

## HIM 225 Legal Issues in Health Information Management

**Credit Hours:** 2 Hours

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**Prerequisites:** None

**Acknowledgement:** While this course was developed for Health Information Management students, any student interested in laws governing current issues in healthcare may enroll the class. This class will benefit consumers of healthcare services, as well as those planning a career in a healthcare profession.

**Description:** Advanced course relating concepts and principles of law, the health record as a legal document, confidential communication, consents and authorization, release of information and current trends in health legislation.

**Competencies:** At the conclusion of this course, the student should be able to meet the Following 2013 AHIMA HIM Associate Degree Entry-Level Competencies, Domains, Sub-domains and Tasks:

### **Associate Degree**

#### **Domain I: Health Data Management**

##### **I.B Healthcare Information Requirements and Standards**

- Apply policies and procedures to ensure organizational compliance with regulations and standards. (I.B.2)
- Assist in preparing the organization for accreditation, licensing, and/or certification surveys. (I.B.4)

##### **III.A. Healthcare Delivery Systems**

- Apply current laws, accreditation, licensure, and certification standards related to health information initiatives from the national, state, local, and facility levels. (III.A.1)

##### **III.B. Healthcare Privacy, Confidentiality, Legal and Ethical Issues**

- Adhere to the legal and regulatory requirements related to health

Legal Issues in Health Information Management

information infrastructure. (III.B.1)

- Apply policies and procedures for access and disclosure of personal health information. (III.B.2)
- Release patient-specific data to authorized users. (III.B.3)
- Maintain user access logs/systems to track access to and disclosure of identifiable patient data. (III.B.4)
- Apply and promote ethical standards of practice. (III.B.5)

**Baccalaureate Degree**

Domain I: Health Data Management

I.B Healthcare Information Requirements and Standards

- Maintain organizational compliance with regulations and standards. (I.B.2)

Domain III: Health Services Organization and Delivery

III.B. Healthcare Privacy, Confidentiality, Legal and Ethical Issues

- Coordinate the implementation legal and regulatory requirements related to health information infrastructure. (III.B.1)
- Manage access and disclosure of personal health information. (III.B.2)
- Develop and implement organization-wide confidentiality policies and procedures. (III.B.3)
- Develop and implement privacy training programs. (III.B.4)
- Assist in the development of security training. (III.B.5)

**Curriculum  
Components:**

At the conclusion of this course the student should be able to meet the following 2011 AHIMA Knowledge Clusters at the indicated taxonomic level:

**Associate Degree**

Legal Issues in Health Information Management

Domain I: Health Data Management

I.B. Healthcare Information Requirements and Standards

- Health record documentation requirements (such as accreditation, certification, licensure)

Domain III: Health Services Organization and Delivery

III.A. Healthcare Delivery Systems

- External standard, regulations, and initiatives (such as licensure certification, accreditation, HIPAA, ARRA) (4) [*Ch. 10 HIPAA Assignment*]

III.B. Healthcare Privacy, Confidentiality, Legal, and Ethical Issues

- Legislative and regulatory processes (3) [*Civil Procedures Assignment*]
- Legal terminology (3) [*All assignments and tests*]
- Health information/record laws and regulations (such as retention, patient rights/advocacy, advanced directives, privacy) (5) [*Chapters 8, 9, 10, & 13 Midterm and Final Test question*]; [*Chapters 8,9,10,& 13 Quiz question*]; [*Ch. 10. HIPAA assignment; Ch. 13 Standard & Regulations assignment; Ch. 9 HITECH assignment; Ch. 8 State Law information assignment; Ch. 1 Professional Ethics assignment*]
- Confidentiality, privacy, and security policies, procedures, and monitoring (5) [*Chapters 10, 11 &12 Final exam Test question*]; [*Chapters 10, 11 &12 Quiz question*]; [*Ch. 10 Policy and procedure assignment; Ch. 11/12 security assignment; Ch. 12 ROI assignment*]
- Release of information policies and procedures (5) [*Ch. 12 Release of Information*]
- Professional and practice-related ethical issues (5) [*Chapters 1 & 9 Midterm and Final Test question; Ch. 1 & 9 Quiz questions; Ch. 1 Professional Ethics Assignment*]

**Baccalaureate**

Domain I: Health Data Management

Legal Issues in Health Information Management

I.B Healthcare Information Requirements and Standards

- Standards and regulations for documentation (Such as Joint Commission, CARF, COP)

Domain III: Health Services Organization and Delivery

III B. Healthcare Privacy, Confidentiality, Legal, and Ethical Issues

- Privacy, confidentiality, security principles, policies and procedures (5) *[Chapters 10, 11 & 12 Final exam Test question]; [Chapters 10, 11 & 12 Quiz question]; [Ch. 10 Policy and procedure assignment; Ch. 11 security assignment; Ch. 12 ROI assignment]*
- Health information laws, regulations, and standards (such as HIPAA, HITECH, Joint commission, State laws) (5) Professional ethical issues (5) *[Chapters 1 & 9 Midterm and Final Test question]; [Ch. 1 & 9 Quiz question]; [Ch. 1 Professional Ethics assignment]*
- Professional ethical issues (5) *[Chapters 1 & 9 Midterm and Final Test question; Ch. 1 & 9 Quiz questions; Ch. 1 Professional Ethics Assignment]*

**Course Access:** This course is offered through Blackboard. Students can access Blackboard at [ecourses.wku.edu](http://ecourses.wku.edu) or through the [wku.edu](http://wku.edu) website.

**Textbooks:** Brodnick, Rinehart-Thompson, Reynolds. Fundamentals of Law for Health Informatics and Information Management, AHIMA, Second Edition, Revised Reprint 2013 ISBN:978-1-58426-073-8

**Examination:** There will be 17 quizzes; one to accompany each chapter. In addition, there will be a midterm and a final. **The first 8 chapters of assignments and quizzes along with the Midterm test must be completed by March 24<sup>th</sup>. The remaining chapters of assignments and quizzes must Be completed by May 14<sup>th</sup>.**

**Assignments:** There will be 17 assignments; one to accompany each chapter.

**Evaluation:** The final course grade will be derived from percentage of achieved points accumulated from quizzes and assignments in relation to total points possible. **All course work must be completed in order to get credit for the course.**

The following grading system will be used:

Legal Issues in Health Information Management

90% - 100%	A
80% - 89%	B
70% - 79%	C
60 % - 69%	D
59 % and below	F

**Completion Date:**    **The first 8 chapters of assignments and quizzes along with the Midterm test must be completed by March 24<sup>th</sup>. The remaining chapters of assignments and quizzes must be completed by May 14<sup>th</sup>.**

This web course must be completed by **12:00 Noon on Wednesday, May 14<sup>th</sup>**. Course work will not be accepted after the deadline. **There will not be any extensions for technical difficulties so you should plan to complete the course before the deadline to ensure your best outcome.**

**Disability Accommodations:**

In compliance with University Policy, students with disabilities who require accommodations academic adjustments and/or auxiliary aids or services for this course must contact the Office for Student Disability Services, Room DSU 1074. The OFSDS telephone number is (270) 745-5004 V/TDD. Please Do Not request accommodations directly from the professor or instructor without a letter of accommodations from the Office for Student Disability Services.

Once disability services/accommodations have been granted and initiated, please contact me with any questions or concerns. Also, if you believe that you are not receiving the disability services to which you are entitled, please address this concern with me immediately so discussion and/or adjustments can occur.

**Disclaimer:**

References to external websites are provided for the convenience of the student. These sites may contain articles on politically and socially controversial topics and are presented from the prospective of providing information. The instructor is not responsible for the content of these external sites and does not necessarily endorse the views or agree with the information held on these sites; the instructor does not take moral stances on issues.

**HIM 225 Legal Issues in Health Information Management Schedule****This Class is a web based class, therefore the following schedule is recommended**

<b>Week</b>	<b>Topic</b>	<b>Assignment</b>
Week 1	Chapter 1-Health information and health records Privacy, confidentiality and security, Relationship of law and ethics	Professional Ethics Assignment and Quiz for the chapter
Week 2	Chapter 2-Public vs Private Law How laws become law	The Legal System Assignment- and Quiz for the chapter
Week 3	Chapter 3-Civil Procedure: Pretrial, trial, post-trial	Civil Procedures Assignment- and Quiz for the chapter
Week 4	Chapter 4-Evidence: Discoverability, subpoenas, types of evidence	Evidence Assignment and Quiz for the chapter
Week 5	Chapter 5-Tort Law	Tort Assignment and Quiz for the chapter
Week 6	Chapter 6-Corporation, Contracts and Antitrust Legal Issues	Corp, Contracts, and Legal Issues Assignment and Quiz for the chapter
Week 7	Chapter 7-Consent to Treatment	Consent to Treat Assignment and Quiz for the chapter
Week 8	Chapter 8-The Legal Health Record	State Law Information Assignment and Quiz for the chapter
Week 9		<b>Midterm</b>
Week 10	Chapter 9-HIPAA Privacy Rule Chapter 10-HIPAA Security Rule	Policy and procedure, HITECH and HIPAA Assignment and Quiz for the chapters
Week 11	Chapter 11-Security Threats and Controls	Security Assignment and Quiz for the chapter
Week 12	Chapter 12-Access, Use, and Disclosure/Release of Health Information	ROI Assignment and Quiz for the chapter
Week 13	Chapter 13-Required Reporting and Mandatory Disclosure Laws	Standard & Regulations Assignment and Quiz for the chapter
Week 14	Chapter 14-Risk Management and Quality Improvement	Risk Mgmt & QI Assignment and Quiz for the chapter
Week 15	Chapter 15-Corporate Compliance Chapter 16-Medical Staff Chapter 17-Workplace Law	Corporate Compliance and Workplace Law Assignments and Quiz for the chapters
Week 16		<b>Final</b>

**HIM 225- Legal Issues in Health Information Management  
Course Content**

**Introduction to the Fundamentals of Law for Health Informatics and Information Management**

- I. Introduction
- II. Health information and health records
- III. Privacy, confidentiality and security
  - A. Privacy
  - B. Confidentiality
  - C. Security
- IV. Custodian/Steward of Health Records
- V. Relationship of Law and Ethics
  - A. AMA
  - B. AHIMA
  - C. AMIA

**The Legal System in the United States**

- I. Introduction
- II. Role of Law in the US Healthcare System
- III. Public vs. Private Law
- IV. Sources of Law
  - A. Constitutions
  - B. Statutes
  - C. Administrative Law
  - D. Common Law
- V. Conflict of Laws
- VI. Government Organization
  - A. Executive Branch
    - 1. Federal Regulation of Health Care
    - 2. State Regulation of Health Care
  - B. Legislative Branch
  - C. Judicial Branch
  - D. Separation of Powers
- VII. Judicial System
  - A. State Court System
  - B. Federal Court System
  - C. Jurisdiction
- VIII. Requirements of Non-Legal Entities Such as Accrediting Bodies

IX. Alternative Dispute Resolution

**Civil Procedure**

- I. Introduction
  - II. Definition of Civil Procedure
  - III. Parties to a Lawsuit
  - IV. Pretrial
    - A. Commencement of a Lawsuit
    - B. Types of Discovery
      - 1. Deposition
        - a. Testimony to Authenticate Health Records
      - 2. Interrogatories
      - 3. Production of Documents
      - 4. Physical or Mental Examination of a Party
      - 5. Request for Admissions
    - C. Court Orders
    - D. Subpoenas
      - 1. Elements of a Valid Subpoena
      - 2. Objections to Subpoenas
      - 3. Duties in Responding to Subpoenas
        - a. Claiming Privileges
      - 4. Preparation of Documents for a Subpoena Duces Tecum
    - E. Warrants and Searches
  - F. Pretrial Conferences
- IV. Trial
- A. Players in a Trial
  - B. Trial Procedures
  - C. Testimony to Authenticate Health Records
- V. Post-trial
- A. Appeals
  - B. Collection of Judgment

**Evidence**

- I. Introduction
- II. Health Information as Evidence
- III. Discoverability
  - A. Electronic Discovery (e-Discovery)
  - B. Amendments to the Federal Rules of Civil Procedure
- IV. Subpoenas
  - A. Producing Records as Kept in the Usual Course of Business



## HIM 225 Syllabus

### Legal Issues in Health Information Management

- B. Legal Hold
- C. Spoliation
- D. Retention and Destruction of Health Information
- E. Disaster Recovery and Business Continuity
- F. Managing the Discovery Process
- V. Admissibility
- VI. Types of Evidence
- VII. Evidentiary Rules
  - A. Best Evidence Rule
  - B. Hearsay
    - 1. Business Records Exception
    - 2. Other Exceptions
- VIII. Physician-Patient Privilege
  - A. Waiver of Privilege
  - B. Privilege Between Patients and Other Providers
- IX. Protection of Related Medical Documentation
  - A. Incident Reports
  - B. Peer Review Records

### **Tort Law**

- I. Introduction
- II. Types of Torts
  - A. Intentional Torts
    - 1. Battery
    - 2. Assault
    - 3. False Imprisonment
    - 4. Intentional Infliction of Emotional Distress
  - B. Negligence
    - 1. Types of Negligence
    - 2. Degrees of Negligence
    - 3. Elements of Negligence
    - 4. Damages
    - 5. Res Ipsa Loquitur
    - 6. Defenses to Negligence Claims
      - a. Contributory Negligence
      - b. Comparative Negligence
      - c. Assumption of Risk
      - d. Rescue Doctrine
      - e. Sudden Emergency
      - f. Unavoidable Accident
      - g. Act of God
    - 7. Theories of Hospital Negligence Liability

Legal Issues in Health Information Management

- a. Corporate Negligence (Primary Liability)
  - b. Respondent Superior (Secondary Liability) or Vicarious Liability
  - C. Strict Liability
- III. Causes of Action for Improper Disclosure of Health Information.
  - A. Basis for Liability
  - B. Defamation
  - C. Invasion of Privacy
  - D. Breach of Confidentiality (Fiduciary Duty)
  - E. Infliction of Emotional Distress
  - F. Negligence For Improper Disclosure
  - G. Liability of the Individuals Responsible for Protecting Health Information
- IV. Immunity from Liability
- V. Statutes of Limitations
  - A. The Discovery Rule
  - B. Death of the Injured Individual
  - C. Disability of the Injured Individual
  - D. Wrongdoing
  - E. Statue of Repose
- VI. Torts and Contracts
- VII. Criminal Liability in Healthcare
- VIII. Medical Malpractice Issues
  - A. The Rising Cost of Medical Malpractice Insurance
  - B. Physician Medical Malpractice Insurance Crisis in Identified States
  - C. Types of Tort Reform Measures
    - 1. Joint and Several Liability
    - 2. Collateral Source Payments
    - 3. Noneconomic and Punitive Damages
    - 4. Affidavit of Merit
    - 5. Limits on Attorney Contingency Fees
    - 6. Structured Settlements
    - 7. No-Fault Systems

**Corporations, Contracts, and Antitrust Legal Issues**

- I. Introduction
- II. Healthcare Corporations
- III. Advantages of a Corporation
- IV. For-Profit and Not-for-Profit Corporations
- V. Responsibilities of the Governing Board
  - A. Fiduciary Duty
  - B. Restructuring an Organization
- VI. General Principles of Contracts
  - A. Elements of a Contract

Legal Issues in Health Information Management

- B. Breach of Contract
  - 1. Defenses for Nonperformance of a Contract
  - 2. Remedies
- C. Contract Provisions
  - 1. Hold Harmless/Indemnification Clauses
  - 2. Warranties
- D. Health Information Technology Contracts
- E. Physician-Patient Relationship as a Contract
- VII. General Principles of Antitrust Law
  - A. The Sherman Act
  - B. The Clayton Act
  - C. The Federal Trade Commission Act
  - D. Rule of Reason and Per Se Violations
  - E. Enforcement and Applicability to Healthcare Organizations
- VIII. Contract and Antitrust Issues Associated with the Medical Staff

**Consent to Treatment**

- I Introduction
- II Types of Consent
  - A Express Consent
  - B Implied Consent
- III Informed Consent
  - A Requirements
  - B Exceptions to Informed Consent
    - 1 Emergency Situations
    - 2 Governmental Action
      - a Criminal Cases
      - b Civil Cases
      - c Cases Involving Mental Incompetence
    - 3 Waiver
    - 4 Therapeutic Privilege
  - C Informed Consent and GINA
  - D Informed Consent and HIPAA
- IV Advance Directives
  - A Durable Powers of Attorney for Healthcare Decisions
  - B Living Wills
  - C Do Not Resuscitate Orders
  - D Patient Self-Determination Act
  - E Uniform Anatomical Gift Act
- V Parties to Consent
  - A Competent Adults
  - B Incompetent Adults

Legal Issues in Health Information Management

- 1 Uniform Health-Care Decisions Act
- C Minors
  - 1 Emancipated and Mature Minors
  - 2 Separated and Divorced Parents of a Minor
  - 3 Treatment for Sexually Transmitted Diseases
  - 4 Treatment for Drug or Alcohol Conditions
  - 5 Abortions
  - 6 Prenatal Care
- VI Challenges to Consents
- VII Documenting Consent
- VIII Types of Consent Forms
  - A General
  - B Short Form
  - C Long Form

**The Legal Health Record: Maintenance, Content, Documentation, and Disposition**

- I. Introduction
- II. Purposes of the Health Record
- III. The Legal Health Record
- IV. Paper vs. Electronic Health Records
- V. Health Record Maintenance, Content, and Documentation Requirements
  - A. Documentation Principles For Health Record Entries
    - 1. Language
    - 2. Individuals Who May Document
    - 3. Gaps and Omissions
    - 4. Orders
    - 5. Hostile Patients
    - 6. Staff Disagreements
    - 7. Documentation of Injuries Resulting from Criminal Activity
    - 8. Liability for Improper Entries
- VI. Maintaining a Legally Defensible Health Record
  - A. Authentication
    - 1. Authentication of Paper Records
    - 2. Authentication of Electronic Records
      - a. Electronic Signature Legislation
    - 3. Authentication Issues
      - a. Countersignatures
      - b. Multiple Authentications
      - c. Auto-authentication
  - B. Accuracy
  - C. Authorship
  - D. Abbreviations
  - E. Legibility

Legal Issues in Health Information Management

- F. Changes to the Health Record
  - 1. Revisions to the Health Record
  - 2. Additions to the Health Record
  - 3. Deletions from the Health Record
  - 4. Version Management
- G. Timeliness and Completeness
- H. Printing
- I. Personal Health Records (PHRs)
- VII. Health Record Identification, Retention, and Disposition
  - A. Health Record Identification
  - B. Health Record Retention
    - 1. Storage and Retrieval
    - 2. Factors That Influence Retention Periods
      - a. Federal and State Laws
      - b. Statutes of Limitations
      - c. Minors
      - d. Incompetent Individuals
      - e. Accreditation Standards
      - f. AHIMA Recommendations
      - g. Operational Needs
      - h. Record Retention Schedules
      - i. Electronic Health Record Retention
  - C. Health Record Disposition
    - 1. Destruction of Health Records
    - 2. Transfer of Health Records
      - a. Ownership Change
      - b. Closure
    - 3. Liability Associated With Loss or Destruction of Records

**The HIPAA Privacy Rule**

- I. Introduction
- II. Section 1: Overview of HIPAA and Other Patient Privacy Laws; HIPAA Terminology
  - A. Purpose and Goals of HIPAA Privacy Rule
  - B. Source of Law
  - C. Scope and Anatomy of the Law
  - D. American Recovery and Reinvestment Act of 2009
  - E. History and Comparison with Existing Laws
    - 1. Freedom of Information Act of 1967
    - 2. Privacy Act of 1974
    - 3. Federal Drug and Alcohol Laws
    - 4. Medicare Conditions of Participation
    - 5. State Laws

Legal Issues in Health Information Management

- 6. Professional Ethical Standards and Codes of Conduct
- F. Applicability
  - 1. Covered Entities and Workforce
  - 2. Business Associates
  - 3. Protected Health Information (PHI)
    - a. Deidentified Information
- G. Additional Privacy Rule Elements
  - 1. Individuals
  - 2. Personal Representatives
  - 3. Designated Record Set
  - 4. Disclosure, Use, and Request
  - 5. Treatment, Payment, and Operations
  - 6. Health Information in Personnel and Educational Records
  - 7. Organization Types
- III. Section 2: Core Privacy Rule Documents and the Minimum Necessary Requirement
  - A. Key Privacy Rule Documents
    - 1. Notice of Privacy Practices
    - 2. Consent to Use or Disclose PHI
    - 3. Authorization
      - a. Required Elements
      - b. When Authorization Is Required
      - c. When Authorization Is Not Required
        - i. Uses and Disclosures That Require an Opportunity for the Individual to Agree or Object
        - ii. Uses and Disclosures for Which Authorization or Opportunity to Agree or Object Is Not Required
      - d. Authorization and the Sale of PHI
      - e. Revocation
  - B. Re-disclosure
  - C. Minimum Necessary Requirement
- IV. Section 3: Individual Rights; Other Key Requirements; Penalties for Noncompliance
  - A. Individual Rights
    - 1. Access
      - a. Grounds for Denial of Access
      - b. Requesting Access to One's Own PHI
    - 2. Request Amendment
    - 3. Accounting of Disclosures
    - 4. Confidential Communications
    - 5. Request Restrictions
    - 6. Submit Complaints
  - B. Breach Notification
  - C. Marketing
  - D. Fundraising

Legal Issues in Health Information Management

- E. Research
- F. Preemption
- G. Administrative Requirements
  - 1. Policies and Procedures
  - 2. Privacy Officer and Contact Person
  - 3. Workforce Training and Management
  - 4. Mitigation
  - 5. Data Safeguards
  - 6. Retaliation and Waiver
  - 7. Documentation and Record Retention
- H. Enforcement and Penalties for Noncompliance
- I. Privacy Advocates
  - 1. American Health Information Management Association (AHIMA)
  - 2. Center for Democracy and Technology

**HIPAA security rule**

- I. Introduction
- II. Purposes of the HIPAA security rule
- III. Source of Law
- IV. Scope and Anatomy of the security rule
- V. History and Comparison with Existing Laws
- VI. Applicability
- VII. Ensuring Security Compliance
- VIII. Key Components of the security rule
- IX. security rule Safeguards and Requirements
  - A. Administrative Safeguards (614.308)
  - B. Physical Safeguards (614.310)
  - C. Technical Safeguards (164.312)
  - D. Organizational Requirements (164.314)
  - E. Policies, Procedures, and Documentation (164.316)
  - F. Security Officer Designation
  - G. Enforcement and Penalties for Noncompliance

**Security Threats and Controls**

- I. Introduction
- II. Internal and External Security Threats
- III. Human Threats
- IV. Natural and Environmental Threats
- V. Identity Theft

Legal Issues in Health Information Management

VI. Medical Identity Theft

- A. Implications of Medical Identity Theft
- B. Fair and Accurate Credit Transactions Act (FACTA) and the Red Flag Rule
- C. Prevention, Detection, and Mitigation of Medical Identity Theft

VII. Security Access and Systems Controls

- A. Access Controls
  - 1. Access Rights
  - 2. Entity Authentication
- B. User IDs and Passwords
- C. Tokens
- D. Telephone Callback Procedures
- E. Biometric Identification Systems
  - 1. Automatic Log-off
  - 2. Termination of Access
  - 3. Audit Trails
  - 4. Employee Nondisclosure Agreements
  - 5. Security Awareness and Training
  - 6. Remote Access Control
- F. Systems Controls
  - 1. Workstation Use and Security
  - 2. Data Encryption
  - 3. Firewall Protection
  - 4. Virus Checking
  - 5. Transmission of ePHI
- G. Facsimile or Faxing ePHI
- H. Internet
- I. Electronic Mail
- J. Wireless Communication Devices
- K. Telemedicine
- L. Social Media

VIII. Contingency Planning or Disaster Recovery Planning

- A. Data Backup
- B. Data Recovery
- C. Emergency Mode of Operations

IX. Resources to Assist with Security Threats and Controls

**Access, Use, and Disclosure/Release of Health Information**

Introduction

- I. Ownership and Control of the Health Record and Health Information
- II. Access to Patient Health Information
  - A. Competent Adult
  - B. Incompetent Adult



Legal Issues in Health Information Management

- C. Minors
  - 1. Parental Authorization Required
  - 2. Parental Authorization Not Required
  - 3. Access and Authorization Rights of Noncustodial Parents and Others
  - 4. Minors in Foster Care or Allegedly Abused
- D. Employer, Employee, and Other Members of the Workforce
  - 1. Employers
  - 2. Employees
  - 3. Physicians
  - 4. Students
  - 5. Attorneys
  - 6. Vendors
- III. Highly Sensitive Health Information
  - A. Behavioral (Mental) Health Information
  - B. Substance Abuse Records
    - 1. Authorization for Disclosure (Release) of Information from Substance Abuse Facilities
    - 2. Permissible Disclosures under Federal Drug and Alcohol Regulations
  - C. HIV/AIDS, STDs, and Other Communicable Disease Information
    - 1. Confidentiality Protections for HIV/AIDS
  - D. Genetic Information
  - E. Adoption Information
    - 1. Release of Information to Adopted Persons
- IV. Special Access, Request, and Disclosure Situations
  - A. Disclosure of Active Records of Currently Hospitalized or Ambulatory Care Patients
  - B. Deceased Patients
  - C. Disclosure of Information for Autopsy
  - D. Open Records, Public Records, or Freedom of Information Laws
  - E. Employee Health or Occupational Safety and Health Records
  - F. Antiterrorism Initiatives
  - G. Consumer Reporting Agencies
  - H. Duty to Warn
  - I. Laboratory Test Results
  - J. Payment Requests from Insurance Companies and Government Agencies
  - K. Medical Emergencies
  - L. Public Figures or Celebrities
  - M. Social Security Administration and State Disability Determination Services
  - N. Health Information Handlers: Payment Integrity Review Contractors, Health Information Exchanges
- V. Managing the Release of Information Process
  - A. Definition of LHR and DRS
  - B. Determining Who Will Disclose/Release Information
  - C. Types of Requests for Access, Use, and Disclosure/Release of PHI
    - 1. Verification of Requester

Legal Issues in Health Information Management

2. Mail Requests
3. Telephone Requests
4. Electronic Requests and Requests to Electronically Send Information via Fax or Internet (E-Mail or Web Portal)
5. Walk-In Requests
6. On-Site Record Review Requests
- D. Determining If Disclosure Is Appropriate
  1. Subpoena or Court Order
- E. ROI Reimbursement and Fee Structure
- F. Accounting of Disclosures and Tracking Releases
- G. Right to Request Restrictions
- H. Refusal to Disclose Information

**Required Reporting and Mandatory Disclosure Laws**

- I. Introduction
- II. Public Interest and Benefit Exceptions
- III. Preemption
- IV. Notice of Privacy Practices
- V. Accounting of Disclosures
- VI. Common State Reporting Requirements
  - A. Abuse and Neglect of Children
  - B. Abuse and Neglect of Elderly and Mentally Disabled
  - C. Vital Records
    1. Birth Certificates
    2. Death Certificates
    3. Fetal Death
  - D. Communicable Diseases
  - E. Registries
    1. Cancer Registry
    2. Other types of State Registries
    3. Trauma Registries
    4. Immunization Registries
  - F. Induced Termination of Pregnancy (Abortion)
  - G. Birth Defects
  - H. Reportable Deaths
  - I. Wounds: knife, gunshot, burns
  - J. Unusual events and other state reporting requirements
  - K. Workers' Compensation and Occupational Illness, Injuries and Death
- VII. National Reporting Requirements
  - A. Medicare Requirement for report of serious occurrences
  - B. National Hospital Quality measures
  - C. National Practitioner Data Bank

Legal Issues in Health Information Management

- D. Medical Device Reporting
- E. Federal Registry on Implantable Cardiac Defibrillators
- F. Organ Procurement reporting
- G. Occupational Fatalities, Injuries and Illnesses

VIII. Disclosures to Public health Authorities not required by law

**Risk Management and Quality Improvement**

- I. Introduction
- II. Differences Between Risk Management and Quality Improvement
- III. Risk Management
  - A. Background
  - B. Organization and Operation of Risk Management
    - 1. Steps
      - a. Risk Exposure or Identification
      - b. Risk Analysis
      - c. Risk Treatment
      - d. Risk Evaluation
    - 2. Tools
  - C. Role of the Health Record in Risk Management
  - D. The Joint Commission and Sentinel Events
  - E. The Joint Commission Safety Goals
- IV. Quality Improvement
- V. Patients' Rights as a Condition of Quality Healthcare
  - A. American Hospital Association Patient Care Partnership
  - B. Medicare Conditions of Participation
  - C. HIPAA Privacy Rule Revisited
  - D. The Joint Commission Standards
  - E. Facility Policy Regarding Patient Rights
  - F. Right to Admission/Duty to Treat
  - G. Impact of Hill-Burton
  - H. EMTALA/Anti-Dumping
  - I. Right to Discharge
  - J. Safekeeping of Property
  - K. Patient Obligations
  - L. Peer Review and the National Practitioner Data Bank
  - M. Americans with Disabilities Act (ADA)
  - N. Restraints and Seclusion
- VI. Quality Improvement Organizations (QIOs)
  - A. History
  - B. Role in Improving Quality
  - C. Ninth Round Statement of Work
- VII. Public Reporting of Quality Measures

Legal Issues in Health Information Management

VII. Private Quality Watchdogs

- A. The Leapfrog Group
- B. Other Organizations

VIII. Pay for Performance

**Corporate Compliance**

I. Introduction to Fraud and Abuse

- A. Penalties
- B. Role of Documentation

II. Corporate Compliance Programs

III. Major Statutes, Rules and Regulations

- A. False Claims Act
  - 1. What Constitutes a False Claim?
  - 2. The "Knowing" Standard
- B. The Federal Anti-Kickback Statute
  - 1. Statutory Exceptions
  - 2. Safe Harbors
- C. Civil Monetary Penalties Act
- D. Health Insurance Portability and Accountability Act
- E. Federal Physician Self-Referral Statute
  - 1. Exclusions
- F. Sherman Anti-Trust Act
- G. Deficit Reduction Act of 2005
- H. Fraud Enforcement and Recovery Act
- I. Non-Federal Healthcare Fraud Initiatives
- J. Interaction Among the Laws

IV. High-Risk Areas

- A. Billing for Non-Covered Services
- B. Altered Claim Forms
- C. Duplicate Billing
- D. Misrepresentation of Facts on Claim Form
- E. Failing to Return Overpayments
- F. Unbundling
- G. Billing for Medically Unnecessary Services
- H. Over coding or Up coding
- I. Billing for Items or Services Not Rendered
- J. False Cost Reports

VI. Elements of a Corporate Compliance Program

- A. Code of Conduct
- B. Designation of a Compliance Officer or Contact
- C. Policies and Procedures (Practice Standards)
- D. Education and Training

## HIM 225 Syllabus

### Legal Issues in Health Information Management

- E. Open Lines of Communication
- F. Auditing and Monitoring
- G. Offense Detection and Corrective Action Initiatives
- H. Enforcing Disciplinary Standards Through Well-Publicized Guidelines
- VII. Role of the Office of Inspector General (OIG)
  - A. Office of Audit Services
  - B. Office of Evaluation and Inspections
  - C. Office of Investigations
  - D. Top Management Challenges Facing HHS
- VIII. Role of the Department of Justice
- IX. Other Fraud Enforcement Initiatives
  - A. Coordination Among Enforcement Agencies
  - B. Recovery Audit Contractor (RAC) Program
  - C. State Enforcement Efforts

### Medical Staff Organization

- I. Introduction
- II. Medical Staff
  - A. The Governing Board
  - B. Medical Staff Bylaws
    - 1. The Executive Committee
    - 2. Categories of Medical Staff Membership
  - C. Medical Staff Credentialing
  - D. Joining the Medical Staff
    - 1. Primary Source Verification
    - 2. National Practitioner Data Bank
    - 3. Office of the Inspector General
    - 4. Review of Credentials Documents
    - 5. Determination of Clinical Privileges
  - E. Medical Staff Duties and Rights
  - F. Disciplinary Actions and Suspension
  - G. Due Process

### Workplace Law

- I. Introduction
- II. Discrimination and Related Laws
  - A. Civil Rights Act and Related Acts
    - 1. Age discrimination
    - 2. Disability discrimination
    - 3. Equal Pay

Legal Issues in Health Information Management

- 4. Genetics
- 5. National Origin
- 6. Sex and Sexual Harassment
- III. Labor Laws
  - A. Wages and overtime
  - B. Compensation and benefits
  - C. Unions
    - 1. National Labor Relations Board
    - 2. Collective bargaining
  - D. State laws
- IV. Employee Safety
  - A. Employer Responsibility and Employee Rights
  - B. OSHA Inspections

**HIM 225- Legal Issues in Health Information Management  
Course Objectives**

**I. Introduction to the Fundamentals of Law for Health Informatics and Information Management**

- A. Discuss why protecting the privacy and confidentiality of health information is a challenge
- B. Describe the primary and secondary uses of health information
- C. Discuss the difference between a paper health record, a hybrid record, and an electronic health record
- D. Define privacy, confidentiality, and security
- E. Explain the theoretical concepts behind privacy, confidentiality, and security
- F. Discuss ownership of the health record and control over the use of information within the health record
- G. Discuss the role and responsibilities of the custodian of health records and who may serve in the role of custodian
- H. Describe the role of professional codes of ethics in protecting health information

**II. The Legal System in the United States**

- A. Explain the relevance of law to the health information and informatics professional and other health professionals
- B. Differentiate between public law and private law
- C. Differentiate between criminal law and civil law
- D. Name and give examples of the four sources of law
- E. Explain resolution in cases where laws conflict with one another
- F. Compare the branches of government and the role that each plays
- G. Describe the separation of powers in a democratic society
- H. Summarize the federal and state court systems and the appeals process in both
- I. Explain jurisdictional requirements that determine the courts in which cases are

Legal Issues in Health Information Management

brought

- J. Discuss the role of non-legal accrediting bodies, such as The Joint Commission, and their authority relative to the legal system
- K. Discuss types of alternative dispute resolution available as options to the court system

**III. Civil Procedure**

- A. Differentiate between substantive law and procedural law
- B. Explain the role of civil procedure in the legal system
- C. Explain the role of the Federal Rules of Civil Procedure and corollary state rules
- D. Describe the parties to a lawsuit
- E. Discuss pretrial procedures beginning with the commencement of a lawsuit
- F. Describe the five methods of discovery
- G. Distinguish among discovery, discoverability, and admissibility
- H. Explain the concept of e-Discovery
- I. Explain the difference between a court order and subpoena
- J. Summarize the proper procedure for responding to a subpoena
- K. Describe each of the individuals involved in a trial
- L. Summarize the steps in a trial
- M. Discuss appropriate legal testimony by a health information and informatics professional
- N. Differentiate among the three types of damages discussed in the chapter
- O. Explain the legal appeals process
- P. Explain the processes for the collection of judgment

**IV. Evidence**

- A. Explain the significance of health information as evidence
- B. Distinguish discoverability and admissibility
- C. Explain electronic discovery (e-Discovery) and the associated changes to the Federal Rules of Civil Procedure
- D. Describe a legal hold
- E. Explain spoliation and the concern it raises in legal cases
- F. Describe the significance of subpoenas to the litigation process
- G. Define and give examples of the three types of evidence
- H. Describe and apply the best evidence rule
- I. Describe and apply the hearsay rule
- J. Explain why health records generally constitute hearsay
- K. Explain the business records exception and other exceptions to the hearsay rule
- L. Explain the principle of patient- provider privilege
- M. Discuss legal protections applied to incident reports and peer review records

**V. Tort Law**

- A. Define terms specific to tort law
- B. Summarize and review pertinent aspects of the civil and criminal justice systems as

Legal Issues in Health Information Management

- they relate to healthcare and health information
- C. Explain the various types of torts, distinguishing intentional torts from negligence
- D. Discuss liability in torts as it relates to healthcare and health information
- E. Name the elements of negligence
- F. Analyze the concept of res ipsa loquitur
- G. Compare respondeat superior and corporate liability
- H. Discuss strict liability and product liability
- I. Compare and contrast causes of action for improper disclosure of health information
- J. Discuss defamation and defenses thereto
- K. Discuss invasion of privacy and defenses thereto
- L. Discuss breach of confidentiality and defenses thereto
- M. Discuss infliction of emotional distress and defenses thereto
- N. Discuss liability of the health information professional
- O. Distinguish contract law from tort law
- P. Articulate issues related to medical malpractice insurance, the existence of an insurance crisis, and tort reform measures
- Q. Contrast healthcare provider and health information professional immunity issues
- R. Discuss relevant statutes of limitation
- S. Discuss criminal liability in healthcare

**VI. Corporations, Contracts, and Antitrust Legal Issues**

- A. Define the most common legal forms of healthcare organizations
- B. Describe the most important benefits of forming as a corporation
- C. Discuss the three elements necessary to “pierce the corporate veil”
- D. Analyze the key differences between a for- profit and not- for-profit corporation
- E. Describe the characteristics that many hospitals exhibit to achieve tax- exempt status
- F. Articulate the key responsibilities of the governing board of a typical healthcare organization
- G. Describe the purpose and content of the bylaws of a typical healthcare organization
- H. Distinguish a board member’s duty of loyalty from duty of responsibility
- I. Describe the basic elements of a valid contract
- J. Discuss potential defenses against allegations of nonperformance (breach) of a contract
- K. Compare and contrast “money damages” with “specific performance” remedies for contract breaches
- L. Describe the purposes of a hold harmless/indemnification clause
- M. Articulate concerns associated with health information technology contracts
- N. Describe the physician- patient relationship as a contract
- O. Distinguish the parameters of three major federal antitrust statutes
- P. Define at least four activities in healthcare organizations that can give rise to potential antitrust concerns, and the associated antitrust concern(s)
- Q. Explain how a “fair hearing process” can lessen antitrust risks in the context of medical staff credentialing and privilege delineation



Legal Issues in Health Information Management

- R. Cite one example of a common clause within certain employment agreements that can potentially violate antitrust laws

**VII. Consent to Treatment**

- A. Distinguish between express and implied consent
- B. Identify the components of informed consent
- C. Describe the consent process applied in human subject research
- D. Identify exceptions to the informed consent process
- E. Describe informed consent parameters relative to the Genetic Information Nondiscrimination Act (GINA) and the Health Insurance Portability and Accountability Act (HIPAA)
- F. Define advance directive
- G. Discuss the legal requirements for the various types of advance directives
- H. Distinguish between the various types of advance directives
- I. Describe the Patient Self- Determination Act
- J. Describe the Uniform Anatomical Gift Act
- K. Describe the Uniform Health- Care Decisions Act
- L. Discuss the consent rights and limitations of competent adults and incompetent adults
- M. Describe the role of advance directives in treatment and end- of-life healthcare decisions
- N. Discuss the consent rights and limitations of minors
- O. Describe the legal bases for challenging consent
- P. Discuss how consent should be documented
- Q. Identify different types of consent forms

**VIII. The Legal Health Record: Maintenance, Content, Documentation, and Disposition**

- A. List the multiple purposes of the health record
- B. Identify the major content areas of the health record
- C. Describe the common principles to consider when defining the legal health record
- D. Explain the differences between the legal health record and the electronic health record
- E. Describe the bodies that establish documentation and maintenance standards for the health record
- F. Identify the documentation principles that support a legally sound health record
- G. Describe the elements necessary to ensure the integrity of the legal health record
- H. Discuss the legal challenges associated with personal health records
- I. Describe the factors associated with the creation of health records
- J. Identify the elements that must be considered in determining health record retention periods
- K. Distinguish the maintenance and retention considerations for paper health records from those for electronic health records
- L. Explain the various situations that lead to health record disposition
- M. Articulate the importance of establishing sound policies and procedures to support and manage health records

**IX. The HIPAA Privacy Rule**

- A. Describe the purpose and goals of the HIPAA Privacy Rule
- B. Explain the source of law from which the HIPAA Privacy Rule is derived
- C. Compare the scope of the HIPAA Privacy Rule with other laws relating to the privacy of health information
- D. Discuss the scope of HIPAA and the purposes it serves in addition to protecting the privacy of patient information
- E. Identify to whom and what the HIPAA Privacy Rule applies
- F. Describe the various types of organizations governed by the HIPAA Privacy Rule
- G. Compare the purposes and elements of the Notice of Privacy Practices, consent, and authorization
- H. Analyze situations that do and do not require patient authorization per the HIPAA Privacy Rule
- I. Explain the parameters for the appropriate re-disclosure of patient information
- J. Apply the minimum necessary requirement to use and disclosure situations
- K. Discuss examples of each of the individual rights granted by the HIPAA Privacy Rule
- L. Explain the restrictions that the HIPAA Privacy Rule places on the use of protected health information for marketing and fundraising purposes and apply them to factual situations
- M. Explain the HIPAA Privacy Rule's parameters on the use of protected health information for research
- N. Examine conflicts and determine prevailing law between the HIPAA Privacy Rule and state law
- O. Summarize the administrative requirements and penalties for noncompliance imposed by the HIPAA Privacy Rule
- P. Discuss changes to HIPAA Privacy Rule requirements as implemented by the American Recovery and Reinvestment Act
- Q. Describe the purpose of selected health privacy advocacy groups

**X. The HIPAA Security Rule**

- A. Describe the purposes of the HIPAA Security Rule
- B. Discuss why the HIPAA Security Rule is focused on electronic protected health information
- C. Explain the sources of law from which the HIPAA Security Rule is derived
- D. Describe changes to the HIPAA Security Rule requirements as mandated by the American Recovery and Reinvestment Act and the Health Information Technology for Economic and Clinical Health Act
- E. Discuss the differences between the HIPAA Security Rule and the Privacy Rule
- F. Identify entities covered by the HIPAA Security Rule
- G. Discuss business processes to ensure security compliance
- H. Summarize the key components of the Security Rule
- I. Explain the administrative, technical, and physical safeguards of the HIPAA Security

Legal Issues in Health Information Management

Rule

- J. Discuss the organization and policies, procedures, and documentation requirements of the HIPAA Security Rule
- K. Discuss the role of the chief security officer
- L. List penalties for noncompliance with the HIPAA Security Rule

**XI. Security Threats and Controls**

- A. Identify potential internal and external security threats, distinguishing human threats from natural and environmental threats
- B. List mechanisms to prevent and detect identity theft
- C. Identify types of medical identity theft and mechanisms to prevent, detect, and mitigate such theft
- D. Distinguish access controls from systems controls and provide examples of each
- E. Discuss entity authentication methods, including termination of access and remote-access controls
- F. Recognize the need for data encryption and authentication and recommend appropriate policies for compliance
- G. Detail methods of transmitting electronic protected health information and explain security risks associated with each
- H. Recognize the importance of contingency planning or disaster recovery planning in securing health information

**XII. Access, Use, and Disclosure/Release of Health Information**

- A. Discuss the issues surrounding ownership of health information
- B. Differentiate between access and disclosure rights of competent and incompetent adult patients
- C. Explain the various parental authorization requirements regarding minor patients
- D. Discuss the rights and obligations of the healthcare workforce regarding access and disclosure of health information
- E. Discuss state and federal laws designed to protect sensitive health information related to behavioral health, substance abuse, and HIV/AIDS and other communicable diseases
- F. Summarize the access and disclosure procedures that should be followed in dealing with substance abuse and HIV/AIDS health information
- G. Examine the issues surrounding access, use, and disclosure of genetic information
- H. Explain access and disclosure rights regarding adoption information and adopted individuals
- I. Discuss situations in which an individual's authorization is required for access, use, or disclosure of health information and those in which it is not
- J. Explain the protection afforded to patient information in public record, open record, and freedom of information laws
- K. Discuss the statutory requirements that provide employees rights to their safety and health records

Legal Issues in Health Information Management

- L. Explain the steps taken to disclose health information as a result of antiterrorism laws
- M. Describe the process for disclosing health information for federal and state disability determination
- N. Identify requests for information that require the patient's authorization and those that do not
- O. Discuss the various types of requests for access, use, and/or disclosure of patient information and steps for handling the requests
- P. Summarize the issues related to managing the release of information
- Q. Discuss the reimbursement and fee structure for copying health information

**XIII. Required Reporting and Mandatory Disclosure Laws**

- A. Describe the four elements of the HIPAA Privacy Rule that relate to required reporting laws
- B. Identify the HIPAA exceptions that allow the release of health information without patient authorization
- C. Discuss confidentiality issues for secondary data sources not covered by HIPAA
- D. Discuss the common state reporting requirements related to abuse and neglect of children, the elderly, and the disabled
- E. Describe state responsibility for reporting vital statistics including births, deaths, and fetal deaths
- F. Explain a state's responsibility for reporting communicable diseases
- G. Discuss state reporting requirements related to abortion, birth defects, reportable deaths, wounds, workers' compensation, and unusual events
- H. Discuss federal and volunteer reporting requirements that do not require patient authorization
- I. Describe the purpose of maintaining clinical, disease, and outcome- based registries
- J. Identify what state reporting requirements are allowed under the HIPAA Privacy Rule

**XIV. Risk Management and Quality Improvement**

- A. Identify stakeholders in healthcare quality
- B. Define risk management and quality improvement
- C. Distinguish between risk management and quality improvement processes
- D. Discuss how quality is measured
- E. Identify key events in the history of risk management
- F. Describe the basic components of a risk management program
- G. Identify the governmental and private organizations that are involved in the promotion of quality care
- H. Identify key laws and standards related to healthcare quality
- I. Describe the role of QIOs in healthcare quality
- J. Discuss different quality improvement initiatives

**XV. Corporate Compliance**

- A. Differentiate between the concepts of fraud and abuse

Legal Issues in Health Information Management

- B. Describe the importance of health record documentation that supports billing for services rendered and the claims process
- C. Identify the major statutes, rules, and regulations that relate to compliance and fraud and abuse issues
- D. Describe the elements of the False Claims Act
- E. Identify activities that would be considered fraud and abuse
- F. Describe federal initiatives and programs that operate to reduce healthcare fraud and abuse
- G. Discuss the Medicare Integrity Program activities as related to recovery audit contractors and other programs
- H. Describe the elements of a corporate compliance program
- I. List examples of policies and procedures to ensure the accuracy of coding
- J. Design training programs for employees to ensure compliance
- K. Explain ways that an organization is in compliance with regulations and standards related to billing and reimbursement

**XVI. Medical Staff**

- A. Discuss the relationship of a healthcare organization's governing board to its medical staff
- B. Describe the components of medical staff bylaws as required by The Joint Commission accreditation standards for medical staff
- C. Identify the various categories of medical staff membership
- D. Explain the significance of the medical staff credentialing process
- E. Describe the process of applying for medical staff privileges including primary source verification, and how privileges are determined
- F. Discuss the duties and rights of a medical staff and issues related to disciplinary action, suspension of privileges, and due process under the law

**XVII. Workplace Law**

- A. Identify the major laws related to discrimination in the work setting
- B. Discuss the role of the Equal Employment Opportunity Commission
- C. Describe the components of the Federal Labor Standards Act and related laws in regard to wages, overtime, compensation, and benefits
- D. Discuss the concept of unions and their relationship to healthcare workers
- E. Describe the components of the National Labor Relations Act
- F. Discuss the role of the National Labor Relations Board
- G. Identify the rights and responsibilities of management and employees in regard to union activity
- H. Identify unfair labor practices on the part of management and employees in regard to union activity
- I. Discuss the components of the Occupational Safety and Health Act
- J. Discuss the role and responsibilities of the Occupational Safety and Health Administration (OSHA)

## HIM 225 Syllabus

### Legal Issues in Health Information Management

- K. Identify the OSHA standards employers must follow to avoid citations and fines
- L. Identify employee rights according to OSHA