

## CHAPTER 2: LEGAL AND ETHICAL ISSUES

### MULTIPLE CHOICE

1. When the nurse is dealing with a specific and actual legal problem involving a child or adolescent, which of the following actions is most important for the nurse to take?

- a. Consult with legal counsel who is familiar with the laws in the state where the problem occurred.  
Select an attorney who appears to be sympathetic to pediatric clients, who has had success in similar cases, and who is willing to work with the nurse.
- b. Contact the nursing school where he or she graduated to see if it has free legal counsel.
- c. Wait to see if the problem will resolve itself without further action on the part of the nurse.

ANS: A

#### Feedback

**A** **Correct:** If a nurse needs a legal opinion about an issue or concern, a licensed attorney who is familiar with the specific area of law in the state where the problem occurred should be consulted.

**B** **Incorrect:** Although all of these attributes may be desirable in an attorney, the most important action for the nurse to take is consulting an attorney who is familiar with the specific area of law in that state. The answers to many legal questions vary from state to state, depending on the specific laws of the state and how the courts interpret those laws.

**C** **Incorrect:** The most important action for the nurse to take is consulting an attorney who is familiar with the specific area of law in the state where the problem occurred. The nurse may have graduated from a nursing school in a state other than where the legal problem occurred.

**D** **Incorrect:** Waiting to see if the problem will resolve itself does not change the fact that the problem involves the legal system. Often waiting will only exacerbate the problem.

PTS: 1 REF: p. 30 – Legal Considerations

OBJ: Cognitive Level: Comprehension

2. Nurse Practice Acts, Mandatory Reporting Laws, and Good Samaritan Acts are examples of laws affecting nurses. Which of the following is the source for such laws and acts?

- |                                |                               |
|--------------------------------|-------------------------------|
| a. constitutional law          | c. state laws and regulations |
| b. federal law and regulations | d. case law                   |

ANS: C

#### Feedback

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- A** Incorrect: Constitutional law upholds the constitution, Bill of Rights, and 16 Constitutional amendments. It is not a source for Nurse Practice Acts, Mandatory Reporting Laws, and Good Samaritan Acts.
- 
- B** Incorrect: Federal laws and regulations uphold congressional laws and federal statutes.
- 
- C** **Correct:** State laws and regulations are the source for Nurse Practice Acts, Mandatory Reporting Laws, and Good Samaritan Acts.
- 
- D** Incorrect: Case laws are laws that result from judicial decisions.
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PTS: 1 REF: p. 30 – Table 2-1 OBJ: Cognitive Level: Knowledge

3. Which of the following factors is not necessary to review when obtaining informed consent?

- 
- |                              |                                  |
|------------------------------|----------------------------------|
| a. risks of the procedure    | c. alternatives to the procedure |
| b. benefits of the procedure | d. cost of the procedure         |
- 

ANS: D

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**Feedback**

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- A** Incorrect: Informed consent must include the nature of the procedure, the risks and hazards of the procedure, the alternatives to the procedure, and the benefits of the procedure. Risks of the procedure is a factor that must be reviewed.
- 
- B** Incorrect: The benefits of the procedure are one of the factors that must be reviewed when obtaining informed consent.
- 
- C** Incorrect: Alternatives to the procedure are one of the factors that must be reviewed when obtaining informed consent.
- 
- D** **Correct:** The cost of the procedure is not a necessary factor to review when obtaining informed consent.
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PTS: 1 REF: p. 30 – Informed Consent and Assent for Health Care

OBJ: Cognitive Level: Knowledge

4. In the majority of cases, pediatric clients are asked to give their consent or permission before receiving a procedure or treatment. This process is referred to as which of the following terms?

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- |              |                  |
|--------------|------------------|
| a. inclusion | c. consideration |
| b. assent    | d. co-permission |
- 

ANS: B

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**Feedback**

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- A** Incorrect: Inclusion is derived from the word include. Include means to involve as a subordinate part.
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**Correct:** While pediatric clients are entitled to informed consent, it is usually the role of the parent or legal guardian to give informed consent. A child is asked to give assent prior to a procedure or treatment. Assent means the child has been informed about what will happen during a treatment or procedure, and is willing to permit a health care provider to perform the care.

**B**

**Incorrect:** Consideration refers to taking an individual's opinion into account. However, this is not the correct legal term for giving consent or permission.

**C**

**Incorrect:** Co-permission refers to jointly allowing, authorizing, or consenting such as a child with the parent or legal guardian. However, this is not the correct legal term for giving their consent or permission.

**D**

PTS: 1 REF: p. 30 – Informed Consent and Assent for Health Care

OBJ: Cognitive Level: Knowledge

5. The major benefit of getting assent from a child is which of the following?

- a. having the assurance of not being sued
- b. enhancing the self-esteem of the child
- c. lessening the controlling nature of caregivers
- d. obtaining the child's cooperation and lessening the trauma

ANS: D

#### Feedback

**Incorrect:** While getting assent from a child may prevent being sued, it is not the major benefit for obtaining assent.

**A**

**Incorrect:** Getting assent from a child should have no effect on his/her self-esteem.

**B**

**Incorrect:** Lessening the controlling nature of caregivers is not the major benefit for obtaining assent.

**C**

**Correct:** While assent from a child is not legally required, it is always better to have the child's cooperation prior to giving care. A child's assent may minimize any trauma to the child.

**D**

PTS: 1 REF: p. 30 – Informed Consent and Assent for Health Care

OBJ: Cognitive Level: Application

6. If a health care facility or health care provider treats a client without proper consent, and legal action follows, the facility or provider would most likely be:

- a. charged with failure to render optimum care to the client
- b. charged with assault and held liable for any damages
- c. fined severely for not following state regulations

d. denied Medicare- and Medicaid-approved status

ANS: B

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**Feedback**

**A** Incorrect: A health care facility or health care provider may be charged with failure to render optimum care to a client without proper consent, but this is not a legal action.

**B** **Correct:** A health care facility or health care provider may be charged with assault and held liable for any damages if proper consent is not obtained before treating a client, and this is a legal action.

**C** Incorrect: A health care facility or health care provider may be fined severely for not following state regulations if proper consent was not obtained before treating a client, however, this is not a legal action.

**D** Incorrect: Failing to obtain proper consent from a client prior to treatment should not affect the Medicare- and Medicaid status of the health care facility or health care provider.

PTS: 1 REF: p. 31 – Informed Consent and Assent for Health Care

OBJ: Cognitive Level: Comprehension

7. A family is involved in an automobile accident. The father, who is unconscious, and his 14-year-old son, who has suffered life-threatening injuries, are transported by ambulance to the hospital. The hospital staff attempt to contact the mother; however, they learn from the housekeeper that the mother is out of the country and not reachable by phone. Which of the following actions would be most reasonable and prudent on the part of the hospital staff?

a. Obtain informed consent from the child, if possible, and with or without it, provide life-saving procedures.

b. Get a court order from a judge in case the family later has objections to some of the care, such as the use of blood products.

c. Have the housekeeper give informed consent.

d. Locate another relative and get informed consent.

ANS: A

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**Feedback**

**A** **Correct:** Health care providers may provide emergency life-saving care to a child if they have made a reasonable attempt to contact the child's parent or legal guardian to obtain prior informed consent.

**B** Incorrect: If a parent refuses to act in the best interest of a child, the state may step in and make legal decisions for the child. However, in this situation the father is unconscious and the mother cannot be reached, so it is not known if the parents would give consent.

**C** Incorrect: It is the role of the parents or legal guardian to give informed consent for the child. The housekeeper is not a parent or legal guardian.

**D** Incorrect: Locating another relative to obtain informed consent is not the most reasonable and prudent action for the hospital staff.

PTS: 1 REF: p. 31 – When Informed Consent is Not Required

OBJ: Cognitive Level: Comprehension

8. A nurse is working in the emergency room when a child is brought in with injuries and a history that suggests sexual abuse. The child is not cooperative. Which of the following reasons presents the best rationale for waiting until the child is cooperative, instead of restraining and forcing the child to submit to the examination?

- a. The hospital staff would likely be charged with abuse.
- b. One of the parents may object to restraint if both have not signed informed consent, especially if they are divorced.
- c. Forcing participation may damage the child's ability to give testimony in a criminal case.
- d. Forced examination may not provide accurate results.

ANS: C

**Feedback**

- A** Incorrect. Restraint and forced cooperation is improper treatment at all times.
- B** Incorrect. Hopefully all adults involved will object to restraint and coercion.
- C** **Correct.** Forcing a child to participate in a forensic examination may damage the child's ability to testify in a criminal case, especially if the child perceives the medical examination as abusive.
- D** Incorrect. Forced examination often provides inaccurate results.

PTS: 1 REF: p. 31 – When Informed Consent is Not Required

OBJ: Cognitive Level: Comprehension | Cognitive Level: Application

9. Although the age varies among states, the majority of states define a minor as being a person under the age of:

- a. 16
- b. 17
- c. 18
- d. 21

ANS: C

**Feedback**

- A** Incorrect. Sixteen is always a minor, and in most states, age of majority is 18, some 19 and one 21.
- B** Incorrect. Seventeen is always a minor, all 50 states.
- C** **Correct.** All but three states consider a minor to be a person under the age of 18. In Alabama and Wyoming, the age is 19, while in Mississippi it is 21.
- D** Incorrect. Only Mississippi considers 21 to be the age of majority.

PTS: 1 REF: p. 31 – When a Minor can Consent for Care

OBJ: Cognitive Level: Knowledge

10. Most states permit a child under age 18 to consent to certain types of care without parental or guardian notification or consent. The types of care that most often do not require the consent or notification of the parents or guardian include:

- |                  |                     |
|------------------|---------------------|
| a. minor surgery | c. contraception    |
| b. liposuction   | d. psychiatric care |

ANS: C

**Feedback**

- A** Incorrect. Generally, a child under age 18 will not be able to provide consent for minor surgery.
- B** Incorrect. Liposuction is an elective procedure, and cannot be performed based upon a minor's consent.
- C** **Correct.** In many states a child under the age of 18 can consent to care involving pregnancy, contraception, or treatment of sexually transmitted diseases, without consent from or notification of a parent or guardian.
- D** Incorrect. A child under 18 cannot provide consent for psychiatric care.

PTS: 1 REF: p. 31 – When a Minor can Consent for Care

OBJ: Cognitive Level: Knowledge

11. Which of the following acts offers protection from liability when care is rendered voluntarily, such as at the scene of an accident?

- |  |
|--|
| a. Nurse Practice Act  |
| b. Health Insurance Portability and Accountability Act (HIPAA) |
| c. Good Samaritan Act  |
| d. Voluntary Assisting Act                                     |

ANS: C

**Feedback**

- A** Incorrect. The Nurse Practice Act is the state law which governs the practice of nursing.
- B** Incorrect. The Health Insurance Portability and Accountability Act provides for privacy.
- C** **Correct.** The Good Samaritan Act protects a nurse from liability when care is rendered voluntarily at the scene of an accident.
- D** Incorrect. The Voluntary Assisting Act is not the same as the Good Samaritan Act.

PTS: 1 REF: p. 38 – Legal Resources for Pediatric Nurses

OBJ: Cognitive Level: Knowledge

12. Emancipation is a legal recognition that a minor meets which of the following criteria?

- a. has been freed from the caregivers' rules and now makes his or her own rules
- b. lives independently, is self-supporting, and makes his or her own decisions
- c. is no longer required to go to school and can get a job
- d. is no longer required to attend public school and is working on the general equivalency diploma (GED)

ANS: B

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**Feedback**

**A** Incorrect. Following or not following rules of caregivers is not related to legal recognition.

**Correct.** Emancipation is the legal recognition for a minor who lives independently and is legally responsible for his or her own support and decision making. Emancipation can occur through a formal court proceeding, during which a judge can establish whether a minor is living on his own and no longer requires financial support of parents. In some states, a minor is automatically granted emancipation in the event of marriage,

**B** joining the military, or becoming a parent prior to the age of majority.

**C** Incorrect. Many minors drop out of school and get jobs, but this does not qualify as emancipation.

**D** Incorrect. No longer attending public school or working on a GED do not achieve legal recognition required for emancipation.

PTS: 1 REF: p. 32 – When a Minor can Consent for Care

OBJ: Cognitive Level: Knowledge

13. Which of the following terms refers to the age determined by state law when an individual is said to have all the legal rights and responsibilities of an adult?

- a. young adult
- b. postteen
- c. age of majority
- d. legal adult

ANS: C

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**Feedback**

**A** Incorrect. State laws are very specific about the age of majority, and it is always stated as age in years.

**B** Incorrect. State laws are very specific about the age of majority, and it is always stated as age in years.

**Correct.** State laws define the age of majority as an age in years at which time the individual is said to have all the legal rights and responsibilities of an adult.

**C**

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**D** Incorrect. State laws are very specific about the age of majority, and it is always stated as age in years.

PTS: 1 REF: p. 31 – When a Minor can Consent for Care

OBJ: Cognitive Level: Knowledge

14. In some states a minor can become emancipated without going through the courts by:

- a. getting notarized signed permission by the caregivers
- b. being thrown out of the parental home
- c. making more money than the caregivers or having a full-time job
- d. joining the military, marrying, or becoming a parent

ANS: D

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**Feedback**

**A** Incorrect. A notarized signed permission does not achieve legal recognition for emancipation required by state laws.

**B** Incorrect. Being thrown out of the parental home does not achieve legal recognition for emancipation required by state laws.

**C** Incorrect. Making more money than the caregivers or having a full-time job does not confer legal emancipation required by state laws.

**D** **Correct.** In some states, a minor may become automatically emancipated by marrying, joining the military, or becoming a parent before the age of majority

PTS: 1 REF: p. 32 – When a Minor can Consent for Care

OBJ: Cognitive Level: Knowledge

15. You are working in an adolescent residential treatment center. When admitting an adolescent to your unit, you need to get parental consent for care. You discover that the adolescent's parents are divorced. One parent and a stepparent are caring for the adolescent. You would have the consent forms signed by:

- a. the parent or parents who were granted legal custody by the divorce decree
- b. either parent, as both parents are still the biological parents and have the right to sign forms
- c. the parent and stepparent the adolescent is living with at this time
- d. a court-appointed attorney-at-law who acts in the adolescent's best interest

ANS: A

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**Feedback**



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**A** **Correct.** After divorce, the ability to consent for medical care rests with the parent or parents who has been granted legal custody by the divorce decree.

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**B** Incorrect. The divorce decree may grant legal custody to both parents, but the consent forms are still to be signed by the parent or parents who were granted legal custody by the divorce decree, whether they are the biological parents or not.

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**C** Incorrect. The stepparent is not recognized to exist in the divorce decree, hence the individual has no legal standing to provide or offer consent.

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**D** Incorrect. Without the consent of the parent or parents who were granted legal custody by the divorce decree, a court order might be required to allow a court-appointed attorney-at-law to provide consent.

PTS: 1 REF: p. 32 – Parental Consent After Divorce

OBJ: Cognitive Level: Knowledge

16. The parents of a critically ill child are refusing medical treatment for the child. Which of the following terms identifies a legal rule that allows the state to make legal decisions in the best interest of the child?

- |                         |                            |
|-------------------------|----------------------------|
| a. <i>parenti loci</i>  | c. <i>in lieu parental</i> |
| b. <i>parens patrie</i> | d. <i>bon parentus</i>     |

ANS: B

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**Feedback**

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**A** Incorrect. *Parenti loci* is not the same as *parens patrie*.

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**B** **Correct.** *Parens patrie* provides the state with an overriding interest in the health and welfare of a child. *Parens patrie* is a legal rule that allows the state to make decisions in place of parents when they are unable or unwilling to provide for the best interests of the child.

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**C** Incorrect. *In lieu parental* is not the same as *parens patrie*.

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**D** Incorrect. *Bon parentus* is not the same as *parens patrie*.

PTS: 1 REF: p. 32 – Refusal of Health Care by Parent or Child

OBJ: Cognitive Level: Knowledge

17. A child is being considered as a donor for a kidney transplant. Which of the following areas must be evaluated before any genetic testing is ordered on a child?

- |  |
|--|
| a. the urgency of the need for the donated organ   |
| b. the possibility the mother has withheld the fact that the children have different fathers |
| c. the parents' religious beliefs and the doctrine of the church regarding organ donation    |

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d. the best interests of the child who would undergo the testing

ANS: D

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**Feedback**

- A** Incorrect. Urgency is important, but before testing of any kind is ordered for a child, other issues have a higher priority.
- B** Incorrect. Genetic testing is not contraindicated because of questions of paternity.
- C** Incorrect. Sensitivity to the parents' religious beliefs and church doctrine is required, but has no effect on a decision to pursue genetic testing.
- D** **Correct.** Always, the best interests of the child should be evaluated before any genetic testing is ordered. Counseling should be provided. Informed consent should be obtained when possible before proceeding.

PTS: 1 REF: p. 33 – Consent for Genetic Testing

OBJ: Cognitive Level: Knowledge

18. Research facilities receiving federal funds for research involving children as research subjects must require and make certain that all research protocols:

- 
- a. are tested first on animals
- 
- b. are tested in another country prior to being tested in this country
- 
- c. are reviewed by an institutional review board
- 
- d. provide for financial compensation for the child and the parents

ANS: C

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**Feedback**

- A** Incorrect. The research involves children, testing on animals is irrelevant.
- B** Incorrect. The involvement of federal funds does not require research involving children to be first performed in another country.
- C** **Correct.** All research facilities that receive federal funds must comply with federal regulations that require review of all experimental protocols by an Institutional Review Board.
- D** Incorrect. Research involving children is typically done only when the research will benefit the child, or pose little or no risk to the subject. Financial compensation is not required by federal regulation.

PTS: 1 REF: p. 33 – Children and Medical Experimentation

OBJ: Cognitive Level: Knowledge

19. When a nurse breaches the duty of confidentiality, he or she can be disciplined by both the employer and the state board of nursing. In addition to this discipline, he or she can:

- a. immediately lose his or her nursing license
- b. be held responsible for any damages that result
- c. be fined by the federal government
- d. be sentenced for up to 1 year in jail

ANS: B

#### Feedback

- A** Incorrect. Although the loss of license may occur, it is not immediate; breach of confidentiality is considered unprofessional conduct, and each state board of nursing has its own nurse practice act, administrative law, etc.
- B Correct.** A breach of confidentiality is serious, and the nurse is held responsible for any damages that result.
- C** Incorrect. The federal government is not involved.
- D** Incorrect. The penalty is enforced for the employer and the state board of nursing, not other governmental agencies.

PTS: 1 REF: p. 34 – Confidentiality OBJ: Cognitive Level: Knowledge

20. If a nurse fails to report suspected child abuse and a child later receives additional injuries at the hands of the suspected abuser, the nurse may face legal consequences in states with child abuse reporting laws. Which of the following consequences may be the harshest faced by the nurse?

- a. to be held liable for civil damages to compensate the child and to be fined and imprisoned
- b. to have the nursing license suspended for up to a year
- c. to be assigned at least 1 year of community service
- d. to be put on probation and have to meet periodically with the assigned probation officer

ANS: A

#### Feedback

- Correct.** All 50 states allow breach of confidentiality when child abuse is involved, and all require mandatory reporting. If a health care provider fails to report suspected abuse, the individual may be liable for criminal charges. Most mandatory reporting laws carry the possibility of both fines and a term of imprisonment for failure to make a report. If a child receives additional injuries after the health care provider should have reported suspected abuse, the provider may be liable for civil damages to compensate the child.
- A**
- B** Incorrect. Suspension of nursing license is a result of action by the state board of nursing.
- C** Incorrect. The penalties envisioned are criminal, involving fines and imprisonment, plus civil damages.

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**D** Incorrect. The penalties provide terms of imprisonment, not probation.

PTS: 1 REF: p. 34 – When a Health Care Provider can Breach Confidentiality

OBJ: Cognitive Level: Knowledge

21. You are working in a health care practitioner's office. A child is treated in the office for a stab wound to the arm. In your state, you would most likely be required to:

- a. keep this confidential unless the child gives permission to report, according to confidentiality laws
- b. report this information to law enforcement, based on mandatory injury reporting laws
- c. ask the parents to provide the circumstances surrounding the incident and chart it
- d. remind the health care practitioner that the incident should be reported

ANS: B

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**Feedback**

**A** Incorrect. Injury reporting laws allow under this circumstance another breach of confidentiality.

**Correct.** The mandatory injury reporting laws allow breach of confidentiality, and the laws may require reporting of all injuries by weapon (knife, gun) or criminal act to law enforcement.

**B** Incorrect. Although this determination is part of the injury, the nurse is required by law to report the incident to the authorities and let them pursue this information.

**C** Incorrect. The law specifically requires anyone involved in the incident to be responsible to make the report to the authorities, not simply remind someone else to do it.

PTS: 1 REF: p. 35 – When a Health Care Provider can Breach Confidentiality

OBJ: Cognitive Level: Knowledge

22. Based on case law (*Safer v. Estate of Pack*, 1996), the duty to warn persons of possible harm may extend to which of the following conditions?

- a. risk of sexually transmitted diseases
- b. risk of infectious diseases
- c. genetically inherited disease risk
- d. risk of physical harm

ANS: C

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**Feedback**

**A** Incorrect. The case law in *Safer v. Estate of Pack* (1996) involves genetically inherited disease risk, not sexually transmitted diseases.

**B** Incorrect. The case law in *Safer v. Estate of Pack* (1996) involves genetically inherited disease risk, not risk of infectious diseases.

**C** **Correct.** In the case of *Safer v. Estate of Pack* (1996) a physician failed to warn the child of a client that she could have a higher risk of colon cancer and should receive early and frequent screening. When colon cancer developed in the daughter, the physician was sued for failure to warn.

**D** Incorrect. The case law in *Safer v. Estate of Pack* (1996) involves genetically inherited disease risk, not risk of physical harm.

PTS: 1 REF: p. 35 – When a Health Care Provider can Breach Confidentiality

OBJ: Cognitive Level: Knowledge

23. In the case of *Tarosoff v. The Regents of the University of California* (1976), the court said that health care providers have a duty to breach confidentiality when:

- a. a mentally ill person has a history of violence
- b. a client, with a psychiatric diagnosis that carries any risk of harm to others, returns to his or her family
- c. a client tells the health care provider that he or she is going to harm anyone who mistreats him or her
- d. a client makes a specific threat to an identifiable person

ANS: D

#### Feedback

**A** Incorrect. The case of *Tarosoff v. The Regents of the University of California*(1976) involved a patient, but the case does not require breach of confidentiality for a mentally ill person with a history of violence.

**B** Incorrect. The case of *Tarosoff v. The Regents of the University of California*(1976) involved a patient, but the case does not require breach of confidentiality for a client with a psychiatric diagnosis that carries any risk of harm to others.

**C** Incorrect. The case of *Tarosoff v. The Regents of the University of California*(1976) involved a patient, but the case does not require breach of confidentiality for a client with nonspecific claims to harm others who may mistreat them.

**D** **Correct.** The duty to breach confidentiality by warning a third party is required only when there is a specific threat to an identifiable person.

PTS: 1 REF: p. 35 – When a Health Care Provider can Breach Confidentiality

OBJ: Cognitive Level: Comprehension

24. You are the nurse working with an adolescent who has just been diagnosed with a sexually transmitted disease. In your state the provider of care has an obligation to report sexually transmitted diseases to the local health department. Your best action is which of the following?

- 
- a. Explain to the adolescent that the law requires reporting of this information, which will be handled in a sensitive and appropriate manner.
- 
- b. Report the information, and let the local health department deal with the adolescent, as they are trained in sensitive matters.
- 
- c. Ask the parents of the adolescent to notify the local health department.
- 
- d. Ask the hospital social worker to notify the local health department.
- 

ANS: A

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**Feedback**

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- Correct.** It is important to explain to the client that you have an obligation to report sexually transmitted diseases to the local health department. The obligation is to public health, but the report will be handled in a sensitive and appropriate manner; individual privacy will be protected.
- A**
- 
- Incorrect. The local health department is not trained in sensitive matters, it is primarily concerned with the public health of all citizens.
- B**
- 
- Incorrect. The local health department does not accept reports from parents.
- C**
- 
- Incorrect. The nurse's responsibility is to report to the local health department, not the social worker.
- D**
- 

PTS: 1 REF: p. 35 – Nursing Tip OBJ: Cognitive Level: Knowledge

25. For a nurse to be charged with malpractice in a malpractice lawsuit, four legal elements must be present. Three of these are the duty the nurse owes to the client, a breach of that duty, and the breach of duty being the cause of damage. The fourth element that must be present is:

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- a. The nurse caused more than 50% of the damage.
- 
- b. The hospital policies did not support the nurse's actions.
- 
- c. There was actual damage to the client.
- 
- d. Damage in this case was permanent and irreversible.
- 

ANS: C

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**Feedback**

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- Incorrect. Although others may have been involved, the percentage of the cause is not the standard.
- A**
- 
- Incorrect. Negligence or malpractice does not involve hospital policies.
- B**
- 
- Correct.** There must be actual damage to the client.
- C**
- 
- Incorrect. The threshold for damage does not require permanence or irreversibility.
- D**
- 

PTS: 1 REF: p. 36 – Malpractice in the Pediatric Setting

OBJ: Cognitive Level: Knowledge

26. When a claim of malpractice is made, the nurse being accused is referred to in legal terms as the:

- |              |            |
|--------------|------------|
| a. defendant | c. accused |
| b. plaintiff | d. client  |

ANS: A

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**Feedback**

**A** **Correct.** When a claim of malpractice is made, the person making the claim (client) is the plaintiff. The nurse who is being accused of causing the damage is the defendant.

**B** Incorrect. The plaintiff is the individual claiming damage.

**C** Incorrect. The accused may be the same as the defendant, but not the correct answer.

**D** Incorrect. The client or patient is the plaintiff, not the defendant.

PTS: 1 REF: p. 36 – Malpractice in the Pediatric Setting

OBJ: Cognitive Level: Knowledge

27. The special relationship that is created when the nurse takes an assignment of a client and agrees to provide care to that client is called in legal terms a(n):

- |                        |         |
|------------------------|---------|
| a. obligation          | c. duty |
| b. special arrangement | d. case |

ANS: C

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**Feedback**

**A** Incorrect. Obligation is a debt to be paid, but is not the legal term sought.

**B** Incorrect. Special arrangement may have additional terms and conditions, but is not the legal term sought.

**C** **Correct.** Duty is the special relationship when a person agrees to provide care to a client. The amount of time the duty is owed to the client will depend upon the setting in which the care is given.

**D** Incorrect. Case is not the legal term sought.

PTS: 1 REF: p. 36 – Duty OBJ: Cognitive Level: Knowledge

28. You are the nurse working at a local hospital. When you accept an assignment of clients at the beginning of your shift, under the laws of negligence, you are considered to have a legal duty to:

- 
- a. provide care for each of these clients
  - b. ensure the satisfaction of clients and their families
  - c. act in a manner that won't create legal difficulties for the hospital
  - d. perform in an ethical and moral manner
- 

ANS: A

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**Feedback**

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- A** **Correct.** When a nurse accepts an assignment of clients at the beginning of the shift, under the laws of negligence, the nurse is considered to have a legal duty to provide care for those clients.
- B** Incorrect. Although the duty of providing care may provide satisfaction among clients and their families, it has nothing to do with the laws of negligence.
- C** Incorrect. The laws of negligence are designed first of all to protect the clients, and in so doing the hospital will avoid legal difficulties. But, the client must be considered first and always.
- D** Incorrect. The duty contemplates the nurse will always perform in an ethical and moral manner, but the laws of negligence recognize the duty of providing accepted standards of care.
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PTS: 1 REF: p. 36 – Malpractice in the Pediatric Setting

OBJ: Cognitive Level: Knowledge

29. When the word *causation* is used in a lawsuit involving a client who received the wrong medication from a nurse and later died, it means that the plaintiff's lawyer must prove that:

- 
- a. the nurse breached the standard of care
  - b. the injury (death) of the client was the result of receiving the wrong medication
  - c. the nurse intentionally tried to hurt the client
  - d. other health care providers were not at fault and only the nurse was at fault
- 

ANS: B

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**Feedback**

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- A** Incorrect. The nurse may breach the standard of care, and this will result in injury, but is not the same as *causation*.
- B** **Correct.** *Causation* requires the legal system to assign blame, proving the death of the client was caused by the medical administration error.
- C** Incorrect. Medical negligence or malpractice does not require proof of an intent to harm or kill the client.
- D** Incorrect. Medical negligence or malpractice is the act of an individual, not the act of other health care providers.
-



PTS: 1 REF: p. 36 – Causation OBJ: Cognitive Level: Knowledge

30. When a medication error is made, malpractice has occurred only if:

- a. an expert witness can convince a jury that it is malpractice
- b. the medication is a prescription drug and not over the counter
- c. there are damages such as pain and suffering
- d. the client receiving the medication was a child

ANS: C

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**Feedback**

**A** Incorrect. Medical negligence or malpractice may or may not require expert witnesses capable of convincing a jury that malpractice has occurred.

**B** Incorrect. Medical negligence or malpractice does not discriminate based upon a medication being prescription or over the counter.

**C** **Correct.** A medication error resulting in pain and suffering is medical malpractice, and a medication error not resulting in pain and suffering is not medical malpractice.

**D** Incorrect. Medical malpractice does not discriminate by the age of the client.

PTS: 1 REF: p. 36 – Malpractice in the Pediatric Setting

OBJ: Cognitive Level: Knowledge

31. In a malpractice case involving a nurse and a client, the most important document in court is usually which of the following documents?

- |   |                     |
|---|---------------------|
| a. the medication administration record | c. incident reports |
| b. the nursing care plan                | d. the chart        |

ANS: D

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**Feedback**

**A** Incorrect. The medication administration record is part of the medical chart.

**B** Incorrect. The nursing care plan may or may not be part of the medical chart.

**C** Incorrect. Incident reports are not always part of the medical chart.

**D** **Correct.** The client's chart is usually the most important document in malpractice case.

PTS: 1 REF: p. 37 – Medical Records OBJ: Cognitive Level: Knowledge

32. At 9:00 AM you taught a client about the importance of voiding into a collection hat in the bathroom toilet. At 11:00 AM you find the client removed the hat and voided directly into the toilet. Which of the following statements would be best in charting this failure to follow your directions?

- a. Uncooperative. Taught to void into collection hat and did not do so.
- b. Voided directly into toilet. Did not use collection hat that was provided.
- c. Exhibiting controlling behaviors. Refused to void in collection hat and voided into toilet; therefore, urine could not be measured.
- d. Did not apparently understand instructions to void in collection hat. Voided into toilet.

ANS: B

**Feedback**

- A** Incorrect. Judgmental statement.
- B** **Correct.** A verbal description of what happened without stating a judgment.
- C** Incorrect. Labeling behavior, not proper for the medical chart.
- D** Incorrect. Attempt to explain what happened, not a simple description.

PTS: 1 REF: p. 37 – Medical Records OBJ: Cognitive Level: Knowledge

33. The nurse is caring for a small child who puts his arm through the side rail just as the nurse is lowering the side rail. The child gets a big bruise. The housekeeper asks the nurse what happened. The nurse should:

- a. tell the housekeeper, since the housekeeper is part of the health care team
- b. restrict information to general statements such as, "It was an accident."
- c. suggest the housekeeper ask the head nurse
- d. avoid discussing the accident with the housekeeper

ANS: D

**Feedback**

- A** Incorrect. The incident is best left reported via the medical chart, and best not discussed with the housekeeper who can repeat or amplify or modify the statement.
- B** Incorrect. The incident is best left reported via the medical chart and not discussed in any way.
- C** Incorrect. Chart the incident, but do not refer the housekeeper to the head nurse.
- D** **Correct.** The incident is to be charted but not discussed with the housekeeper.

PTS: 1 REF: p. 37 – Nursing Tip OBJ: Cognitive Level: Knowledge

34. A person employed by the hospital to make certain the facility conforms to state and federal laws is usually called a:

- 
- |                   |                           |
|-------------------|---------------------------|
| a. risk manager   | c. legal nurse consultant |
| b. policy manager | d. compliance officer     |
- 

ANS: A

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**Feedback**

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**A Correct.** In many health care facilities, the risk