CHAPTER 6

Legal and Ethical Guidelines for Safe Practice

Ethical Concepts

• Ethics: The study of philosophical beliefs about what is considered right or wrong in a society
• Bioethics: Used in relation to ethical dilemmas surrounding health care
• Ethical dilemma: Conflict between two or more courses of action, each with favorable and unfavorable consequences

Five Principles of Bioethics

• Beneficence: The duty to promote good
• Autonomy: Respecting the rights of others to make their own decisions
• Justice: Distribute resources or care equally
• Fidelity (nonmaleficence): Maintaining loyalty and commitment; doing no wrong to a patient
• Veracity: One’s duty to always communicate truthfully

Civil Rights of Persons with Mental Illness

• Guaranteed same rights afforded to all under federal and state laws
• Right to vote
• Right to enter contracts
• Right to press charges
• Right to humane care and treatment
• Right to religious freedom
• Right to social interaction
• Right to exercise and participate in recreation

Due Process in Involuntary Commitment

• Writ of habeas corpus
• Least restrictive alternative doctrine

Admission Types

• Voluntary admission
• Involuntary admission
• Long-term involuntary admission
• Medical certification
• Judicial review
• Administrative action
Justification for Involuntary Hospital Admission

- Clear risk of patient danger to self
- Danger to others
- Gravely disabled

Discharge Procedures

- Conditional release
- Unconditional release
- Release against medical advice (AMA)

Patients’ Rights Under the Law

- Right to treatment
- Right to informed consent
- Right to refuse treatment
  - Riese hearing

Which individual with mental illness may need involuntary hospitalization?

a. A person with alcoholism who has been sober for 6 months but begins drinking again and gets 3 DUIs
b. An individual with schizophrenia who stops taking prescribed antipsychotic drugs, becomes homeless and begins to hear voices
c. An individual with bipolar disorder, manic phase, who has not eaten in 4 days
d. Someone who repeatedly phones the white house, insists on talking to the president because the CIA is following him

Case Study

Dean, a 27-year-old male is court committed by his parents to your unit with a diagnosis of paranoid schizophrenia. He lashes out at staff when they attempt to give him his medications. He states, “You are trying to poison me.” His family asks if you can “force” him to take his medications.

- How would you respond to this family?

Audience Response Questions

Dean continues to argue with staff. He is not aggressive, but refuses all treatment. Legal and clients’ rights are suspended when a client is hospitalized involuntarily.

A. True
B. False
C. Depends on the state
D. Depends on the physician assessment
Patients' Rights Under the Law (Cont.)

• Rights surrounding involuntary commitment and psychiatric advance directives
• Rights regarding restraint and seclusion

Patient Confidentiality

• Legal considerations
  • Health Insurance Portability and Accountability Act (HIPAA)
  • Confidentiality after death
  • Confidentiality of professional communications
  • Confidentiality and human immunodeficiency virus (HIV) status

Patient Confidentiality (Cont.)

• Exceptions to the rule
  • Duty to warn and protect third parties
    • Tarasoff vs. Regents of University of California
    • Child and elder abuse reporting statutes

Medical Records

• Used by the facility for quality improvement
• Used as evidence
• Electronic documentation

Audience Response Questions

A client plans to have electroconvulsive therapy (ECT). Which member of the team is responsible for obtaining the client's informed consent?

A. Physician
B. Psychologist
C. Case manager
D. Registered nurse

Audience Response Questions

A nurse was the case manager for a client with serious mental illness for 6 years. The client died by suicide 1 week ago. Today, the client’s spouse asks, “I always wondered if my spouse was a victim of sexual abuse in childhood. What can you tell me about that?” Can the nurse disclose information to the surviving spouse?

A. Yes
B. No
C. Not sure