


PowerPoint® to accompany
Medical Assisting
 Second Edition
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Chapter 3



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Medical Law and Ethics

- Knowledge of **Medical Law and Ethics** provides insight into:
 - **The rights, responsibilities, and concerns of health care consumers.**
 - **The legal and ethical issues facing society; patients, and health care professionals as the world changes.**
 - **The impact of rising costs on the laws and ethics of health care delivery.**

Medical Law and Ethics (cont.)

<p>Law</p> <p>A law is a rule of conduct or action. Governments enact laws to maintain order and public safety. Criminal and civil laws pertain to health care practitioners.</p>		<p>Ethics</p> <p>Ethics is a standard of behavior. Moral values serve as the basis for ethical conduct. Family, culture, and society help form individual's moral values.</p>
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Medical Law and Ethics (cont.)

- **Criminal Law**
 - Involves crimes against the state
 - Criminal acts are classified as either a **felony or misdemeanor**
 - Examples include:
 - Murder
 - Arson
 - Rape
 - Burglary
- **Civil Law**
 - Involves crimes against the person
 - Includes a general category of laws known as **torts**
 - Torts are either:
 - Intentional (willful)
 - Unintentional (accidental)

Medical Law and Ethics (cont.)

Intentional Torts

<p>Assault</p> <p>To cause another person to feel threatened.</p>	<p>Battery</p> <p>An action that causes bodily harm to another. Even touching without permission.</p>
<p>Invasion of privacy</p> <p>Interference with a person's right to be left alone.</p>	<p>Fraud</p> <p>Depriving or attempting to deprive a person of his or her rights.</p>
<p>Defamation of Character</p> <p>Damaging a person's reputation by making a public statement.</p>	<p>False Imprisonment</p> <p>Intentional, unlawful restraint or confinement of a person.</p>

Medical Law and Ethics (cont.)

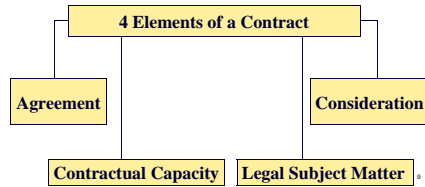
Unintentional Torts

- Acts that are committed with no intent to cause harm but are done with a disregard for the consequences.
- The term **negligence** is used to describe such actions when health care practitioners fail to exercise ordinary care resulting in patient injury.
- **Malpractice** is the negligent delivery of professional services.

Medical Law and Ethics (cont.)

Contracts

A **contract** is a voluntary agreement between two parties in which specific promises are made for a consideration.



Medical Law and Ethics (cont.)

Contracts

Types of Contracts

- **Expressed Contracts**
 - Clearly stated in written or spoken words
 - A payment contract is an example
- **Implied Contracts**
 - Actions or conduct of the parties rather than words, create the contract
 - A patient rolling up his or her sleeve to receive an injection is an example

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Medical Law and Ethics (cont.)

Terminating Care of a Patient

- A physician who no longer wants to manage a patient's care must withdraw in a formal, legal manner by:
 - Providing written communication to the patient
 - Recommending that patient seek another physician as soon as possible
 - Mail letter by certified mail with return receipt requested
 - Summarize all communication in patient chart and place copy of all documentation in chart

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Medical Law and Ethics (cont.)

Terminating Care of a Patient

□ Typical Reasons Physicians May Terminate Care of a Patient:

- Refusal to follow physician instructions
- Personality conflicts
- Failure to pay for services rendered
- Repeated failure to keep appointments
- Patient family member complaints
- Disagreement regarding medication orders

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Medical Law and Ethics (cont.)

Malpractice

- **Malpractice claims** are lawsuits by a patient against a physician for errors in diagnosis or treatment.
- **Negligence cases** are those in which a person believes a medical professional's actions or lack thereof, caused harm to the patient.

Res ipsa loquitur

Latin term which means "The thing speaks for itself."

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Medical Law and Ethics (cont.)

Malpractice

□ Examples of Negligence:

- Abandonment
- Delayed treatment

□ Legal Terms used to classify Negligence

- **Malfeasance** (unlawful act or misconduct)
- **Misfeasance** (lawful act done incorrectly)
- **Nonfeasance** (failure to perform an act that is one's required duty or that is required by law)

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Medical Law and Ethics (cont.) Malpractice

The 4 Ds of Negligence

D Damages Patients must prove that they suffered injury.

D Derelict Patients must show that the physician failed to comply with the standards of the profession.

D Duty Patients must show that a physician-patient relationship existed.

D Direct Cause Patients must show that any damages were a direct cause of a physician's *breach of duty*.

Patients must be able to prove all **4 Ds** in order to move forward with a malpractice suit.

Medical Law and Ethics (cont.) Malpractice

Settling Malpractice Suits

- **Arbitration**
 - Persons outside the court system with special knowledge in the field listen to the case, and decide the dispute.
- **Court**
 - Written court orders (*subpoena*) are delivered to involved parties.
 - *Subpoena duces tecum* is a court order to produce documents like patient records.

Medical Law and Ethics (cont.) Malpractice

□ Law of Agency

- Employees are considered to be agents of the physician while performing professional tasks.
- Physicians are thereby responsible or *liable* for the negligence of employees.
- *Respondeat superior* is a Latin term meaning "Let the master answer."

Employees are also legally responsible for their own actions and they can be sued directly.

Medical Law and Ethics (cont.) Standard of Care

According to the AAMA, medical assistants should uphold legal concepts by:

- **Maintaining confidentiality.**
- **Practicing within the scope of training and capabilities.**
- **Preparing and maintaining medical records.**
- **Documenting accurately.**
- **Using proper guidelines when releasing information.**


Medical Law and Ethics (cont.) Standard of Care (cont.)

- Follow employer's established policies dealing with the health-care contract.
- Follow legal guidelines and maintain awareness of health-care legislation and regulations.
- Maintain and dispose of regulated substances in compliance with government guidelines.
- Follow established risk-management and safety procedures.
- Recognize professional credentialing criteria.
- Help develop and maintain personnel, policy and procedure manuals.

Medical Law and Ethics (cont.) Administrative Duties and the Law

- Examples of duties related to legal requirements:
 - Vital statistics (births & deaths)
 - Abuse (drug abuse & child abuse)
 - Violent Injuries
 - STD's (sexually transmitted diseases)
 - Patient consent forms
 - Insurance billing
 - Appointment books
 - Patient records and information

Medical Law and Ethics (cont.)
Controlled Substances and the Law



Medical Assistants must follow the correct procedure for keeping and disposing of controlled substances.

- Be familiar with correct dosages, potential complications, and refill rules.
- Keep prescription pads secure and out of reach.

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Medical Law and Ethics (cont.)
Communication and the Law

- Medical assistant's are not allowed to decide what information is to be disclosed to the patient.
- The role of the medical assistant is to foster supportive, respectful communication with patients.
- Good, clear, nonjudgmental communication can prevent misunderstandings and legal confrontations.

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Medical Law and Ethics (cont.)
Legal Documents and the Patient

Living Wills
(Advance Directives)

A legal document stating types of treatment the patient does and does not want in an event of terminal illness, unconsciousness or comatose state.

Patients with living wills are asked to name someone that will make decisions on their behalf (*durable power of attorney*) if they are unable to do so.

Uniform Donor Card

A legal document that states a person's wish to donate one or more organs as a gift. Even total body anatomical gifts are made.

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Medical Law and Ethics (cont.)
Confidentiality Issues

- All patient information must be kept confidential and shared only with the appropriate staff involved in the care of the patient.

Confidential

- Keep records out of sight so night workers and other patients can not view it.
- Do not discuss the case with anyone outside the medical office.

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Medical Law and Ethics
Confidentiality Issues (cont.)

The Health Insurance Portability and Accountability Act (HIPAA)

- August 21, 1996 is the date the U.S. Congress **HIPAA** was passed
- Two main sections of the law:
 - **Title I: Health Care Portability**
 - **Title II: Preventing Healthcare Fraud and Abuse; Administrative Simplification; Medical Liability Reform**

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Medical Law and Ethics
Confidentiality Issues (cont.)

- **Title I: Health Care Portability**
 - Portability deals with protecting healthcare coverage for employees who change jobs.
 - Reduces the risk that individuals will lose their existing health care coverage when changing jobs.
 - Allows workers to purchase insurance on their own if coverage is lost under their employer.

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Medical Law and Ethics
Confidentiality Issues (cont.)

- **Title II: HIPAA Privacy Rule**
 - The HIPAA Standards for Privacy of **Individually Identifiable Health Information** is the first comprehensive federal protection for the privacy of health information.
 - The core of the HIPAA Privacy Rule is the protection, use, and disclosure of **protected health information (PHI)**.

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Medical Law and Ethics
Confidentiality Issues (cont.)

- Use and **Disclosure** are two important concepts under HIPAA that must be understood.

Information is **used** when it moves within an organization. Information is **disclosed** when it is transmitted between or among organizations.

<p>Examples of Use</p> <ul style="list-style-type: none"> • Sharing • Employing • Applying • Utilizing • Examining • Analyzing 	<p>Examples of Disclosing</p> <ul style="list-style-type: none"> • Release • Transfer • Provision of access to • Divulging in any manner
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Medical Law and Ethics
Confidentiality Issues (cont.)

HIPAA will allow the provider to use health care information for:

T reatment	Providers are allowed to share information in order to provide care to patients.
P ayment	Providers are allowed to share information in order to receive payment for the treatment provided.
O perations	Providers are allowed to share information to conduct normal business activities, such as quality improvement.

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Medical Law and Ethics
Confidentiality Issues (cont.)

- **The following information may be disclosed without authorization:**
 - Medical researchers
 - Emergencies
 - Funeral Directors/Coroners
 - Disaster Relief Services
 - Law enforcement
 - Correctional Institutions
 - Abuse and Neglect
 - Organ and Tissue Donation Centers
 - Work related conditions that may affect employee health
 - Judicial/administrative proceedings at the patient request or as directed by a subpoena or court order

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Medical Law and Ethics
Confidentiality Issues (cont.)

How are Patients Informed?

- First these rights are communicated through a document called the **Notice of Privacy Practices**.
- The next step is to implement a document that explains the policy of the medical facility on obtaining **authorization** for use and disclosure of patient information for purposes other than TPO (treatment, payment or healthcare operations).

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Medical Law and Ethics
Confidentiality Issues (cont.)

Security Rule

This rule specifies how patient information is protected on:

- Computer networks
- The internet
- Disks and other storage media and extranets

Other Security Avenues to Consider

□ Chart security	□ Medical Assistant clinical station security
□ Reception area security	
□ Fax security	

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OSHA Regulations

- The Occupational Safety and Health Administration (*OSHA*) is a division of the U.S. Department of Labor.
- Regulations describe precautions that must be taken to protect workers from exposure to infectious diseases such as:
 - Human immunodeficiency virus (HIV)
 - Hepatitis B virus (HBV)

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OSHA Regulations (cont.)

- OSHA requires that medical practices follow **Universal Precautions**.
- Hospitals are required to follow **Standard Precautions**, which is a combination of Universal Precautions and Body Substance Isolation guidelines.
- Both Universal Precautions and Standard Precautions were developed by the *Centers for Disease Control and Prevention (CDC)*.

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OSHA Regulations (cont.)

Protective Gear
More exposure = More protection

- Disposable gloves
- Masks
- Goggles/Face Shield
- Gowns

The law requires that the employer provide all necessary protective clothing to employees free of charge.

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OSHA Regulations (cont.)

- **Decontamination**
 - All exposed work surfaces must be sprayed with a 10% bleach solution or other agent approved by the *Environmental Protection Agency (EPA)*
- **Sharp Equipment**
 - To prevent exposure, sharps are to be placed in a leak-proof, puncture-resistant, color-coded, labeled container
- **Exposure Incidents**
 - Incidents are to be reported immediately
 - Current procedures may need to be modified

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OSHA Regulations (cont.)

- **Postexposure Procedures**
 - Employers must offer a free medical evaluation to exposed employee
 - Employers must also refer employee to a licensed health-care provider for blood sampling, appropriate treatment and counseling
 - Employees may refuse treatment by signing a waiver
 - When a medical worker is first employed, the employer must offer at no cost the opportunity to have the HBV vaccination within 10 days

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OSHA Regulations (cont.)

- **Laundry**
 - All laundry must be labeled and bagged appropriately.
- **Hazardous Materials**
 - Employers must keep an inventory of all hazardous materials in the workplace (MSDS Sheets.)
- **Training Requirements**
 - All employees that may be exposed must be given, free, annual training during work hours.

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OSHA Regulations (cont.)

General Regulations

- **General Work Area Laws**

- **Restrict:**

- Eating & Drinking
 - Smoking
 - Applying lip balm & cosmetics
 - Handling contact lenses
 - Storing food or drinks in refrigerators used to store blood or other potentially infectious materials



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OSHA Regulations (cont.)

- **Documentation**

- Inspections are done in response to complaints and at random. The office must have a written Exposure Control Plan and keep necessary forms on file as indicated.

- **OSHA Inspections**

- Inspections are done in response to complaints and at random
 - Penalties include fines and monies are paid to the federal treasury
 - Serious violations in the laboratory may result in suspension of laboratory payments from Medicare

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End of Chapter

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