

# HSCC 330 Legal and Legislative Aspects of Health Care

Employment Issues

HSCC 330 Employment Issues 1

## Objectives

- Upon completion of this section, the student should be able to:
  - define employment torts
  - identify facets of the ADA
  - identify facets of the FMLA
  - identify facets of the Civil Rights Act
  - define sexual harassment
  - identify facets of the FLSA
  - identify facets of EMTALA

HSCC 330 Employment Issues 2

## Employment Torts

- Workplace privacy issues
  - honesty and reliability issues
  - various investigative techniques
  - invasion of privacy
    - intrusion upon seclusion
    - appropriation of name or likeness
    - publicity given to private life
    - publicity placing a person in false light

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## Intrusion Upon Seclusion

- Intentional interference with private affairs
- Physical area
- Wire-tapping
- Gathering of information
- Surveillance

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## Appropriation of Name or Likeness

- Photos
- Advertisements
- Individual has exclusive use

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## Publicity Given to Private Life

- Disclosure of facts to a wide audience

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## Publicity Placing Person in False Light

- Inaccurate portrayals of facts

## Negligent Hiring

- Operates against employer
- Duty to exercise reasonable and ordinary care in hiring

## Negligent Retention

- Retaining an employee with a history of workplace violence

## Negligent Supervision

- Employer may assume liability
- Duty to supervise workers

## Negligent Training

- Failure of employer to provide training

## Negligent Security

- Duty to safeguard employees

## Workplace Violence

- Organization must address risks
- Large percentage of suits are initiated by employees

## Americans With Disabilities Act

- Protects qualified persons with disabilities
- Employers with 15 or more employees
- Prohibited from discriminating in all aspects of employment

## ADA: Who is Covered?

- Disability
- Possession of requirements of employment

## ADA: Reasonable Accommodations

- Employers may be required to provide
- Not required if it imposes undue hardship

## Family Medical Leave Act

- Balance demands of workplace with needs of employees
- Provides minimum employment standard
- 50 or more employees
- Up to 12 weeks unpaid leave

## Civil Rights Act of 1964

- Prohibits discrimination
  - race
  - color
  - religion
  - sex
  - national origin

## Sexual Harassment

- Any form of conduct that a reasonable person would find offensive (physical, verbal, or environmental)
- Types
  - quid pro quo
  - hostile environment

## Fair Labor Standards Act

- Federal wage and hour law
- Ended oppressive child labor
- Established minimum wage
- Overtime compensation

## Fair Labor Standards Act

- Employees that are exempt:
  - executives
  - administrative
  - professional
  - specific industries
  - specifically exempt workers
  - special certificates

## Emergency Medical Treatment and Active Labor Act

- COBRA
- Imposes federal duty on hospitals

## Emergency Medical Treatment and Active Labor Act

- Any individual who arrives at the ED seeking emergency care or is in active labor is entitled to receive a medical screening examination, within the hospital's capability, to determine whether an emergency medical condition exists

## Emergency Medical Treatment and Active Labor Act

- Hospital roles
  - post a notice
  - keep a log
  - ascertain specific information
  - send patient's medical records
  - report inappropriate transfers

## Emergency Medical Treatment and Active Labor Act

- Penalties for violations
  - 100+ beds: \$50,000
  - <100 beds: \$25,000
  - physician: \$50,000
  - Medicare/Medicaid exclusion

In conclusion. . .