

# Chapter 3

## The Nursing Assistant

# Chapter Overview

- To protect patients and residents from harm, you need to know:
  - What you can and cannot do
  - What is right conduct and wrong conduct
  - Rules and standards of conduct affecting your work
  - Your legal limits
- The following shape your work:
  - Laws
  - Job descriptions
  - The person's condition
  - The amount of supervision you need

# Nurse Practice Acts

- Each state has a nurse practice act. A nurse practice act:
  - Defines RN and LPN/LVN and their scope of practice
  - Describes education and licensing requirements for RNs and LPNs/LVNs
  - Protects the public from persons practicing nursing without a license
    - Persons who do not meet the state's requirements cannot perform nursing functions.

# Nursing Assistants

- A state's nurse practice act is used to decide what nursing assistants can do.
- Some practice acts regulate:
  - Nursing assistant roles
  - Functions
  - Education
  - Certification requirements

# OBRA Requirements

- The Omnibus Budget Reconciliation Act of 1987 (OBRA) is a federal law.
- Each state must have a nursing assistant training and competency evaluation program (NATCEP).
- The NATCEP must be successfully completed by nursing assistants working in:
  - Nursing centers
  - Hospital long-term care units
  - Home care agencies receiving Medicare funds

# The Training Program

- The training program
  - OBRA requires at least 75 hours of instruction provided by a nurse.
    - Sixteen hours are supervised practical training.
- Competency evaluation
  - The competency evaluation has a written test and a skills test.
- Nursing assistant registry
  - Each state must have a nursing assistant registry.
    - This is an official list of persons who have successfully completed a NATCEP.

# Certification

- After successfully completing your state's NATCEP, you have the title used in your state:
  - Certified nursing assistant (CNA) or certified nurse aide (CNA). CNA is used in most states.
  - Licensed nursing assistant (LNA).
  - Registered nurse aide (RNA).
  - State tested nurse aide (STNA).

# Maintaining Competence

- Retraining and a new competency evaluation program are required for nursing assistants who have not worked for 24 months. States can require:
  - A new competency evaluation
  - Both re-training and a new competency evaluation



# Roles and Responsibilities

- The following direct what you can do:
  - OBRA
  - State laws
  - Legal and advisory opinions
- To protect persons from harm, you must understand:
  - What you can do
  - What you cannot do
  - The legal limits of your role

# Roles and Responsibilities, cont'd.

- Licensed nurses supervise your work.
- What you are allowed to do varies among states and agencies.
- Before you perform a nursing task make sure that:
  - Your state allows nursing assistants to do so
  - It is in your job description
  - You have the necessary education and training
  - A nurse is available to answer questions and to supervise you

# Nursing Assistant Standards

- OBRA defines the basic range of functions for nursing assistants.
- All NATCEPs include those functions.
  - Some states allow other functions.

# Job Description

- The job description is a document that:
  - Describes what the agency expects you to do
  - States educational requirements
- Always obtain a written job description when you apply for a job.
  - Ask questions about it during your job interview.

# Job Description, Cont'd.

- Before accepting a job, tell the employer:
  - About functions you did not learn
  - About functions you cannot do for moral or religious reasons
- Clearly understand what is expected before taking a job. Do not take a job that requires you to:
  - Act beyond the legal limits of your role
  - Function beyond your training limits
  - Perform acts that are against your morals or religion

# Delegation

- Delegate means to authorize another person to perform a nursing task in a certain situation.
  - The person must be competent to perform that task in a given situation.
- Who can delegate?
  - RNs can delegate nursing tasks to LPNs/LVNs and nursing assistants.
    - In some states, LPNs/LVNs can delegate tasks to nursing assistants.
- Delegation decisions must protect the person's health and safety.
- Nursing assistants cannot delegate.

# Delegation Process

- The NCSBN describes four steps in the delegation process:
  - Step 1—assess and plan
  - Step 2—communication
  - Step 3—surveillance and supervision
  - Step 4—evaluation and feedback
- The NCSBN's Five Rights of Delegation are:
  - The right task
  - The right circumstances
  - The right person
  - The right directions and communication
  - The right supervision

# Your Role in Delegation

- You must protect the person from harm.
- You either agree or refuse to do a delegated task.
- When you agree to perform a task:
  - You are responsible for your own actions.
  - You must complete the task safely.
  - Report to the nurse what you did and the observations you made.



# Refusing a Task

- Sometimes refusing to follow the nurse's directions is your right and duty.
- You should refuse to perform a task when:
  - The task is beyond the legal limits of your role.
  - The task is not in your job description.
  - You were not prepared to perform the task.
  - The task could harm the person.
  - The person's condition has changed.
  - You do not know how to use the supplies or equipment.
  - Directions are not ethical or legal.
  - Directions are against agency policies or procedures.
  - Directions are not clear or not complete.
  - A nurse is not available for supervision.

# Refusing a Task, cont'd.

- Never ignore an order or a request to do something. Tell the nurse about your concerns.
- The nurse can:
  - Answer your questions.
  - Demonstrate the task.
  - Show you how to use supplies and equipment.
  - Help you as needed.
  - Observe you performing the task.
  - Check on you often.
  - Arrange for needed training.

# Ethical Aspects

- Ethics is knowledge of what is right conduct and wrong conduct.
- An ethical person behaves and acts in the right way.
- Ethical behavior involves not being prejudiced or biased.
  - To be prejudiced or biased means to make judgments and have views before knowing the facts.
- Ethical problems involve making choices.
- Codes of ethics are rules or standards of conduct.

# Boundaries

## ● Boundaries

- You enter into a helping relationship with patients, residents, and families.
  - The helping relationship has professional boundaries.
- Professional boundaries separate helpful behaviors from those that are not helpful.
- A boundary crossing is a brief act or behavior outside of the helpful zone.
- A boundary violation is an act or behavior that meets your needs, not the person's needs.
- Professional sexual misconduct is an act, behavior, or comment that is sexual in nature.

# Legal Aspects

- A law is a rule of conduct made by a government body.
  - Laws protect the public welfare.
- Criminal laws are concerned with offenses against the public and society in general.
- Civil laws deal with relationships between people.
- Torts are part of civil law.

# Torts

- Unintentional torts (harm was not intended)
  - Negligence is an unintentional wrong.
  - Malpractice is negligence by a professional person.
- Intentional torts (acts meant to be harmful)
  - Defamation is injuring a person's name or reputation by making false statements to a third person.
    - Libel and slander
- False imprisonment is the unlawful restraint or restriction of a person's freedom of movement including:
  - Threatening to restrain a person
  - Restraining a person
  - Preventing a person from leaving the agency

# Protecting Privacy

- Invasion of privacy is violating a person's right not to have his or her name, photo, or private affairs exposed or made public without giving consent.
  - The Health Insurance Portability and Accountability Act of 1996 (HIPAA) protects the privacy and security of a person's health information.
  - Failure to comply with HIPAA rules can result in fines, penalties, and criminal action including jail time.
- Fraud is saying or doing something to trick, fool, or deceive a person.
- Assault is intentionally attempting or threatening to touch a person's body without the person's consent.
- Battery is touching a person's body without his or her consent.

# Informed Consent

- Informed consent

- A person has the right to decide what will be done to his or her body and who can touch his or her body.
- The doctor is responsible for informing the person about all aspects of treatment.
- Consent is informed when the person clearly understands all aspects of treatment.
- If the person is unable to give consent, a responsible party or a legal representative gives informed consent.
- *You are never responsible for obtaining written consent.*
- Nurses often obtain written consent



# Reporting Abuse

- Abuse is the intentional mistreatment or harm of another person.
- Abuse is a crime.
- Abuse has one or more of these elements:
  - Willful infliction of injury
  - Unreasonable confinement
  - Intimidation
  - Punishment
  - Deprivation of goods or services needed for physical, mental, or psychosocial well-being

# Reporting Abuse, cont'd.

- Protection against abuse extends to persons in a coma.
- The abuser is usually a family member or caregiver.
- Both men and women are abusers.
- Both men and women are abused.

# Vulnerable Adults

- Vulnerable adults:

- Are persons 18 years old or older
- Have disabilities or conditions that make them at risk to be wounded, attacked, or damaged
- Have problems caring for or protecting themselves because of:
  - A mental, emotional, physical, or developmental disability
  - Brain damage
  - Changes from aging
- Patients and residents, regardless of age, are considered vulnerable.

# Elder Abuse

- Elder abuse is any knowing, intentional, or negligent act by a caregiver or any other person to an older adult. The act causes harm or serious risk of harm. It includes:
  - Physical abuse
  - Neglect
  - Verbal abuse
  - Involuntary seclusion
  - Financial exploitation or misappropriation
  - Emotional abuse
  - Sexual abuse
  - Abandonment

# OBRA Requirements

- OBRA requirements

- Agencies cannot employ persons who were convicted of abuse, neglect, or mistreatment.
- If abuse is suspected within the center:
  - The incident is reported at once to the administrator and other officials as required by federal and state laws.
  - All claims of abuse are thoroughly investigated.
  - The center must prevent further potential for abuse while the investigation is in progress.
  - Investigation results are reported to required officials.
  - Corrective actions are taken if the claim is found to be true.

# Child Abuse and Neglect

- All states require the reporting of suspected child abuse and neglect.
- Abuse can be in the form of physical, sexual, or emotional abuse; substance abuse; or abandonment.
- You must be alert for signs and symptoms of child abuse.
  - Report any changes in the child's body or behavior.
  - Share your concerns with the nurse.
  - Give as much detail as you can.

# Domestic Abuse

- Domestic abuse occurs in relationships.
  - One partner has power and control over the other through abuse—physical, sexual, verbal, economic, or social abuse.
  - The victim often hides the abuse.
  - He or she may protect the abuser.