

Hi-Ho, Hi-Ho, it's off to Court we Go!

Student's Name

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#### 4-2 Short Paper: Hi-Ho, Hi-Ho, it's off to Court we Go!

### **Understanding Informed Consent and Litigation**

Informed consent, a cornerstone of healthcare, is designed to ensure patients are fully aware of the risks and procedures associated with their treatments (Adeola & Ayobami, 2024). However, despite its implementation, the number of claims has not drastically reduced. This persistence can be attributed to a complex interplay of factors. Firstly, while informed consent aims to minimize claims by educating patients, its effectiveness is limited by miscommunication, patient expectations, and legal complexities. The AMA Journal of Ethics article notes that communication failures and unrealistic patient expectations can lead to dissatisfaction and litigation despite informed consent (Kass & Rose, 2016).

The PBS article brings to light that errors and adverse outcomes can still occur despite informed consent, leading to claims (PBS, 2014). This underscores the crucial role of informed consent in healthcare. Moreover, the legal landscape fosters litigation as a means for patients to seek redress. The intricacy of medical procedures and the variability in patient comprehension also contribute to the persistence of claims. The NBER article substantiates this by indicating that informed consent alone cannot eliminate all risks and that systemic issues in healthcare delivery also come into play.

### **Litigation in Healthcare**

Litigation in healthcare is not just a frequent occurrence but a pervasive issue with profound impacts on the industry. According to the AMA Journal of Ethics, the U.S. healthcare system grapples with many malpractice claims annually, with significant financial implications (NBER, 2019). The PBS article further elucidates that high litigation rates lead to defensive medicine practices, escalating overall healthcare costs and compromising the quality of care (PBS, 2014).

Many argue that the level of litigation is excessive, driven by a litigious culture and the high stakes of medical errors. However, some litigation is necessary to ensure accountability and justice for patients harmed by medical negligence. The challenge, a tightrope walk that requires careful consideration, lies in balancing protecting patient rights and preventing frivolous lawsuits that burden the healthcare system, a task that healthcare professionals, legal professionals, and policymakers must grapple with (Kass & Rose, 2016).

### **Acting Outside the Scope of Practice**

Healthcare providers might sometimes consider acting outside their scope of practice, especially in emergencies requiring immediate action to save a life. However, this can have profound ethical and legal implications. Acting outside one's scope can lead to inadequate care, legal consequences, and loss of licensure. The ethical considerations include the provider's responsibility to do no harm and to ensure patient safety.

The AMA Journal of Ethics suggests that healthcare providers should adhere strictly to their scope of practice to maintain professional standards and patient trust. The NBER article also emphasizes that unauthorized practice can lead to adverse outcomes and increase liability.

### **Apologies in Healthcare**

In our litigious society, apologies from healthcare providers can reduce litigation and improve patient-provider relationships. According to the AMA Journal of Ethics, open communication, and apologies can help address patient grievances, potentially reducing the likelihood of lawsuits (NBER, 2019). The PBS article also highlights that apologies can foster trust and show compassion, which may deter patients from seeking legal action.

I would consider apologizing when an error or adverse outcome has occurred. An apology and a transparent explanation can demonstrate accountability and a commitment to patient welfare, aligning with ethical principles of beneficence and non-maleficence.

### **Transparency and Patient Decisions**

Transparency from medical professionals significantly influences patient trust and their decisions to sue. The AMA Journal of Ethics notes that patients are less likely to pursue legal action when they feel informed and involved in their care (Kass & Rose, 2016). The NBER article supports this, indicating that transparency can mitigate misunderstandings and build stronger patient-provider relationships (NBER, 2019).

However, maintaining transparency can be challenging due to the complexity of medical information and the potential for misinterpretation. Nonetheless, the benefits of fostering trust and reducing litigation outweigh these challenges.

### **Personal Reflection**

This week's topics have profound implications for my actions and practice in healthcare. Understanding the importance of informed consent, the impact of litigation, and the ethical boundaries of practice reinforces my commitment to patient safety and ethical integrity (NBER, 2019). The discussions on apologies and transparency underscore the need for open communication and honesty in patient interactions. Moving forward, I will strive to enhance my communication skills, adhere strictly to my scope of practice, and prioritize transparency to build trust and provide high-quality care.

### **Conclusion**

In summary, navigating the ethical complexities of healthcare requires balancing informed consent, adherence to professional boundaries, and open communication. By understanding these

principles, healthcare providers can enhance patient care, reduce litigation risks, and maintain ethical standards. The key takeaway is the importance of continuous reflection and improvement in professional practice to meet the evolving challenges of the healthcare landscape.

## References

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