

ETHICAL AND PROFESSIONAL ISSUE

Abstract

When we are very young, we begin to learn what appropriate and inappropriate behavior is. We learned this from our parents, teachers, friends, relatives, and other role models. Our education was greatly impacted by the religious beliefs and way of life of our family. As we get older, we create a personal code of ethics that governs our behavior in day-to-day interactions. Everybody has a personal code of ethics, and the nursing field applies this code as well. It is not well understood that the public has rights to be shielded from careless or damaging professional action. The national profession may look to other countries for guidance on defining the legal obligations of nurses. All the same, it must consider the laws and professional relationships as they are most particularly applied here, as well as the set of norms and guidelines established in 1970 for the TNAI by Judith Steni, a legal research advisor for USAID. When we are unclear about our legal responsibilities, we commonly use our understanding of moral duty as a guide in nursing practice. A consciousness of moral and legal obligations may lead to the same kind of behavior. Ethics refers to the norms or rules that specify appropriate behavior. Ethical values serve to safeguard human rights. A career that is ethical has various characteristics. A code of ethics for a profession will specify the conduct expected of its members, along with their obligations to the public they serve, their colleagues, the profession, and society at large. Both the client and the caregiver are protected by the nursing ethics board's professional guidelines for nursing conduct. An ethics code was adopted by the International Council for Nurses (INC) in 1973. The four main responsibilities of a nurse are to promote health, prevent sickness, restore health, and alleviate suffering. Nursing services are necessary for everyone. Fundamental to nursing is respect for men's rights and human life. It is unrestricted by any of these things, including politics, socioeconomic class, age, sex, or nationality. In order to provide health services to individuals, families, and communities, nurses work in partnership with affiliated organizations.

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I. INTRODUCTION

We start learning what right and incorrect behavior is when we are very young. Our parents, Teachers, friends, family, and other authoritative persons taught us this. Our family's religious practices and life philosophy had a big influence on how we learned. By the time we reach adulthood, we develop a personal code of ethics that directs how we act in everyday situations. We all have a personal code of ethics, and the nursing profession also makes use of this code. Each profession has a set of ethical principles, often referred to as a code, whether they are written down or not.

The members' expected behavior during practice is outlined in this code. It will outline the obligations of its members to the clients they serve, their coworkers, the industry, and society at large. A person acknowledges the obligation to uphold the code of ethics for their profession when they join that profession. It is important to realize that a code of ethics is not a rigid set of guidelines. The conduct of professionals is governed by a code of ethics.

The rights of the public to be protected from negligent or harmful professional behavior have not been widely known. As a result, nurses have rarely been being in court cases as well as other legal proceedings. The national profession can seek to other nations seeking advice on how to define the nurse's legal responsibilities. However, it must take into account the laws and professional relationships as they are most specifically applied here, as well as the list of guidelines and standards that Judith Steni, a legal research advisor for USAID, established in 1970 for the TNAI. We frequently use knowledge of moral responsibility as a guide in nursing practice when we are unsure about our legal obligations. The same type of practice might result from awareness of ethical and legal obligation.

There are six different categories of authority that provide guidance on nursing practice's legal responsibility. Which are:

- The Central Government Act.
- The State Government Act.
- The International Code for nurses subscribed to by the TNAI
- Institutional rules and regulations.
- In the same case, a precedent or an example of a court ruling was made.

1. Nursing Profession: A nurse is a healthcare professional who, in coordination with other team members, is in charge of treating, protecting, and recovering patients who are either acutely or chronically ill. Promoting and maintaining health among families, communities, and populations, and attending to life-threatening emergencies in a variety of healthcare settings. In addition to carrying out a variety of clinical and nonclinical tasks essential to the provision of healthcare. Nurses may also take part in nursing and medical research.

According to Donahue (1996), nursing is both the oldest art form and the most recent profession. The terms "nurse" and "nursing" have numerous definitions. The Latin verb *nutrire* which means "to nourish," is the source of the phrase "nursing." The word *nurse* derives from the Latin noun *nutrix*, this implies "nursing mother and frequently describe to a wet nurse (a woman who breastfed other people's kids). In French, a woman

who suckled a child was referred to as a "nourrice." The term was first used in English in the 13th century and retained the same original meaning throughout the spelling changes, including norrice, nurice, and notice, which are all still in use today.

Profession: An occupation with ethical components, or one that is committed to advancing society and human welfare, is referred to as a profession. A profession bases its knowledge and services on specific talents. Jobs with a certain set of qualities are considered to be professions.

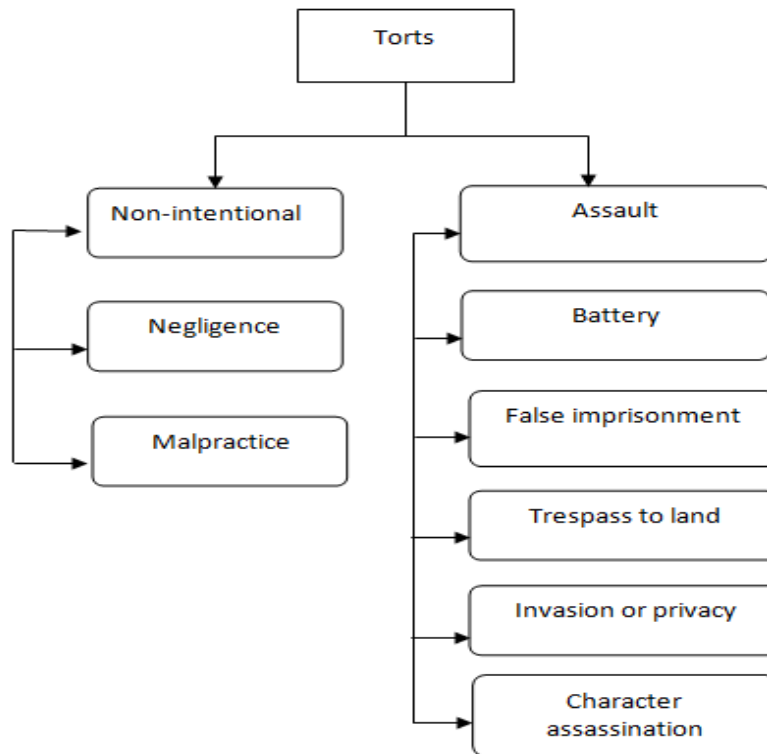
II. TERMINOLOGY

1. **Ethics:** These are the fundamental ideas of right and wrong, the codes of conduct that govern how one interacts with others.
2. **Law:** Law is a body of rules created and upheld by societal or governmental bodies to regulate behavior.
3. **Values:** In ethics, value refers to the importance of a thing or activity with the aim of deciding the best actions to take or ways to live.
4. **Moral:** It is focused on the concepts of good and wrong conduct
5. **Rights:** Rights are legal, social, or ethical freedom or entitlement principles.
6. **Legal Responsibilities:** Legal obligations in nursing practice refer to the need to uphold the law when engaging in professional endeavors.
7. **Legal issues:** These are those issues that are decided by law.
8. **Act:** This law is written down. Acts are legislation that have been enacted by the assembly and authorized by the executive branch.
9. **Legislation:** It is the legislative procedure. Using legislation, public services can be enhanced. Nursing education, nursing practice, and nursing administration all have a role in the development of nursing law.

III. TORTS

Tort law refers to a civil harm done to a person or to the possessions of the person, the torts, which stem from the French, are actions or omissions that illegally breach a person's legal rights and for which the injured party may file a common law lawsuit for harms. Fault is the foundation of the tort system. Either the one responsible party does not fulfill his or her obligation, or the responsible party acts carelessly.

Types of Torts



1. Non-Intentional Tort

- **Negligence versus Malpractice:** Negligence is a general phrase used to indicate conduct lacking in higher care. Thus, carelessness is synonymous with carelessness, a departure from the level of caution that a reasonable person would exercise in a given act of real-world conditions. An old person receiving nursing care might fall, as an example. The logical individual in that position of the nursing officer has a duty of care avoids a crash like that.

A more accurate term that takes into account both the caregiver's professional standing is "malpractice" and professional standards of care. The tortfeasor must be a specialist, such as a doctor, nurse, accountant, lawyer, or other type of professional, in order to be made to answer for irresponsibility.

- **Elements of Malpractice or Negligence:** In order to demonstrate liability on the part of the plaintiff, or aggrieved person, in either a malpractice or negligence case of action in court, must prove the following elements:
 - **Obligation to the Patient:** It is owing to others and involves one's behavior. An individual is required by law to act in a way that a typical, cautious, and reasonable person would in order to avoid unreasonably using the risk of harm to others when engaging in an activity.

- **A Breach of the Patients' Duties:** This entails demonstrating a departure from the standard of care owed to the patient. i.e. Something that should not have been done was done or nothing was done when it should have been, such as giving a patient the wrong drug or forgetting to give them a medication on time.
- **Foreseeability:** It involves the idea that certain circumstances might fairly be anticipated to lead to particular outcomes. Consider a patient falling while holding an exterior rail.
- **Causation:** It generally divides into
 - a. Cause in fact
 - b. Proximate cause
- A medication may be delivered wrongly or in the wrong dosage, and the patient may then have direct side effects as a result. This is known as cause in fact.
- Proximate causation refers to determining the extent of the defendant's obligation for effects resulting from negligent behavior.
- **Injury:** The plaintiff must show that the violation of the patient's trust led to some kind of physical, monetary or emotional harm.

2. Intentional Tort: More frequently seen intentional tort within health care is assault, battery, false imprisonment. Conversion of property, trespass to land and intentional infliction of emotional distress.

Intentional Tort	Description
Assault	It is when I do something that makes another person feel as though they might be touched in an inappropriate way or suffer insulting physical harm from me without my permission or authority. No physical contact with the subject is necessary. According to words and phrases from 1995, the action or motion must make the other person reasonably fear coming into imminent, damaging or offensive contact with the plaintiff.
Battery	Battery is the purposeful, unauthorized touching of another person's body or of anything they are carrying or touching. Damage is not necessary. In these circumstances, informed permission is required. In institutes for mental health, it has been permitted.
False Imprisonment	False incarceration is the indefinite keeping someone in custody without a valid reason to keep them in confinement. When nurses bind or enclose a patient with the intention of denying them freedom, they are committing the act of a false imprisonment. The patient's room or bed could be the limited space.
Conversion of Property	When a medical professional interference with a patient's right to ownership of their property, either by interfering or by removing of their possessions.

Trespass to land	The Tort of unlawfully interfering with another person’s ownership of land is known as trespass to land and it might happen purposefully or due to careless. This offense takes place When anybody enters someone else's home without permission, they don't want to leave when asked to do so, tosses or deposits something there, or encourages a third party to do so.
Invasion of privacy	The client alleges that their private matters, which are irrelevant to the general public, have been made public. Customers have a right to private medical treatment. There should be no vulnerability to unfavorable media coverage or public security in any element of care.
Defamation of Character	It is the act of subjecting someone to scorn, contempt, and ridicule within the community. The two are listed as follows: 1. If a nursing officer tells a client that their doctor is inept, for example, the staff nurse could be held accountable for defamation. Insults and defamation takes the form of spoken statement. 2. Libelous defamation takes the form of written words, for instance, the use of such a comment could result in legal action.

IV. CONTRACTS FOR NURSING SERVICES

A promise or series of commitments for which the law provides redress or in some other manner recognizes the fulfillment as a duty is referred to as a contract.

1. **Classification:** A formal contract is one that must be in writing and is mandated by a specific legislation.
 - A contract is considered informal if it is reached as a result of a letter or other written communication when the legislation does not require it to be in writing, as well as a result of verbal or written discussions between the parties, as well as actions taken by the parties that show intent to contract.
 - An express contract is one that was reached after the parties agreed to all terms and conditions in writing, through speech, or by a combination of both.
 - An implied contract is one that was reached as a result of the party’s actions or behaviour and to which the law attests an actual purpose to engage into a contract.

V. LEGAL RESPONSIBILITIES OF NURSES

1. **Responsibility of Appointing and Assigning:** To guarantee safe, efficient patient care, nurse administrators are in charge of staffing and managing nursing units. Each nurse has a legal obligation to disclose her educational background and professional experience. She also has a legal right to inform the nurse management when she receives an assignment for which she is ineligible.
2. **Responsibility in Quality Control:** The legal responsibility to guarantee the calibre of

nursing care falls on the nursing administrator as well as the authority of the agency at all levels. A nurse manager is legally obligated to oversee, report, and address any patient care provider's incompetence as part of their obligation to ensure the quality of nursing services. Equipment: A nurse manager must make sure that all patient care equipment is fully functional and that damaged equipment is replaced as soon as possible in order to safeguard the patient and staff from harm.

3. **Equipment's:** A Nursing officer must make sure that all the client care equipment's is fully working and that damaged articles is replaced as soon as possible in order to safeguard the patients and staff from harm.
4. **Responsibility for Observation and Reporting:** Legally, nurses are required to keep a close eye on patients and inform doctors and other members of the medical team of any observations that could be useful for diagnosis or treatment.
5. **Responsibility to Protect Public:** The nursing officer has a duty under the law to safeguard the public from harm caused by hazardous individuals, such as psychiatric patients. To prevent the public from being harmed by infectious wastes, the nurse must also properly dispose of the hospital wastes.
6. **Responsibility for Record Keeping and Reporting:** Legally, nurses are required to accurately record and report patients' medical conditions and treatments, including data provided by all other healthcare team members.
7. **Responsibility for the Death and Dying:** The events of fatalities are surrounded by numerous problems. Because they are required to record the entire incident while the patient is in their care, staff nurse must be aware of the definition of death in law. Euthanasia-related problems might occasionally arise, either actively or passively.
8. **Knowledge Regarding Institutional Rules and Policies:** A nurse's legal obligations can be determined by consulting institutional norms and policies. The institution may specify appropriate conduct with regard to job duties, such as the amount of time required when notifying applicants for registration.

VI. LEGAL SAFEGUARD IN NURSING PRACTICE

1. **Licensure:** All nurses who are working must hold a current license that has been given by the appropriate State Nursing Council or Indian Nursing Council. The goal of professional licensing is to safeguard the community from people who are not highly competent but nevertheless professionals while also ensuring that society benefits from the services of a highly skilled group.
2. **Good Samaritan law:** Doctors and nurses who provide emergency first aid are free from liability under the legislation.
3. **Good Rapport:** It's crucial to establish a good rapport with the client to avoid misconduct. When the nursing staffs threaten the client with warrants and caring, a lawsuit is frequently released.

4. **Standing Order:** A nurse may implement a standard operating procedure guideline that might have created doctors as suitable for particular illnesses after evaluating the patient, even though it is illegal for them to diagnose sickness or prescribe treatments.
5. **Standard Care:** When providing care, all medical professionals are expected to adhere to a set of criteria.
6. **Contract:** A written or verbal consent between two parties wherein goods or services are traded is known as a contract. The patient's written consent is necessary for any procedure or treatment of a serious nature involving anesthesia.
7. **Correct Identity:** The nurse or midwife has a huge obligation to ensure that all newborns born in hospitals are properly identified at birth and are never placed in the incorrect crib. Counting of sponges, instruments and needles: The nurse must keep track of the quantity of sponges, tools, and needles used during surgery to ensure that none are accidentally left inside the patient's belly.
8. **Drug Maintenance:** It contains two statutes relating to the misuse of drugs and the storage of harmful substances.
9. **Self-Discharge of the Patient:** When a patient wishes to leave on his own, the on-call nurse should try to talk him out of it and alert the appropriate medical professional.
10. **Professional Confidence:** The nurse and other medical professionals have an ethical obligation to protect the patient's confidence, so they must take care to ensure that they never reveal personal information they have access to due to their positions with anybody other than a senior staff member.
11. **Documentation:** The nursing record is a legitimate record that can be used as evidence in court. It has a special importance since it is seen as an accurate account of what took place.
12. **Patient's Property:** The hospital is required by the departments of wellness and social insurance to warn all individuals receiving care from it cannot take accountability for valuables or whether they have been given money to a safekeeping facility.
13. **Reporting:** Nurses are required to notify the proper authorities about certain contagious sickness or criminal activity, such as misuse, bullet wounds, suicide, or rape cases.

VII. LEGAL ISSUES IN SPECIAL PRACTICE AREA

1. **Maternal and Infant Nursing:** In the situation of the mother and her child, there are numerous legal concerns. The following are typical grounds for suing a nurse:
 - **Problem of Medication:** Medication administration is permitted by nurses. There are numerous charges made against nurses regarding the administration of medication, including incorrect patient identification, incorrect pharmaceutical dosage, route, or timing, and failure to monitor adverse effects. With instance, nurses are frequently

engaged in giving out oxytocin with the purpose of accelerating labor.

- **Failure in Adequate Client Monitoring:** Depending on the client's state, the nurse must check on the patient at the proper intervals. In order to avoid any parental difficulties during the maternal period, check the fetal condition throughout labor, and maintain proper monitoring of the mother and fetus during the first twenty-four hours following labor, the giving mother must be adequately monitored.
 - **Failure to Adequately Assess the Client:** All nursing specializations require increasing degrees of assessment proficiency. They are in charge of assessing the client's development every minute.
 - **Failure to Report Changes in the Client:** The nurse must alert the concerned physician if their assessment shows that the client's condition has altered.
 - **Abortion:** Nurses cannot be coerced into taking part in unethical procedures. If an abortion is done outside the parameters of the Medical Termination of Pregnancy Act, nurses have the authority to refuse to help.
 - **Nursing Care to the Newborn:** There are some legal standards that must be followed when providing nursing care for newborns. For example, the infant mother pair must be correctly identified as soon as possible using fingerprints, footprints, and wristbands. A clean airway, clamping the umbilical cord, dabbing silver nitrate or antibodies on the margins, reducing the stress of death, and keeping infants warm are all considered standard of care.
2. **Paediatric Nursing:** It is the responsibility of paediatric nurses to guard against children in their care accidentally hurting themselves. Infants and toddlers are not allowed to climb out of their cribs and hurt themselves, so restraining devices are placed over the top of the crib to prevent this. Children should never have access to any poisonous or sharp things. To prevent danger, children must be constantly watched upon. All instances of neglect or abuse of children must be recorded to the appropriate authorities by nurses.
3. **Medical Surgical Nursing:** The following are examples of medical surgical nursing negligence:
- **Overlooking Sponges, Instruments and Needles:** Before closing the abdomen or other cavity in the OT, the staff nurse is responsible for counting the sponges, tools, and needles. Burns: In order to prevent burns, a trained nurse must be aware of the causes and effects of heat application, such as using a hot water bottle, sitz bath, or heating packs. If the nurse fails to take the appropriate safety precautions before applying them, she is accountable.
 - **Falls:** If a patient falls from the bed as a result of faulty restraint application, bad examination table security, or improper suppling of a suitable bed for an unconscious patient or kid, the nurse should be held accountable.
 - **Injury:** due to the use of faulty equipment or supplies, such as utilizing non-sterile

gauge in wound dressing or the contamination of patients by faulty bedpans.

- **Assault or Battery:** The nurse is held accountable for not obtaining the patient's informed permission before the procedure, treatment, investigation, or operation.
 - **Failure to Report Accident:** Any accident, loss, or odd occurrence must be reported to the appropriate authority by the nurse as per both moral and legal obligations.
 - **Maintenance of Records**
4. **Psychiatric Nursing:** Law has an impact on how psychiatric nurses practice their profession, especially when it comes to patient rights and the standard of care they are providing. In order to be aware of the patient's rights, prevent giving inappropriate advice, or avoid unintentionally getting into legal trouble, a psychiatric nurse should be properly knowledgeable about the legal aspects of psychiatry. A legal process governs the process for admitting and releasing psychiatric patients. The admission process is of three types:
- **Informal Admission:** Similar to how a person is admitted to a conventional medical hospital, this form of psychiatric hospital admission happens.
 - **Voluntary Admission:** Any citizen of legal age may submit a written application under this method for admission to a psychiatric hospital, public or private. He consents to care and complies with hospital regulations. Patient who is admitted in this method keeps all of their civil rights.
 - **Involuntary Admission:** Commitments made voluntarily are not necessarily forced. It indicates that the request for the hospitalization was not made by the patient and could mean that he either actively objected to it or was unsure and did not object. Most laws use these justifications to support the commitment of mentally ill people.
 - Hazardous to others
 - Hazardous to self
 - Treatment is required

VIII. ROLES AND FUNCTIONS OF A NURSE MANAGER IN LEGAL ISSUES

1. Sets a good example by giving nursing care that complies with or surpasses the standard of care in the sector.
2. To show greater experience in a particular subject and to keep up with information and skills needed for the job, one seeks professional certification.
3. Inform the proper authorities of subpar nursing care in accordance with the established chain of command.
4. To reduce the likelihood of further legal action, promote an open, cordial, and caring relationship between the nurse and the patient.
5. Actively participate in professional organizations to support nursing's advocacy efforts for health care legislation.
6. Creates a setting that values cultural variety and sensitivity and fosters it.

7. Use personal skills when performing nursing. The patient's rights and wellbeing come first when making decisions.
8. Determines appropriate legal obligations for nursing practice while displaying vision, risk-taking, and enthusiasm, establishing the future of nursing: what it is and should be.
9. Knows where the rules and regulations and legal principles that influence nursing practice came from.
10. Consider the manager's area of expertise and the person he or she is supervising when deciding how much authority to provide to subordinates.
11. Respects the institutional policies and procedures and is aware of them.
12. Based on the State Nursing Practice Act's C guidelines.
13. Checks on subordinates to make sure they have the proper, legitimate licenses to practice nursing.
14. Uses the likelihood of harm to inform hiring and delegating decisions.
15. Offers staff members the chance to learn about legal problems that have an impact on nursing practice.
16. Raises staff awareness of intentional torts and helps them create plans to lower their exposure in these areas.

IX. ISSUES RELATED TO NURSING PROFESSION

Issues are things that need thought or questions that need to be discussed. There are several challenges in the nursing field that could be connected to the nurses' profession, training, and practices. The following are a few concerns with the nursing profession:

1. Values demonstrated in our nursing abilities.
2. The attitudes, humanitarian manner, and concern displayed by nurses in their behavioral patterns.
3. The place of nursing in the delivery of healthcare in society.
4. Nursing quality goes hand in hand with both theory and practice. Certain nursing functions.
5. The country needs nurses at all levels.
6. Primary care approach is prioritized above established approaches.
7. Nursing research that is based on evidence.
8. Nurses in management.
9. Expanded and extended roles of nurses.
10. Globalization within the industry
11. The initiative taken by nurses to enhance the health situation in response to community needs.

X. ETHICAL ISSUES IN NURSING

The standards or guidelines that direct proper conduct are known as ethics. Human rights are protected by ethical principles. An ethical profession has several qualities. A profession's code of ethics will outline the behaviour that is required of its members as well as their duties to the people they serve, their co-workers, the profession, and society at large.

1. **Nursing Ethics:** The professional standards for nursing actions set forth by the nursing ethics safeguard both the caregiver and the client. The International Council for Nurses (INC) adopted an ethics code in 1973. Enhancing health, avoiding illness, and regaining

health, and easing suffering are the nurse's four primary duties.

All people need nursing services. Respect for human life and men's rights is a fundamental aspect of nursing. It is not constrained by factors like social class, politics, age, sex, nationality, or any other of these. Nurses collaborate with linked organizations to deliver health services to people, families, and communities.

XI. ROLES AND FUNCTIONS OF NURSE IN ETHICAL ISSUES

The following are the managerial and leadership responsibilities of an administrator in ethical matters:

1. He or she is conscious of one's own values and fundamental ideas regarding the obligations, rights, and objectives of others.
2. He accepts that all ethical decision-making must involve some degree of ambiguity and uncertainty.
3. Accepts that, despite excellent problem-solving and decision-making, unethical results can emerge.
4. Takes calculated risks when making moral decisions.
5. Ethical decision-making that complies with the code of ethics and introspective declarations should be modelled.
6. Actively advocates for clients, subordinates and professionals.
7. Explains the desired ethical standard of conduct clearly.
8. Uses a methodical approach to making decisions or solving challenges in management that have ethical implications.
9. Identifies ethical decision-making outcomes that ought to be worked out or avoided at all costs.
10. Clarifies values and beliefs using a well-established ethical framework.
11. Uses ethical reasoning concepts to specify the values or ideas that serve as the foundation for decisions.
12. Is responsible for any liabilities should they deviate from legal precedents and is aware of the legal precedents that may serve as a guide for ethical decision-making.
13. Lauds and honors subordinates for their moral behaviour. When subordinates act unethically, takes the proper action.

REFERENCES

- [1] Basvanthappa BT. "Nursing Administration" 2nd Edition. Jaypee Brothers Medical Publishers Pvt. Ltd., New Delhi.
- [2] Perry P. "Fundamental of Nursing" 6th edition, Moby,2008
- [3] www.Pubmed .com
- [4] I Clement. "A Textbook of Nursing Foundation" 3rd Edition. Jaypee Brothers Medical Publishers Pvt. Ltd., New Delhi.
- [5] Navdeep Kaur Brar et.al. "A Textbook of Advanced Nursing Practice". 1st Edition. Jaypee Brothers Medical Publishers Pvt. Ltd., New Delhi.
- [6] Barbara K, et.al. "Fundamental of Nursing" 7th Edition. Pearson Education Pvt. Ltd, s2004