

Legal Concepts Related to Credentialing, Learning Objectives

Corporate Structure

- Describe key aspects of autonomy
- Describe ways to demonstrate autonomy
- List the fiduciary duties
- Describe key steps in addressing conflicts of interest
- List three ways directors can vote

Tax Exemption

- Explain why section 501(c)(3) is not appropriate for certification programs
- Identify five good governance practices

Antitrust

- Describe two antitrust claims applicable to certification programs
- Explain difference in *per se* vs. Rule of Reason analysis

Tort Liability

- List the key elements of a tort claim
- List case law applicable to certification and standards setting

Due Process

- List the key elements of procedure due process
- Describe different levels of due process review
- Identify three grounds for certificant discipline

Intellectual Property

- Describe how a certification board can protect copyright rights
- List the three elements of copyright notice
- Explain trademark rights in common law vs. registration

Contracts

- Explain the meaning of a warranty under contract law
- Explain indemnification
- Outline some contract termination options

Americans with Disabilities Act

- Describe key features of the ADA
- List some accommodations that may be provided
- Describe the rights of a program to respond to requests for accommodations

Confidentiality

- Describe a legally defensible confidentiality policy
- Discuss steps to take in response to a subpoena for records

Insurance

- Explain some key features of D&O policy
- Explain "duty to defend" policies