



## LEGAL ISSUES FOR THE CERTIFIED NURSE AIDE

***De Anna Looper, RN, CHPN, CHPCA***

*Senior Vice President of Clinical Operations*

*Carrefour Associates L.L.C.*

## LEGAL ISSUES FOR THE CERTIFIED NURSE AIDE

In today's society it seems more acceptable to "sue" than it did when our parents were in the workforce. Working in the healthcare field also increases the chances of being sued. As healthcare professionals, our chances of being named in a lawsuit can be considerably higher for a couple of reasons

- 1) We are dealing with families whom are losing a loved one and emotions are high.
- 2) We are caring for residents in long term care centers that are notoriously named in lawsuits more frequently than most other health care entities.

Following legal standards will help reduce your chances of being sued. The guidelines in this paper may help minimize your chances of being named in a lawsuit by a patient or their family. When laws are not obeyed, you as a nurse aide, can be charged and found liable for injury and damages. This can lead to fines, imprisonment, a loss of your reputation as well as a loss of your certification to work as a nurse aide, which could cause you to lose your job and possibly the ability to work as a nurse aide in the future.

## **Falsification of Medical Records (or personnel records)**

Falsification of medical records can also lead to legal issues. Documenting the care we give our patients should always be truthful, concise, and legible. Many nurse aides have been charged with a crime due to charting issues. Some examples of record falsification include:

- Documenting that a resident's clothes were changed and they were not.
- Charting that the nurse aide gave the patient a bath when it was not given.
- Charting that the nurse aide spent more (or less) time with the patient than was actually provided.
- Documenting that a patient was fed when he or she was not, or recording an amount of intake that was inaccurate.
- Charting that the nurse aide performed vital signs when they did not (or documenting false readings)
- Documenting that the nurse aide changed linens, an incontinent brief, or emptied the bedside commode, when they did not.
- Knowingly omitting, embellishing or falsifying information on an employment application or CNA certification renewal form.

## **Theft**

We all have our ideas of what may constitute theft. Some well known examples are: stealing a car, a family heirloom, or an elderly woman's diamond ring. This indeed, is theft, but it's not that simple. Taking **anything** that does not belong to you meets the legal definition of theft. It doesn't matter how expensive, or how inexpensive the item may be. It may be as simple as taking a postage stamp, a ballpoint pen or even a food item, but if the item wasn't given to you directly by the owner, it can be considered theft. Another way you may be charged with theft is if you witness someone else take an item that doesn't belong to them. For example, if you witness your coworker taking something that doesn't belong to them, and you don't report it, you can be in as much legal trouble as the person who actually took the item. This is considered "aiding and abetting" the crime.

## **Verbal Abuse**

Working with patients can be difficult, and at times, we may lose our cool. Verbal abuse is a serious crime. Some examples of verbal abuse include:

- Cursing when you are caring for the patient.
- Teasing the patient.
- Embarrassing the patient.
- Raising your voice, or yelling at the patient.
- Using gestures, such as glaring, pointing, making a fist, etc.
- Calling the patient unpleasant, hurtful names or silly names such as “poopsie” or “pumpkin head” etc.
- Making threats such as “I’m going to call your daughter if you don’t get into bed”, or “If you don’t eat your lunch, I’m going to stop coming to visit you”.

These are all examples of threats.

## **Emotional Abuse**

This is one of the worse types of abuse. Some examples of this type of abuse include:

- Making “fun” of the patient or their family members.
- Threatening to stop treatment.
- Causing the patient to be afraid of you (through your actions, words or attitude).
- Belittling the patient (this includes using the funny little nicknames that we tend to use with elderly patients).
- Telling other people or the patient’s peers of the patient’s behavior (Example: Mr. J didn’t take his shower today because he was being stubborn.) However, this does not mean giving a report to other medical professionals in a private, confidential manner.
- Eating a snack / meal in front of a patient that cannot eat or drink.

## **Negligence**

Failure to provide an acceptable degree of care, that others would view as reasonable under the current circumstances, when injury occurs to your patient. Negligence is often unintentional and is caused by carelessness, not thinking through the situation or trying to complete your work too quickly.

Some examples include:

- Leaving the side rails down on the bed.
- Forgetting to place the call light in reach of the patient, and the patient falls out of bed.
- Forgetting to set the lock on the patient's wheelchair.
- Giving the patient a cup of coffee, without checking the temperature of the beverage, and the patient gets burned.
- Leaving a bottle of aspirin next to a confused patient and they end up taking the entire bottle of the medication.

## **Neglect**

Neglect is somewhat different from negligence. This is failing to provide care necessary to avoid physical harm. This too, can be unintentional or intentional in nature. Some examples of neglect include:

- Patients that have not been given their call lights within reach.
- Patient that are not being fed or not being given enough time to eat their meals.
- Patients that are not being bathed routinely.
- Patients that are allowed to soil or urinate on themselves and not cleaning them up in an appropriate amount of time.
- Patients that are not allowed to interact with others and that are being intentionally isolated. (This can qualify as another legal issue called Involuntary Seclusion.)
- Not providing adequate pain or symptom control to patients. (This would be the responsibility of the facility nurse or hospice nurse, but if you notice that a patient is suffering, you should immediately inform your nurse.)

## Physical Abuse

Abuse is defined as the act, or failure to act, that is non accidental (on purpose) and causes or COULD cause harm or death to a patient. Some examples of physical abuse include:

- Pinching, hitting, punching, or slapping a patient.
- Handling the patient roughly.
- Pulling a patient's hair.
- Shoving food into a patient's mouth.
- Deliberately withholding food / fluids from a patient that has requested to eat.
- Using cold or extremely hot water to bath a patient.
- Forcing a patient to sit down or lie down.

Ensuring you don't find yourself named in a lawsuit, or charged with a crime can be as simple as:

- 1) Following your agency's policies and procedures.
- 2) Knowing and staying within your state's rules.
- 3) Performing only the skills you have been taught and have mastered.
- 4) Thinking before you act.
- 5) Asking for help if you feel a situation is unsafe for you or the patient.
- 6) Treating the patient with dignity, respect and compassion.

Remember this, we as healthcare professionals have taken an oath to "DO NO HARM". We have been given the chance to make a difference in the lives of our residents/patients. Let's not make a bad situation worse by causing harm to those who have trusted themselves to our care.





Expect more from us. We do.

888-603-MORE (6673) • [www.CrossroadsHospice.com](http://www.CrossroadsHospice.com)