

BOOK REVIEW

Essentials of Nursing Law and Ethics

Susan J. Westrick, JD, MS, RN, CNE, and Katherine Dempski, JD, BSN, RN

Sudbury, MA: Jones and Bartlett Publishers, 2009, 368pp., \$79.95 (softcover)

As a basic book about law and ethics for undergraduate nursing students and practicing nurses, this 319-page book by two excellent nurse attorney scholars exceeded my expectations. In addition to providing up-to-date, evidence-based legal and ethical information for these audiences, the authors provide practical recommendations for anticipating and resolving legal and ethical dilemmas and study questions with detailed, well-analyzed answers. The writing is clear, succinct, and packed with details about living and breathing situations faced by nurses across legal and ethical horizons. To write so concisely and clearly about the ever-changing legal and ethical landscape is a feat attempted by few, particularly with the blending of ethical issues within the legal narrative.

Using extensive legal research, the authors provide evidence for legal information they present by including details from case law, statutory enactments, and executive agency decisions that directly affect nursing practice. They also reference social science research to support their positions. For example, they discuss research by Chevette, Erbin-Rosemann, and Kelly (2007) that found no correlation between prior criminal convictions of a nurse and discipline by licensing boards. In addition, Westrick and Dempski incorporate standards expected of nurses that are articulated by professional organizations such as the American Nurses Association (ANA) and nursing specialty organizations as well as hospital and accreditation organizations such as The Joint Commission on Accreditation of Healthcare Organizations. They demystify legal language by defining terms such as *constructive discharge* and, as a result, they open the door to better understanding of the legal system.

Each chapter begins with a diagram that sets the stage for topics to be addressed. Some of these diagrams include definitions; some depict decision-making trees and other topical summaries. One example of a well-constructed diagram appears in Chapter 3 entitled "Nurses in Legal Actions." The diagram depicts both the grounds for disciplinary action by a licensure board and the disciplinary process from the time the complaint against the nurse is filed to the final action the nurse takes to either appeal or accept the board's decision. Small editorial matters such as the lack of diagram numbers at the bottom of the first diagram in each chapter and inconsistency between the ways the case citation dates appeared in the chapter narratives, did not detract from the high quality of the information and formatting of the book.

From a legal vantage point, nurses may not draw proper distinctions that are helpful in resolving their most frequent question, "How do I stay out of legal trouble?" Thus, the authors make clear the important distinctions such as in Chapter 5, "Defenses to Negligence and Malpractice," between malpractice insurance policies and those carried by the nurse. Without this distinction, nurses assume that if the employer's policy covers their work during employment, it covers them completely, even for volunteer work as a nurse, which it does not.

The authors point out that courts must balance competing interests among parties in dispute. For instance, in Chapter 8, "Professional Liability Insurance," the rights and corresponding duties of the insured nurse are identified. And, in Chapter 38, "Employees with AIDS/HIV Infection and Exposure to Bloodborne Pathogens," the authors describe both the rights and duties of the HIV-infected nurse. They expand on the

rights/duty analysis in Chapter 44, "Reporting Illegal, Unethical, or Unsafe Conduct," when they add the dimension of consequences. If the nurse reports illegal actions by a colleague that demonstrates the exercise of both the nurse's rights and responsibilities, the nurse will also have to live with the potential consequences of the report, such as a suit for slander or libel.

The authors also add a useful analysis of a major way that law and ethics are connected: by attention paid to patients' rights in hospital policies. Whereas law and ethics share some areas of concern, they are clearly different in some areas as well: the primary one being the difference between legal forums where decisions are made and enforced and ethics forums that make recommendations to involved parties but lack formal authority, or "teeth," to force action. The authors blend ethical and legal insights into their analyses when it is critical to do so; for instance, in their discussion of conscientious objection to an assigned work task.

The authors handle both broad topics such as nursing malpractice and specific ones that are sometimes highly sensitive such as abortion and assisted suicide, objectively and adroitly. Because many nurses, including nursing faculty, are unfamiliar with the sources of primary legal authority or where to find them, the authors provide a brief overview of the legal research method used by nurse attorney scholars at the end of the book.

Finally, this well-constructed text attends to topics that are most relevant to nurses and provides helpful, but not prescriptive suggestions based on best practices. Instead of being a cookbook, the book offers recommendations for nurses' actions such as how to delegate properly to unlicensed assistive personnel and what to do when a patient refuses treatment. The authors are careful to issue caveats throughout the book about state-by-state variations in law. This text is a perfect addition to the resources nurses can turn to quickly to identify areas of legal and ethical concerns. Afterwards, they can develop their own action plans relying on legal and ethical expertise in their states. For scholars of nursing law, this book raises the bar on what is expected by incorporating ethical and legal analyses into the text rather than sidebar items of interest.

REFERENCE

- Chevette, A., Erbin-Rosemann, M., & Kelly, C. (2007). Nursing licensure: An examination of the relationship between criminal conviction and licensure. *Journal of Nursing Law*, *11*(1), 5-11.

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