

Ethics and Laws

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OBJECTIVES

- Define the key terms and key abbreviations used in this chapter
- Describe ethical conduct
- Describe the rules of conduct for nursing assistants
- Explain how to maintain professional boundaries
- Explain how to prevent negligent acts
- Give examples of false imprisonment, defamation, assault, battery, and fraud
- Describe how to protect the right to privacy
- Explain the purpose of informed consent
- Explain your role in relation to wills
- Describe elder, child, and domestic abuse

KEY TERMS

abuse The intentional mistreatment or harm of another person

assault Intentionally attempting or threatening to touch a person's body without the person's consent

battery Touching a person's body without his or her consent

boundary crossing A brief act or behavior outside of the helpful zone

boundary sign An act, behavior, or thought that warns of a boundary crossing or violation

boundary violation An act or behavior that meets your needs, not the person's needs

civil law Laws concerned with relationships between people

crime An act that violates a criminal law

criminal law Laws concerned with offenses against the public and society in general

defamation Injuring a person's name and reputation by making false statements to a third person

ethics Knowledge of what is right conduct and wrong conduct

false imprisonment Unlawful restraint or restriction of a person's freedom of movement

fraud Saying or doing something to trick, fool, or deceive a person

invasion of privacy Violating a person's right not to have his or her name, photo, or private affairs exposed or made public without giving consent

Continued

KEY TERMS — cont'd

law A rule of conduct made by a government body

libel Making false statements in print, writing, or through pictures or drawings

malpractice Negligence by a professional person

neglect Failure to provide the person with the goods or services needed to avoid physical harm, mental anguish, or mental illness

negligence An unintentional wrong in which a person did not act in a reasonable and careful manner and a person or the person's property was harmed

professional boundary That which separates helpful behaviors from behaviors that are not helpful

professional sexual misconduct An act, behavior, or comment that is sexual in nature

protected health information Identifying information and information about the person's health care that is maintained or sent in any form (paper, electronic, oral)

self-neglect A person's behaviors that put him or her at high risk for harm; health and safety are threatened

slander Making false statements orally

standard of care The skills, care, and judgments required by a health team member under similar conditions

tort A wrong committed against a person or the person's property

vulnerable adult A person 18 years old or older who has a disability or condition that makes him or her at risk to be wounded, attacked, or damaged

will A legal document of how a person wants property distributed after death

KEY ABBREVIATIONS

ANA American Nurses Association

HIPAA Health Insurance Portability and Accountability Act of 1996

LNA Licensed nursing assistant

LPN Licensed practical nurse

LVN Licensed vocational nurse

NFLPN National Federation of Licensed Practical Nurses

OBRA Omnibus Budget Reconciliation Act of 1987

RN Registered nurse

Nurse practice acts, your training and job description, and safe delegation serve to protect patients and residents from harm (Chapter 2). Protecting them from harm also involves a complex set of rules and standards of conduct. They form the ethical and legal aspects of care.

ETHICAL ASPECTS

Ethics is knowledge of what is right conduct and wrong conduct. Morals are involved. It also deals with choices or judgments about what should or should not be done. An ethical person behaves and acts in the right way. He or she does not cause a person harm.

Ethical behavior also involves not being *prejudiced* or *biased*. To be prejudiced or biased means to make judgments and have views before knowing the facts. Judgments and views usually are based on one's values and standards. They are based on the person's culture, religion, education, and experiences. The person's situation may be very different from your own. For example:

- ▶ Children want their mother to have nursing home care. In your culture, children care for older parents at home.
- ▶ A person has many tattoos and body piercings. You do not like tattoos or body piercings.
- ▶ An 80-year-old man does not want life-saving measures. You believe that everything should be done to save life.

Do not judge the person by your values and standards. Do not avoid persons whose standards and values differ from your own.

Ethical problems involve making choices. You must decide what is the right thing to do. For example:

- ▶ You find a co-worker in an empty room drinking from a cup. You smell alcohol on her breath. She asks you not to tell anyone.
- ▶ A resident has bruises all over her body. She told the nurse that she fell. She tells you that her son is very mean to her. She asks you not to tell the nurse.

Professional groups have codes of ethics. The code has rules, or standards of conduct, for group members to follow. The American Nurses Association (ANA) has a code of ethics for registered nurses (RNs). The National Federation of Licensed Practical Nurses (NFLPN) has one for licensed practical nurses/licensed vocational nurses (LPNs/LVNs.) The rules of conduct in Box 3-1 can guide your thinking and behavior. See Chapter 4 for ethics in the workplace.

Boundaries

A *boundary* limits or separates something. For example, a fence forms a boundary. It tells you to stay within or on the side of the fenced area. As a nursing assistant, you help patients, residents, and families. Therefore you enter into a helping relationship with them. The helping relationship has professional boundaries.

Professional boundaries separate helpful behaviors from behaviors that are not helpful (Fig. 3-1). The boundaries create a helpful zone. If your behaviors are outside of the helpful zone, you are over-involved with the person or under-involved. Boundary crossings,

BOX 3-1 Code of Conduct for Nursing Assistants

- Respect each person as an individual.
- Know the limits of your role and knowledge.
- Perform only those tasks that are within the legal limits of your role.
- Perform only those tasks that you have been prepared to do.
- Perform no act that will cause the person harm.
- Take no drug without the prescription and supervision of a doctor.
- Carry out the directions and instructions of the nurse to your best possible ability.
- Follow the agency's policies and procedures.
- Complete each task safely.
- Be loyal to your employer and co-workers.
- Act as a responsible citizen at all times.
- Keep the person's information confidential.
- Protect the person's privacy.
- Protect the person's property.
- Consider the person's needs to be more important than your own.
- Report errors and incidents at once.
- Be accountable for your actions.

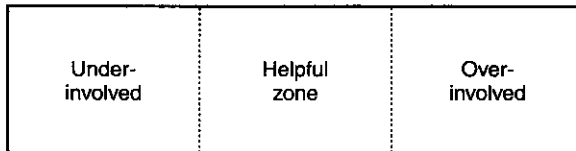
PROFESSIONAL BOUNDARIES

FIGURE 3-1 Professional boundaries. (Redrawn from the National Council of State Boards of Nursing: *Professional boundaries: a nurse's guide to the importance of appropriate professional boundaries*, Chicago, Ill, 1996.)

boundary violations, or professional sexual misconduct can occur.

- ▶ A boundary crossing is a brief act or behavior outside of the helpful zone. The act or behavior may be thoughtless or something you did not mean to do. Or it could be on purpose if it meets the person's needs. For example, you give a crying patient a hug. The hug meets the person's needs at that time. If you give the hug to meet your needs, the act is wrong. Also, it is wrong to hug the person every time you see him or her.
- ▶ A boundary violation is an act or behavior that meets your needs, not the person's needs. The act or behavior is unethical. It violates the code of conduct in Box 3-1. The person could be harmed. Boundary violations include:
 - Abuse (p. 32)
 - Giving a lot of personal information about yourself (You tell a person about your personal relationships or problems.)
 - Keeping secrets with the person

COMMUNICATION**Professional Boundaries**

Some patients, residents, and families want to thank the staff for the care given. Sometimes they send thank you cards and letters. Sometimes they offer gifts—candy, cookies, money, gift certificates, flowers, and so on. Accepting gifts is a boundary violation. When offered a gift, you can say:

- "Thank you so much for thinking of me. It's very kind of you. However, it is against center policy to accept gifts of any kind. I do appreciate your offer."
- "Thank you for wanting me to have the flowers your friend sent. They are lovely. However, staff cannot receive gifts because it is against hospital policy. Let me help you find a way to take them home."

- ▶ Professional sexual misconduct is an act, behavior, or comment that is sexual in nature. It is sexual misconduct even if the person consents or makes the first move.

Some boundary violations and some professional sexual misconduct also are crimes. To maintain professional boundaries, follow the rules in Box 3-2 (p. 30). Be alert to boundary signs. Boundary signs are acts, behaviors, or thoughts that warn of a boundary crossing or violation (Box 3-3, p. 30).

See *Focus on Communication: Professional Boundaries*.

LEGAL ASPECTS

Ethics is concerned with what you *should* or *should not* do. Laws tell you what you *can* and *cannot* do. A law is a rule of conduct made by a government body. The U.S. Congress and state legislatures make laws. Enforced by the government, laws protect the public welfare.

Criminal laws are concerned with offenses against the public and society in general. An act that violates a criminal law is called a crime. A person found guilty of a crime is fined or sent to prison. Murder, robbery, rape, kidnapping, and abuse (p. 32) are crimes.

Civil laws are concerned with relationships between people. Examples of civil laws are those that involve contracts and nursing practice. A person found guilty of breaking a civil law usually has to pay a sum of money to the injured person.

Torts

Tort comes from the French word meaning wrong. Torts are part of civil law. A tort is a wrong committed against a person or the person's property. Torts may be unintentional. Harm was not intended. Some torts are intentional. Harm was intended.

Unintentional Torts

Negligence is an unintentional wrong. The negligent person did not act in a reasonable and careful manner. As a result, a person or the person's property was harmed. The person causing the harm did not intend or mean to

BOX 3-2 Rules for Maintaining Professional Boundaries

- Follow the code of conduct listed in Box 3-1.
- Talk to the nurse if you sense a boundary sign, crossing, or violation.
- Avoid caring for family, friends, and people with whom you do business. This may be hard to do in a small community. Always tell the nurse if you know the person. The nurse may need to change your assignment.
- Do not date, flirt with, kiss, or have a sexual relationship with current patients or residents. The same applies to family members of current patients or residents.
- Do not make sexual comments or jokes.
- Do not use offensive language.
- Do not discuss your sexual relationships with patients, residents, or their families.
- Do not say or write things that could suggest a romantic or sexual relationship with a patient, resident, or family member.
- Use touch correctly (Chapter 7). Do not touch or handle sexual and genital areas unless when necessary to give care. Such areas include the breasts, nipples, perineum, buttocks, and anus.
- Do not accept gifts, loans, money, credit cards, or other valuables from a patient, resident, or family member.
- Do not give gifts, loans, money, credit cards, or other valuables to a patient, resident, or family member.
- Do not borrow from a patient, resident, or family member. This includes money, personal items, and transportation.
- Maintain a professional relationship at all times. Do not develop any personal relationship or friendship with the person or family member.
- Do not visit or spend extra time with a person that is not part of your assignment.
- Do not share personal or financial information with a person or family member.
- Do not help a person or family member with his or her finances.
- Do not take a person home with you. This includes for holidays or other events.
- Ask these questions before you date or marry a person whom you cared for. Be aware of the risk for sexual misconduct.
 - How long ago did you assist with the person's care?
 - Was the person's care short-term or long-term?
 - What kind and how much information do you have about the person? How will that information affect your relationship with the person?
 - Will the person need more care in the future?
 - Does dating or marrying the person place the person at risk for harm?

BOX 3-3 Boundary Signs

- You think about the person when you are not at work.
- You organize your work and provide other care around the person's needs.
- You spend free time with the person. You visit with the person during breaks, mealtimes, when off duty, and so on.
- You trade assignments with other nursing assistants so you can provide the person's care.
- You give more care or attention to the person at the expense of other patients and residents.
- You believe that you are the only person who understands the person and his or her needs.
- The person gives you gifts or money.
- You give the person gifts or money.
- You share information about yourself with the person.
- You talk about your work situation with the person.
- You flirt with the person.
- You make comments that have a sexual message.
- You tell the person "off-color" jokes.
- You notice more touch between you and the person.
- You use foul, vulgar, or offensive language when talking to the person.
- You and the person have secrets.
- You choose the person's side when he or she disagrees with other staff or the family.
- You select what you report and record. You do not give complete information.
- You do not like questions about the care you give or your relationship with the person.
- You change how you dress or your appearance when you will work with the person.
- You receive gifts from the person after he or she leaves the agency.
- You have contact with the person after he or she leaves the agency.

cause harm. The person failed to do what a reasonable and careful person would have done. Or he or she did what a reasonable and careful person would not have done. The negligent person may have to pay damages (a sum of money) to the one injured.

Malpractice is negligence by a professional person. A person has professional status because of training and the service provided. Nurses, doctors, dentists, and pharmacists are examples.

What you do or do not do can lead to a lawsuit if harm results to the person or property of another. Standard of care refers to skills, care, and judgments required by a

health team member under similar conditions. Standards of care come from:

- ▶ Laws, including nurse practice acts
- ▶ Textbooks
- ▶ Agency policy and procedure manuals (Fig. 3-2) (These explain how to perform certain procedures.)
- ▶ Manufacturer instructions for equipment and supplies
- ▶ Job descriptions
- ▶ Approval and accrediting agency standards
- ▶ Standards and guidelines issued by government agencies

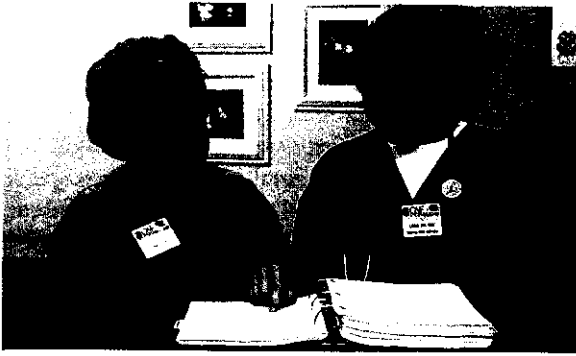


FIGURE 3-2 A nurse and nursing assistant review the policy and procedure manual. It is kept at the nurse's station.

The following actions could lead to charges of negligence:

- ▶ A nurse asks you to apply a hot soak. You fail to test water temperature. The water is too hot. The person is burned.
- ▶ Mrs. Parks needs help getting to the bathroom. You do not answer her signal light promptly. She gets up without help. She falls and breaks a leg.
- ▶ A mechanical lift is used to transfer Mr. Brown from bed to a chair. You do not follow the manufacturer's instructions for using the lift. Mr. Brown slips out of the lift and falls to the floor. He fractures a hip.
- ▶ Mrs. Clark complains of chest pain. You do not tell the nurse. Mrs. Clark has a heart attack and dies.
- ▶ Two residents have the same last name. You do not identify the person before a procedure. You perform the procedure on the wrong person. Both residents are harmed. One had a procedure that was not ordered. The other did not have a needed procedure.

You are legally responsible (*liable*) for your own actions. The nurse is liable as your supervisor. However, you are not relieved of personal liability. Remember, sometimes refusing to follow the nurse's directions is your right and duty (Chapter 2).

Intentional Torts

Intentional torts are acts meant to be harmful. The act is done knowingly.

Defamation is injuring a person's name and reputation by making false statements to a third person. Libel is making false statements in print, writing, or through pictures or drawings. Slander is making false statements orally. Never make false statements about a patient, resident, co-worker, or any other person. Examples of defamation include:

- ▶ Implying or suggesting that a person uses drugs
- ▶ Saying that a person is insane or mentally ill
- ▶ Implying or suggesting that a person steals money from the staff

False imprisonment is the unlawful restraint or restriction of a person's freedom of movement. It involves:

- ▶ Threatening to restrain a person
- ▶ Restraining a person
- ▶ Preventing a person from leaving the agency

Invasion of privacy is violating a person's right not to have his or her name, photo, or private affairs exposed or made public without giving consent. You must treat the person with respect and ensure privacy. Only staff involved in the person's care should see, handle, or examine his or her body. See Box 3-4 for measures to protect privacy.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) protects the privacy and security of a person's health information. Protected health information refers to identifying information and information about the person's health care that is maintained or sent in any form (paper, electronic, oral). Failure to comply with HIPAA rules can result in fines, penalties, and criminal action including jail time. You must follow agency policies and procedures. Direct any questions about the person or the person's care to the nurse. Also follow the rules for using computers and other electronic devices (Chapter 5).

Fraud is saying or doing something to trick, fool, or deceive a person. The act is fraud if it does or could cause harm to a person or the person's property. Telling a person or family that you are a nurse is fraud. So is giving wrong or incomplete information on a job application.

Assault and battery may result in both civil and criminal charges. Assault is intentionally attempting or threatening to touch a person's body without the person's consent. The person fears bodily harm. Threatening to "tie down" a person is an example of assault. Battery is touching a person's body without his or her consent. Consent is the important factor in assault and battery. The person must consent to any procedure, treatment, or other act that involves touching the body. The person has the right to withdraw consent at any time.

Protect yourself from being accused of assault and battery. Explain to the person what is to be done and get the person's consent. Consent may be verbal—"yes" or "okay." Or it can be a gesture—a nod, turning over for a back rub, or holding out an arm so you can take a pulse.

See *Focus on Ethics and Laws: Intentional Torts*, p. 32.

BOX 3-4 Protecting the Right to Privacy

- Keep all information about the person confidential.
- Cover the person when he or she is being moved in hallways.
- Screen the person. Close the privacy curtain as in Figure 3-3, p. 32. Close the door when giving care. Also close window coverings.
- Expose only the body part involved in care or a procedure.
- Do not discuss the person or the person's treatment with anyone except the nurse supervising your work. "Shop talk" is a common cause of invasion of privacy.
- Ask visitors to leave the room when care is given.
- Do not open the person's mail.
- Allow the person to visit with others in private.
- Allow the person to use the phone in private.
- Follow agency policy and procedures required to protect privacy.

FOCUS ON ETHICS AND LAWS

Intentional Torts

A licensed nursing assistant (LNA) worked at a nursing center. She had her license suspended for:

- Using a resident's credit card. The charges totaled about \$1490. The card was used without the resident's knowledge or permission. The LNA signed the resident's name to the charges.
- Taking and using the credit card of a nurse employed at the center.

Criminal charges of false impersonation were filed against the LNA.

The LNA's license was suspended indefinitely for:

- Failing to comply with federal or state laws and rules
- Abusing or neglecting a patient
- Misappropriating patient property
- Being unfit or incompetent to function as a nursing assistant by reason of any cause
- Engaging in conduct of a character likely to deceive, defraud, or harm the public

("Suspend indefinitely" means that the LNA:

- Had to give her license to the Board
- Could ask the Board to re-instate her license but had to prove that:
 - She posed no danger to the public or the practice of nursing
 - She would safely and competently perform an LNA's duties
 - She meets the requirements for license renewal and re-instatement)

(State of Vermont Board of Nursing in regard to M. Willard, 2000.)



FIGURE 3-3 Pulling the privacy curtain around the bed helps protect the person's privacy.

Informed Consent

A person has the right to decide what will be done to his or her body and who can touch his or her body. The doctor is responsible for informing the person about all aspects of treatment. Consent is informed when the person clearly understands:

- ▶ The reason for a treatment, procedure, or care measure
- ▶ What will be done
- ▶ How it will be done
- ▶ Who will do it

- ▶ The expected outcomes
- ▶ Other treatment, procedure, or care options
- ▶ The effects of not having the treatment, procedure, or care measure

Persons under legal age (usually 18 years of age) cannot give consent. Nor can mentally incompetent persons. Such persons are unconscious, sedated, or confused. Or they have certain mental health problems. Informed consent is given by a responsible party—a wife, husband, daughter, son, or a legal representative.

Consent is given when the person enters the agency. A form is signed giving general consent to treatment. Special consent forms are required for surgery and other complex procedures. In nursing centers, consent is needed before admission to a secured Alzheimer's unit. The doctor informs the person about all aspects of the procedure. The nurse may be given this responsibility.

You are never responsible for obtaining written consent. In some agencies, you can witness the signing of a consent. To be a witness, you must be present when the person signs the consent.

Wills

A will is a legal document of how a person wants property distributed after death. You can ethically and legally witness the signing of a will. You can also refuse to do so without fear of legal action.

A person may ask you to prepare a will. You must politely refuse. Explain that you do not have the legal knowledge or ability to prepare a will. Report the request to the nurse. The nurse will speak to the person or family member about contacting a lawyer.

Do not witness the signing of a will if you are named in the will. To do so prevents you from receiving what was left to you. As a witness, be prepared to testify that:

- ▶ The person was of sound mind when the will was signed
- ▶ The person stated that the document was his or her last will

Many agencies do not let employees witness wills. Know your agency's policy before you agree to witness a will. If you have questions, ask the nurse. If you witness a will, tell the nurse.

REPORTING ABUSE

Abuse is the intentional mistreatment or harm of another person. Abuse is a crime. It can occur at home or in a health care agency. Abuse has one or more of these elements:

- ▶ Willful causing of injury
- ▶ Unreasonable confinement
- ▶ Intimidation (to make afraid with threats of force or violence)
- ▶ Punishment
- ▶ Depriving the person of the goods or services needed for physical, mental, or psychosocial well-being

Abuse causes physical harm, pain, or mental anguish. Protection against abuse extends to persons in a coma.

The abuser is usually a family member or caregiver—spouse, partner, adult child, and others. The abuser can be a friend, neighbor, landlord, or other person. Both men and women are abusers. Both men and women are abused.

Many states, accrediting agencies, and the Omnibus Budget Reconciliation Act of 1987 (OBRA) do not allow agencies to employ persons who were convicted of abuse, neglect, or mistreatment. Before hiring, the agency must thoroughly check the applicant's work history. All references are checked. Efforts must be made to find out about any criminal records.

The agency also checks the nursing assistant registry for findings of abuse, neglect, or mistreatment. It also is checked for misusing or stealing a person's property.

Vulnerable Adults

Vulnerable comes from the Latin word *vulnerare*, which means *to wound*. Vulnerable adults are persons 18 years old or older who have disabilities or conditions that make them at risk to be wounded, attacked, or damaged. They have problems caring for or protecting themselves due to:

- ▶ A mental, emotional, physical, or developmental disability (see Chapter 45)
- ▶ Brain damage
- ▶ Changes from aging

Patients and residents, regardless of age, are considered vulnerable. Older persons and children are at risk for abuse.

See *Focus on Long-Term Care and Home Care: Vulnerable Adults*.

FOCUS ON LONG-TERM CARE AND HOME CARE

Vulnerable Adults

HOME CARE

Some persons have behaviors that put themselves at high risk for harm. Health and safety are threatened. This is called **self-neglect**. Causes include declining health and chronic disease. Other causes are disorders that impair judgment or memory—Alzheimer's disease, dementia, depression, and drug or alcohol abuse. Some persons refuse care.

The person has the right to personal choice, to make decisions for oneself, and to be independent. However, there are warning signs of self-neglect. Report the following to the nurse:

- Hoarding. The person saves, hides, or stores things. For example, people may save newspapers, magazines, food containers, shopping bags, and so on. The hoarding can present fire, pest (mice, rats, insects), and other safety hazards.
- Absence of food, water, heat, and other necessities.
- Failing to take needed drugs.
- Refusing to seek medical treatment for serious illnesses.
- Dehydration—poor urinary output, dry skin, dry mouth, confusion.
- Leaving a stove or oven unattended.
- Poor hygiene.
- Not wearing the correct clothing for the weather.
- Confusion.
- Not attending to or not being able to attend to housekeeping.
- Safety hazards in the home (Chapter 11).

Elder Abuse

Elder abuse is any knowing, intentional, or negligent act by a caregiver or any other person to an older adult. The act causes harm or serious risk of harm. Elder abuse can take these forms:

- ▶ **Physical abuse.** This involves inflicting, or threatening to inflict, physical pain or injury. Grabbing, hitting, slapping, kicking, pinching, hair-pulling, or beating are examples. It also includes *corporal punishment*—punishment inflicted directly on the body. Beatings, lashings, and whippings are examples. Depriving the person of a basic need also is physical abuse.
- ▶ **Neglect.** Failure to provide the person with the goods or services needed to avoid physical harm, mental anguish, or mental illness is called neglect. This includes failure to provide health care or treatment, food, clothing, hygiene, shelter, or other needs. In health care, neglect includes but is not limited to:
 - ▶ Leaving persons lying or sitting in urine or feces
 - ▶ Keeping persons alone in their rooms or other areas
 - ▶ Failing to answer signal lights
- ▶ **Verbal abuse.** Using oral or written words or statements that speak badly of, sneer at, criticize, or condemn the person is called verbal abuse. It includes unkind gestures.
- ▶ **Involuntary seclusion.** This involves confining the person to a certain area. People have been locked in closets, basements, attics, bathrooms, and other spaces.
- ▶ **Financial exploitation or misappropriation.** To *exploit* means to use unjustly. *Misappropriate* means to dishonestly, unfairly, or wrongly take for one's own use. The older person's resources (money, property, assets) are misused by another person. Or the resources are used for the other person's profit or benefit. The person's money is stolen or used by another person. It is also misusing a person's property.
- ▶ **Emotional abuse.** This involves inflicting mental pain, anguish, or distress through verbal or nonverbal acts. Humiliation, harassment, ridicule, and threats of punishment are examples. It includes being deprived of needs such as food, clothing, care, a home, or a place to sleep.
- ▶ **Sexual abuse.** The person is harassed about sex or is attacked sexually. The person may be forced to perform sexual acts out of fear of punishment or physical harm.
- ▶ **Abandonment.** *Abandon* means to leave or desert someone. The person is deserted by someone who is responsible for his or her care.

There are many signs of elder abuse. The abused person may show only some of the signs in Box 3-5, p. 34.

Federal and state laws require the reporting of elder abuse. If abuse is suspected, it must be reported. Where and how to report abuse vary among states. You may suspect abuse. If so, discuss the matter and your observations with the nurse. Give as many details as possible. The nurse contacts health team members as needed.

BOX 3-5 Signs of Elder Abuse

- Living conditions are unsafe, unclean, or inadequate.
- Personal hygiene is lacking. The person is not clean. Clothes are dirty.
- Weight loss—there are signs of poor nutrition and inadequate fluid intake.
- Assistive devices are missing or broken—eyeglasses, hearing aids, dentures, cane, walker, and so on.
- Medical needs are not met.
- Frequent injuries—conditions behind the injuries are strange or seem impossible.
- Old and new injuries—bruises, pressure marks, welts, scars, fractures, punctures, and so on.
- Complaints of pain or itching in the genital area.
- Bleeding and bruising around the breasts or in the genital area.
- Burns on the feet, hands, buttocks, or other parts of the body. Cigarettes and cigars cause small circle-like burns.
- Pressure ulcers (Chapter 32) or contractures (Chapter 26).
- The person seems very quiet or withdrawn.
- Unexplained withdrawal from normal activities.
- The person seems fearful, anxious, or agitated.
- Sudden change in alertness.
- Depression.
- Sudden changes in finances.
- The person does not seem to want to talk or answer questions.
- The person is restrained. Or the person is locked in a certain area for long periods.
- The person cannot reach toilet facilities, food, water, and other needed items.
- Private conversations are not allowed. The caregiver is present during all conversations.
- Strained or tense relationships with a caregiver.
- Frequent arguments with a caregiver.
- The person seems anxious to please the caregiver.
- Drugs are not taken properly. Drugs are not bought. Or too much or too little of the drug is taken.
- Visits to the emergency room may be frequent.
- The person may change doctors often. Some people do not have a doctor.

BOX 3-6 Prosecuted Cases of Elder Abuse

- A resident was complaining of pain while he was being cleaned. To stop him from complaining, a nursing assistant stuck a rag down his throat.
- A patient was screaming. To stop the patient from screaming, a nurse poured water down her throat.
- A nursing assistant beat and kicked a 92-year-old man who was lying on the floor.
- A nursing assistant stepped on a resident's face.
- A person was visiting his grandmother. While in the agency, he sexually abused a patient with head injuries.
- A female patient in a wheelchair was dragged into a room by a nursing assistant. The nursing assistant forced the patient to have sex with him.
- A nursing assistant teased and taunted a resident with dementia.
- A health care worker repeatedly insulted an older woman because her son was gay.
- A nursing assistant forced a person to urinate in bed. Then the nursing assistant made fun of the person.
- Two older women lived in a board and care home. Both had Alzheimer's disease. The operator of the home left the women in a room with blood splattered on the walls. The carpet was caked with feces, vomitus, and urine. The women were partially dressed. One woman was tied to the bed with a sheet.
- A nursing assistant failed to feed a resident who could not feed herself. A video camera caught the nursing assistant dumping the resident's food into trash cans.
- A resident could not talk. She was totally dependent on the staff for care. She did not have a bowel movement for 26 days. She was given a laxative every 3 days. No other treatment was given for her constipation.
- Caregivers willfully neglected to give drugs to residents.

From *Elder abuse and neglect: prosecution and prevention*, San Francisco, American Society on Aging.

The nurse also contacts community agencies that investigate elder abuse. They act at once if the problem is life-threatening. Sometimes the help of police or the courts is necessary.

Helping abused older persons is not always easy or possible. Some abuse is not reported or recognized. Or the investigating agency cannot gain access to the person. Sometimes older persons are abused by a spouse or adult child. A victim may want to protect the spouse or child. Some victims are embarrassed or believe abuse is deserved. A victim may fear what will happen. He or she may think that the present situation is better than no care at all. Some people fear not being believed if they report the abuse themselves.

Box 3-6 lists some severe cases of elder abuse. The abusers were convicted of crimes. The examples that follow are more common. However, such abuse is still wrong. It will be investigated. You can lose your job. Your

state nursing assistant registry will be notified. Nursing assistants have lost their certification, license, or registration because of elder abuse.

- ▶ A person constantly crying out for help is taken to his room. He is left alone with the door closed.
- ▶ A nursing assistant tells a person to be nice. Otherwise care will not be given.
- ▶ A person cannot control her bowels. She is called "dirty" and "disgusting."
- ▶ A person is turned in a rough and hurried manner.
- ▶ The nurse uses the person's phone to call a friend.
- ▶ A person lies in a wet and soiled bed all night.
- ▶ Money is taken from a person's wallet.
- ▶ A person uses the signal light a lot. It is taken away from the person.
- ▶ A person's mouth is forced open. Food is forced into the person's mouth.

See *Focus on Long-Term Care and Home Care: Elder Abuse*.

FOCUS ON LONG-TERM CARE AND HOME CARE

Elder Abuse

LONG-TERM CARE

OBRA requires these actions if abuse is suspected within the center:

- The incident is reported at once to the administrator. It also is reported at once to other officials as required by federal and state laws.
- All claims of abuse are thoroughly investigated.
- The center must prevent further potential for abuse while the investigation is in progress.
- Investigation results are reported to the center administrator within 5 days of the incident. They also are reported to other officials as required by federal and state laws.
- Corrective actions are taken if the claim is found to be true.

Child Abuse and Neglect

Child abuse and neglect involve the following:

- ▶ A child 18 years old or younger
- ▶ Any recent act or failure to act on the part of a parent or caregiver
- ▶ The act or failure to act results in death, serious physical or emotional harm, sexual abuse, or exploitation
- ▶ The act or failure to act presents a likely or immediate risk for harm

Child abuse and neglect occur at every social level. They occur in low-, middle-, and high-income families. The abuser may have little education or be highly educated. The abuser usually is a household member—parent, a parent's partner, brother or sister, nanny. Usually an abuser is someone the family knows. Risk factors for child abuse include:

- ▶ Stress
- ▶ Family crisis (divorce, unemployment, moving, poverty, crowded living conditions)
- ▶ Drug or alcohol abuse
- ▶ Abuser history of being abused as a child
- ▶ Discipline beliefs that include physical punishment
- ▶ Lack of emotional attachment to the child
- ▶ A child with birth defects or chronic illness
- ▶ A child with personality or behaviors that the abuser considers "different" or not acceptable
- ▶ Unrealistic expectations for the child's behavior or performance
- ▶ Families that move often and do not have family or friends nearby

Types of Child Abuse and Neglect

Child abuse and neglect can take different forms. Often more than one type is present.

- ▶ *Physical abuse* is injuring the child on purpose. It can cause death. Forms of physical abuse include striking,

kicking, burning, or biting the child. Any action that causes physical impairment of the child is physical abuse.

- ▶ *Neglect* can be physical or emotional. *Physical neglect* means to deprive the child of food, clothing, shelter, and medical care. *Emotional neglect* is not meeting the child's need for affection and attention.
- ▶ *Sexual abuse* is using, persuading, or forcing a child to engage in sexual conduct. It can take many forms:
 - ▶ *Rape or sexual assault*—forced sexual acts with a person against his or her will.
 - ▶ *Molestation*—sexual advances toward a child. It includes kissing, touching, or fondling sexual areas. The abuser may kiss, touch, or fondle the child. Or the child is forced to kiss, touch, or fondle the abuser.
 - ▶ *Incest*—sexual activity between family members. The abuser may be a parent, step-parent, brother or sister, step-brother or step-sister, aunt or uncle, cousin, or grandparent.
 - ▶ *Child pornography*—taking pictures or videotaping a child involved in sexual acts or poses.
 - ▶ *Child prostitution*—forcing a child to engage in sexual activity for money. Usually the child is forced to have many sexual partners.
- ▶ *Emotional abuse* is injuring the child mentally. The child has changes in behavior, emotional responses, thinking, reasoning, learning, and so on. The child may show anxiety, depression, withdrawal, or aggressive behaviors.
- ▶ *Substance abuse* is part of child abuse and neglect in some states. A *controlled substance* is a drug or chemical substance whose possession and use are controlled by law. Substance abuse involves:
 - ▶ Making a controlled substance in the presence of a child
 - ▶ Making a controlled substance on the premises occupied by a child
 - ▶ Allowing a child to be present where there are chemicals or equipment used to make or store a controlled substance
 - ▶ Selling, distributing, or giving drugs or alcohol to a child
 - ▶ Using a controlled substance (a caregiver) that impairs the caregiver's ability to adequately care for the child
 - ▶ Exposing the child to equipment and supplies for using, selling, or distributing drugs
 - ▶ Exposing the child to other drug-related activities
- ▶ *Abandonment* is when a parent's identity or whereabouts are unknown. The child was left by the parent in circumstances where the child suffers serious harm. Or the parent fails to maintain contact with the child or provide support for the child.

BOX 3-7 Signs and Symptoms of Child Abuse and Neglect**PHYSICAL ABUSE**

- Bruises on the face (eyes, lips, mouth, cheeks), back, buttocks, abdomen, chest, and inner thighs
- Welts on the face (lips, mouth, cheeks), back, buttocks, abdomen, chest, and inner thighs
 - The shape of the object causing the welt may be seen. The shape may be of a belt, belt buckle, wooden spoon, chain, clothes hanger, rope, or other object.
- Burns and scalds on the feet, hands, back, buttocks, or other body parts
 - Intentional burns leave a pattern from the item causing the burn: cigarettes, irons, curling irons, ropes, stove burners, and radiators are examples.
 - In scalds, the area put in hot liquid is clearly marked. For example, a scald to the hand looks like a glove. A scald to the foot looks like a sock.
- Fractures of the nose, skull, arms, or legs
- Bite marks

NEGLECT

- Fails to gain weight
- Shows great affection to others
- Wants to eat large amounts of food
- Steals food
- Is dirty or has a severe body odor
- Lacks the correct clothing for the weather
- Abuses alcohol or drugs
- States that no one is home

SEXUAL ABUSE

- Bleeding, cuts, and bruises of the genitalia, anus, breasts, or mouth
- Stains or blood on underclothing
- Painful urination
- Signs and symptoms of urinary tract infection (Chapter 42)
- Vaginal discharge
- Genital odor
- Genital pain
- Difficulty walking or sitting
- Pregnancy
- Fearful behaviors—nightmares, depression, unusual fears, attempts to run away
- Sexual behavior that does not fit with one's age

EMOTIONAL ABUSE

- Sudden changes in self-confidence
- Headaches
- Stomach aches
- Abnormal fears
- Nightmares
- Attempts to run away

Box 3-7 lists the signs of child abuse and neglect. You must be alert for any unexplained changes in the child's body or behavior. Child and parent behaviors may signal that something is wrong. The child may be quiet and withdrawn. He or she may fear adults. Sometimes children are afraid to go home. Sudden behavior changes are common in sexual abuse. Bed-wetting, thumb-sucking, loss of appetite, poor grades, and running away from home are examples. Some children attempt suicide.

Parents give different stories about what happened. Injuries are blamed on play accidents or other children. Frequent emergency room visits are common.

Child abuse is complex. Many more behaviors, signs, and symptoms are present than discussed here. The health team must be alert for signs and symptoms of child abuse. All states require the reporting of suspected child abuse. However, someone should not be falsely accused.

If you suspect child abuse, share your concerns with the nurse. Give as much detail as you can. The nurse contacts health team members and child protection agencies as needed.

Domestic Abuse

Domestic abuse—also called domestic violence, intimate partner abuse, partner abuse, and spousal abuse—occurs in relationships. One partner has power and control over the other through abuse. Fear and harm occur. Abuse may be physical, sexual, verbal, economic, or social. Usually more than one type of abuse is present.

- ▶ *Physical abuse*—unwanted punching, slapping, grabbing, choking, poking, biting, pulling hair, twisting arms, or kicking. It may involve burns and weapons. Physical injuries occur. Death is a constant threat.
- ▶ *Sexual abuse*—unwanted sexual contact.
- ▶ *Verbal abuse*—unkind and hurtful remarks. They make the person feel unwhole, unattractive, and without value.
- ▶ *Economic abuse*—controlling money. Having or not having a job is controlled by the abuser. So are paychecks, money gifts from family and friends, and money for household expenses (food, clothing).
- ▶ *Social abuse*—controlling friendships and other relationships. The abuser controls phone calls, car use, leaving the home, and visits with family and friends.

Patients and residents can suffer from domestic abuse. For example, a husband slaps his wife during a visit. Or a wife uses her husband's money for her own benefit rather than buying her husband's drugs.

Domestic abuse is a safety issue. Like child and elder abuse, domestic abuse is complex. The victim often hides the abuse. He or she may protect the abusive partner. State laws vary about reporting domestic abuse. However, the health team has an ethical duty to give information about safety and community resources. If you suspect domestic abuse, share your concerns with the nurse. The nurse gathers information to help the person.

See *Focus on Long-Term Care and Home Care: Domestic Abuse*.

FOCUS ON LONG-TERM CARE AND HOME CARE**Domestic Abuse****LONG-TERM CARE**

Under OBRA, the resident has the right to be free from abuse, mistreatment, or neglect. If a resident is abused by anyone, the abuse must be reported. This includes abuse by a partner.

REVIEW QUESTIONS

Circle the BEST answer.

- 1 Ethics is
 - a Making judgments before you have the facts
 - b Knowledge of what is right and wrong conduct
 - c A behavior that meets your needs, not the person's
 - d Skills, care, and judgments required of a health team member
- 2 Which of the following is ethical behavior?
 - a Sharing information about a patient with your family
 - b Accepting gifts from a resident's family
 - c Reporting errors
 - d Calling your family before answering a signal light
- 3 On your days off, you call the agency to check on a patient. This is a
 - a Professional boundary
 - b Boundary crossing
 - c Boundary violation
 - d Boundary sign
- 4 To maintain professional boundaries, your behaviors must
 - a Help the person
 - b Meet your needs
 - c Be biased
 - d Show that you care
- 5 A patient asks you out to dinner. You accept. This is a
 - a Professional boundary
 - b Boundary crossing
 - c Boundary violation
 - d Boundary sign
- 6 A friend is admitted to the hospital. You helped with the person's care. This is a
 - a Professional boundary
 - b Boundary crossing
 - c Boundary violation
 - d Boundary sign
- 7 Which is *not* a crime?
 - a Abuse
 - b Murder
 - c Negligence
 - d Robbery
- 8 These statements are about negligence. Which is *false*?
 - a It is an unintentional tort.
 - b The negligent person did not act in a reasonable manner.
 - c Harm was caused to a person or a person's property.
 - d A prison term is likely.
- 9 Threatening to touch the person's body without the person's consent is
 - a Assault
 - b Battery
 - c Defamation
 - d False imprisonment
- 10 Restraining a person's freedom of movement is
 - a Assault
 - b Battery
 - c Defamation
 - d False imprisonment
- 11 Photos of Mr. Blue are shown to others without his consent. This is
 - a Battery
 - b Fraud
 - c Invasion of privacy
 - d Malpractice
- 12 A person asks if you are a nurse. You answer "yes." This is
 - a Negligence
 - b Fraud
 - c Libel
 - d Slander
- 13 Informed consent is when the person
 - a Fully understands all aspects of his or her treatment
 - b Signs a consent form
 - c Is admitted to the agency
 - d Decides how to distribute property after his or her death
- 14 Who is at risk for being wounded, attacked, or damaged?
 - a Children
 - b Older adults
 - c Persons with disabilities
 - d All patients and residents
- 15 Self-neglect is when
 - a A caregiver harms a person
 - b The person's behaviors put him or her at risk for harm
 - c A person is deprived of food, clothing, hygiene, and shelter
 - d The person does not receive attention or affection
- 16 You scold an older person for not eating lunch. This is
 - a Physical abuse
 - b Neglect
 - c Emotional abuse
 - d Verbal abuse
- 17 You leave a home care patient before the next caregiver arrives. This is abuse by
 - a Abandonment
 - b Neglect
 - c Involuntary seclusion
 - d Financial exploitation
- 18 Which is *not* a sign of elder abuse?
 - a Stiff joints and joint pain
 - b Old and new bruises
 - c Poor personal hygiene
 - d Frequent injuries
- 19 A child is deprived of food, clothing, and shelter. This is
 - a Physical abuse
 - b Neglect
 - c Abandonment
 - d Emotional abuse

Continued

REVIEW QUESTIONS — cont'd

- 20** A child has a black eye, bruises on her face, and bite marks on her arms. These are signs of
- a Physical abuse
 - b Sexual abuse
 - c Neglect
 - d Substance abuse
- 21** A child is dirty and has a body odor. These are signs of
- a Physical abuse
 - b Sexual abuse
 - c Neglect
 - d Substance abuse
- 22** You find blood stains on a child's underpants. This is a sign of
- a Physical abuse
 - b Sexual abuse
 - c Neglect
 - d Substance abuse
- 23** These statements are about domestic abuse. Which is *true*?
- a It always involves physical harm.
 - b It always involves violence.
 - c One partner has control over the other partner.
 - d Only one type of abuse is usually present.
- 24** You suspect a person was abused. What should you do?
- a Tell the family.
 - b Call the police.
 - c Tell the nurse.
 - d Ask the person about the abuse.

Answers to these questions are on p. 779.