

Component I: Core

Module A: Introduction to the Profession of the Medical Assistant

Topic 4: Law and Ethics for the Medical Assistant

Statement of Purpose

To prepare the learner with basic knowledge and skills necessary to understand the impact of law and ethics on the practice of Medical Assistants.

Student Learning Outcomes

Upon completion of this topic, the learner will be able to:

1. Spell and define key terms.
2. Determine the general requirements for obtaining and maintaining a license to practice medicine.
3. Explain how the physician-patient contract is created.
4. Describe the legal obligations of each party once a contract is created.
5. Define types of law and outline the circumstances under which a physician may be held liable in a malpractice suit.
6. Explain the legal aspects of medical records.
7. Describe the physician and patient's bill of rights.
8. Define ethics and specify an example of the principles of medical ethics for Physicians and Medical Assistants.
9. Identify ways to decrease your chances of being sued.

Terminology

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|------------------------|-----------------------|
| 1. Acceptance | 21. Medical records |
| 2. Biennially | 22. Misdemeanor |
| 3. Beneficence | 23. Misfeasance |
| 4. Competent | 24. Negligence |
| 5. Consideration | 25. Nonfeasance |
| 6. Criminal Law | 26. Nonmaleficence |
| 7. Dignity | 27. Obligations |
| 8. Ethics | 28. Offer |
| 9. Exemptions | 29. Patient rights |
| 10. Expressed contract | 30. Physician rights |
| 11. Felony | 31. Reasonable care |
| 12. Fidelity | 32. Reciprocity |
| 13. Gratitude | 33. Reparations |
| 14. Implied contract | 34. Revocation |
| 15. Justice | 35. Scope of practice |
| 16. Legal capacity | 36. Standard of care |
| 17. Liability | 37. Suspension |
| 18. Licensure | 38. Tort Law |
| 19. Malfeasance | 39. Veracity |
| 20. Malpractice | |

References

1. Davis, F.A. (2013). *Taber's Cyclopedic Medical Dictionary* (22nd Ed.). Philadelphia PA: F.A. Davis.
2. French, L.L., & Fordney, M.T. (2013). *Administrative Medical Assistant* (7th Ed.) Clifton Park, NY: Delmar, Cengage Learning
3. Blesi, M., Wise, B.A., & Kelley-Arney, C, (2012) *Medical Assisting Administrative and Clinical Competencies* (7th Ed.) Clifton Park, NY: Delmar, Cengage Learning
4. Lindh, W., Pooler, M., Tamparo, C. & Dahl, B., (2013). *Comprehensive Medical Assisting Administrative and Clinical Competencies* (5th Ed.). Clifton Park, NY: Delmar, Cengage Learning.
5. Kronenberger, J., Southard D. L., & Woodson, D. (2012). *Comprehensive Medical Assisting* (4th Ed.). Philadelphia, PA: Lippincott, Williams & Wilkins.
6. Booth, K.A., Whicker, L.G., Wyman, T.D., & Moaney-Wright, S. (2011). *Medical Assisting: Administrative & Clinical Competencies with Anatomy and Physiology*. (4th Ed.). New York, NY: McGraw-Hill Company, Inc.
7. Dennerll, J.T., & Davis, P.E. (2010). *Medical Terminology: A Programmed Systems Approach* (10th Ed.). Clifton Park, NY: Delmar, Cengage Learning.
8. Proctor, D. B., & Young-Adams, A. P. (2011). *Kinn's The Medical Assistant: An Applied Learning Approach* (11th Ed.). Philadelphia, PA: Saunders Elsevier.

Web sites

1. www.mbc.ca.gov
2. www.aha.org
3. <http://www.ama-assn.org/ama/pub/about-ama/our-people/ama-councils/council-ethical-judicial-affairs.page>
4. www.aama-ntl.org
5. www.ama-assn.org

Content Outline/Theory Objectives	Suggested Learning Activities
<p>Objective 1 Spell and define key terms.</p> <ul style="list-style-type: none"> A. Review the terms listed in the terminology section. B. Spell the listed terms accurately. C. Pronounce the terms correctly. D. Use the terms in their proper context. 	<ul style="list-style-type: none"> A. Games: word searches, crossword puzzles, Family Feud, Jeopardy, bingo, spelling bee, hangman and concentration. B. Administer vocabulary pre-test and post-test. C. Discuss learning gaps and plan for applying vocabulary.
<p>Objective 2 Determine the general requirements for obtaining and maintaining a license to practice medicine.</p> <ul style="list-style-type: none"> A. Obtaining <ul style="list-style-type: none"> 1. Physician must <ul style="list-style-type: none"> a. Have graduated from an accredited medical school and residency program. b. Passed the state medical exam. 2. Personal requirements: <ul style="list-style-type: none"> a. Must be a state resident. b. Be of good moral character. c. Be a United States citizen. d. Be age 21 or older. B. Maintaining <ul style="list-style-type: none"> 1. Licensure requirements established by each state. 2. Annual or biannual renewal with adequate continuing education. C. Reciprocity, some states automatically recognized that the requirements of the state in which the license was granted meet the standards of the second state. D. Exemptions, some physicians, who do not practice medicine, do not need to be licensed in the state where they are employed. E. Research. F. Medical liability. G. Public health service. H. Physicians in the Armed Forces. I. Veterans Administration facilities. J. Revocation or suspension, under certain conditions, the license to practice medicine make be revoked or suspended. <ul style="list-style-type: none"> 1. Conviction of a crime. 2. Unprofessional conduct. 3. Personal or professional incapacity. 	<ul style="list-style-type: none"> A. Lecture/Discussion B. Assigned Reading C. Discuss license requirements for physicians to practice in California <ul style="list-style-type: none"> 1. www.mbc.ca.gov/
<p>Objective 3 Explain how a physician-patient contract is created.</p>	

<p>A. Valid contracts have four essential elements:</p> <ol style="list-style-type: none"> 1. Manifestation of assent. 2. Legal subject matter. 3. Legal capacity to enter into a contract. 4. Consideration. <p>B. The physician-patient relationship is considered contractual as a result of three events</p> <ol style="list-style-type: none"> 1. Physician invites an offer by establishing availability. 2. Patient accepts the invitation and arrives for treatment. 3. Physician accepts the patient and begins treatment. <p>C. Implied contract</p> <ol style="list-style-type: none"> 1. The physician will treat the patient using reasonable care. 2. The physician possesses a degree of knowledge, skill and judgment that is reasonably expected of any physician in the same area. 	<p>A. Lecture/Discussion B. Assigned Reading</p>
<p>Objective 4 Describe the legal obligations of each party once a contract is created.</p> <p>A. Expressed contract is an explicit agreement (either written or oral) that contains specified details.</p> <p>B. Implied contract is an agreement not in writing but equally as binding as a written contract.</p> <ol style="list-style-type: none"> 1. Patient obligation, payment for medical services rendered. 2. Physician's obligation is to provide reasonable care as defined as the appropriate standard of care available. <p>C. Distinguish the proper procedure for terminating physician-patient contract.</p> <ol style="list-style-type: none"> 1. Notify the patient in writing and send by certified mail. 2. Advise the patient of his/her need for further treatment. 3. The termination date (within a reasonable time frame). 4. A statement indicating the availability of medical records that can be transferred to another physician on patient request. 	<p>A. Lecture/Discussion B. Assigned Reading</p>
<p>Objective 5 Define types of law and outline the circumstances under which a physician may be held liable in a malpractice suit.</p> <p>A. Criminal law deals with offenses against the state or government.</p> <ol style="list-style-type: none"> 1. Misdemeanors are minor crimes, punishable by a fine or imprisonment in a city or county jail for 1 	<p>A. Lecture/Discussion B. Assigned Reading C. Discuss examples of malpractice cases.</p>

<p>year or less.</p> <ol style="list-style-type: none"> 2. Felonies are major crimes, such as murder, rape and burglary. Punishable by a more stringent sentence than misdemeanors. <ol style="list-style-type: none"> a. Treason is the most serious crime against the United States, which is the act of attempting to overthrow the government. b. Civil law involves acts that are not criminal in nature but involve relationships among individuals, organizations, or government agencies. c. Tort law provides remedies for individuals who have been harmed by the wrongful acts of others. <ol style="list-style-type: none"> 1) Four elements of negligence <ul style="list-style-type: none"> • Legal duty to act was present. • Duty to act was breached. • Failure to act caused injury or damage. • Injury or damage was a result of the breach of duty. <p>B. Medical professional liability and negligence.</p> <ol style="list-style-type: none"> 1. Malpractice law suit is when a patient is injured as a result of physician's negligence. 2. Negligence is the failure to exercise care a prudent person usually exercises implies one's duty or business; implies want of due diligence or care. 3. Professional negligence in medicine falls into one of three categories <ol style="list-style-type: none"> a. Malfeasance, performance of an act that is wholly wrongful and unlawful. b. Misfeasance, improper performance of a legal act. c. Nonfeasance, failure to perform an act that should have been performed. <p>C. Contract Law involves contracts which are agreements that create an obligation. They can be oral or written to be binding.</p> <p>D. Administrative Law involves regulations set forth by governmental agencies.</p>	
<p>Objective 6 Explain the legal aspects of medical records.</p> <ol style="list-style-type: none"> A. The medical record belongs to the physician. B. The actual medical record should never leave the facility where it originated. C. Medical records are legal documents. D. Medical records are kept as legal protection for those 	<ol style="list-style-type: none"> A. Lecture/Discussion B. Assigned Reading

<p>who provided care to the patient.</p> <p>E. Medical records must be accurate and up-to-date.</p> <p>F. Medical records provide communication among health care providers.</p> <p>G. Medical records provide statistical information that is helpful for researchers.</p>	
<p>Objective 7 Describe the physician and patient's bill of rights.</p> <p>A. Physician rights</p> <ol style="list-style-type: none"> 1. Physician has the right to accept or refuse patients. 2. Physician is responsible for the care of patients that are accepted. 3. Physician has the right to choose practice hours, charges and set schedules. 4. Physician has the right to withdraw from care of uncooperative patient. <p>B. Patient's rights</p> <ol style="list-style-type: none"> 1. Patient has the right to considerate and respectful care. 2. Patient has the right to select a physician. 3. Patient has the right to correct relevant information regarding his/her treatment. 4. Patient has the right to make decisions. 5. Patient has the right to have an advanced directive. 6. Patient has the right to privacy. 7. Patient has the right to confidentiality. 	<p>A. Lecture/Discussion</p> <p>B. Assigned Reading</p> <p>C. See textbook for complete listing of physician rights.</p> <p>D. Review: http://www.aha.org</p>
<p>Objective 8 Define ethics and specify an example of the principles of medical ethics for physicians and Medical Assistants.</p> <p>A. Ethics are the philosophies underlying ideal relationships between human beings, as well as the promotion of the highest good for humanity as a whole.</p> <p>B. Three general elements of ethics</p> <ol style="list-style-type: none"> 1. Duties, obligations that a person has or perceives himself or herself to have. 2. Rights, claims that a person or group makes on society, a group or an individual. 3. Character traits, a disposition to act in a certain way. <p>C. Types of duties</p> <ol style="list-style-type: none"> 1. Nonmaleficence, refraining from harming oneself or another person. 2. Beneficence, bringing about good. 3. Fidelity, concept of promise-keeping. 4. Veracity, telling the truth. 5. Justice, fair distribution of benefits and burdens 	<p>A. Lecture/Discussion</p> <p>B. Assigned Reading</p> <p>C. Discussion and give additional examples. Have group exercises with different scenarios.</p> <p>D. Have student go to CEJA website, select an opinion and social policy and present to the class.</p> <ol style="list-style-type: none"> 1. http://www.ama-assn.org/ama/pub/about-ama/our-people/ama-councils/council-ethical-judicial-affairs.page <p>E. Go to Website for AMA and AAMA Code of Ethics.</p> <ol style="list-style-type: none"> 1. http://www.aama-ntl.org/ 2. http://www.ama-assn.org/

among individuals and groups in society having legitimate claims on those benefits.

6. Reparations, righting a wrong.
7. Gratitude, feeling grateful after being the beneficiary of someone's goodness.

D. Types of ethical problems

1. Ethical Dilemma is a situation in which an individual is faced with two or more choices that are acceptable and correct, but doing one precludes doing another.
2. Ethical Distress is a situation in which a certain course of action is indicated, but some type of hindrance or barrier prevents that action.
3. Dilemmas of Justice focus on the fair distribution of benefits to those who are entitled to them.
4. Locus of Authority is when two or more authority figures have their own ideas about how a situation should be handled, but only one of those authorities will prevail.

E. Five-step method for making ethical decisions

1. Gather relevant information.
2. Identify the type of ethical problem.
3. Determine the ethical approach to use.
4. Explore practical alternatives.
5. Complete the action.

F. Physician and ethics

1. American Medical Association
 - a. Principles of medical ethics.
 - b. Competent medical service.
 - c. Compassion and respect for human dignity.

G. Council on Ethical and Judicial Affairs (CEJA) of the American Medical Association has opinions and social policies of many subjects

1. Abortion.
2. End of life care.
3. Transplantation.
4. Court ordered medical treatment.
5. Gene therapy.
6. In vitro fertilization.
7. Do Not Resuscitate orders.
8. Confidentiality, advertising and communications media relations.
9. Fees and charges.
10. Patient physician relationship.

H. Medical Assistant and ethics.

1. Code of ethics of the American Association of Medical Assistants

<ul style="list-style-type: none"> a. Render service with full respect for the dignity of humanity. b. Uphold the honor and high principles of the profession. c. Accept its disciplines. 	
<p>Objective 9 Identify ways to decrease your chances of being sued.</p> <ul style="list-style-type: none"> A. Do not use words such “cure”. B. Do not practice outside of your scope of practice or job description. C. Treat patient information as confidential and discuss it only with those directly involved with patient care. D. Do not give your opinion concerning the action of another health care provider. E. Document accurately. F. Communicate effectively. G. Maintain a professional demeanor. H. Continue education. 	<ul style="list-style-type: none"> A. Lecture/Discussion B. Assigned Reading C. Discussion – link back to discussion on professionalism