

Chapter 1: Workings of the American Legal System

1. The Fourth Amendment to the U.S. Constitution expressly states that:
 - a. Congress shall make no law abridging the right of privacy of U.S. citizens
 - b. The right of the people to be secure in the persons, houses, papers, and effects, against any governmental searches and seizures, shall not be violated
 - c. The right of the people to be secure in the persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated
 - d. None of the above

2. Which of the following steps is not required for proposed regulations of a federal administrative agency to have the force of law?
 - a. The agency has given advance public notice of its proposed regulations, such as through publication in the *Federal Register*
 - b. The agency has allowed affected parties an opportunity to present arguments for or against the proposed action
 - c. The agency has provided a public record for its action, including publication of the final regulations in the *Code of Federal Regulations*
 - d. The President has signed the regulations into law

3. Federal agencies that have quasi-judicial powers have authority to conduct hearings and render decisions regarding the application to specific parties of the agency's regulations. Such regulatory agency decisions:
 - a. Are final and not appealable
 - b. Are appealable only pursuant to the agency's established internal appeals process
 - c. Are appealable after the exhaustion of an agency's established internal appeals process to a U.S. District Court
 - d. None of the above

4. The Joint Commission (TJC), formerly named the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), is a non-profit organization that accredits more than 20,000 health care organizations and programs, enabling them to receive federal Medicare reimbursement. How is it that the TJC, a non-governmental entity, has such authority?
 - a. Obtained delegated authority from the IRS as a result of its receipt of 501(c) tax exempt status
 - b. Obtained deeming authority from the Department of Health and Human Services to conduct accreditation surveys, which HHS recognizes as satisfying the Medicare Conditions for Participation for Hospitals published by HHS/CMS
 - c. Obtained authority from Congress under the Affordable Care Act
 - d. None of the above

5. In the U.S., the sources of law are:
 - a. federal and state Constitutions
 - b. federal and state Statutes

- c. regulations and rulings of federal and state administrative agencies
- d. federal and state court decisions
- e. all of the above

6. Medical malpractice:

- a. refers to the professional liability of healthcare providers
- b. includes intentional torts and negligence
- c. often includes breach of contract
- d. all of the above

7. A tort is best described as:

- a. a wrongful act that results in injury to another
- b. a purposeful physical act against another
- c. professional liability of licensed healthcare providers
- d. a violation of a obligation imposed by a statute

Chapter 2: Court Systems and Legal Procedures

8. A party's failure to prevent destruction of ESI which is relevant to a pending lawsuit of which the party had knowledge and had received a notice of preservation can result in:

- a. a litigation hold
- b. the imposition on the offending party of significant financial sanctions
- c. alternative dispute resolution
- d. none of the above

9. A document's meta-data may be useful to an opposing party litigant for which of the following potential purposes:

- a. indicates history of the document's creation and transmission
- b. discloses information embedded in the document, such as computational formulas
- c. indicates revisions and editorial comments in prior versions of the document
- d. all of the above

10. In the discovery phase of a civil lawsuit, a party that considers that its compliance with a particular interrogatory would be unduly burdensome can seek:

- a. a directed verdict
- b. transfer of the lawsuit to a different judge
- c. the imposition of all or a portion of the costs of such compliance upon the party posing the burdensome interrogatory
- d. alternative dispute resolution

11. The routine purging and recycling of computer memory for electronic data storage may inadvertently cause with respect to a pending lawsuit:

- a. suspension of accreditation

- b. subrogation
- c. spoliation
- d. binary bulimia

12. In the discovery phase of a medical malpractice civil lawsuit, a judge is likely to allow as relevant which of the following interrogatories regarding a defendant's electronically stored information (ESI):

- a. Identify all past and current users known to you who have generated email related to the subject matter(s) of this litigation
- b. Identify the current and present persons responsible for the ongoing operations, maintenance, expansion, archiving and upkeep of the network
- c. Provide a detailed list of all backup tapes, regardless of the magnetic media on which they reside, showing current location, custodian, date of backup, a description of backup content and a full inventory of all archives
- d. Identify documents or classes of documents that were subject to scheduled destruction. Attach copies of document destruction inventories/logs/schedules containing documents relevant to this action.
- e. all of the above

Chapter 3: Judicial Process of Health Information

13. A patient's health record is generally admissible as evidence in a court of law:

- a. if the entries in the record were made by licensed healthcare professionals and staff of a licensed healthcare facility
- b. if the party introducing the record as evidence can establish that the record qualifies for an exception to the non-admissibility of hearsay
- c. if it concerns a patient receiving Medicare or Medicaid benefits
- d. in all criminal proceedings

14. With respect to its admissibility as evidence in a court of law, a patient's health record is generally considered "hearsay" for which of the following reasons:

- a. the persons making the entries in the record do not do so in court under oath
- b. the persons making the entries in the record are not subject to cross-examination in court
- c. all of the above
- d. none of the above

15. A court order for the production of a patient medical record duly issued in a pending lawsuit:

- a. has the same force and effect as a subpoena
- b. has greater legal weight than a subpoena
- c. has less legal weight than a subpoena
- d. to be valid must be accompanied by the patient's authorization to release the patient's record

16. A data custodian's information technology professional can add value to the custodian's litigation response team by providing information with respect to the following matters:
- the data custodian's policies regarding ESI storage, retention and destruction
 - the data custodian's policies anticipated costs of compliance with e-discovery requests
 - the data custodian's policies anticipated response time for compliance with e-discovery requests
 - all of the above

Chapter 4: Principles of Liability

17. A primary care physician's treatment of a minor results in serious unexpected medical complications. In a medical malpractice lawsuit against the physician, the applicable standard of care against which the physician's conduct should be compared is:

- the conduct of a reasonably prudent person with average intelligence and experience
- the reasonable conduct of the patient's parents
- the conduct of a reasonably prudent primary care physician in the same or similar circumstances
- none of the above

18. In a medical malpractice lawsuit, which of the following are the potential sources for establishing the applicable standard of care in a particular situation which the plaintiff maintains has been breached:

- general standards contained in state laws and regulations
- written guidance of professional associations or accrediting organizations
- the defendant's written internal policies
- expert testimony of healthcare professionals
- all of the above

19. An adverse medication event could have been avoided if the Clinical Decision Support (CDS) module of the prescribing primary care physician's Electronic Health Record (EHR) system had been activated and consulted. In determining whether the ambulatory care physician is liable for medical malpractice, the plaintiff needs to establish that the actions at issue fell below the standard of care

- indicated by HHS in its certification of EHRs for the Meaningful Use incentive payment program
- prevalent in the medical profession
- indicated by the Joint Commission in its accreditation of in-patient facilities
- none of the above

20. National adoption of EHR systems by eligible physicians has reached over 50%. The corresponding adoption rate is only 5% in a particular local community where the lack of adoption of an EHR system by a physician is a central issue in a medical malpractice lawsuit. In determining whether the lack of an EHR constitutes care falling below the standard of care, the relevant EHR adoption rate to consider (assuming that it is indicative of the standard of care) in the lawsuit is

- a. the national rate
- b. the local rate
- c. determined by the rules of evidence and case law in the state where the lawsuit is filed
- d. determined by the jury in the case

21. A hospital is likely to be exposed to vicarious liability for the wrongful acts of:

- a. a primary care physician in an independent physician practice group whose members enjoy medical staff privileges with the hospital
- b. a physician employed by the hospital (hospitalist)
- c. a vendor of the hospital's EHR system
- d. none of the above

22. A patient's electronic medical record contains incorrect information because of erroneous patient matching by the Health Information Exchange (HIE) which supplied patient information from a different HIE participant. In a medical malpractice lawsuit against the hospital physician that relied on the erroneous information in the patient's medical record, to establish that the hospital should be held liable the plaintiff might advance which of the following legal liability theories:

- a. the electronic mismatch was a reasonably foreseeable intervening cause of the injury that arose
- b. the hospital owes a corporate negligence duty to its patients to select EHRs and electronic networks that supply accurate patient information and avoid causing patient harm
- c. Res ipsa loquitur
- d. All of the above

23. The Act establishing the Illinois Health Information Exchange (ILHIE) provides that: *"Reliance on data. Any health care provider who relies in good faith upon any information provided through the ILHIE in his, her, or its treatment of a patient shall be immune from criminal or civil liability arising from any damages caused by such good faith reliance. This immunity does not apply to acts or omissions constituting gross negligence or reckless, wanton, or intentional misconduct."* In a medical malpractice lawsuit arising from erroneous patient matching by the ILHIE leading to patient injury, the statute provides the defendant ILHIE user:

- a. A defense of governmental immunity
- b. A defense of contributory negligence
- c. A defense of charitable immunity
- d. A defense of statutory Immunity from lawsuits relating to its use of the ILHIE

Chapter 14: Health-Care Fraud and Abuse

24. A physician's use of the "cut-and-paste" feature of his EHR to amplify the description of the services she provided and obtain the optimal level of deserved reimbursement could lead to which of the following potential HHS/CMS charges of wrongful conduct:

- a. Unbundling

- b. Upcoding
- c. Stark violation
- d. Kickback violation

25. Accountable Care Organizations (ACOs), which bring into alignment several health care providers for the purposes of jointly managing the care of a pool of patients, absent express waivers and “safe harbors” might be subject to potential liability for:

- a. Violations of self-referral laws
- b. Violations of anti-kickback laws
- c. Violations of anti-trust laws
- d. All of the above

Hill-Rom Corporate Integrity Agreement

26. An investigation against Hill-Rom was initiated by the government on the basis of information received from:

- a. a durable medical device supplier competitor
- b. a TV journalist that broadcast incriminating information he found when dumpster diving
- c. an in-house legal counsel who determined that he had an ethical duty to report the information
- d. a current and a former employee whistleblowers who initiated a *qui tam* proceeding and received an \$8 million reward
- e. a hacker that published incriminating documents on Wiki Leaks

27. Hill-Rom agreed to a Corporate Integrity Agreement (CIA) with the government:

- a. following the company’s conviction in federal court for violating the federal Fraudulent Claims Act
- b. following a determination in an administrative proceeding of the HHS Office of Inspector General (OIG) that the company had violated the federal Fraudulent Claims Act
- c. voluntarily, as part of a Settlement Agreement to conclude an ongoing government investigation, prior a federal court reaching a judgment whether the company had violated the federal Fraudulent Claims Act
- d. voluntarily, as part of a Settlement Agreement to conclude a shareholder class action lawsuit against the company alleging that the company’s public financial statements were fraudulent and deceptive

28. Hill-Rom agreed to be bound by a Corporate Integrity Agreement (CIA) with the government:

- a. for so long as the company submitted payment claims to Medicare
- b. for so long as the company's current CEO remained in office
- c. for a period of five (5) years
- d. until the HHS Office of Inspector General (OIG) determines that the company has implemented sufficiently reasonable measures to assure its future compliance with Medicare claims regulations

29. Pursuant to its Corporate Integrity Agreement (CIA), Hill-Rom agreed to implement a Compliance Program, consisting of which of the following elements:

- a. Compliance Officers and Committee. The engagement of a Chief Compliance Officer, and the formation of a company management Compliance Committee and a Board Compliance Committee
- b. Written Standards. The development and implementation of a Code of Conduct and Policies and Procedures
- c. Training and Education; Disclosure Program. The development and implementation of a compliance training program for members of the Board and selected company officers and employees, and of a mechanism to enable individuals to anonymously disclose concerns regarding the company's compliance with the CIA
- d. Claims Review. Engagement of an Independent Review Organization (IRO) to review and report on the extent to which the company's Medicare claim submissions for certain categories of claims were correct
- e. all of the above

30. Pursuant to its Corporate Integrity Agreement (CIA), Hill-Rom agreed to have a Chief Compliance Officer (CCO) with all of the following status in the company's executive hierarchy, except:

- a. direct report to CEO
- b. not subordinate to General Counsel
- c. not subordinate to Chief Financial Officer
- d. not required to perform more than a limited amount of noncompliance job responsibilities
- e. may not be dismissed without the prior written consent of the HHS Office of Inspector General (OIG)

31. Pursuant to its Corporate Integrity Agreement (CIA), Hill-Rom agreed to have a Chief Compliance Officer with the following powers and duties, except:

- a. chairs the company's management Compliance Committee

- b. has authority to contact the Board or a special Board committee at any time
- c. has authority to terminate the engagement of the Chief Financial Officer and the General Counsel
- d. submits a quarterly report regarding CIA compliance matters to the company's Board or a Board committee
- e. certifies that the company's Implementation Report and Annual Reports to the OIG are accurate and truthful

32. Pursuant to its Corporate Integrity Agreement (CIA), Hill-Rom agreed to have a Compliance Committee chaired by the Chief Compliance Officer with mandatory members, including:

- a. the CEO
- b. the Chief Financial Officer
- c. the General Counsel
- d. the Chairman of the Board
- e. none of the above

33. Pursuant to its Corporate Integrity Agreement (CIA), if, hypothetically, Hill-Rom's Director of Internal Audit, a designated member of the Compliance Committee, takes a four-month maternity leave of absence, her absence from the company:

- a. must be reported to the HHS Office of Inspector General (OIG) only if she is absent from the quarterly meeting of the Compliance Committee
- b. need not be reported to the HHS Office of Inspector General (OIG) if her leave of absence is consistent with her rights under the federal FMLA
- c. need not be reported to the HHS Office of Inspector General (OIG) if her leave of absence is consistent with her company's personnel code and policies
- d. though temporary, must be reported to the HHS Office of Inspector General (OIG) if it could affect the Compliance Committee's ability to perform the duties necessary to meet the company's obligations in the CIA

34. Pursuant to its Corporate Integrity Agreement (CIA), if, hypothetically, the company's Secretary learns that on Feb. 1 the chairman of the Board Compliance Committee suffered a stroke, is convalescing overseas and is unlikely to be able to participate in any Board activities for the remainder of the year, including his chairing of the next Board Compliance Committee meeting scheduled for April 1, and his signing of the annual Board Compliance Committee Resolution, the situation would probably:

- a. not be reportable to the OIG if the appointment of another Board Compliance Committee member as acting chairman in place of the unavailable chairman will not affect the Board's ability to perform the duties necessary to meet the obligations in the CIA
- b. be reportable to the OIG as each company Director is a "Covered Person"
- c. be reportable to the OIG as any adverse event, including acts-of-god, impacting a Board Compliance Committee member must be reported within 15 days of their occurrence
- d. be reportable to the OIG if the Board Compliance Committee is unable to adopt a Resolution which signed by each member of the Committee

35. Pursuant to its Corporate Integrity Agreement (CIA), the company's Board Compliance Committee must:

- a. retain an independent financial advisor to assess the company's compliance with the CIA
- b. retain an independent legal advisor to provide the Committee legal counsel regarding the interpretation and implementation of the CIA
- c. ensure that the company's Directors & Officers liability insurance coverage addresses the potential liability of the Committee and its members for intentional and unintentional violations of the CIA
- d. review at least quarterly the performance of the Chief Compliance Officer and the management Compliance Committee

36. Hypothetically, the Busy Hedge Fund (Busy) acquires a 6% shareholder interest in Hill-Rom. The company sends to Busy, as a "Covered Person" pursuant to the company's Corporate Integrity Agreement (CIA), a copy of the company's Code of Conduct and its Policies and Procedures. Busy, although not a signatory to the CIA, is required:

- a. to promptly certify that it has received, read, understood and shall abide by the Code of Conduct, and also thereafter following receipt of each subsequent material amendment to the Code of Conduct
- b. to report to the company's Chief Compliance Officer suspected violations by the company of any applicable healthcare program requirements or of the company's Policies and Procedures
- c. to complete annually at least one hour of General Training explaining the company's CIA requirements and Compliance Program
- d. all of the above

37. Pursuant to its Corporate Integrity Agreement (CIA), the OIG has authority to require the company to terminate its engagement of:

- a. the CEO
- b. the Chief Financial Officer
- c. the Independent Review Organization (IRO)
- d. none of the above

38. Pursuant to its Corporate Integrity Agreement (CIA), Hill-Rom agreed to engage an Independent Review Organization (IRO) to conduct an annual review of a sample of the company's Medicare claim submissions for certain categories of claims and determine the extent to which the claims were correct. An Error Rate of what magnitude triggers a heightened IRO Claims Review process:

- a. 1%
- b. 5%
- c. 10%
- d. none of the above

39. Pursuant to its Corporate Integrity Agreement (CIA), Hill-Rom can petition the OIG to discontinue the annual IRO Claims Review process when it achieves the following compliance results:

- a. the Error Rate is at or below 1% in any year
- b. the Error Rate is at or below 1% for three consecutive years
- c. the Error Rate is at or below 5% for three consecutive years
- d. none of the above

40. Pursuant to its Corporate Integrity Agreement (CIA), the OIG can seek which of the following actions or penalties against the company for alleged violations of the CIA:

- a. a fine of \$2,500 for each day that the company has failed to engage a Chief Compliance Officer or Independent Review Organization (IRO) as required by the CIA
- b. expulsion of the company from participation in the Medicare reimbursement program following a Material Breach of the CIA
- c. the conduct by, or for, the OIG, at the company's expense, of a Validation Review of the IRO Claims Review report
- d. all of the above