

**Understanding
Legal & Regulatory
Ramifications related to
Psychiatric Nursing
Scope & Standards of Practice**

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DISCLOSURE

**The speaker
has no conflicts of
interest to disclose.**

LEARNING OBJECTIVES

1. Define Medical Malpractice & Psychiatric Standards and Scopes of Practice.
2. Describe four roles of State Boards of Nursing and the investigative process related to complaints
3. Identify two breached standards of practice as presented in a hypothetical case study that may reflect potential medical malpractice and/or regulatory violations.

Medical Malpractice

- “An act or continuing conduct of a professional which does not meet the standard of professional competence and results in provable damages to his/her client or patient. Such an error or omission may be through negligence, ignorance (when the professional should have known), or intentional wrongdoing.”
- “However, malpractice does not include the exercise of professional judgment even when the results are detrimental to the client or patient.”
- “Except in cases of extremely obvious or intentional wrongs, in order to prove malpractice there must be testimony of an expert as to the acceptable standard of care applied to the specific act or conduct which is claimed to be malpractice and testimony of the expert that the professional did not meet that standard. The defendant then can produce his/her own expert to counter that testimony.”

www.dictionary.law.com

Standard of Practice

- “The level at which the average, prudent provider in a given community would practice.”
- “It is how similarly qualified practitioners would have managed the patient's care under the same or similar circumstances.”
- “The medical malpractice plaintiff must establish the appropriate standard of care and demonstrate that the standard of care has been breached.”

www.medicinenet.com

Resources: Scope and Standards of Psychiatric Nursing Practice

- Organizations: AACN, ANA, APNA, APA, NONPF
- Psychiatric-Mental Health Nursing: Scope and Standards of Practice 2014 Edition
- Competencies: AACN, ANA, APNA, NONPF, APA
- APA Clinical Practice Guidelines: Adult Patients.
- American Academy of Child and Adolescent Psychiatry: Children and Adolescents

APNA: Scope & Standards of Practice

1.Assessment	2. Diagnosis	3. Outcome Identification	4. Planning 5. Implementation	5a. Coordination
5b. Health Teaching & Promotion	5c. Consultation	5d. Prescriptive Authority	5e. Therapies	5f. Milieu Therapy
5g. Therapeutic Relationship & Counseling	6. Evaluation	7. Ethics	8. Education	9. EBP & Research
10. Quality of Practice www.apna.org	11. Communication	12. Leadership	13. Collaboration	14. Professional Practice Evaluation

**Roles of
State Boards of Nursing**

- National Council of State Boards of Nursing (NCSBN) is the vehicle through which boards of nursing act and counsel together to provide regulatory excellence for public health, safety and welfare.

- Four areas of regulation are:

Education, Practice, Discipline, & Licensure

www.ncsbn.org

Education

"In concert with its mission, NCSBN develops cutting edge resources, initiatives and programs for boards of nursing in their roles of regulating nursing education programs. Further, NCSBN collaborates with nursing education organizations, nurse educators and other stakeholders and participates in national nursing education meetings and initiatives."

www.ncsbn.org

Practice

“NCSBN produces innovative materials and initiatives to support boards of nursing (BON) in their roles of regulating nursing practice. “

www.ncsbn.org

Licensure

“Licensure is the process by which boards of nursing grant permission to an individual to engage in nursing practice after determining that the applicant has attained the competency necessary to perform a unique scope of practice. Licensure is necessary when the regulated activities are complex and require specialized knowledge and skill and independent decision making. The licensure process determines if the applicant has the necessary skills to safely perform a specified scope of practice by predetermining the criteria needed and evaluating licensure applicants to determine if they meet the criteria”.

www.ncsbn.org

Discipline

“The provision of nursing care gives rise to the risk of harm inherent to that care. States are given the responsibility to protect the public from that risk of harm in the form of reasonable laws to regulate nursing. The laws codified in the nurse practice act and its accompanying regulations establish a Board of Nursing (BON), as well as guide and govern nursing care. While the vast majority of nurses are competent and caring individuals who provide care according to the standard, violations of the nurse practice act do happen. When violations occur, the board of nursing takes formal action if it finds sufficient basis that the nurse violated the act or regulations. Currently, the rate of discipline on a license is less than one percent.”

www.ncsbn.org

Investigation of Complaints Statutory Responsibility

- Complaint submitted to Department of Public Health (DPH)
- Investigator at DPH accesses records and completes interviews. Investigator then refers case to expert consultant in same profession
- Consultant deems if the allegation breaches standard of practice.
- Investigator then refers to legal department at DPH, who makes remedy recommendations to the Board.
- Board imposes disciplinary action/remedies through consent orders, memorandums of agreement through hearings, when and if violations of statutes or regulations governing the profession are substantiated.

www.ct.gov.dph

Examples of Violations CT Sec. 20-99b

1. Failure to conform to accepted standards of the profession
2. Fraud or deceit in procuring a license
3. Illegal conduct, incompetence or negligence
4. Physical illness
5. Emotional disorder or mental illness
6. Abuse or excessive use of drugs
7. Willful falsification of charts

www.ct.gov.dph

Disciplinary Actions

- "The language used to describe the types of actions available to BONs varies according to state law. Although terminology may differ, board action affects the nurse's licensure status and ability to practice nursing in the state taking action. Board actions may include:"
- Fine or civil penalty"
- "Referral to an alternative to discipline program for practice monitoring and recovery support (drug or alcohol dependent nurses, or in some other mental or physical conditions)"
- "Public reprimand or censure for minor violation of nurse practice act often with no restrictions on license."

www.ncsbn.org

Disciplinary Actions

- “Imposition of requirements for monitoring, remediation, education or other provision tailored to the particular situation”
- “Limitation or restriction of one or more aspects of practice (e.g., probation with certain restrictions, limiting role, setting, activities, hours worked)”
- “Separation from practice for a period of time (suspension) or loss of license (revocation or voluntary surrender)”
- “Other state specific remedies”

www.ncsbn.org

Case Study Demographics and History

- 62 yr. old single, never married white male collecting social security, unemployed with no medical insurance living in basement apartment. No children/ no friends, and estranged from family.
- Occupation: construction worker.
- Education: HS grad
- Past Psych/Substance TX: None: Reports no history of depression, but severe history of anxiety.
- Medical HX: Recent diagnosis of degenerative joint disease. History of alcoholism and benzodiazepine dependence. Actively abusing alcohol and benzodiazepines.

Past and Present HX Hospital Discharge Plan

- Admitted to inpatient psych unit secondary to two previous suicide attempts within the last 3 weeks: hanging and carbon monoxide poisoning with no subsequent treatment. He had contacted an acquaintance, but declined ED.
- For this inpatient psych admit he brought himself to the ED stating that he had suicidal ideations of killing self by hanging secondary to joint pain, anxiety and depression.
- Admission Plan: Detox from benzos and alcohol and start antidepressant. Difficult benzo detox. LOS: 10 days
- Discharge Plan: PHP and med management at LMHA.
- Discharge meds: Sertraline 100 mg daily and 10 day ambulatory Ativan Taper.
- Discharge Assessment: not Suicidal, future oriented, in agreement with d/c plan.

Clinic Plan

- Attended intake with LCSW on Monday, 14 days after discharge: declined PHP and IOP; not documented;
- LCSW scheduled outpatient therapy session in 2 weeks; apprehensive about therapy session. Reports "9" for anxiety.
- Attended med management with Psych APN Wednesday, pt. unsure of scheduled outpatient session. APN does not validate date/time of therapy session. Not documented.
- APN reviews meds. Benzo taper continued: has three more days of benzo taper, no signs and symptoms of distress, no VSs taken. GIVEN CRISIS NUMBER. Denies suicidality: pt. reports antidepressant is helping with anxiety and depression: documented.
- Follow-up med management appt scheduled for 3 months.
- Commits suicide by jumping off bridge on weekend before scheduled therapy session with LCSW.

**Case Study Discussion:
STANDARD OF PRACTICE (SOP)**

1. Does the documentation meet SOP?
2. Does the treatment plan meet SOP?

QUESTIONS**THANK YOU**

References

- www.apna.org
- www.ct.gov.dph
- www.dictionary.law.com
- www.medicinenet.com subsidiary of WebMD
- www.ncsbn.org
