

Ethical and Legal Issues

Chapter 3

Learning Objectives

Lesson 3.1: Ethical and Legal Issues

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1. Compare the differences among values, rights, and ethics.
2. Explain the purpose of the Patient Care Partnership.
3. List six steps for making ethical decisions.
4. Identify the legal importance of practice acts.

Learning Objectives

Lesson 3.1: Ethical and Legal Issues

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- 5. Describe the process of involuntary psychiatric commitment.
- 6. Name four areas of potential legal liability for mental health care providers.
- 7. Know the difference between the legal terms negligence and malpractice.
- 8. Discuss three legal responsibilities that relate to nursing and health care providers.

Values and Morals

- Attitudes are ideas that help shape our points of view
 - Can also describe one's outlook
- Belief is a conviction that is intellectually accepted as true whether or not based in fact
- Value is something that is held dear or a feeling about the worth of an item, idea, or behavior
 - Formed in childhood
- Morals reflect one's attitudes, beliefs, and values
- Not easily changed

Rights

- A right is described as a power, privilege, or existence to which one has a just claim
- Rights help define social interactions because they contain the principle of justice; they equally and fairly apply to all citizens
- Rights also are associated with obligations

Client's Rights

- The Patient's Bill of Rights (1972)
 - All clients have the rights to respectful care, privacy, confidentiality, continuity of care, and relevant information
 - Addresses clients' rights to:
 - Examine their bills
 - Refuse treatment
 - Participate in research
- The Patient Care Partnership: Understanding Expectations, Rights, and Responsibilities was adopted in 2003

Care Provider Rights

- Rights of nurses and other care providers relate to respect, safety, and competent assistance
- Care providers have the right to respect as individuals
- Nurses have the right to full and equal participation as members of the health care team
- All health care providers have the right to set standards for quality and develop policies that affect client care

Ethics

- Ethics is a set of rules or values that govern right behavior
- Ethics reflect:
 - Values
 - Morals
 - Principles of right and wrong
- The purpose of ethical behavior is to protect the rights of people

Ethical Principles

- Ethical codes serve two purposes
 - Act as guidelines for standards of practice
 - Let the public know what behaviors can be expected from their health care providers
- Ethical principles on which codes of ethics are based include the following:
 - Autonomy
 - Beneficence
 - Nonmaleficence
 - Justice
 - Confidentiality
 - Fidelity
 - Veracity

Codes of Ethics

- Have been developed by:
 - International Council of Nurses
 - American Nurses Association
 - National Federation of Licensed Practical Nurses
 - Canadian Nurses Association
- Provide information to clients, be truthful, and support your clients, but consult your supervisor if any question of appropriateness arises

Ethical Conflict

- Ethical dilemmas exist when there is uncertainty or disagreement about the moral principles related to a course of action
- Ethical dilemmas arise when problems cannot easily be solved by decision-making, logic, or use of scientific data

Guidelines for Making Ethical Decisions

- Identify all elements of the situation
- Assume goodwill
- Gather relevant information
- List and order values
- Take action
- Evaluate the effectiveness of the plan

Laws and the Legal System

- Laws are the controls by which a society governs itself
 - Apply to every member of society
 - Based on the principles of:
 - Justice
 - Change
 - Standards
 - Individual rights and responsibilities

Public vs. Private Law

- Public law
 - Focuses on the law between government and its citizens
 - Protects the members of society
 - Also known as *criminal law*
 - Consists of misdemeanors and felonies
- Private law
 - Focuses on the law between citizens and/or institutions
 - Torts and contracts
 - Also known as *civil law*

Legal Concepts in Health Care

- All health care professions are governed by standards and rules
 - Nurse practice act
 - Institutional policies
 - Standards of practice

Laws and Mental Health Care

- Client-caregiver relationship
 - Caregiver and client enter into an implied contract of acceptance of service
 - Care providers are legally responsible for their professional obligations and behaviors
 - Clients retain their legal rights upon entering the mental health care system

Adult Psychiatric Admissions

- When a client initiates the request for mental health services, it is considered a voluntary admission
 - Voluntarily admitted clients may legally discharge themselves at any time
- Involuntary admission is a process for institutionalization initiated by someone other than the client
 - Involuntary psychiatric admissions provide a protected, therapeutic environment
 - Clients may stay for days to years

Areas of Potential Liability

- Mental health care providers are faced with balancing client rights and the need to protect society
- The most common crimes in health care settings include homicide, controlled substance violations, and theft

Negligence and Malpractice

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- Both negligence and malpractice are rooted in the “reasonable and prudent person” theory
- Negligence: Omission (or commission) of an act that a reasonable and prudent person would (or would not) do
- Malpractice: Failure to exercise an accepted degree of professional skill that results in injury, loss, or damage

Negligence and Malpractice

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- To be considered negligent, professional misconduct must meet four requirements
 - Care provider owed a duty to the client
 - Care provider did not carry out the duty (breach)
 - Client was injured as a result of the care provider's action or inaction
 - Actual loss or damage resulted from the actions

Care Providers' Responsibilities

- Mental health care providers help clients cope with their problems
- They provide dignified, humane treatment, which includes protection of rights as human beings, citizens, and clients
- Reasonable and prudent caregiver principle

Questions?