employment policies must also treat employees equally

FEDERAL AND STATE LAWS PROTECTING EMPLOYEES

(SLIDE 2 OF 8)

- Preemployment testing
 - Preemployment testing allowed only to test skills and abilities pertinent to the job
 - Under ADA, employers must make “reasonable accommodations” to any qualified individual with a disability
 - Applies to preemployment testing and during employment
 - The EEOC hears complaints about possible failure to comply
 - Preemployment drug testing is legal for any position, but after employment there usually be a public safety element to the position

FEDERAL AND STATE LAWS PROTECTING EMPLOYEES

(SLIDE 3 OF 8)

- The Americans with Disabilities Act and the Americans with Disabilities Act Amendments
 - Discusses need for employers to make “reasonable accommodations” with a physical or mental disability
- Occupational Health and Safety Act of 1970
 - Created by the Occupational Safety and Health Administration (OSHA)
 - Agency responsible for protection of employees in the workplace
 - Regulates all workplace environments
 - Bloodborne Pathogen Standard
 - Requires safe handling for sharps and other devices that might transmit bloodborne diseases
 - Employers must provide medical care if employees are exposed

FEDERAL AND STATE LAWS PROTECTING EMPLOYEES

(SLIDE 4 OF 8)

- Occupational Health and Safety Act of 1970
 - Bloodborne Pathogen Standard
 - Employers must provide safeguards against bloodborne diseases
 - Immunization against hepatitis B
 - Personal protective equipment
 - Labeling for biohazard waste containers
 - Medical care if exposure occurs
 - Employees must receive training
 - Employers must have a plan for follow-up if any exposure occurs

FEDERAL AND STATE LAWS PROTECTING EMPLOYEES

(SLIDE 5 OF 8)

- Family and Medical Leave Act
 - Family and Medical Leave Act (FMLA) of 1993 applies to employers with 50 or more employees
 - Employees are entitled to up to 12 weeks of unpaid leave to accommodate a serious health problem of any family member or the birth or adoption of a child
 - Employees must notify employer before the beginning of the leave, stating how much of the leave he or she intends to take
 - Upon return, employees must be given former job and seniority status

FEDERAL AND STATE LAWS PROTECTING EMPLOYEES

(SLIDE 6 OF 8)

- Sexual harassment
 - Defined as any unwanted physical or verbal sexual attention that causes an individual to fear reprisal if the attention is refused
 - Sexual harassment is not flirting
 - Harassment occurs when one party engages another party in unwanted comments or physical contact of a sexual nature

FEDERAL AND STATE LAWS PROTECTING EMPLOYEES

(SLIDE 7 OF 8)

- Minimum wage and overtime
 - The Fair Labor Standards Act requires overtime pay
 - One-and-one-half the employee's regular rate of pay for time worked beyond 40 hours in 1 week
 - Professional and supervisory employees are exempt from the law
 - Registered nurses are considered professionals and may be exempt
 - Office managers are in a supervisory role and are usually exempt
 - Medical assistants usually receive an hourly wage and are covered by the overtime rules

FEDERAL AND STATE LAWS PROTECTING EMPLOYEES

(SLIDE 8 OF 8)

- Employee Retirement Income Security Act
 - Regulates employee health plans
 - Also regulates pensions and other employee benefits
 - Sets minimum standards for pension plans to prevent unfair denial of pension rights
 - Employee health plans cannot use health status or medical condition to deny the right to insurance
- Genetic Information Nondiscrimination Act
 - Prohibits the use of genetic information in health insurance and employment

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

(SLIDE 1 OF 5)

- Health insurance availability and coverage
 - Group health plans are not allowed to exclude individuals with certain diagnoses or genetic conditions
 - The length of time for exclusion due to a previous diagnosis is regulated

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

(SLIDE 2 OF 5)

- Privacy rule
 - Patients must be given a written notice of privacy protection
 - Patient's written consent is not required for disclosure of personal health information for patient care
 - Patients have the right to access their medical records

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

(SLIDE 3 OF 5)

- Privacy rule
 - Medical office must prevent unauthorized access to patient's personal health information
 - Patients have a right to request accounting about how their personal health information is being used
 - The medical office must have agreements with outside firms that handle PHI
 - Employees must be trained in privacy and security of PHI

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

(SLIDE 4 OF 5)

- Transaction and code set rule
 - Electronic data interchange standards for Medicare claims and other types of information
- Security rule
 - Establishes standards to maintain security of electronic patient health information

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

(SLIDE 5 OF 5)

- Other provisions
 - Unique identifiers rule
 - Establishes a national provider identifier (NPI), a 10-digit unique number
 - Replaces all other identification numbers
 - Must be used on Medicare claims submitted electronically
 - Enforcement rule
 - Establishes penalties for violating any of the HIPAA rules

OTHER ACTS

- Patient Safety and Quality Improvement Act
 - Passed to encourage reporting of adverse events, near misses, and unsafe conditions; decrease the number of preventable medical errors
- Health Information Technology for Economic and Clinical Health Act
 - Encourages adoption of electronic medical records and the creation of a national healthcare infrastructure
 - Increases security provisions of HIPAA and adds increased financial penalties for privacy violations

MANDATORY REPORTING

(SLIDE 1 OF 2)

- Mandatory reports cannot be refused because patient does not want the information released
 - Records of births, stillbirths, and deaths
 - Reports to medical examiner or coroner
 - Infectious diseases reported to board of health
 - Injuries that have occurred as a result of violence are reported to police
 - Abuse or neglect is reported to police or a particular state agency

MANDATORY REPORTING

(SLIDE 2 OF 2)

- Mandatory reports cannot be refused because patient does not want the information released
 - Injuries that may be the result of criminal activities reported to police
 - Gunshot wounds
 - Stab wounds
 - Wounds that may have come from a beating or rape
 - Suspected abuse of a child or an elderly person
- Failure to make a mandated report is a crime
- Patient should be informed when report is required by law

STATE REGULATION OF HEALTH OCCUPATIONS

(SLIDE 1 OF 4)

- Medical practice acts regulate medical care
 - Medical practice act defines the practice of medicine
 - Practice is limited to qualified practitioners by licensure
 - All states require a license to practice medicine (licensure)

STATE REGULATION OF HEALTH OCCUPATIONS

(SLIDE 2 OF 4)

- Requirements for physician licensure
 - Graduation from 4-year postgraduate school of medicine or 4-year postgraduate school of osteopathy
 - Passing grade on parts I, II, and III of the U.S. Medical Licensing Examination
 - One-year internship (first year of residency program)
 - Good moral character

STATE REGULATION OF HEALTH OCCUPATIONS

(SLIDE 3 OF 4)

- Reciprocity is the automatic issuing of a license when a physician moves to another state
 - Certain states have reciprocity agreements with other states
- Other health occupations may require licensure

STATE REGULATION OF HEALTH OCCUPATIONS

(SLIDE 4 OF 4)

- Revoking and suspending a physician's license
 - Medical license can be revoked/suspended by state board of medical examiners
 - If physician is convicted of crime
 - For unprofessional activity
 - For physical/mental incapacitation

FACILITY LICENSING AND ACCREDITATION

(SLIDE 1 OF 3)

- State requirements
 - Various health care facilities require state license to operate
 - Laboratories
 - Insurance companies and HMOs
 - Usually physician offices do not require a license
 - Certificate of need programs used to grant permission for expansion of health care services in a geographic area

FACILITY LICENSING AND ACCREDITATION

(SLIDE 2 OF 3)

- Federal requirements
 - Ambulatory surgical center must be certified to bill Medicare and Medicaid for services
 - Clinical laboratories that bill Medicare and Medicaid are also regulated by the CMS

FACILITY LICENSING AND ACCREDITATION

(SLIDE 3 OF 3)

- Voluntary accreditation
 - Agencies that provide voluntary accreditation
 - The Joint Commission (formerly JCAHO)
 - Accreditation Association for Ambulatory Health Care (AAAHC)

Questions?