Laws are the body of rules, regulations, and guidelines that govern conduct in society to protect the health, safety, and welfare of its citizens.

Multiple agencies can dictate laws
- National
- State
- Local
- Facility

Reflect the values of a society

Exist so the rights of others cannot be encroached on

Should remain dynamic and reflect the nature of societies

Must be equal to all without discrimination

Based on what a reasonable/prudent person would do in similar circumstances

All individuals have basic rights and responsibilities
Medical Law

Legal Terms

Felony – serious crime that usually requires imprisonment
Misdemeanor – less serious crime typically punished with fine/imprisonment
Torts – violation of civil laws, personal injury law, injured party can demand compensation for injury
Plaintiff – person making the claim or having the injury
Defendant – person accused of doing wrong
Beneficence – to do good
Non-malfeasance – do no harm

Medical Law

Relationship Between Patients and Practitioners

Defined in 1914 by a precedent-setting case, Schloendorf v. Society of New York Hospital

“Every human being of adult years and sound mind has a right to determine what shall be done with his own body, and a surgeon who performs an operation without his patient’s consent commits an assault, for which he is liable in damages.”

Medical Law

Patient’s Bill of Rights

Privacy
Considerate and respectful care
Information/education
Refusal of care
Patients have the right to view their chart but must have a provider present so questions and concerns can be addressed
Any one else must get a subpoena to gain access to chart
Medical Law

Standards of Care

The degree of skill (proficiency), knowledge, and care ordinarily possessed and employed by members in good standing within the medical profession

Ever-changing as technology improves

Judged against "reasonable and prudent" actions under similar circumstances

Medical Law

ASRT

Practice Standards for Medical Imaging and Radiation Therapy

Outline the performance standards of the medical imaging profession

Imperative that imaging professionals become competent in the knowledge and application of these standards

Medical Law

Elements of Malpractice

Duty
practicing in an ethical/acceptable manner

Dereliction/Breach
failure to duty

Causation
injury

Damage
severity
Medical Law

Seven C’s of Avoiding Malpractice

-Courtesy – improves patient rapport and lessens tension
-Communication – avoids errors and can prevent injury
-Confidentiality – legal and ethical responsibility of providers
-Competence – know and adhere to professional standards
-Charting – complete, consistent, and objective documentation
-Compliance – following the policies and procedures of your institution
-Carefulness – actions to avoid personal injuries

Medical Law

Intentional Misconduct

- Libel – false accusation with intent to cause harm
- Slander – verbal defamation
- Assault – verbal threatening
- Battery – touching someone without their consent
- False imprisonment – restraints/immobilizing without consent or order
- Invasion of privacy – accessing information not necessary to provide care
- Breach of confidentiality – sharing private information

Medical Law

Unintentional Misconduct

- Neglect (omission of care) – What a reasonably prudent person in the same situation would do
- Gross negligence (reckless) – disregard for life
- Contributory negligence – injured person contributed to event
Medical Law

Misconduct

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Medical Law

Legal Facts

Only a small percentage of people who are injured as a result of negligence file a claim.

Most cases do not go to trial.

Of those cases that go to trial, most decisions are favorable to the provider.

Medical Law

Informed Consent

- General consent to treat is obtained on admission to ED/hospital
- Individual consent is required for experimental or risky procedures
- Physician, nurse, or RT can obtain
- Must understand procedure fully, risks, benefits, recovery (if unsure – seek clarification)
- Patient must be competent (no sedatives or narcotics)
- Parents/legal guardian signs for minors/incompetents
- Must be filled in completely
- Provider on record must perform procedure
- All conditions must be met
- Can be revoked at any time
Medical Law

Errors/Incidents

Any event that takes place out of the ordinary, against policy, causing a patient, visitor, or staff potential or real harm must be reported to risk management department.

May be electronic, paper, or by phone.

TJC condones no punitive action for reporting/whistle blowing (especially with medications).

Educational opportunity – may help identify areas of weakness/defects.

Be clear, concise, add pertinent data, be descriptive, add direct quotes if available.

Should be filled out and signed by the person witnessing the event or the results of the event.

List all parties that may have witnessed or been involved in incident.

Medical Law

Radiologic sciences professionals are legally liable for their actions in the daily performance of diagnostic procedures and patient management.

Professionals have a responsibility to understand and practice the Standard of Care of the profession.

Professionals must respect patient autonomy at all times.

A patient’s health information must be kept confidential.

Professionally appropriate behavior is premised on trust of the patient and a willingness to “do no harm, and always do good.”

References