BRIEF CONTENTS

	XV
Acknowledgmen	ntsxxi
Chapter 1.	A Brief History of Law and Medicine
Chapter 2.	Access to Healthcare: Rights and Responsibilities 39
Chapter 3.	The Organization and Management of a Corporate Healthcare Institution
Chapter 4.	Human Resources Law
Chapter 5.	Contracts and Intentional Torts
Chapter 6.	Negligence
Chapter 7.	Liability of the Healthcare Institution
Chapter 8.	Medical Staff Privileges and Peer Review
Chapter 9.	Health Information Management
Chapter 10.	Emergency Care
Chapter 11.	Consent for Treatment and Withholding Consent 405
Chapter 12.	Taxation of Healthcare Institutions
Chapter 13.	Competition and Antitrust Law
Chapter 14.	Issues of Reproduction and Birth
Chapter 15.	Fraud Laws and Corporate Compliance
•	603
11naex	

DETAILED CONTENTS

Preface		XV
Acknowledgme	nts	xxi
Chapter 1.	A Brief History of Law and Medicine	1
	Part 1: The History of Law	1
	Anglo-American Common Law	2
	Definition of Law	3
	Types and Sources of Law	4
	The Court System	10
	Alternatives to the Court System	14
	Legal Procedure	15
	Discussion Questions for Part 1	19
	Planned Parenthood of S.E. Pennsylvania v. Casey	20
	Part 2: The History of Medicine	21
	Part 2 Discussion Questions	30
	Summary	30
	Notes	30
	Appendix 1.1: A Select Timeline of the History	
	of Medicine	34
Chapter 2.	Access to Healthcare: Rights and Responsibilities	39
•	The US Healthcare System: Fragmented and Unequal	
	The Affordable Care Act	52
	Traditional Principles Regarding Access to Care	60
	Admission and Treatment of Mentally Ill Patients	67
	Discharge from the Hospital	71
	Utilization Review: Controls on Admission	
	and Discharge	74
	Summary	
	Discussion Questions	
	Kina v Rurwel	

	Hill v. Ohio County	84
	Notes	85
	Appendix 2.1: Federal Health Insurance Coverage	92
	Appendix 2.2: History of Health Reform Efforts	93
	Appendix 2.3: ACA Provisions by Healthcare Field	
	Segment	95
	Appendix 2.4: Original ACA Implementation	
	Timeline	97
Chapter 3.		
	Healthcare Institution	99
	Formation and Nature of a Corporation	100
	Responsibilities of Management	111
	Piercing the Corporate Veil	112
	Multi-institutional Systems and Corporate Reorganiz	ation:
	The Independent Hospital as Anachronism	114
	Alternative Corporate Strategies	117
	Collaborative Strategies with Physicians	118
	Summary	122
	Discussion Questions	123
	Charlotte Hungerford Hospital v. Mulvey	124
	Stern v. Lucy Webb Hayes National Training	
	School for Deaconesses and Missionaries	125
	Woodyard, Insurance Commissioner v. Arkansas	
	Diversified Insurance Co.	128
	Notes	130
Chapter 4.	Human Resources Law	135
	Introduction	135
	Who Is an Employee?	
	Types of Employment and Workforce Arrangements	138
	Beyond Employment: Nondiscrimination Statutes	141
	Labor Law	151
	Statutes Enforced by the US Department of Labor	
	State Employment Law	158
	Special Human Resources Issues in Healthcare	159
	Employee Relations Generally	160
	Summary	162
	Discussion Questions	162
	Prescott v. Rady Children's Hospital-San Diego	163

	Humphrey v. Mem'l Hosps. Ass'n	165
	NLRB v. Lakepointe Senior Care & Rehab Ctr.,	
	<i>LLC</i>	167
	Notes	169
	Appendix 4.1: Fair and Unfair Labor Practices	172
	Appendix 4.2: Helpful Human Resources–Related	
	Sites	174
Chapter 5.	Contracts and Intentional Torts	175
	Think Like a Lawyer	175
	Contracts and Intentional Torts as Bases of Liability	176
	Elements of a Contract	176
	The Physician-Patient Relationship	177
	Liability for Breach of Contract	187
	Liability for Breach of Warranty	188
	Intentional Torts	189
	Summary	196
	Discussion Questions	196
	Stowers v. Wolodzko	197
	Notes	200
Chapter 6.	Negligence	203
	Duty	203
	Breach of Duty	211
	Causation, Injury and Damages	218
	Defenses	220
	Liability for Acts of Others: Vicarious Liability	224
	Countersuits by Physicians	226
	Reforming the Tort System	227
	Summary	229
	Discussion Questions	230
	Helling v. Carey	231
	Perin v. Hayne	232
	Notes	236
	Appendix 6.1: National Quality Forum's	
	Preventable Medical Errors	241
Chapter 7.	Liability of the Healthcare Institution	243
	Respondeat Superior Versus Independent	
	Contractor Status	245

	Erosion of Physicians' Independent	
	Contractor Status	246
	Erosion of Captain-of-the-Ship and	
	Borrowed-Servant Doctrines	249
	Doctrine of Corporate Liability	250
	Liability of Managed Care Organizations	257
	Quality Versus Cost Savings	258
	Summary	263
	Discussion Questions	264
	Norton v. Argonaut Insurance Co	265
	Johnson v. Misericordia Community Hospital	269
	Notes	273
Chapter 8.	Medical Staff Privileges and Peer Review	279
-	The Medical Staff Organization	
	Relationships Among Board, Management, and	
	Medical Staff	281
	Appointment of the Medical Staff	282
	Standards for Medical Staff Appointments	
	Peer Review, Discipline, and the Health Care Quality	
	Improvement Act	288
	Lessons from Poliner and Kadlec	298
	Quality Issues and Accountable Care Organizations	301
	Summary	308
	Discussion Questions	309
	Kadlec Medical Center v. Lakeview Anesthesia	
	Associates	310
	Notes	314
	Appendix 8.1: Healthcare Quality Improvement Act	
	of 1986, as Amended	320
Chapter 9.	Health Information Management	327
	Covered Entity, Protected Health Information, and	
	De-identification	329
	Form and Content of Records	329
	Records Retention	334
	Access to Health Information	335
	Use of Health Records in Legal Proceedings	353
	Federal Government's Access to Personal Health	
	Information	354

	State Open Meeting and Public Records Laws	356
	Summary	357
	Discussion Questions	358
	Opis Management Resources, LLC v. Secretary,	
	Fla. Agency for Healthcare Admin	359
	Tarasoff v. Regents of the University of California	361
	Notes	366
Chapter 10.	Emergency Care	373
	The Need for Emergency Care Facilities	373
	Duty to Treat and Aid	
	Duty to Exercise Reasonable Care	388
	Good Samaritan Statutes	392
	Summary	394
	Discussion Questions	394
	Moses v. Providence Hospital and Medical	
	Centers, Inc.	396
	Beller v. Health and Hospital Corp. of	
	Marion County	398
	Notes	400
Chapter 11.	Consent for Treatment and Withholding Consent	405
	Types of Consent and Recommended Procedures	406
	The Healthcare Institution's Role in Consent Cases.	410
	How "Informed" Must Informed Consent Be?	411
	Consent of a Spouse or Relative	415
	Life-or-Death Decision-Making	416
	Consent Issues for Incompetent Adults	420
	Consent Issues for Minors	425
	Legislation and Protocols on End-of-Life Issues	433
	Summary	439
	Discussion Questions	
	Cobbs v. Grant	440
	Bush v. Schiavo	444
	Baxter v. State	448
	Notes	451
	Appendix 11.1: Comparison of POLST Form and	
	Advance Directives	458
Chapter 12.	Taxation of Healthcare Institutions	459
	Introduction	459

	Nature of a Charitable Corporation	459
	What Is a Charity?	460
	Federal Tax Issues	464
	State and Local Property Taxes	468
	Coming Full Circle	474
	Summary	475
	Discussion Questions	475
	Greater Anchorage Area Borough v. Sisters of Charit	y 477
	Barnes Hospital v. Collector of Revenue	478
	Provena Covenant Medical Center v. Department	
	of Revenue	479
	Notes	485
Chapter 13.	Competition and Antitrust Law	489
	The Sherman Act	490
	The Clayton Act	493
	The Federal Trade Commission Act	498
	Jurisdiction, Exemptions, and Immunity	498
	Sanctions and Enforcement of Antitrust Statutes	502
	Rule-of-Reason Analysis and Per Se Violations	503
	Summary	516
	Discussion Questions	516
	Federal Trade Comm'n v. Phoebe Putney Health	
	System	517
	North Carolina State Bd. of Dental Exam'rs v.	
	Federal Trade Comm'n	518
	Notes	521
Chapter 14.	Issues of Reproduction and Birth	525
	Sterilization	525
	Wrongful Birth and Wrongful Life	529
	Other Reproduction Issues	537
	Abortion	542
	Hospitals' Role in Reproduction Issues	552
	Summary	554
	Discussion Questions	555
	Skinner v. Oklahoma ex rel. Attorney General	556
	Notes	559
Chapter 15.	1 1	
	The Enforcement Climate	568

Federal False Claims Act	571
Antikickback Statute	576
Stark Self-Referral Law	582
Foreign Corrupt Practices Act	587
Corporate Compliance Programs	588
Summary	590
Discussion Questions	591
United States v. Greber	592
United States v. McClatchey	594
United States ex rel. Baklid-Kunz	v. Halifax
Hospital Med. Ctr	597
Notes	600
Glossary	603
Case Index	000
Index	000
Alana + the Author	600