

Health Care Business Law
Winter 1999 Course #793

Answer each question briefly, complete sentences are not necessary. Make sure you put your exam number on each page of the examination. Do not put your name or any other identifying information on the examination. Use no more than the space provided, and not all of the questions require all the space provided. Use specific case and statute references, as necessary. **Do not write on the back** - I only read what is on the front.

1. List and define and give an example for 4 different per se antitrust violations:

a)

b)

c)

d)

2) What is a Medicare cost report, who files it, why do they file it, what sets the standards for entries in the cost report, and what made the claim for royalty fees false in the Calhoun case?

3) What common law duty did the *Heard on the Street* columnist violate and how did that become a federal crime? (Ignore any securities law issues.)

4) What cause of action did the court uphold for Mr. Moore regarding his spleen, and what would he have to show to prove it? (Hint – how is this different from an informed consent case?)

5) Jane is a billing clerk in a clinic that serves Medicare patients. She tells you that the doctors bill the government for care that has not been provided to the patients. What is her potential cause of action to recover these bills, who is the real party at interest, what does she have to plead, what is the special requirement for filing the claim, and why would she want to file such a claim?

6) Your hospital client is worried about being sued for antitrust for its peer review activities. Write an explanation of the immunity provided by the Health Care Quality Improvement Act, why it can help your client, and a checklist to guide your client in implementing it.

7) Your hospital client wants to enter into a joint venture with the only other hospital in town to run a MRI imaging center. Both hospitals are 300 beds. The town could probably support two imaging centers, but the hospitals believe that it would be more cost effective to have only one. Write an explanation for your client on how the feds will evaluate this deal under the DOJ antitrust guidelines and what the client needs to worry about in structuring the deal if it wants to avoid antitrust problems. Be specific about potential problems, and use examples. (Hint – remember the 4 part test.)

8) Your hospital client has just read about the Baptist case and does not want to get prosecuted for false claims. They have the usual hospital services, are in various deals with physicians, and own some medical practices. Write a simple explanation for your client about potential false claims and kickback problems they should be alert for, with 3 examples.

9) Same facts as 8). Write an explanation of the OIG's recommended compliance plan for hospitals, and specific tasks the client should do to implement it.

