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**LEGAL & ETHICAL
ISSUES IN NURSING-
ISSUES IN INDIA**

INTRODUCTION

The Consumers are patients with complex needs. With increased awareness of health care, health care facilities and Consumer Protection Act, patients are getting aware about their rights. Nurses also have now the expanded role. Issues which seem not feasible, and ideal, may become practice with the change of time. These issues are base for the future trends in care.



KEY WORDS

- **Laws**- Law is a system of rules that are created and enforced through social or governmental institutions to regulate behavior.
- **Values**- In ethics, value denotes the degree of importance of some thing or action, with the aim of determining what actions are best to do or what way is best to live.
- **Moral**- It is concerned with the principles of right and wrong behaviour.
- **Rights**- Rights are legal, social, or ethical principles of freedom or entitlement



ETHICAL SYSTEM

- Ethics are the rules or principles that govern right conduct and are designed to protect the rights of human beings.

- Sister Nancy.

- Code of ethics is a guideline for performance and standards and personal responsibility.

-Lillie M S and Juanita Lee



Ethics

NEED FOR NURSING ETHICS

- Helps the students/ RN to practice ethically
- Helps the nurse to identify the ethical issues in her work place
- Protecting patients right and dignity
- Providing care with possible risk to the nurses health
- Staffing patterns that limit the patients access to nursing care
- Ethical reasoning Helps the nurse to respond to ethical conflicts
- Helps to differentiate right /wrong behavior
- Guide for a professional behavior
- Help teachers plan education.
- Prevent below standard practice.

ICN CODE OF ETHICS

- **Nurses and people**
- The nurses provides care, values customs and spiritual beliefs of the individual are respected
- Keeps information confidential
- **Nurses and practice**
- The nurse when acting in a professional capacity should at all times maintain standards of personal conduct which reflect created upon the profession & practice properly.
- **Nurses and Society**
- Nurse is also responsible for providing care keeping in mind needs of the society
- **Nurses and Co-workers**



CODE OF PROFESSIONAL CONDUCT (FOR NURSES IN INDIA)

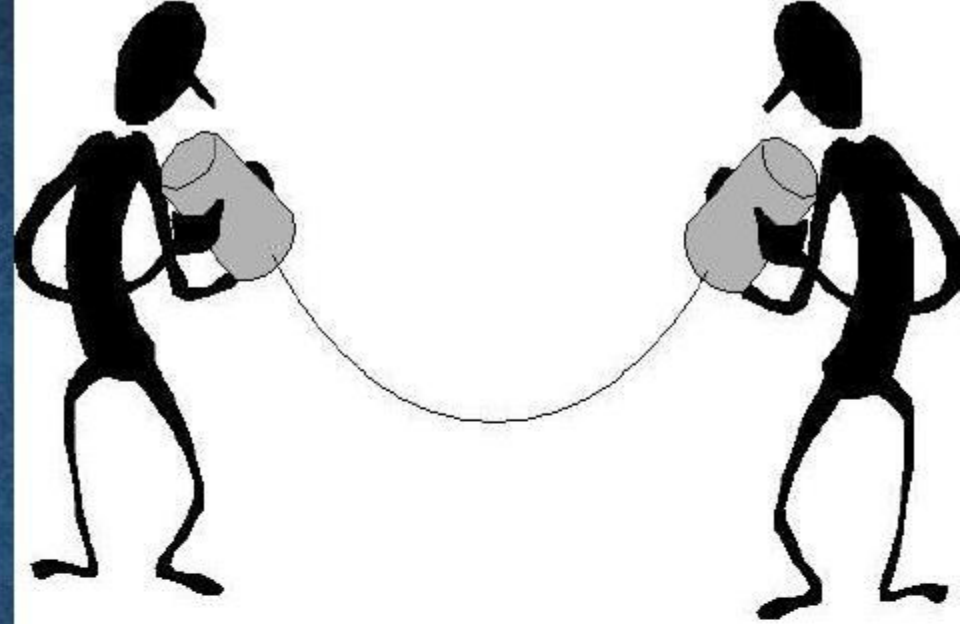
- **Professional responsibility and accountability**
- Nurse Maintains standards of personal conduct.It is accountable for his/her own decisions and actions.
- It is responsible for the continuous improvement of current practices
- **Nursing Practice**
- Provide care in accordance with set standards of practice
- Treats all individuals and families with human dignity.Ensures safe practice



3. Communication and interpersonal relationships

4. Valuing human being - Encourages, Respect and supports individual

5. Management- Proper management of resources and unfortunatly is essential for improving the overall efficiency of the nurse.



TYPE OF ETHICAL THEORIES

- Duty-oriented ethical theories
- A duty oriented ethical theory is a system of ethical thinking having the concept of duty or obligation as foundation. Duties are strict obligations that take primary over rights and goals. Keep in mind however each duty has corresponding rights. Duty-oriented theories are advantages in homogeneous societies in which each person hold the service values. A duty oriented theory would work well in a tribal society because it is easier to share values and therefore beliefs among a small group of people. A disadvantage of a duty-oriented theory is determining how to rank duties. For example, a nurse may be form between a duty to support life and a duty to prevent suffering.
- OTHERS
- Rights-Oriented Ethical theories
- Goal-oriented ethical theories
- Intuitionist ethical theory



ETHICAL DILEMMAS

- A dilemma is defined as a situation requiring a choice between two equally desirable or undesirable alternatives.
- Example-
- Too many patients but scarce resources(How to provide proper care)
- Don't resuscitate
- Euthanasia
- Treatment of terminally ill patient like end stage cancer, hiv etc
- Rights of psychiatry patient etc.



ASSISTED DYING	
TERMINAL CASE	<input checked="" type="checkbox"/>
UNLIKELY TO LAST 12 MONTHS	<input checked="" type="checkbox"/>
OF SOUND MIND	<input type="checkbox"/>

ROLES AND FUNCTIONS OF ADMINISTRATOR IN ETHICAL ISSUES

- He or she is self aware regarding own values and basic beliefs about the rights, duties and goals of human beings
- Accepts that some ambiguity and uncertainty be a part of all ethical decision-making
- Accepts that negative outcomes occur in ethical decision making despite high quality problem solving and decision-making
- Demonstrates risk taking in ethical decision making
- Role models ethical decision-making which are congruent with the code of ethics and inter respective statements
- Actively advocates for clients, subordinates and the profession
- Clearly communicates expected ethical standards of behavior
- Uses a systematic approach to problem-solving or decision making when faced with management problems with ethical ramifications

Step – I:
Collect,
Analyze and
interpret the
data

State the
Dilemma

Decision Making Process

Make the
decision and
act on it.

Consider the
choices of
action

Analyze the
advantage and
disadvantages
of each course
of action

LEGAL SYSTEM

- Meaning of Legal –

Established by or founded upon law or official or accepted rules

- Definition of law

The law us a system of rights and obligations which the state enforces.



--Green

- Sources of law
- **Constitutional law:** - it is a judgmental law. Law that governs the state. It determines structure of state, power and duties.
- **Common law:**- it is a body of legal principles that evolved from court decisions
- **Administrative law:** - rules and regulations established by administrative agencies made by executives of government.



PURPOSES

a. Safeguarding the public

- 1) The public safety is guaranteed
- 2) The individual is secure to the event of sickness or disability with no fear of anxiety of being cared for by a competent person



Good rapport

Licensure

Good Samaritan laws

Safeguarding the nurse

consent for operation and other procedures

Standards of care

standing orders

Contracts & Documentation

Counting of sponge instrument and needles

correct identity

- Law in nursing

- Common law -Created by judicial decisions made in courts when individual cases are decided

- Felony -Is a crime of serious nature that has a penalty of imprisonment for greater than one year or even death

- Misdemeanor -Is a less serious crime that has a penalty of a fine or imprisonment of less than one year

- Civil law -Protects the rights of individual persons within our society and encourage fair and equitable treatment among people

- Contract Law - It is the enforcement of agreements among private individuals. Employment Contracts is an example of contract law under civil law

- Criminal law -Prevent harm to society and provides punishment for crimes

- **Comparative Law** : The comparative lawyer works with international relations in trade and commerce, travel, government business
- **Family law**: The most common family law attorneys are the divorce lawyers, but other aspects of family law are represented as well. Child support claims and those stipulations, custody

LEGAL ISSUES IN NURSING:

ROLE AND FUNCTIONS OF NURSE MANAGER IN LEGAL ISSUES.

1. Serves as a role model by providing nursing care that meets or exceeds accepted standards of care.
2. Reports substandard nursing care to appropriate authorities
3. Practices nursing within the area of individual competence
4. Prioritizes patients right and welfare first in decision making
5. Delegates to subordinates wisely, looking at the managers scope of practice and that of those they supervise.



MEANING OF LEGAL ISSUES

- Law is standard or rules of conduct established & enforced by government.
- Legal issues in nursing are those in which a person lead to face legal problems in which nurse face problem when not meeting proper patient care.



Legal

Permitted by law by
lawful, allowed, recogni
or not in violation of law
in conformity with statu
regulations, principles,

PATIENT CARE ISSUES

Nursing covers a wide range of disciplines and health-care issues that are always changing and at the forefront of what guides this career path.

MEDICO LEGAL ISSUES

1. DUTY TO SEEK MEDICAL CARE FOR THE PATIENT

- It is the legal duty of the nurse to ensure that every patient receives safe and competent care.
- If a nurse determine that a patient in any setting needs medical care, and she does not do everything within power to obtain that care for the patient, you have breached your duty as a nurse.



2. CONFIDENTIALITY

The law requires you to treat all such information with strict confidentiality. This is also an ethical issue. Unless a patient has told something that indicates danger to self or others, you are bound by legal and ethical principles to keep that information confidential.



3. PERMISSION TO TREAT

- When people are admitted to hospitals, nursing homes, and home health services, they sign a document that gives the personnel in the organization permission to treat them.



4. INFORMED CONSENT



**CONSENT
IS NOT:**

Assumed

Coerced

Implied

Convinced

5. NEGLIGENCE

Negligence occurs when a person fails to perform according to the standards of care or as a reasonably prudent person would perform in the same situation. It is the responsibility of the nurse to monitor the patient.



6. MALPRACTICE

- Malpractice specifically refers to negligence by a professional person with a license. Nurse can be sued for malpractice once have your LPN license.



7. ASSAULT & BATTERY

- Assault is the threat of unlawful touching of another, the willful attempt to harm someone.
- Battery is the unlawful touching of another without consent, justification, or exercise. In legal medicine battery occurs if a medical or surgical procedure is performed without patient consent.
- Assault can be verbally threatening a patient.



8. FALSE IMPRISONMENT

- Preventing movement or making a person stay in a place without obtaining consent is false imprisonment.
- This can be done through physical or non physical means. Physical means include using restraints or locking a person in a room.
- In some situations, restraints and locking patients in a room are acceptable behaviour. This is the case when a prisoner comes to the hospital for treatment or when a patient is a danger to self or others.



9. INVASION OF PRIVACY

- Clients have claims for invasion of privacy , e.g. their private affairs, with which the public has no concern, have been publicized.
- Clients are entitled to confidential health care. All aspects of care should be free from unwanted publicity or exposure to public scrutiny. The precaution should be taken sometimes an individual right to privacy may conflict with public's right to information for e.g. in case of poison case.



10. REPORT IT / TORT IT

- Allegations of abuse are serious matters.
- It is the duty of the nurse to report to the proper authority when any allegations are made in regards to abuse (emotional, sexual, physical, and mental) towards a vulnerable population (children, elderly, or domestic).
- If no report is made, the nurse is liable for negligence or wrongdoing towards the victimized patient.

PATIENT SATISFACTION

- Patient satisfaction is an important and commonly used indicator for measuring the quality in health care. Patient satisfaction affects clinical outcomes, patient retention, and medical malpractice claims.
- **ASSESSMENT OF QUALITY OF HEALTH CARE**
- **Patient as a consumer**
- Today the patient sees himself as a buyer of health services. patient satisfaction is an important tool for the success of their organization and are regularly monitoring patient satisfaction levels among their customers.

- **SERVICE EXCELLENCE**- Service excellence revolves around three factors: doctor, patient, and organization.
- Doctor- He should do following-
 - See the whole person
 - Secure confidentiality and privacy
 - Preserve dignity & Respond quickly
- **Patient**- Patients expect their doctors to keep up the timings, behave cordially, and communicate in their language. They expect care, concern, and courtesy in addition to a good professional job.

- Hospital

There are certain areas where minimum requirements and standards have to be maintained.

- Good Telephone service
- Good Office appearance
- Minimizing Waiting time
- More Doctor-patient interaction
- Proper Patient education
- Feedback

• **BENEFITS OF PATIENT SATISFACTION**

- Patient satisfaction leads to customer (patient) loyalty.
- Improved patient retention
- Consistent profitability
- Increased staff morale with reduced staff turnover also leads to increased productivity
- Reduced risk of malpractice suits
- Accreditation issues are resolved.
- Increased personal and professional satisfaction

2. MANAGEMENT ISSUES

It is a considerable challenge to meet the needs of the organization, the needs of patients, and the needs of the nurse employees.



1. TURNOVER

- Nurses faced with long work hours for relatively little pay have few motivations to remain in one position and often seek employment opportunities at competing hospitals and neighboring clinics.



**HOW HAPPY
ARE YOUR
EMPLOYEES?**



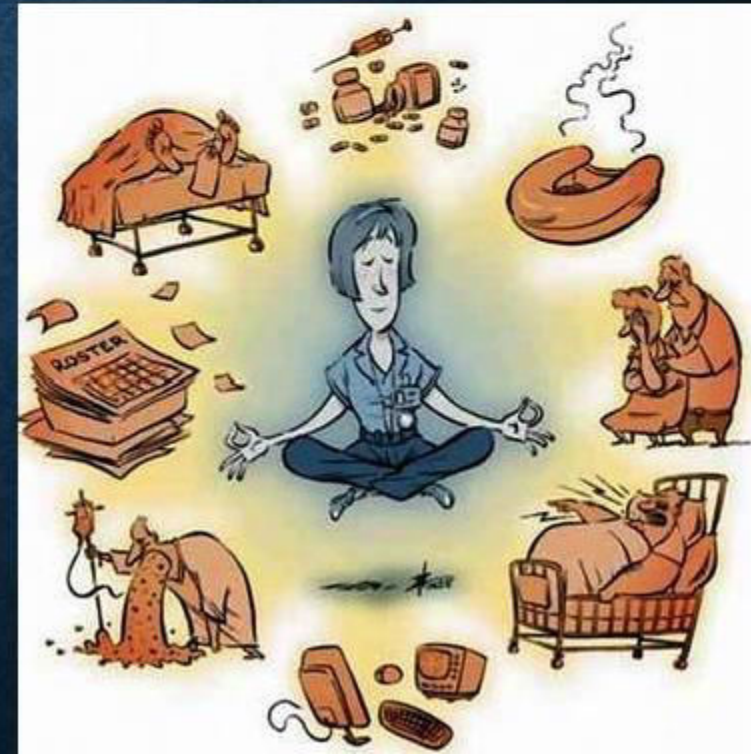
2. FUNDING

- An underfunded institution cannot attract and provide for the right professionals.
- When the medical institution's quality of staff and training standards must be lowered because of budgetary concerns, the overall level of patient care is unavoidably reduced.



• 3. Workload

- Not only do nurse professionals work long hours and many days per week, but nurse managers and leaders are also faced with an ever-increasing workload.
- Many nurses are unwilling to enter into the nurse management field because of the added stress and responsibility.



4. ISSUES REGARDING MALPRACTICE IN NURSING MANAGEMENT-

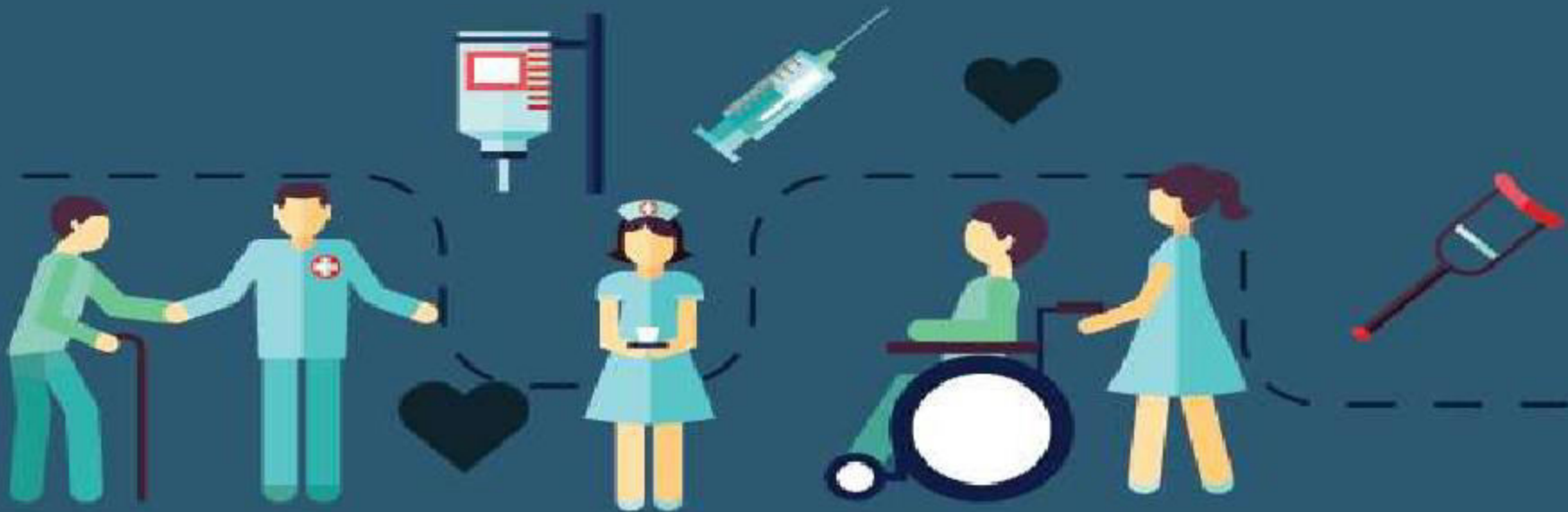
- It can lead to several management problems. Improper use of administration power, improper managing of supplies, staff, ward, institution etc.

5. ISSUES OF DELEGATION AND SUPERVISION –

The failure to delegate and supervise within acceptable standards of professional practice.

6. ISSUES RELATED TO STAFFING

- Inadequate accreditation standards
- Inadequate staffing, i.e. short staffing.
- Floating staff from unit to unit.



7. ETHICS

- Nurses provide care, promote human rights and values, and help meet the needs
- Keeping patients' information confidential.
- Protecting patients from negligent co-workers who may endanger them.

8. EFFECT

- Effects of reform, shortages, ethics and salaries are issues that keep nurses constantly thinking, growing and changing.
- Nursing instructors make far less money than nurses in the clinical setting.
- The salaries need to be increased, and colleges and universities need to see the value in instructors.

9. . ISSUES IN NURSING CURRICULUM DEVELOPMENT

- It includes validation of curriculum or judgemental process
- Providing professional education and preparation of participants
- Updating & upgrading recent knowledge.

10. COLLABORATION ISSUES

- There is increased complex health care issues driven by technological and medical advancements
- Collaborative partnerships has ensured the continuing development of the professional expertise necessary to meet these challenges.

C. EMPLOYMENT ISSUES

1. ISSUES RELATED TO NURSING SHORTAGE

National nursing organizations are making strong efforts at stopping the shortage by mandating better nurse- to-patient ratios, eliminating mandatory overtime, and increasing salaries and benefits for nurses.



2. ISSUES IN NURSE MIGRATION

- Nurse migration has attracted a great deal of political as well as media attention in recent years.
- In this section a discussion on the right to work and the right to practice is, by necessity, followed by a warning that cases of exploitation and discrimination often occur when dealing with a vulnerable migrant population.



3. THE RIGHT TO WORK AND THE RIGHT TO PRACTICE

- Foreign nurses also need to meet national security and immigration criteria in-order-to enter the country and to stay on a permanent or temporary basis, with or without access to employment.

The logo for IELTS, featuring the word "IELTS" in a large, bold, red serif font.

IELTS - International English Language Testing System

The logo for NCLEX, featuring the word "NCLEX" in a large, bold, black serif font, with the word "EXAMINATIONS" in a smaller, black sans-serif font below it, all contained within a black rectangular box.

4. EXPLOITATION AND DISCRIMINATION



**STOP
RACISM**
UNITE TOGETHER

5. Essential Terms and Conditions in an Employment contract

- A badly drafted employment contract which does not correctly express the intentions of the employer on such matters as working hours, prolonged illness, bonus payments, usage of office computer facilities, transfers, retirement age, confidentiality, conflict of interest, disciplinary action and imposition of punishment, etc these items in an employment contract can give rise to serious consequences for employers.

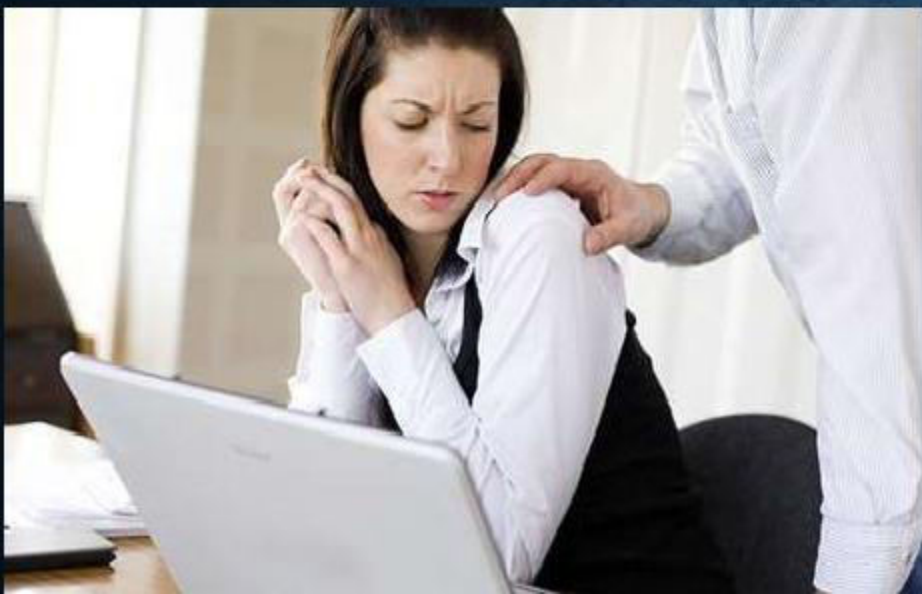
5. UNSATISFACTORY WORK PERFORMANCE AND TERMINATION OF EMPLOYMENT

- The Courts have time and again reiterated that employees enjoy security of tenure of employment.
- However, when an employee has an attitude problem or whose work performance is not up to the expectations he cannot be terminated by the employer simply by invoking the termination clause in the employment contract.
- The employer has to follow certain rules and procedures and only at the end of it can he terminate the services of a non-performing employee

6. MISCONDUCT AND IMPOSITION OF PUNISHMENT

- It has long been held that the employer has the inherent right to discipline his workers.
- The Courts will interfere if, the action taken by the management was perverse, baseless or unnecessarily harsh or was not just or fair.
- There have been occasions where employers have imposed the punishment of dismissal for misconduct which they have assessed as serious but these cases have been reviewed.

7. SEXUAL HARASSMENT AT THE WORKPLACE



8. RENEWAL OF NURSING REGISTRATION

- In this case, registration office is updated with nurses in practice. Re-registration may qualify its periodicity and qualifications of nurses e.g. clinical experience, attendance at continuing education etc.

9. DIPLOMA VS DEGREE IN NURSING FOR REGISTRATION TO PRACTICE NURSING

- This issue need indepth study of merits and demerits as well as its feasibility before it could come on the surface.



10. SPECIALIZATION IN CLINICAL AREA

- It could be either through clinical experience or education.
- Specialization in cure and specialized care required for patients demand that nurses be highly skilled in the unit.
- Standards must be laid down and followed so that clients understand the quality of care expected from the nurses.

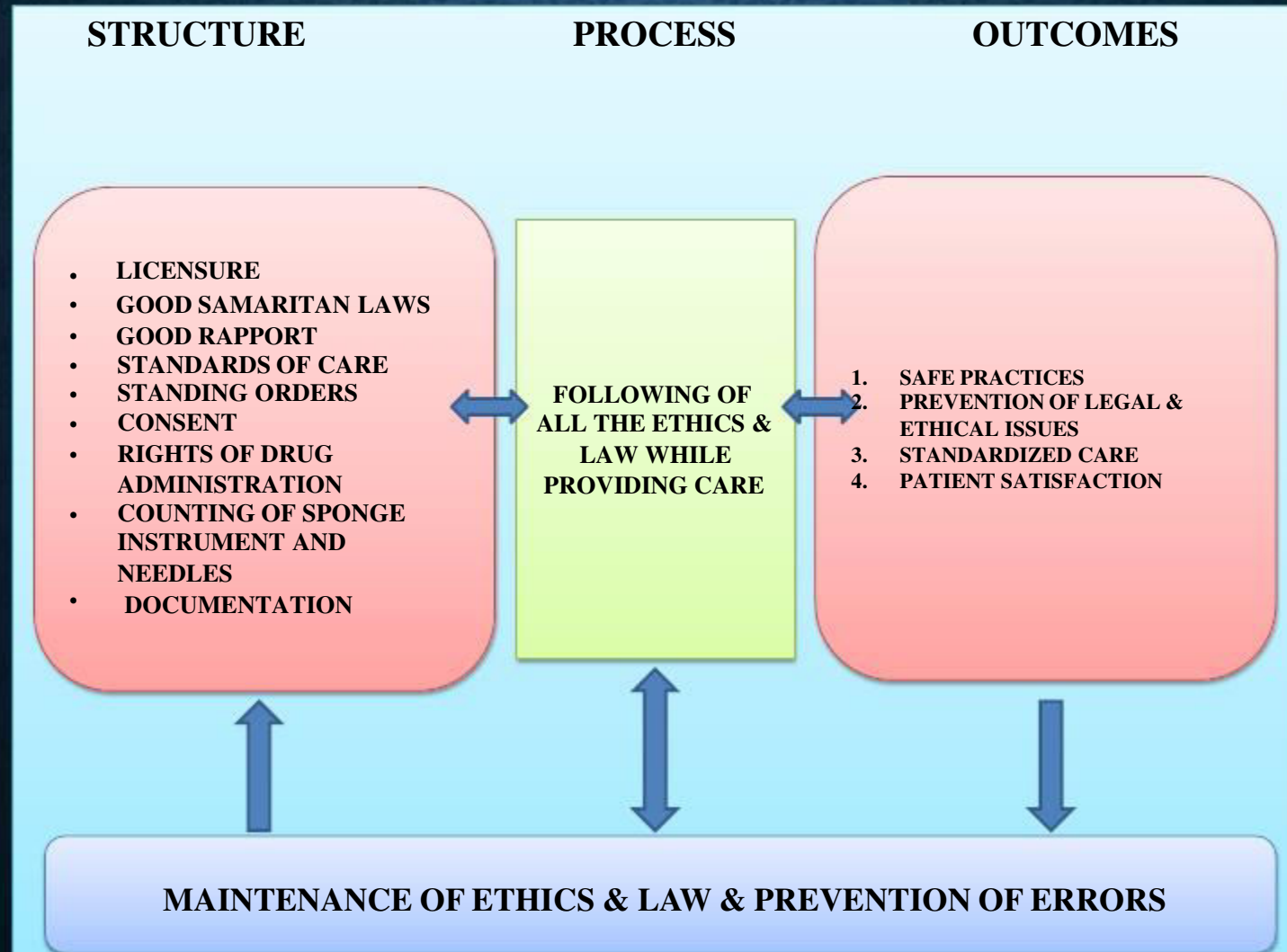
NursePractitioner

**Nurse
Researcher**



**Certified
Registered
Nurse
Anesthetist**

THEORY APPLICATION



RELATED RESEARCH

- Elina Aitamaa, (May 10, 2015) conducted a study on Ethical problems in nursing management: The views of nurse managers .Nurse managers have responsibilities relating to the quality of care, the welfare of the staff and running of the organization. Ethics plays significant role in these responsibilities. Ethical problems are part of daily management, but research in this area is limited. The aim of this study was to identify and describe ethical problems nurse managers encounter in their work to get more detailed and extensive view of these problems. The data consisted of nine interviews with nurse managers at different management levels in primary healthcare and specialized healthcare organizations, and it was analysed by inductive content analysis. Permission to conduct the interviews including ethical approval was given at all participating organizations according to national standards. The respondents were informed about the aim of the study, and voluntary participation, anonymous response and confidentiality were explained to them. Four main categories were found: conflicts in practical situations, lack of appreciation, disregard of problems and experienced inadequacy. Problems could also be divided to patient-related, staff-related, organization-related and other problems. The findings correspond with results from earlier studies but add knowledge of the nature and details of nurse managers' ethical problems. New information is produced related to the ethical problems with nurse managers' own courage, motivation and values. Nurse managers identified a variety of different ethical problems in their work. This information is useful in the development of ethics in nursing management.

SUMMARY

Certain issues lead to decreased standardization like patient care issue, management & employment issues. Issues need deliberations and common consensus. They need to be reviewed periodically. Issues which seem not feasible, and ideal, may become practice with the change of time.

CONCLUSION

- Nurses play an integral role in the healthcare system. This is why they have been correctly referred to as the heart of healthcare. Being a nurse is one of the most demanding professions in the world and needs a lot of dedication and commitment to the job. Nurses have to juggle various roles. It is a nurse's professional responsibility to remain safe and competent by being a lifelong learner and provide effective care to patient to avoid medicolegal issues, employment issue can be avoided by proper recruitment system, staffing & keeping adequate salary.

A close-up photograph of a bouquet of tulips. The bouquet features several white tulips and several purple tulips, all with green leaves. A white, rectangular tag with rounded corners is attached to the bouquet with a small piece of twine. The tag has the words "Thank You" written on it in a black, cursive font. The background is a soft, out-of-focus light pink color.

Thank
You