

Chapter Questions

1. Do you believe that prosecution of crimes (such as criminal law) should be placed solely in the hands of the government or would it be better served to reside in the private sector? Why?
2. Should governmental regulations, such as the Medicare Conditions of Participation, reside in the public sector (such as with the government) or should they be enforced by private organizations in much the same fashion as Joint Commission accreditation?
3. Which source of law do you believe is the most important? Do you think our society could successfully exist without one or more of the sources of law that exist?
I think that all of the laws are very important but I also think that it would be hard to “get” rid of one of them because they all do similar things but different things at the same time. I think that we could successfully live without Statutes because both Statutes and Administrative law are similar and can both be done the same people.
4. Describe the separation of powers among the branches of government and give an example of how the checks and balances process works.
Separation of power among the branches of government are that the federal and state government limits the authority of each branch and inhibits any one branch of government from becoming autocratic. Checks and balances, which allows each branch to monitor the activities of the other branches to limit the power of each
5. Do you believe that the requirements for a case to be appealed to a higher court are too lenient? Too stringent? Why or why not?
6. Of the two types of alternative dispute resolution discussed in the chapter, which do you believe is the more effective? Why?
I think that Arbitration is more effective because when you have two parties that are disagreeing with some there is some there to kind mend that and make “final” decisions Sometimes that hard to make when there isn’t that middle ground person.
7. Discuss the differences between a subpoena and a court order. Explain the types of questions that a custodian of a health record can answer at deposition or trial. Give examples of types of questions that should not be responded to. What is the purpose of the Federal Rules of Civil Procedure?

The difference between subpoena and a court order is that a court order is a document or verbal mandate issued by a judge that compels certain action, such as testimony or the production of documents such as health records or ESI when the hospital for whatever reason refuses to disclose them pursuant to an authorization. Subpoena is a legal tool that is used to compel one’s appearance at a certain time and place to testify or produce documents or other tangible items either during discovery or at trial. Federal Rules of Civil Procedure are model procedural rules that are used by the federal court system to guide all aspects of litigation

associated with trial preparation and trial

8. Explain what attorneys may consider about potential jurors when determining who will stay on the jury and who will be excused. Distinguish between the dismissal for cause and the peremptory challenge. Why would an attorney use one mechanism vs. the other?
9. How may health information be used as evidence in legal cases? Prove injuries to victims in murder, manslaughter, criminal assault and battery, and abuse cases. White collar cases such as criminal fraud and abuse. Custody case, individual competence,
10. How do the major types of evidence differ?
Direct Evidence is "real" tangible or clear evidence of a fact happening or thing that requires thinking to prove its existence. Demonstrative(real or physical) evidence is actual objects, charts, diagrams, maps, video, pictures, models illustrations and other devices that are supposedly intended to clarify or prove the facts for the judge and jury. Documentary evidence is evidence in written form, not oral used to prove a fact included in the information imparted. Circumstantial(indirect) evidence is "evidence in a trial which is not directly from an eyewitness or participant and requires some reasoning to prove a fact. All of them are different in their ways on how they prove that the evidence is a fact but they all are trying to prove something.
11. Describe the differences between discoverability and admissibility. In a medical malpractice negligence case, what types of information might be discoverable but not admissible?
12. What is the business records exception rule and how does it relate to the concept of hearsay?
Business health records consist of out-of-court statements that are often used in court to prove the truth of the claim, they technically constitute hearsay. Hearsay is a written or oral statement made outside of the court they use this in business records expectations unless it doesn't meet certain requirements.
13. What is the best evidence rule and how does it address the use of EHRs or other data stored in a computer?

For data stored in a computer or similar device the best evidence rules states that print out or other output readable by sight and shown to reflect data accurately constitutes an original

14. How does the concept of privilege relate to evidence and the waiver of such privilege? The waiver is not unlimited and the defendant may only discover records related to prior physical or mental conditions if they relate to currently claimed damages.

Check your understanding:

Chapter 3

3.1

1. False
- 2.
- 3.
- 4.
- 5.

3.2

1. True
2. True
3. False
- 4.
5. True

3.3

1. False
2. True
- 3.
4. True
5. False

Chapter 4

4.1

1. False
2. True
3. True
4. True
5. True

4.2

1. False
2. True
3. False
4. False
5. True

4.3

1. False
2. True
3. True
4. True
5. False

4.4

1. False

2. False
3. False
4. False
5. True

4.5

1. False
2. True
3. True
4. True
5. True

Chapter 5

5.1

1. True
2. False
3. True
4. False
5. False

5.2

1. True
2. True
3. False
4. True
5. False

5.3

1. False
2. True
3. True
4. True
5. False

5.4

1. False
2. True
3. False
4. True
5. True

Case Studies:

Case Study 1

1. What is the purpose of the separation of powers concept?
2. What forces are at play that led to ethical tension in this situation?
3. Setting aside personal beliefs about the removal of a feeding tube and the death that will follow, do you believe the courts should have considered the laws passed by both the Florida legislature and the US Congress?

Case Study 2

1. Is there an ethical violation, dilemma or concern and, if so, what is it?

Yes, Madeline needs to speak to the patient and have them come in and directly sign considering she spoke with a legal assistant not the attorney on the paperwork.

2. What should Madeline do?

Madeline should contact the patient to get the proper authorization and report it for possible fraud.

Case Study 3

He is now asking the HIM director, who is a personal friend, to let him add additional documentation to the patient's record, which has since been placed on legal hold.

1. Since the director is a friend of the physician and knows he should have been more specific in his documentation, should the HIM director allow the physician access to the record to add the documentation? Why or why not?
2. If the HIM director did give the physician access to the record, what ethical issues does this decision raise?