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Legal Responsibilities of Nursing Professionals- A Critical Review

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ABSTRACT:

The liability of the nursing workforce is described by civil, felonious law, and correctional aspects. The unproductive association between a certain geste and the performing adverse event and the course of the assessment of events as rationally foreseeable-- case by case and not only in statistical terms-- are rudiments to be taken into account. The question of nursing responsibility must be placed in the environment of the capability and autonomy of the nanny in the nanny-case alliance and in the environment of nursers' professional and educational biographies. The relationship between the croaker and nanny and medical sociable worker in the individual and restorative course are rudiments for reflection. One needs to be aware, alert, and continuously educate himself with legal aspects, and case studies to meet all responsibilities in the patient care profession.

KEYWORDS: Nurse liability, continuously educating, law, patients.

INTRODUCTION^[1-6]

In recent days of advanced World, every newspaper gives information about sensational cases being judged in our courts. In every business, the concern about lawsuits and legal liabilities is increasing in number. The healthcare profession occupies the first place compared to other professions, where legal issues comprise the major area of concern. Nurses convey concern about their responsibilities and whether they are vulnerable to lawsuits. A competent and professional nurse perceives legal issues and problems in daily practice and deals cautiously by utilizing the current knowledge of legal responsibilities before the questions of legal problems arise.

Nurses are expected to be efficient and should stand up to legitimate expectations in maintaining the required standards of care and limitations. If the nurse fails to do so, she/ he is liable for getting used in a court of law. Many laws are there to deal with liabilities against nurses and the nursing Profession. Since the past decade, the new legislation under the name of the Consumer Protection Act 1986 has the provision for action against deficient services. In the early 60's, nursing leaders were

trying to develop a unique professional identity, which was associated with the development of a theoretical base for nursing. The clinical role of the nurse was extended and expanded in a few specialist/specialized areas.

The knowledge of nurses related to legal responsibilities must be integral in relation to their expanding clinical roles. Nurses should be reasonable enough to plan systematically and apply knowledge of legal responsibilities in focusing on and providing care to the patients, which must be the aim of Modern Nursing. Abundant knowledge of legal responsibilities is very important for the implementation of high-quality of nursing practice in the World of the latest medical and technological advancements.

Malpractice, negligence, mandatory reporting, documentation, the acceptance of an assignment, and compliance with and adherence to other laws are the common issue related to patient care which eventually needs to be tackled with legal assistance.

It is vital to know the laws protecting the patient and the health care deliverer in this regard and also to be aware of the legal status of registered nurses. The most vulnerable group of nurses to meet legal issues frequently are those

working at intensive care units, emergency departments and at community field, where the patients' health decisions are taken by the patient himself or his spouse or guardian. Hence, nurses need more critical thinking and judgment skill to handle the situations which calls for more judicial knowledge.

Nurse Practice Act

Every state has a Nurse Practice Act, which states all the guidelines and laws for the nurses who are licensed to practice in the state. The act includes the limitations and training specifications of each nurse. This means that each nurse has been trained in a specific area of nursing; therefore, the nurse must practice in that area only. If a nurse is not trained to administer medication or treatment to a patient, the nurse is not permitted to do so. The nurse must consult with a physician or other nursing authority when a situation arises that the nurse is not certified to handle. Any wrongdoing is a violation of this act, and the nurse may lose his or her nursing license, as well as having a suit filed against him or her or the health care agency or hospital ⁴.

Patient Advocate

A nurse has the legal responsibility to be the advocate for the patient in all healthcare instances, including emergencies. The nurse will be the liaison between the physician and the patient. The nurse has the legal duty to monitor the patient and watch for any abnormalities or complications that may occur. If any occur, the nurse must access a physician to provide immediate care for the patient ⁵.

Administering Medication

Any nurse who is certified to administer medication to a patient must do so accurately and timely. The nurse has the legal responsibility to interpret the charts and files of a patient and to understand what allergic reactions patients may or may not have to a certain medication. If a nurse does not administer the correct dosage or medication to a patient, the patient could suffer major health risks or even death. This is grounds for a malpractice suit against the nurse and health care facility ⁶.

Patient Neglect

The nurse will provide care for the patient he or she is always monitoring. If the patient needs assistance with any issues, such as hygiene, the nurse has the legal responsibility to assist the patient. If a nurse does not monitor and provide care to the patient, this can be considered patient neglect, which is unethical and illegal. The patient may try to move and use the restroom on his

or her own and maybe physically injured in the process. Some patients may harm themselves while under the influence of medication, which should not happen if the nurse is paying proper attention to his or her patient ⁷.

Consent Forms

Nurses have the legal responsibility to explain all treatments, medications and lab results to patients or authorized family members of patients. Before a patient may undergo surgery, he or she will need to sign a consent form. If the nurse is administering the treatment, such as anesthesia, it is the nurse's legal obligation to explain the negatives and positives of the anaesthesia. The patient or family member must then sign a consent form acknowledging that the patient understands the procedure. If this form is not signed and complications occur, the nurse may face legal consequences ⁸.

Proper charting Techniques

Documenting the care and treatment each patient receives is a primary duty of a nurse. Although some might argue that documentation is not as important as direct care for the patient, proper documentation helps the rest of the medical team provide effective treatment. This information is used to plan and adjust a patient's course of treatment and to accurately bill for services. In addition, documentation protects the nurse from malpractice suits. Proper charting is critical to protect the medical facility and nurses from legal action and to provide the best care possible for patients ⁹.

Relevant Information

Nurses document basic health information, such as the patient's vital signs, complaints, medical tests ordered and their results. In addition, nurses can record symptoms or behaviors they personally witness. These should be objective observations relevant to the patient's health, rather than subjective opinions on the patient's feelings or attitudes. Nurses also record when they administer treatments and medication; physicians orders; and any changes in the patient's status. While a patient's medical diagnosis is an important part of a complete chart, nurses do not make a diagnosis; this is the responsibility of the physician ⁹.

Clear and Accurate Entries

Nurses must complete entries using legible handwriting. Charts should include only factual information and not a nurse's opinions. Abbreviations should only be used if approved by the medical facility's policies and must be used consistently. Nurses should document care as soon as possible after treatment, and charts should include the time that care was given ¹⁰.

Correcting Errors

It is illegal to alter a patient's medical record. If a nurse makes a mistake while writing an entry, the proper way to correct the mistake is to draw a line through the error and sign or initial the change. Do not use correction fluid to erase mistakes. Additionally, nurses must not destroy medical records or make back-dated entries¹¹.

Legal Considerations

Proper charting not only facilitates quality care, but patient charts are also a primary piece of evidence in medical malpractice suits against nurses. Each state has a statute of limitations or a limited time period during which the patient may file a lawsuit. In Pennsylvania, for example, the statute of limitations is two years. Reviewing the chart allows nurses to recall the case and the actions they took, and also allows attorneys to review the treatment provided to patients. If a nurse fails to accurately complete a chart, she may be found negligent in her duties¹².

Electronic Medical Records

Some medical facilities use electronic medical records, which require the same proper charting steps as paper records. Nurses must ensure that records are accurate and contain all of the required information. In addition, nurses must protect their access password so that records may not be tampered with. After entering their notes and documentation, nurses must save their work and close the screen to protect patient privacy¹³.

LEGAL RESPONSIBILITIES¹⁴

During admission and discharge of Medico Legal Case (MLC)

While providing nursing care in any medico-legal case nurse must take care of the following things:

- *After receiving the patient from OPD to ward, immediately inform the doctor on duty of that unit.
- *All the records of patients like OPD slips, admission slips, and admission files must be kept under lock and key to prevent legal issues.
- *It is the nurse's responsibility not to show the patient's records to anybody.
- *It is the nurse's responsibility not to show or hand over to any police personnel.
- *It is also a nurse's responsibility not to throw any discharge of a patient without the permission of the physician.
- *Nurse should keep the belonging of the patient in her custody.
- *Take consent of a relative or patient for any kind of procedure or treatment.

*Avoid answering inquiries to an insurance agent.

*The condition of patient should be reported verbally to relatives.

*Maintain all records of the patient accurately

During the discharge of patient

*On discharge, no record should be handed over to the police by nurse.

*Entered clearly, if patient is transferred to another ward or hospital.

*Before allowing the patient to leave the hospital, nurse should clearly enter or write the name of relatives of the patient.

*It is the nurse responsibility to keep all the records concerning to patient under lock and key after discharge of the patient.

In case of death of the patient

After the death of the patient, if the patient is medico-legal nurse must get written instruction from the medical officer for handing over the body of the person to the mortuary/police officer.

Like any member of the other professions, a professional nurse has many legal responsibilities to assume in the practice of her or his profession. These legal responsibilities are entwined in every service she renders to the patient, and they may be felt by her especially when questions arise involving negligence in the performance of her duties, or in the care or supervision of the patient, or in the fulfilment of the contractual obligations. It's important for a nurse that knows the legal responsibilities attached to the various phases of her professional practice so that she may be properly guided in the discharge of her functions. A nurse who knows her legal responsibilities will find it easier to avoid incurring criminal liability. To know what these responsibilities are, she does not need to have a mastery of the law. It is sufficient that she possesses such a working knowledge of her legal entanglements and avoids criminal liability.

Note the complete name and address of the patient.

Note the identification number.

Signature of witness.

Note list of belongings of the patients.

Maintain privacy and give full respect to a dead body.

In the Admission and Discharge of mentally ill patients

#As per Indian Mental Health Act 1987 major patient (mentally ill) gets admitted on a voluntary adult basis.

#After admission, the nurse should check the application form for admission is accompanied by a report of two medical officers out of which one should be a government doctor.

During the discharge of mentally ill persons

*Check the signature of the patient or relative after discharge of the patient.

*Note the permanent and correspondence address of the patient.

In case of an absconding patient

*Check the number of patients admitted with the actual number of patients present in the ward while handing over and taking over charges from one nurse to another.

*Inform immediately to be in charge of the unit and keep the record of a patient under lock and key.

During the examination of a female patient

#It is the nurses' responsibility to maintain the privacy of female patients during the examination.

#Nurse must present during the examination.

#Little exposure of patients is to be made.

#Protect the right of the patient during the examination of female patients.

#It is the nurse's responsibility to discourage repeated examination of the breast/perineal part by the male doctor.

While administering medication

*Keep in mind 5k while administering medication.

*Follow only the written order of the physician.

*Strict monitoring of medicines especially ones which change the chemistry of blood.

*Medicine containers must be properly labelled.

During sterilization and abortion

For permanent sterilization, it is essential to

*Get informed consent signed by both (husband and wife).

*Eugenic sterilization to prevent the procreation of unfit such as mentally retarded, mentally ill, habitual criminals and sexual deviates is prescribed in some parts of the world. But each case is taken independently.

During organ transplant

As a nurse, she should be aware that an uninformed donor prepared under sedation for the removal of any part is criminal in a court of law. So, it is the nurse's responsibility to get the consent signed by relatives as per the desire of the deceased.

ACTS -

THE NURSING PRACTICE ACT- is the law governing nursing practice in each state and is used for guidance to action. Therefore, the NPA has terms and phrases clearly defined for the state boards of nursing to use for enforcement. There are terms that are established for understanding among legislators and citizens. [Russel KA] For example, the California Board of Registered Nursing defines a

"Nurse Practitioner" as an individual with a registered nurse license that has advanced nursing education has acquired additional educational preparation and skills and meets the certification requirements to manage health-illness needs ¹⁵.

THE CONTROLLED SUBSTANCE ACT (CSA) is a statute establishing a federal policy to regulate the manufacturing, distributing, importing/exporting, and use of regulated substances ¹⁶.

GOOD SAMARITAN ACT

The Good Samaritan Act in legal terms refers to someone who administers aid in an emergency situation to an injured person on a voluntary basis. Usually, if a volunteer comes to the aid of a person who is a stranger, the person giving the aid owes the stranger a responsibility of being reasonably careful. A person is not obligated by law to do first aid in most states unless it's part of a job description. However, some states will consider it an act of negligence if a person doesn't, at least, call for help. Generally, where an unconscious victim cannot respond, a Good Samaritan can help them on the grounds of implied consent. However, if the victim is conscious and can respond, a person should always ask their permission to assist them first ¹⁷.

Some states offer immunity to good Samaritans, but sometimes negligence could result in a claim of negligent care if the injuries or illness were worsened by the volunteer's negligence or inexperience. Statutes typically don't exempt a good Samaritan who acts in a willful or reckless manner in providing their care, advice, or assistance. Good Samaritan laws often don't apply to a person administering emergency care, advice, or assistance during the course of regular employment, such as services rendered by a health care provider to a patient in a health care setting.

Under the Good Samaritan laws which grant immunity, if the Good Samaritan errors while administering emergency medical care, he or she cannot be held legally liable for damages in court. However, two conditions must be met; 1) the aid must be given at the scene of the emergency, and. 2) if the "volunteer" has other motives, (being paid a fee/reward for recognition and promotion), then the law will not apply.

TORT LAW

A tort is a civil wrong committed against a person or property (real or personal) and is punishable by damages (i.e., monetary compensation) rather than imprisonment.

There are three basic categories of torts: intentional torts, negligent torts and strict liability torts in which liability is assessed irrespective of fault 18.

CONSUMER PROTECTION ACT-Consumer protection is the practice of safeguarding buyers of goods and services against unfair practices in the market. It refers to the steps adopted for the protection of consumers from corrupt and unscrupulous malpractices by the sellers, manufacturers, service providers, etc. and to provide remedies in case In India, the Consumer Protection Act, 2019 administer the protection of the rights of the consumers. The Consumer Protection Act, of 2019 was introduced to replace the Consumer Protection Act, of 1986. The new Act contains various provisions which incorporate the challenges faced by modern and technology-dependent consumers. The Act also contains various provisions for the protection and promotion of the rights of consumers ¹⁹⁻²⁰.

The meaning of the word 'consumer is an individual or group of individuals who purchase goods and services for their own personal use and not for the purpose of manufacturing or resale. Section 2(7) of the Consumer Protection Act, 2019 defines a consumer as any person who buys goods or services in exchange for consideration and utilizes such goods and services for personal use and for the purpose of resale or commercial use. In the explanation of the definition of consumer, it has been distinctly stated that the term 'buys any goods' and 'hires or avails any services' also includes all online transactions conducted through electronic means or direct selling or teleshopping or multi-level marketing ²¹.

FACTORS AFFECTING NURSING PRACTITIONERS ²²

Responsibility and Stress

The job of a nurse practitioner can be stressful. They have a great deal of responsibility in managing the health of their patients. They must be skilled at interacting with patients and their families, even when they're uncooperative. It's often difficult for nurses to deal with their own emotions in situations like death and abuse. Handling insurance and legal issues can also cause stress.

Legal Issues

It's nearly impossible for some nurse practitioners to practice the way they want to because of legal issues. Each state in the United States has its own laws dictating the privileges that are extended to nurse practitioners. Some of them are more favourable than others. For example, nurse practitioners study pharmacology in graduate school. Most states allow them to write

prescriptions, but others don't. Certified nurse midwives can't legally deliver babies in many states.

Geography

Although there are job openings for nurse practitioners, the types of positions available vary widely by location. Employment for some specialties is concentrated in urban areas, while others can be found in rural clinics. Because of this, advanced practice nurses often have to move in order to take a job. Some choose to relocate to a different state with favourable laws and conditions for their speciality.

Lifestyle

Nurse practitioners tend to work schedules that are similar to those of doctors. Many have on-call hours in addition to their regular schedules during which they must be prepared to drop everything and go to work if they're needed. This is especially true for nurse practitioners who work in hospitals. It's essential to consider the potential impact on one's family and lifestyle before pursuing this career.

DOS and DON'TS

Standardized ethical codes help people face difficult situations and make the best possible decisions. The ethical codes of medicine exist because the decisions doctors and nurses must make are too complicated for people to resolve individually. A nurse whose personal moral code conflicts with the rules of ethical medical practice must still follow the profession's standardized ethics. She must use her own judgment to balance the six principles of ethical nursing in the way that best suits the situation.

Evaluate the issue from the perspective of beneficence or doing good. It is your responsibility as a nurse to do the best for the patient, which means that it is your responsibility to take action when you see the need, rather than to do nothing.

Evaluate the issue from the perspective of nonmaleficence or doing no harm. This is the cardinal ethical oath for medical practitioners. In a situation where it is not possible to do good or all options do both good and harm, choose the option that does the least harm.

Respect the autonomy of the people involved in the issue. When your moral principles or personal beliefs are at odds with the morals or wishes of a patient, it is the patient's right to make decisions impacting his own life. As a nurse, you are ethically bound to honour your patient's right to autonomy.

Tell patients, other nurses and doctors the truth. This ethical principle is called veracity.

Keep your promises to patients and other healthcare professionals. This principle is called fidelity.

Act to violate these ethical practices only when justice demands it. The ethical principle of justice gives nurses the right to take unusual courses of action when extenuating circumstances make an accepted practice unfair and demand unusual alternatives.

Keep educating yourself and others.

Maintain Continuing Education from renowned institutions from time to time with refresher courses, seminars and conferences.

CONCLUSION

Nurses have to abide by laws and regulations when practising nursing. All the regulations and legal aspects of nursing are taught and explained to nurses throughout nursing school. Not abiding by the code of ethics could cost the nurse his or her nursing license and result in a malpractice suit. Hence, nurses need more critical thinking and judgment skill to handle the situations which calls for more judicial knowledge. Safe nursing practice includes an understanding of legal boundaries within which nurses must function.

CONFLICT OF INTEREST

The authors have no conflict of interest.

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