Instructor	**Professor Thaddeus Mason Pope**
Course Title	**Health Law: Quality & Liability**
Format	**Final Exam, Spring 2026**
Total Time	**Twenty-four (24) hours**
Total Pages	**24 pages**

Reference Materials Allowed

Open Book (all reference materials allowed)

Take-Home Exam Instructions

1. Please know your **correct Spring 2026 exam number** and include this number at the top of each page of your exam answer (for example, in a header).

2. Confirm that you are using and have typed the **correct exam number** on your exam document.

3. You may **download** the exam from the course Canvas site any time after 12:01 a.m. on Friday May 8, 2026, and before 11:59 p.m. on Monday, May 18, 2026.

4. You must **upload** (submit) your exam answer file to the Canvas site within twenty-four (24) hours of downloading the exam.

5. You must **upload** your exam answer file no later than 11:59 p.m. on Monday, May 18, 2026. Therefore, the latest time by which you will want to **download** the exam is at 11:59 p.m. on Sunday, May 17, 2026. Otherwise, you will have less time to write your answers than the permitted twenty-four (24) hours.

6. Write your answers to all parts of the exam in a word processor. Save your document as a **single PDF file** before uploading it to Canvas.

7. Use your exam number as the **file name** for the PDF file that you upload.

Instructions Specific to This Examination

GENERAL INSTRUCTIONS:

1. **Honor Code**: While you are taking this exam, you are subject to the Mitchell Hamline Code of Conduct. You may not discuss it with anyone until after the end of the entire

midterm exam period. It is a violation of the Code to share the exam questions. (There may be an accommodation student taking this exam at a different time.) Shred and delete the exam questions immediately upon completion of the exam. Professor Pope will repost the exam after the end of the midterm exam period.

2. **Competence**: By downloading and accepting this examination, you certify that can complete the examination. Once you have accepted (downloaded) the examination, you will be held responsible for completing the examination.

3. **Exam Packet**: This exam consists of **twenty-four (24) pages**, including these instructions. Please make sure that your exam is complete.

4. **Identification**: Write your exam number on the top of each page of your exam answer (e,.g., in a header).

5. **Anonymity**: Professor Pope will grade the exams anonymously. Do **NOT** put your name or anything else that may identify you (except for your exam number) on the exam. Failure to include your correct exam number will result in a 5-point deduction.

6. **Total Time**: Your completed exam is due within twenty-four (24) hours of downloading it, but in no case later than 11:59 p.m. on Monday, May 18, 2026.

7. **Time Penalty**: If you upload your exam answer file more than twenty-four (24) hours after downloading the exam, then Professor Pope will lower your exam grade **by one point** for every minute over the 24 hours. If the timestamp on your uploaded exam indicates that you have exceeded the 24-hour limit by more than 20 minutes, then Professor Pope may refer the situation for a Code of Conduct investigation and potential discipline. Please save enough time after editing to upload your exam.

8. **Timing:** Professor Pope has designed this exam for completion in about 3 hours. That means you should be able to write complete answers to all the questions in 3 hours. Yet, since this is a take-home exam, you will want to take some extra time (perhaps 45 minutes) to outline your answers and consult your course materials. You will also want to take some extra time (perhaps 45 minutes) to revise, polish, and proofread your answers, such that you will not be submitting a "first draft."

9. **Scoring**: This final exam comprises 40% of your overall course grade. While the scoring includes 100 points, these points will be weighted.

10. **Open Book**: This is an OPEN book exam. You may use any written materials, including, but not limited to: (a) any required and recommended materials, (b) any handouts from class, (c) PowerPoint slides, class notes, and (d) your own personal or group outlines.

11. **Additional Research**: While you may use any materials that you have collected for this class, you are neither expected **nor are you permitted** to do any online or library research (e.g., on Lexis, Westlaw, Google, reference materials) to answer the exam questions unless specifically directed to do so.

12. **Generative AI**: All answers to this exam must be fully prepared by the student. The use of generative AI tools for any part of your work will be treated as plagiarism.

13. **Format**: The exam consists of two parts:

Part One 40 multiple choice questions
Worth 1 point each, for a combined total of 40 points
Estimated time = 80 minutes (2 minutes each)

Part Two 4 essay questions
1 essay question worth 10 points (15 minutes)
1 essay question worth 10 points (15 minutes)
1 essay question worth 10 points (15 minutes)
1 essay question worth 30 points (55 minutes)
Estimated time = 100 minutes

That adds up to three (3) hours. Remember, you have twenty-four (24) hours to complete this exam. Therefore, you have time to revise, polish, and proofread.

14. **Grading**: All exams receive a raw score from zero to 100. The raw score is meaningful only relative to the raw score of other students in the class. Professor Pope computes your course letter grade by summing the midterm, final, and quiz scores. Professor Pope will post an explanatory memo and a model answer to Canvas after the exam.

SPECIAL INSTRUCTIONS FOR PART ONE

1. **Numbered List of Letters:** In your exam document create a vertical numbered list (1 to 20). Next to each number type the letter corresponding to the best answer choice for that problem. For example:

1. A
2. D

2. **Ambiguity**: If (and only if) you believe the question is ambiguous, such that there is not one obviously best answer, neatly explain why immediately after your answer choice. Your objection must both (a) Identify the ambiguity or problem in the question and (b) Reveal what your answer would be for all possible resolutions of the ambiguity. I do not expect this to be necessary.

SPECIAL INSTRUCTIONS FOR PART TWO

1. **Submission**: Create clearly marked separate sections for each problem. You do not need to "complete" the exam in order. Still, structure your exam answer document in this order:

Essay Question 1
Essay Question 2

2. **Outlining Your Answer**: I strongly encourage you to use at least one-fourth of the allotted time per question to outline your answers on scrap paper before beginning to write. Do this because you will be graded not only on the substance of your answer but also on its clarity and conciseness. In other words, organization, precision, and brevity count. If you run out of insightful things to say about the issues raised by the exam question, stop writing until you think of something. Tedious repetition, regurgitation of law unrelated to the facts, or rambling about irrelevant issues will negatively affect your grade.

3. **Answer Format**: This is very important. **Use headings and subheadings.** Use short single-idea paragraphs (leaving a blank line between paragraphs). Do not completely fill the page with text. Leave white space between sections and paragraphs.

4. **Answer Content**: Address all relevant issues that arise from and are implicated by the fact pattern and that are responsive to the "call" of the question. Do not just summarize all the facts or all the legal principles relevant to an issue. Instead, apply the law you see relevant to the facts you see relevant. Take the issues that you identify and organize them into a coherent structure. Then, within that structure, examine issues and argue for a conclusion.

5. **Citing Cases**: You are welcome but not required to cite cases. While it is sometimes helpful to the reader and a way to economize on words, do not cite case names as a complete substitute for legal analysis. For example, do not write: "Plaintiff should be able to recover under A v. B." Why? What is the rule in that case? What are the facts in the instant case that satisfy that rule?

6. **Cross-Referencing**: You may reference your own previous analysis (e.g., B's claim against C is identical to A's claim against C, because __." But be very clear and precise what you reference. As in contract interpretation, ambiguity is construed against the drafter.

7. **Balanced Argument**: Facts rarely perfectly fit rules of law. So, recognize the key weaknesses in your position and make the argument on the other side.

8. **Additional Facts**: If you think that an exam question fairly raises an issue but cannot be answered without additional facts, state clearly those facts (reasonably implied by, suggested by, or at least consistent with, the fact pattern) that you believe to be necessary to answer the question. Do not invent facts out of whole cloth.

Exam Misconduct

The Code of Conduct prohibits dishonest acts in an examination setting. Unless specifically permitted by the exam or proctor, prohibited conduct includes:

- Discussing the exam with another student
- Giving, receiving, or soliciting aid
- Referencing unauthorized materials
- Reading the questions before the examination starts
- Exceeding the examination time limit
- Ignoring proctor instructions

MULTIPLE CHOICE QUESTIONS

- Below are 40 multiple choice questions.
- Each question is worth 1 point, for a combined total of 40 points.
- Recommended time is 80 minutes (2 minutes each).

1. **In March 2026, a Philadelphia jury awarded $108.6 million verdict in a birth injury case. The jury awarded $1.4 million for pain and suffering, $1 million for the loss of earnings capacity, and $106.1 million for future medical and other expenses during an expected additional life span of 68 years. But had this case been adjudicated in Indiana rather than Pennsylvania, it would have been subject to a total statutory damages cap of $1.8 million.**

In Indiana, the judge would be required to reduce the jury's verdict to:

A. $108.6 million
B. $106.8 million
C. $106.1 million
D. $1.8 million

2. **Virginia law provides "in any verdict returned against a health care provider in an action for malpractice … which is tried by a jury or in any judgment entered against a health care provider in such an action which is tried without a jury, the TOTAL amount recoverable for any injury to, or death of, a patient shall not exceed … $2.7 million."**

In Virginia, the judge would be required to reduce the above 2026 birth injury verdict to:

A. $108.6 million
B. $105.9 million
C. $106.1 million
D. $2.7 million

3. **Had this 2026 birth injury case been adjudicated in California, rather than Pennsylvania, it would have been subject to California's $470,000 cap on non-economic damages.**

In California, the judge would be required to reduce the verdict to:

A. $108,600,000
B. $107,670.000
C. $107,200,000
D. $470,000

4. If California, like Missouri, struck down its statutory cap on non-economic damages (referenced in the immediate prior question) as unconstitutional, then in California, the judge would be required to adjust this birth injury verdict to be a judgment for:

A. $108,600,000
B. $107,670.000
C. $107,200,000
D. $470,000

5. Based on witness testimony, a jury returned a verdict finding BOTH parties at fault. It attributed 52% of fault to defendant and 48% of fault to plaintiff. Without considering its comparative fault determination, the jury awarded plaintiff a total of $15,745.00 in damages, itemized as follows:

Past Medical Expenses: $9,063.01
Past Physical Pain and Suffering: $5,000.00
Past Loss of Earning Capacity: $1,682.00
Future Damages: $0

The trial court then applied the jury's comparative fault finding to its damage award. This resulted in a final judgment for plaintiff in the amount of:

A. $15,745.00
B. $7557.60
C. $8187.40
D. $0.00

6. If the comparative fault defense in the immediate previous question applies ONLY to non-economic damages, then the final judgment will be:

A. $15,745.00
B. $13,345
B. $13,145
C. $0

7. Withdrawing medical care from a patient without providing sufficient notice to the patient is called _____.

A. Abandonment
B. Withdrawing from the patient/doctor contract
C. Felony withdrawal
D. Misdemeanor withdrawal

8. Consent granted by a person AFTER the patient has received knowledge and understanding of potential risks and benefits is known as _____ consent.

A. Informed
B. Implied
C. Verbal
D. Written

9. _____ is when the plaintiff knew the risks and agreed to them ahead of time.

A. Res judicata
B. Denial
C. Statute of limitations
D. Assumption of risk

10. The unlawful touching of another person without his/her consent is called _____.

A. Battery
B. Negligence
C. Slander
D. Malpractice

11. Which government agency provides NOT nursing home licensing or accreditation but CERTIFICATION?

A. The Joint Commission
B. Centers for Medicare and Medicaid
C. Center for Disease Control and Prevention
D. The State Department of Health

12. _____ is a rigorous, thorough, and systematic approach to collecting and verifying the qualifications of a health care professional:

A. Recruiting
B. Interviewing
C. Qualifying
D. Credentialing
E. None of these answers is correct.

13. Peers who are in the same profession as the defendant practitioner accused of wrongdoing in a malpractice suit and who give testimony in the case are referred to as _____.

A. Case reviewers
B. Jurors
C. Expert witnesses
D. Medical consultants
E. Medical staff

14. To prove medical malpractice, the plaintiff MUST establish that:

I. The negligent clinician had a duty to the injured individual
II. The negligent clinician's actions or lack of action was not something that a prudent practitioner would have done
III. Actual harm (injury) occurred to plaintiff from clinician's condiuct

A. I and II only
B. III only
C. I, II, and III
D. I and III only

15. If a clinician administers a medically indicated injection to a patient who refused that injection, the clinician has MOST obviously committed:

A. Battery
B. Negligence
C. Malpractice
D. None of the above

16. A physician being sued for medical malpractice claims that a patient did NOT follow the treatment regimen the physician prescribed, thereby contributing to his own injury. This physician is MOST probably using which of the following defenses?

A. Contributory negligence
B. Res ipsa loquitor
C. Comparative negligence
D. Assumption of risk

17. In a professional liability suit the jury determined that the patient plaintiff contributed 20% to the patient's injury and the physician contributed 80%. Without knowing the jurisdiction of this lawsuit but knowing the MOST common approaches across the country, which of the following would MOST probably be the outcome of this case?

A. The patient's damage award would be reduced by 20%.
B. No damages would be awarded.
C. The patient would be given 20% of the damage award.
D. The patient would be awarded full damages, since the percentage of her fault is under 50%.

18. Establishing when the statute of repose begins varies with state law. But one of the MOST common dates for marking the beginning of the statutory period is:

A. The day that the alleged act was committed
B. One week after the alleged act was committed
C. One month after the injury from the alleged act was discovered
D. The day the physician-patient relationship began
E. The day the patient discovers her injury

19. Melania sought obstetric care from Dr. Kitty when she learned that she was pregnant. While Dr. Kitty was NOT an employee of Minnesota Memorial Maternity Hospital (MMMH), his office was located on the MMMH campus. Dr. Kitty informed Melania that she would deliver the baby at MMMH and provided her with a brochure about the maternity program at MMMH entitled "We Believe in Great Beginnings: The Maternity Suite at MMMH." Dr. Kitty was featured as a member of MMMH's "team of physicians" in the brochure. If Dr. Kitty commits medical malpractice, then:

A. MMMH may be liable under respondeat superior
B. MMMH may be liable under ostensible agency
C. MMMH may be liable under the non-delegable duty doctrine
D. MMMH cannot possibly be held vicariously liable for Dr. Kitty's negligence

20. When determining the standard of care that applies in a medical malpractice lawsuit, the jury:

A. Rarely needs the assistance of expert witnesses.
B. Utilizes the considerations of economics and policy to BEST determine the defendant's duty.
C. Considers, as one source of guidance, professional customs as established by expert witnesses in determining the best rule.
D. Affords near absolute weight to professional customs as established by expert witnesses, and merely applies the custom to the defendant's conduct.

21. **Patient was suffering from chronic kidney disease and was transferred to hospice care at Minnesota Health Center. Upon arrival, an employed Physician added an order of morphine sulfate, delivered through a syringe placed against the inside of his cheek, every hour. However, the order was incorrectly transcribed onto Patient's record, causing the patient to receive a dose 20 times larger than the amount prescribed. The patient died one hour and 45 minutes after the medication error. The Department of Health found that the facility failed to have adequate policies in place to ensure that medications were transcribed accurately and administered correctly.**

In a civil lawsuit against the facility, the family PROBABLY can successfully litigate theories of:

A. Vicarious liability
B. Direct liability
C. Both A and B
D. Neither A nor B

22. **Ms. Doe went to an ER one week after undergoing abdominal surgery. She was experiencing chills, shaking, abdominal pain and tachycardia. Tachycardia is a condition categorized by an abnormally fast resting heart rate. In addition, Doe's lab results were abnormal. An employed emergency room physician diagnosed constipation and sent Ms. Doe home. However, she returned to the emergency room eight hours later and was diagnosed with sepsis. Ms. Doe developed gangrene and distal ischemia and required bilateral below-the-knee amputations and amputation of the fingertips on both hands. While this ER failed to diagnose sepsis in the way that a reasonable ER would have, this ER closely followed its own policies and protocols.**

Ms. Doe PROBABLY has a good claim against the hospital alleging:

A. Breach of EMTALA screening duty
B. Breach of EMTALA stabilization duty
C. Medical negligence
D. Both A and C
E. A, B, and C

23. Patient was injured due to a medical error. Although physician was negligent, he shows that Patient did NOT comply with treatment recommendations.

Which of the following legal concepts is MOST likely either to bar or to reduce Patient's award?

A. Contributory negligence
B. Mitigation of damages
C. Comparative negligence
D. Assumption of the risk
E. Non-compliancy

24. Patient, a fireman with the Saint Paul, Minnesota FD, was admitted to hospital while suffering major depression and drug dependency. His treating physician determined, in accord with generally accepted guidelines, that Patient needed 25 days of inpatient treatment. After seven days, without even reviewing the patient's records, the insurance company (Aetna) announced it would not pay for any further hospital care. Patient could not afford to pay for the care and was discharged. Two weeks later, Patient committed suicide.

Potential viable defendants include:

A. Aetna on a theory of negligent utilization review
B. The Aetna medical director on a theory of medical malpractice
C. The treating physician for medical malpractice
D. The Hospital under EMTALA
E. A and B
F. A and C
G. B and C
H. All the above

25. Healthcare clinic conducts employment-related physical examinations for a local company. Employee Suzanne was given a standard employment physical by a physician employed by Clinic. Suzanne subsequently developed cancer and dies. Her estate files a wrongful death medical malpractice claim against the Clinic that conducted the examination, alleging that they should have diagnosed this cancer when it was still treatable. Clinic has filed a motion for summary judgment.

The court will PROBABLY:

A. Grant the motion.
B. Grant the motion but only if the defendant can establish the plaintiff cannot establish breach or causation
C. Grant the motion, because the clinic is not vicariously liable for its clinician's negligence (if any)
D. Deny the motion because materials questions of fact are in dispute

26. Which of the following terms most typically refers to who or which entities may provide healthcare services as a matter of LAW.

A. Licensure
B. Credentialing
C. Screening
D. Enrollment

27. A physician cannot refuse medical services to a patient because of the patient's disabilities. But the ADA not only prohibits discrimination. It also requires healthcare entities to take proactive steps to offer equal opportunity to persons with disabilities. Suppose a physician has an appointment with a deaf patient.

Which of the following is true?

A. Physician can require patient to bring a sign language interpreter to the clinical appointment.
B. Physician can charge this patient more, since the visit may take longer.
C. Physician must secure the appropriate interpreter, but can charge the patient for the accommodation.
D. None of the above

28. Plaintiff knew on October 31, 2024, that her employed surgeon had wrongly positioned screws during an April 2024 spine surgery. This jurisdiction has a one-year statute of limitations and a two-year statute of repose. Plaintiff filed a claim against surgeon before October 31, 2025. But she now (in May 2026) seeks to file a claim against the HOSPITAL that employed the surgeon, arguing that she only recently discovered that she has a vicarious liability claim against the hospital related to the wrongly positioned screws.

A. The claim is barred by the statute of limitations.
B. The claim is barred by the statute of repose.
C. Both A and B.
D. Neither A nor B.

29. Plaintiff alleges that physician failed to timely diagnose and treat his pancreatic adenocarcinoma. Specifically, plaintiff claims that a pancreatic mass/ neoplasm was visible on (a) a non-contrast chest CT scan performed March 12, 2025; (b) a second non-contrast chest CT scan performed June 11, 2025; (c) a third non-contrast chest CT scan performed October 30, 2025; and (d) a contrast abdominal/pelvic CT scan performed by the same physician on January 18, 2026.

Plaintiff claims that, on each of these four occasions, an immediate referral for a pancreatic protocol contrast abdominal CT/MRI should have been made. Plaintiff claims that, on each occasion, this would have confirmed the diagnosis of pancreatic adenocarcinoma. Plaintiff further claims that, on each occasion, had a proper diagnosis been made, plaintiff should have been referred for clinical/interventional care and treatment regarding this diagnosis of pancreatic cancer.

Plaintiff claims that departures from good and accepted medical care and treatment caused the pancreatic mass to remain untreated, increase in size, and metastasize to his liver and lungs. This deprived him of a chance at modalities of medical treatment (including oncological, chemotherapy, radiation, and surgical modalities) that would likely have arrested and aggressively treated the malignancy.

If this jurisdiction has a three-year statute of repose, plaintiff must file his lawsuit concerning the March failure to refer by:

A. Three years from discovery of this failure to refer
B. March 12, 2028
C. January 18, 2029
D. None of the above

30. On the facts of the previous question (#29), assume that Plaintiff has evidentiary challenges regarding the earlier failures to refer. So, he focuses on the October and January events. But by this time, his cancer had already progressed and was less treatable. In MOST states (as of 2026), it will be sufficient for Plaintiff to introduce the following competent expert testimony into evidence in the absence of other evidence on causation:

A. "With timely referral, the cancer probably could have been treated successfully"
B. "With timely referral, the cancer might have been treated successfully"
C. "With timely referral, the cancer possibly could have been treated successfully"
D. A or B
E. A or B or C

31. On the facts of Question #29, suppose Plaintiff can establish $1 million in damages but not that timely diagnosis probably would have prevented his cancer. Instead, Plaintiff can establish that the defendant's failure to timely refer made it 30% less likely that plaintiff's cancer could be successfully treated.

In most U.S. jurisdictions (as of 2026) plaintiff may recover:

A. Nothing
B. $1 million
C. $700,000
D. $300,000

32. Economics experts determine that an injured plaintiff's injuries and damages have a value of $1,000.000. But the jury determines that the plaintiff's OWN negligent conduct was 40% of the cause of her own injuries and damages.

In most U.S. jurisdictions, the $1,000,000 would be:

A. Unaffected and remain $1,000,000.
B. Reduced by 40% to $600,000.
C. Reduced to nominal damages.
D. Reduced to $0 under the doctrine of contributory negligence.
E. Reduced to $0 under the doctrine of assumption of risk.

33. Which of the following are NOT reasonably accurate statements of "but for" causation?

A. Plaintiff must establish that it is more probable than not, the negligent act was a cause-in-fact of the plaintiff's injury.
B. Evidence must be sufficient to allow the jury to infer that in the absence of the defendant's negligence, there was a medical probability that the plaintiff would have obtained a better result.
C. Both A and B are accurate statements.
D. Neither A nor B is an accurate statement.

34. **Jayne, a three-year-old girl, began experiencing intermittent moderate abdominal pain. Jayne's mother brought her to the emergency room at Valley Medical where a doctor ordered standard appropriate x-rays with two views of Jayne's abdomen. After reviewing the films, the doctor diagnosed Jayne with constipation, prescribed a laxative, and sent the child home with her mother. In fact, Jayne's bowel had been dangerously distended and air-filled. The next day, that gas escaped, reached her heart, and caused an air embolism. Jayne died.**

In an action against the hospital, Jayne's parents can PROBABLY establish:

A. Breach of EMTALA screening duty
B. Breach of EMTALA stabilization duty
C. Both A and B
D. Neither A nor B

35. **Assume all the facts from the previous question. But now also assume that the parents have a qualified expert witness who will testify that the applicable standard of care is to have a radiologist view an x-ray prior to discharging a patient. As described above, Consistent with this hospital's policies, Jayne's x-rays were reviewed by only the attending ED physician. The parents' expert opines that a radiologist (unlike an ED physician) would have recognized the severity of Jayne's condition. That would have led to remedial steps such as monitoring and transfer for surgery.**

With this new evidence, in an action against the hospital, Jayne's parents can PROBABLY establish:

A. Breach of EMTALA screening duty
B. Breach of EMTALA stabilization duty
C. Both A and B
D. Neither A nor B

36. Patient had been in remission for ovarian cancer. The patient's cancer recurred, but it was negligently not diagnosed until seven months later than it should have been. The patient died and was survived by three children and a husband. Damages were estimated at $2,500,000. Expert testimony showed that even with timely diagnosis, and even with diligent treatment, only about 10% of recurrent ovarian cancer patients achieve a second remission.

Under traditional BUT FOR causation, plaintiff can recover:

A. $0
B. $250,000
C. $2,500,000
D. None of the above

37. Same facts as the previous question. Under LOST CHANCE causation, plaintiff might probably recover:

A. $0
B. $250,000
C. $2,500,000
D. None of the above

38. Disability under the ADA includes vision and hearing impairments. Does it ALSO probably include THESE independent living and self-care impairments?

A. Partial missing limbs
B. Completely missing limbs
C. Mobility impairment requiring a wheelchair
D. Muscular dystrophy
E. All the above

39. Disability under the ADA includes vision and hearing impairments. Does it ALSO probably include THESE disease process impairments?

A. HIV
B. Diabetes
C. Cancer
D. All the above

40. The Physicians Advocacy Institute published a report showing that 74% of physicians are employed by hospitals and health systems. This is way up from just 25% in 2012. This CHANGE will have a material impact on hospital and health system:

A. Vicarious liability
B. Direct liability
C. Both A and B
D. Neither A nor B

---------- END OF MULTIPLE CHOICE SECTION ----------

Essay Question 1 of 4

- This question is worth 10 points.
- Limit your response to 400 words. This is only a limit, not a target or suggested length.
- Recommended time is 15 minutes.

Francine, who used a wheelchair, frequently used the defendant's medical transportation services, MEDVAN. On April 14, 2025, Francine was exiting a van in her wheelchair when she fell forward onto her face. The wheelchair fell onto her legs. Video of the incident captured Francine and a bystander stating that the ramp was not lowered properly, and plaintiff saying that she might have hurt her lower extremities but was not certain due to her paralysis. Later in July 2025, Francine visited the doctor and discovered that she had been injured in the fall. On April 26, 2026, Francine filed a negligence suit.

While this jurisdiction has a three-year statute of repose and a one-year statute of limitations, Francine argues that she "could not have discovered her injury prior to her visit to the doctor…because she has no feeling in her lower extremities." On the other hand, video footage of the accident and the MEDVAN driver's contemporaneous report show that Francine fell directly onto her face when exiting the van. It also shows her wheelchair fell on top of her, her "leg was bent back all the way in," she was immediately concerned about something in her lower body being "broke," and she accused the MEDVAN driver of "not putting the lift all the way to the ground."

Assess whether Francine's lawsuit against MEDVAN is time barred.

Do NOT assess the merits of the lawsuit.

Essay Question 2 of 4

- This question is worth 10 points.
- Limit your response to 400 words. This is only a limit, not a target or suggested length.
- Recommended time is 15 minutes.

Peter patient presented at the emergency room in May 2020 for pain in his left flank and back. Defendant doctor ordered a CT scan without contrast. When the doctor reviewed the scan, he saw a kidney stone, which aligned with the symptoms that Peter was experiencing. Peter passed the kidney stone the next day and received no further treatment at the time.

But apart from the kidney stone, the radiology report for Peter's CT scan also noted two masses on his kidney and recommended a CT with contrast as a follow up. While the radiology report was available for the ED doctor to read by clicking a pop up or by looking at the chart after the report was added, the ED doctor testified that he did not review the report at that time.

Five years later, in May 2025, Peter arrived at the emergency room again with similar pain. A CT scan revealed two masses on his kidney which had "grown significantly since May 2020." At this point Peter learned of the 2020 radiology report for the first time. Peter was ultimately diagnosed with cancer.

Peter and his wife filed this healthcare liability suit against the initial treating doctor, the medical center, and the doctor's physician group in April 2026. After the suit was filed, Peter died, and his wife continued the action as administrator of his estate. This jurisdiction has a one-year statute of limitations and a three-year statute of repose.

Assess whether the court should grant defendants' motion to dismiss / motion for summary judgment on the grounds that Peter's claims are time barred.

Do NOT assess the merits of the lawsuit.

Essay Question 3 of 4

- This question is worth 10 points.
- Limit your response to 400 words. This is only a limit, not a target or suggested length.
- Recommended time is 15 minutes.

In April 2026, a Florida grand jury indicted Dr. Thomas Shaknovsky for second-degree manslaughter. Dr. Shaknovsky removed a patient's liver instead of his spleen during surgery in August 2024. The patient, Bill Bryan, died on the operating table from catastrophic blood loss.

In addition to the criminal charges, Dr. Shaknovsky had been licensed in multiple states. Alabama, Florida, and New York all suspended his licenses in those states. Among other things, these boards determined that Shaknovsky had engaged in prior similar conduct. And such errors are extraordinarily uncommon and egregious. For example, in 2023, he removed part of a patient's pancreas during routine surgery, in which the patient was supposed to have their left adrenal gland removed. That same year, Shaknovsky erroneously removed part of a patient's intestine during another procedure causing gastrointestinal perforation. Regarding these and other similar incidents, Shaknovsky settled numerous medical malpractice claims between 2020 and 2024.

Shaknovsky performed all his surgeries at Ascension Sacred Heart Emerald Coast (ASHEC) in Miramar Beach, Florida.[1] In April 2026, a spokesperson for ASHEC said safety is the hospital's "top priority" and that "Dr. Shaknovsky was never a Sacred Heart Emerald Coast employee and has not practiced at any of our facilities since August 2024."

You are counsel for the family of ANOTHER patient who died during surgery by Dr. Shaknovsky at Ascension Sacred Heart Emerald Coast in June 2024.

Identify and assess claims that you might assert against ASHEC.

[1] Apparently, several other hospitals where Dr. Shaknovsky also used to perform surgery revoked his privileges in 2021 and 2022.

Essay Question 4 of 4

- This question is worth 10 points.
- Limit your response to 1000 words. This is only a limit, not a target or suggested length.
- Recommended time is 55 minutes.

Early one morning in January 2026, Mother arrived at Mama Maternity Hospital experiencing contractions. The hospital admitted Mother, and by 9:40 a.m., Mother entered the second stage of labor and began pushing. Thirty minutes later, when Child's head was near crowning, MMH employed obstetrician, Dr. Burther, arrived to assist with the delivery.

Dr. Burther noted in Mother's medical record that "crowning was slow and arduous and lasted approximately 1 hour." So, Dr. Burther "prepared for the potential of a shoulder dystocia" by having another medical professional ready to assist if needed. Dr. Burther did not disclose the potential for a shoulder dystocia to Mother or offer alternative delivery options, such as a cesarean section.[2]

When Child's head, but not his shoulders, delivered, Dr. Burther "called" a shoulder dystocia and alerted the nursing station of a need for assistance. Dr. Burther attempted two maneuvers to dislodge Child's shoulder, but they were unsuccessful. Dr. Burther then applied traction to Child's head, noting in the medical record that "downward pressure on the fetal head was placed to dislodge the anterior shoulder. This was successful. The right, anterior arm delivered first. Shoulder dystocia lasted 60 seconds." The medical record also described the pressure applied to Child's head as "downward steady traction." One hour elapsed between Dr. Burther's arrival and Child's birth.

Upon delivery, it was discovered that Child had suffered a brachial plexus injury to the right side of his body.[3] Child has since undergone several surgical procedures for this injury. Child's injury is permanent and severe, involving damage to the roots of all five of child's brachial plexus nerves. Two nerve roots ruptured, meaning they were stretched until they broke, and one or two nerve roots avulsed, meaning they detached completely from Child's spinal cord.[4]

In addition to Child's injuries, Mother obtained an infection that extended her hospital stay by 10 days.[5] Through civil discovery, Child's parents learned that Mother was one of over 2100 patients exposed to HIV, hepatitis B, or hepatitis C because of poor drug storage methods, an outdated infection control plan, and unacceptable sterilization practices at MMH.

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[2] Cesarean birth is the delivery of a baby through surgical incisions made in the belly and uterus. Dystocia is one of the most common reasons for a C-section.

[3] Brachial plexus birth injury is a damage to the nerves controlling the arm and hand, caused by stretching or tearing during a difficult delivery. Symptoms include a limp arm, lack of muscle control, or numbness.

[4] This results in weakness or not being able to use certain muscles in the hand, arm or shoulder; loss of feeling in the arm, including the shoulder and hand; and intense pain.

[5] Hospital acquired infections are infections that patients contract while receiving treatment for other conditions in healthcare settings. Affecting roughly 1 in 25 patients daily, these infections often stem from bacteria (including antibiotic-resistant strains), viruses, or fungi introduced through invasive devices or surgical procedures.

In connection with their medical malpractice lawsuit, Child's parents engaged several experts. First, they engaged obstetrician Dr. Betta to testify about standards of care, violation of those standards of care, and causation. In an affidavit, Dr. Betta opined that the standard of care required Dr. Burther, after recognizing the potential for a shoulder dystocia, to "advise the patient of the risks of vaginal delivery and the delivery options in light of the progress of labor." Dr. Betta also opined that the standard of care required Dr. Burther to avoid applying excessive or lateral downward traction to Child's head in response to the shoulder dystocia. She opined that Dr. Burther violated these standards of care and that those violations caused Child's brachial plexus injury.

In addition to Dr. Betta, parents engaged Dr. Kowsa who has engaged in substantial research and practice as a pediatric orthopedic surgeon involving children with brachial plexus injuries. Dr. Kowsa opines that but for Dr. Burther applying excessive or lateral downward traction to Child's head, Child probably would not have his brachial plexus injury. So, Child probably would not have his brachial plexus injury had Dr. Burther either done a cesarean or used appropriate traction with a vaginal delivery. Dr. Kowsa opines that:

> Playing bimanual sports and other childhood activities, such as climbing, will be negated by his limb impairment. Adult activities that require the use of both arms, such as playing musical instruments and household chores, will be severely hampered. This limb impairment negates the possibility of bimanual employment that requires considerable use of his right upper extremity.

Unfortunately, defendants have already filed a motion *in limine* to exclude Dr. Kowsa's testimony because she is not an obstetrician like Dr. Burther. This jurisdiction is among the still significant minority that follows a "same or similar community" standard. Defendants also filed a motion for summary judgment because Mother signed a waiver form on admission surrendering her right to hold MMH liable if something went wrong. In addition to these two motions, defendants have filed a second motion *in limine* to exclude Dr. Betta's testimony.

In their deposition, Dr. Betta stated that she had spent many years working at a hospital in St. Lous, Missouri. When questioned about her familiarity with the hospital where Child was treated, Dr. Betta admitted to knowing very little. She did not know the population of the city, did not know how many beds were in the hospital (and guessed very inaccurately), and did not know what services the hospital offered. She stated that she had never spoken to anyone who worked at the hospital or visited the hospital. But Dr. Betta argued that that she demonstrated relative experience "of a professional at a particular juncture within the overall health care delivery system."

During her deposition, Dr. Betta was asked whether she was "familiar with hospitals similar to Mama Maternity Hospital?" Dr. Betta responded by stating simply, "Yes." However, this claim was unsupported by her own testimony and was merely a bare assertion of familiarity. Dr. Betta did not explain how the hospital she worked at in St. Louis, Missouri at the beginning of her career was like MMH. Likewise, she failed to describe the equipment or staff available in MMH or to demonstrate that the resources available at MMH were like those available at the hospital she claimed was similar.

Additionally, any of Dr. Betta's testimony describing her knowledge of MMH demonstrated a

lack thereof and rendered any comparison she intended to make inefficacious. It is unclear how Dr. Betta could have determined that a community or hospital she worked in was like MMH, when she did not demonstrate that he had a benchmark knowledge for either comparison. For example, when asked about the number of beds in MMH, Dr. Betta speculated that it was "in the range of a couple hundred, maybe, or less than that." This speculation was incorrect as there were approximately 755 beds in MMH.

Dr. Betta and Dr. Kowsa are the only two experts that Child's parents identified by the deadline for disclosing experts. Defendants have timely disclosed their own experts who will, expectedly, testify that Dr. Burther delivered Child appropriately.

Identify and assess viable claims that Mother and Child can assert against any potential defendant.