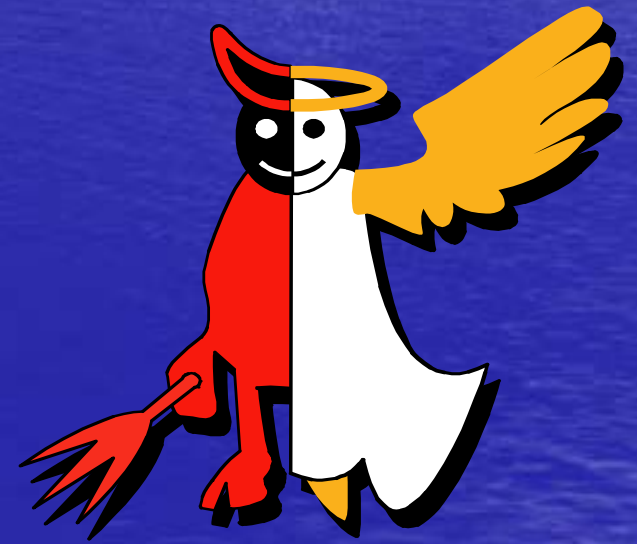


Ethical and Legal Issues Chapter 4



Introduction

- Nurses are constantly faced with the challenge of making difficult decisions regarding good and evil or life and death.
- Nurses must know the legal and ethical issues regarding care of the mentally ill



Legal Considerations

- Nurse Practice Act defines the legal parameters of professional and practical nursing
- Types of Laws
 - Statutory law
 - Common law

Review Definitions

- Ethics
- Bioethics
- Moral behavior
- Values
- Right
- Absolute right
- Legal right

Review Ethical Theories

- **Utilitarianism**
- **Kantianism**
- **Christian Ethics**
- **Natural Law Theories**
- **Ethical Egoism**

Review Ethical Principles

- **Autonomy**
- **Beneficence**
- **Nonmaleficence**
- **Justice**
- **Veracity**

A Model for Making Ethical Decisions

- Assessment
- Problem identification
- Plan
- Implementation
- Evaluation



Principles Guiding the Care of the Mentally III

- Client autonomy and liberty must be ensured- treatment in the least restrictive setting with active client participation in treatment.
- Clients are considered legally competent unless legally judged incompetent.
- Confidentiality- share only with staff and instructor. Let client know you will be sharing with those involved in his care.
- Informed consent.

Ethical Issues in Psychiatric/Mental Health Nursing

- The right to refuse medication
- The right to the least restrictive treatment alternative

Legal Issues in Psychiatric/Mental Health Nursing

- Confidentiality and right to privacy
- Doctrine of privileged communication
- Informed consent
- Restraints and seclusion
- False imprisonment

Legal Issues in Psychiatric/Mental Health Nursing *(cont.)*

- Commitment issues
 - Voluntary commitment
 - Involuntary commitment
 - Emergency commitment
 - The “mentally ill” person in need of treatment
 - Involuntary outpatient commitment
 - The gravely disabled client

Legal Issues in Psychiatric/Mental Health Nursing *(cont.)*

- Malpractice and negligence
- Types of lawsuits that occur in psychiatric nursing
 - Breach of confidentiality
 - Defamation of character
 - Libel
 - Slander
- Invasion of privacy
- Assault and battery
- False imprisonment

Nursing Actions to Avoid Liability

- Responding to the patient
- Educating the patient
- Complying with the standard of care
- Supervising care
- Adhering to the nursing process
- Documentation
- Follow-up



Principles Guiding the Care of the Mentally III

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- Informed consent

How Does the Client Enter the Mental Health System?

- **Types of admissions:**

Voluntary- a client consents to hospitalization for the purpose of evaluation and treatment and signs a document indicating this

If the client decides to change his mind, he must do so in writing and give the staff time to prepare a discharge plan.

If staff feels the client is a danger to self and others, commitment proceedings may be started

How Does the Client Enter the Mental Health System?

- **Involuntary admission or commitment**

Detaining a client in a psychiatric facility against his will, usually due to considering the client a **danger to self or others**

In Florida it is called the **Baker Act**- client may be held up to 72 hours for the purpose of evaluation

If after 72 hours, it is felt that the client needs to stay longer and client is not in agreement, there must be court hearing date set up

Involuntary Admission for Substance Abuse

- Marchman Act-

Reporting Laws

- In Florida, we must report suspected cases of child or elder abuse or neglect
- Mandatory reporting is also required when licensed nurses are known to have violated the Nurse Practice Act (Intervention Project for Nurses)
1-800-840-2720.
- Duty to disclose if the client has made a credible threat to to kill someone.

The Criminalization of Mental Illness

- Many clients who were previously cared for in long term psychiatric facilities are now homeless or in jail due to lack of community support
- Crimes often are misdemeanors related to their psychiatric symptoms

Resources

Baker Act

<http://www.dcf.state.fl.us/mentalhealth/laws/index.shtml>

Marchman Act

<http://www.pbcountyclerk.com/courtservices/mentalhealth/mentalhealth.html>