

# LEGAL AND ETHICAL PRACTICES



*Law* - rule of conduct or action prescribed or formally recognized as binding or enforced by a controlling authority.

*Criminal Law* - deals with offences against all citizens. Offender can go to prison or jail.

## Examples of Criminal Law

- Practicing in a health care profession without a license.
- Misuse of narcotics
- Theft
- Murder





# **TORTS**

*Tort* - from the French word “wrong.”

It can be defined as a civil wrong committed against a person or property excluding breach of contract.

# TORTS

**Malpractice** - Interpreted as “bad practice” and includes providing improper or unprofessional treatment or care that results in injury to the patient.

**Negligence** - Person at fault failed to do what a reasonable and careful person would have done, or did what a reasonable and careful person would not have done. Also can be defined as failure to take reasonable precautions to protect others from the risk of harm.

# TORTS

**Assault** - any willful attempt or threat to injure another person with the apparent ability to do so.

**Battery** - unlawful touching of another person without consent.

## **Informed Consent**

The patient / client understands the reason for treatment.

They understand:

- What will be done.
- Who will do it.
- How it will be done.
- Expected outcomes.

Patient must also understand treatment alternatives and the consequences of not having treatment.



# TORTS

## Invasion of Privacy

Unnecessary exposure of an individual or revealing personal information about an individual without consent.

## False Imprisonment

Restraining an individual or restricting an individual's freedom.



# TORTS

**Defamation of Character** - damaging a person's name and reputation by making public statements that are false and malicious.



**Libel** - if the information released is written.

**Slander** - if the information released is spoken.



# TORTS

## Abuse

Any care that results in physical harm, pain, or medical anguish. Abuse can be classified as:

*Physical* - hitting, forcing persons against their will, restraining movements, depriving of food or H<sub>2</sub>O, or not providing physical care.

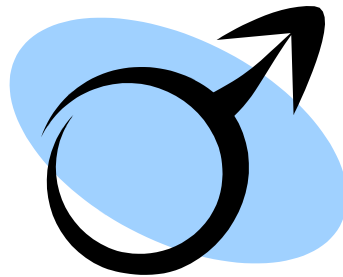


*Verbal* - talking harshly, swearing or shouting, teasing, ridiculing, intimidating a person.



# TORTS

## Abuse ( continued)



*Sexual* - any unwanted sexual touching or act.

**\*\* Laws in all states require reporting of any form of abuse to proper authorities. \*\***

# CONTRACTS

*Contract* is a voluntary agreement between two parties



1. **Offer** - competent individual enters into a relationship with health care providers and offers to be a patient.

2. **Acceptance** - health care provider gives an appointment or examines or treats a patient.

3. **Consideration** - payment made by patient for services provided.

# CONTRACTS

## Types of Contracts:

1. *Implied* - gives rise to contractual obligations by some action or inaction without verbally expressed terms.

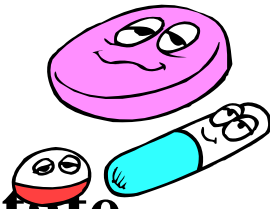


2. *Expressed* - actual agreement between the parties, the terms are stated in distinct and explicit language, either orally or in writing.

**All parties in a contract must be free of legal disabilities. A person with legal disabilities does not have the legal capacity to form a contract.**

# Legal Disability

- **Minors**
- **Mentally incompetent persons**
- **Individuals under the influence of drugs that alter the mental state**
- **Semi- or unconscious people**



**Minors** - anyone under 18 or the age of majority, is called “an infant” under the law.



# LAW OF THE AGENCY

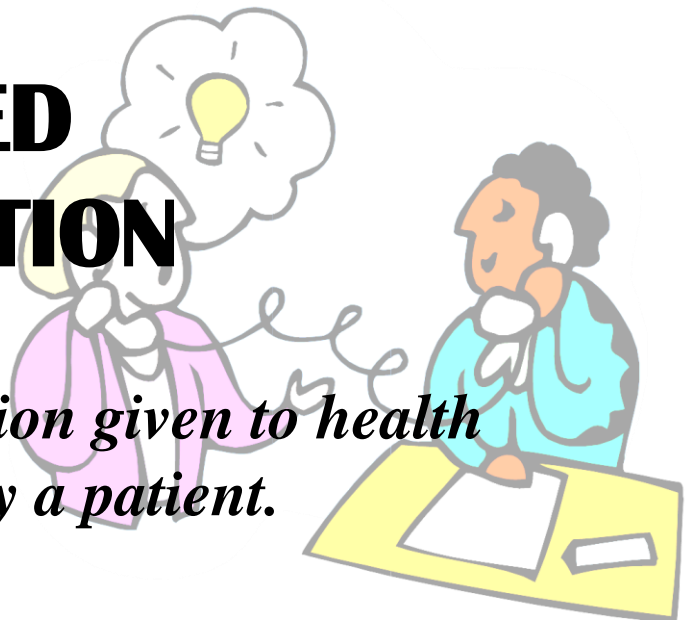
Agency is a personal relationship, created by the mutual consent of:

The Agent (employee) and the Principal (employer) wherein the employee acts on behalf of the principal while supervised by the principal.

Agency may be *expressed* or *implied*, but is usually implied in the medical office.

# PRIVILEGED COMMUNICATION

*Covers all information given to health  
personnel by a patient.*



Physician - Patient Information cannot be told to anyone else without the written consent of the patient.

Written consent should state:

1. What information can be released.
2. Who can get the information.
3. Any time limits related to the release of information.

## **Medical Information Exempt by Law**

1. Births and Deaths.
2. Injuries caused by Violence. (abuse, etc.)
3. Drug Abuse.
4. Communicable Diseases.
5. Sexually Transmitted Diseases.

# HEALTH CARE RECORDS



Contains information on the care that has been provided to the patient.

Medical records belong to the health care provider but the patient has the right to obtain a copy.

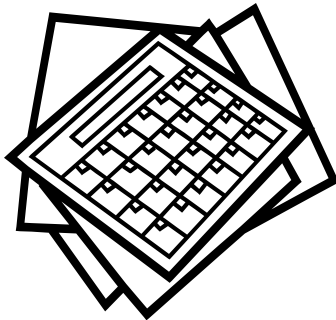
The medical record is a legal document and may be subpoenaed as evidence in court.

# Health Care Records

Errors must be corrected by drawing a single line through the mistake, writing in the correction, dating the change, and signing your initials.

Records must be kept as required by state law ( 2-7 years).

When records are destroyed, they should be shredded or burned.



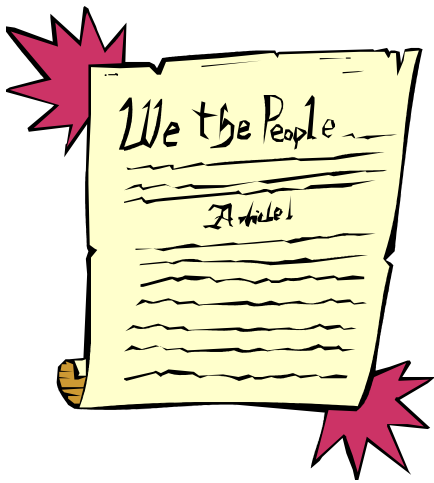




## **YOU BE THE JUDGE!!**

**Dan, a medical office assistant in a busy clinic, is a sympathetic and understanding employee. Recently, when an elderly patient called the clinic complaining that she “just felt awful most of the time.” Dan consoled her. “ Don’t worry, Mrs.. Smith,” he told the women. “Dr Jones will make you feel better in no time.”**

- 1. Has Dan, acting as Dr. Jone’s agent, created an implied contract with Mrs. Smith? Why or why not?**
- 2. If so, can Dr. Jones be sued by Mrs. Smith if he fails to fulfill the “terms” of the contract? Why or why not?**
- 3. How would you have responded to Mrs. Smith?**



# PATIENT'S BILL OF RIGHTS

## **A patient has the right to:**

1. Considerate and respectful care
2. Obtain complete, current information concerning diagnosis, treatment, and prognosis
3. Receive information necessary to give informed consent prior to the start of any procedure or treatment
4. Refuse treatment to the extent permitted under law
5. Privacy concerning a medical-care program
6. Confidential treatment of all communications and records



# PATIENT'S BILL OF RIGHTS (continued)

**The patient has the right to;**

7. Reasonable response to a request for services
8. Obtain information regarding any relationship of the hospital to other health care and educational institutions
9. Be advised of and have the right to refuse to participate in any research project
10. Expect reasonable continuity of care
11. Examine bills and receive and explanation of all charges
12. Be informed of any hospital rules or regulations