

CHAPTER TWO



OBRA

OMNIBUS BUDGET RECONCILIATION ACT

- PASSED BY CONGRESS IN 1987
- ESTABLISHED MANY HEALTHCARE REGULATIONS
- CNA'S MUST ATTEND A TRAINING PROGRAM
- MUST PASS A WRITTEN COMPETENCY EVALUATION
- MUST PASS SEVERAL SKILL TESTS
- EACH STATE MUST MAINTAIN A CNA REGISTRY
- CNA'S NOT WORKING AS A CNA FOR A PERIOD OF 2 YEARS MUST BE RETRAINED
- FACILITIES MUST PROVIDE 12 HOURS OF CONTINUING EDUCATION PER YEAR TO THE CNA'S IT EMPLOYS

ROLE LIMITS FOR

- NEVER GIVE MEDICATIONS
- NEVER INSERT TUBES OR OBJECTS INTO BODY OPENINGS
DO NOT REMOVE THEM FROM THE BODY
- NEVER TAKE ORAL OR TELEPHONE ORDERS FROM DOCTORS
- NEVER PERFORM PROCEDURES THAT REQUIRE STERILE TECHNIQUE
- NEVER TELL THE PERSON OR FAMILY THE PERSON'S DIAGNOSIS OR MEDICAL OR SURGICAL TREATMENT PLAN
- NEVER DIAGNOSIS OR PRESCRIBE TREATMENTS OR DRUGS FOR ANYONE
- NEVER SUPERVISE OTHER NURSING ASSISTANTS OR OTHER STAFF
- NEVER IGNORE AN ORDER OR REQUEST TO DO SOMETHING THAT YOU CANNOT DO OR THAT IS BEYOND YOUR LEGAL LIMITS

RULES FOR NURSING ASSISTANTS

- YOU ARE AN ASSISTANT TO THE NURSE
- A NURSE ASSIGNS AND SUPERVISES YOUR WORK
- YOU REPORT INFORMATION ABOUT THE PATIENTS TO THE NURSE
- THE NURSE DECIDES WHAT SHOULD OR SHOULD NOT BE DONE FOR THE PATIENT
- REVIEW DIRECTIONS WITH THE NURSE BEFORE GIVING CARE
- PERFORM NO FUNCTION OR TASK THAT YOU ARE NOT TRAINED TO DO
- PERFORM ONLY THOSE FUNCTIONS AND TASKS THAT YOUR JOB DESCRIPTION ALLOWS

JOB DESCRIPTION

A LIST OF DUTIES AND RESPONSIBILITIES YOU WILL BE EXPECTED TO PERFORM AT YOUR 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

- ❑ RN OR LPN CAN DELEGATE TASKS TO A CNA
- ❑ RN OR LPN CAN SUPERVISE A CNA
- ❑ A CNA CAN NOT DELEGATE OR SUPERVISE

THE FIVE RIGHTS OF DELEGATION

- ❑ THE RIGHT TASK – IS THIS TASK IN YOUR JOB DESCRIPTION?
- ❑ THE RIGHT CIRCUMSTANCES – GIVEN THE PATIENT’S CONDITION- DO YOU HAVE THE EXPERIENCE TO PERFORM THIS TASK? CAN YOU PERFORM THE TASK SAFELY? DO YOU HAVE THE REQUIRED EQUIPMENT AND SUPPLIES?
- ❑ THE RIGHT PERSON – ARE YOU THE RIGHT PERSON FOR THIS TASK? DO YOU HAVE THE NECESSARY TRAINING TO COMPLETE THIS TASK?
- ❑ THE RIGHT DIRECTIONS AND COMMUNICATION – ARE THE NURSE’S DIRECTIONS CLEAR?
- ❑ THE RIGHT SUPERVISION – THE RN SHOULD ANSWER YOUR QUESTIONS ABOUT TASKS ASSIGNED TO YOU. THE RN SHOULD SHOW YOU HOW TO DO A TASK THAT YOU ARE UNFAMILIAR WITH.

THE CNA'S ROLE IN DELEGATION

ACCEPTING A TASK

- YOU MUST COMPLETE THE TASK SAFELY
- ASK FOR HELP IF NEEDED
- ASK QUESTIONS IF YOU ARE UNSURE OF DIRECTIONS
- YOU ARE RESPONSIBLE FOR YOUR ACTIONS

REFUSING A TASK

YOU SHOULD REFUSE A TASK WHEN:

- THE TASK IS BEYOND THE LEGAL LIMITS OF YOUR ROLE
- THE TASK IS NOT IN YOUR JOB DESCRIPTION
- YOU WERE NOT TRAINED 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 UNETHICAL, ILLEGAL, OR AGAINST AGENCY POLICY
- A NURSE IS NOT AVAILABLE FOR SUPERVISION

**NEVER IGNORE AN
ORDER OR REQUEST
TO DO SOMETHING**

TELL THE NURSE ABOUT YOUR CONCERNS

**YOU CAN NOT REFUSE A TASK BECAUSE YOU DO NOT
LIKE IT**

WHAT IS ETHICS?

ETHICS IS THE DISCIPLINE CONCERNED WITH WHAT IS RIGHT AND WRONG CONDUCT.

IT INVOLVES MORALS AND MAKING CHOICES OR JUDGEMENTS ABOUT WHAT SHOULD OR SHOULDN'T BE DONE.

AN ETHICAL PERSON BEHAVES AND ACTS IN THE RIGHT WAY.

ETHICS FOR NURSING ASSISTANTS

- ❑ RESPECT EACH PATIENT AS AN INDIVIDUAL
- ❑ PROTECT THE PATIENT FROM HARM
- ❑ PROTECT THE PATIENT'S PRIVACY
- ❑ BE HONEST AND TRUSTWORTHY
- ❑ AVOID SPREADING GOSSIP
- ❑ BE AWARE OF THE LIMITS OF YOUR ROLE
- ❑ PERFORM YOUR JOB TO THE BEST OF YOUR ABILITY

ETHICS FOR NURSING ASSISTANT

- PERFORM NO ACT THAT IS NOT WITHIN THE LEGAL SCOPE OF A NURSING ASSISTANT
- PERFORM NO ACT FOR WHICH YOU HAVE NOT BEEN ADEQUATELY PREPARED
- TAKE NO DRUGS OTHER THAN PRESCRIPTION DRUGS GIVEN TO YOU BY A DOCTOR
- ACCEPT RESPONSIBILITY FOR YOUR ACTIONS

LEGAL ISSUES

A LAW IS MADE BY A GOVERNMENT BODY SUCH AS THE U.S. CONGRESS (FEDERAL) OR STATE LEGISLATURE (STATE).

LAWS ARE A SET OF RULES THAT ARE ENFORCED BY THE COURTS.

LAWS PROTECT THE PUBLIC WELFARE AND ARE ENFORCED BY THE GOVERNMENT.



Your training prepares you and the law requires you to act professionally.

PROFESSIONAL CONDUCT

- ✓ Respects patients rights.
- ✓ Behaves ethically.
- ✓ Performs job as required.
- ✓ Follows rules and regulations.
- ✓ Does not do anything for which he or she is not trained.

LEGAL ASPECTS

A LAW IS A RULE OF CONDUCT MADE BY A GOVERNMENT BODY

❑ CRIMINAL LAW – OFFENSES AGAINST THE PUBLIC AND AGAINST SOCIETY. A PERSON FOUND GUILTY OF A CRIME IS FINED OR SENT TO PRISON.

❑ CIVIL LAW – DEALS WITH RELATIONSHIPS BETWEEN PEOPLE. A PERSON FOUND GUILTY USUALLY HAS TO PAY A SUM OF MONEY TO THE INJURED PERSON.

❑ TORT – PART OF CIVIL LAW.

A WRONG COMMITTED AGAINST THE PERSON OR THEIR PROPERTY.

CAN BE INTENTIONAL OR UNINTENTIONAL

LAWS THAT CONCERN

❑ ASSAULT – A THREAT TO DO BODILY HARM



ATTEMPTING OR
THREATENING TO TOUCH A
PERSON'S BODY WITHOUT
THE PERSON'S CONSENT.

FIGURE 4-1

Any threat may be considered assault.

BATTERY – THE ACTUAL TOUCHING OF ANOTHER PERSON’S BODY WITHOUT THEIR CONSENT.

- ❑ HITTING, PINCHING, OR PUSHING A PATIENT
- ❑ FORCING A PATIENT TO DO SOMETHING AGAINST THEIR WILL
- ❑ CONSENT CAN BE WITHDRAWN AT ANY TIME
- ❑ PATIENTS HAVE THE RIGHT TO REFUSE TREATMENT



AVOID ASSAULT AND BATTERY CHARGES BY:

- ❑ INFORMING THE PATIENT OF WHAT YOU PLAN TO DO
- ❑ MAKING SURE THE PATIENT UNDERSTANDS
- ❑ GIVE THE PATIENT TIME TO REFUSE
- ❑ REPORT REFUSALS OF CARE TO THE NURSE AND DOCUMENT THE FACTS
- ❑ NEVER CARRY OUT A TREATMENT ON YOUR OWN AGAINST THE PATIENT'S WISHES



FIGURE 3-8

The patient has the right to refuse care.

FALSE IMPRISONMENT – RESTRICTING OR RESTRAINING A PERSON’S MOVEMENTS WITHOUT PROPER CONSENT.

- ❑ PATIENTS HAVE THE RIGHT TO LEAVE THE HOSPITAL WITHOUT THE PHYSICIAN’S PERMISSION
- ❑ A PATIENT CANNOT BE RESTRAINED TO MAKE HIM COOPERATE OR TO PUNISH HIM FOR HIS BEHAVIOR
- ❑ SIDE RAILS ARE CONSIDERED A RESTRAINT AND AS SUCH MUST BE ORDERED BY THE PHYSICIAN

INVASION OF PRIVACY – FAILING TO PROTECT THE PRIVACY OF THE PATIENT’S BODY OR THE PRIVACY OF PERSONAL INFORMATION.



- ❑ KNOCK BEFORE ENTERING A PATIENT’S ROOM.
- ❑ CLOSE THE DOOR AND PULL THE CURTAIN BEFORE GIVING CARE.
- ❑ DO NOT EXPOSE THE PERSON’S BODY UNNECESSARILY.
- ❑ DO NOT TAKE PICTURES OF THE PERSON WITHOUT THEIR CONSENT.



Do not discuss patient information with:

- Another patient
- Relatives and friends of the patient
- Visitors to the hospital
- Representatives of news media
- Fellow workers, except when in conference
- Your own relatives and friends

DO NOT DISCUSS THE PATIENT'S TREATMENT WITH ANYONE EXCEPT THE NURSE SUPERVISING YOUR WORK.

ASK VISITORS TO LEAVE THE ROOM WHEN YOU ARE GIVING CARE TO THE PATIENT.

DO NOT OPEN THE PATIENT'S MAIL.



ALLOW THE PATIENT TO VISIT WITH OTHERS IN PRIVACY.

THE PATIENT SHOULD BE ALLOWED TO VISIT WITH HIS CLERGY IN PRIVACY.

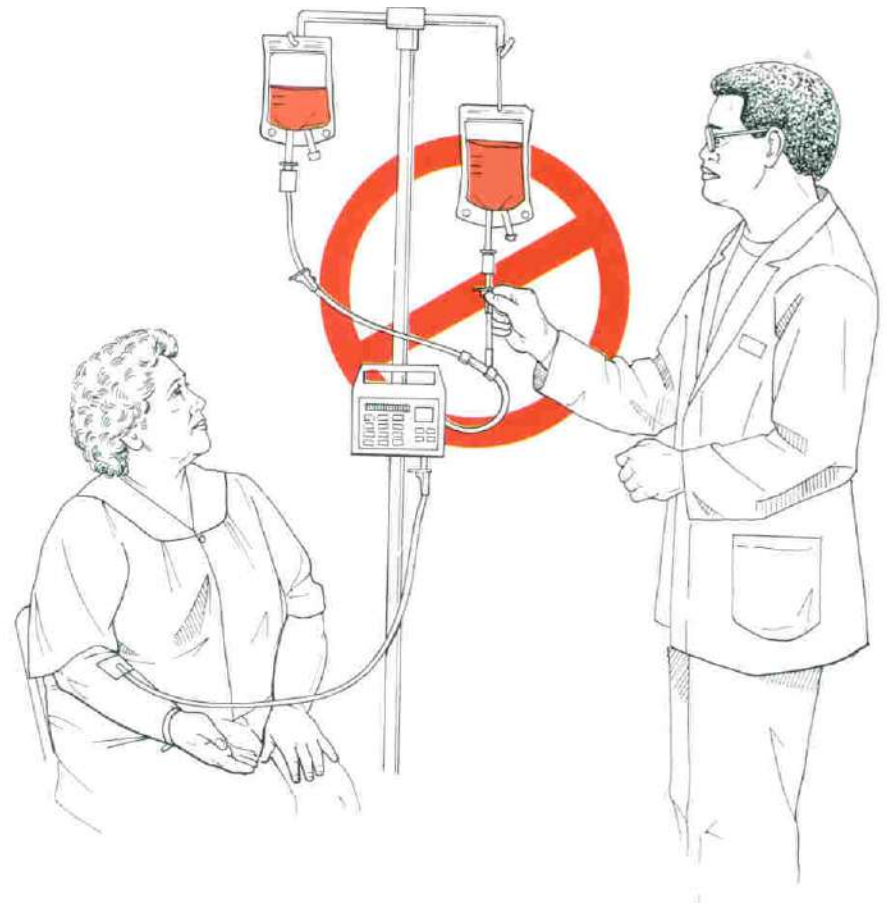
ALLOW THE PATIENT TO USE THE TELEPHONE IN PRIVACY.

**NEGLIGENCE – FAILURE TO GIVE PROPER CARE,
WHICH RESULTS IN HARM TO THE PATIENT OR
THE PATIENT’S PROPERTY.**

YOU WOULD BE GUILTY OF NEGLIGENCE IF YOU:

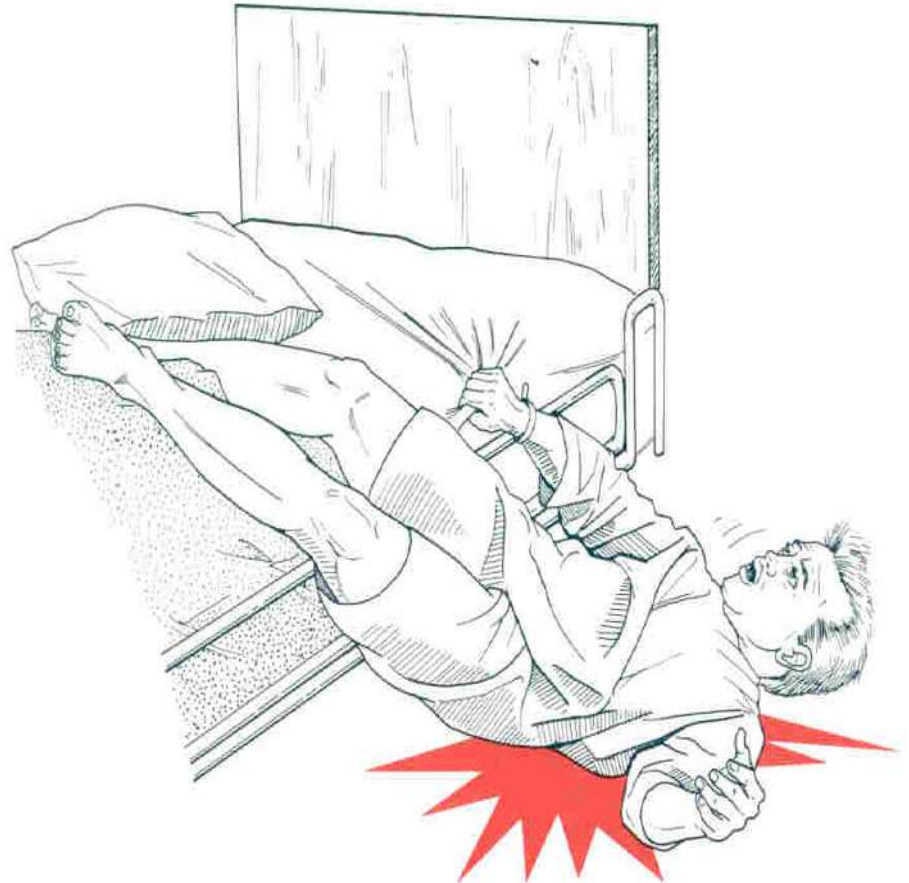
**❑ FAIL TO PERFORM A
TASK OR PERFORM A TASK
IN A CARELESS MANNER**

**❑ HARM A PATIENT BY
DOING SOMETHING YOU
ARE NOT ALLOWED TO DO**

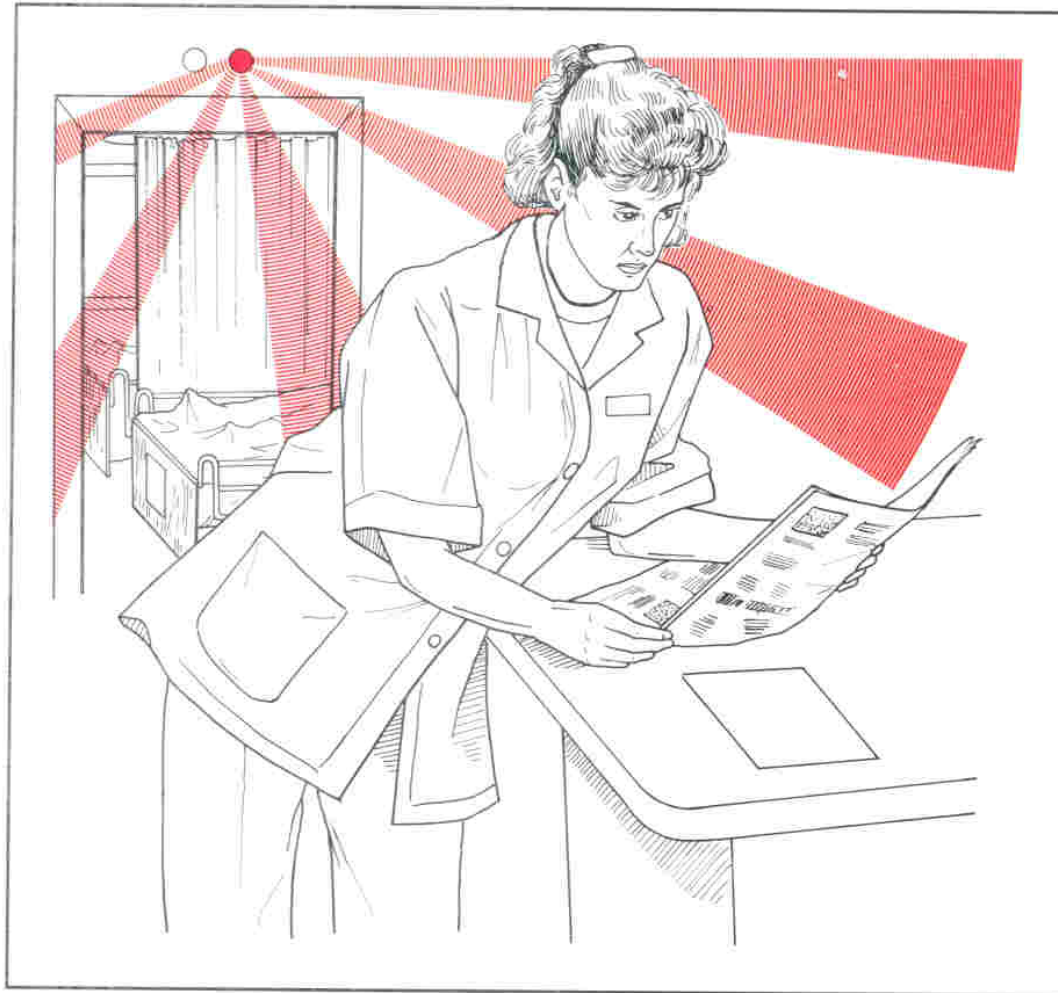


OTHER COMMON NEGLIGENCE ACTS:

THE NURSING ASSISTANT LEFT THE SIDE RAIL DOWN AND THE RESIDENT FELL OUT OF BED



IGNORING THE RESIDENT'S CALL LIGHT IS NEGLIGENCE



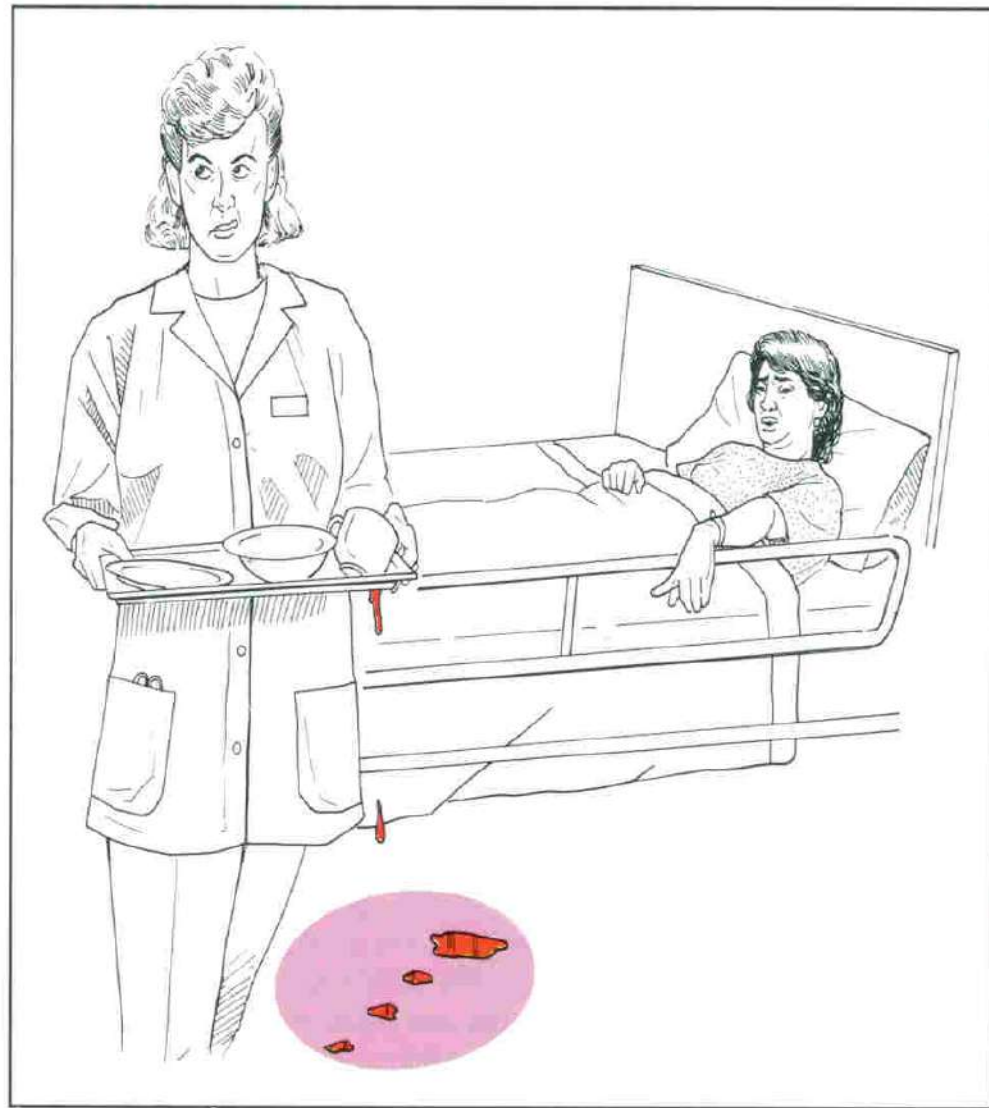


FIGURE 3-4

An example of negligence is failing to wipe up a spill or call the attention of a member of the housekeeping staff to it.



FIGURE 4-2

Failure to place the call signal within the patient's reach can result in negligence.

OTHER NEGLIGENT ACTS:

- ❑ A PATIENT IS BURNED BECAUSE A CNA APPLIED A WARM WATER BOTTLE THAT WAS TOO HOT.
- ❑ A PATIENT'S DENTURES BREAK AFTER BEING DROPPED BY THE NURSING ASSISTANT.
- ❑ A RESIDENT COMPLAINS TO THE CNA OF CHEST PAIN AND DIFFICULTY BREATHING. THE COMPLAINTS ARE NOT REPORTED TO THE NURSE. THE PATIENT HAS A HEART ATTACK AND DIES.
- ❑ THE WHEELS ON THE PATIENT'S BED WERE NOT LOCKED. THE BED ROLLED AS THE PATIENT ATTEMPTED TO LIE DOWN. THE PATIENT FELL AND BROKE A LEG.

AVOID NEGLIGENCE CHARGES BY:

REFUSE THE NURSE'S ORDER IF:

- YOU ARE ASKED TO DO SOMETHING THAT IS BEYOND THE LEGAL SCOPE OF YOUR ROLE.
- YOU HAVE NOT BEEN PREPARED TO PERFORM THE FUNCTION SAFELY.
- YOU KNOW THAT THE ACT OR PROCEDURE MAY CAUSE HARM TO THE PERSON.
- THE NURSE'S DIRECTIONS OR ORDERS ARE UNETHICAL, ILLEGAL, OR AGAINST THE POLICIES OF THE FACILITY.
- DIRECTIONS ARE UNCLEAR OR INCOMPLETE.

MALPRACTICE

NEGLIGENCE PERFORMED BY A PROFESSIONAL

SLANDER – MAKING FALSE STATEMENTS ABOUT A PERSON ORALLY.

LIBEL - MAKING FALSE STATEMENTS ABOUT A PERSON IN PRINT (WRITING OR THROUGH DRAWINGS).

PROTECT YOURSELF FROM SLANDER OR LIBEL CHARGES BY NEVER MAKING FALSE STATEMENTS ABOUT A PATIENT OR RESIDENT.



THEFT – TAKING ANYTHING THAT DOES NOT BELONG TO YOU.

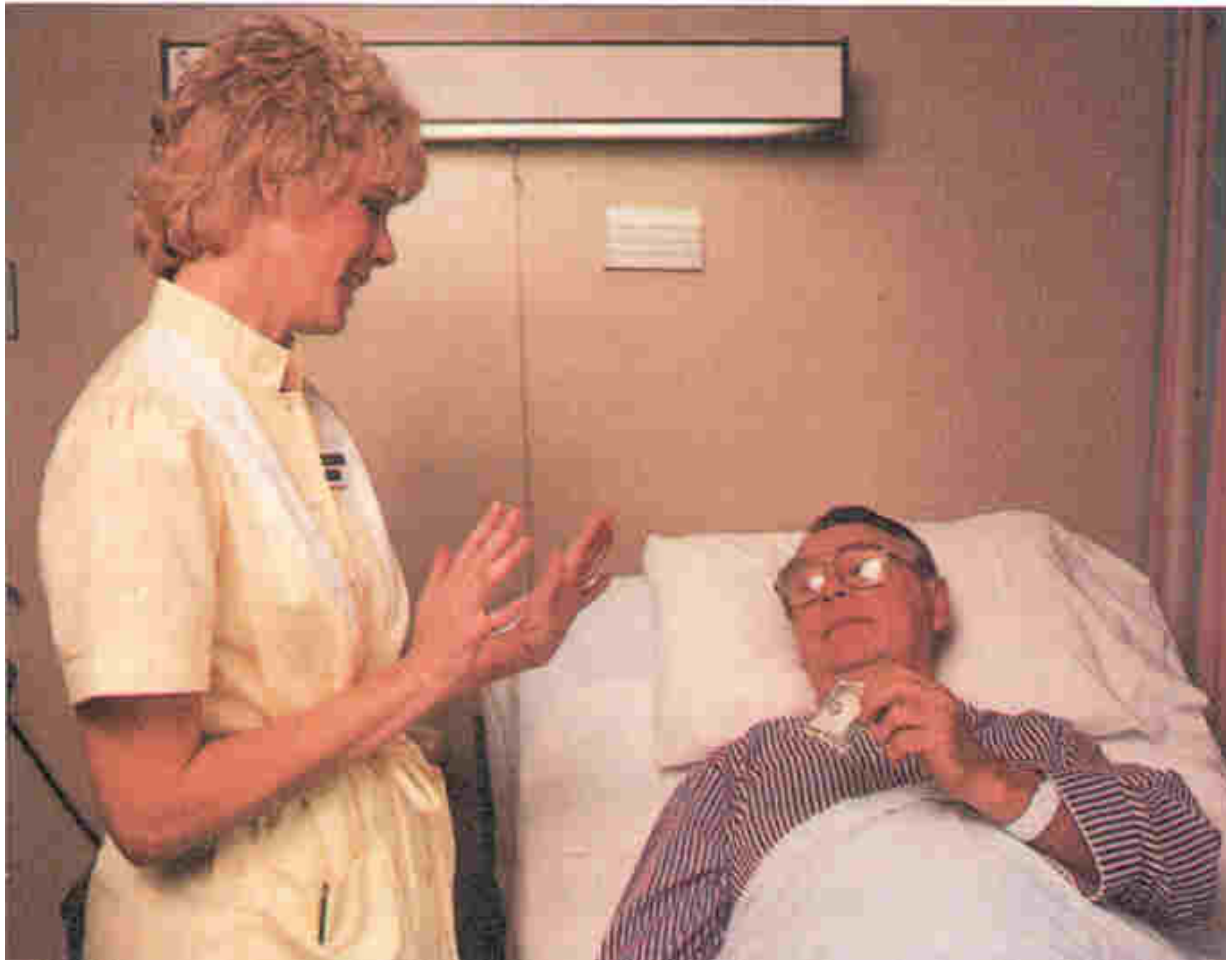
❑ IF YOU SEE SOMEONE STEALING SOMETHING AND DO NOT REPORT IT, YOU ARE GUILTY OF AIDING AND ABETTING THE CRIME.



FIGURE 3–7. Failing to report a dishonest act that you observe makes you guilty of aiding and abetting.

TIPPING

TIPS MUST BE COURTEOUSLY REFUSED



LEGAL ACCOUNTABILITY

YOU ARE RESPONSIBLE FOR YOUR OWN ACTIONS

THIS IS CALLED ACCOUNTABILITY

- ❑ LEGAL ACTION MAY BE BROUGHT AGAINST YOU IF YOU ARE GUILTY OF AN ACTION THAT HARMS A PATIENT.
- ❑ IT IS YOUR RESPONSIBILITY TO KNOW WHAT TASKS A CNA IS ALLOWED TO DO IN YOUR FACILITY.

INFORMED CONSENT – CONSENT IS
CONSIDERED INFORMED WHEN THE PERSON
CLEARLY UNDERSTANDS:

THE REASON FOR A TREATMENT

WHAT WILL BE DONE

HOW IT WILL BE DONE

WHO WILL DO IT

THE EXPECTED OUTCOME

PEOPLE WHO ARE MENTALLY INCOMPETENT,
UNCONSCIOUS, SEDATED, OR CONFUSED CAN
NOT GIVE LEGAL CONSENT.

WILLS

A WILL IS A STATEMENT OF HOW A PERSON WANTS PROPERTY DISTRIBUTED AFTER HIS OR HER DEATH.

- ❑ YOU ARE NOT LEGALLY ABLE TO PREPARE A WILL.
- ❑ LEGALLY YOU CAN WITNESS THE SIGNING OF A WILL IF YOU ARE NOT NAMED IN THE WILL.

YOU ARE ADVISED NOT TO WITNESS A WILL IF ASKED TO DO SO – REFER THE PATIENT TO THE NURSE WHO CAN CONTACT THE SOCIAL SERVICE DEPARTMENT.

LIVING WILL

Declaration made this _____ day of _____, 19_____.

I, _____ willfully and voluntarily make known my desire that my dying not be artificially prolonged under the circumstances set forth below, and I do hereby declare:

If at any time I have a terminal condition and if my attending or treating physician and another consulting physician have determined that there is no medical probability of my recovery from such condition, I direct that life-prolonging procedures be withheld or withdrawn when the application of such procedures would serve only to prolong artificially the process of dying, and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care or to alleviate pain.

It is my intention that this declaration be honored by my family and physician as the final expression of my legal right to refuse medical or surgical treatment and to accept the consequences for such refusal.

In the event that I have been determined to be unable to provide express and informed consent regarding the withholding, withdrawal, or continuation of life-prolonging procedures, I wish to designate, as my surrogate to carry out the provisions of this declaration:

Name: _____ Phone: _____

Address: _____
(City) (State) (Zip)

I understand the full import of this declaration, and I am emotionally and mentally competent to make this declaration.

Additional instructions (optional):

I do not desire that the artificial administration of nutrition and hydration be withheld or withdrawn even when the application of such procedures would serve only to prolong artificially the process of dying.

Other (specify): _____

Signed: _____

Witness: _____

Address: _____

Phone: () _____

Zip Code

Witness: _____

Address: _____

Phone: () _____

Zip Code

LIVING

A LIVING WILL IS A DOCUMENT THAT LEAVES INSTRUCTIONS ABOUT WHETHER OR NOT YOU WANT YOUR LIFE PROLONGED BY ARTIFICIAL MEANS IF YOU BECOME TERMINALLY ILL.

GUIDELINES FOR CONFIDENTIALITY

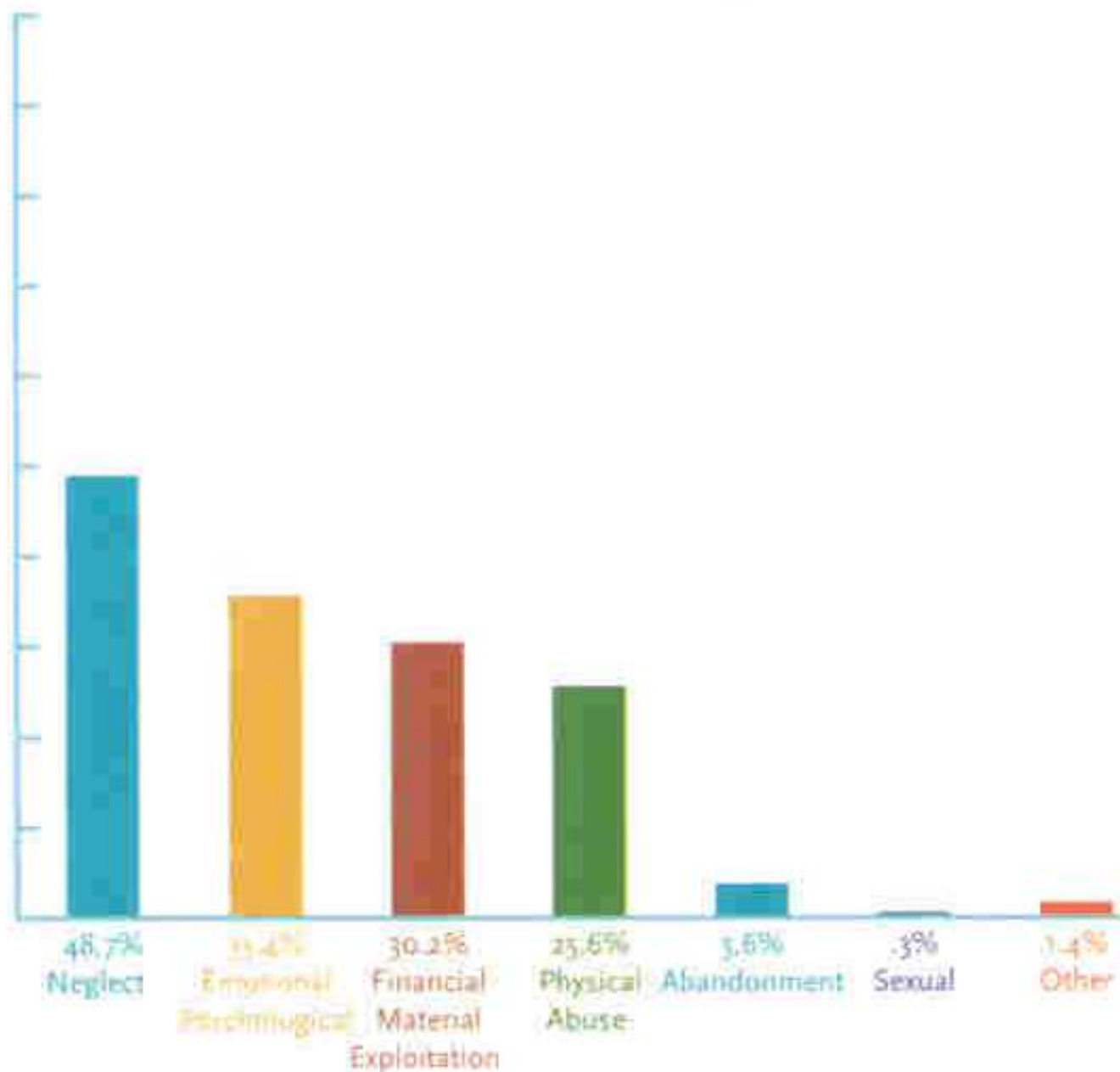
- ❑ NEVER REPEAT INFORMATION GIVEN TO YOU IN YOUR ROLE AS A NURSING ASSISTANT.
- ❑ RESTRICT YOUR SHARING OF INFORMATION TO THE REPORTS OF OBSERVATIONS YOU GIVE TO THE NURSE.
- ❑ IF ANYONE ASKS ABOUT THE PATIENT, REFER ALL SUCH QUESTIONS TO THE SUPERVISOR OR NURSE.
- ❑ NEVER DISCUSS THE PATIENT OR ANYTHING ABOUT THE PATIENT IN THE PUBLIC PLACES OF THE INSTITUTION, SUCH AS THE HALLWAY, ELEVATOR, OR CAFETERIA.
- ❑ NEVER BRING SUCH INFORMATION INTO DISCUSSIONS OUTSIDE THE HEALTH CARE INSTITUTION.

ABUSE OF THE ELDERLY

ABUSE IS DEFINED AS HAVING ONE OR MORE OF THE FOLLOWING ELEMENTS:

- ❑ WILLFUL CAUSING OF INJURY
- ❑ UNREASONABLE CONFINEMENT
- ❑ INTIMIDATION
- ❑ PUNISHMENT
- ❑ DEPRIVATION OF GOODS OR SERVICES NEEDED FOR PHYSICAL, MENTAL, OR PSYCHOSOCIAL WELL-BEING

THE ABUSER IS USUALLY A FAMILY MEMBER OR A PERSON CARING FOR THE ELDERLY INDIVIDUAL



National Center on Elder Abuse. National Elder Abuse Incidence Study 1996

PHYSICAL ABUSE

- Handle a patient too roughly.
- Perform the wrong treatment on the patient.
- Hit or push or pinch the patient.
- Neglect to turn the patient, causing circulation to be impaired.
- Do not carry out proper exercises and the patient experiences pain when unused joints are finally moved.
- Fail to see that the patient has food or water.
- Fail to carry out proper patient hygiene.



FIGURE 4-5 Pulling roughly on the patient's arm constitutes physical abuse.

VERBAL ABUSE

Verbal abuse may be directed toward the patient or may be expressed about the patient. You would be guilty of verbally abusing a patient if you:

- Used profanity in dealing with the patient.
- Raised your voice in anger at the patient.
- Called the patient unpleasant names.
- Teased the patient unkindly.

PSYCHOLOGICAL ABUSE

Psychological abuse occurs when you:

- Make the patient fearful of you.
- Threaten the patient with harm.
- Threaten to tell something to others that the patient doesn't want known.
- Make fun of or belittle the patient in any way.



FIGURE 4-6 It is psychological abuse to make fun of a patient in any way.

FINANCIAL ABUSE

INVOLVES MISUSE OF THE PATIENT'S MONEY OR PERSONAL POSSESSIONS.

SEXUAL ABUSE

CAN INVOLVE ACTUAL PHYSICAL CONTACT OR THREATS OF PHYSICAL CONTACT.

THE PERSON MAY BE FORCED TO PERFORM SEXUAL ACTS OUT OF FEAR OF PUNISHMENT OR PHYSICAL HARM.

Signs of Abuse

Box 3-2

Physical Signs of Abuse

- Unexplained broken bones
- Injuries that occur over and over, such as an injury shaped like a belt buckle
- Burns shaped in certain ways, like a cigarette burn or a burn caused by an iron
- Bite marks
- Unexplained weight loss, extremely dry and cracked skin, or signs of dehydration
- Blood in underwear
- Bruising in the genital area
- Sexually transmitted infections

Emotional Signs of Abuse

- Mood swings
- Fear and anxiety, especially when a caregiver is present
- Lack of appetite
- Flinching when a certain person is near

Other Signs of Abuse:

- Missed doctor appointments
- Changing doctors frequently
- Wearing makeup or sunglasses to hide injuries
- Family concern that abuse is occurring
- Person does not seem to be taking his pills
- Caregiver does not allow anyone to be alone with elderly person

Box 7-3 SIGNS OF ELDERLY ABUSE

- Living conditions are unsafe, unclean, or inadequate.
- Personal hygiene is lacking. The person is unclean, and clothes are dirty.
- Weight loss; there are signs of poor nutrition and inadequate fluid intake.
- Frequent injuries; circumstances behind the injuries are strange or seem impossible.
- Old and new bruises are seen.
- The person seems very quiet or withdrawn.
- The person seems fearful, anxious, or agitated.
- The person does not seem to want to talk or answer questions.
- The person is restrained or locked in a certain area for long periods of time. Toilet facilities, food and water, and other necessary items cannot be reached.
- Private conversations are not allowed. The caregiver is present during all conversations.
- The person seems anxious to please the caregiver.
- Medications are not taken properly. Medications are not purchased, or too much or too little medication is taken.
- Visits to the emergency room may be frequent.
- The person may go from one doctor to another. Some people do not have a doctor. *

**IT IS YOUR MORAL, ETHICAL, AND LEGAL DUTY
TO REPORT PATIENT ABUSE.**

OBRA REQUIREMENTS

OBRA DOES NOT ALLOW NURSING CENTERS TO EMPLOY PERSONS WHO WERE CONVICTED OF:

- ✓ ABUSE
- ✓ NEGLECT
- ✓ MISTREATMENT OF PERSONS IN ANY HEALTH CARE AGENCY

BEFORE HIRING A PERSON, THE FACILITY MUST CHECK THE NURSING ASSISTANT REGISTRY AND PERFORM A CRIMINAL BACKGROUND CHECK.

WHAT IS DONE IF ABUSE IS SUSPECTED

- ✓ THE INCIDENT MUST BE REPORTED AT ONCE TO THE ADMINISTRATION
- ✓ ALL CLAIMS OF ABUSE MUST BE INVESTIGATED
- ✓ THE CENTER MUST PREVENT FURTHER POTENTIAL FOR ABUSE WHILE THE CLAIMS ARE INVESTIGATED
- ✓ INVESTIGATION RESULTS WILL BE REPORTED TO FACILITY ADMINISTRATION WITHIN 5 DAYS OF THE INCIDENT
- ✓ CORRECTIVE ACTIONS ARE TAKEN IF THE CLAIM IS FOUND TO BE TRUE