
UNIT 1 ETHICAL AND LEGAL ISSUES IN NURSING

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1.0 OBJECTIVES

After studying this unit, you will be able to:

- define terms related to legislation and Nursing;
- define ethics and describe various ethical issues related to Nursing;
- explain legal and ethical implications in various nursing situations; and
- describe the human rights and rights of elderly.

1. INTRODUCTION

Nursing is defined as providing care to the healthy or sick individuals for preventive, promotive, curative and rehabilitative needs. The Consumers are patients with complex needs. With increased awareness of health care, health care facilities and Consumer Protection Act, **patients/clients** are getting awareness about their rights. Nurses also have now the expanded role, with the result the legal responsibility is increased. Hence, it is important for nursing personnel working in hospital, community and educational field to develop understanding of Legal and Ethical Issues of Nursing.

The consumers/patients have right to ask the care they are entitled for. So, in this unit the emphasis will be on legal and nursing related definitions, ethics and ethical issues related to nursing. The content also includes ethical approaches, ethical principles, ethical dilemma in nursing and significance of studying ethics in Nursing. The legal implications in various nursing situations are also **included**. The content also provides the list of human rights and rights of elderly. Examples on legal and ethical issues related to nursing, will

provide you insight into various other situations in which the consumers/clients/patients can demand their rights for nursing care,

1.2 DEFINITION OF TERMS

In the following text you will study about the legal terms and terms related to nursing and intentional torts.

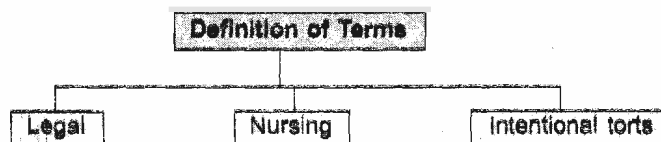


Fig. 1.1: Definition of Terms

1.2.1 Law Related Terms

a) Law

The term 'law' refers to those standards of human conduct established, and enforced by the authority, of an organised society through its Government. Sources of law can be Panchayat, District, State Government, Central Government, an institution or organisation. Rules and regulations related to nursing are enforced by State Nursing Council, Indian Nursing Council and Trained Nurses Association of the country.

'Law' is also defined as the sum total of man-made rules and regulations by which society is governed in a formal or binding manner.

b) Act

Art is a written law, When law is passed in the assembly and is approved by Government it is called as an Act.

c) Legislation

Oxford dictionary gives the definition of legislation as 'the process of making laws'. Legislation is a method of improving public services. To control and maintain standard in nursing education and nursing practice, the nursing councils develop the Act in each state.

Nursing legislation is developed in relation to nursing education, nursing practice and nursing administration.

d) Licensure

State Nursing Registration Art grants the nursing licensure. Licensure is a method of insuring basic competence in nursing practice, In India Licensure is for:

- i) Registered Nurse and Registered Midwife;
- ii) For Auxillary Nurse Midwife/Femal Health Worker; and
- iii) For Health Supervisor Female,

e) Legal Responsibility

Legal responsibility refers to the ways in which a nurse is expected to follow the rules and regulations prescribed for nursing practice. These responsibilities are described by State, Central Government through service conduct rules based on standards developed by State Nursing Council and National Nursing Council.

1.2.2 Nursing Related Terms

a) Nurse

The term 'nurse' refers to a person who has completed a programme at basic nursing education and is qualified and authorised in her/his country to provide the most responsible service of a nursing nature for the promotion of health, the prevention of illness and care of the sick (ICN Constitution as revised and adopted in 1965).

b) Nursing

Nursing is primarily assisting the individual (sick or well) in the **performance** of those activities contributing to health or its **recovery** (or to a peaceful death) that **s/he** would **perform** unaided if **s/he** had the necessary strength, will or knowledge, it is likewise the unique contribution of nursing to help the individual to be independent of such assistance as soon as possible (Harmer and Henderson, 1955).

Nursing is also defined as "giving of direct assistance to a person", as required, because of person's specific inabilities **in self care** resulting from a situation of personal health (Dorthea Orem, 1971).

c) Nurse's Responsibility

The main responsibilities of a nurse are to provide care based on nursing diagnosis, prioritising the needs; planning, implementing and evaluating the nursing care. Nurse provides care to the **patient** based on needs, respect, **dignity** and right without considering race, nationality, caste, creed, colour or socio economic status.

d) Standards

American Nurses Association (ANA) defines standards as an 'authoritative statement by which the quality of nursing practice, service or education can be judged.

For example, one of the standards in mental health nursing (by ANA) is; '**Clients are involved in the assessment, planning, implementation and evaluation of their nursing care programme to the fullest extent of their capabilities.**

e) Malpractice

Professional misconduct; negligence performed in professional practice; any unreasonable lack of skill in professional duties or illegal or immoral conduct that result in injury or death to the **client/consumer**.

f) Negligence

Negligence is described as lack of proper care and attention; carelessness; 'An act of carelessness' (Oxford Dictionary). The law imposes certain specific responsibilities on the nurse with respect to both the duty and the standard of care to be given to a patient. Negligence by the nurse can be explained **as:**

- i) the failure to do **something** that a nurse guided by those considerations that ordinarily regulate the conduct of **nursing** would do.
- ii) doing something that a prudent and reasonable nurse would not do.
- iii) the failure to expertise ordinary care under circumstances.
- iv) conduct that a **reasonably** prudent nurse should **realise** that not to get involved in an unreasonable risk of invading a patient's interest.
- v) failure to do an act that is necessary for the protection or assistance of a patient.

The few examples of common areas of negligence **in** which **nurse** will be held responsible are:

- harmful objects left near the **patient** with suicidal ideation
- not following Five 'R' (**Rights**) and causing **harm** to the patient by giving wrong medicine
- **causing thermal** chemical, physical injuries to the patient
- fall of patient, under sedation, after operation recovering from anesthesia, semi-conscious state, and person suffering from dizziness
- failure to observe and take appropriate action
- failure to inform to the team members about untoward effect observed in patient
- absconding of patient
- **loss/damage** of patient's property
- foreign object left in patient's body during the surgery due to wrong counting
- delay in obtaining help for patient

g) Informed Consent

All patients should be given opportunity to grant informal consent. Informed consent implies to when patient is given the complete knowledge and understanding about any **treatment/procedure** and agrees to sign for **treatment/procedure**.

For any **procedure/treatment** consent is required according to **the institutional policies**. Nurse must witness while doctor gives explanation of a **procedure/treatment in detail** before taking the consent.

Sometimes an information **leaflet/pamphlet** can be prepared for **patient to read**.

Nursing Personnel must keep in mind the following point:

- Patient can consent for **herself/himself** or legally **authorise someone to consent for her/him**.
- If a patient is below 18 years of age, then the legal guardian **has to give the consent**.
- Consent should be taken from the spouse or legal **guardian** **If a person has mental disorder or mental incompetence**.
- Consent of husband and wife should be obtained for **legal abortion**.
- Legal policy need to be followed for the consent for **an orphan according to the State**.

1.2.3 Intentional Torts

Intentional torts are, when others **interfere in individual's** privacy, mobility, property or personal interests. These rights of the individual should be **protected**. **Intentional** torts can be Assault, Battery, False imprisonment or defamation.

- a) Assault: It is the unjustifiable attempt to touch another person or the threat to do so in such **circumstances** as to cause the other reasonably to believe that **it will be** carried out.
- b) Battery: It involves an intentional act that is harmful or offensive –touching another person without that person's consent.
- c) False Imprisonment: It is an intentional act which prevents an individual from moving about where **s/he** wants to be.
- d) Defamation: Publication of a false statement about **an** individual made either verbally or in some other form to the third person, which damages **his/her** reputation.

1.2.4 Consumer Protection Act (CPA)

CPA is an act **which** came into force in the year 1986 in India and was amended In 1993, The objective of **CPA** is to protect and promote the interests and rights or consumer. To meet the demands of consumers, the consumer courts are established at district level, state level and national level.

1.3 ETHICS AWB ETHICAL ISSUES RELATED TO NURSING

Ethics and ethical issues related to nursing are an important area of concern while dealing with human being. Let us **first** clarify the difference between ethics, morals and bioethics.

1.3.1 Definition of Ethics and Bioethics

It is a branch of philosophy which is **concerned** with human character and conduct. Ethics are defined as the science of **morel in human conduct**.

- Morals are 'oughts' and 'shoulds' of **society** **whereas ethics** are the principles behind the 'shoulds', the 'whys' of moral **codes are statements**.

Study of ethics can help health professionals in making **decision in ethical dilemma**, by **learning what** should be considered in **carrying** out ethical responsibilities.

- **Bioethics** refer to concerns, **choices** around such health care issues as longevity versus freedom from illness, rights of individual versus **rights** of society:

Code of ethics is often considered as an essential characteristics of a profession and provides the means for professional regulation. Code of Ethics for nurses will be discussed under sub section 1.3.6.

Check Your Progress 1

1) Match the following:

Column A

Column A

- a) Those standards of human conduct established and enforced by the authority/governance
- b) It is a written law which is passed in assembly and approved by the government
- c) These are authenticated statements by which the quality of nursing practice, service of education can be judged
- d) Misconduct, negligence performed in Professional practice
- e) An intentional act that is harmful or offensive touching of another without his/her consent

- i) Act
- ii) Legislation
- iii) Malpractice
- iv) Standards
- v) Assault
- vi) Law
- vii) Battery

2) Fill in the blanks:

- a) Process of making law is referred as
- b) When the patient is given complete knowledge and understanding about treatment/procedure, it is referred as
- c) The Consumer Protection Act was established in in India and was amended in
- d) The branch of philosophy concerned with human character and conduct is referred as

1.3.2 Ethical Theories and Approaches

The most significant Ethical theories/approaches can be classified as:

- a) Deontologic approach
- b) Utilitarian approach

Deontologic Approach

The word Deontology is derived from a Greek word 'Dean' meaning duty and 'Logo' means discuss. The approach is substantially derived from the writings of Immanuel Kant. It emphasises on:

- i) Duties derived from the supreme principle of morality known as 'categorical Imperative'. It is explained in nursing by Kant that "Act in such a way that you treat humanity, whether in your own person or in person of another, always at the same time as an end and never simply as a mean.
- ii) It also emphasises on right or wrong irrespective of person, situation, time, and circumstances.
- iii) It is also based on ethical actions, principles and rules.

For examples, code for nurses prescribed by ANA describe about Deontological approach, Also another example is lying or killing is wrong. Let us clarify with the help of example. A Head Nurse/Nurse In-charge using deontological approach would apply rules relevant to a situation, Use of restraints which may be to prevent patient from harming herself/himself would demand the In-charge to act from conscience, faith or duty in making such a decision. The nurse In-charge would make a decision which is based on moral rule.

As per deontological approach, right and wrong of an act is determined by feature of an act or its consequences.

Utilitarian Approach

Utilitarian **approach** is concerned with the end product of action. What are the consequences **of** action. The end product, goal **or** consequence of the action is important. This theory has been emphasised by David **Hume** and others. The Emphasis in the theory is on: **greatest goods for the greatest number. No acts are right or wrong.** The right act is the one that leads to the greatest good consequences or least possible consequences for all persons affected. It emphasises on how certain action affect the general welfare in all given situations. It is more a community ethic: for **example** how are the resources of health care allocated?

Egoistic/Hedonistic Approach

In egoistic approach, the solution to the problem is based on what is best for one self. The nurse acting as per the egoistic approach feels that whatever decision **s/he** has made is best for the patient, and with such a decision nurse feels comfortable. The decision may not have any **benefit/harm** for the patient or relatives. According to this approach the patient is not the primary consideration. For **example** a nurse **plans** to give bath to all the patients at 8 O'clock in the morning or all patients should be given medicine at 8 O'clock in the morning are examples of **Egoistic/Hedonistic** approach. The nurse is dealing with human beings who have complex **s/he** needs to be flexible in **her/his** approach.

1.3.3 Ethical Principles

In addition to learning about ethical approaches theories it is significant for you as a **nurse** to know some of the Ethical Principles. The important ethical principles are:

Ethical Principle of Respect for Autonomy

This principle involves two concepts: a) Respect for a Person; b) Autonomy.

- a) **Respect for a person** involves level of understanding of **another** person or empathy and reducing exploitation. For **example**, if patient is talking to a nurse about how upset patient is because of **sickness**. Nurse needs to allow encourage the patient to talk because being a bread earner in the **family**, having dependent family members, patient is **worried**. Nurse is able to empathise with him when he says "he is upset because of his **sickness**".
- b) **Autonomy means self-determining** action. It is an ethical action on the part of nurse to allow the patient to **make decision** for surgery. **Once** the nurse has explained the pros and cons of surgery. **It should** be determined by the patient **himself/herself**.

Ethical Principle of Beneficence

Frankena (1973) identified the following four components of this principle:

- 1) One ought not to inflict evil or harm
- 2) One ought to prevent evil or harm
- 3) One ought to remove evil
- 4) One ought to do or promote good

Let us relate these principles in nursing situations. Nurse avoids causing harm to the patient by ensuring that hot water bag, given to the patient, is covered properly, and closed tightly. Nurse ensures that **s/he** prevents harm to the patient by explaining to people and putting "no smoking zone" poster when the patient is on oxygen.

One ought to remove evil or harm can be explained in nursing situation by ensuring that **an** unconscious patient may fall from the bed. This can be prevented by putting the railing of bed to avoid fall.

One ought to do or promote good. In this regard nurse provides health education to an antenatal mother about the Antenatal check up and preparation and care of new born.

Ethical Principle of Justice and Fairness

The basic principle is that each person has equal right to the liberty available to everyone. For example, staff nurses holding some qualification, work load, and merit should **receive** similar salaries which others are receiving.

1.3.4 Ethical Dilemma in Nursing

Now that you have read about **ethical** theories or approaches **and/ethical** principles, let us discuss: some of the common ethical dilemma which is faced by nursing personnel. Some

- a) Ethics and Genetics
- Should the nurses advise the mothers on rights and choices of having a child?
 - Can the use of contraception be advised based on women's choice?
 - How about amniocentesis. A woman has three daughter's and **husband wants** her to have son leading to abortion.
 - Would an infertile mother go for artificial insemination or test tube babies?
 - If couple has history of MR in the family would they agree for abortion or like to take chance?
- b) Ethics and Birth Control
- A nurse bound by religion, should **s/he** advise a specific type of **birth control** method or sterilisation?
- c) Ethics and Nursing the Terminally **III** Patient

The important concept to discuss **under** this heading is much talked **about** term. **i.e.** Euthanasia. Euthanasia refers to **mercy** killing. It can be direct or indirect euthanasia.

- i) **Direct euthanasia** is also called as Active euthanasia in which the health professional adopt the methods of direct killing. For example, injecting a drug, removing the **O**, or removing the life support devices.
- ii) **Indirect euthanasia** also called as passive euthanasia. For example, neglecting the patient or letting the patient die without food and treatment.
- iii) Though the truth is that nurses receive far more requests from patient for euthanasia than Doctors, should the nurses practice the mercy killing?
- iv) Ethics and HIV positive patient

Should the nurse **inform** to the patient's spouse about the HIV positive status?

These were few of the examples about the ethical dilemma nurses face while practising. It is further discussed under Sub-section 1.4.2 (d).

1.3.5 Significance of Studying Ethics in Nursing

In any professional setting or work environment, there are certain ways which are accepted by the professional body and so is true in nursing too. **It is important to study** ethics in nursing because:

- Goal of nursing is to provide care to the people with respect and dignity.
 - Nurses work with human beings and human beings are central focus.
 - Professional nurses accept the responsibility for making decisions and taking action regarding health and illness. For example, nurse feels her best judgement is what patient needed and not what patient wants to do.
 - Nurses work in variety of setting and assume various roles that require interaction with client, family and team members.
- Nurse may come across various conflicting situations, while working in hospital and community, where knowledge of the ethics will help **her/him** to resolve the issues.
- Knowledge of ethics enables the nurse to make decisions as per the situation.
 - Knowledge of **learning** about ethics helps the nurse to understand **her/his** accountability toward care provided to the patient.

1.3.6 International Council of Nursing (ICN) Code for Nurses (1973)

- i) Ethical Concepts Applied to Nursing
- The **fundamental** responsibility of the nurse is fourfold: to promote health, to prevent illness, to restore health, and to alleviate suffering.
- The need for nursing is universal, inherent in nursing is respect for life, dignity and rights of individual. It is unrestricted by considerations of nationality, race, creed, colour, age, sex, politics or social status.
- Nurses render health services to the individual, the family and the community and coordinate their services with other team members.

ii) **Nurses and People**

- The nurse's primary responsibility is to those people who require nursing care.
- The nurse, in providing care, promotes an environment in which the values, customs and spiritual beliefs of the individuals are respected.
- The nurse holds in 'confidence personal information and uses judgement, in sharing this information.

iii) **Nurses and Practice**

- The nurse carries personal responsibility for nursing practice and for maintaining competence by continual learning.
- The nurse maintains the highest standards of nursing care, possible within the reality of a specific situation.
- The nurse uses judgement in relation to individual competence, when accepting and delgating responsibilities.
- The nurse, when acting in a professional capacity, should at all times maintain standards of personal conduct which reflect credit upon the profession.

iv) **Nurses and Society**

- The nurse shares with other citizens the responsibility for initiating and supporting action to meet the health and social needs of the public.

v) **Nurses and Co-workers**

- The nurse sustains a cooperative relationship with co-workers and other fields.
- The nurse takes appropriate action to safeguard the individual when his care is endangered by a co-worker or any other person.

vi) **Nurses and the Profession**

- The nurse plays the major role in determining and implementing desirable standards of nursing practice and nursing education.
- The nurse is active in developing a core of professional knowledge.
- The nurse, acting through the professional organisation, participates in establishing and maintaining equitable social and economic working conditions in nursing.

The professional code of ethics in nursing serve as standards for the behaviour of nurses and provide general guidelines for nursing actions in ethical dilemmas.

1.3.7 Standards of Care

As you are practicing in the clinical area you must be familiar with the standards of care relevant to area of practice. Standards of care in nursing are appropriate care to be given to patient as per hospital policy. If nurse does not perform standard of care his client may initiate a malpractice lawsuit. You have also read in sub-section 1.2.2 on definition of statidards. Your accountability is questioned if you do not perform your duty properly.

Check Your Progress 2

1) List the three significant ethical theories/approaches.

- a)
- b)
- c)

2) List six major areas described by ICN uinder code for nurses.

- a)
- b)
- c)
- d)
- e)
- f)

1.4 LEGAL AND ETHICAL IMPLICATIONS IN VARIOUS NURSING SITUATIONS

Now that you have read about ethics, ethical approaches and few of the examples of nursing applied in ethical principles. The subsequent text will include the legal and ethical implications, in selecting nursing settings.

While working in different specialities, for example, paediatric, maternity ward, operation theatre, casualty, you have to follow the policies laid down in each ward, to prevent the legal issues related in nursing care. In this section some of the common situations are discussed to give you an overall view.

1.4.1 Legal Implications in Admission and Discharge

a) Admission and Discharge of Medico-Legal Cases (MLC)

While providing nursing care in any Medico-Legal Case, as a nurse you must take care of the following areas:

- After receiving the patient in OPD, immediately inform the physician,
- All the OPD records, admission cards, and other records of patient should be kept under lock and key.
- No records of patient should be shown to anyone else than the physician looking after the patient.
- 8 All the belongings of the patient should be kept under safe custody.
- If relatives or police want to take the belongings of patient, the prior permission of physician is important. Description of the belonging should be written, Relationship with the patient, signature and thumb impression should be obtained from the person collecting the belongings.
- 8 Body discharge of the patient should not be thrown until confirmed by the physician. Accurate recording of body discharge, its quantity, colour and consistency should be maintained.
- Don't destroy/discard any evidence without discussing with physician.
- Take consent of relative or patient (if patient is conscious) for any kind of procedure/treatment.
- Allow the relative to be with the patient on request of patient.
- Avoid answering enquiries to an insurance agent.
- The condition of patient should be reported verbally only.
- It is not obligatory on the part of nurse to provide information to the police officer, to the press reporter or any agent of the public. In case of any difficulty s/he may inform the immediate higher authority.

On Discharge

- If patient is transferred from one ward to another, or to any other hospital, it should be clearly entered and signed.
- No records should be handed over to police. If required, physician attending the patient should give in writing to Nurse.
- Name and address of the relative should be written clearly before allowing the patient to leave the hospital.
- Discharge notes should be kept under lock and key, until handed over to the department concerned.

In Case of Death of Patient

- Nurse must get written instruction from the medical officer for handing over the body to mortuary/relative/police officer with:
 - complete name and signature
 - complete address of the person from mortuary/relative/police officer
 - identification number

- List of **all articles** of patient should be made in triplicate while handing over the **body**.
- Maintain the privacy of the dead body while attending last offices or care of the dead.
- All the articles should be disposed off, after making list and with approval of medical officer.

b) Role of Nurse in Admission and Discharge of Mentally **III** Patients

As per the Indian Mental Health Act, 1987 (which is an amendment of the Indian Lunacy Act, 1912) "Mentally ill patient gets admitted on a voluntary basis (except a minor). After 24 hours, a board should decide regarding continuation of treatment or discharge of the patient."

Admissions can be made under special condition where patient is brought by relative, friend or neighbour. Application form for admission is accompanied by report of two medical officers out of which one should be in government service.

Discharging a Patient with Mental Illness

As a nurse you must remember that:

- Voluntarily admitted patient may ask for discharge and **psychiatrist/medical officer** on duty will make discharge slip.
- Check the signature of the patient and **relatives/witness**.
- Note the address of patient on discharge.

c) Discharge of **Patient** in Other Conditions

In section 1.4.1 (**a,b**) the discussion was on patients with medico-legal cases and mental illness. In the following text you **will** read about some of the following conditions in which legal implications are involved.

Lama (Left Against Medical Advice).

Parole (Mentally ill patient goes home on leave).

Absconding (Patient runs away from the hospital without informing any one).

i) **Lama**

Patient leaves against medical advice, when the patient and relatives are not satisfied of the treatment in the hospital. If the patient is in a critical condition, as a Nurse, your responsibility is to:

- 1) explain about the **critical** condition of the patient to relatives,
- 2) inform the medical officer, and get it written **from** the medical **officer** that patient can go on LAMA,
- 3) signature of relative should be taken in which **s/he** writes that **s/he** is taking full responsibility of taking **away** the patient, that the Doctors and nurses have explained the critical condition, and the risk of taking away the patient,
- 4) if it is a hospital policy, the life support system should not be withdrawn,
- 5) all the records should be kept under lock and key.

ii) **Parole**

In parole, patient has not been discharged **from** the hospital, but is away for **two/three** days or more. **After** submission of application by the relatives with approval of psychiatrist the patient goes home. Sometimes the patient does not come back after parole. In that case the discharge procedure should be followed as discussed in section 1.4.1(**b**).

iii) **Absconding**

If the patient runs away from the **ward/hospital**, it becomes a major responsibility of a nurse. To avoid this problem you must remember the following:

- Check the number of patients admitted, with the actual number of patients present in

- Inform immediately the CMO, if any patient is reported absconded, in writing and get it signed. Record of absconded patient should be kept under lock and key.

1.4.2 Legal Implications in a Few Selected Situations

a) Examination of Female Patient

When the female patient is being examined by male Dr., nurse must ensure that she should:

- maintain total privacy during the physical examination.
- be present during the physical examination of the female patient.
- expose the patient as little as possible.
- protect the right of the patient if she refuses to be examined by a male doctor.
- discourage repeated **examination** of breast, abdomen and perineal part of patient.

b) Legal Responsibility of Nurse while Administering Medication

“5R” must be kept in mind while giving medication to the patient, that is right medicine, to right patient, in right dose, through right route, and at right time. It is essential for you to keep the following points in mind while giving medication to the patient.

- No verbal instructions **from** physician should be carried on for giving medicine.
- There are limited number of days for administering antibiotics.
- Strict monitoring of medicine, especially ones which may change the blood chemistry (Heparin, Digoxin).
- Measuring of liquid medicines at eye level.
- Error cause in medication, by a nurse should be reported immediately, though at times the nurse may feel:
 - there is no need to inform
 - if informed, 'I will be labeled as careless nurse'
 - there may be punishment.
 - to wait for consequences.

Where the fears may be, it is important to save the life of human being.

- Ensure that all the medicine containers are labeled clearly.

c) Nursing Records and its Legal Implications

On admission of patient to the hospital, various records are maintained. Some of them are:

- Nurse's Notes
- T.P.R. records
- Poisonous and essential drugs records
- Admission and Discharge records.

The nursing care records are important, **as these** may be required by:

- employer (For employment, promotion, disposition)
- Court of law for various purposes
- Used for a Job, and leave from work place
- Lawyers use it for divorce, compensation, liability
- Damages against negligent act
- Execution of will
- Medico legal reasons
- For use in consumer court
- Any other.

Discharge records should be kept under **the** lock and key, until they are handed over to **the** medical record section. Discharge record should include:

- Date of admission of patient
- Diagnosis

d) Euthanasia

Euthanasia denotes killing someone on account of his/her distressing physical and mental state. Euthanasia is an act or practice, of painlessly putting the person to death, to relieve him/her from suffering of an incurable or a distressing disease. Voluntary euthanasia is at the request of person himself, Euthanasia, even if voluntary, is criminal in almost all the countries including India.

Active/Direct and Passive/Indirect euthanasia is discussed in detail under sub-section 1.3.4.

There are lots of questions related to euthanasia. The parents of new born, with congenital defects may tell the doctor not to take extraordinary measures to save the life. If doctor agrees, that means the treatment will not start and eventually the child may die. It becomes more complicated in case of mentally incompetent person. Should the life support be withdrawn? It has gone through ethical debate. Who should make the decision?

- A family – Who may have guilt feeling throughout life
 - The physician – Whose oath does not permit
 - Family and physician – both should be protected together by Court of Law
 - An ethics committee – It is difficult to come to the Conclusion
- and
- The legislative/court

Over a period time, it is said that if relatives agree, and physician ascertains, that without life support measure may declare a patient having 'Brain Death'. Should the life support system be withdrawn is questionable?

"In no case nurse should participate in euthanasia."

You must have noticed as a community health nurse, that a mother who has pressure of in-laws and husband to produce a son neglects a female baby, by not feeding, not bothering if the baby is getting choked. This is an example of massive murder. As a community health nurse, you need to intervene and help the mother, and family members to accept the baby.

e) Organ Transplant and Sale of Organs of Human Body

Though transplantation of human organs has become the need of medical technology to save life, still some of the organs cannot be transplanted from the 'live person' such as heart, cornea and liver. Some transplants can be made from 'live or dead' persons like kidney, skin graft, etc.

If it is from the live person like kidney/skin graft, informed consent should be taken from donor. In case of 'dead donor' it is important to get the consent signed by relatives as per the desire of the deceased.

As a nurse, you should be aware, that an uninformed donor prepared under sedation for removal of any part is criminal in the court of law. Similarly, sale of organs of human body, is prohibited. In no case, a nurse must participate in these unethical/criminal decision knowingly or unknowingly.

As a nurse researcher/medical researcher there may be certain areas in which you can improve the care of patient by experimentation. It should be discussed in research ethical committee and decision should be made by the patient, doctor and the nurse.

"In no condition, the patient should be deprived of the normal/basic and essential medical and nursing care during research study."

f) Sterilisation and Abortion

For sterilisation of male/female individual it is essential to:

- Get the informed consent signed by both the husband and wife.
- Though woman has right on her reproductive system, but socio-culturally and legally it has not been practised.
- Eugenic sterilisation to prevent procreation of the unfit such as mentally retarded, mentally ill, habitual criminal and sexual deviates, is practised in some part of the world. But each case is taken independently.

Though, many a times in spite of sterilisation of individual, the couple has a child, medical team is protected by law (in India).

As a nurse, you need to:

- Educate couples for using various methods.
- Provide guidance and counselling for sterilisation and various contraceptive methods.

Give ample time to the couple to make decision.

It is totally a voluntary decision of woman/man, unless there is a government policy.

g) Practice by the Nurses Which may be Considered Unethical

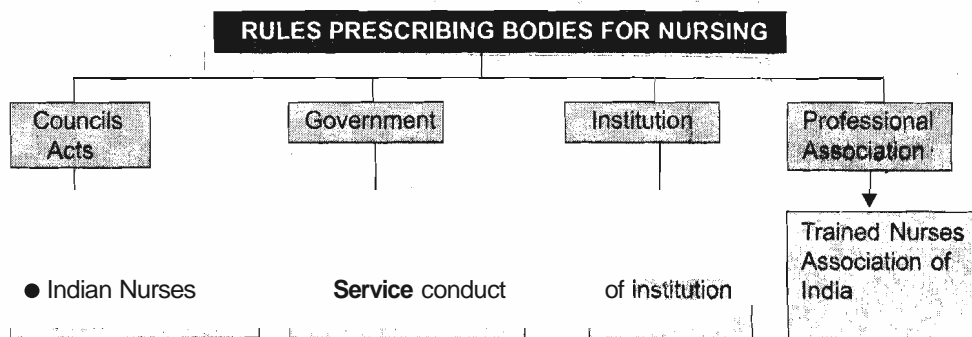
Practising in the medical/gynaecological areas for which s/he is not prepared. For example:

- prescribing medicines
 - doing decapitation of still birth baby
 - conducting obstructed labour, which may cause threat to the life of the mother or the baby
 - conducting delivery when the presentation is placenta previa
 - getting registration done by false means
 - dishonest use of certificates (may be for higher education)
 - getting oneself registered as a doctor. However, nurses can practice (RNRM)
 - taking bribes
- conduct of derogatory to nursing profession. Theft, cheating, immoral act, habitual use of drugs.

The States Nursing Registration Act has authority to take action against any of the above unethical activities of nurse and cancel her/his registration.

1.4.3 Role of Prescribing Bodies in Nursing Practice

There is no legislation developed for Nursing Practice in India. The control in nursing practice varies from state to state, as health is a state subject. Any professional nurse is accountable to patient care as per the rules and regulations prescribed by various state councils, government or institution. The professional Association also has an important role in facilitating the maintenance of nursing standard.



While reading the different course material you would also read the role of nurse in casualty department, operation theater, maternity and nursing unit like paediatric and psychiatric wards.

1.5 HUMAN RIGHTS AND RIGHTS OF ELDERLY

As a nurse, it is important for you to know the rights of an individual. It will help you to exercise your own rights, and help the patient to get the care according to his/her right under the Constitution.

Universal Declaration of Human Rights (abbreviated)

On December 10, 1948, the General Assembly of the United Nations adopted and

Article 1	Right to Equality
Article 2	Freedom from Discrimination
Article 3	Right to Life, Liberty, Personal Security
Article 4	Right from Slavery
Article 5	Right from Torture, Degrading Treatment
Article 6	Right to Recognition as a person before the Law
Article 7	Right to Equality before the Law
Article 8	Right to Remedy by Competent Tribunal •
Article 9	Freedom from Arbitrary Arrest, Exile
Article 10	Right to Fair Public Hearing
Article 11	Right to be Considered Innocent until Proven Guilty
Article 12	Freedom from Interference with Privacy, Family, House and Correspondence
Article 13	Right to Free Movement in and out of the Country
Article 14	Right to Asylum in other Countries from persecution
Article 15	Right to a Nationality and Freedom to change it
Article 16	Right to Marriage and Family
Article 17	Right to own property
Article 18	Right to Belief and Religion
Article 19	Right to Opinion and Information
Article 20	Right to Peaceful Assembly and Association
Article 21	Right to Participate in Government and in Free Elections
Article 22	Right to Social Security
Article 23	Right to Desirable Work and to join Trade Unions
Article 24	Right to Rest and Leisure
Article 25	Right to Adequate Living Standard
Article 26	Right to Education
Article 27	Right to Participate in the Cultural Life of Community
Article 28	Right to Social Order assuring Human Rights
Article 29	Community Duties essential to Free and Full Development
Article 30	Freedom from State or Personal Interference in the above Rights.

India : Fundamental Rights

Article 14	Right to Equality before the Law
Article 15	Freedom from Discrimination
Article 16	Right to Equal Opportunity in Public Employment
Article 19	Right to Freedom of Speech and Expression
Article 19	Right to Assemble Peacefully without Arms
Article 19	Right to Form Associations or Unions
Article 19	Right to Move Freely
Article 19	Right to Settle and Reside Anywhere in the Country
Article 19	Right to Practice any Profession, Occupation, Trade or Business
Article 20	Right not to be Convicted of Offences not Crimes at time Committed
Article 21	Right to Life and Personal Liberty
Article 22	Right not to be Detained without being informed of reasons
Article 22	Right to Consult with, and be Defended by, a Lawyer after Arrest
Article 23	Right Against Trafficking in Human Beings and Forced Labour
Article 24	Right Against Employment of Children (Under 14 years) in Factories, Mines or Dangerous Jobs
Article 25-28	Right to Freedom of Conscience and Freedom of Religion
Article 29	Right to Protection of Cultural Rights of Minorities
Article 30	Right to Protection of Educational Rights of Minorities
Article 32	Right to Approach the Supreme Court if Rights Violated

Rights of Elderly Patients

You have read about human rights. In the following paras the emphasis will be on rights of older adults or elderly people. As nurses, it is important for you to know about the rights of elderly, so that, you can help them in the community and hospital, if required.

On 16 December 1991, the United Nation's General Assembly adopted a Resolution 46/91 for older persons "to add life to the years that have been added to life". All the governments in the world were encouraged to incorporate the principles in their national programmes wherever possible. The right of older adults are as follows:

- Right for Independence
- Right for Participation
- Right for Care
- Right for Self-fulfilment
- Right for Dignity.

Recording should be done clearly, neatly and accurately with signature for authentication.

Check Your Progress 3

1) Define the following terms:

a) Lama

.....
.....

b) Parole

.....
.....

c) Absconding

.....
.....

2) List five important situations in which nursing records may be required.

a)

b)

c)

d)

e)

3) Define the term Euthanasia.

.....
.....
.....

4) List the rights of older adults/elderly patients.

a)

b)

c)

d)

e)

1.6 LET US SUM UP

In this unit, you have read about ethical and legal issues in nursing. You must have comprehended the meaning of some of the common legal terms. As you know, ethics play a very important part while providing nursing care, and there are many ethical dilemma you must be facing while practicing in the hospital and community. You have also read about ICN Code of Ethics for nurses, which is also adopted by Trained Nurses Association of India (TNAI).

mentally ill patients **would** have reinforced your memory about your legal responsibilities as nursing **personnel**. **You** have also read in this unit the major responsibilities of a nurse during examination of female patients and administration of medication. Should the nurse participate in **euthanasia**, organ transplant, sterilisation and illegal abortion are some of the dilemmas **in** nursing mentioned. You have also read that **there** are various rules prescribing **bodies** in nursing. During your practice in hospital and community you should be **careful in carrying** out the procedure to protect yourself and the client **from** any legal issues.

1.7 ANSWERS TO CHECK YOUR PROGRESS

Check Your Progress 1

- 1) a) vi
b) i
c) iv
d) v
e) vii
- 2) a) Legislation
b) Informed Consent
c) 1986 and 1993
d) Ethics

Check Your Progress 2

- 1) a) **Deontological** Approach
b) Utilitarian Approach
c) **Egoistic/Hedonistic** Approach
- 2) a) **Ethical** Concepts applied to Nursing
b) Nurses and People
c) Nurses and Practice
d) Nurses and Society
e) Nurses and Co-workers
f) Nurses and the Profession

Check Your Progress 3

- 1) a) **When** the patient leaves against medical advice where the **patient** and relative **are informed** by the Doctors and Nurses about the critical condition of patient and **risk** involved.
b) **Parole** patient is not discharged from the hospital but is away for **two** to three days with permission of psychiatrist (in case of mentally ill patients)
c) **When** the patient runs **away** from the **ward/hospital** with all **his/her** belongings without informing any one.
- 2) a) By employer for employment, promotion disposition
b) Court of law for various purposes
c) Use of other jobs and leave from work place
d) Use by lawyers for compensation, liability or divorce
e) Use by consumer in consumer court for damages against negligent care
- 3) Euthanasia is defined as an act or practice of painlessly putting the person to death to relieve **her/him** from suffering of incurable or a distressing disease. Euthanasia refers to killing.
- 4) The Rights of **older adults/elderly** patients are:
 - a) Independence
 - b) Participation
 - c) Care
 - d) Self-fulfilment
 - e) Dignity