

## LEGAL & PROFESSIONAL ISSUES IN NURSING

### Abstract

Nursing is much more than just a routine care of patient. Nurses are highly vulnerable for facing ethical and legal issues as they deal with human life and death. Although it included in curriculum, topics of ethics and laws in nursing school are not given much emphasis. Various studies have shown that knowledge of nurses in ethical and legal aspects and professional are unsatisfying which is further increasing ethical dilemmas and legal issues in health sector. The basic goal of creating such codes is to identify underlying ethical principles and values that can more strongly support nursing practices. The ethical standards for nursing state that it is crucial for nurses to prioritize providing high-quality care while also respecting the rights and dignity of others. In order to accurately show co-morbid health conditions, the patient (who has chronic health issues) must appropriately engage with the nurses. Additionally, it is critical for nurses to appreciate the multiplicity of people, the worth of informed decision making and the value of nursing professions culture of wellbeing in this area. This can only support the manner in which people are provided with healthcare services. Nurses should be deeply devoted to the nursing profession before beginning any activity because doing so will only encourage best practice.

**Keywords:** Legal, Professional issues, Nursing, confidentiality, Informed consent, patient rights

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## I. INTRODUCTION

To improve the effectiveness of procedures in the clinical field, Australia's Code of Ethics for the Nursing Profession was created (Black, 2016). [1] The basic goal of creating such codes is to identify underlying ethical principles and values that can more strongly support nursing practices. An outline of legal and professional issues in nursing will be given in this chapter.

- 1. Ethical code of conduct for nursing:** The ethical standards for nursing state that it is crucial for nurses to prioritize providing high-quality care while also respecting the rights and dignity of others. In order to accurately show co-morbid health conditions, the patient (who has chronic health issues) must appropriately engage with the nurses. Additionally, it is critical for nurses to appreciate the multiplicity of people, the worth of informed decision making and the value of nursing professions culture of wellbeing in this area (Cherry and Jacob, 2016). [2] This can only support the manner in which people are provided with healthcare services. Nurses should be deeply devoted to the nursing profession before beginning any activity because doing so will only encourage best practice.

The nursing profession must include a self-respect provision that is also helpful in supporting the patients' personal welfare. Additionally, there needs to be psychological communication between the nurse and the patient (Daly, Speedy and Jackson, 2017). [3] The nurse must sign up the patient for care services in the current situation as well because patient engagement is crucial to health care services. Since the nurse and learner (student trainee) are providing care together, it is important for both of them to treat one another with respect and dignity while also performing their respective roles. Therefore, a nurse and a trainee should work well together so that they can both adopt the appropriate habits for the nursing profession (Ashton, 2016). [4]

The nurse must act as a mentor in the subsequent case to improve practices moving forward (Finkelman, 2017). [5] Respect for the community is yet another strategy that needs to be highly valued in order to improve social values. The nurses must educate and mentor the student about the nursing profession because she is not managing her tasks effectively. Along with providing appropriate mentoring, the nurse must exhort the student to approach each task with professionalism. This is the method via which the patient can receive better care.

- 2. Professional code of conduct for nursing:** In order to provide a minimal code of conduct that healthcare worker must adhere to when acting in their professional capacity, professional codes of nursing are produced. According to this, nursing procedures should be carried out in accordance with health system standards in a safe and knowledgeable manner (Fry-Bowers, 2017). [6] When providing care, nurses should adhere to all laws established for the practice of nursing and take their values and beliefs into account. Additionally, nurses must safeguard patients' private information; as a result, a precise database needs to be created. In the next scenario, it is determined that the student is not keeping accurate records; hence, nurses are responsible for assisting the student in maintaining proper records.

Evidently, nursing begins with care, which considerably promotes people's health, welfare, and educated decision-making (Grace, 2017). [7] This indicates that since patients have a right to participate, their involvement in the decision-making process must be sufficient. In accordance with professional conduct, nurses are responsible for fostering and protecting privilege and trust in their interactions with service users. So that the value of care can be increased, a proper relationship should be established. On the other side, gaining the community's attention requires putting more effort into maintaining its faith and trust (Hagger, Ellis and Strumidlo, 2016). [8]

So, it illustrates that nursing practice should be open and moral if it wants to attract patients' attention (Griffith and Tengahan, 2017). [9] According to a professional code of conduct, nurses must always act in the patients' best interests and must not break any laws. Additionally, the promotion of safe nursing techniques and the absence of negligence in the field should be priorities. Nurses should always give patients advice and request feedback regarding the effectiveness of the services in good faith. In addition, it is currently necessary for both students and nurses to broaden their areas of expertise and legal standing in order to preserve all the legal dimensions (Hager, Ellis and Strumidlo, 2016). [8] The patient must be given accurate and transparent information regarding the care and treatment since nurses are responsible for the patient's safety and protection. Not only will this improve certain aspects of health, but it will also increase nurses' capacity for service.

## **II. LEGAL ISSUES IN MENTAL HEALTH NURSING**

Regarding legal, ethical, and professional concerns, there are parallels between mental health nursing and other specialties. From a legal standpoint, for instance, the mental health nurse is bound by the same rules as a nurse working in an intensive care unit with regard to procedures like the administration of medicine. The fundamental assumptions of mental health services, however, also result in some important variations in the practice's legal and ethical standards. The only nursing specialty with a dedicated Act of Parliament that applies to and governs many of its activities is the mental health sector.

The ethical, legal and professional issues that uniquely concern mental health nursing will be discussed in this chapter. Some of these issues include:

1. Mental Health Act
2. Legal issues in mental health nursing
3. Professional issues and its regulations

## **III. MENTAL HEALTH NURSING AND THE LAW**

Most Western nations have mental health legislation that apply to outpatient mental health care as well as to inpatient mental health services. Modern mental health care and therapy are predicated on the core tenet that individuals with mental illnesses may not be aware of their need for care and that, in some situations, health services have the power to impose care in the individual's determined "best interests." As a result of this presumption, legislation dealing specifically with mental health care was developed. However, there is continuous controversy about mental health regulations around the world for a variety of reasons, including the moral and legal standing of people who are competent who are treated involuntarily under

these laws (Molodynski, Rugkasa, & Burns 2010)[10]. and whether "dangerousness" standards should be included in laws, or should focus solely on a person's well-being (Ryan 2011). [11] Separate laws for mental health are criticized because they violate human rights, uphold prejudice and stigma, link mental illness to risk, and marginalize those who suffer from it (Ryan 2011). [11]

#### IV. THE INDIAN MENTAL HEALTH ACT (1987)

1. **History:** The Indian Mental Health Act (MHA) was drafted by the parliament in 1987, but it wasn't until April 1993 that it became law in all of India's states and union territories. In place of the Indian Lunacy Act of 1912, this Act.

#### 2. Reasons for Enactment

- The way that society views those who are mentally ill has evolved significantly, and it is now understood that there should be no stigma linked to such sickness because, when caught early enough, it is practically curable. Therefore, those who are mentally ill people should be treated like any other sick people and their surroundings should be kept as normal as possible. [12]
- Given the rapid growth of medical research and our growing understanding of the nature of disease, the experience of implementing the Indian Lunacy Act, 1912, has shown that it is no longer relevant. Therefore, it has become necessary to create new legislation in line with the new strategy.

#### 3. Objectives of MHA

- To safeguard society from having mentally sick persons around,
- To stop people from being unjustly held in nursing homes or mental facilities
- To regulate admission into these facilities,
- To control their maintenance costs, and
- Creating guardianship for mentally ill people who are unable to handle their own affairs requires facilities.
  - To launch national and state mental health agencies
  - To limit the government's ability to create, license, and oversee psychiatric hospitals and nursing homes; In some circumstances, to pay for legal assistance for people with mental illnesses.

4. **Salient Features of the Act:** This Act consists of 10 chapters and 98 sections.

- **Chapter I:** Chapter I contains preliminary information. Some of the definitions are:
  - **Psychiatric hospital or nursing home:** A facility built or managed by the government or another person specifically to care for people with mentally ill.
  - **Mentally ill person:** A person who has a mental illness is one who requires therapy due to a mental disease other than mental retardation.
  - **Psychiatrist:** A medical professional with a postgraduate diploma or degree in psychiatry that has been approved by the Medical Council of India.
  - **Reception order:** A court order issued in accordance with the requirements of this Act authorizing the admission and confinement of a mentally ill individual in a hospital or nursing facility.
- **Chapter II**

- In order to regulate and coordinate mental health services, it deals with the establishment of Central and State agencies.
  - **Chapter III**
    - It offers recommendations for the construction and upkeep of psychiatric hospitals and nursing homes.
  - **Chapter IV**
    - It addresses the admission and detention processes in mental health facilities and nursing homes.
5. **Admission on voluntary basis:** Anyone who believes they have a mental illness and wants to admit in a psychiatric hospital may submit an application to the medical officer in charge; if they are a juvenile, their guardian may submit the application on their behalf.

If the medical official determines that therapy is necessary, he or she must inquire within 24 hours and admit the patient. The voluntary patient is now required to follow the institution's guidelines after being admitted.

6. **Admission under special circumstances (Involuntary patient):** Any mentally ill patient who is hesitant to enter a psychiatric hospital or nursing home on a voluntary basis may be admitted and maintained there as an inpatient. If the medical officer believes it appropriate, a friend / the relative of that mentally ill person should submit an application on his or her behalf.
7. **Admission under authority or order:** Any person who has a mental illness may be admitted to and kept in a psychiatric facility with the approval of a recognized authority. In general, there are four categories under which the authorities may issue an order for reception and detention, which includes :
- **Reception order on application:** Only a relative other than a spouse, wife, guardian, or friend can submit an application for a patient with a mental illness to be admitted. Such a request must be presented in writing to the magistrate and be accompanied by two medical certificates, one of which must be from a gazetted medical official. However, no person under the age of 18 or someone who hasn't recently cared for a mentally ill patient is eligible to submit such an application. After the magistrate receives the mental hospital's chief medical officer's approval, the patient may now be admitted. By submitting such an application to the magistrate, the medical officer in charge may extend inpatient care for a period longer than six months.
  - **Reception on production mentally ill person before a magistrate:** A mentally ill patient who is acting violently, staging dangerous incidents, and endangering society may be arrested by a police officer and held for 24 hours after being brought, supported by two medical certifications, before a magistrate issues an order.
  - **Reception order after inquest:** A district court investigating a person who is found to be mentally ill may direct by order that person be admitted to and maintained as an inpatient in a psychiatric hospital or psychiatric nursing home if it is in that person's best interest. The district court has the authority to periodically modify or rescind any such order.

- **Admission and detention of a mentally ill prisoner:** A court or the presiding officer may order the admission of a mentally ill prisoner to a mental hospital.
- **Chapter V**
  - It focuses mostly on the steps that must be taken for the release of mentally ill patients from a mental institution in a variety of situations.
- 8. **Discharge of a patient admitted on voluntary basis:** The medical officer in charge of the psychiatric hospital or nursing home may give instructions for the patient's discharge at the advice of two medical professionals, preferably a psychiatrist.
- 9. **Discharge of a patient admitted under special circumstances:** An application for care and custody of the patient may be submitted to the medical officer by a family member or acquaintance. The relatives must provide a bond, either with or without sureties, and an assurance that the mentally ill person would not harm themselves or others.
- 10. **Discharge of a patient admitted on reception order:** If the applicant believes the patient has recovered from their sickness, they may apply to the court for discharge. An application from the nursing home or medical officer in charge of the psychiatric hospital should be accompanied by a certificate. The magistrate has the authority to issue a discharge order if he sees proper.
- 11. **Discharge of a patient admitted by police:** When a mentally ill person is detained by the police in a hospital, he or she may be released after the family members agree in writing to provide for their needs and the medical official in charge determines that the person is healthy enough to leave.
- 12. **Discharge of a mentally ill prisoner:** Every six months, hospital administrators are required to give the authority that had mandated detention an update on the patient's mental health. They must tell the relevant authority as soon as they determine that the defendant is capable of withstanding the trial. The individual is subsequently turned over to the prison guard for additional legal proceedings.
- 13. **Leave of absence (Section 45):** When mentally ill individuals are being held in a hospital, they may be granted a time-limited leave with the ability to leave the facility and visit family. Leave of absence may be granted upon request by a family member or other party to the medical officer in charge and upon submission of a fully executed bond guaranteeing that the patient will receive sufficient care and won't harm themselves or others (for a maximum period of 60 days). It is a step toward community treatment and gives the patient the opportunity to learn or retain skills that will be useful after discharge. The fact that mental illness is treatable and does not require prolonged treatment is consistent with recent trends. [12]
- **Chapter VI**
  - It deals with court inquiries into the custody and management of property by mentally ill people. A guardian may be appointed by a court of law under section 54(1) on behalf of a person who is allegedly mentally ill and incapable of caring for

themselves or their property. A lawyer will be assigned to represent a mentally ill individual at state expense under section 97 of the Act when he or she is not represented by an attorney in proceedings before a district court or magistrate.

- **Chapter VII**
  - It focuses on finding solutions to pay for the maintenance costs of mentally ill people who are housed in psychiatric hospitals or nursing homes. When a mentally ill patient is confined as an inpatient and not have any property to cover the cost of treatment, under section 78, in such instances, the State Government shall bear his expenses.
- **Chapter VIII:** It is the Act's most recent addition, and it includes a particularly innovative and specific provision for the protection of the human rights of mentally ill people. Section 81 provides that:
  - No mentally ill person shall endure any cruelty or physical or emotional indignity while receiving treatment.
  - No person who is receiving treatment for a mental illness may be employed in research unless:
    - ✓ The study directly benefits the patient.
    - ✓ Written permission from the subject (in the case of voluntary admittance) or the subject's guardian or relative (if the admission was done involuntarily )
  - No correspondence from or to a person who is mentally ill may be intercepted, held, or destroyed.
- **Chapter IX:** It covers the processes that must be follow for the construction and upkeep of psychiatric hospitals and nursing homes as well as the consequences—which can be rather severe and explicit—of disobeying them. The operation of a home without a licence is prohibited by Article 6 (1) of the MHA, and Article 11 (1b) states that the licensing authority may withdraw the licence if the upkeep of the home is done in a way that is harmful to the inpatients' moral, mental /physical well-being.
- **Chapter X:** It deals with providing clarification on certain practices that the medical officer incharge of the psychiatric hospital or nursing home must adhere to.

#### 14. Positive Qualities of the MHA 1987

- Includes the most recent social and scientific principles In an effort to lessen stigma, mental illness is portrayed to resemble physical illness.
- The definitions are presented gradually.
- The primary requirement is "treatability." Mentally ill patients admitted to any general hospitals / nursing homes are exempt from the provisions of the Indian Mental Health Act, which does not apply to treatable diseases , for example mental retardation & dementia.
- The establishment of mental health authorities offers potential for improved service monitoring.
- In psychiatry hospitals or nursing homes, outpatient services are required.
- Admission procedures are streamlined. Discharge procedures are made simpler.
- Establishing separate hospitals for addicts, children, and psychopaths
- Measures taken to protect the human rights of those who are mentally ill

## 15. Nursing Implications

- Psychiatric nurses is on duty in the ward around-the-clock, and she has the last say in how the unit is run. She must to be knowledgeable about the legal ramifications of providing for and treating the mentally ill.
- All psychiatric nurses should be alert regarding the legal & ethical framework of care since it puts an emphasis on patients' rights and the standard of care they receive. She can advise clients and loved ones on issues pertaining to patient rights and other facets of mental health care thanks to her understanding in these areas.
- Understanding legal issues improves the independence of the nurse and the patient, guides their moral judgment, and eventually leads to better treatment.[12]

## V. THE INDIAN LUNACY ACT (1912)

It has eight Chapters and is based on the English Lunacy Act of 1890. Act 36 of The Indian Lunatic Asylums Act, 1858 was repealed by Act 4 of the Indian Lunacy Act (ILA), 1912. It was passed to codify and revise the laws pertaining to madness and to regulate the admission, custody, and care of insane people as well as their possessions. The act was broken down into four divisions, eight chapters, and one hundred sections. After the ILA of 1912 was passed, numerous new asylums were opened, their overall circumstances were improved, and there was a greater understanding of the conditions that insane people were living in these asylums. [12]

1. **Chapter I:** It includes some introductory data and terminology.
2. **Chapter III:** It outlines the steps that must be taken to administer care, deliver therapy, and discharge patients. Parole is the phrase used to describe a patient's permission to participate in specific rituals or attend specific family gatherings. The patient is free to leave the hospital at any moment while on parole, but he must return within a maximum of 90 days or he will be forcibly returned.
3. **Chapter IV:** It covers the lunatic court procedures in the town of presidency.
4. **Chapter V:** It discusses events in lunacy outside of presidential towns.
5. **Chapter VI:** It focuses on creating asylums.
6. **Chapter VII:** relates to psychiatric costs.
7. **Chapter VIII:** It focuses on regulations that the State Government will enforce on the treatment of lunatics.

## VI. THE MENTAL HEALTH CARE BILL, 2013

On August 19, 2013, the Mental Health Care Bill, 2013 was introduced in the Rajya Sabha. The Mental Health Act of 1987 is repealed by the Bill.

1. **Reasons to the Bill:** The United Nations Convention on the Rights of Persons with Disabilities was accepted by the government in 2007. The Convention mandates that the



nation's legislation comply with it. Due to the fact that the current Act neither effectively protects the rights of people with mental illness nor encourages their access to mental healthcare, a new bill was submitted. [12]

## 2. The Key Features of the Bill

- Psychiatric patient has the right to draught an advance directive that outlines his preferences for how the condition should be treated in a mental health setting and names the person who will serve as his chosen representative.
- Everyone has the right to contact mental healthcare facility, treatment and services manage or fund by the government.
- The appropriate Central or State Mental Health Authority must have each mental health facility's registration. Additionally, these authorities are in charge of overseeing and keeping track of all mental health facilities.
- The Mental Health Assess Commission, a quasi-judicial authority, will periodically review the use of advance directives, the process for creating them, and provide guidance to the government on how to preserve the rights of those who are mentally ill.
- Electroconvulsive therapy is only permitted when muscle relaxants and anesthesia are used, as suicide attempts are deemed to be the result of mental illness at the time and are not punishable under the Indian Penal Code. For minors, the therapy is not permitted.

### Chapters

- Chapter 1: Definitions, brief titles, extent, and commencement preliminary information
- Chapter 2: Mental disease and decision-making ability for mental healthcare and therapy
- Chapter 3: A instruction in advance
- Chapter 4: Selected participant
- Chapter 5: Mentally ill individuals' rights
- Chapter 6: Responsibilities of the Right Government
- Chapter 7: Central mental health authority
- Chapter 8: State agency for mental health
- Chapter 9: Accounting, Finance, and Audit
- Chapter 10: Institutions for mental health,
- Chapter 11: Commission on the review of mental health
- Chapter 12: Admission, treatment, and discharge are covered
- Chapter 13: Other agencies' obligations
- Chapter 14: Restriction on Professionals Discharging Functions Not Covered by Profession
- Chapter 15: Offenses and Penalties
- Chapter 16: Miscellaneous

## VII. BASIC RIGHTS OF MENTALLY ILL PATIENTS AND NURSE'S RESPONSIBILITIES

Chapter VIII of the Mental Health Act of 1987 has a particularly inventive and specific provision for the protection of human rights. The Universal Declaration of Human Rights (UDHR) specifically specifies in Article 24 that "Each person has the right to a sufficient

quality of life, which includes food, clothing, shelter, and the essential social services for himself and his family" (1). No one shall be subjected to torture or other cruel, brutal, or humiliating treatment or punishment, according to Article 5 of the UDHR. According to Section 66(1) of the People with Disabilities Act, "The competent government and the local authorities shall undertake or cause to be done the rehabilitation of all persons with disabilities, within the limitations of their economic capacities and development." According to Section 2 of the Person with Disability (PWD) Act of 1995[12], mental illness is also recognized as a disability.

**1. Some of the rights of psychiatric patients:** The following rights are granted to people:

- the ability to wear their own clothes,
- have private storage for their belongings,
- keep and utilize those belongings,
- Spend money on their own expenses.

**Additionally, the following rights are guaranteed:**

- the right to get treatment in the least restrictive environment;
- the right to maintain civil service status;
- the right to reject ECT
- the right to own property, make estate plans, and manage one's finances.

**2. Nurse's implications for protecting patient's rights**

- In order to uphold the patient's rights, the nurse must first be informed of them.
- She should make sure that ward rules and regulations don't infringe on patients' rights.
- She has a duty to safeguard the patients' rights, which includes discussing these rights with the mental health team and incorporating them into the nursing care plan.

## VIII. FORENSIC PSYCHIATRY

It is the branch of medicine that deals with disorder of mind and their relation to legal principles.

The basic forensic psychiatry includes:

**1. Crime and psychiatric disorders:** Crime and mental conditions such as antisocial personality disorder, schizophrenia, drug dependence, mood disorders, and epilepsy are closely related to one another.

Because of their inability to comprehend the consequences of their actions, their delusions and hallucinations, as well as abnormal mental states including perplexity and exhilaration, violent drug users may commit crimes.

**2. Criminal responsibility:** Nothing that is done by someone who is, at the time of doing it, due to insanity, is "incapable of recognizing the nature of the act, or that he is doing what is either improper or contrary to law," is considered an offence, according to section 84 of the Indian Penal Code of 1860. Determining factors for criminal responsibility:

3. **M' Naghten's rule:** According to the rule, if a person was aware of what they were doing at the time of the crime, they did not understand that what they were doing was illegal. The nature and quality rule as well as the right from wrong test are names for these guidelines.
4. **Origin of the rule:** Daniel M'Naghten, 29, was a sombre, reticent man who belonged to religious organisations and had a variety of social habits. He made the decision to assassinate Prime Minister Sir Robert Peel. He flew to London and prepared extensive arrangements, but he accidentally shot and killed Edward Drummond, Peel's personal secretary. M'Naghten acknowledged throughout the trial that "they have accused me of crimes for which I am not responsible, they do everything to bother and persecute me, and in fact they want to kill me. M'Naghten was persecuted to the point where he felt forced to commit a crime despite knowing that doing so would put him in danger. He did this with cool deliberation. Psychiatrists were found that his delusions were real, that the act was committed under a delusion. So M'Naghten was not found guilty on the grounds of insanity [12]
5. **Irresistible impulse act:** It states that even if a person knew they were doing something wrong, they may have lost control of their conduct due to a mental illness.
  - Durham's Rule/Product Rule
  - If an accused person's illegal act was the result of a mental illness or defect, they are not criminally accountable. This is where the causal link between the alleged offence and the mental disorder should be proved.
  - American Law Institute (ALI) Test
  - An individual is not liable for criminal behavior, if at the time of the behavior, he/she lack of adequate mental capacity to understand the criminality of the behavior or to conform the behavior to the legal standards due to a mental illness or defect.
6. **Civil Responsibilities of a mentally ill Person**
  - **Management of property:** On a request from any relative, the court may order an investigation to determine whether a person is mentally ill and unable to manage his property. In such a situation, a manager is chosen by the court to manage his property, which may entail selling it or otherwise disposing of it to pay off debts or other expenses.
  - **Marriage:** According to the Hindu Marriage Act of 1955, any union of two people is deemed void in the eyes of the law if one of the parties was mentally incapacitated at the time of the union. Unsoundness of mind for an extended length of time may be considered a basis for divorce. When insanity persists for a period of more than two years after marriage, the other partner may file for divorce. However, if a divorce petition is submitted after a 3-year waiting period, the other party will be required to pay maintenance for the mentally ill individual before the divorce may be finalized. [12]
  - **Testamentary capacity:** According to the Indian Succession Act, a person must have testamentary capacity, or the mental capacity, in order to make a legal will. The testator must be an adult, free from cruelty, intelligent, and showing healthy mental faculties. Doctors and nurses may occasionally be asked to attest to a patient's will. In such cases, the doctor evaluates the test subject's orientation, focus, and memory. If the delusions are unrelated to the distribution of the property, a person with delusional condition is also able to make a legally binding will.

- **Right to vote:** Election participation is not permitted for those who are not of sound mind. Therefore nursing practice must adhere to established legal norms and continually realign itself to the standard that is always changing. Many patients will go to her for information and care because she is the only motivated & skillful nurse who can integrate legal knowledge for providing patient care. [12]
- **Civil rights of the mentally III:** The protection of the human rights of those who are mentally ill has been prioritized in response to worldwide human rights concerns. On receiving a report of such behavior from the general public or the police, the court may summon the person who is responsible for looking after the mentally ill individual but fails to take sufficient care and exhibits cruelty. Additionally, anyone who humiliates the mentally ill while they are receiving treatment in a hospital face harsh penalties. Additionally, it has been said that any contact or email in any form would not typically be restricted or intercepted and that mentally ill people won't be employed in study unless they have given their proper consent. [12]
- **Psychiatrists and the court:** In order to help the law in its function, mental health has establish itself as a medical specialty & psychiatrists are today considered experts. One psychiatrist can present evidence persuading a judge that the crimes were committed as a result of the defendant's mental disease based on a plea of insanity.

## 7. Acts Related To Narcotic & Psychotropic Sub Stances & Illegal Drug Trafficking The Narcotic Drug and Psychotropic Substances Act of 1985-Act 61

The Act 61 of NDPSA was imposed on 6th September 1985

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- Narcotic drugs (opium, poppy, straw, cannabis, cocaine, coca, and all enhanced synthetic narcotics) and psychoactive substances are covered under the statute
- According to this law, anyone who manufactures, owns, transports, imports, sells, buys, or uses any narcotic narcotics or psychotropic substances (other than "Ganja") faces the following penalties:
- Strict jail time of at least 10 years, which may be increased to 20 years, and a fine of at least 1 lakh rupees, which may be increased to 2 lakh rupees.
- A strict prison sentence of at least 15 years, which may be increased to 30 years, and a fine of at least 1.5 lakh rupees, which may be increased to 3 lakh rupees, are both applicable for repeat offences.
- For handling "Ganja," a strict 10-year prison sentence and a fine of up to one lakh rupees are possible penalties.
- The punishment can be up to a year in jail or a fine, or it can be both, for carrying "minor quantities," such as Heroin 250 mg, Opium 5 g, Cocaine 125 mg, or Charas 5 g, as were later stated in this act. Prison terms for ganja (less than 500 g) can reach six months.
- There is a provision for detoxification of the patient by specialized order of the court.
- The Preventing Illicit Traffic in Narcotic Drugs & Psychotropic Substances Act (NDPSA) was enacted subsequently. Now, if a person is found to be trafficking more than or equal to 1 kg of pure heroin notwithstanding conviction and warning on the first attempt, there is a provision for preventive imprisonment, property seizure, and the death penalty. [13]

## IX. LEGAL RESPONSIBILITIES OF A NURSE

Psychiatric mental health nursing probably requires more legal and ethical understanding than any other nursing specialization. Psychiatric nurses must constantly strike a balance between the rights of the patient and the rights of society, which puts them in contact with legal issues on a regular basis. Never should nurses or other healthcare professionals infringe on the rights of individuals who are mentally ill.

**1. Nurses must be aware of:**

- The rules of the state in which they operate;
- Patient rights;
- Mentally ill individuals' obligations under criminal and civil law;
- Legal documents

Knowing the psychiatric law in the region where the nurse practices enables her to avoid liability and safeguard the patient from needless detention and mistreatment. The nurse should:

- Protecting the patient's rights;
- maintaining the security of legal documents;
- maintaining the privacy of patient information;
- obtaining informed or substitute consent from the patient or a relative before any procedure;
- Explaining the procedure based on the patient's level of anxiety, attention span, and decision-making capacity.

**2. Nursing malpractice:** The inability of professionals to deliver sufficient and competent treatment that is provided by the members of their profession constitutes malpractice and causes injury to the patient.

**To identify the Malpractice the Elements of Nursing Negligence must be proved**

A legal duty of care exist

- The nurse perform the duty neglectfully
- The damage were suffered by the petitioner as a result
- Damages were extensive *Common areas of legal responsibility in psychiatric services*
- Patient doing Suicide
- Failure in diagnosis of the patient
- Problems associated to ECT
- Misuse of prescription of psychoactive drugs.
- Violation of privacy/confidentiality
- Failure to take informed consent
- Insufficient care by employees & trainers
- Failure to inform about abuse

**Steps to avoid legal responsibility in psychiatric services**

The nurse must not:

- Report information to coworkers involved in patient care;
- Keep records up-to-date and legible;
- Protect patient information;
- Operate within the parameters of state laws and the nurse practice act;
- Consult with coworkers to determine the best course of action;

- patient rights and welfare should be first priority
- Develop effective inter personal skills.

**3. Confidentiality:** Information was acquired during the nurse-patient interaction through verbal and written sources, both direct and indirect. According to nursing ethics, such knowledge is confidential and is better used to improve patient care than for other things like gossip or personal gain.

Information about one person to another & from a patient to a nurse, is not to be disclosed. Any break of confidentiality could be detrimental to the patient's best interests, both socially and economically, keeping in mind the stigma associated with their sickness.

**4. Informed consent:** Informed consent, more patients formally consent in writing. A patient's authorization or assent to a certain intervention is the result of discussion between the patient and nurse. The informed consent should contain the following information:

- The nature and aim of a proposed treatment or procedure,
- the method of administration,
- The alternative treatment procedures , risks & benefits.
- The dangers and advantages of skipping therapy

The ability to provide informed consent for a procedure, however, is strongly disputed because of the nature of the issue. Despite the fact that most patients see and act in their own interests, certain patients might not be able to give a valid legal consent. These variances need screening the patients for the following conditions:

- Capacity to express decisions;
- Legal age;
- Sound mind;
- Intelligence;
- Capacity to absorb the information provided regarding the therapy
- Substituted Consent

It describes a circumstance in which a patient is unable to give their own agreement to the suggested course of treatment. In certain situations, consent is given by another person, usually a patient's family member or a guardian appointed by the court.

A thorough explanation of the hazards associated with the investigation, therapy, and/or treatments delivered to the patient is required before obtaining their consent or that of his legal guardian.

To get informed consent under the following circumstances:

- A person's voluntary admission to a mental health facility.
- Intrusive investigative techniques like lumbar puncture, spheoidal EEG, and operations like ECT and psychosurgery.
- Pentothal examination (narco-analysis).
- Drug therapies like clozapine and disulfiram therapy.

- Dispensing of any research medications (drug trails).
5. **Record Keeping:** Progress notes and nursing notes are considered legal papers and should be kept properly. They ought to refrain from passing judgment and make assertions that are objective in character.
- **Disclosure of information:** Any disclosure of information to a third party. Information disclosure in a medical environment is covered by the **Health Insurance Portability and Accountability Act (HIPAA)**. The details and personal information in a patient's medical file are frequently extensive. The right to expect confidentiality in a connection with a health care professional is stated in the client's bill of rights. As a result, when a provider talks about a client's issues with any unauthorized third party, that provider has probably violated the confidentiality of the information.
  - Because conversations in some places are more likely to be overheard, nurses must be careful regarding what they say about the client, to whom & where they speak it.
6. **Misrepresentation:** Giving an inaccurate or misleading representation of something is called misrepresenting it. In order to keep a treatment error from being discovered, a healthcare provider could misrepresent something to a patient. In a case involving misrepresentation, the pretender must demonstrate not only that the misrepresentation took place but also that the patient relied on it to choose their course of treatment.

An employee's failure to inform an injured party of negligent behavior may result in a hospital being held accountable. For instance, most courts have ruled that it is the surgeon's responsibility to inform his patient if he knows or has cause to think that a foreign object was left in the patient's body after a surgery. A common instance of deception is when a follow up procedure will done to remove the foreign object is carried out without mentioning that it is required due to the provider's first mistake.

## X. SPECIFIC PROBLEMS IN MENTAL HOSPITALS

1. **Escape from mental hospital:** Escape attempts by mentally ill patients are a major issue in psychiatric facilities. Escapes by mentally ill individuals reduced as the number of voluntary admissions rose. In cases of forced admissions, admission pursuant to a court order, mentally sick offenders, mentally ill prisoners, and women, escape is more serious.

The severity of the sickness, the attitude of the personnel, the lack of recreational amenities, and the lack of proper care offered to the patient by doctors or nursing staff are all potential reasons for escape from the mental hospital.

The ward staff shall notify the senior supervisor/medical superintendent as soon as a mentally ill offender escapes in the event of an involuntary admission or admission according to a reception order. The local police station, the patient's family, or the relevant court (if admission is required by court orders), depending on the situation, should all be informed by the medical superintendent.

2. **Death:** In a mental hospital, patients may pass away from a physical cause. The best medical treatment should be given to the patient with every effort. Critically sick patients should be transferred, if necessary, to speciality facilities. If the patient's family is still

there after death has already occurred, the body may be given to them. If the patient's family members are not staying with them, the news of the death must be conveyed to them as soon as possible through telephone, and the body must be maintained in the hospital morgue until the family arrives. The arrangements for the deceased's funeral rites should be confirmed in accordance with is if no family member has responded for three days (72 hours) or if family information is unknown. In some circumstances, a postmortem is not required. It is only advised in suspected situations where the death was brought on by an accident or in an unnatural manner. Mortality review meetings with the involved parties should be held for all deaths that take place in a mental institution in order to not only determine the cause but also to rule out medical malpractice.

- 3. Pregnancy:** A female patient may become pregnant in one of two situations. One scenario is one in which the patient is already pregnant when she is admitted, and the other is one in which the woman becomes pregnant while she is a patient at the hospital. The second circumstance is more critical. The doctor should always check for pregnancy before admitting any female patient in the reproductive age range. To rule out pregnancy in receipt order circumstances, a thorough gynecological check should always be done.

All efforts should be taken to locate the family when an unidentified pregnant patient is hospitalized to a psychiatric hospital. Humanitarian reasons dictate that the pregnancy should be terminated if it appears to be the consequence of rape and the patient is unable to care for the kid. If the pregnancy is already far along and the patient won't be able to care for the child in the near future while efforts to find the family are unsuccessful, arrangements may be made to turn the child over to social welfare organizations.

- 4. Unknown patient:** Patients at psychiatric facilities could not recognise mentally ill patients who are wandering aimlessly. The nurse must spend enough time with the patient to become familiar with their name and other information. The patient is typically able to remember and provide the specifics once his or her physical or mental condition has improved.
- 5. Mentally ill offender:** There should be a distinct criminal or forensic ward in mental hospitals with sufficient police security. Criminals with mental illnesses can fall into one of three categories: those who are unable to face trial, those who have been exonerated due to their condition, or those who become ill while in prison. Criminals with mental illnesses who have been admitted to mental hospitals according to a court order should be treated equally with other patients. Aspects of law and security must be taken into account.

Recordings for all reception orders, patients, and nurses should be made sometimes. In such cases, nurse's notes must be considered legal documentation.

## **XI. MENTAL HEALTH REVIEW BODY**

According to the Mental Health Review Tribunal in New South Wales and Queensland as well as the Mental Health Review Board in Victoria. In essence, it is a body that was established independently to look into and consider appeals against involuntary detention in mental health facilities. These organizations typically conduct reviews of individuals held against their will for a prolonged period of time. Involuntary patients who have been detained



may file an appeal with this body to have their status changed. Members of the board or tribunal include attorneys, psychiatrists, and other people deemed to have the necessary training or expertise (including nurses). Compared to a court, the board/tribunal is far less formal. The goal is to give the patient a more private and cozy setting. The members may ask the opinions of those who are familiar with the patient, such as nurses, to aid in their decision-making. There can be a board or tribunal hearing while you are completing your clinical placement at a public mental health agency. You can request permission to observe if the subject in question is amenable.

## **XII. COMMUNITY / OFFICIAL VISITORS**

Some jurisdictions permit the appointment of individuals who are referred to be community or official visitors. These representatives have the right to visit sanctioned treatment centers and provide findings to the state legislature. They have a wide-ranging mandate, allowing them to comment on the suitability of the following:

1. Access to & treatment by services
2. Standards of facilities
3. Information given about the rights of the individuals to accessing the services
4. Grievance procedures
5. Staff actions that violate the Act
6. Other important and relevant Matters

## **XIII. TREATMENT UNDER THE MENTAL HEALTH ACT**

Medical and psychosocial interventions can be given when a person is legally seized in a mental health facility by duly licensed mental health experts in accordance with their clinical judgment. However, two sorts of treatment also required a formal legal process to be follow. These include psychosurgery and electroconvulsive treatment.

1. **Electro-convulsive therapy:** Where it is thought that the service user will benefit clinically, electro-convulsive treatment (ECT) may be administered. Informed permission is one of the requirements for using this treatment, though.
2. **Informed consent:** Whether a patient is admitted voluntarily or not, they must only give their consent to ECT after receiving the following:
  - A thorough explanation regarding the procedure, benefits and side effects in a simple language which is understood by the patient
  - Explanation of rights in detail, such as the ability to revoke consent at any time and the right to consult a lawyer or a doctor.
  - The chance to ask questions and receive frank and thorough responses.
  - The service user must express consent in writing on the legally required form.
  - The various Acts include provisions for when an involuntary patient is deemed unable or unwilling to agree to treatment.
3. **Psycho-surgery:** The term "psycho-surgery" is defined in the majority of Acts as "the practice of performing surgery or implanting intracerebral electrodes on the brain principally for the goal of influencing that person's thoughts, emotions, or conduct." Even stricter legal guidelines than those for ECT apply to the administration of psychosurgery.

#### **XIV. RESTRAINT AND SECLUSION**

Approving restraint and isolation Normal authorization for restraint and isolation should come from a medical expert, but in an emergency, the senior registered nurse or an authorized mental health professional may grant it. In such cases, prompt notification to a licensed psychiatrist or medical professional is required.

- 1. Physical restraint:** In order to properly treat a physical sickness or injury, restraint is described as "preventing the person's body or a limb from freely moving by mechanical means, other than via the use of a medical or surgical appliance."

Most legal systems contain rules allowing for the use of some kind of physical restraint. The formal reporting procedure often calls for the following information to be provided:

The following factors must be considered:

- the type of mechanical restraint utilized;
- the justification for utilizing restraint;
- the individual who gave their consent or authorization for the use of restraint;
- the individual who applied the restraint;
- the duration of the application of the restraint.

- 2. Seclusion:** Seclusion is defined as "the incarceration of a person in solitary confinement at any hour of the day or night in a room the doors and windows of which are locked from the outside."

People who are placed in seclusion are granted certain legal rights, such as the following:

- observation and review at predetermined intervals of time, typically every fifteen minutes (in some cases, it is specified that this must be done by a registered nurse);
- provision of "appropriate" bedding and clothing;
- Provision of food and drink at predetermined times (i.e. mealtimes); • provision of access to restrooms.
- Regularly scheduled intervals for medical examinations.

If restraint or isolation is used outside of the parameters specified by law, it violates that Act of Parliament, and consequences may result.

#### **XV. LEGISLATIVE REFORM**

As a result of investigations, shifting social attitudes, international treaties, and other reforms, mental health legislation are periodically revised. In order to comply with responsibilities under the United Nations Convention on the Rights of Persons with Disabilities (2006), to which Australia became a signatory in 2008, Tasmania, the Australian Capital Territory, Queensland, Western Australia, and Victoria are evaluating their Mental Health Acts. The Convention places a strong emphasis on everyone's ability to make decisions and calls on member nations to guarantee that all people with disabilities have access to decision-

making assistance. Through the use of a "nominated persons" scheme, advance declarations, and the presumption of decision-making competence, proposed revisions to Victoria's Mental Health Act aim to incorporate supported decision-making auctions. There will be updated standards for non-consent-based evaluation and treatment. Other reform goals include creating a framework that is recovery-focused, reducing the length of involuntary treatment, and enhancing the rights of service users through advocacy and a second opinion procedure. A Mental Health Complaints Commissioner has been established as one of the new control mechanisms. [14]

## **XVI. SUPPORTED DECISION-MAKING**

The term "assisted decision-making" refers to a different type of decision-making that aims to preserve autonomy. A supported decision-making model presupposes that we frequently make critical decisions in an interdependent manner with the assistance and support of our social networks, such as friends and family. In accordance with this paradigm, it is not assumed that the person is incapable of making any and all decisions; instead, an attempt is made to ascertain what the person desires in order to preserve legal ability. Some principles of supported decision-making are:

- Regardless of disability, all people of legal age are persons before the law with the right to self-determination and respect for their autonomy.
- All adults have the right to the presumption of capacity, regardless of a disability, and to the decision-making supports required to exercise capacity.
- Decisions made collaboratively with family, friends, and other trusted individuals chosen by the person will be acknowledged and legally validated.

## **XVII. PROFESSIONAL ISSUES IN NURSING**

The duties of a nurse go beyond providing clinical care. She must also uphold moral and legal obligations, as well as establish appropriate boundaries and relationships with her coworkers. Prior to making any decisions on patient care, she must take the policies of the facility, applicable laws governing health care, and the patient's best interests into account. When handling any potential nursing-related professional difficulties, she must also make sure her actions complement the rest of the team and promote excellent patient care. Barack Obama, the 44th president of the United States, stated that "American nurses are the beating heart of our medical system" (ANA). In little clinics and huge hospitals, in small villages and big cities, nurses are the first line of care, according to this statement. [15] . Nurses devote their entire lives to providing care for others, sometimes neglecting their own needs, both professional and personal.

- 1. Inadequate staffing:** In most professions, having a temporary staffing shortage is normal, and in many of those circumstances, it is only a minor inconvenience. But in nursing, a lack of staffing might be the difference between life and death.

According to the American Nurses Association (ANA), staff shortages brought on by cost-cutting measures, an ageing population, more complex and demanding patients, and an ageing workforce are stressful for nurses' working circumstances and have an effect on patient care and overall outcomes. From research it was found that having more number

of nurses on duty improve patient outcomes and increases staff and patients satisfaction. [16]

2. **Stress:** The physical and mental challenges of caring for others place additional stress on nurses. 82% of the 10,688 nurses who took part in an ANA survey indicated they were highly likely to experience stress at work. [17]
  - The ANA launched the Healthy Nurse, Healthy Nation campaign to help nurses manage stress with the goal of uniting nurses, employers, and organisations in improving quality health in so many areas like mental health, physical activity, nutrition, rest, quality of life & safety.
  - The ANA affirms that "healthy nurses are excellent role models for their patients, colleagues, families, and neighbors." [18]
3. **Safety on the Job/safety precautions**
  - A safe workplace necessitates the cooperation of several variables. The following are ANA initiatives to increase workplace safety:
  - **Safe patient handling:** "Back injuries are a risk that never goes away, therefore ANA launched a profession-wide initiative to reduce them. This campaign aims to protect nurses by improving education and training, informing employers about the rising use of assistive technology, and changing government ergonomics policies. [19]
  - **Safe needles:** According to one-third of ANA members, blood-borne illnesses and needle stick injuries present a serious risk. According to the group, laboratory personnel, doctors, housekeepers, and other healthcare professionals can also be at risk and need protection, even though nursing staff suffers the bulk of sharps injuries. The American Nurses Association (ANA) is working to lower those risks via education and legislation, giving medical professionals the tools and resources they need to prevent accidents and their employers the power to establish safe working conditions for them. [20]
4. **Workplace Violence:** Healthcare and social service personnel "experience a heightened risk of work-related assaults originating primarily from violent behaviour of their patients, clients, and/or residents," according to OSHA's Guidelines for Preventing Workplace Violence for Healthcare and Social Service Personnel [21]

Through rules, policies, and education, organizations like OSHA, the ANA, and numerous others aim to stop violent incidents. According to the ANA, "No staff nurse should have to deal with violence at work, whether from employees, patients, or visitors." [20]
5. **Improving self-care:** This is a problem that is fundamentally related to nursing. In our hectic personal and professional lives, it's easy to forget the proverb "Care for yourself so you can care for others." According to Margo Halm, RN, PhD, NEA-BC, in an article published in the American Journal of Critical Care, "Nurses have been socialized to care for others and frequently rank own needs as second." "Self-care remains crucial for nurses to ease the negative effects of stress in the constantly evolving healthcare environment and to prevent progression of those effects to burnout, which can have catastrophic effects on nurses and those they are responsible for caring for," says the American Nurses Association. [22]

- 6. Maintaining confidentiality:** Legally, nurses must protect the privacy of their patients. This means that they are not permitted to discuss situations with anybody who is not directly involved in a patient's care. They are only permitted to discuss a patient's condition with family members or other individuals the patient has given permission to.

For instance, nurses must be sure that the patient or family has given consent for information to be disclose if a patient's acquaintance asks about the patient's status. Additionally, nurses are unable to access any patient records or other data if the patient is not under their care. [23]

- 7. No room for error:** Nursing professionals must properly teach and manage their workforce. Even a seemingly insignificant mistake can endanger patient safety and put nurses and medical facilities under legal investigation. When writing notes regarding a patient's case, nurses must take special care to make sure they understand orders correctly and communicate clearly.

Nurses must, for instance, confirm the drug's dosage, contraindications, and side effects before delivering medication. Nurses must take careful, complete notes when updating a patient's chart. If not, someone else reading it might interpret the facts incorrectly or struggle to understand how she evaluated the patient. [23]

- 8. Workplace relationships:** Upholding a positive workplace culture is one of the challenges of the nursing profession. Nursing demands teamwork, thus it's essential that nurses get along with their colleagues as well as with doctors and other healthcare professionals. If they don't, they can find themselves disputing more than assisting patients in healing. According to Spring Arbor University, another issue that might occasionally arise in the nursing profession is bullying and harassment among coworkers. [24]

It is probable that tensions may occasionally build to a point where they ignite conflict in a high-stress environment like a medical facility. Conflict between coworkers on a regular basis can harm their working relationships forever, preventing effective communication and limiting the department's capacity to deliver quality patient care.

- 9. Communication:** In medicine, communication problems are frequently the root of legal and ethical disputes. Disagreements and conflicts may result from breakdowns in communication between patients, families, carers, and healthcare professionals. By establishing extensive channels of contact, these communication breakdowns can be fixed.

An order to "**Do not resuscitate**" is one such kind of communication (**DNR**). In the event that a medical problem, such as heart stoppage, prevents the patient from expressing such a desire at the time of the incident, a DNR is an advance directive that expresses the patient's preference to die rather than be revived. Nursing professionals should be familiar with their state's DNR legislation because they differ from state to state.

## **XVIII. PROFESSIONAL RESPONSIBILITY**

When referring to nurses, the ethical and moral requirements that permeate the nursing profession are referred to as professional responsibility. These requirements relate to patient care, collaboration with other medical professionals, morality, and the responsibility to effect social change. Whether they are studying to become a certified nurse practitioner or a registered nurse, nurses must master these guidelines during their education. The state nursing board may suspend or revoke a licence for violating ethical standards.

- 1. Patient's interests:** The nurse's biases and other concerns are subordinate to the patient's best interests. Regardless of the patient's sex, age, nationality, colour, or medical condition, she is to advocate for compassion and respect for the patient's right to self-determination. Conflicts of interest must always be handled by nurses in a way that protects both their professional reputation and patient safety. The nurse's obligation to work closely with the entire treatment group, which includes doctors, other nurses, and specialists, is a component of this role. [25]
- 2. Advocacy and responsibility:** It is the nurse's responsibility to speak up for her patients. The patient's legal rights, privacy protections, and freedom to decide whether or not to participate in medical research must all be advanced by her work. As an advocate, the nurse must make sure she complies with all eligibility requirements and state licensing laws before engaging in nursing activities and must watch out for other coworkers who may have impairments. As part of their professional obligations, nurses must always take personal accountability for their decisions, actions, and inaction. When a nurse assigns tasks to a coworker or subordinate, they are still held accountable.
- 3. Values and morals:** The nurse owes moral obligations to both herself and others around her, including patients. Continual professional development and a commitment to lifelong learning are requirements for nurses. According to ethical standards, a nurse must demonstrate positive wholeness of character, which means her moral character must extend to her home life as well as her professional life. The moral character, intelligence, bravery, and honesty of nurses are expected. In order to develop ethical nursing practises, conditions must be created by nurses in leadership positions that give staff members a constructive outlet for their complaints. [26]
- 4. Community education:** The ethical responsibility of nurses is to educate the public about health, wellness, and disease prevention. By taking part in community engagement projects and civic initiatives related to healthcare, nurses can develop their careers. It is the responsibility of nurses to keep up with outbreaks, epidemics, and infectious disease trends on a national and international level. Additionally, a nurse must remain knowledgeable about immunizations, global hunger and pollution, poor access to healthcare, human rights abuses, and the equitable distribution of nursing services. [27]
- 5. Perpetuation of ethical standards:** It is routine duty of nurses to have a discussions about the ethical matters with their coworkers. Through membership in professional groups, nurses must reaffirm the ideals of the profession to other members and uphold collective adherence. In particular, nurses need to be involved in discussions and debates about health care access, homelessness, and the stigma of disease. Nurses need to be vocal participants in these debates and discussions. [28]

6. **The doctrine of respond eat superior:** Respond eat superior, which means in Latin "let the master answer," is a legal principle that holds one party accountable (and liable) for the actions of their agents. According to this notion, a hospital may be a defendant in a lawsuit brought about by a worker's negligence.

Nursing errors that leads to respond eat superior claims often include one of the following:

- **Failure to follow a physician's order:** Before giving a patient a drug, the nurse frequently neglects to check the doctor's orders and make sure that no treatment adjustments have been made.
  - **Failure to take correct telephone orders:** Nurses should not carry out a clearly incorrect order if they disagree with the physician's prescription. Whether the nurse thinks the order is wrong, she or he should check it with the doctor to see if there was a communication error of some kind.
  - **Failure to report defective equipment:** If a nurse neglects to report a flaw in equipment that is readily apparent, is known to be flawed, and is the reason why a patient was injured, they may be held accountable.
  - **Failure to follow established standard procedure:** This can entail a disregard for correct isolation procedures, which might result in cross contamination. Such formal problems are a rising worry.
  - **Patient falls:** Many malpractice cases are filed because of patient falls. Therefore each and every patient should be assessed for fall risk
  - **Patient burns:** When a careless practitioner unintentionally keeps heating equipment on a client's skin for too long, burns may result.
  - **Medication errors:** Lack of knowledge about a particular drug by a nurse might lead to careless nursing. Before delivering any form of medication, the nurse is ultimately accountable for comprehending all advice on possible drug interactions and negative effects.
  - Historically, "**TRIPLE CHECKING**" the drug before administering it has been the rule for safe medication administration in nursing care.
7. **HIPAA and confidentiality:** The Health Insurance Portability and Accountability Act (HIPAA), passed by the federal government in 1996, is known by its acronym. The statute establishes guidelines to guarantee that all patient billing information, medical records, and accounts adhere to uniform documentation, handling, and privacy requirements. All HIPAA rules must be followed by any healthcare provider who electronically maintains, processes, or transmits medical records, medical claims, remittances, or certifications.

All patients must be able to see their own medical records, make corrections to them, and be aware of how their personal information is handled, according to HIPAA.

HIPAA regulations are separated into five categories:

- **Privacy rule:** Any healthcare organisation that conducts medical transactions electronically must adhere to the privacy regulation, which provides uniform national standards to safeguard individual medical records and other personal health information. The HIPAA privacy rule establishes limitations and requirements for the

use and disclosure of personal health information in addition to requiring proper protections to preserve that information's privacy (which may be made available without patient authorization in certain circumstances). Patients also have the right, under the privacy regulation, to see, evaluate, and acquire a copy of their health records, as well as to ask for those data to be changed or corrected.

- **Security rule:** The security rule outlines federal guidelines, techniques, and policies for safeguarding electronic health records produced, used, or kept by a HIPAA-covered entity. Security measures are required by the HIPAA Security rule. By designating a HIPAA security compliance team and restricting physical access to electronic devices and data, healthcare organisations abide by these regulations.
- **Transaction requirements:** HIPAA mandates that code sets be used for administrative transactions involving prescription purchases, medical treatments, and diagnosis.
- **Unique identifiers rule:** Under the HIPAA Administrative Simplification Regulation, three identifiers aid in promoting uniformity, efficiency, and standardisation. The National Provider Identifier, the Standards Unique Employer Identifier, and the National Health Plan Identifier are these IDs.
- **Enforcement rule:** The HIPAA Privacy and Security Rules' application was broadened by the HITECH Act (Health Information Technology for Economic and Clinical Health), which also increased the fines for HIPAA infractions. The Act also offers funds for the creation of a health information exchange as well as money from Medicare and Medicaid to hospitals and doctors for the adoption of electronic health records (EHR).

Healthcare professionals can better protect both themselves and their patients by strictly adhering to HIPAA standards. All healthcare practitioners participating in a patient's care could face sanctions if HIPAA laws are not adhered to.

## **XIX. PATIENT RIGHTS**

Understanding and effectively implementing patient preferences in treatment plans should be a priority for medical providers. All stages of a patient's medical care must be documented accurately, and communication must be clear.

### **The following relate to patient rights:**

1. **Autonomy:** The autonomy concept acknowledges that people have the right to choose their own medical care. Since medical standards of care have evolved to quality outcomes that are focused on patient wants rather than those of medical experts, autonomy has grown in importance.
2. **Advance directives:** Advance directives are documents that outline a patient's wishes and preferences for medical care. If a patient is unable to make healthcare decisions for himself or herself, the patient's family, doctor, and carers will review the advance directive.

### **Advance directives include the following:**



- **Living Will:** A formal written statement of the patient's wishes regarding the kinds of medical care and life-supporting procedures they want or don't want, such as artificial respiration, tube feeding, nutritional support, or resuscitation. Living wills are also known as healthcare declarations or healthcare directives in some states.
- **Do Not Resuscitate (DNR) Order:** If a patient has a medical problem, like a severe heart attack, that prohibits them from articulating their decision at the time of the incident, a DNR is an advance directive that states they prefer not to be revived.
- **Medical or Healthcare Power of Attorney (POA):** A medical power of attorney (POA) is a legal document that names a person — also known as a healthcare agent or proxy — to make medical decisions on behalf of a patient in the event that the patient is unable to do so.

A patient may also want a medical POA to name someone as the patient's healthcare agent because a living will cannot address every potential scenario. The patient's living will should serve as a guide for such an agent, but they are also empowered to interpret the patient's intentions in any circumstance not covered by the living will.

If the patient's family is split or disagrees with the patient's wishes about their healthcare, a medical POA may be especially vital. A medical POA does not provide the appointed person the power to handle the patient's finances.

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