

Legal and Ethical Issues in Nursing

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Abstract

Nurses have more responsibility (people, society, practice, co-workers & profession) Increased number of specialization for nurse to practice Advanced technology in current practice Consumer awareness is increased. Nurses must knowledge about Types of law: Negligence and malpractice false imprisonment, Assault and Battery Fraud. Nurses are protecting patient right. Roll of nurse in MLC -Obtain complete history from patient or significant other (s). Do not give any statement about patient's condition to police, magistrate or media. Only a doctor has to give information when a patient has to be discharged, inform the police officer/constable on duty in hospital and/or the CMO. After clearance from them, then only he/she can be discharged. The nurse follows all legal ethical issues. By applying the knowledge of legal responsibilities among nurses in health care system helps us in free from the medico legal problems also improve the standard of care and provide information to others in order find the offender by the other agencies.

Key words: Legal & Ethical Issue; Negligence; Rights of the Consumers; Legal Framework For Nursing Practice; Nurse Role in a Medico - Legal Case.

Introduction

The expanded role of the nurse required or higher level education Knowledge, skill and decision making capabilities Knowledge of legal aspects in nursing is absolutely essential for each nurse to safeguard self and clients from legal rights in the health care, therefore that a nurse should know her legal rights. Professional boundaries and consequences of non-conformity.

Importance of Law to the Nurse

Nurses have more responsibility (people, society,

practice, co-workers & profession) Increased number of specialization for nurse to practice Advanced technology in current practice Consumer awareness is increased.

Definition

Standards of human conduct established and enforced by the authority of an organized society through its government law Creighton Law is a rule or standard of human conduct established and enforced by authority, society or custom.

Types of Law

Negligence and malpractice false imprisonment Restraints or seclusion Invasion of privacy Defamations CRIME Assault and Battery Fraud.

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Negligence and Malpractice

Is the failure of an individual to provide care that a reasonable person would ordinarily in a similar circumstance. MALPRACTICE is refers to the behaviors of a professional persons wrongful contact, improper discharge of professional duties or failure to meet the standards of acceptable care which results in harm to another person.

False Imprisonment

An individual who is unjustifiably detained, or confined against his will and without a legal warrant for his detention, may bring a charge of false imprisonment against the individual or the agency that has detained him. Most instances in which nurses have been involved in court proceedings on charges of false imprisonment have been in relation to mental patients. United States and Canadian law does provide for the detention without a warrant of a person who is mentally disturbed and who may hurt himself or others, or destroy property, and also for the confinement of persons with communicable diseases, which present a danger to society.

Restraints or Seclusion

“Restraint “ means the use of an approved mechanical device, physical intervention or hands-on hold, or pharmacologic agent to involuntarily prevent an individual receiving services from moving his body to engage in a behavior that places him or others at risk. This term includes restraints used for behavioral, medical, or protective purposes. “ Seclusion “ means the involuntary placement of an individual receiving services alone, in a locked room or secured area from which he is physically prevented from leaving.

Invasion of Privacy

Privacy law refers to the laws which deal with the regulation of personal information about individuals which can be collected by governments and other public as well as private organizations and its storage and use.

Defamations

Defamation – also called calumny , vilification , traducement , slander (for transitory statements), and libel (for written, broadcast, or otherwise published words) – is the communication of a statement that makes a claim, expressly stated or implied to be factual, that may give an individual, business, product, group, government, or nation a negative

image. It is usually a requirement that this claim is false and that the publication is communicated to someone other than the person defamed (the claimant).

Assault and Battery

Is the intentional and unlawful offer to touch a person in an offensive insulting or physically intimidating manner BATTERY is the touching of another person without the person’s consent.

Fraud

In Criminal law, a fraud is an intentional deception made for personal gain or to damage another individual; the related adjective is fraudulent. The specific legal definition varies by legal jurisdiction. Fraud is a crime, and also a civil law violation. Defrauding people or entities of money or valuables is a common purpose of fraud, but there have also been fraudulent “discoveries”, e.g. in science, to gain prestige rather than immediate monetary gain.

Rights of the Consumers

Right to safety Right to be information on care, rules and regulation of the hospital, informed consent, educational information Right to refuse and choose treatment Right to have privacy Right to expect better patient service Right to maintain confidentiality in treatment Right to avoid participation in research projects Right to have a continuity of care Right to have clarification of bill Dying declaration

Legal Rights of Nurse

The right to add a title or description to ones name. right to refuse to treat a patient except in a emergency situation The right to find dignity in self-expression and self-enhancement through the use of our special abilities and educational background The right to recognition for our contribution through the provision of an environment for its practice, and proper, professional economic rewards The right to a work environment which will minimize physical and emotional stress and health risks The right to control what is professional practice within the limits of the law The right to set standards for excellence in nursing The right to participate in policy making affecting nursing The right to social and political action on behalf of nursing and health care The right to see for fees

Common Acts of Negligence

Overlooked sponges Burns Falls Wrong Medicine, Wrong Dosage, Wrong Patient, Wrong Concentration Defects in Apparatus or Supplies Abandonment Loss of or Damage to a Patient's Property Other Negligent Acts Creighton discusses the administration of blood by nurses, failure to communicate important information, failure to exercise reasonable judgment, errors due to family assistance in patient care, infections, cardiac arrest, and pronouncing the patient dead.

Legal Framework for Nursing Practice – Part I (Providers)

Accreditation / Approval of Basic Nursing Education Programs National Qualifying Examinations Licensing / Registration Disciplinary Bodies Mandatory Continuing Education Certification Assessment of Clinical Competence

Legal Framework for Nursing Practice – Part II (Standard of Care)

The collection of data about the health status of the client/patient is systematic and continuous. The data are accessible, communicated, and recorded Standard II: Nursing diagnoses are derived from the health status data Standard III: The plan of nursing care includes goals derived from the nursing diagnoses Standard IV: The plan of nursing care includes priorities and the prescribed nursing approaches or measures to achieve the goals derived from the diagnoses.

Legal Framework for Nursing Practice – Part III

The American nurses association and several of the provincial nursing associations in Canada have made malpractice insurance available to their members. Code of ethics State council / Govt. enacted laws Associations / Disciplinary bodies

Legal Implications in Selected Situations - MLC

All the cases coming to the casualty shall be entered in the concerned casualty register Cases of suspected accident, poisoning, burns, comatose or brought dead persons should invariably be made a medico-legal case in a case where the condition is not serious and the CMO does not suspect any foul play the fact should be recorded in the casualty register with reasons under (patient's) signature.

However, detailed findings and treatment administered should always be recorded in the casualty register. All MLC cases should be

entertained after they are either registered with the police post of the hospital or after the police is informed. All medico-legal papers must be stamped MLC. In emergency, first aid treatment should promptly be given before documentation or other medico-legal formalities.

Two copies of the MLC report shall be prepared (three in cases of suspected poisoning). Original copy will be handed over to the concerned police officer and duplicate will be kept in safe custody. CMO who examines the case first is responsible for completion and handing over the MLC report within 48 hours to the police. Preliminary or interim report should not be given to anyone. All the columns in the MLC form must be properly filled in and mention must be made about proper identification marks, consent, brief history general physical examination, specific comments like nature and age of injuries, type of weapon used or nature of poisoning suspected. Investigations advised and material preserved and handed over to the police. Before discharge of MLC cases the police must be informed about the same In case of death of an admitted MLC case, police is to be informed and the body handed over to them.

Nurses Role in a Medico - Legal Case

Obtain complete history from patient or significant other (s). Do not give any statement about patient's condition to police, magistrate or media. Only a doctor has to give information when a patient has to be discharged, inform the police officer/constable on duty in hospital and/or the CMO. After clearance from them, then only he/she can be discharged

If a MLC patient absconds inform the CMO immediately and the treating doctor No MLC patient can leave against medical advice Document the care given to patients timely, accurately and duly sign the nurses notes Records and all documents pertaining to patient should be handled with care, during the stay in the hospital. They must be kept safely and should be handed over to the authorized person as designated by the hospital authority Appropriate authority must be informed.

Parole

In parole patient has not been discharged from the hospital, but is away for two/three days or more. After submission of application by the relatives with approval of psychiatric the patient goes home. Sometimes the patient does not come back after parole. In that case the discharge procedure should be followed as discussed in section

Absconding

If the patient runs away from the ward/ hospital, it becomes a major responsibility of a nurse. To avoid this problem you must remember the following Check the number of patients admitted, with the actual number of patient present in the ward while handing over and taking over during change of shift Physician must inform the discharge of patient of chief medical officer (CMO) Record of absconded patient should be kept under lock and key.

In Case of Death of Patient

If death occurs in the hospital. Physician on duty must inform the CMO withhold the body for postmodern examination according to hospital policy Nurse must get within instruction from the medical officer for handling over the body to mortuary/ relative/ police officer with Maintain total privacy during the physical examination Be present during the physical examination of the female patient Expose the patient as little as possible Protect the right of the patient if she refuses to be examined by a male doctor Discourage repeated examination of breast, abdomen and perineal part of patient.

Must be kept in mind while giving medication to the patient, that is right medicine, to right patient, in right dose, through right route, and at right time. It is essential for you to keep the following points in mind while giving medication to the patient No verbal instruction from physician Limited number of days for administering antibiotics Strict monitoring of medicine expiridly one which may charge the blood chemistry Measuring the liquid medicines at eye level Error cause in medication by a nurse should be reported immediately Six rights to be followed. Employer (For employment, promotion, disposition) Court of law for various purposes Used for a job, and leave from work place Lawyers use it for divorce, compensation, liability Damages against negligent act Execution of will Medico legal reasons For use in consumer court Any other Record.

Personally sign all typed letters and entries on the case record Sing and write name in block capitals for clear identification of handwritten entries Date and time all case-record entries Give as much thought to case-record entries as to dictated letters Be thorough but concise Include periodic summaries in the records of patients in long-term contact with services Be mindful that the quality of the case record will be assumed to reflect the quality of the care received records.

Conclusion

Do document all unusual incidence. Do keep current year license. Do follow policies and procedures. Do protect patients from injury themselves. Do not accept money or gift from patient. Do not give advice that is contrary to doctors' orders or the nursing care plan. Do not witness a patients will. Do not work as a nurse without license

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