

Legal and Ethical Issues in School Health Services

School Health Interdisciplinary
Program Conference
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Presenters

- Ann Mech, JD, RN

Coordinator, Legal Affairs, University of Maryland School of Nursing

- Alicia Mezu, MSN/Ed, BSN, BS, RN

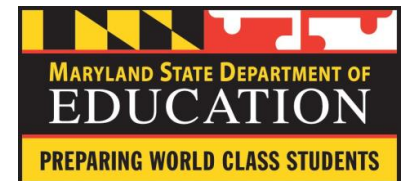
Lead Health Services Specialist

Maryland State Department of Education

- Barbara Obst, MS, RN

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Session Objectives

- By the end of the session, participants will be able to:
 - Identify three current issues and trends in school health services (SHS)
 - Apply provisions of FERPA and HIPAA pertaining to school health services;
 - Distinguish mandates related to SHS on federal, state, and local levels; and
 - Identify ethical decision making strategies for school nurses.

Meeting Norms

- Meeting participants and leaders commit to:
 - Treat everyone with respect.
 - Not interrupt each other.
 - Express ourselves completely and concisely.
 - Engage each other's thoughts, ideas and opinions.
 - Stay focused on the topic under discussion.
 - Start and end session on time.

Welcome and Energizer Activity

- Who is in the room?



- Write or think of one to two burning questions you hope will be answered during this session.

Laws Impacting School Health Services

Presenter: Ann Mech, JD, RN

Coordinator, Legal Affairs

University of Maryland School of Nursing

Sources of Law

- US and State Constitutions
- Federal, State, County and City Statutes
- Federal, State, County and City Regulations
- Attorney General Opinions
- Case law

United States Constitution

14th Amendment

- All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Civil Proceedings

- Disputes between two or more parties
- Legal action brought by one or more of the parties
- Judgments based on case law, precedent
- Judgments focus on monetary awards to one or more of the parties or injunctions against one or more of the parties

Criminal Proceedings

- Harm is against the people within a political jurisdiction
- Legal action brought by the government representing the people
- Based on statutory violations, although case law and precedent can be used to interpret the statute
- Judgments result in fines paid to the government or imprisonment or both

Administrative Proceedings

- Occur in the agencies in the executive branch of government
- Administrative procedures for handling cases are codified in statutes enacted by the legislative branch
- Rulings can result in administrative orders and in some cases fines and/or suspension or revocation of privileges
- Rulings can be appealed to courts in the judicial branch of government

Examples of Federal Law

- Family Educational Rights and Privacy Act (FERPA)
- Health Insurance Portability and Accountability Act (HIPAA)
- Occupational Safety and Health Act (OSHA)
- Clinical Laboratory Improvement Amendments (CLIA)

Examples of Federal Law

- Americans with Disabilities Act (ADA)
- Individuals with Disabilities Education Act (IDEA)
- Elementary and Secondary Education Act (ESEA)
- Every Student Succeeds Act (ESSA)
- Title IX

Examples of State Law

- Health professions licensure and certification
- Consent to treat – minors rights
- Child abuse reporting
- Communicable disease reporting
- Education mandates
- Immunization requirements
- Medical record confidentiality

Nursing Practice

- Licensure
- Scope of Practice
- Standards of Care and Practice
- Delegation

Nurse Practice Act

- Title 8, Health Occupations Article, Annotated Code of Maryland
- Defines scope of practice of Registered Nurses and Licensed Practical Nurses
- Establishes criteria for licensure as a Registered Nurse or Licensed Practical Nurse
- Establishes criteria for licensure as an Advance Practice Nurse (nurse practitioner, nurse anesthetist, nurse midwife, nurse psychotherapist, clinical nurse specialist)

Code of Maryland Regulations (COMAR)

- RN Standards of Practice
 - COMAR 10.27.09
- LPN Standards of Practice
 - COMAR 10.27.10
- Delegation of Nursing Functions
 - COMAR 10.27.11
- Code of Ethics
 - COMAR 10.27.19

RN Standards of Practice

- Include both standards for client care and standards of professional performance
- RN is responsible for client assessment, analysis and nursing diagnosis
- RN is responsible for identifying expected outcomes individualized to the client

RN Standards of Practice

- RN is responsible for planning, implementing and evaluating the care of the client
- RN is responsible for systematically evaluating the quality and effectiveness of nursing practice in the aggregate

LPN Standards of Practice

- The LPN functions as a part of the nursing team:
 - Under the leadership of the RN who is the team leader
 - Participates in providing care for the client
 - Provides care for the client to the fullest extent allowed by the LPN's scope of practice

LPN Standards of Practice

- Contributing to the nursing management and supervision of the certified nursing assistant (CNA)
- Participates in evaluating the quality and effectiveness of nursing practice

Delegation of Nursing Functions

- The nurse may delegate the responsibility to perform a nursing task to an unlicensed individual, a certified nursing assistant, or a medication technician. The delegating nurse retains the accountability for the nursing task
- A nursing task delegated by the nurse may not require the unlicensed individual, certified nursing assistant, or medication technician to exercise nursing judgment or intervention except in an emergency situation

Delegation of Nursing Functions

- A nursing task delegated by the nurse shall be:
 - Within the area of responsibility of the nurse delegating the act
 - In the judgment of the nurse, can be properly and safely performed by the unlicensed individual, certified nursing assistant, or medication technician without jeopardizing the client welfare
 - A task that a reasonable and prudent nurse would find is within the scope of sound nursing judgment.

Delegation of Nursing Functions

- The registered nurse shall assume the role of case manager in delegating nursing tasks, including the administration of medications, in situations where the nurse has thoroughly assessed and documented that:
 - The client's health care needs are chronic, stable, uncomplicated, routine, and predictable

Delegation of Nursing Functions

- The environment is conducive to the delegation of nursing tasks
- The client is unable to perform his or her own care
- The degree of supervision needed can be provided by the registered nurse and is based upon:
 - The nature of the task being delegated
 - The training of the individual to whom the task is being delegated

Medication Administration

- A nurse may delegate to a medication technician or certified medicine aide under this section when:
 - The nurse has provided instruction and direction
 - The medication technician or certified medicine aide is on site to:
 - Take steps required to monitor the therapeutic effects of the medication
 - Observe, record, and report untoward effects of the medication and changes in the individual client's behavior and clinical status

Medication Administration

- The medication technician or certified medicine aide is on site to:
 - Take steps required to monitor the therapeutic effects of the medication
 - Observe, record, and report untoward effects of the medication and changes in the individual client's behavior and clinical status
 - Record and report the changes observed to the delegating nurse
 - Withhold administration of the medication.

Code of Ethics

- A nurse shall:
 - Provide services with respect for human dignity and the uniqueness of a client unrestricted by consideration of social or economic status, religious affiliation, personal attributes, or the nature of health problems
 - Safeguard a client's right to privacy by maintaining confidentiality of information
 - Act to safeguard a client and the public if health care and safety are affected by the incompetent, unethical, or illegal practice of any person
 - Promptly report a breach of confidentiality or privacy
 - Assume responsibility and accountability for individual nursing judgments and actions
 - Maintain competence in nursing

Code of Ethics (continued....)

- A nurse shall:
 - Exercise informed judgment and use individual competence and qualifications as criteria in seeking consultation, accepting responsibilities, and delegating nursing activities to others
 - Inform the Board regarding unethical conduct by another licensed nurse
 - Promptly report a breach of confidentiality or privacy
 - Assume responsibility and accountability for individual nursing judgments and actions
 - Maintain competence in nursing
 - Exercise informed judgment and use individual competence and qualifications as criteria in seeking consultation, accepting responsibilities, and delegating nursing activities to others
 - Inform the Board regarding unethical conduct by another licensed nurse

School Health Services: Maryland Mandates

Maryland State Department of Education

Presenter: Alicia Mezu, MSN/Ed, BSN, BS, RN
Lead Health Services Specialist

Maryland

School Health Services Mandates

- Statutes (Laws, Mandates)
 - Health – Immunizations, Licensure of Health Professionals, Certification of Health Care Paraprofessionals, Minors Rights
- Regulations
 - Code of Maryland Regulations (COMAR)
 - School Health Services Standards
 - COMAR 13A.05.05.05 - .15
 - Immunization Requirements
 - COMAR 10.06.04.01- .10

School Health Services in Maryland

- Other Relevant State Mandates related to School Health Services and School Nursing Practice
 - Delegation in the School Health Setting

Models/Tools for Making Ethical Decisions in School Nursing Practice

- Nursing Process
 - Five step process, scientific method
 - Used to ensure the quality of patient care
- Nursing Knowledge, Judgement, and Skills
 - Assists the practicing nurse in organizing, understanding, and analyzing patient data
- Frameworks and Nursing Theory

NASN Framework for 21st Century School Nursing Practice

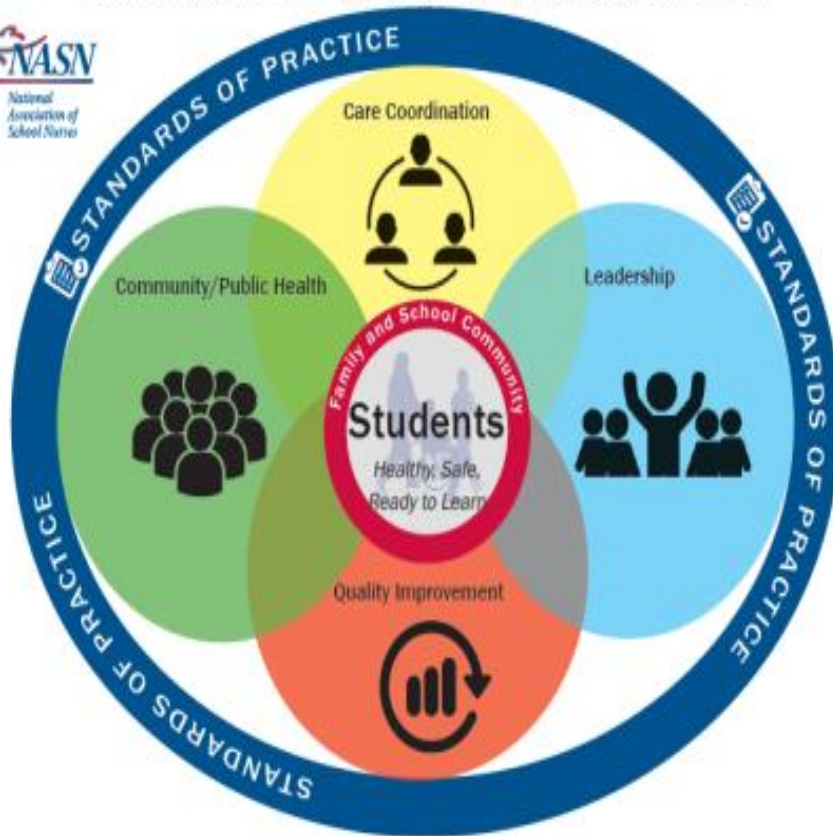
- Need for the Framework
 - Lack of theory or standard of school nursing
 - More evidence is available
 - Increased focus on prevention
 - Increased numbers of medically fragile, complex students attending schools

Assumptions for Using the NASN Framework

- The NASN Framework assumptions:
 - Advances well-being, academic success, and life-long achievement
 - Assists the profession of nursing to change to meet the current needs
 - School Nurses are the leaders in school health
 - Uses the nursing process for critical thinking
 - Focuses on the “school community”
 - Rooted in public health
 - Grounded in integrity, accountability, and **responsibility for ethical practice**

Practicing Student-Centered Nursing Care

Framework for 21st Century School Nursing Practice™



WHOLE SCHOOL, WHOLE COMMUNITY, WHOLE CHILD
A collaborative approach to learning and health



Using the Framework in School Nursing Practice

- Enhance evidence-based practice in daily work
- When speaking to administrators, policy makers, and teachers
- Develop job descriptions
- Develop end of the year job evaluations and job descriptions
- Provide as a resource to student nurses
- Find balance in your work
- Identify areas for professional development

Resources for School Nurses

- State

- Maryland School Health Services website at www.mdschoolhealthservices.org
- Maryland Board of Nursing website at www.mbon.maryland.gov
- Maryland Department of Health at www.health.maryland.gov

Resources for School Nurses

- Other School Nurse Resources
 - Maryland Association of School Health Nurses (MASHN)
 - National Association of School Nurses (NASN)
 - Centers for Disease Control and Prevention
 - www.cdc.gov/healthyschools - Healthy Schools
 - www.cdc.gov/healthyyouth - Adolescent and School Health

Ethical Decision Making and the School Nurse

Presenter's Name, Barbara Obst R.N.,M.S.



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What is Ethics

Mosby's Medical Dictionary describes ethics as: the values or moral principles governing relationships between the nurse and patient, the patient's family, other members of the health professions, and the general public.

Mosby's Medical Dictionary, 9th edition. © 2009,
Elsevier



Code of Ethics

- Provides a guiding philosophy
- Sets boundaries and expectations regarding professional behavior
- Is a framework for decision making



Code of Ethics for School Nurses

- National Association of School Nurses(NASN) Code of Ethics
- Nightingale Pledge
- American Nurses Association (ANA) Code of Ethics 2015



Challenges of being a School Nurse

- According to NASN school nurses straddle two statutory and regulatory frameworks, health and education.
- School nurses need to have the skills to communicate within both arenas, but also require the knowledge and skills to interpret applicable laws, regulations and professional standards, as well as apply ethical theories and principles. (ANA&NASN,2011)



Understanding Ethical Principles

- Respect and Autonomy
- Beneficence
- Justice
- Veracity
- Fidelity



Questions To Ask When Making a Ethical Decision

- What is bothering you about the situation?
- Are there conflicting moral issues and obligations?
- What else might you need to know?
- What ethical justifiable options exist?
- What should you do?



IDEA Model

Ethical Decision Making

Remember these key steps when you have an ethical dilemma.

I D E A

Information gathering and **Describe** situation

- a) gather information/facts on the case
- b) describe the different emotions
- c) identify ethical issues

Explore options and analyze

- d) explore options and consider their strengths and weaknesses

Act on your decisions and **evaluate**

- e) develop an action plan
- f) evaluate the plan
- g) self-evaluate your decision

Remember

- document the actual plan in the chart
- seek help if necessary and consult with the person you report to



Ethical Case Studies

- **SHS Administrators – Ethical Case Studies**
- **School Nurses – Ethical Case Studies**
- **Nonpublic School Nurses – Ethical Case Studies**



Information

[July 2017 Article from NASN School Nurse](http://journals.sagepub.com/doi/pdf/10.1177/1942602X17709320)

<http://journals.sagepub.com/doi/pdf/10.1177/1942602X17709320>

This article is a great article to see the process that we discussed in this presentation.

This was the fourth part of a series of this article but the summarization of this article showed how the 21st framework, as well as all the information that was discussed during the presentation.

If you want other resources regarding nursing ethics related to school health please contact obst@kennedykrieger.org

Our website for school nurses that need information regarding medical conditions, and equipment please google SHNIC and scroll down to school nurses.

Thank you.



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Questions?

Thank you!