**ETHICAL AND LEGAL ISSUES IN COMMUNITY HEALTH NURSING**

**AND ITS IMPLICATIONS**

**INTRODUCTION**

The Community Health Nurse experiences many ethical conflicts in health care delivery system. As we began professional practice, it is essential to understand the law that defines the nurse’s responsibility and duties. Especially the community health nurse must be very careful while doing services in the community because there is a team of people working in the hospital. Whereas, the community health nurses are alone and most of the time she is in position of to implement the services at home. So, she must be more careful and she should have enough knowledge on legal issues.

**DEFINITIONS**

‘’ Ethics is a system of moral principles, and rules of conduct recognized in respect to a particular class of human actions or to a particular group of people.’’

Ethics is a branch of philosophy dealing with values related to human conduct with respect to the rightness and wrongness of certain actions and to the goodness and badness of the motives and ends of such actions.

**DEFINITION OF LAW**

It is a standard or rules of conduct established and enforced by the Government. These are intended to protect the public.

**SOURCES OF LAW**

1. *THE CONSTITUTION*: it is a system of fundamental laws or principles that governs a nation or society.

2. *STATUTES:* laws that govern. It is enacted by the legislative body or legislative law. Laws passed by council or parliament. For example, nurse practice act.

3. *ADMINISTRATIVE AGENCIES:* the rules and regulations established by executive branch of the government executive officers, mayors are responsible for law enforcement. For example, INC, Board of Nursing State/ Central level.

4. *TORT LAW OR COURT DECISION:* judicial and decisional laws are made by the court to interpret legal issues. Court decisions can be changed, but only with strong justifications.

**TYPES OF LAW**

1. *CRIMINAL LAW:* nurses found guilty of intentionally administering fatal dozes of drug to the patients.

2. *CIVIL LAW:* one individual sues another for money to compensate the loss. Incarceration-can is escaped from prison. For example, malpractice cases can be tried in civil courts (monitory damages can be claimed)

3. *ADMINISTRATIVE LAW:* an individual issued by a state board or council in violation of the nurse practice act.

**SIGNIFICANT LEGISLATIVE ACT**

1. *SHEPARD TOWNER ACT 1921:* grants in aid or funds to the state for administration of programs to promote the health and welfare of mother and infants (grants in aid for pregnant mothers).

2. *SOCIAL SECURITY ACT 1935:* allocation funds on the basis of PH problem, economic need and need for training for health personnel.

3. *HOSPITAL SURVEY AND CONSTRUCTION ACT 1946:* nationwide health facilities planning to the states for hospital/ health centers construction.

4. *MCH AMENDMENTS ACT 1963:* opened door for improved services to bring down the perinatal mortality. (Implementation of MCH program.)

5. *NONCOMMUNIABLE DISEASE ACT 1965:* comprehensive health planning for program development. For example, cancer control program

6. *HEALTH MANPOWER ACT 1968:* increased supply of health personnel by providing federal money to educational institution for construction, training and special projects.

7. *OCCUPATIONAL SAFETY ACT 1970:* protection to written against personal injury or illness resulting from hazards working condition.

**LEGAL CONCEPTS**

*CRIME/TORTS:* refers a wrong committed by a person against another person or his/her property.

*CRIME:* it is violation punishable by the state.

*TORT:* it is a gross negligence (e.g. Liquid, Phenol.)

*MISDEMEANOR:* less serious crime punishable with fines imprisonment for less than 1 year.

*FELONY:* punishable by imprisonment for more than 1 year.

*LITIGATION:* it is process of bringing and trying a lawsuit.

*PLAINTIFF:* person or government bringing suit against another is called plaintiff.

*DEFENDANTS:* one being accused a crime in called defendant.

**INTENTIONAL OR UNINTENTIONAL TORTS**

**INTENTIONAL TORTS**

1. *ASSAULT:* it is a threat or an attempt to make bodily contact with another person without that person consent.

2. *BATTERY*: it is an assault that is carried out with willful angry and violent or negligent touching of another person’s body or clothes. Examples: a. Forcibly removing patient’s clothes. b. Injection with force or weapon refused by patient. c. Pushing a patient in floor or in the chair.

3. *DEFAMATION*: it is an intentional tort makes derogatory remarks about another. a. Slander: oral defamation of character. b. Libel: written defamation (petition.) For example, about patient or co-workers.

4*. INVASION OF PRIVACY*: a. All information should be confidential b. Interacting with family members c. Avoid unnecessary exposure d. Checking of all gadgets or machines e. Carryout research activities f. Using tape recorder, video or photos

5. FALSE IMPRISIONMENT: a person cannot be legally forced to remain in health centers or hospital. (Unjustified intention)

6. FRAUD: willful and purposeful interpretation or misinterpreting the outcome of procedure of treatment. (License may be prosecuted under the NP act).

**UNINTENTIONAL TORTS**

1. NEGLIGENCE: an act of negligence may be enact of omission or commission.

2. Malpractice or negligence

3. LIABILITY: it involves four elements that must be established to prove that malpractice or negligence has occurred.

4. DUTY AND DOCUMENTATION; execution of safety measures.

5. BREACH OF DUTY: failure to note and report to higher authority about the seriousness.

6. CAUSATION: failure to use appropriate safety measures.

7. DAMAGES: lengthened hospital stay and need for rehabilitation.

**COMMON CAUSES OF LEGAL ISSUES**

* Professional negligence e. g. ignoring the seriousness.
* Practicing medicine without license in community.
* Obtaining nursing license by fraud or allowing others to use your license Felony conviction for any offence.
* Participating in criminal abortion, e.g. quacks.
* Not reporting substandard medicine or nursing care.
* Providing patient care while under the influence of alcohol or drugs.
* Giving narcotics without an order.
* Falsely holding oneself as family practitioner or nurse practitioners.

**PROFESSIONAL AND LEGAL REGULATION OF NURSING PRACTICE**

* Every state has ‘’ nurse practice act’’ that protects the public
* Nurse practice act- violation of rule can result in disciplinary action. For example, medication, IPPI vials.
* Standards- guidelines issued by councils-qualification, standards, rules and regulation, e.g. unrecognized courses.
* Credentialing- the ways in which professional competence is ensured and maintained

*Three processes can be used*

a. ACCREDITATION: education program is evaluated and recognized by National Accreditation Board.

b. LICENSURE: the state determines certain requirement to practice as nurse. (e.g. negligence, malpractice, wrong treatment and alcoholism)

c. CERTIFICATION: entry level competence. Specific knowledge and experience in specified areas needed. All the certificates cannot be registered (e.g. nursing asst course.)

**CLIENTS RIGHTS AND PROFESSIONAL RESPONSIBILITIES IN COMMUNITY HEALTH CARE**

*CLIENTS RIGHTS*

It is one of the earliest recognitions of clients rights concerning health were made by the national convention of the 1973. Undergoing the theme of basic human rights, the leaders of the revolution declared that there should only be one patient to a bed in hospitals and hospital beds were to be placed at least 3 feet apart(Annas,1978). This kind of direction by a government or legislating body in the recognition and assertion of clients right has continued to be prominent in consideration of thought to health and the right to health care as extensions of basic human rights such as rights to informed consent to refuse treatment or to privacy have apparently been aided by consumer groups and health care providers.

*BASIC HUMAN RIGHTS RELATED TO HEALTH*

American Hospital Association has studied and issued the results of its study, entitled ‘’ the Patient’s bill of rights.’’ The document says that the traditional physician- patient relationship takes on a new dimension when care is rendered within organizational structure.’’

*The basic rights includes the following*:

1. Considerate and respectful care

2. Obtain complete medical information

3. Receive information necessary for giving informed consent

4. Refine treatment

5. Consideration of privacy

6. Confidential treatment of personal information and medical records

7. Request services

8. Information on other institution and individuals related to care and treatment

9. Refuse participation in research projects

10. Expect reasonable continuity of care

11. Examination and explanation of financial changes

12. Know institutional regulations

**SOCIETAL OBLIGATIONS**

The ‘Presidents’ commission for the study of ethical problems reached several conclusions concerning current patterns of access to health care and made significant recommendations for changes.

The commission concludes that:

1. Society has an ethical obligation to ensure equitable access to health care for all.

2. The societal obligation is balanced by individual obligation.

3. Equitable access to health care requires that all citizens be able to secure an adequate level of 1.

4. When equity occurs through the operation of private forces, there is no need for government involvement, but the ultimate responsibility for ensuring that society obligation is met, through a combination of public and private sector arrangements, rest with the federal government.

5. The cost of achieving equitable access to health care ought to be shared family

6. Efforts to certain nursing health care costs are important but should not focus on limiting the attainment of equitable access for the least well served portion of the public.

**PROFESSIONAL RESPONSIBILITIES**

In response to client’s rights, health care professionals incur particular duties or responsibilities which are supported by professional code of ethics and are correlative to basic liberty rights of patients.

**PROFESSIONAL CODE OF ETHICS**

Professional code of ethics is statements encompassing rules that apply to persons in professional role there are some professional ethics

1. Professional etiquette good manners based on loyalty.

2. Knowing the lines of authority and responsibility.

3. Each person should be treated with dignity.

4. When death occurs, they need empathy, support and understanding. More practice is needed in an isolated area.

5. Should know what others are doing and be faithful in supporting each other.

6. Coordinate with all.

7. Have partnership and cooperate with physician.

8. Good communication based on giving and receiving.

9. The nurse relates in the community as a worker and to improve health standards.

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**ETHICAL PRINCIPLES IN COMMUNITY HEALTH**

Relationships of ethical rules, principles and theories

Rules state that certain actions are to be performed because they are right (or wrong). \

An example would be that ‘’ nurses always ought to tell the truth to the clients.’’

Principles are more abstract than rules and serve as the foundation of rules. For example, the ethical principle of autonomy is the foundation for such rules as ‘’ always informed consent’’, tell the truth, and protect the privacy etc.

Theories however are collection of principles and rules. They provide theoretical foundations for deciding what to do when principles or rules conflict.

Ethical principles simply suggest which ethical principle will more likely to happen generally when moral decisions have to be made.

**PRINCIPLE OF BENEFICIENCE**

It states ‘’we ought to do good and prevent or avoid doing harm.’’ It includes the idea that beneficence is a duty to help others gain what is of benefit to them but does not carry the obligation to risk one’s own welfare or interiors in helping others.

*Application of theories in community health*

The principle of beneficence can be applied for:

1. Balancing harms and benefits to client population

2. In the use of cost benefit analysis in decisions affecting client population COST BENEFICIAL ANALYSIS It is a specific application of the principle of beneficence. To measure the benefits and costs of alternative approaches to a problem or to decide how to distribute health program funds.

**PRINCIPLES OF AUTONOMY**:

Autonomy refers to freedom of action, as chosen by an individual person who are autonomers and capable of choosing and acting on plans they themselves have decided on.

Application in Community Health Nursing

Principle of autonomy is applied in community health through considerations with:

1. RESPECT FOR PERSONS: the client should be given a choice or even considered in a treatment plan. The elderly have the right to determine their life and health plans as they have the capacity to do so.

2. THE PROTECTION OF PRIVACY: since the relationship between client and nurse is built on trust, the nurse has a responsibility to protect the privacy of clients and their families as for as clients health is concerned.

3. THE PROVISION OF INFORMED CONSENT: the elements are essential for adequate informed consent information, comprehension and willingness. Informed consent is not valid without all elements and no contract between client and nurse is ethically acceptable without valid, informed consent.

4. FREEDOM OF CHOICE INCLUDING TREATMENT REFUSAL: in community health nursing, respect for the client’s or guardian’s right to refuse treatment may depend on nurse judgment of the competency of the client to make such choices.

5. THE PROTECTION OF DIMINSHED AUTONOMY: the person who is having diminished autonomy whether from physical or psychological incapacities or immaturity are not considered purely to be autonomous persons. Yet respect for the principle of autonomy requires that practitioner recognize when persons back the capacity to act autonomously and therefore an entity to protection in health care delivery.

**PRINCIPLE OF JUSTICE**

It claims that equals should be treated equally and those who are unequal should be treated differently according to their differences.

Application as theories in community health:

Different theories may be appealed in deciding how to distribute health care resources.

These theories include:

1. ENTITLEMENT THOERY: the entitlement theory claims that everyone is entitled to whatever they get in the natural lottery at birth and there is no responsibility for government or its agencies to improve the lot of those less fortunate than others. In this theory, inequalities between individuals in matters of health, position and wealth are tolerated. Only aggression or harms against others and the unjust acquisition of goods are prohibited.

2. UTILITARIAN THOERY: this theory of justice claims that the best way to distribute resources among citizenry is to decide how expenditures or the use of resources will achieve the greatest net of good and serve the largest number of people. In this theory the needs and wants of some individuals will not be satisfied, and they may indeed, be harmed in this process. This would be considered unfortunate but this is distributing resources so that, the greatest good for greatest number is achieved.

3. MAXIMIN THOERY: this theory of justice first identifies the least advantaged number of community. For example, the economically poor, the elderly the mentally retarded and children under one year of age and decides they might be benefited rather than deciding or greatest not aggregate benefit. Obviously this will create problems in case of limited resources. Thus, it is possible that technologically advancement and the development of more sophisticated health care goods cannot be made widely available to the public in times of limited economic resources. The result is that interest and needs in matters of health may not be satisfied within the system of justice.

4. EQUALITARIAN THOERY: the equalitarian theory of justice claims that justice requires the ‘’ equality of net welfare for individuals.’’ In this theory, the distribution of good in community takes the needs of all citizens into equally. Thus everyone would have to claim to an equal amount of all goods and resources, including health care.

It requires

a. Establishing priorities for the distribution of basic goods and health services in the community.

b. Determining which population or individuals shall obtain available health goods and nursing services.

**ETHICAL PRINCIPLES IN DECISION MAKING**

1. RESPECT: treating people as unique or equal

2. AUTUNOMY: freedom of choice and exercise of people’s right- for careful consideration.

3. BENEFICENCE: doing good or benefitting others (accessible to all).

4. NON-MALFEASANCE: avoiding and preventing harm to others.

5. JUSTICE: irrespective of age, sex, caste, urban or rural- equal treatments.

6. FIDELITY: Keeping promises should be kept confidential. If not, may lose faith and interest.

7. VERACITY: telling the truth-actual information.

**NURSES RESPONSIBILITIES**

Practice within scope of nurse practice acts. Observe agency policies and procedures. Establish standards by using evidence based practice. Always prefer patient’s welfare. Be aware of relevant law and understand limits. Practice within the area or individual competence. Upgrade technical skills by attending continuing nursing education and seeking certification. Following the standards of care and referral services. Ensure patient safety. Proper action for needs and problems and appropriate treatment. Monitor the program and proper reporting. Verify the medication errors and reactions.

**LEGAL SAFEGUARDS OF CH NURSES**

1. INFORMED CONSENT: granted freedom, written or oral form (procedures, expected outcome, complication, side effects, and alternative treatment.

2. CONTRACTS: exchange of promises between two parties. Agreement may be written or oral(e.g. patient and his family and health care team)

3. COLLECTIVE BARGAINING: policies, legal procedures, up-to date knowledge.

4. COMPETENT PRACTICE: it is most important and most legal safeguard. Institutional policies and procedures should be adopted.

5. RESPECTING INDIVIDUAL RIGHTS: developing rapport and working relationship with the community. Keeping careful documentation of every activity.

6. PATIENT FAMILY EDUCATION: discuss with family members. Tentative plans

7. EXECUTING PHYSICIAN ORDER: attempt to get order in writing/verbal order.

8. DOCUMENTATION: actual, accurate, complete and essential.

9. ADEQUATE STAFFING: under staffing is a problem that will reduce quality of care.

10. RISK MANAGEMENT PROGARM: identify analysis and treat the condition avoid taking risk.

11. INCIDENT, VARIANCE, AND OCCURRENCE PROGRAM: incident program for quality improvement for our safety.

12. SENTINEL EVENTS: expected to play in a critical role in sentinel event( death or any other incident)

13. BILL OF RIGHTS: quality of care, decision making, privacy and financial information

14. GOOD SAMITARIAN LAWS: laws are designed to protect health practitioners while giving care in emergency situations.

15. STUDENT LIABILITY: legal responsibilities of student nurses include careful preparation by instructors.

**LEADERSHIP ROLES AND MANAGEMENT FUNCTIONS ASSOSIATED WITH LEGAL ISSUES**

Serves as role model by nursing care. Updates of knowledge and skills in field of practice. Reports substandard nursing care to higher authority. Respectful relationship, caring and honest and reducing the possibilities of future lawsuit. Prioritizes patient’s right and welfare of the family. Demonstrate vision risk taking and energy in determining appropriate legal boundaries. Increases knowledge, regarding sources of law that affects nursing practice. Minimize the risk using appropriate equipment and products. Monitor and supervise subordinates increases staff awareness of intentional torts to see that written protocols, policies, and procedures to reduce liability. Provides educational and training for staff on legal issues affecting nursing practice.

**APPLICATION OF ETHICS TO COMMUNITY HEALTH NURSING**

**PRACTICE THE PRIORITY OF ETHICAL PRINCIPLES**

In community health nursing, ethical principles direct and guide nursing actions with individuals and aggregate groups. The professional ethic, in general, places a greater emphasis on the observance of the principles of autonomy and beneficence than the principles of justice in most nursing actions. The ethical principle of beneficence is given slightly less emphasis in the code for nurses. The principle of justice is not strongly emphasized in the professional code of ethics. it is noted in passing that nursing practice is not influenced by age, sex, race, color, personality or other personal attributes or individual differences in customs, beliefs, or attributes. The cod estates that ‘’ nursing care is delivered without disease detection and prevention and in health maintenance.

**ACCOUNTABILITY IN COMMUNITY HEALTH NURSING**

Moral accountability in nursing practice means that nurses are answerable for how they promote, protect, and meet the health needs of clients while respecting individual rights to self-determination in health care. In community health nursing, where the greater emphasis is on aggregates rather than individual clients, moral accountability means being answerable for how the health of aggregate groups justice are still important in community health nursing. Yet they are less important than the principle of beneficence .in community health nursing the emphasis of the professional ethic is slanted toward benefit to aggregates, which implies following a rule of utility in planning, implementing, and evaluating community health nursing services.

**FUTURE DIRECTIONS**

Expanded role of nurse has increased the legal accountability of the nurse practitioner who is certified to function as an independent care giver. Thus, there is a current and future need for periodic assessment of the moral and legal requirements of accountability in community health nursing services. There is also the need to determine how existing programs and services will be evaluated to determine the effectiveness of various nursing services in meeting accountably requirements. There is task that has yet to be accomplished by today’s Community Health Nursing leaders