The Nurse and the Law

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Objectives

Upon completion of this course, the learner will be able to:

- Identify 5 causes of nurse liability.
- Outline 4 ways a nurse can use to decrease the risk for legal actions.
- Identify the nurses' professional role in child abuse identification and reporting.
- Describe the legal protections afforded mandated reporters and the consequences for failing to report elder abuse.
Introduction

The Nursing Practice Act (NPA) is the body of state law that mandates the Board of registration of nursing in each state to set out the scope of practice and responsibilities for RNs.

Ignorance of the law, does not excuse a nurse from blame.

It is the important to know the law of the state in which you practice as it relates to you as a nurse or your specialty.
Many local, state and federal laws affect nursing practice.

To minimize legal liability it is imperative that nurses know and understand the various state and federal laws and rules and regulations that directly impact and/or regulate their nursing practice.

There are two major classifications of law that apply at the federal and state level: criminal and civil law.
Criminal law involves prosecution of an individual by governmental authorities when evidence of an act that has been classified as a crime is discovered.

Depending on where the incident took place, civil lawsuits can be brought forth in a federal or state court.

If convicted, the person faces punishment rendered by the trial court.

Examples of state level criminal laws that could impact nurses include: assault, mandatory child abuse reporting, fraudulently tampering with records, theft of controlled substances, practicing nursing without a license, using illegal drugs, and unlicensed weapons possession.

Nurses who violate criminal law, such as using illegal drugs, can also be prosecuted.
Civil law pertains to the non-criminal area of laws that affect the legal status of individuals or groups.

Civil law usually involves the violation of one person’s rights against another where a civil suit is brought forth in an attempt to right a wrong, settle a dispute, or honor an agreement.

Civil law focuses on non-criminal, private disputes among individuals, corporations, and governmental authorities.

A person who is found legally liable may have to pay a victim monetary compensation.
Most civil suits involving nurses relate to negligence and malpractice.

Legal liability in a civil case pertaining to negligence and malpractice does not require the plaintiff to prove intent to do harm.

Instead, the plaintiff must prove that the nurse failed to meet the expected level of competency as delineated by professional standards of care.
Licensed nurses can also be reported to the state Board of Registration of Nursing (BORN) for failure to meet standards of nursing practice and/or violations of their Nurse Practice Act (NPA).

Boards of Nursing were established by state legislatures to protect the public.

Anyone can file a complaint against a nurse with the BORN. All complaints are investigated and, if warranted, the nurse could face disciplinary action resulting in a warning, formal reprimand, prescribed remedial education, stipulations (required behaviors) license suspension or revocation.
Other Causes of Nursing Liability

Other potential causes of nursing liability include failure to:

- Keep abreast of current nursing knowledge
- Recognize and intervene efficiently and effectively in urgent/emergency situations
- Inappropriate use of restraints.
- Document nursing services satisfactorily
- Perform satisfactory nursing assessments
- Obtain adequate health histories
- Delegate appropriately and safely
- Report incompetent care by others
- Follow licensed prescribers’ (medical doctor, nurse practitioner) orders
- Question/challenge administrative decisions that put patients at risk of harm
Minimize the Possibility of Litigation

- Nurses must familiarize themselves with federal and state laws and regulations that affect their practice to minimize legal liability.
- Nurses must also understand the rules and regulations associated with their state-specific NPA.
- Nurses who operate outside of their respective NPA face significant potential legal liability.
- Job descriptions are viewed in a court of law as a local standard of care to which the nurse will be held accountable when determining breach of duty in a civil case.
- To minimize liability nurses must make sure that their job description accurately reflects their caseload.
Other ways to avoid potential litigation:

- Familiarize yourself with national, state-specific and local standards of nursing practice
- Follow the standards of practice
- Don’t provide nursing care that is outside of your scope of practice
- Review the policies, procedures and guidelines provided by your employer.
- Maintain patient confidentiality
- Delegate tasks and procedures appropriately; when in doubt – don’t delegate!
Communicate to patient/guardians and administrators as effectively as possible, and in writing or documenting the communication

Document promptly and accurately to provide proof of services rendered, to note patients response to the care provided, and to demonstrate that standards of practice were followed

Document unsafe practices in writing

Participate in continuing education programs to ensure that your practice reflects current nursing knowledge

Consider purchasing “Professional Liability” insurance to ensure financial protection and peace of mind.

When in doubt, seek guidance from your nursing supervisor (if applicable), other nurses and/or healthcare providers.
FACTORS THAT AFFECT PRACTICE

- Societal issues
- Nurse/client ratio
- Job description
- State and federal laws-both
- Local health policies
- Expanded role of the nurse
Nursing Accountability

Accountability – Being responsible and answerable for one’s professional judgment and actions.

State Licensure ensure nurse accountability through the following:
- State boards of nursing and nurse practice acts
- Ensures minimum competencies
- Profession regulates practice
- Individual nurse bears primary responsibility for actions and judgments
Giving, Accepting, or Rejecting a Work Assignment:

The link below will give you access to a guide provided by THE MARYLAND NURSES FOUNDATION on Giving, Accepting, or Rejecting a Work Assignment: A Guide for Nurses.

Even though you may not be working in the state of Maryland, it may help you when faced with making a decision about work assignments.

http://www.mbon.org/practice/assignments.pdf
Malpractice

The courts define malpractice as the failure of a professional person to act in accordance with the prevailing professional standards, or failure to foresee consequences that a professional person, having the necessary skills and education, should foresee.

In a malpractice lawsuit a nurse's actual conduct is compared to nursing standards of care to determine whether the nurse acted as any reasonably prudent nurse would act under the same or similar circumstances.

Criteria are necessary to establish nursing malpractice
- 1. The nurse owed a duty to the patient
- 2. The nurse did not carry out that duty
- 3. The patient was injured, and
- 4. The nurse's failure to carry out the duty caused the injury
Negligence

Negligence—Failing to perform as a reasonable prudent nurse would have performed in the same or similar situation.
Abandonment: Occurs when a licensed nurse terminates the nurse-patient relationship without reasonable notification to the nursing supervisor or the person in charge for the continuation of the patient's care.
Abandonment

"It is inappropriate for management to threaten you with charges of abandonment to coerce you into working additional hours or caring for patients beyond your level of expertise."
The American Nurses Association (ANA) upholds that registered nurses – based on their professional and ethical responsibilities – have the professional right to accept, reject or object in writing to any patient assignment that puts patients or themselves at serious risk for harm. Registered nurses have the professional obligation to raise concerns regarding any patient assignment that puts patients or themselves at risk for harm. The professional obligations of the registered nurse to safeguard patients are grounded in the Nursing’s Social Policy Statement (ANA, 2003), Code of Ethics for Nurses with Interpretive Statements (ANA, 2001b), Nursing: Scope and Standards of Practice (ANA, 2004), and state laws, and rules and regulations governing nursing practice.”
Abandonment

For patient abandonment to occur, the nurse must:
- have first accepted the patient assignment, thus establishing a nurse-patient relationship, and then;
- have disengaged that nurse-patient relationship without giving reasonable notice and without giving a report to another qualified person (supervisor, nurse, etc.) so that arrangements could be made for continuation of nursing care.

A nurse-patient relationship begins when you accept responsibility for providing nursing care based upon a written or oral report of patient needs. The relationship ends when you transfer responsibility to another nurse and give that nurse a patient report.
Examples of abandonment include:

- accepting a patient care assignment then leaving the worksite without notifying appropriate personnel and giving adequate notice;

- leaving without giving a report to a qualified person; and

- inattention to or leaving a patient in acute distress, without notifying the supervisor and without making appropriate arrangements for continuing care.
Abandonment

Failure to work beyond your scheduled shift does not constitute patient abandonment, nor does refusal to work in an unfamiliar, specialized or “high tech” area when you lack competence due to lack of experience and/or orientation.

If you arrive at work and believe the unit is understaffed, you must immediately notify the supervisor and request assistance.
Abandonment

Patient abandonment can lead to charges of unprofessional conduct which, under the state Nurse Practice Act, is subject to disciplinary action up to and including removal of your license.

Following the BORN guideline you will not be considered to have abandoned your patient for purposes of BORN disciplinary action.

However the BORN does not have any jurisdiction over employment contract, and you may be subject to disciplinary actions by your employer if you refuse an assignment.

It is important that you document your concerns with regards to assignments with your supervisor and keep a record for yourself, because if your employer files an abandonment complaint against you, the BORN can only review actual objections or protests that have been put on the record.

11/5/2015
Important Definitions

- **Work Assignment** — The designation of responsibility for nursing care or selected nursing functions that are within the scope of the nurse’s license.

- **Supervision** — Provision of guidance, direction, evaluation, and follow-up by the licensed nurse for the accomplishment of the assignment or the delegated task.

- **Delegation** — The act of assigning or authorizing an unlicensed individual to perform acts of registered nursing or licensed practical nursing.

- **Competency** — Appropriate application of knowledge, skills, and abilities expected in the performance of a nurse’s practice.

- **Authority** — Being in a position to make decisions and to direct others to act in a manner determined by those decisions.
Resources

Giving, Accepting, or Rejecting a Work Assignment: A Guide for Nurses from THE MARYLAND NURSES FOUNDATION
http://www.mbon.org/practice/assignments.pdf
Liability

Liability – An obligation one has incurred or might incur through any act or failure to act. Responsibility for conduct falling below a certain standard.

Responsibility – Duty, obligation, commitment.

ELEMENTS OF A LAWSUIT

- Duty - A nurse-client relationship exists and judges the action compared to others in like circumstances
- Breach of duty - Failure to perform to the standard
- Causation - Connection between action and injury
- Damages - Actual loss which occurred
Standard of Care

- State Nurse Practice Act
- ANA-Standards of Clinical Nursing Practice
- Facility/Employer policy and protocols
What is Good Samaritan Laws?

Good Samaritan laws are laws or acts protecting those who choose to serve and tend to others who are injured or ill. They are intended to reduce bystanders' hesitation to assist, for fear of being sued or prosecuted for unintentional injury or wrongful death.
Good Samaritan Laws

- **DO NOT** apply to actions on the job where there is a duty to perform

- Immunity from liability for acts or omissions at the scene of an emergency unrelated to job

- Gross negligence or willful misconduct not protected

- Do not cover health advice given by a nurse to a friend or relative; in these situations, the healthcare provider must abide by their respective standards of care
How can a healthcare professional determine the appropriate actions when faced with an emergency outside the workplace when there is no legal obligation to do so?

Nurses who respond out of compassion and kindness may be under the impression they are exempt from any charges of malpractice, but this is not the case.

Good Samaritan laws pertain to care rendered in emergency situations only.

These situations are defined as accidents, disasters or any unanticipated catastrophes that carry an imminent threat of death or serious bodily harm.
All 50 states follow Good Samaritan laws. The act provides legal protection to people who willingly provide emergency care to ill/injured persons, without accepting anything in return.
Good Samaritan Laws

- It is important to know the laws of your particular state, the one in which you practice.
- Do not to do more than you are trained to do.
- Know your limitations and provide the best nursing care you can under the circumstances.
- Activate emergency response as quickly as possible.
- Call 911 or immediately have someone else at the scene do so.
- If the victim is awake, alert and oriented. Make sure they want your assistance and respect their wishes.
Cardiopulmonary Resuscitation (CPR)

- Sudden cardiac arrest is a leading cause of death in the United States every year.

- Cardiopulmonary Resuscitation (CPR) is a combination of chest compressions and breathing given to victims that are considered to be in cardiac arrest. CPR helps to provide critical blood flow, oxygen and delivery of energy nutrients to the heart and brain, until the person regains consciousness or Emergency Medical Services (EMS) or professional help arrives on the scene.
Resources

- To learn more about CPR online visit American Health care Academy. http://cpraedcourse.com/demo/cpr/7

Nursing documentation is any written or electronically generated information that describes the care or service provided to a particular client or group of clients.

Through documentation, nurses communicate to other healthcare professionals their observations, decisions, actions and outcomes of care. Documentation is an accurate account of what occurred and when it occurred.
Medical records is an account of the patient’s experience during a healthcare encounter.

The primary purpose of medical records is to accurately reflect in written form the medical and nursing care that the patient receives.

It is important that the nurse document accurately and as timely as possible.

Contradictions, inconsistencies and unexplained gaps are difficult to defend in litigations.
The need for precise, accurate documentation has been reinforced repeatedly in the field of nursing.

Documentation takes place in the form of a patient’s medical record.

The medical record is a legal document and admissible in a court of law and provides a summary of a patient’s hospital stay with treatments and outcomes noted.

The record is generally owned by the hospital, but the patient owns the information it contains.

The record is confidential and should not be discussed with anyone not in direct care of the patient.
Helpful hints regarding documentation

Are all entries legible?
Are there grammatical or spelling errors?
Are entries signed correctly? (Use first initial, last name and title.)
Are entries dated and timed?
Is the chart free of erasures and other alterations?
Are entries made in black ink?
Are known allergies highlighted?
Documentation

- For errors, draw a line through the error, write error, initial and date the line. Do not attempt to erase, obliterate or “white out” the error.

- Entries are to be factual, complete, accurate, contain observations, clinical signs and symptoms, client quotes when applicable, nursing interventions, and patient reactions.

- Do not give opinions, make assumptions, or enter vague, meaningless statements (e.g., “is a good parent”). Be specific.

- Write client’s name and other identifying information on each medical record page.

- Limit the use of abbreviations and use those abbreviations approved by your agency/facility.

11/5/2015
Documentation

Always record a client’s non-cooperative/non-compliant behavior using facts.

Never document for someone else or sign another nurse’s name in any portion of the medical record.

Documentation should occur as soon after the care given as possible. Note problems as they occur, resolutions used and changes in client’s status.

When leaving messages, document time, name, and title of person taking message, and telephone number you called.

Document any discussion of questionable medical orders, and the directions the doctor gave. Include the time and date of discussion and your actions as a result of the discussion and consequent directions given.
Record client assessment before and after you administer medications or other treatments.

Chart and record an omission as a new entry. Do not backdate or add to previously written entries.

When an unusual incident occurs (such as patient fall), document the incident on a special incident or occurrence report form. Do not write “incident report” filed in the medical record. Do write what happened to the client and actions taken to assure the client’s well-being in the medical record.

Record only your own observations, actions. If you receive information from another care giver, state the source of the information.
REMEMBER, if you didn’t document it, it didn’t occur.
Resources


- Documentation and nursing practice https://crnbc.ca/Lists/Flash%20Modules/Documentation/player.htm
Documentation Resources

- From 2014. Learning Nurse network.


Child and Elder Abuse

- Includes abuse and neglect
- Your reporting responsibilities
- Mandated reporter
The Federal Child Abuse Prevention and Treatment Act (CAPTA), as amended by the Keeping Children and Families Safe Act of 2003, defines child abuse and neglect as, at minimum:

“Any recent act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation; or an act or failure to act which presents an imminent risk of serious harm.” (Child Welfare Information Gateway, 2013).

Each state is responsible for defining child abuse and maltreatment within its own civil and criminal codes.
Child Abuse

- Under federal law, a child is defined as anyone under the age of 18.

- Nurses are mandated to report suspected child abuse or neglect.
Some states like New York require nurses to take and passed an “identifying and reporting child abuse” continuing education requirement prior to licensure.

As mandated reporters, nurses need to know how to make a report, to become familiar with the program and state's policies and reporting procedures, and to communicate with Child Protective Services (CPS).

All states provide immunity from civil liability and criminal penalty for mandated reporters who report in good faith.
A report must be made when the reporter suspects or has reasons to suspect that a child has been abused.

You do not need to have proof that the abuse or neglect has occurred.

It is not your job to validate the abuse; it is the responsibility of CPS caseworkers or law enforcement officers trained to investigate and proof abuse.

Failure to report is classified as a misdemeanor in approximately 35 states.
April is Child Abuse Awareness and Prevention Month.
Warning signs of abuse:

- Frequent injuries such as bruises, cuts, black eyes or burns, especially when the child cannot adequately explain their causes.
- Burns or bruises in an unusual pattern that may indicate the use of an instrument or a human bite; cigarette burns on any part of the body.
- Frequent complaints of pain without obvious injury.
- Aggressive, disruptive and destructive behavior.
- Lack of reaction to pain.
- Passive, withdrawn, emotionless behavior.
- Fear of going home or seeing parents.
- Injuries that appear after the child has not been seen for several days.
- Unseasonable clothes that may hide injuries to arms or legs.
Suspect neglect when you see...

- Obvious malnourishment
- Lack of personal cleanliness
- Torn and/or dirty clothes
- Obvious fatigue and listlessness
- A child unattended for long periods of time
- Need for glasses, dental care or other medical attention
- Stealing or begging for food
- Frequent absence or tardiness from school
Suspect sexual abuse when you see...

- Physical signs of sexually-transmitted diseases
- Evidence of injury to the genital area
- Difficulty in sitting or walking
- Frequent expressions of sexual activity between adults and children
- Pregnancy in a young girl
- Extreme fear of being alone with adults, especially if of a particular gender
- Sexually suggestive, inappropriate or promiscuous behavior
- Knowledge about sexual relations beyond what is appropriate for the child's age
- Sexual victimization of other children
To learn more about child abuse and neglect reporting; the Major Types of Child Abuse and Neglect; Learn how to recognize and report signs of child abuse and neglect; go to Reporting your concerns may protect a

- https://www.childwelfare.gov/systemwide/laws_policies/statutes/define.cfm
- https://www.childwelfare.gov/pubs/factsheets/whatiscan.cfm
- http://dc.cod.edu/cgi/viewcontent.cgi?article=1132&context=essai or http://dc.cod.edu/essai/vol7/iss1/37
Elder Abuse and Mistreatment

Elder and Dependent Adult Abuse is the mistreatment or neglect of an elderly person or disabled adult.

Elder and Dependent Adult Abuse victims include adults 65 years of age and over and dependent adults 18 to 64 years of age who are physically, developmentally, or emotionally disabled.
It is crucial for RNs who work with elderly patients, to be aware of the problem and the implications to nursing practice.

The registered professional nurse has the responsibility to safeguard elders from abuse, neglect and maltreatment.

This responsibility is set forth in the American Nurses Association’s (ANA), Scope and Standards of Practice (2004), and the Code of Ethics for Nurses with Interpretative Statements (2008).
What is Elder Abuse?

Elder abuse is any form of mistreatment that results in harm or loss to an older person. It is generally divided into the following categories:

- **Physical abuse** is physical force that results in bodily injury, pain, or impairment. It includes assault, battery, and inappropriate restraint.
  - Hitting, Pushing, Causing unnecessary pain, Intentional misuse of medication, Causing Injury, Unauthorized restraint.

- **Sexual abuse** is non-consensual sexual contact of any kind with an older person.
  - Inappropriate exposure, Inappropriate sexual advances, Inappropriate sexual contact, Sexual exploitation, Rape.
Type of Elder Abuse and Mistreatment

- **Domestic violence** is an escalating pattern of violence by an intimate partner where the violence is used to exercise power and control.

- **Emotional, Verbal or Psychological abuse** is the willful infliction of mental or emotional anguish by threat, humiliation, or other verbal or nonverbal conduct.
  - Humiliation, Threats of harm or abandonment, Isolation, Non-Communication, Intimidation.

- **Financial abuse** is the illegal or improper use of an older person's funds, property, or resources.
  - Undue influence to change legal documents, Misuse of property, Theft or embezzlement.
Type of Elder Abuse and Mistreatment

- Neglect is the failure of a caregiver to fulfill his or her caregiving responsibilities. Deprivation of basic needs: water, food, housing, clothing, or medical care.

- Abandonment is the desertion of a vulnerable elder by anyone who has assumed care or custody of that person.

- Self-neglect is failure to provide for one's own essential needs.
  - Unable or unwilling to care for self
  - Unable or unwilling to provide for self
Elder Abandonment
Elder abuse

- It is generally believed that 4-6% of the elderly are abused.

- Nurses are advised to report actual or suspected cases of mistreatment, abuse, or neglect regardless of what their state law stipulates.

- The National Center on Elder Abuse (NCEA) is a national resource center dedicated to the prevention of elder mistreatment.

- The NCEA is funded through Title II of the Older Americans Act, the Center partners with national, state, and local organizations to ensure that elders live with dignity and integrity, i.e., free from abuse, neglect, and exploitation.
The NCEA provides the following range of services:

- Training and technical assistance to state and community organizations;
- Program and policy development assistance;
- Professional development opportunities including a website, e-newsletter, listserv, and the Clearinghouse on Abuse and Neglect of the Elderly (CANE); and
- A training library for adult protective services and elder mistreatment.
Mandatory reporting

Adult Protective Services Association reported that elder abuse reports to APS agencies in 2009 increased by 24%.

Many cases of elder abuse are overlooked when signs of abuse are mistaken for changes associated with aging or declining health.
As mandatory reporters of abuse and neglect, healthcare providers have both an ethical and legal responsibility to advocate for victims of abuse by screening, identifying, and reporting cases of abuse.

In 42 states, anyone who fails to report elder abuse may face misdemeanor charges, fines, or even imprisonment.

Besides criminal penalties, failure to report elder abuse can result in civil action for pain and suffering.

Healthcare professionals who don't report cases of abuse risk professional disciplinary action, possibly including loss of their professional license to practice.

Mandatory reporting usually protects those who report suspected abuse by maintaining the reporters' anonymity and freeing them from concerns of litigation (Stark, 2012).
Resources

 negeral Center on Elder Abuse

http://www.nce.a.aoa.gov/training/index.aspx
http://www.rn.ca.gov/pdfs/regulations/npr-i-23.pdf

The National Committee for the Prevention of Elder Abuse (NCPEA) at
http://www.preventelderabuse.org/about/

Resources

- Elder Mistreatment: Training Manual and Protocol

- Elder Abuse:
Do you know the signs of Elder Abuse?
Ombudsmen

- Long-term care ombudsmen are advocates for residents of nursing homes, board and care homes and assisted living facilities.

- Ombudsmen provide information about how to find a facility and what to do to get quality care.

- They are trained to resolve problems.

- To Learn more about Ombudsmen visit [http://www.ltcombudsman.org/about-ombudsmen](http://www.ltcombudsman.org/about-ombudsmen)
All States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands provide some form of immunity from liability for persons who in good faith report suspected instances of child abuse or neglect under the reporting laws.

Immunity statutes protect reporters from civil or criminal liability that they might otherwise incur.

This protection is extended to both mandatory and voluntary reporters.
In many States, immunity from civil or criminal liability is not provided specifically in cases in which it can be shown that the person making a report acted with malice or in “bad faith” or knowingly made a false report.

Minnesota and North Dakota specifically deny immunity from any civil or criminal penalties for mandated reporters who fail to make required reports.

Alaska provides no immunity for persons who knowingly make an “untimely report.” Persons who are suspected of committing the abuse or neglect are not provided immunity from prosecution in 16 States (Child Welfare Information Gateway, 2012).
Do Not Resuscitate (DNR)

- The DNR decision should reflect what the informed patient wants or would have wanted.

- If the patient’s wishes are unknown, the patient's best interest is the prime consideration.

- The choices and values of the competent patient should always be given highest priority, even when these wishes conflict with those of the health care team and family.
Substance abuse and the nurse

- Substance abuse occurs across all generations, cultures, and occupations, including nursing.

- Narcotic use and diversion among nurses is a growing problem.

- A nurse may be impaired or in recovery from alcohol or drug addiction.

- An impaired nurse can become dysfunctional in his/her ability to provide safe, appropriate patient care.

- As a nurse you should be aware of the signs and symptoms of substance abuse and know when to report a coworker suspected of substance abuse to management.
Your nursing responsibility

- Educate yourself on the signs, symptoms, behaviors, myths, and truths that represent substance abuse.
- Educate yourself on the organization’s policy and procedures for employee substance abuse and employee assistance programs.
- Document any changes in the suspected impaired nurses’ behaviors.
- Do not avoid the issue.
- Urge the nurse to seek help if you can.
- Avoid any desire to enable the impairment.
Legal aspects to report a substance-abusing nurse vary among individual states, but nurses have an ethical and moral duty to patients, colleagues, the profession of nursing, and the community to take action.

The American Nurses Association Code of Ethics for Nurses provide a framework for patient safety and this should guide the nurses actions with regards to the impaired nurse.

Consider the following:
- Do not ignore poor performance.
- Do not lighten or change the nurses’ patient assignment.
- Do not accept excuses.
- Do not allow yourself to be manipulated or fear confronting a nurse if patient safety is in jeopardy.
Treatment

- Substance abuse is the number one reason named by state boards of nursing for disciplinary action.

- Nurses who seek treatment have a good opportunity for successful recovery.

- Currently 37 states offer some form of a substance abuse treatment program to direct nurses to treatment, monitor their re-entry to work, and continue their license according to the National Council of State Boards of Nursing.

- Alternative programs monitor and support the recovering nurse for safe practice.

- Visit your State BORN website to learn more about nurses and substance abuse and your responsibility.
The American Nurses Association (ANA) says approximately 10% of nurses are dependent on drugs, making the incidence of drug abuse and addiction among nurses consistent with that of the U.S. population.

To learn more about substance abuse in nursing go to https://www.ncsbn.org/SUDN_10.pdf

Delegation

- The right of Delegation
  - Right task
  - Right person
  - Right direction
  - Right supervision

- To learn more about delegation visit the lesson titled ‘the role of the nurse’ you will have access to links etc.
Delegation

The RN is held to the Standards of Practice for the Registered.

These standards require that RN:

1. delegate only to competent individuals;
2. provide instruction, direction, and supervision;
3. regularly evaluate the performance of the person the RN is delegating to;
4. rectify a situation when the nursing function is performed incorrectly; and
5. prohibit delegation when the task(s) is performed incorrectly.
I delegated all my responsibilities, now there's nothing left to do.

"I delegate, then I follow up."
HIPAA Regulations

- The Health Insurance Portability and Accountability Act of 1996.
- The Health Insurance Portability and Accountability Act (HIPAA) provides rights and protections for participants and beneficiaries in group health plans.
- HIPAA includes protections for coverage under group health plans that limit exclusions for preexisting conditions; prohibit discrimination against employees and dependents based on their health status; and allow a special opportunity to enroll in a new plan to individuals in certain circumstances (U.S. Department of Labor).
The HIPAA Privacy regulations require health care providers and organizations, as well as their business associates, to develop and follow procedures that ensure the confidentiality and security of protected health information (PHI) when it is transferred, received, handled, or shared.

To learn more go to [http://www.hipaatraining.com/hipaa-training-for-healthcare-providers.aspx](http://www.hipaatraining.com/hipaa-training-for-healthcare-providers.aspx)

HIPPA Training Video: [http://www.youtube.com/watch?v=ZR_84nJZI2M](http://www.youtube.com/watch?v=ZR_84nJZI2M)

Meeting the HIPAA Training and BA Requirements: [http://www.youtube.com/watch?v=y5A2SOLjJsE](http://www.youtube.com/watch?v=y5A2SOLjJsE)
Risk management is a process that identifies, analyses and treats potential hazards in healthcare setting.

Purposes of Risk Management

- The department focuses on identification & prevention of risk exposures within the organization that could: Cause injury to patient, visitors, & employees.

- Jeopardize the safety & security of the environment Result in costly claims & lawsuits with subsequent financial loss to the organization.

- Risk assessment is a major part of daily nursing practice.
Nurses play significant role in risk management.

Monitoring and evaluation of patient care.

Proper utilization of incident reports in the workplace.

Using evidence based practice (EBP) in patient care.

Risk Management, Quality Improvement, and Patient Safety go hand in hand.

The Joint Commission standards for patient safety is one of the several initiatives aimed at risk management and quality improvement.
In 2002, The Joint Commission established its National Patient Safety Goals (NPSGs) program; the first set of NPSGs was effective January 1, 2003.

The NPSGs were established to help accredited organizations address specific areas of concern in regard to patient safety.

To earn or maintain accreditation by the Joint Commission, organizations must demonstrate through clinical documentation and onsite surveys that they have the policies and practices in place to protect patients from the negative impact of specific health care errors.
The Joint Commission’s (TJC) mission is to “continuously improve the safety and quality of care delivered to the public through the provision of health care accreditation.”

TJC requires accredited health care organizations implement NPSG’s as appropriate to the services provided by the organization.

All accredited health care organizations such as Hospitals, Assisted Living, Home Care, Behavioral Health Care, Disease-Specific Care, Ambulatory, Laboratory, etc., are surveyed to evaluate the implementation of these goals as they relate to the services of the organization.

The Joint Commission revises Elements of Performance (EP’s) within the Goals Annually.

For more information on NPSGs visit www.jointcommission.org.
The Joint Commission has issued its National Patient Safety Goals Effective Jan. 1, 2014 for ambulatory healthcare, critical access hospitals, home care, hospitals, laboratory services, office-based surgery, nursing care centers and Medicare/Medicaid long term care.
Insurance

Two types of liability are of concern to those in the health professions:

- (1) personal liability
- (2) corporate liability.

Personal liability holds that individuals are responsible for their own actions.

Vicarious liability is an extension of personal liability and holds that certain parties may not be negligent themselves, but their negligence is assumed because of association with the negligent individual.
Corporate liability holds that an organization is responsible for its conduct.

Patients may sue both the institution and the individual practitioner.

Therefore, nurses are advised to carry their own personal liability insurance.
Professional Liability Insurance

Most hospitals have liability insurance which covers all employees, including nurses; however, smaller facilities may not.

What malpractice insurance typically covers is the cost of a defense attorney, the settlement or judgment (up to the policy limits) if the case is lost, and depending on the type of policy, license defense for the nurse if she is brought up before her state board of nursing.
Professional Liability Insurance

Most employers provide liability insurance.

However, inadequate employer-provided coverage can leave unexpected expenses for you to pay.

It also pays to keep in mind, even if the hospital provides liability insurance for its employees, the insurance company's only loyalty is to the hospital — and they will try to recoup their payout if they think it feasible.

If you are named in a malpractice lawsuit and your legal costs and settlement or judgment exceed your employer's coverage limits, you may need to make up the difference.

To learn more about Nurse professional liability insurance visit

http://www.nso.com/ or

http://nursingworld.org/nursingliabilityinsurance
The Code for Nurses with Interpretive Statements (ANA, 2010) states that nurses as client advocates act “to safeguard the client and the public when health care and safety are affected by incompetent, unethical, or illegal practice by any person.”

Incompetent nursing practice is measured against nursing standards, unethical practice is evaluated by the Code for Nurses, and illegal practice is identified in terms of violations of the law.
REPORTING INCOMPETENT, UNETHICAL, OR ILLEGAL PRACTICES

If a nurse is aware of inappropriate or questionable practice in the provision of health care, concern should be expressed to the person carrying out the questionable practice.

If indicated, the practice should then be reported to the appropriate authority within the agency or larger system.

Follow your facilities established process for reporting and handling incompetent, unethical or illegal practices in the workplace.
The actions that may be taken by the board of nursing following a complaint and investigation include:

Non-disciplinary
- No Further Action: no disciplinary action taken against the nurse’s license.
- Letter of Concern: no disciplinary action taken against the nurse’s license.

Disciplinary
- Censure: Letter sent to nurse indicating there has been a violation of the Nursing Practice Act.
- Probation: Nurse allowed to practice but must meet certain conditions and terms.
- Suspension: The nurse is prohibited from practicing nursing for a period of time.
- Revocation: The nurse loses his or her license and can no longer practice in the State
- Other: The board may impose the above disciplines singularly or in combination.
Resources

Guidelines on Reporting Incompetent, Unethical, or Illegal Practices.

Decision-Making Model for Determining Nursing Scope of Practice
http://www.bne.state.tx.us/practice/pdfs/dectree.pdf
http://www.epcc.edu/Preceptor/Documents/sixstepdecision.pdf
Multistate License (Compact license)

- The Nurse Licensure Compact (NLC) enables multistate licensure for nurses.

- The Nurse Licensure Compact (NLC) allows nurses to have one multistate license, with the ability to practice in both their home state and other party states.

- Currently 24 states active in the Compact.

- For more information visit https://www.ncsbn.org/nlc.htm
SAFETY
Is EVERYONE'S
RESPONSIBILITY
Including You!!
Conclusion

- Keep in mind that practicing in a reasonable, professional manner and documenting your judgment and actions are the best defenses against litigation.

- Learn and understand your states nurse practice act and your scope of practice.
Practice safely and carefully 😊
References

References