

**102105T4HSS**

**HEALTH SERVICES SUPPORT PROVIDER LEVEL 5**

**MED/OS/HSS/CR/03/5/A**

**APPLY MEDICAL LEGAL ETHICS**

**ASSESSOR WRITTEN ASSESSMENT**

**INSTRUCTIONS TO CANDIDATES**

*Maximum marks for each question are indicated in brackets ( ).*

*This paper consists of* ***THREE*** *sections: A, B and C.*

*These serves as the guide to responses given*

**This paper consists of FOURTEEN (14) printed pages**

**Candidates should check the question paper to ascertain that all pages are printed as indicated and that no questions are missing**

**SECTION A:** (20 marks)

***Award 1 mark for each correct answer.***

1. When caring for a client in hospital, it is important to maintain the client’s dignity by:

(1mark)

1. Spending time to let clients share their life experiences
2. **Maintain client’s privacy as they change into the theatre gowns**
3. Patients to change their clothes in the general ward
4. Decreasing emphasis on attending to the client’s appearance
5. One of the following defines perioperative theatre technician’s code of ethics; (1 mark)
6. Health workers may decide on their own which relevant documentation is and which is not.
7. It expresses the professional value that is right or good practice.
8. Provide healthcare without discrimination
9. **Formation and maintenance within the scope of practice**
10. The term that best describes a wrongful act against a person or their property and usually results in a prison term, fine or short jail sentence is; (1 mark)
11. **Crime**
12. Misdemeanor
13. Tort
14. Felony
15. A wrong committed by an individual against a person or their property that is heard by a civil court and is punishable by the state, must pay for damages, and rarely includes imprisonment is; (1 mark)
16. Misdemeanor
17. Crime
18. **Tort**
19. Felony
20. The surgical consent is sought by; (1mark)
21. **Physician.**
22. Health service support provider
23. Nurse.
24. Anesthetist
25. One of the important roles of hospital ethics committees is; (1 mark)
26. Committees assume an oversight role over practitioners to prevent malpractices
27. Committees protect its members of staff against malpractices claims
28. **Develop policies and train employees to enhance their decision-making during dilemmas**
29. Ethics committees are the only institution to solve cases of ethical violation
30. A Health Services Support Provider’s actions are considered to be grossly negligent if he or she; (1 mark)
31. Makes a simple mistake that causes harm to the patient
32. Only provides basic life support to a critical patient

##### Willfully deviates from the standard of care

1. Does not consult with online medical control first
2. When a client is confused, left alone with the side rails down, and the bed in a high position, the client falls and breaks a hip. The medical legal issue broken is; (1 mark)
3. Assault
4. Battery
5. **Negligence**
6. Civil tort
7. Legal exposure can be avoided if the healthcare worker; (1 mark)
8. Acts according to the standards of care
9. **Acts according to the prescribed code of ethics**
10. Behaves in a faithful manner
11. Maintains constant observation of the patient
12. Litigation in the hospital can occur to theatre technicians when: (1 mark)
13. **Abandoning the patient in the postoperative unit**
14. Follows an order that is incomplete or incorrect
15. Documenting blame on the surgeon when a mistake is made
16. Supervisor watching a new employee check his or her skills level
17. A health care issue often becomes an ethical dilemma because: (1 mark)
18. A client’s legal rights coexist with a health professional obligation
19. Decisions must be made quickly, often under stressful conditions
20. **Decisions must be based on value systems**
21. The choices involved do not appear to be clearly right or wrong
22. A relative to a patient suffering from terminal pancreatic cancer insist that you should withhold ‘bad news’ from the patient. You should; (1 mark)
23. Honor the request of the family member who is protecting his relative from the bad news.
24. **I will tell the patient because withholding information is not permitted under any circumstance.**
25. Withhold informing the patient about the pancreatic cancer because of the grave diagnosis.
26. Ask the patient how he wants to handle the information in front of the rest of the family, and allow for some family discussion time for this matter.
27. A newborn has been scheduled for admission whose chances of success are unclear. To help resolve this ethical conflict one should; (1 mark)
28. **Explore reasonable courses of action**
29. Collect all available information about the situation
30. Clarify values related to the cause of the dilemma
31. Identify people who can solve the difficulty
32. Standard by which people judge themselves is known as; (1 mark)
33. Ethics
34. Mora**ls**
35. **Values**
36. Dilemma
37. You realize that the informed consent of a patient is not signed against the name of the patient prior to an operation; You should; (1 mark)
38. Accept the patient into the operating room as the consent form has been signed.
39. **Advise the accompanying team to take the patient back because due diligence has not been followed.**
40. Accept the patient but tell the accompanying team to be more careful next time.
41. Explain the procedure to the patient and let them write their name alongside the signature.
42. The ethical principle that a surgeon applies when he refuses to operate on a young lady who wishes to undergo the procedure thus interfering with the right to make owns decision is; (1 mark)
43. Veracity
44. Beneficence
45. Autonomy
46. **Paternalism**
47. As a health service support provider in a busy hospital, you notice a nurse administering a drug that a patient is known to be allergic to. You try to stop the nurse from administering the drug, the ethical principle applied is; (1 mark)
48. **Non-maleficence**
49. Autonomy
50. Teleological theories
51. Beneficence
52. The ethical principle that allows patients to exercise their capacity to think, decide and act on the basis of thought and decide freely and independently is; (1 mark)
53. Confidentiality
54. **Autonomy**
55. Reasoned analysis
56. Virtue Theory
57. One of the following principles must have informed the hospital policy which indicate that workers should report all medication errors even if the mistake did not cause any injury to the patient; (1 mark)
58. Justice and fairness.
59. Veracity and autonomy.
60. **Fidelity and beneficence.**
61. Veracity and non-maleficence.
62. One of the items to be checked in the preoperative checklist is a signed informed consent. The most important consideration regarding the information in informed consent is that it; (1 mark)
63. **Must be understood by the patient**
64. Must be communicated free of emotion
65. Must be technically accurate
66. Must be delivered in writing

**SECTION B:** (40 marks)

***(These only serve as a guide to expected responses)***

1. Define the following terminologies as used in medical-legal practice (3 marks)
2. **Ethics- refer to rules provided by an external source relating to right or wrong. e.g., codes of conduct in workplaces or principles in religions.**
3. **Morals- refer to an individual's own principles regarding right and wrong**
4. **Tort-** **Wrong (an act or omission) that gives rise to injury or harm committed by one person against another amounts to a civil action.**

***(Award 1 mark for correct definition)***

1. When acquiring medical guidelines in Kenya different sources are utilized. State **Three (3)** sources of the law in Kenya. (3 marks)

* **Kenyan Constitution 2010**
* **Judicial Decree**
* **Relevant legislation e.g. Acts of Parliament**
* **By laws**
* **Religious books**
* **African customary laws**

***(Award 1 mark for correct statement)***

1. When determining the nature of offence various elements are considered. Explain **Two (2)** elements that are required to prove negligence. (4 marks)

* **Breach of Duty**
* Failure to perform to the standard or failure to act consistently with applicable standard of care leading to injury and damages
* **Damages**
* Actual loss which occurred or harm
* **Duty of Care (Duty to Act)**
* Duty of care to the patient (Nurses assume a duty to provide care for the patient which is consistent with the standard of Care)
* Knowledge of the case & management so as to provide reasonable care - need to collaborate with other professionals
* Consideration of professional ethics

***(Award 2 mark for correct explained statement)***

1. After occurrence of an offence if the culprit if found guilty various measures are taken. Highlight **Four (4)** implications of medical legal cases. (4 marks)

* **Remedy**
* **Legal Defences**
* **Arrest**
* **Dismissal**
* **Suspension**

***(Award 1 mark for correct statement)***

1. Documentation of any potential medical-legal and ethical issues during delivery of perioperative services can be significant for the health care provider. State **Three (3)** importance of documentation of potential medical-legal issues. (3 marks)

* **Documented issues can be used as evidence of correct interventions that can protect the health care provider in the court of law.**
* **Documented issues help avoid/prevent medical and surgical errors in the operation theatre which ensures patient safety.**
* **Documentation can be used to promote and enhance continuity of care when a shift ends and there’s new staff reporting for the next shift.**
* **Documented information can be used as source of reference in case of any doubts about an intervention given. This can prevent repetition of care.**

**(*Award 1 mark for each correct response*)**

1. A patient you attended to expresses dissatisfaction and has allegations of malpractices at your health facility. Outline the **4 D’s** of malpractice. 4 Marks

* **Duty to deliver a standard of care directly proportional to the degree of specialty training received**
* **Deviation from that duty by omission or commission**
* **Direct causation of a personal injury or damage because of deviation of duty**
* **Damages to a patient or personal property caused by the deviation from the standard of care**

***(Award 1 marks for each correct statement)***

1. Highlight **Four (4)** examples of medical-legal cases. (4 marks)
   * **All cases of injuries**
   * **All cases of burns**
   * **Alleged cases of assault**
   * **All cases of suspected or evident of poisoning or intoxication**
   * **Cases of unconscious/comatose where its cause is not natural or not clear**
   * **Cases of suspected self-inflicted injuries or attempted suicide**

***(Award 1 mark for correct statement)***

1. Before receiving a patient, counterchecking correct and complete documentation is done. State **Five (5)** reasons why documentation is important in theater; ( 5 Marks)

* **Serves as a legal document**
* **To enhance continuity of care and avoid duplication of work**
* **Communicates with other health professionals regarding patient care**
* **Can be used as data for research purposes**
* **For financial insurance billings**
* **Can be used to assess the quality of care given by the quality assurance team**
* **To identify gaps and improve the practice**
* **To proof evidence based practice.**

***(Award 1 marks for each correct statement)***

1. Highlight any **Four (4)** ethical issues in medicine you are likely to encounter as a professional. (4 marks)

* **Euthanasia**
* **The use of ventilators**
* **Assisted death**
* **Refusal of medication**
* **Scarce medication**

***(Award 1 mark for correct statement)***

1. Discuss **Four (4)** reasons why it’s important to study ethics as a Health Services Support Provider. (4 marks)

* **To understand ethical principles and apply in the care of patient.**
* **To practice within the bracket of ethical principles**
* **Ethics provide implications for legal actions against incompetent practitioners and violation of the code and for liability of the consequences of their conduct**
* **Ethics provide implications for legal actions against incompetent practitioners and violation of the code and for liability of the consequences of their conduct**
* **Ethics serve as a basis for identifying standards of quality practice consistent with actions of the qualified competent practitioners**

***(Award 1 mark for correct statement)***

1. As a Health Services Support Provider, one should be vigilant to ensure quality care is offered and the code of ethics upheld to avoid battery. Differentiate between the term battery and assault. (2 marks)

* **In an act of physical violence by one person against another, "assault" is usually paired with battery. In an act of physical violence, assault refers to the act which causes the victim to apprehend imminent physical harm, while battery refers to the actual act causing the physical harm.**
* **Assault and battery are the two basic “bodily harm” offenses.**
* An assault is committed when someone “engages in conduct which places another in reasonable apprehension of receiving a battery.” It’s a threat—real or implied—of a battery, or a battery in progress.

***(Award 3 marks for each correct explanation)***

**SECTION C:** (40 marks)

***(The candidate should choose 2 questions out of four questions provided)***

1. All employees working in both the private and public sectors are entitled to employment rights under employment Act.
   * + 1. Explain **Eight (8)** rights of employees as per Kenyan employment Act; (16 marks)

* **Number of days: An employee is entitled after every twelve consecutive months of service to not less than 21 working days of leave with full pay in each year.**
* **Leave allowance: There is no provision on leave allowance hence leave allowance is at employer discretion or as may be agreed between the parties. Compensation during leave: Employee is entitled to full pay during the leave period.**
* **Sick leave in Kenya: After 2 months of continuous service, an employee shall be entitled to sick leave. The duration of sick leave is a maximum of 30 days with full pay and thereafter to a maximum of 15 days’ sick leave with half pay in each period of 12 consecutive months of service.**
* **Maternity leave in Kenya: A female employee shall be entitled to 3 months’ maternity leave with full pay. On expiry of a female employee’s maternity leave, the female employee shall have the right to return to the job which she held immediately prior to her maternity leave or to a reasonably suitable job on terms and conditions not less favorable than those which would have applied had she not been on maternity leave.**
* **Paternity leave in Kenya: A male employee whose official wife has delivered a baby shall be entitled to paternity leave with full pay. The employee shall be entitled to fourteen (14) calendar days as paternity Leave.**
* **Public Holidays in Kenya/Compensation on public holidays: An employee shall be entitled to a day’s holiday with full pay on every public holiday during his or her employment.**
* **Working hours and overtime in Kenya: The maximum working hours for employees shall be forty-eight (48) hours per week. Working hours shall not exceed forty-eight hours per week and any extra hours shall be deemed to be overtime.**
* **Training and skills development in Kenya: There is no Law Regulating occupational or on job training in Kenya. The only training mandatory in Law in Kenya is Occupational Safety Training. In accordance with the Occupational Safety and**
* **Health Act, it is the responsibility of an employer to provide instruction, training and supervision as is necessary to ensure health and safety at work of his/her workers.**

***(Award 1 mark for each correct response)***

* + - 1. At the beginning of the employment period, an employee is required and expected to sign an employment contract before commencing the job. List **Four (4)** components of an employment contract. (4 marks)
* **Name, age, permanent address and sex of employee**
* **Name of the employer**
* **Date of commencement of employment**
* **Job description**
* **Form and duration of the contract**
* **Place of work**
* **Hours of work**
* **Remuneration**
* **Interval at which remuneration will paid**
* **Any other prescribed matter**

***(Award 1 mark for each correct response)***

1. Failure to respect patient bill of right can lead for medical legal issue. Explain **Ten (10)** bill of right of patients. (20 marks)

* **Right to information (disclosure): preventive health care including health education, Individual own diagnosis and specific treatment program**
* **Right to informed choices, opinion and participation in treatment decisions**
* **Right to access emergency services when and where the need arises**
* **Right to privacy, dignity and comfort**
* **Right to confidentiality**
* **Right to safety**
* **Right to expect reasonable coordination and continuity of care i.e. appointment dates, and Drs. who will be continuing with care after is discharge**
* **Right to refuse treatment**
* **Right to know the healthcare attending to him/her**
* **Right to receive detailed information concerning his/her progress.**

***(Award 2 mark for correct explained statement)***

1. After occurrence of an offence the hospital team decide to communicate via official letter.

Explain **Four (4)** advantages of written communication. (8 marks)

* **Maintenance of Authority of the Officers: Formal communication maintains constant relations among the superiors and the subordinates as a result of whom the dignity of the line superiors is maintained. Consequently, it is convenient to control the subordinates and fix their responsibility which is absolutely needed for effective and successful control.**
* **Clear and Effective Communication: In formal communication, there is a direct contact among the managers and the subordinates. Both understand the capability, habits, feelings, etc. of one another. Managers know as to when and under which conditions their subordinates need information. In this way, this communication is capable of making available timely information. Hence, it is clear and effective.**
* **Orderly Flow of Information: The information has to pass through a definite route from one person to another. Hence, the flow of information is systematic.**
* **Easy Knowledge of Source of Information: In this type of communication, the source of each information can be easily located.**

***(Award 2 mark for correct explained statement)***

Discuss **Six (6)** factors to consider when choosing a letter as a channel of communication. (12 marks)

* **Cost (time & money): the channel selected should be cost-effective in terms of time and money.**
* **Speed: the urgency of the message is important. The channel selected should be appropriate to deliver the message within the expected time.**
* **Audience: The medium selected should be one that can serve the communication needs of the target audience, in terms of age, education background among others.**
* **Availability: the medium selected should be available both to the sender and receiver. A television not be the most appropriate medium to send a message to people living in places where electric power is not available.**
* **Message: the message will dictate the type of channel to be used in a particular situation, the complexity, urgency, the purpose of the message.**
* **Confidentiality Different messages require different levels of confidentiality especially in today’s world where technology has made great strides.**
* **Complexity of the message.**
* **Need for fact**
* **Need for written record**

***(Award 12 marks for correct explained statement)***