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Nurses and the law: Are nurses legal wise?

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Background and Rationale: Nursing is a vital part of the health care system and nurses are described as the “heartbeat of healthcare.” Expansive knowledge is required for nurses to perform their duties and render holistic patient care competently, ethically and legally. As a result of the rapid expansion of the scope of nursing care and knowledge, nursing staff face greater responsibilities and require increasingly more skills. New specialities develop and nursing professionals rightly call for appropriate remuneration, authority and status. There is a need for more training and proficiency as the risk of legal liability increases. As a result of the higher acuity level of patients, the development of highly specialised technology and a heightened emphasis on independent nursing practice, the present position of nurses has increased accountability with a corresponding increase in legal liability. Case law and the alarming increase in medical malpractice lawsuits involving nurses as defendants affirms the relevance for including these health professionals as a significant group of individuals for development in the area of law. . Nurses must be able to comprehend the law that governs their practice in order to obviate risks and law suits. The escalating incidence of medical malpractice in South Africa was the motivation of this study. The intention therefore was to address the area of knowledge and understanding of health and related law and practice for the nurse. The study critically evaluated if the nursing knowledge base regarding legal aspects, healthcare law and other related laws amongst nurses is sufficient in a dynamic and contemporary healthcare environment, where medico legal incidents occur.

Aim: To determine if knowledge regarding legal aspects amongst nurses will prevent malpractice.

Objectives: To determine if nurses are informed and understand healthcare and related laws governing their practice. To determine if development in legal knowledge amongst nurses will promote safe nursing care and reduce nursing malpractice. To propose provisions that may need to be incorporated into nursing education programmes that will assist in ameliorating nursing legal knowledge and reducing malpractice.

Methodology: A desktop research approach was used. The main sources consulted are academic journal articles and related publications, textbooks, electronic books, statistics and related research, and internet resources.

Results and Recommendations: The research findings revealed that there is a lack of legal knowledge required for safe and competent professional practice. The knowledge deficit leaves the nurse in a position where her plan of care, actions and decisions are incongruent with the ethical and legal boundaries of her practice. Thus, patient care is compromised and unsafe practice results either by a negligent act or an omission to act. It is recommended that a module on medical law and practice be included in the nursing curriculum, interdisciplinary education be encouraged, empirical research on a larger scale on the topic be conducted, reflection after medico legal incidents be arranged, attendance of disciplinary hearings and formal court proceedings relevant to the nursing profession be fostered, resources such as legal nurse consultants or legal advisors be accessible, and medico legal forum for nurses be established.

Conclusion: The nurse practitioner is the only member of the health care team responsible for the hospitalised patient over a 24 hour day. Their interventions are guided by policies and procedures established by the country, the profession, and the healthcare institution in accordance with accepted standards of care. Therefore, nurses have a legal obligation to practice in a legally safe manner. The laws of the nursing profession can only function properly if nurses know the current laws governing their practice. Ignorance of the law is never an excuse!

Biography

Medesha Mathuray obtained a Master of Laws – Medical Law degree in 2017 from UKZN in South Africa. She works as a Clinical Training Specialist in private healthcare. Her main roles and responsibilities include education and training of nurses, both basic and post basic nurse training in emergency and critical care nursing. Medesha is also an AHA Basic Life Support Faculty member for her region. Her qualifications include General Nursing, Community, Psychiatry and Mid-wifery, B Cur degree, Honours in Nursing Management, and Critical Care Nursing.