



Ethics and Law in Nursing Management Chapter 16

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- Branch of philosophy that examines ideal human behavior
- **Ethical dilemma:** conflict between two or more fundamental values
 - Ex: Parkinson's patient who wants to be independent. As a nurse you want to keep the pt safe, but yet they have a right to make choices.
- Ethical behavior differ depending on the era, culture, or setting, and the individuals involved.

Ethics

Personal Values

- **Personal values:** underlying principles of ethical behavior
- **Values:** personal beliefs about the truth, thoughts, and behaviors of a person
- Ethics and values are intertwined to determine behavior

- How do you make an ethical decision?
- Nurses need to develop a framework for ethical decision making
 - LPNs face ethical dilemmas every day
 - Nurses are accountable for decisions made
- | **Intuition:** a feeling that you should or should not do something. It is not an acceptable way for a novice nurse to make an ethical decision.

Understanding Ethics

Ethical Principles

- **Autonomy:** the right to choose one's own actions. Ex: pt has the right to refuse meds
- **Beneficence:** do what is good for the patient
 - Ex: Giving a pt pain medication
- **Nonmaleficence:** do no harm to the patient
 - Ex: Allowing an injured staff member stay home

- **Justice:** being just, impartial, and fair.
 - Ex: spending equal amounts of time with all pts.
- **Fidelity:** faithfulness to promises or agreements
 - Ex: keep your promises to pts.
- **Veracity:** being truthful and honest
 - Ex: answering questions fully; not withholding info



- **Genetics** – there is technology available to let us know what diseases we are prone to developing.
- **Stem-Cell Research** – stem-cells can help treat certain condition. Ethical discussions on how to obtain the cells.
- **Bioethics** – we have the ability to genetically modify cells.
 - cryogenics
 - in vitro fertilization

Ethical Issues



Ethical Theories

- ▶ Deontology
 - Represents one's duty to others; do no harm; human dignity
- ▶ Utilitarianism
 - Greatest benefit for greatest number of people
 - Values the needs of group over individual



Legal Issues

LPNs are responsible for providing nursing care based on established standards

To neglect to do so is a criminal act

Follow nurse practice act in the state where you practice



- Sets forth the legal requirements in the state where the LVN practices
- Act does the following:
 - Establishes and enforces rules for licensure
 - Develops and enforces rules and regulations of nursing practice in the state: the rules supplement the laws
 - Enforces the laws that are determined, written, and changed by the state legislature

Nurse Practice Act



- Responsible for nursing practice, licensure, and education for the state
- Can only enforce the rules and regulations that are in the nurse practice act
- Responsible for disciplinary action, such as withdrawing licensure from a nurse or requiring a substance abuse program
- Nurses must know and follow the dictates of the nurse practice act in their state

State Board of Nursing



- Nurse Practice Act (NPA) does not provide a list of skills and knowledge an LVN must have to practice
- NPA dictates that the nurse has a legal duty to carry orders given by a health care provider.
- If an order seems incorrect, clarify the order with the HCP.

Nurse Practice Act (Continued)



- **Statutory law**

- Enacted laws: passed by a formal law-making body like legislature
- Regulatory laws: made by regulatory agencies, like the state board of nursing

- **Common law**

- Based on the common usage, custom, and judicial decisions or court rulings of previous cases
- Common law is used to sway judges or juries
- Often determined by expert witnesses who offer testimony on what they would do in the same situation.

Understanding the Law



Institutional Policies and Procedures

- ▶ Do not have same force as law
- ▶ Provide guidance to nurse how a situation should be managed and proper course of actions
- ▶ Organizations should maintain up to date policies and procedures that reflect current practice
- ▶ The Nurse Practice Act take precedent over policies and procedures!

Understanding the Law

Criminal law

- Laws that affect public welfare
- Crimes are punishable by imprisonment, probation, loss of license, or fines
- Any violation of a law that governs nursing practice is a crime
- Ex: An LVN who poses as an RN.

Civil law

- Laws between organizations and/or individuals
- Tort: violation of a civil law in which another has been wronged
- Court determines a plan to correct the wrong, which is generally monetary payment for damages
- Nurses who break the law may also find themselves involved in criminal & civil suits

Legal Issues Specific to Nursing

- ▶ Standard of Care
 - Level of care that would be rendered by a comparable nurse in similar circumstance
- ▶ Duty to seek medical care for the patient³
 - Legal duty of nurse to ensure every patient receives safe and competent care
 - Act as a patient advocate to do everything in power to obtain appropriate medical care for patients
 - Example: postop patient with changing vital signs



Good Samaritan Law

- ▶ Law developed to protect individuals who provide voluntary assistance and care or rescue in an emergency without expectation of payment
- ▶ Obtain consent if possible
- ▶ Work within your scope of practice



Legal Issues Specific to Nursing



Confidentiality

Bound by legal and ethical principles
Share information with care team only
Share information with right person in
right place



Permission to Treat

Patient must sign document
Everyone has right to refuse treatment
Do all you can do to promote
compliance while respecting personal
values

Legal Issues Specific to Nursing



Informed Consent

Patients must receive information and understand possible outcomes, alternative, consequences
HCP must consent regarding medical procedures



Defamation of character

Sharing information about another that is malicious and false
Written (libel)
Oral (slander)

- All health-care institutions must give patients an opportunity to determine what lifesaving or life-prolonging measures they want implemented
- Give a person an opportunity to make decisions regarding health care before need for treatment
- **Durable power of attorney:** someone who makes health-care decisions for a patient



Advance Directives

Negligence



- ▶ Nurses must meet standard of care in practice
- ▶ Occurs when nurse fails to perform according to the standard of care
- ▶ Requirements to establish negligence
- ▶ Standard of care exists
- ▶ Breach of standard of care occurred
- ▶ Damage or injury has resulted
- ▶ Damages were a consequence of nurses' negligence

Malpractice



- ▶ Negligence committed by professional person with a license

Fraud



- ▶ Deliberate deception for the purpose of personal gain

Assault



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- ▶ **Threat** of unlawful touching of another
- ▶ Willful attempt to harm someone

Battery

- ▶ Unlawful **touching** of another without consent, justification, or excuse



False Imprisonment



- ▶ Preventing movement or making a person stay in a place without obtaining consent
- ▶ Can be physical or non-physical means
- ▶ Threaten to sedate or take away a patient's clothing so they can't leave
- ▶ Every patient has the right to leave a facility at any time, even against medical advice

Guidelines for Preventing a Lawsuit



Knowledge

- Know patient needs and wants
- Know organizational policies and procedures
- Know standards of care



Record and report

- Record the truth
- Record in objective record of events
- Report any patient or family problems



Question, question, question

- Ask questions so that you can determine proper approaches to resolving conflicts