

Ethical and Legal Responsibilities

Introduction

- ▶ Must comply with state and federal regulations
- ▶ Patients have legal rights that govern:
 - ▶ Patient care
 - ▶ Maintenance and retention of medical records
 - ▶ Transfer of medical records
- ▶ Patients also have rights to:
 - ▶ Decide their care
 - ▶ Accept/refuse treatment
 - ▶ Create advance directives

Ethical Behavior

- ▶ Ethics = System of principles a society develops to guide decisions about what is right and wrong
- ▶ Ethical behavior = How an organization conforms to its moral and professional principles, ensuring that all stakeholders conform to these principles (Baldrige Glossary)
- ▶ Ethical dilemma = Situation in which there is no clear answer
- ▶ Ethical consideration in medicine stems back to Hippocrates
 - ▶ Hippocratic Oath - Taken by physicians, contains issues and ideas still being debated today

Code of Ethics and Personal Values

- ▶ Code of Ethics = Purpose is to achieve high levels of ethical consciousness, decision making, and practice by members of the profession
- ▶ BRPT's Standards of Conduct
- ▶ Values = Beliefs and ideals that provide foundation for making decisions and guiding behavior

Ethics and the Law

- ▶ Ethics provides general principles on which laws are based
- ▶ American legal system based on belief that everyone must take responsibility for his or her actions
- ▶ Never undermine a patient's trust in the care being given by discussing problems with the healthcare system

Patient Bill of Rights

- ▶ Most states have these
- ▶ Ensures patients' basic rights to:
 - ▶ Freedom of expression
 - ▶ Decision and action
 - ▶ Personal dignity
 - ▶ Preservation of human rights and relationships
 - ▶ Responsibility of care from healthcare providers/facilities
- ▶ Each sleep center should post the Patient Bill of Rights in their facility and on their website
 - ▶ Should also print and include in patient orientation packet
- ▶ Penalties and fines if not followed

Guiding Principles of Health Care Ethics

- ▶ Eight guiding principles:
 - ▶ Preserve life
 - ▶ Do good
 - ▶ Respect autonomy
 - ▶ Uphold justice
 - ▶ Be honest
 - ▶ Be discreet
 - ▶ Keep promises
 - ▶ Do no harm

Preserve Life

- ▶ Hippocratic Oath states “I will neither give a deadly drug to anybody if asked for it, nor will I make a suggestion to this effect.”
- ▶ Ethical dilemmas faced when preserving life:
 - ▶ Euthanasia
 - ▶ Organ transplants
 - ▶ Stem-cell research
 - ▶ Rationing care and resources

Do Good

- ▶ Working in best interest of patients requires the following:
 - ▶ Listening carefully
 - ▶ Making an effort to understand
 - ▶ Carefully assessing their needs
 - ▶ Being aware of their ethical beliefs
 - ▶ Explaining what you are doing
 - ▶ Providing appropriate instruction
 - ▶ Allowing patient to ask questions
 - ▶ Answering all patient questions

Respect Autonomy

- ▶ Autonomy = Self-determination
 - ▶ Patients have right to make decisions about health care, including whether or not they choose to receive treatment, who will treat them, and what treatments they will receive
- ▶ Informed consent = Procedure has been explained, including possible consequences, and patient gives permission

Respect Autonomy

- ▶ Two types of informed consent:
 - ▶ Implied = Indicated by patient actions (i.e., showing up for an appointment)
 - ▶ Expressed = Given in writing and required for many procedures
- ▶ Informed consent advises patient on:
 - ▶ Procedure or treatment plan
 - ▶ Possible risks
 - ▶ Alternative procedures with benefits and risks
 - ▶ Consequences if procedure is not performed

Respect Autonomy

- ▶ Battery = Touching a patient or performing a procedure without his/her permission
- ▶ Assault = If patient feels threatened about receiving unwanted treatment, even if not performed
- ▶ Consent forms can be legally signed by mentally competent adults or emancipated minors
- ▶ False imprisonment = Patients held against their will, unless mentally incompetent or a danger to themselves

Respect Autonomy

- ▶ Advance directives = Written instructions that outline individuals' desires regarding care should they become unable, as the result of illness or injury, to make these decisions
- ▶ 1991 - Patient Self-Determination Act = Law that requires hospitals, nursing homes, rehabilitation facilities, and hospices to have written policies regarding advance directives

Uphold Justice

▶ Justice = Fairness

- ▶ Requires that all patients, regardless of race, economic status, religion, nationality, or personal characteristics, receive same level of care and consideration
- ▶ Use of authority or power to uphold what is right or lawful

▶ Abuse

- ▶ Patient confidentiality does not exist in cases of suspected abuse - be aware of the signs
- ▶ Report immediately to supervisor

Uphold Justice

- ▶ Laws that protect
 - ▶ Occupational Safety and Health Act (OSHA)
 - ▶ Requires employers to accept responsibility for safety and health of their employees
 - ▶ Controlled Substances Act
 - ▶ Regulated by US Drug Enforcement Administration to help prevent misuse of addictive substances

Be Honest

- ▶ Be honest with patients, coworkers and supervisors
- ▶ Fraud = form of dishonesty that involves cheating or trickery

Be Discreet

- ▶ Being discreet means being careful about what you say, preserving confidences, and respecting privacy
- ▶ Patient information cannot be released to anyone without patient's written approval
 - ▶ Only exceptions are disclosures and reports allowed or required by law: Births, deaths, certain infectious and communicable diseases, abuse, and life-threatening injuries caused by violence

Be Discreet

- ▶ 1996 - Health Insurance Portability and Accountability Act (HIPAA)
 - ▶ Promotes national standards to protect patient privacy and personal health information
- ▶ Defamation of character = Harming reputation of another
 - ▶ Libel = Written form of defamation of character
 - ▶ Slander = Spoken form of defamation of character

Keep Promises

- ▶ Contracts = Formalized promises that are enforceable by law
 - ▶ Failure to fulfill your part of the agreement = Breach of contract
 - ▶ Must contain three components to be enforceable:
 - ▶ Offer - Initiates contract
 - ▶ Acceptance - Both parties agree to enter contract
 - ▶ Consideration - Something of value must be exchanged
 - ▶ Both parties must be competent to be enforceable

Keep Promises

- ▶ Most contracts between health care providers and patients are implied contracts, where the actions of the parties creates the contract
- ▶ Express contract created when parties discuss and agree on specific terms and conditions
 - ▶ Can be written or oral
- ▶ As sleep tech, you act as an agent for the sleep physician since you represent him/her
 - ▶ Physician can be held liable for your actions as a tech
 - ▶ This concept known as respondeat superior, which means “let the master answer.”

Do No Harm

- ▶ Must work within the scope of practice, performing only duties you have been trained to do
- ▶ Negligence = Failure to meet the standard of care that can be reasonably expected from a person with certain training or experience
- ▶ Malpractice = Professional negligence
- ▶ Good Samaritan laws protect individuals from liability when they volunteer to give care in emergency situations

Sources of Help

- ▶ American Medical Association Council on Ethical and Judicial Affairs
 - ▶ Reviews situations and publishes their opinions about current issues to provide guidelines for physicians
- ▶ Ethics committees review individual cases and make recommendations
- ▶ Conferences between health care team members, patient, and family members
- ▶ Risk management department

Health Insurance Portability and Accountability Act (HIPAA)

- ▶ One of the components of the HIPAA law established “Standards for Privacy of Individually Identifiable Health Information” (“privacy rule”)
- ▶ Applies to all health care providers, health plans, and health care clearinghouses
- ▶ Basic goal is to protect all “individually identifiable health information” (protected health information or “PHI”) in any format

Centers for Medicare and Medicaid Services (CMS)

- ▶ Medicare was established in 1965 and is part of the Social Security Administration
 - ▶ Provides health insurance for people 65 and older (also some disabled people) that qualify for social security
 - ▶ Administered by the Centers for Medicare and Medicaid Services (CMS) and consists of four parts:
 - ▶ Part A is for catastrophic care, inpatient, etc. - hospital insurance
 - ▶ Part B is optional, and the patient must pay 20% of all charges - covers physicians fees, diagnostic testing, outpatient services, etc. - medical insurance - outpatient procedures
 - ▶ Part C - Medicare Advantage - is available in some areas - patients with A&B coverage can enroll in a managed care plan
 - ▶ Part D is the prescription drug benefit approved in 2003

Centers for Medicare and Medicaid Services (CMS)

- ▶ Medicare is NOT FREE - you pay for it in your paychecks now, and also pay premiums, deductibles, and coinsurance later (Medigap policies)
 - ▶ Deductible = Amount patient pays each year before plan pays costs
 - ▶ Coinsurance = Amount patient pays for services (20%)
 - ▶ Medigap policies = Plans may cover deductibles and the 20% not covered by Medicare
 - ▶ Charge premiums in addition to Medicare
- ▶ Medicaid is a state-administered program for people with limited income or disabled - partly funded by the federal government

Patient Protection and Affordable Care Act (ACA)

- ▶ Federal law passed in 2010
- ▶ Purposes
 - ▶ Provide easier access to health insurance
 - ▶ Make insurance more affordable
- ▶ Examples of contents:
 - ▶ Insurers cannot deny individuals with preexisting conditions
 - ▶ Small businesses receive tax credits for providing health insurance to employees
 - ▶ Everyone must buy health insurance
 - ▶ Insurers cannot cancel coverage when person becomes ill