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# Ethical and Legal Issues

Contributor: Karen L. Petersen, MSN-L, RN, MNN

## PRIORITY CONCEPTS Ethics; Health Care Law

### I. Ethics

- A. Description: The branch of philosophy concerned with the distinction between right and wrong on the basis of a body of knowledge, not only on the basis of opinions
- B. **Morals:** Behavior in accordance with customs or tradition, usually reflecting personal or religious beliefs
- C. **Ethical principles:** Codes that direct or govern nursing actions (Box 6.1)
- D. Values: Beliefs and attitudes that may influence behavior and the process of decision making
- E. Values clarification: Process of analyzing one's own values to understand oneself more completely regarding what is truly important

### BOX 6.1 Ethical Principles

**Autonomy:** Respect for an individual's right to self-determination and making one's own decisions

**Nonmaleficence:** The obligation to do or cause no harm to another; in providing care the nurse is obliged to refrain from acts that unnecessarily cause injury, harm, or suffering

**Beneficence:** The duty to do good to others and to maintain a balance between benefits and harms; paternalism is an *undesirable* outcome of beneficence, in which the health care provider decides what is best for the client and encourages the client to act against their own choices

**Justice:** The equitable distribution of potential benefits and tasks determining the order in which clients should be cared for

**Veracity:** The obligation to tell the truth and communicate truthfully

**Fidelity:** The duty to do what one has promised, to maintain loyalty and commitment to the client, to be faithful to agreements and responsibilities one has undertaken, and to do no wrong to the client

### F. Ethical codes

- 1. Ethical codes provide broad principles for determining and evaluating client care.
- 2. These codes are not legally binding, but the board of nursing has authority in most states to reprimand nurses for unprofessional conduct that results from violation of the ethical codes.
- 3. Ethical codes describe the nurse's obligation to the client, the role of the nurse, and duties of the nurse to the profession and to society.
- 4. Specific ethical codes are as follows:
  - a. The Code of Ethics for Nurses developed by the International Council of Nurses; website: <https://www.icn.ch/news/international-council-nurses-launches-consultation-revise-code-ethics-nurses>.
  - b. The American Nurses Association Code of Ethics can be viewed on the American Nurses Association; website: <http://www.nursingworld.org/codeofethics>.

### G. Ethical dilemma

- 1. An ethical dilemma occurs when there is a conflict between two or more ethical principles.
- 2. No correct decision exists, and the nurse must make a choice between two alternatives that are equally unsatisfactory.
- 3. Such dilemmas may occur as a result of differences in cultural or religious beliefs.
- 4. Ethical reasoning is the process of thinking through what one should do in an orderly and systematic manner to provide justification for actions based on principles; the nurse should gather all information to determine whether an ethical dilemma exists, examine their own values, verbalize the problem, consider possible courses of action, negotiate the outcome, and evaluate the action taken.


روشن سازی clarification, نگرش ها attitudes, اداره کردن govern, باورها beliefs, معنوی moral, تمایز - افتراق distinction, اخلاقی ethical, مجازات - توبیخ رسمی reprimand, قدرت - اختیار authority, وفاداری fidelity, راستگویی - صداقت veracity, نیکوکاری beneficence, وضع دشوار dilemma, اجبار obligation, رفتار conduct

### H. Advocate

1. An advocate is a person who speaks up for or acts on the behalf of the client, protects the client's right to make their own decisions, and upholds the principle of **fidelity**.
2. An advocate represents the client's viewpoint to others.
3. An advocate avoids letting personal values and beliefs influence **advocacy** for the client and supports the client's decision, even when it conflicts with the advocate's own preferences or choices.

### I. Ethics committees

1. Ethics committees take an interprofessional approach to facilitate dialogue regarding ethical dilemmas.
2. These committees provide clinical ethics consultation to resolve dilemmas, develop and or revise policies and procedures (e.g., advance directives, informed consent) and facilitate education about issues in clinical ethics.

 An important nursing responsibility is to act as a client advocate and protect the client's rights.

## II. Regulation of Nursing Practice

### A. Nurse Practice Act

1. A nurse practice act is a series of statutes that have been enacted by a state legislature to regulate the practice of nursing within that state.
2. Nurse practice acts set educational requirements for the nurse, distinguish between nursing practice and medical practice, and define the scope of nursing practice.
3. Additional issues covered by nurse practice acts include licensure requirements for protection of the public, grounds for disciplinary action, rights of the nurse licensee if a disciplinary action is taken, and related topics.
4. All nurses are responsible for knowing the provisions of the act of the state or province in which they work.


### B. Standards of care

1. Standards of care are guidelines that identify what the client can expect to receive in terms of nursing care.
2. The guidelines determine whether nurses have performed duties in an appropriate manner.
3. If the nurse does not perform duties within accepted standards of care, the nurse may be in jeopardy of legal action.
4. If the nurse is named as a defendant in a **malpractice** lawsuit and proceedings show that the nurse followed neither the accepted standards of care outlined by the state or province nurse practice act nor the policies of the employing institution,

the nurse's legal liability is clear; the nurse is liable.

### C. Employee guidelines

1. **Respondeat superior**: The employer is held liable for any negligent acts of an employee if the alleged negligent act occurred during the employment relationship and was within the scope of the employee's responsibilities.
2. **Contracts**
  - a. Nurses are responsible for carrying out the terms of a contractual agreement with the employing agency and the client.
  - b. The nurse-employee relationship is governed by established employee handbooks and client care policies and procedures that create obligations, rights, and duties between those parties.
3. **Institutional policies**
  - a. Written policies and procedures of the employing institution detail how nurses are to perform their duties.
  - b. Policies and procedures are usually specific and describe the expected behavior on the part of the nurse.
  - c. Although policies are not laws, courts generally rule against nurses who violate policies.
  - d. If the nurse practices nursing according to client care policies and procedures established by the employer, functions within the job responsibility, and provides care consistently in a nonnegligent manner, the nurse minimizes the potential for liability.

 The nurse must follow the guidelines identified in the Nurse Practice Act and agency policies and procedures when delivering client care.

### D. Hospital staffing

1. Charges of abandonment may be made against nurses who "walk out" when staffing is inadequate.
2. Nurses in short staffing situations are obligated to make a report to the nursing administration.

### E. Floating

1. Floating is an acceptable practice used by health care facilities to alleviate understaffing and overstaffing.
2. Legally, the nurse cannot refuse to float unless the institution has a union contract guaranteeing that nurses can work only in a specified area, or the nurse can prove lack of knowledge for the performance of assigned tasks. However, client safety and client care need to be the priority, and depending on the health care facility policies and procedures, the nurse may be required to float to other agency areas to care for clients.

advocate حامی, uphold تقویت کردن - حمایت کردن, revise اصلاح کردن - تجدید نظر کردن, act فرمان - قانون, enact تصویب کردن, legislature مقننه, distinguish افتراق دادن, scope حوزه, ground زمینه - اساس, disciplinary انضباطی, jeopardy خطر, liability مسئولیت, employ بکار بستن, proceeding دادرسی, lawsuit دادخواهی, malpractice اشتباه, defendant مدعی علیه, liable مسئول, alleged ادعا شده - نسبت داده شده, contractual پیمانی, court دادگاه, abandonment رها سازی - ترک, walk out کردن ناگهان ترک کاری را, nursing administration مدیریت پرستاری, floating شناور - تعیین شده - واگذار شده assigned

**BOX 6.12 Components of a Medication Prescription**

- Date and time prescription was written
- Medication name
- Medication dosage
- Route of administration
- Frequency of administration
- Primary health care provider's signature

Adapted from: Potter, P., Perry, A. G., Stockert, P. A., & Hall, A. M. (2021). *Fundamentals of nursing*. (10th ed.). St. Louis: Mosby. pp 607-609.

Note: Remember to always follow state and institutional policies.

**BOX 6.13 Do's and Don'ts Documentation Guidelines: Narrative and Information Technology**

- Date and time entries.
- Provide objective, factual, and complete documentation.
- Document care, medications, treatments, and procedures as soon as possible after completion.
- Document client responses to intervention.
- Document consent for or refusal of treatments.
- Document calls made to other primary health care providers.
- Use quotes as appropriate for subjective data.
- Use correct spelling, grammar, and punctuation.
- Do not use pencils, felt-tip pens, or erasable ink. Record all written entries legibly using black ink.
- Sign and title each entry.
- Do not erase or scratch out errors made while recording; follow agency policies when an error is made.
- Follow agency guidelines regarding late entries.
- Do not use any other person's identification code, name, or password for computerized documentation.
- Maintain privacy and confidentiality of documented information printed from the computer.
- Do not document for others or change documentation for other individuals.
- Do not use unacceptable abbreviations.
- Do not use judgmental or evaluative statements, such as "uncooperative client."
- Do not leave blank spaces on documentation forms.
- Do not lend access identification computer codes to another person; change password at regular intervals.

Adapted from: Potter, P., Perry, A. G., Stockert, P. A., & Hall, A. M. (2021). *Fundamentals of nursing*. (10th ed.). St. Louis: Mosby. p. 367.

guidelines: [http://www.jointcommission.org/standards\\_information/npsgs.aspx](http://www.jointcommission.org/standards_information/npsgs.aspx) and The Joint Commission Official "Do Not Use" List at <http://www.jointcommission.org/resources/news-and-multimedia/fact-sheets/facts-about-do-not-use-list/>

**G. Client and family teaching**

1. Provide complete instructions in a language that the client or family can understand.
2. Document client and family teaching, what was taught, evaluation of understanding, and who was present during the teaching.

3. Inform the client of what could happen if information shared during teaching is not followed.

**XI. Advance Directives****A. Patient Self-Determination Act**

1. The Patient Self-Determination Act is a law that requires clients be provided with information about their right to have written directions about the care that they wish to receive in the event that they become incapacitated and are unable to make health care decisions.
2. On admission to a health care facility, the client is asked about the existence of an advance directive, and if one exists, it must be documented and included as part of the medical record; if the client signs an advance directive at the time of admission, it must be documented in the client's medical record.
3. The two basic types of advance directives include instructional directives and durable power of attorney for health care.
  - a. Instructional directives: Lists the medical treatment that a client chooses to omit or refuse if the client becomes unable to make decisions and is terminally ill.
  - b. Durable power of attorney for health care: Appoints a person (health care proxy) chosen by the client to make health care decisions on the client's behalf when the client can no longer make decisions.

**D. Do not resuscitate (DNR) prescriptions**

1. The PHCP writes a DNR prescription if the client and PHCP have made the decision that the client's health is deteriorating and the client chooses not to undergo cardiopulmonary resuscitation if needed.
2. The client or legal representative must provide informed consent for the DNR status.
3. The DNR prescription must be defined clearly so that other treatment not refused by the client will be continued.
4. Some states offer DNR Comfort Care and DNR Comfort Care Arrest protocols; these protocols list specific actions that HCPs will take when providing cardiopulmonary resuscitation (CPR).
5. All health care personnel must know whether a client has a DNR prescription; if a client does not have a DNR prescription, HCPs need to make every effort to revive the client.
6. A DNR prescription needs to be reviewed regularly according to agency policy and may need to be changed if the client's status changes.
7. DNR protocols may vary from state to state, and it is important for the nurse to know the protocols in the state in which the nurse is employed.

objective عینی, factual واقعی, refusal امتناع, punctuation نقطه گذاری, legibly خوانا, abbreviations علائم اختصاری, blank خالی - نانوشته, incapacitated ناتوان, power of attorney وکالت نامه, on the client's behalf از طرف بیمار, deteriorate بدتر شدن, revive احیاء کردن



## C. The nurse's role

1. Discussing advance directives with the client opens the communication channel to establish what is important to the client and what the client may view as promoting life versus prolonging dying.
2. The nurse needs to ensure that the client has been provided with information about the right to identify written directions about the care that the client wishes to receive.
3. On admission to a health care facility, the nurse determines whether an advance directive exists and ensures that it is part of the medical record; the nurse also offers information about advance directives if the client indicates that they want more information.
4. The nurse ensures that the PHCP is aware of the presence of an advance directive.
5. All health care workers need to follow the directions of an advance directive to be safe from liability.
6. Some agencies have specific policies that prohibit the nurse from signing as a witness to a legal document such as an instructional directive.
7. If allowed by the agency, when the nurse acts as a witness to a legal document, the nurse must document the event and the factual circumstance surrounding the signing in the medical record; documentation as a witness should include who was present, any significant comments by the client, and the nurse's observations of the client's conduct during this process.

3. An employee who reports unsafe working conditions cannot be retaliated against by the employer.

## D. Sexual harassment

1. Sexual harassment is prohibited by state and federal laws.
2. Sexual harassment includes unwelcome conduct of a sexual nature.
3. Follow agency policies and procedures to handle reporting a concern or complaint.

## PRACTICE QUESTIONS

1. The nurse hears a client calling out for help, hurries down the hallway to the client's room, and finds the client lying on the floor. The nurse performs an assessment, assists the client back to bed, notifies the primary health care provider, and completes an occurrence report. Which statement would the nurse document on the occurrence report?
  1. The client fell out of bed.
  2. The client climbed over the side rails.
  3. The client was found lying on the floor.
  4. The client became restless and tried to get out of bed.
2. A client is brought to the emergency department by emergency medical services (EMS) after being hit by a car. The name of the client is unknown, and the client has sustained a severe head injury and multiple fractures and is unconscious. An emergency craniotomy is required. Regarding informed consent for the surgical procedure, which is the **best** action?
  1. Obtain a court order for the surgical procedure.
  2. Ask the EMS team to sign the informed consent.
  3. Transport the victim to the operating room for surgery.
  4. Call the police to identify the client and locate the family.
3. The nurse has just assisted a client back to bed after a fall. The nurse and primary health care provider (PHCP) have assessed the client and have determined that the client is not injured. After completing the occurrence report, the nurse would implement which action **next**?
  1. Reassess the client.
  2. Conduct a staff meeting to describe the fall.
  3. Contact the nursing supervisor to update information regarding the fall.
  4. Document in the nurse's notes that an occurrence report was completed.
4. The nurse arrives at work and is told to report (float) to the intensive care unit (ICU) for the day because the ICU is understaffed and needs additional nurses

## XII. Reporting Responsibilities

- A. Nurses are required to report to the appropriate authorities certain communicable diseases; dog bites or other animal bites; suicides; and certain criminal activities such as child or elder abuse or domestic violence, gunshot or stab wounds, assaults, and homicides.
- B. Impaired nurse
  1. If the nurse suspects that a coworker is abusing chemicals and potentially jeopardizing a client's safety, the nurse must report the individual to the nursing supervisor/nursing administration in a confidential manner. (Client safety is always the first priority.)
  2. Nursing administration notifies the board of nursing regarding the nurse's behavior.
  3. Many institutions have policies that allow for drug testing if impairment is suspected.
- C. Occupational Safety and Health Act (OSHA)
  1. OSHA requires that an employer provide a safe workplace for employees according to regulations.
  2. Employees can confidentially report working conditions that violate regulations.

are required به ملزم هستند , stab wound زخم ناشی از چاقو یا خنجر , homicide آدم کشی , impaired (معتاد) آسیب دیده , jeopardize به مخاطره آزار harassment آزار