

Objectives

1. Summarize the structure and function of the legal system.
2. Compare and contrast nursing negligence and malpractice.
3. Discuss the legal relationship that exists between the nurse and the patient.
4. Explain the importance of maintaining standards of care.
5. Give examples of ways the nursing profession is regulated.
6. Give examples of legal issues in health care.
7. Discuss federal regulations of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy rule and its impact on the health care system.
8. Give examples of ways the licensed practical/vocational nurse can avoid being involved in a lawsuit.
9. Differentiate between a legal duty and an ethical duty.
10. Explain advance directives.
11. Summarize how culture affects an individual's beliefs, morals, and values.
12. Identify how values affect decision making.
13. Distinguish between ethical and unethical behavior.
14. Explain the meaning of a code of ethics.
15. Explain the nurse's role in reporting unethical behavior.
16. Give examples of ethical issues common in health care.

Key Terms

accountability (ák-kóvnt-á-BL-é-lé, p. 24)

advocate (áD-vó-kát, p. 24)

deposition (dè-pó-SI-shún, p. 23)

doctrine of informed consent (p. 26)

ethical dilemmas (ETH-l-ká, p. 34)

ethics (ETH-iks, p. 31)

euthanasia (úth-én-á-zhá, p. 29)

laws (p. 22)

liability (l-á-BL-á-té, p. 24)

liable (l-á-té, p. 23)

malpractice (p. 22)

nonmaleficence (nón-má-LEF-l-sóns, p. 34)

standards of care (p. 26)

value clarification (p. 33)

values (p. 33)

verdict (p. 23)

Today's health care system is dynamic and complex. It has undergone significant changes over the decades. Health care providers are guided by established laws, rules, regulations, and ethical principles. The rising cost of health care and growing consumer awareness have had an impact on the practice of nursing and the distribution and use of available health care resources. Additional challenges are presented by the rapid advances in technology and communication. Practice opportunities and settings for the licensed practical/vocational nurse (LPN/LVN) are changing with the focus on managed care, community health, and home health care.

Nursing practice of the LPN/LVN is guided by a combination of legal principles, established laws, moral standards, and ethical principles. Nurses must understand the legal standards and ethical principles that affect practice. Each state has laws that govern the scope and practice of nursing that are referred to as nurse practice acts. The law sets an obligatory minimum standard in any given situation. Ethical principles,

which evolve out of society and culture, frequently impose an even higher duty. These legal standards and ethical principles serve as a support for all members of the health care system and help protect the rights of all members of society.

LEGAL ASPECTS OF NURSING

The legal relationship that exists between the nurse and the patient is influenced by the existing laws, rules, and regulations that govern nursing practice. Acting outside the established scope of practice or failing to meet the established standard of care has the potential to result in injury to the patient and give rise to legal liability and the potential loss or sanction of the nursing license. Nurses must be aware of their scope of nursing practice and the standards of care that constitute professional duties.

Many legal issues are related to health care, and health care-related litigation that involves nurses is common (Figures 2-1 and 2-2). Today's patients are

Chapter 2 Legal Fundamentals

R Barnett



Chapter 2 Legal Fundamentals:

The Law of Hockey John Barnes (Barrister-at-law),2010 *EU Law, Fundamental Rights and National Democracy* Eduardo Gill-Pedro,2019-08-01 The orthodox view is that rights complement democracy This book critically examines this view in the context of EU fundamental rights specifically in situations where EU law requires member states to respect EU fundamental rights It first sets out a legal theoretical account of how human rights can complement democracy It argues that they can do so only if they are understood as both the conditions for the democratic process and the outcome of such a democratic process In light of this legal theoretical account of human rights this book examines the demands which the Court of Justice of the EU CJEU imposes on the national orders in respect of EU fundamental rights The conclusion reached is that the demands which EU fundamental rights impose on national legal orders entail a cost for the democratic legitimacy of those legal orders Ultimately accepting the demands of the CJEU in respect of EU fundamental rights may require the national legal order to abandon its commitment to protecting the human rights which are the foundation of the national legal order s very legitimacy Handbook of the Law of Code Pleading Charles Edward Clark,1928 **Common Law and Liberal Theory** James R. Stoner,1992 In this book James Stoner s purpose is to recover the common law basis of American constitutionalism American constitutionalism in general he argues and judicial review in particular cannot be fully understood without acknowledging their roots in both common law and liberal political theory But for the most part the common law underpinnings of constitutionalism have received short shrift **United States Code Annotated** United States,1927 United States Code Annotated United States,2006 The Real Property Law of the State of New York Robert Ludlow Fowler,1909 Hand-book of International Law Edwin Forbes Glenn,1895 *Decedent Estate Law of the State of New York, Chapter Thirteen of the Consolidated Laws (became a Law February 17, 1909* Robert Ludlow Fowler,1911 **The New York Supplement** ,1899 **A Treatise on International Law** Roland Roberts Foulke,1920 **The Law of Trade Regulation** ,1927 **God and Man in the Law** Robert Lowry Clinton,1997 In a wide ranging study based on legal history political theory and philosophical ideas going all the way back to Plato and Roman law Robert Clinton challenges current faith in an activist judiciary Claiming that a human centered Constitution leads to government by reductive moral theory and illegitimate judicial review he advocates a return to traditional jurisprudence and a God centered Constitution grounded in English common law and its precedents **Criminal Procedure, Or Commentaries on the Law of Pleading and Evidence and the Practice in Criminal Cases** Bishop,1880 Reports of Cases at Law and in Equity Determined by the Supreme Court of the State of Iowa Iowa. Supreme Court,1922 **The Compiled Laws of the State of Michigan, 1897** Michigan,Lewis Montgomery Miller,1899 **Modern American Law: Constitutional law : definitions and general principles - Organization and powers of the United States Government - Constitutional guaranties of fundamental rights - Eminent domain - Taxation - Naturalization** Eugene Allen Gilmore,William Charles

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