

# Example of report on nursing: ha-353 legal aspects healthcare administration

[Law](#), [Criminal Justice](#)



## **Other Current and Emerging Issues in Health Care**

Lesson4: 1-Decision-Making Concerning Individuals: Consent

Lesson 4: 2- Decision-Making Concerning Individuals: Reproductive and End-of-Life Issues

Lesson 4: 3 -The Impact of Globalization & Emerging Technology

Abstract

This document contains three essays pertaining to the lesson entitled ' Other Current and Emerging Issues in Health Care' outlining three subject areas.

Lesson4: 1 relates Decision-Making Concerning Individuals: Consent; Lesson 4: 2- Decision-Making Concerning Individuals: Reproductive and End-of-Life Issues and Lesson 4: 3 -The Impact of Globalization & Emerging Technology.

Lesson4: 1-Decision-Making Concerning Individuals: Consent

Question 1:- Case Study, Mrs. Mary Smith.

### **Step 1: Facts**

- She was admitted to Jones Memorial Hospital
- Initially her injuries did not seem severe.
- She remained in observation for more than one day
- Upon admission she appeared to have been in a stupor with impaired reactions
- Approximately six hours after admission she became alert and hostile
- Also she demanded to have her clothing returned
- Subsequently she demanded leaving the hospital by way of a taxi

## **Step 2:- legal issues**

- Patient demands leaving hospital without being discharged
- Nursing staff on duty suspects patient was using illegal drugs
- This suspicion must be confirmed by a drug test, which has to be ordered by the attending physician.
- Patient becomes hostile, but she cannot be detained against her will in a hospital even though she may be displaying harmful behavior.
- Also she cannot be forced to take any medication against her consent.

## **Step 3: elaboration of legal issues**

There are two important legal issues involved in this scenario. First Mrs. Smith is insisting on leaving the hospital by way of a taxi. In preparation she is asking that all of her clothes be brought to her. She is within her right to refuse remaining in hospital. Also no health care professional can deprive her of her belongings, especially, her clothing. However, if she insists on leaving she has to either be discharged or sign her own discharge papers refusing medical attention to clear the health care institution of any liability.

In relation to being transported by a taxi another legal issue surfaces. Many hospitals do not provide patients with transportation after discharge once he/she is capable of conducting this aspect of the procedure. Legally it has not yet been rendered capable even though awaking out of her stupor.

Doctors discharging Mrs. Smith must render her safe to leave the institution without a relative or notifying her case manager if she was assigned one during her hospitalization.

The other legal concern is the substance abuse suspicion. The only way to

verify this for the most appropriate intervention is to have a drug test taken. Again she must give consent for it to be done. According to the study notes in the United States of America individual rights is a significant aspect of patient care intervention (Study Notes Lesson 4: 1, 2013).

Importantly, Informed consent is an example of respecting Mrs. Smiths' rights to receiving appropriate attention. Precisely, it embraces a legal concept whereby a patient has the right to know the potential risks, benefits, and alternatives of a proposed procedure prior to undergoing a particular course of treatment. Informed consent implies that a patient understands a particular treatment, including the risks, benefits, and alternatives; is capable of making a decision; and gives consent voluntarily (Study Notes: Lesson 4: 1, 2013).

#### **Step 4:- Answers to questions**

- No mention was made of informed consent, which suggests that the hospital policy does not uphold this right. If signing an informed consent was a routine procedure mention would have been made very early in the case study as a routine procedure.
- No mention was made of any time of informed consent, which suggests that the hospital policy does not uphold this right even the administration may know about it. If signing an informed consent was a routine procedure mention would have been made very early in the case study as a routine procedure.
- The hospital should inform Mrs. Smith to have a closest relative be at there to witness whatever consent to treatment she is giving health care providers

the right to perform since she may even deny being Mrs. Smith or ever being hospitalized. At the same time have her give consent to her treatment.

- A possible liability would be treating a patient without consent.

## **Question 2: exceptions to informed consent**

Three exceptions for which informed consent legal requirement can be superseded is first if the patient is incapable of understanding showing signs of intelligence incompetence through violent disruptive behavior, which could be considered an emergency; secondly as a therapeutic privilege to prevent the patient from harming others and self in the environment. Thirdly, the institution can turn to the court and a waiver is issued withholding patient's consent fro treatment if the patient is incapable of giving such consent as if in a coma or illiterate (Study Notes; Lesson 4: 1, 2013).

## **Lesson 4: 2- Decision-Making Concerning Individuals:**

Reproductive and End-of-Life Issues

Question 1:- Case Study surrogate mother.

According to Carla Spivack (2010) there are many controversies regarding The Law of Surrogate Motherhood in the United States since provisions vary from State to State. However, standard procedures encompass the fact that no single statutory regime has been accepted nationally. Consequently, the courts most often are relied upon to settle disputes regarding parenthood emerging from contracts parties have engaged in to make the process legal. Precisely, a wide range of theories are employed by the court in arriving at a balanced decision in the best interest of the child. Critics of the legal system contend that even though the parties are led to believe that these

mitigations are held in the best interest of the child/children emerging from the process issues related to genetics which often surface may be irrelevant in proving parenthood since the social and economic factors may be bypassed (Spivack, 2010)

Two types of surrogacy are practiced in United States of America. They are full and partial surrogacy. This is the decision that Susan, Bob, and Myrtle have to make among themselves. In both cases the technology of in vitro fertilization, is applied. Partial surrogacy involves the implantation of the surrogate with the sperm of the biological father, but uses the surrogate's eggs to form the pregnancy. Arguments advanced by critics of the first model are that because the surrogate's eggs are used a biological connection between surrogate and child is established. In such a case the surrogate legally claim to the child since the pregnancy was produced by her eggs (Spivack, 2010).

In this second model the surrogate simply carries the fertilized ovum in her uterus, but has nothing to do with the formation of the pregnancy. The ovum contains of the prospective father's sperm and the mothers' egg. Thereafter the surrogacy is considered full because the surrogate mother has been freed of all biological attachments to the fetus while carrying it in her uterus (Spivack, 2010).

Modern surrogacy practices now adapt the full surrogacy model which legally is considered more justifiable and less difficult to predict biological parents in cases of disputes after birth of the infant. Modern fertility clinics are more likely to advocate his model to their clients. The attending physician/obstetrician may further advise Susan, Bob, and Myrtle. Even

though they are family a contract must be signed in order to know who keeps the child after delivery. The family may have to make further arrangements since the mother (Susan) has a life threatening heart condition and may not be quite capable of raising the child by herself. However, since it is a family affair it may not be such a difficult decision to make because both Bob and Myrtle can support Susan though this experience. They may need a counselor to intervene in helping them make these decisions as well as a Lawyer, who is well acquainted with these cases (Spivack, 2010).

In the meantime many controversies surround the legitimacy of surrogacy since law makers believe that fertility clinics are using it to make huge sums of money. According to state laws it is not considered adoption. When it is then it is illegal to take money for adoption. Consequently, some states have banned surrogacy to the extent of making it a crime. Persons caught engaging in such practices could be fined or jailed. One such state is Arizona (Spivack, 2010). One aspect of this case study that was not clear pertained to Susan's sterilization. Was it a suggestion and intervention of the healthcare provider, solely? No mention of consulting with her husband, Bob before the surgery neither Susan signing an informed consent could be clearly identified. This could a legal issue as well.

## **Question 2: Case study Gayle S., age 14**

Step 1: Identify the facts

- Gayle S., age 14, was admitted to the Pediatric Wing of Giant Medical Center

- She is scheduled to have treatment for widespread metastatic sarcoma
- At age 9, she was diagnosed with sarcoma of mixed cell type
- Further she had surgical below the right knee amputation
- sarcoma was only minimally responsive to radiation therapy and chemotherapy
- However, 12 months after radiation a lung mass was discovered
- She has been having numerous radiation and chemotherapy during hospitalization
- During this time she also participated in rigorous clinical trials
- The tumor showed very little signs of reduction
- Subsequently providers suggested palliative treatment
- The patient requests palliative care and does not want any more chemotherapy since she concede to dying
- Her parents, however, insist on having curative intervention
- Her father has become very abusive to nursing staff
- He refuses to have nurses give his daughter any pain medication besides Tylenol
- He believes that he are practicing assisted suicide
- Gayle is in constant pain and begins to ask providers to help her die

## **Step 2: Identify legal issues**

- It would appear that Gayle is being treated without her consent
- No mention was made of her signing informed consent neither her parents being asked to do so as the controversy surrounding her case escalates
- The right to die then becomes a legal issue. In this case it is a minor who



does not have much say in the process. Her parents are very vocal in this regard becoming abusive to nursing staff in their suspicion of their attempts at mercy killing without prior consent.

- This is a serious legal issue for which the health care Institution is likely to be liable if proper consent was not obtained prior to these interventions

### **Step 3: Elaboration of legal issue**

The two major legal issues here are continuance of palliative care and the right to die. Also of some concern is the extent of palliative care. The minor is requesting to die, but parents are not yet ready to let go. According to the study notes it is a very difficult decision for relatives to make. Actually, even under the precedent of case law, obligations or scope of decision making is not clear, given that the matter of consent to life or death has highly personal and private meanings for the individual and for all those who may see themselves as affected in one way or another by decisions or potential outcomes (Study notes: Lesson 4: 2, 2013)

As such, it is not considered uncommon for family members to disagree on the care of a loved one, as in the case of Gayle's parents and when that loved one is in a PVS situation, the disagreements over care (or sadly, over inheritance or other material matters) may surface to create uncomfortable, hostile, or even litigious situations regarding the actions of the health care provider (Study notes: Lesson 4: 2, 2013).

### **Step 4: Questions**

- Based on my knowledge of legal doctrine as covered in this course so far, pediatric patients do have " the right to die" or to refuse life-sustaining

treatment, even against the wishes of their parents? The British courts highlights the case of 13 year old Hanna Jones who refused a heart transplant and her wishes were upheld by the court in a traditional legal system be barring minors from making intelligent decisions (Hickey, 2007).

- Yes it would. There is a law whereby due to religious and cultural beliefs a doctors' decision can be overruled.

- If i were Giant Medical Center's CEO, I would override the wishes of Gayle's parents. Yes I would because she is in intense pain and would die anyway. Years of treatment failed and it is just fair that she dies pain free and unburdened.

- The role hospital's Ethics Committee and Social Services Department can play in this scenario is to have the family priest visit and offer prayers for the dying girl as well as some consolation to the grieving parents.

Lesson 4: 3 -The Impact of Globalization & Emerging Technology

### **Question 1: CNN travel: Medical tourism: A global stampede for affordable care written by Pam Grout on March 22nd, 2013.**

The writer begins the article by saying that as health costs skyrocket; Western travelers are getting comfortable with " foreign doctors" and much cheaper procedures. Health costs were in reference to the American health care system. The article was accompanied by a photograph with the caption Secret Surgery's group tour to Poland included some surgical procedures. Further highlights of the article pertained towards facts stating that Medical tourism is booming giving thanks to the massive savings derived if clients are willing to trust in foreign doctors (Grout, 2013).

In India, for example angioplasties are done for about US\$11, 000, which is one-ninth the present rate in the United States of America. Another benefit advertised was a facelift intervention which costs about US\$12, 000 in the United Kingdom is available for as low as US\$1, 800 in Brazil.

These are the benefits medical tourists are increasingly discovering, a result of the growing awareness that no one country has a monopoly on health care and that cheap doesn't necessarily mean poor quality (Grout, 2013).

Precise reports are that “ Medical tourism has grown significantly in the last 10 to 15 years, especially in the developing world,” says Harvard law professor Glenn Cohen, author of “ Patients with Passports: Medical Tourism, Law, and Ethics” and “ The Globalization of Health CareThe revenues generated by this trade are staggering.” (Grout, 2013, p1). According to the World Travel & Tourism Council (WTTC), medical tourism contributed 9 percent of global GDP (more than US\$6 trillion) and accounted for 255 million jobs in 2011. Now, even small countries such as Mauritius and Jamaica want to get involved(Grout, 2013, p1).

Importantly, with addition of JAMPRO, Jamaica’s investment and promotion agency, it was discovered that the average medical tourist spends US\$5, 000, which accounts for double the amount of a vacationing tourist.

Subsequently, a commission was established to investigate the building of offshore medical facilities and recruitment of U. S. doctors for month-long stints (Grout, 2013, p1).

So far they have been no adverse reports in terms of legal implications.

Perhaps once there is informed consent there are no legal implications once doctors have the relevant licenses to practice overseas. Reports have been

overwhelming as the industry casts a gloomy shadow on developed nations' health care policies particularly United States of America and United Kingdom (Grout, 2013, p1). Grout (2013) highlighted as many as she could in the article which makes a great read for contemporary globalization and social change in the health care industry outside of the developed world.

## **Question 2: Case Study LVAD device**

- Technically from a legal standpoint once Mr. P was sent home with the device on self-care it was no longer the doctor's responsibility to decide whether it should remain inserted or functioning not. It meant that he is capable of regulating the function himself because it is not monitored from a machine in the hospital.
- I would allow readmission for disabling the device if that will improve the end stage quality of life.

## **References**

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Study Notes: Lesson 4: 1(2013). Decision-Making Concerning Individuals: Consent

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Study Notes; Lesson 4: 2(2013). Decision-Making Concerning Individuals:  
Reproductive and End-of-Life Issues

Study Notes: Lesson 4: 3- The Impact of Globalization & Emerging  
Technologies