KEEPING YOUR PRACTICE ON THE RIGHT SIDE OF THE LAW

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DISCLOSURE

WE DO NOT HAVE ANY FINANCIAL RELATIONSHIPS WITH ANY COMMERCIAL INTEREST.

OBJECTIVES

1. Analyze two case studies for potential violations of nursing standards of care.

Identify strategies that can prevent or mitigate violations in nursing practice.

Discuss legal and ethical resources available to nurses in any practice setting.

CASE STUDY 1

- Shelia, RN works at Peach County Prison in Atlanta Georgia. At 1:30 pm she receives a call from the custody officer on D3, he indicates the PIOC reported ingesting several pills. The CO stated the PIOC had been in the day room earlier and appeared fine. He further stated this is the same PIOC we have sent out twice this week for ingesting foreign objects and nothing was found.
  Shelia's shift ended in 30minutes, she indicated she knew this PIOC very well and he was seeking attention. She advised the CO to watch the PIOC and notify the next shift if he appeared sick.
- Shelia, ended her shift and went home.

CASE STUDY 2

- JT a 21-year-old black male was admitted the Knight County Jail in downtown Atlanta. On intake JT reveal a history of sickle cell anemia. His last hospitalization for pain crisis was 2 months ago. One month ago, while playing basketball JT fell and tore a ligament in his left knee. The physician was not on duty at the time. The nurse applied ice to his knee. JT requested pain medication and was told by the nurse she could not give him anything for pain, he would have to see the doctor. The next day JT submits a HSR complaining of pain in his hip. The nurse responded you are scheduled to see the physician. Two weeks later, JT see's the physician who suggest he probably needs an Xray, the doctor orders an Xray.
- Three weeks later, JT submits an HSR, "I am in pain, my knee, hip and chest are hurting. The nurse replies to colleagues, "he was just playing basketball a week ago. He does not have a temperature, he's fine. He just wants pain medication; we are not contributing to his addiction". By month 4, JT is admitted to the hospital with a diagnosis of pain crisis, acute chest pain, stroke, and necrosis of the left hip.

STANDARDS OF CARE

- Legal requirements for nursing practice that describe the minimum acceptable nursing care.
- Standards outline the scope, function, and the role of the nurse in practice.
- Nursing standards are described in States' nurse practice acts.
- State Boards of Nursing more specifically define the practice of nursing through rules
- SBON define the nurses' responsibility and define delegation.
- Standards provide guidance for the nurse.
- Ensure health and safety of patients and nurses.

SCOPE OF PRACTICE: LICENSURE

- Board of Nursing
- Nursing Standards
- ANA Standards
- Social Policy Statement
- Nursing Code of Ethics

RN AND LPN(LVN) SCOPE AND PRACTICE

- Conducts and documents total nursing assessment, and reassessment.
- Analyzes assessment data and establishes the nursing diagnosis to be used as the basis for intervention.
- Analyzes assessment data
- Implements the nursing interventions based on the nursing plan of care,
- Evaluates responses

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- Assist in the nursing assessment by collecting, reporting and recording objective and subjective data.
- Implements nursing components of the the patient plan of care under the direction of the RN.
- Contributes to the revision of the nursing plan of care.

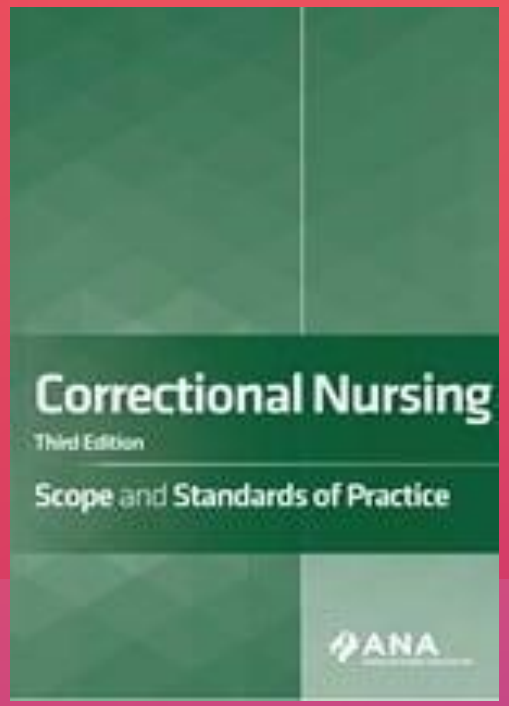
CORRECTIONAL HEALTH CARE STANDARDS- NCCHC

Access to Care

Continuity of Care

Care by a Qualified Health Professional

CORRECTIONAL NURSING STANDARDS



STANDARDS OF CARE AND GUIDANCE DOCUMENTS

- Legal requirements for nursing care that describes minimal acceptable nursing care.
- ANA, Correctional Nursing Scope and Standards of Care
- Nursing Practice Act
- Boards of Nursing
- National Boards of Nursing
- Regulatory Agencies (Joint Commission, NCCHC)

RESPONSIBILITY

- Nurses are both accountable and responsible for the quality of their practice.
- All nurses are responsible for knowing the provisions of the nurse practice act.
- Taking ownership of your actions, holding yourself accountable individually, and as a member of the health team.
- Checking in and staying current, the life long journey of professional development.
- Sustaining a culture of professional ownership.

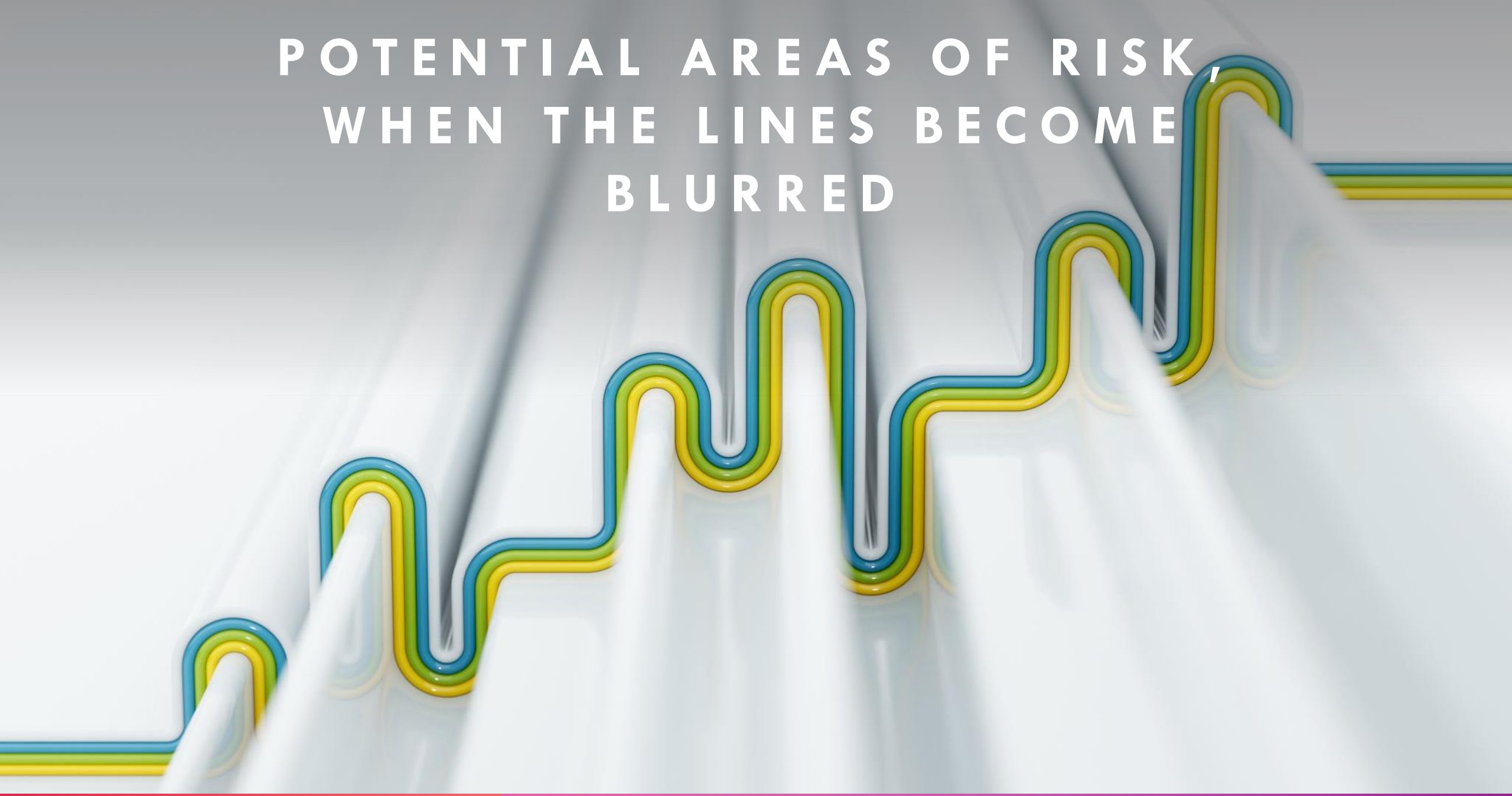
LEGALLY SPEAKING

- Nurses can only accept assignments and provide patient care that is appropriate in terms of their nurse practice act, and their scope of practice, and only those that the nurse believes they are competent to perform.
- As with other educational needs, nurses assess client and staff members educational needs relating to the legal issues that impact on their care and the care that nurses provide, respectfully, educational activities to meet the identified educational needs are planned, and implemented and evaluated in terms of their effectiveness in meeting the educational needs that are identified.
- All documentation and all forms of documentation are considered legal documents.

DELEGATION

- Unlicensed personnel have the education and legal authority and demonstrated competency to perform a task.
- The task is consistent with the UAP's job description.
- The task can be clearly performed according to clear, exact, and unchanging direction.
- The results of the task are reasonably predictable.
- The task does not require assessment, interpretation or independent decision making.
- Patient and circumstances are such that delegation of the task pose minimal risk to the patient.
- Consequences of performing the task improperly are not life-threatening
- Clear direction and guidelines are provided by the registered nurse

POTENTIAL AREAS OF RISK, WHEN THE LINES BECOME BLURRED



COMMON LAW (CASE LAW)
VS
STATUTORY LAW
(LEGISLATIVE)

CRIMINAL LAW AND CIVIL ACTION

- Criminal law is a body or rules and statues that define conduct, that threatens and harms public safety, and well fair (crimes), which can result in punishment.
- Two types of criminal law: felonies and misdemeanors, results in punishment of more than one year.
- Misdemeanors: results in punishment of no more than a year.
- Violations: lesser offenses such as traffic violations.
- Civil Actions are usually focused on more negligent acts, involves a person or parties.

INTENTIONAL AND UNINTENTIONAL TORTS

- Conduct viewed as serious
- Deliberate, wrongful acts done on purpose. A breach of duty caused the harm. May not mean to cause the harm, an example would be Will Smith slapping Chris Rock, the actions are defined as an assault. A nursing example might be tube feeding a patient while confined to a restraint chair, the patient aspirates.
- An unintentional tort, there is negligence, harm is not intended. An example might be administering the wrong medication to a patient that results in injury (blood thinner).

STEPS FOR A NEGLIGENCE CLAIM

DELIBERATE INDIFFERENCE

The conscious and reckless disregard of the consequences of ones acts or omissions.

Have knowledge of risk or potential for a serious harm but fail to act.

CODE OF NURSING-NANCY BRENT(2016)

- The ANA's Code of Ethics for Nurses provides ethical guidelines that are clearly applicable to this practice setting. Some of the mandates include:
  1. Provide care based on need, without regard for bias or prejudice (Provision 1)
  2. Take "appropriate action" when unethical situations place patient rights in jeopardy (Provision 3)
  3. Be accountable for one's own nursing practice and take actions consistent with the obligation to protect health and provide optimal care (Provision 4)
  4. Be responsible for establishing, maintaining and improving the ethical environment of one's work setting (Provision 6)
  5. Protect human rights, promote health diplomacy and reduce health disparities (Provision 8)
  6. Integrate principles of social justice into nursing and health policy (Provision 9)

ETHICAL PRINCIPLES IN NURSING

Beneficence

Autonomy

Non-malifence

ETHICS, PRACTICE AND THE LAW

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SITUATIONAL EXPOSURE

- Failing to appropriately provide access to care
- Response or lack of response to health care request
- Omissions in care
- Medication errors and mistakes
- Gaps in care
- Practicing below or above defined scope of practice
- Failing to advocate for the patient
- Patient disrespect
- Inappropriate delegation
- Hunger Strikes
- Restrictive Housing
- Mental Health and acute/Chronic Care
- Work Culture

NURSE EXPERT

- The requirement of a nurse expert witness to establish whether the standard of care is met is based on the fact that an allegation of professional nursing negligence involves nursing judgment in the care of a particular patient.
- The overall standard of care in a professional negligence case against a nurse is what ordinary, reasonable and prudent nurses would have done in the same or similar circumstances.

GENERAL NURSE PRACTICE ACTS (BRENT,N, 2016)

- Legally, state nurse practice acts and rules require similar guidelines. Although they vary from state to state, some examples of similarities include:

  1. Report unsafe or unethical healthcare practices or conditions to appropriate authorities
  2. Advocate for patients
  3. Practice in an ethical and professional manner
  4. Be accountable for one's own nursing actions
  5. Maintain safe and effective nursing care

STRATEGIES TO MITIGATE RISK OF EXPOSURE

- Practice within the scope of your license and to the fullest extent.
- Practice guidance includes educational preparation, nursing practice act, state boards of nursing, national organizations, laws
- Documentation is your responsibility, make sure it is clear and accurate.
- Follow policies and procedures that are consistent with nursing guidance documents and law.
- Stay grounded in practice, and the underpinnings of nursing
- Clear Vision: Avoid the blurring of visual acuity

SUMMARY

- Duty to care
- Accountability and Responsibility for Practice
- Justice Individuals have a right to health care
- Omissions and Deviations from standards of care and practice gives rise to litigation

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