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Legal and Ethical Aspects of Nursing

Nursing Foundation

Patient rights, informed consent, confidentiality, negligence, malpractice, professional accountability, ethical principles and legal responsibilities of nurses.

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CHAPTER 26

CHAPTER 26 Legal and Ethical Aspects of Nursing

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Meaning and ethical principles

Ethics concerns appropriate professional conduct; law establishes enforceable rights and obligations. Nursing practice must respect autonomy, beneficence, non-maleficence, justice, fidelity, veracity and confidentiality. Moral distress occurs when a professional recognizes an ethically appropriate action but faces barriers to carrying it out. Seek supervision or ethics support for dilemmas.

Patient rights

Patients should receive respectful care, appropriate information, privacy, confidentiality, informed consent, participation in decisions, access to records through applicable processes, non-discrimination, safety and appropriate grievance mechanisms. The Indian Charter of Patients' Rights provides guidance; requirements and implementation vary by jurisdiction and institution. Emergency care and continuity must follow applicable legal and professional duties.

Informed consent

Valid consent requires adequate information, decision-making capacity, voluntariness and authorization. Explain nursing procedures within competence and allow questions. For surgery or other invasive medical treatment, the responsible clinician provides required explanation of benefits, risks, alternatives and refusal; nurse verifies required consent and escalates unresolved concerns. A witness signature does not establish that consent is informed. Capacity may vary by decision/time; follow lawful surrogate decision-making rules and emergency exceptions. Never assume family authorization overrides a capable patient's choices.

Negligence and malpractice

Negligence is failure to exercise reasonable care, resulting in harm when legal elements are met. Malpractice refers to professional negligence. Common legal elements: duty of care, breach, causation and damage. Examples may include failure to monitor deterioration, wrong medication or unsafe care, depending on facts. A poor outcome or error alone does not automatically establish negligence.

B.Sc. Nursing Study notes Chapter 26 / 1

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Other legal terms

Term	Educational meaning
Assault	Threat/apprehension of unlawful harmful contact (definitions depend on jurisdiction).
Battery	Unauthorized physical contact in relevant legal frameworks.
False imprisonment	Unlawful restriction of movement.
Defamation	Unlawful statements harming reputation, subject to legal requirements.
Confidentiality breach	Unauthorized use or disclosure of protected information.

These common textbook concepts are not direct statements of every Indian statutory offence or civil remedy.

Professional accountability and legal responsibilities

Maintain current registration and competence; work within authorization; verify orders; respect consent, privacy and patient rights; follow infection, medication and safety standards; delegate appropriately and supervise; document truthfully; report errors, abuse/safeguarding concerns and legally reportable events through proper channels. Follow institution-specific procedures for medicolegal cases, evidence preservation, death reporting and restraint. Use restraints only when justified, authorized and monitored under law/policy, not for convenience.

Ethical decision-making

Identify issue and facts; assess capacity and wishes; identify relevant ethical principles and legal requirements; consult team/ethics services; consider alternatives and consequences; implement and document appropriate decision; evaluate. In India, the National Nursing and Midwifery Commission Act, 2023 provides a new legislative framework; consult current implementation and registration rules. This chapter is general education, not case-specific legal advice.

Exam revision

1. 1. Explain patient rights and informed consent.
2. 2. Discuss ethics, negligence and malpractice with examples.
3. 3. Describe legal responsibilities, accountability and confidentiality.

References

MoHFW. Charter of Patients' Rights (NHRC recommendations). https://clinicalestablishments.mohfw.gov.in/

India Code. National Nursing and Midwifery Commission Act, 2023. https://www.indiacode.nic.in/indiacode/handle/123456789/19796

Educational notes. Clinical skills require supervision, authorized orders and current facility protocols.

B.Sc. Nursing Study notes Chapter 26 / 2

Quick Revision

- Ethics guides professional conduct; law establishes enforceable rights and duties.

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- Core principles include autonomy, beneficence, non-maleficence, justice, fidelity, veracity and confidentiality.
- Valid consent requires information, decision-making capacity, voluntariness and authorization.
- A witness signature alone does not prove informed consent; respect capable patients' choices.
- Negligence commonly requires duty, breach, causation and damage; malpractice is professional negligence.
- Work within authorization, maintain competence, document truthfully, protect confidentiality and use appropriate escalation and reporting channels.

Practice questions

Choose one best answer. The answer key and explanations follow the questions.

1. Which elements are required for valid informed consent?

A. Family approval, payment and admission
B. A witness signature alone
C. A diagnosis and a written order only
D. Adequate information, capacity, voluntariness and authorization

2. Which set lists the common legal elements of negligence?

A. Autonomy, justice, fidelity and veracity
B. Duty, breach, causation and damage
C. Assessment, diagnosis, planning and evaluation
D. Consent, discharge, billing and referral

3. What is moral distress?

A. Recognizing an ethical action but facing barriers to carrying it out
B. Having no professional responsibilities
C. An inability to remember a procedure
D. A disagreement about shift allocation alone

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Answer key and explanations

1. D - Adequate information, capacity, voluntariness and authorization

Valid consent requires all four listed elements.

2. B - Duty, breach, causation and damage

Negligence commonly requires duty of care, breach, causation and damage.

3. A - Recognizing an ethical action but facing barriers to carrying it out

Moral distress occurs when barriers prevent an identified ethically appropriate action.

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