

PHOENIX TRAINING GROUP

LEGAL TORTS

CIVIL WRONGS COMMITTED AGAINST A PERSON OR PROPERTY

INTENTIONAL TORTS REQUIRE PROOF THAT THE DEFENDANT INTENDED THE ACT THAT RESULTED IN THE TORT.

- **Assault** - the intent to put a person in reasonable apprehension that he or she will be harmed and that there is the immediate capacity to carry out the act.

Example - assault could be found if a healthcare or behavioral health worker threatened to slap a client with a hand raised, indicating the capability to carry out the threat.

- **Battery** - nonconsensual contact with another person that is harmful or offensive.

Example - if a procedure is performed without a client's consent, the tort is battery; if it is performed without informed consent, the tort is negligence.

- **False imprisonment** - restrictions placed on a person's right to free movement without his or her consent.

Example - a competent client refuses medical care but is restrained and receives the medical care in spite of the client's refusal or lack of consent.

- **Invasion of privacy** - the intentional violation of a client's right to have medical information remain confidential.

Example - a healthcare worker gives out blood alcohol information to a family member of an adult client.

- **Intentional infliction of mental distress** - an intentional act that causes emotional harm.

Example - a healthcare worker teases a paranoid client.

UNINTENTIONAL TORTS DO NOT REQUIRE INTENT; RATHER, A DEPARTURE FROM THE STANDARDS OF CARE MUST BE PROVED

- **Negligence** - omission or commission of an act that a reasonable, prudent person would or would not do under similar circumstances.

Example - medical malpractice.

The area of non-intentional torts is the most common basis for litigation against members of the health care profession.

Most lawsuits involving healthcare allege that the workers provided “negligent” care that fell below accepted standards of healthcare or behavioral health.

FOUR ELEMENTS IN NEGLIGENCE:

- A legal duty of care was owed – healthcare workers must act in client’s best interest.
- A breach of duty – care falls below the accepted standard of care.
- Injury occurs.
- Proximate cause/causal connection. There is a reasonably close connection between the healthcare worker’s conduct, and the client injury.