

Contents

Epigraph	xiii
Preface	xv
About the Book	xvii
Acknowledgments	xix
Chapter 1 Reflections on the Past	1
Learning Objectives	1
Early Hindu and Egyptian Hospitals	2
Greek and Roman Hospitals	2
Hospitals of the Early Christian Era	3
Islamic Hospitals	3
Early Military Hospitals	3
Medieval Hospitals	4
Hospitals of the Renaissance	5
Hospitals of the 18th Century	5
Early Hospitals in the United States	6
Late 19th Century Renaissance	7
20th Century Progress	9
Health Care and Hospitals in the 21st Century	10
History's Common Theme: Recurring Infections	11
History Challenges Us to Do Better	12
Chapter Review	13
Review Questions	13
Chapter 2 Government, Law, and Ethics	15
Learning Objectives	15
Development of Law	16
Sources of Law	16
Government Organization	22
Department of Health and Human Services	25
Government Ethics	28
Political Malpractice	29
Chapter Review	31
Review Questions	32

Chapter 3	Healthcare Ethics.....	35
	Learning Objectives.....	35
	Ethics.....	36
	Morality.....	36
	Ethical Theories.....	37
	Principles of Healthcare Ethics.....	39
	Virtue Ethics and Values.....	42
	Religious Ethics and Spirituality.....	48
	Secular Ethics.....	51
	Professional Ethics.....	51
	Ethics Committee.....	52
	Reasoning and Decision Making.....	57
	Moral Compass Gone Astray.....	58
	Summary Thought.....	58
	Chapter Review.....	59
	Review Questions.....	61
 Chapter 4	 Tort Law—Negligence.....	 63
	Learning Objectives.....	64
	Objectives of Tort Law.....	65
	Negligence.....	65
	Forms of Negligence.....	65
	Degrees of Negligence.....	65
	Elements of Negligence.....	66
	Summary Case.....	76
	Chapter Review.....	78
	Review Questions.....	78
 Chapter 5	 Intentional Torts.....	 81
	Learning Objectives.....	82
	Assault and Battery.....	82
	False Imprisonment.....	84
	Defamation of Character.....	85
	Fraud.....	90
	Invasion of Privacy.....	90
	Infliction of Mental Distress.....	91
	Products Liability.....	92
	Chapter Review.....	96
	Review Questions.....	97
 Chapter 6	 Criminal Aspects of Health Care.....	 99
	Learning Objectives.....	100
	Criminal Procedure.....	100
	Healthcare Fraud.....	103
	Kickbacks.....	108
	Tampering With Drugs.....	109
	Internet Pharmacy and Sale of Drugs.....	109
	Falsification of Records.....	111
	Patient Abuse.....	111

	Criminal Negligence	115
	Manslaughter	116
	Murder	117
	Rape and Sexual Assault	120
	Theft	121
	Chapter Review	123
	Review Questions	123
Chapter 7	Contracts and Antitrust	125
	Learning Objectives	126
	What is a Contract?	126
	Types of Contracts	126
	Elements of a Contract	127
	Breach of Contract	128
	Corporate Contracts	128
	Partnerships	128
	Independent Contractor	129
	Legality of Object	129
	Conditions	130
	Performance	130
	Nonperformance Defenses	130
	Remedies	130
	Employment Contracts	131
	Medical Staff Bylaws: A Contract	135
	Exclusive Contracts	136
	Restraint of Trade	138
	Hospital Staff Privileges	139
	Transfer Agreements	141
	Insurance Contract	142
	Chapter Review	144
	Review Questions	145
Chapter 8	Civil Procedure and Trial Practice	147
	Learning Objectives	148
	Pleadings	148
	Discovery	152
	Motions	153
	Pretrial Conference	154
	Notice of Trial	155
	Memorandum of Law	155
	The Courtroom and the Judge	155
	The Jury	155
	Subpoenas	156
	Burden of Proof	156
	Res Ipsa Loquitur	156
	Opening Statements	159
	Examination of Witnesses	159
	Judicial Notice Rule	160
	Evidence	160

	Defenses Against Plaintiff's Allegations	164
	Closing Statements	174
	Judge's Charge to the Jury	174
	Jury Deliberation and Determination	175
	Awarding Damages	175
	Joint and Several Liability	178
	Appeals	178
	Execution of Judgments	179
	Chapter Review	179
	Review Questions	180
Chapter 9	Corporate Structure and Legal Issues	183
	Learning Objectives	183
	Authority of Corporations	184
	Corporate Committee Structure	185
	Corporate Ethics	187
	Corporate Negligence	190
	Doctrine of Respondeat Superior	192
	Governing Body Responsibilities	193
	Corporate Reorganization	213
	Chapter Review	219
	Review Questions	220
Chapter 10	Medical Staff Organization and Physician Liability	221
	Learning Objectives	222
	Principles of Medical Ethics	222
	Medical Staff Organization	222
	Medical Director	224
	Medical Staff Privileges	224
	Common Medical Errors	227
	Patient Assessments	228
	Diagnosis	230
	Treatment	240
	Discharge and Follow-Up Care	248
	Infections	249
	Psychiatry	250
	Physician–Patient Relationship	254
	Chapter Review	255
	Review Questions	256
Chapter 11	Nursing and the Law	259
	Learning Objectives	260
	Scope of Practice	260
	Nurse Licensure	262
	Nursing Careers	263
	Advanced Practice Nurses	266
	Legal Risks of Nurses	270
	Duty to Question Discharge	285
	Duty to Report Physician Negligence	285

	Chapter Review	287
	Review Questions	288
Chapter 12	Hospital Departments and Allied Professionals	291
	Learning Objectives	292
	Emergency Department	292
	Chiropractor	301
	Dentistry	301
	Laboratory	303
	Medical Assistant	307
	Medical Imaging	308
	Nutritional Services	309
	Paramedic	309
	Pharmacy	311
	Physical Therapy	316
	Physician's Assistant	318
	Podiatrist	318
	Respiratory Therapist	318
	Security	319
	Certification of Healthcare Professionals	320
	Licensing Healthcare Professionals	320
	Helpful Advice for Caregivers	321
	Chapter Review	322
	Review Questions	322
Chapter 13	Patient Consent	325
	Learning Objectives	325
	Introduction	325
	Informed Consent	326
	Physicians and Informed Consent	328
	Hospitals and Informed Consent	331
	Nurses and Informed Consent	332
	Validity of Consent	333
	Assessing Decision-Making Capacity	335
	Admission Consent Forms	335
	Consent for Specific Procedures	335
	Limited Power of Attorney	336
	Who May Consent	336
	Incompetent Patients	337
	Right to Refuse Treatment	339
	Exculpatory Agreements	340
	Proving Lack of Consent	342
	Informed Consent Claims and Defenses	342
	Chapter Review	343
	Review Questions	343
Chapter 14	Legal Reporting Requirements	345
	Learning Objectives	346
	Abuse	346

	Child Abuse	346
	Senior Abuse	349
	Communicable Diseases	350
	Hospital-Acquired Infections.	351
	Births and Deaths.	351
	Adverse Drug Reactions	351
	Physician Competency.	352
	Incident Reporting	353
	Sentinel Events	355
	Look Closer, See Me	356
	Chapter Review	356
	Review Questions	357
Chapter 15	Medical Records.	359
	Learning Objectives.	359
	Information Management	360
	Medical Record Contents	360
	Documentation of Care	360
	Privacy Act of 1974	362
	Health Insurance Portability and Accountability Act	363
	Ownership and Release of Medical Records.	364
	Failure to Use Patient Data Gathered.	366
	Retention of Records	367
	Electronic Medical Records.	367
	Legal Proceedings and the Medical Record	368
	Falsification of Records	369
	Illegible Handwriting.	373
	Timely Completion of Medical Records	373
	Confidential and Privileged Communications.	374
	Charting: Some Helpful Advice	378
	Chapter Review	379
	Review Questions	380
Chapter 16	Procreation and Ethical Dilemmas.	381
	Learning Objectives.	381
	Abortion.	382
	Sterilization	391
	Artificial Insemination.	393
	Surrogacy.	393
	Wrongful Birth, Life, and Conception.	394
	Chapter Review	398
	Review Questions	399
Chapter 17	Acquired Immune Deficiency Syndrome.	401
	Learning Objectives.	402
	Spread of AIDS	402
	Healthcare Workers Transmission	403
	Confidentiality	404
	Discrimination	406

	AIDS-Related Lawsuits	407
	AIDS Treatment	409
	AIDS Education	409
	Chapter Review	410
	Review Questions	410
Chapter 18	End-of-Life Issues	413
	Learning Objectives	413
	Patient Autonomy and Case Law	414
	Constitutional Right to Refuse Care	416
	Legislative Response	417
	Defining Death	419
	Futility of Treatment	419
	Do-Not-Resuscitate Orders	420
	Withholding and Withdrawal of Treatment	420
	Euthanasia	423
	Physician-Assisted Suicide	426
	Advance Directives	430
	Autopsy	438
	Organ Donations	441
	Research, Experimentation, and Clinical Trials	444
	Human Genetics	448
	Stem Cell Research	449
	Chapter Review	449
	Review Questions	451
Chapter 19	Patient Rights and Responsibilities	453
	Learning Objectives	454
	Patient Rights	454
	Patient Responsibilities	464
	Chapter Review	469
	Review Questions	469
Chapter 20	Labor Relations	471
	Learning Objectives	472
	U.S. Department of Labor	472
	Unions and Healthcare Organizations	472
	National Labor Relations Act	473
	Norris-LaGuardia Act	475
	Labor-Management Reporting and Disclosure Act	476
	Fair Labor Standards Act	476
	Civil Rights Act	476
	Occupational Safety and Health Act	477
	Rehabilitation Act	478
	Family and Medical Leave Act	479
	State Labor Laws	479
	Workers' Compensation	480
	Labor Rights	481
	Management Rights	481

	Affirmative Action Plan	483
	Patient Rights During Labor Disputes	483
	Injunctions	483
	Administering Collective Bargaining Agreement	483
	Discrimination in the Workplace	484
	Chapter Review	487
	Review Questions	488
Chapter 21	Employment at Will and Discharge	491
	Learning Objectives	491
	Employment at Will	492
	Public Policy Issues and Termination	492
	Termination	494
	Unemployment Compensation Denials	496
	Wrongful Discharge	497
	Defending a Claim for Unfair Discharge	500
	Fairness: The Ultimate Test	501
	Effective Hiring Practices	502
	Chapter Review	503
	Review Questions	503
Chapter 22	Employee Rights and Responsibilities	505
	Learning Objectives	505
	Employee Rights	505
	Employee Responsibilities	510
	The Caregiver's Pledge	514
	Chapter Review	514
	Review Questions	515
Chapter 23	Professional Liability Insurance	517
	Learning Objectives	518
	Insurance Policies	518
	Liability of the Professional	518
	The Insurance Agreement	520
	Intentional Torts: Coverage Denied	521
	Conditions of Insurance Policies	522
	Medical Liability Insurance	522
	Self-Insurance	523
	Trustee Coverage	523
	Mandated Medical Staff Insurance Coverage	524
	Investigation and Settlement of Claims	524
	Chapter Review	525
	Review Questions	526
Chapter 24	National Health Insurance Managed Care	527
	Learning Objectives	528
	National Health Insurance	528
	Veteran Care	531
	Managed Care	532

Models of Managed Care Organizations	533
Federally Qualified HMO	534
State Laws	535
Case Management Firms	535
Third-Party Administrators	535
Utilization Review	535
Liability for Nonparticipating Physicians	536
Employee Retirement Income Security Act	536
Reducing Exposure to Liability	537
Health Care Quality Improvement Act of 1986	537
Ethics in Patient Referral Act (1989)	537
Managed Care and Legal Actions	538
Price Fixing	539
Market Power	540
Chapter Review	541
Review Questions	542
 Chapter 25 Tort Reform and Risk Reduction	543
Learning Objectives	543
Mediation and Arbitration	544
Structured Awards	544
Pretrial Screening Panels	544
Collateral Source Rule	545
Contingency Fee Limitations	545
Countersuits: Frivolous Claims	545
Joint and Several Liability	546
Malpractice Caps	546
No-Fault System	548
Regulation of Insurance Practices	548
Statutes of Limitations	548
Reducing the Risks of Malpractice	548
Physician Participation in Tort Reform	549
Chapter Review	549
Review Questions	550
 Author's Afterword: Journey to Excellence	551
 Glossary	557
 Index	564