Course Learning Outcomes for Unit IV

Upon completion of this unit, students should be able to:

5. Assess the public duties of the physician.
   5.1 Discuss the various instances where physicians and healthcare professionals must report abuse.
   5.2 Evaluate a physician’s duties surrounding a patient’s negative outcome.

6. Analyze the regulations defined by workplace laws and ethics.
   6.1 Examine the laws surrounding employment, employment opportunities, and employment discrimination.

Reading Assignment

Chapter 7:  
Public Duties of the Healthcare Professional

Chapter 8:  
Workplace Law and Ethics

Unit Lesson

Reporting

To protect all residents and citizens, every state has public health laws that mandate reporting for specific injuries and illnesses. Public health laws are state specific, meaning every state has different requirements; however, all states have some level of consistency in order to protect its citizens.

In this unit, we will discuss the public duties that are required of physicians and other healthcare professionals. We will discuss ways to spot various types of abuse and how to gather evidence of that abuse for law enforcement officials. In addition, we will cover the laws regarding controlled substances, methods that protect employees and their surrounding environment from harm, and laws regarding the workplace.

The physician provides medical treatment for patients but also has other duties to society. Physicians provide records of births and deaths and report communicable diseases that pose a health hazard to the public. In the event that a doctor diagnoses a patient with HIV, AIDS, or AIDS-related complex cases, he or she must report it to the appropriate authorities, including the state department of health. Although physicians have a duty to report patients with HIV and AIDS, only a few states require healthcare workers diagnosed with HIV or AIDS to report their own medical conditions.

In addition to mandatory HIV and AIDS reporting, physicians who practice in any state are required to report suspected cases of child abuse to appropriate authorities. They are protected from civil liability if they report the abuse to the authorities. Physicians who choose not report suspected cases can be held criminally liable for their actions. Physicians also have a duty in most states to report elder abuse. Similar to child abuse, physicians who report elder abuse are also protected from civil liability. The law only requires that physicians and other healthcare workers gather evidence and report their suspicions of abuse. They are not required to investigate. However, unlike child and elder abuse, states are conflicted about the legal requirements of physicians reporting suspected cases of spousal abuse.
Substance abuse, similar to physical abuse, also falls under mandatory reporting. If a physician suspects a patient is abusing prescription drugs, he or she must report these suspicions. The Food and Drug Administration (FDA) regulates and enforces all drug manufacturing, distribution, and sales of all drugs including both prescription and over-the-counter (OTC). The FDA has many laws to enforce, regarding drugs manufactured and sold in this country. The primary law that the FDA enforces regarding drugs is the Controlled Substance Act of 1970. This law divides specific drugs called controlled drugs into five categories. Controlled drugs are pharmaceuticals that can create a dependency. Their access and distribution must be limited in order to stem any patient addiction. The Controlled Substance Act of 1970 divides these drugs into five specific categories called schedules:

- **Schedule I** consists of drugs that are illegal to prescribe. They are primarily used for research purposes. This category includes drugs such as marijuana, heroin, and LSD.
- **Schedule II** controlled substances include drugs such as codeine, cocaine, morphine, opium, and secobarbital. These drugs may be prescribed by DEA licensed physicians who are required to follow specific prescribing and reporting procedures.
- **Schedule III** controlled substances include drugs such as butabarbital, anabolic steroids, and APC with codeine. These drugs have a much lower potential for addiction or abuse and do not require the strict prescribing and reporting procedures as schedule I and schedule II.
- **Schedule IV** controlled substances include drugs such as phenibarbitol and diazepam. These categories of drugs have a lower risk of addiction and abuse and have lesser legal controls for dispensing.
- **The final category is schedule V.** This category has the fewest controls and restriction for prescribing since these drugs have the lowest risk of addiction. This category includes drugs such as cough medicines containing codeine. These drugs are still subject to strict inventory control and reporting but do not have the same prescribing limitations as the above schedule categories.

A patient goes to the doctor complaining of back pain. This is a new patient, so the doctor requires an exam before he will prescribe any drug. The patient comes limping into the office and responds to the exam appropriately for someone with this specific type of pain. The doctor prescribes a schedule II type of pain reliever according to the required reporting procedures. The doctor then sees the patient getting into his car with no apparent pain. The doctor then notices that his prescription pad is missing the top page. The doctor is required to report this potential theft and behavior to the authorities.

**Employee Assistance Program**

Employees in the healthcare environment are at risk for the same kind of occupational and personal problems as other employees. Healthcare employers, like all other employers, can offer an employee assistance program, or EAP, to help employees resolve those issues that can impact their work performance. EAP programs offer many types of counseling, including counseling for substance abuse, domestic issues, and other problems.

**Waste**

Hospitals and other healthcare facilities create tons of medical waste. There are four categories of medical waste: solid, chemical, radioactive, and infectious. This waste must be properly handled and disposed of to protect the public from harm. All healthcare facilities and professionals have a legal and ethical responsibility to safely dispose of any and all medical waste.

**Diversity and Laws**

There are many laws that govern the employer and employee relationship regardless of industry. There are laws in place to prevent discrimination and protect employee privacy. Employers must be aware of the diverse workforce they employ and respect the differences that diversity can bring. In addition to cultural and ethnic diversity, employees also bring different political and religious views. While employers have the right to create policies that minimize workplace disruptions, they cannot single out employees or discriminate against them on the basis of any of these views.

Employers must be aware of the cultural considerations in the workplace. It is easy for employers and employees to fall into patterns of behavior when dealing with a multicultural environment. Stereotyping occurs when generalities are applied to a specific cultural group. Bias, which is an unfair dislike, can also occur in the
workplace and create harmful distractions. By contrast, people who are ethnocentric believe that one particular culture is superior to all others. Below is an example of bias in a healthcare setting:

A patient is admitted to the emergency room of a hospital, complaining of back pain. He is Hispanic and does not speak fluent English. The nurse, who assesses the patient before the doctor arrives, is talking to another nurse. She is complaining about how the patient does not have insurance, and because of his ethnicity, he is probably just looking for pain medications. Her personal bias toward the patient affects how she treats him. She is rude and does not take him seriously regarding his back pain. The patient is placed low on the priority list, and it takes several hours for the doctor to see him. When the doctor does get to see the patient, he immediately admits him to this hospital and preps him for back surgery. The nurse’s bias affected the quality of care the patient received. Healthcare employees must assess patients free from personal bias.

In addition to the above-mentioned cultural issues that can occur in the workplace, there are also legal issues. First and foremost, it is essential that employers treat all employees the same. This starts with the interview. Employers are restricted in regard to the questions that may be asked in an interview. Employers need to ask questions that are relevant to the candidate’s ability to perform the job. Any question that discriminates against a candidate based upon anything other than his or her qualifications to perform the job is illegal.

Most employment arrangements in the United States are at-will. At-will employment means that either the employer or employee may terminate the relationship at any time, with or without notice, and with or without a reason. Unless an employee works as part of a union or has a contract, there is no expectation of continued employment in an at-will relationship.

An employee has worked for a company for the past three years. The employer has been losing business and, subsequently, profit. The company has been laying employees off slowly. The manager tells the employee that she will be the next employee laid off, and her position is being eliminated to save money. Her last day will be that Friday. On Friday, as she cleans out her desk, she learns that her position is not being eliminated. She is instead being replaced by the owner’s nephew who has no experience or education to perform the job.

Is that fair? Is it legal? Can the employee do anything about it?


Title VII of the Civil Rights Act of 1964 prohibits discrimination based upon five categories or classes (Fremgen, 2016). It is illegal for employers to discriminate based upon race, color, religion, gender, or national origin. Employees who fall under Title VII are classified as a “protected class.” As discussed above, most employment relationships are based upon at-will status. However, if an employee can establish that he or she was discriminated against and is a member of a protected class, he or she can bring a charge of wrongful termination based upon illegal discrimination.

Title VII establishes a basis to prohibit discrimination based upon one of the protected classes. The Civil Rights Act of 1991 goes further by amending the original legislation to include additional penalties. Prior to the amendment, plaintiffs could only get compensatory damages, which are significantly less than other types of damages. In addition to changing the type of damages a plaintiff can claim, it also extends protection to hospital patients. Healthcare professionals cannot legally discriminate against patients on the basis of any of the protected classes listed in Title VII. Hospitals must treat all patients the same regarding these non-medical classifications.

The Equal Employment Opportunity Act of 1972 provides a method of enforcement for employees who claim they have been discriminated against. The Equal Employment Opportunity Commission can sue employers in federal court to enforce the law and seek justice for people whose rights have been violated.
The Pregnancy Discrimination Act of 1978 requires that employers treat pregnant employees the same as other employees. Employers cannot force pregnant employees to quit or fire them using their pregnancy as the reason.

A pregnant employee works in a factory that deals with dangerous and corrosive chemicals. The employee’s job requires her to come in contact with those chemicals every day. The employer terminates her employment based upon the current working conditions and tells the employee it is because her job puts her health and her baby’s health in jeopardy. Can the employer do that? Does it matter that the employer did it to protect the employee?

The Age Discrimination in Employment Act of 1967 prohibits discrimination against employees age 40 and older (Fremgen, 2016). All employment decisions must be made based upon the employee’s job qualifications, not age. The ADEA, however, only applies to employees and candidates 40 years of age and older. Its protections do not extend to employees younger than 40.

For example, John works for a small accounting firm. He is 39 years old. His boss tells him that he needs to get some young blood in there with “fresh ideas” and lower salaries. John is terminated and replaced by a recent graduate. Would he have a claim against the employer under the ADEA? In this instance, John would not have a claim since he is not 40 years old. Even if this scenario is a type of age discrimination, there is no legal claim for John to raise.

The Rehabilitation Act of 1973 was the precursor to the Americans with Disabilities Act of 1990 (Fremgen, 2016). It prevents discrimination upon the basis of a disability. The ADA expands the protections under the Rehabilitation Act of 1973. The ADA requires employers to make reasonable accommodations for employees with disabilities or perceived disabilities.

The National Labor Relations Act of 1935 prohibits employers from engaging in unfair labor practices. Union employers are required to bargain in good faith. The NLRA also established the National Labor Relations Board as a means to enforce the NLRA. The NLRA applies to more than just unionized employers. There are many provisions that protect employees from unfair labor practices, regardless of unionized status.

The Occupational Safety and Health Act of 1970 requires employers to provide safe working environments for employees (Fremgen, 2016). There are OSHA standards that affect all employers regardless of industry. The healthcare industry has many OSHA regulations due to the number of potential hazards that employees face. Some examples of OSHA regulations that protect healthcare workers include hazards around blood-borne pathogens and hazardous chemicals. The Clinical Laboratory Improvement Act of 1988 requires that facilities and laboratories that test human specimens have written policies and procedures that establish minimum quality standards. These standards protect both the employees and the patients of these facilities.

Additionally, there are laws in place to protect employees. The Health Maintenance Organization Act of 1973 requires certain employers to provide an HMO alternative to regular group insurance for employees if there is one available in the area. Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1983 provides that employees who lose their jobs and subsequent group healthcare insurance have the option to continue that coverage at their own expense. However, this is an option that most people cannot afford.

The Consolidated Omnibus Reconciliation Act was the precursor to the Patient Protection Affordable Care Act. This is the new law that requires that everyone have health insurance and that most employers are required to provide it to full-time employees.

The Drug-Free Workplace Act of 1988 requires that certain employers certify that they maintain a drug-free workplace and must inform employees that it is a drug-free workplace.

The Social Security Act of 1935 provides income for people who are age 65 and older or are disabled. Employees and employers both contribute a small percentage of their pay to Social Security.

All employers are subject to the provisions of the Fair Labor Standards Act of 1938 (Fremgen, 2016). It establishes the requirements regarding minimum wage, overtime, and maximum hours employees can work. While all employers have some obligations under the FLSA, not all provisions apply to all employees.
The Equal Pay Act of 1963 requires that all employees, regardless of gender, are paid the same wage for the same work. Employers may not discriminate based upon gender.

Unemployment compensation provides an income for people who lose their jobs through no fault of their own. Every state has different requirements for who is eligible to collect unemployment benefits.

There are many laws that apply to the workplace. These are just some of these laws. Employers and employees have duties and expectations regarding these and many more laws.

Reference


Suggested Reading

The below chapter presentations will provide you with additional information on this unit’s required reading:

- Click here to access the Chapter 7 Presentation.
- Click here to access a PDF version of the presentation.
- Click here to access the Chapter 8 Presentation.
- Click here to access a PDF version of the presentation.

If you would like to learn more about the topics discussed through this unit, consider reading the below articles located in the Academic OneFile database of the CSU Online Library:

