

Confidentiality – nursing law assignment



CONFIDENTIALITY (Dooley & McCarthy= DM 2012) | NU4028 ETHICS

answered following layout from revision sheet A) Explain principle of confidentiality (you must also apply to case in exam question) Confidentiality places an obligation on nurses. Nurses must respect confidences that patients share Nurses must keep confident any information about patient from other parties(Mills 2002) Confidential information is defined as any private information understood not to be shared with a 3rd party(DM 2012) Confidential relationship builds trust, protects patient privacy and patient autonomy. ***Can bring in autonomy and beneficence here if appropriate Core element to all human relationships-basic to build trust, promise or bond, respect for autonomy/privacy, patient recognises own right to privacy. Importance to nursing: Patient more honest and open. Leads to better diagnosis and higher quality of care. Pt more likely to seek help&better contact with health services(especially in mental health) Therefore outcomes generally better in a respected confidential relationship. ****Doesnt fit directly into any section within revision sheet on confidentiality but good to know.

Professional and Legal Accountability in Confidentiality: Originally vident in Hippocratic Oath which stated that it was shameful to breach confidentiality. Florence Nightingale said every nurse should be capable of being a confidential nurse, no gossip or vain talker and should only answer to those who have a right to ask. IRISH Medical Council agree to above. Also that patients have a presumed right to confidentiality More contemporary codes(such as ABA) also acknowledge principle of confidentiality.

Could also bring in here about importance of confidentiality as learning outcome for placement???? Legislation: Confidentiality protected by law in both court decisions and appeals. Irish courts recognise right to privacy and confidentiality. Irish Constitution-not guaranteed by constitution but acknowledges that privacy is a fundamental right to human life due to Christian and democratic nature of state, ensures dignity and freedom of individual. European Convction on Human Rights-everyone has right to respect for private and family life, his home and his correspondence.

B)Qualifying principle of confidentiality Above legislation also stipulates that rights to privacy are excused in the interests of national security, public safety or economic wellbeing of a country. Also prevention of rime, protection of health and protection of others. Even though confidentiality principle holds an honoured place in professional codes and laws serious extenuating circumstances occasionally call for principle to be qualified in some way.

Nurses must examine codes and laws, decide course of action to best fulfil obligation as carer professional and citizen(DM 2012) Disclosure with permission: Least controversial where info shared with mdt. This information is still confidential so care needs to be taken. ABA-Info regarding patient care is communicated but nurses must still exercise professional Judgement nd responsibility(ABA 2000) Disclosure without permission: More contentious and troubling 4 circumstances-law, interests of patient, in public interest and interest of other individuals. 1.

Law Criminal investigations Legal actions-testify in court Infectious Diseases Regulations-obligation to notify public health authorities. 2. Protect Patient Patient with capacity-nurse and patient agree on best interest to disclose info may be in insurance purpose or legal actions where insanity is the defence. Where there is disagreement the nurse is torn between protecting patient from harm and maintaining trust. Evident in cases of neglect or abuse where patient is dependent on this trust. Not considered by Irish courts Patient lacking capacity-Share info with relatives in patients best interests.

Pt may be made ward of court-one committee member who makes decision. Can only make minor decision regarding care. Serious decisions made by high court. Where there is evidence that patient did not want to have info shared this must be respected(British Medical Association) Irish Medical Council-Best interests of patient Freedom of Info Act-Info made available if request made by parent or guardian of someone up to age of 18 or is a person with mental incapacity where it is in the best interests of patient. . Protect Society Similar to autonomy in that others have the right to live autonomously and safely. Pt confidentiality limited by the legitimate interests of others. This outweighs when non- disclosure threatens the wellbeing of others. Examples-nurse who finds out bus driver has epilepsy or patient with murderous intentions. 4. Protect interest of other individuals case NB here Particularly important where the individual is identifiable.

Court imposed limited duty to warn a presumed intended victim of a patients aggression(on psychotherapist) Facts of case: Poddar attending outpatient psychotherapy services Admitted violent fantasies regarding Tatiana

Tarasoff Psychiatrist found out from another student that Poddar had purchased gun Tried to have Poddar admitted to hospital but this was unsuccessful Poddar then shot Tatiana Tarasoff Parents sued Regents of University of California Defendants claimed could not warn her as this would breach confidentiality Case dismissed but appealed several times Outcome- once a therapist determines a serious threat to an identifiable person he bears duty to exercise reasonable care to protect Warn victim or tell someone who ill Notify police Initiate steps reasonably necessary under circumstances to protect Interpretation by Disclosure must be Justifiable Protection from death or serious harm Get consent if possible Think if patient kept anonymous will it give same result?

Disclose info to appropriate person or body that understands it must be then kept confidential Minimal info Once disclosed inform patient of this C)Duty to warn Law and Professional Regulations clearly stipulate that there is duty to warn those at risk but uncertain whom, when, how, why and what. Who? - person must be identifiable. Risk must be serious danger. MC state must be to appropriate person who understand info is confidential. When? Why? How? -Urgent circumstances to prevent injury or other damage(Data Protection Action 1988). Serious risk of death or serious harm(IMC) What? -Minimalist principle which is only tell a relevant 3rd party the minimum info that is necessary to achieve end of disclosure(DM 2012) Keep anonymity if still achieves goal(IMC) Breach of confidentiality not done lightly. Serious care and consideration first. ****Question looked at duty to warn vs duty to protect patient confidentiality.

Give reason for your answer. There are 2 examples in Dooley and McCarthy Book. If you want to say duty warn more important use the “ Married with HIV example. Talk about the minimalist principle. Tell necessary info. Mrs. Murphy is in more immediate danger than her husband. Nurse has duty to protect Mrs. Murphy even though she is not her patient. If you want to say duty of confidentiality more important use “ Living in fear with HIV example. Congo woman called Chi Chi. She is more immediate danger of death and so are her children more than husbands danger from HIV. Cultural differences between Irish nurse and Chi Chi. Read both cases and decide which more compelling.