

Health Care Torts Exam
Professor Richard, Spring 2006

Put your exam number on each page of the examination. Do not put your name or any other identifying information on the examination. Make sure you have all the pages and that they are all different before you start answering the exam. Use no more than the space provided. These are all short answer, a few have room for a couple of sentences. If you are using the computer, make sure you number your answers correctly.

Name that case!

1. Environmental lead study that the Maryland Supreme Court hated.
2. Minor psychiatric patient is raped by hospital employee.
3. She went into the emergency room for vomiting and back pain, and died shortly after being transferred to another hospital.
4. Overpromotion of Chloromycetin.
5. Damages for an albino baby.

Shorter Answer Questions (50 words max)

6. Are MDs normally allowed to testify against chiropractors in chiropractor malpractice cases that deal with whether chiropractic treatment is indicated for the patient's condition?
7. What are the two ways a physician can become eligible for coverage under the PCF and the caps of the MMA?
8. What requirement of EMTALA was designed to trigger state tort law requirements?

9. What standard does Louisiana use to decide what a patient must be told to get informed consent to a medical procedure?

10. In the usual informed consent case where the physician fails to inform the patient of an important risk, what two things must the patient show to prove causation?

11. How does the Lugenbuhl court justify awarding the patient damages when it recognized that causation failed?

12. Most of the reported medical malpractice cases involve medical review panel decisions where all three members found the physician to have not been negligent. Why don't we see cases where some of the panel members found for the patient?

13. What does *People v. Privitera* tell us about a person's constitutional right to drugs?

14. What is the Nuremberg code?

15. What is the quid pro quo in the MMA that balances the cap on damages?

18. What are the possible rulings of the medical review panel?

19. Explain how the future medical care costs are paid under the MMA.

20. What is the significance of a \$100,000 settlement by a qualified provider in a medical malpractice case?

21. What are the four ways a product can be unreasonably dangerous under the LA products liability act?

22. What does plaintiff have to show to maintain a failure to warn claim?

23. Defendant in Stahl claimed that LA law says that the warning is sufficient as a matter of law if the side-effect is mentioned. Why does the court reject this?

24. Why is the warning sufficient as a matter of law if the warning mentions the side-effect and the treating physician says he understood the risk?

25. What are some of the examples the LA courts give of situations where no expert testimony is needed to establish medical malpractice?