



CHAPTER 6 CASE STUDY: HIM MANAGEMENT EMPLOYMENT LAW TRAINING

Georgia Northwestern
Technical College
HIMT 2300
Healthcare Management
Dr. Donna Estes
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Amy E. Haisten

LEARNING OBJECTIVES:

- Familiarity and compliance with federal employment laws
 - Laws governing employee discrimination:
 - Americans with Disabilities Act (ADA)
 - Civil Rights Acts of 1964 and 1991
 - Age Discrimination in Employment Act of 1967 (ADEA)
 - Laws governing wages and benefits:
 - Family and Medical Leave Act of 1993
 - Fair Labor Standards Act
 - Health Insurance Portability and Accountability Act of 1996 (HIPAA)
 - Consolidated Omnibus Budget Reconciliation Act (COBRA)
- Greater familiarity with HIPAA
 - Differentiate between patient and employee protection under the Privacy Rule
 - Also includes employee healthcare coverage portability and accountability



AMERICANS WITH DISABILITIES ACT (ADA):

Protects employees with disabilities and employees who have a relationship with someone with a disability from discrimination

- Employer cannot refuse to hire, terminate, limit potential, reduce or offer lower wages or benefits based on disability.
- The employee must currently have the disability, have documentation of the disability, or have been impacted by an action prohibited by the ADA.
- The disability must limit one or more major life activity, and either be long-term or permanent.
- The employer is required to provide reasonable accommodation that does not cause undue hardship to the employer.

(EEOC, n.d.a), (Kelly, 2020, p. 108-9)



CIVIL RIGHTS ACTS OF 1964 AND 1991:

Protects employees from discrimination based on their race, color, religion, sex, or national origin or based on their marriage or relationship with an individual of a certain race, color, religion, sex, or national origin

Protects employees against retaliation

- Employer cannot refuse to hire, terminate, limit potential, reduce or offer lower wages or benefits.
- Language and accents can be considered if they interfere with performing the job.
- Sex discrimination includes:
 - Discrimination based on pregnancy and childbirth
 - Sexual orientation (State & Local Laws, EEOC 2016)
 - Sexual harassment
- Employees may be allowed a trial by jury and can be awarded **compensatory damages** and **punitive damages**

(EEOC, n.d.c), (Kelly, 2020, p. 109-11)



AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967 (ADEA):

Protects employees age 40+ from discrimination

- Employer cannot refuse to hire, terminate, limit, reduce wages, or offer lower wages based on age.
- Employers are required to provide equal benefits to employees from all age groups.
- Employees can continue to work as long as they have the ability to fulfill their duties. Employers cannot require or force employees to retire at any particular age.
- Employers may use voluntary, early retirement incentives, but they must follow ADEA requirements:
 - Must be written, understandable, include ADEA rights, not forgo possible future claims or rights, must support a benefit not already entitled, advise consulting an attorney, allow 21 days to consider and 7 days to revoke



FAMILY AND MEDICAL LEAVE ACT OF 1993 (FMLA):

Allows employees to take unpaid leave from work due to some medical and family reasons

- Reasons include a serious medical condition, care for a family member with a serious medical condition, birth or adoption of a child, circumstances due to a family member called to active military duty
- Employee is eligible if he has worked for a minimum of 12 months and 1,250 hours during the preceding 12 months
- Employee can take off up to 12 weeks within a 12-month period – consecutive or intermittently
- Employee must be restored to his original position and terms of employment when he returns
- The position must remain open or filled with a temp for the duration of the 12 week leave



FAIR LABOR STANDARDS ACT (FLSA) / WAGE AND HOUR LAW:

Determines overtime and minimum wage pay rules

- Federal and state laws – the stricter law applies
- Federal minimum wage – \$7.25 / hour
- Overtime – Time and a half pay is required by law
 - Some employees are exempt from time and a half pay
 - Employers must still pay exempt employees for all hours worked
- Compressed workweeks, flextime, and job sharing can contribute to overtime



HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA):

- Assures privacy and security of health information
- Manages abuse and fraud
- Lowers healthcare costs
- Allows employees to continue health insurance when changing jobs and employers
- Limits exclusions from health coverage of pre-existing conditions
- Protects employees and dependents from discrimination based on health condition
- Guarantees availability of health coverage to small employers
- Guarantees employees can renew health coverage regardless of size of employer



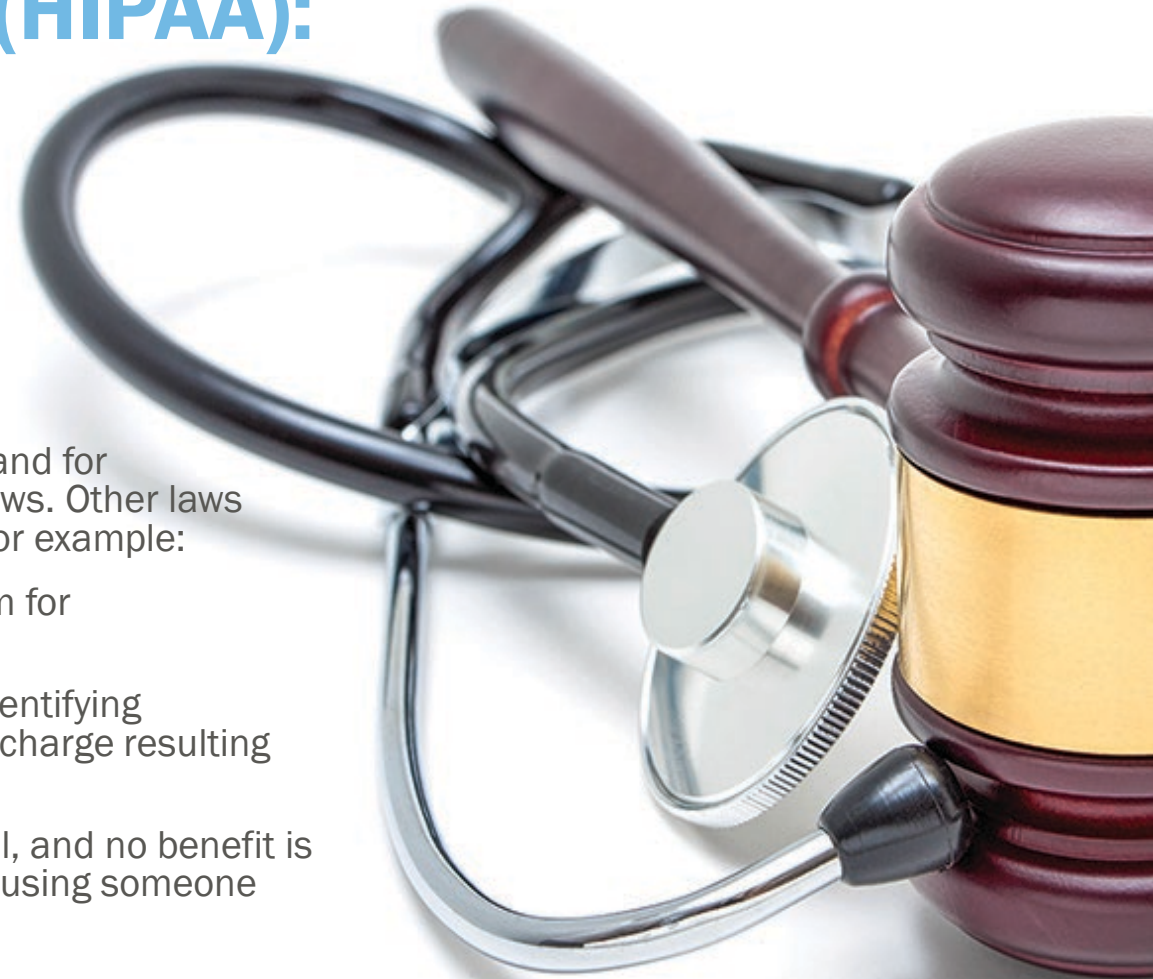
HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA):

- Privacy Rule protects Protected Health Information (PHI) — identifiable information such as SSNs
 - Applies to Patient Records and Employee Health Records
 - Unauthorized release of PHI can lead to fines or legal action
 - HIPAA training and policies and procedures are required for all employees to prevent privacy breaches and must be updated annually
- Security Rule protects Electronic PHI (ePHI)
 - Employee access based on job duties, policies, and procedures
 - Employee security training is required
- Health Insurance Portability and Accountability
 - Employees can change jobs without losing health insurance
 - Employee cannot be penalized or denied for a pre-existing condition by new employer if insured by previous employer



HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA):

- The Privacy Rule protects patient records but not employment records even of health-related information
 - The employer can request health information if needed for workers' comp, sick leave, health insurance, or wellness programs.
 - A provider cannot give an employer patient information directly without the patient's consent (unless another law requires it).
 - Employers and managers should still use employee data with care and for its intended purpose according to policies, procedures, and other laws. Other laws and protections exist that may apply to the use of employee data. For example:
 - Employees have rights under the SSN Verification Service system for protection against the misuse of SSNs.
 - Unauthorized use or possession of another person's personal identifying information such as a SSN can result in a criminal identity theft charge resulting in heavy fines or time in prison.
 - Identity fraud is committed even if the thief is not successful, and no benefit is received. The theft happens upon obtaining, possessing, or using someone else's information with a fraudulent intent.



CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT (COBRA):

Allows qualifying employees to continue health coverage who are losing their coverage

- An insured employee leaving an employer with a group plan can continue the same coverage at the same group rate but the total cost will be paid by the employee
- An employee qualifies if he or she:
 - Voluntarily or involuntarily lost employment
 - Had hours reduced
 - Switched jobs
 - Gets a divorce
 - Becomes entitled to Medicare
- Coverage limited to 18 months or 36 months from date of qualification
 - An employer may continue COBRA coverage longer than the law requires
- Manager should avoid talking to employee directly but refer to HR

(Kelly, 2020, p. 114), (U.S. Department of Labor, n.d.a)



SUMMARY:

- Employee Discrimination:
 - Americans with Disabilities Act (ADA)
 - Civil Rights Acts of 1964 and 1991
 - Age Discrimination in Employment Act of 1967 (ADEA)
- Wage and Benefit Regulation:
 - Family and Medical Leave Act of 1993
 - Fair Labor Standards Act
 - Health Insurance Portability and Accountability Act of 1996 (HIPAA)
 - Consolidated Omnibus Budget Reconciliation Act (COBRA)



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