**Impact of the Law on the Professional Nursing Practice**

By Student’s Name

Institution

Course Number, Section, and Title

Instructor

Date

**Impact Of The Law on the Professional Nursing Practice**

In the contemporary world, laws and ethics influence the profession of nursing practice. Duty of care has three components: a professional duty, a legal duty, and ethical duty. Duty of care is the legal obligation that any healthcare provider has on providing reasonable care to avoid causing harm to their patients (Dowie, 2017). Should the provider fail to reach the expected standards as prescribed in their code of conduct, they could be charged with negligence. Consequently, this case-by-case analysis examines the impact the law has on the professional nursing practice. To achieve the aim, the paper explores issues arising from the presented case scenarios found at the end of every chapter in the textbook, legal and ethical issues in nursing (Guido, 2014). Three of these sections, as found at the end of chapters 11, 12, and 16, form the basis of this paper.

**Case 1 (Guido, 2014 p.222)**

 The facility did not have adequate evidence to suspend the suspected nurse. Having read the case, it is clear that several notable facts reveal misconduct and the one who perpetrates it. In her career as a nurse, the suspected nurse always carried herself with dignity, gaining respect for her dedication and competence. However, these suspicions of her diverting prescription narcotics for her personal use have emerged of late. The hospital has also installed a computerized medical cabinet (CMC) which supplements the traditional paper medication administration record (MAR). This mandates every nurse to fill out their handwritten MARs, which should align with the CMC records. The testimony of the other nurses should affect the case outcome in favor of the accused because they, too, on their testimony, admit to doing precisely the same things that the suspected nurse did.

 Further investigation reveals that all nurses, without exception, do not fill the forms at the time of medication administration but later admit to having forgotten some of the drugs they had taken from the CMC. Were the cases to go on trial, the defendant would be the hospital, and the suspected be the plaintiff. This is because the facility has additional questions that it should address as the defendant is that the complainant is the suspected nurse defending her right from being suspended from work. Essentially, the hospital would have gotten justice by suspending her.

 Were I the judge in the case, I would rule that the case should not be taken to the state Board of Nursing as the evidence is not enough to sustain the charge of the nurse’s misconduct. In my findings, the issue at hand is implementing a technology-aided monitoring system in the hospital and not the suspected nurse’s misconduct. The next issue is that with a suspended nurse, the matter should be handled by the industrial court and not the criminal court, where the standard of proof is beyond reasonable, which the facts of the case cannot sustain. The hospital policy is the one that created loopholes and should be advised to have single personnel filling out the MARs promptly to seal the loophole for dugs misappropriation. If the facility contends that the suspected nurse was guilty, all the others should also be suspended because they did the same thing.

**Case Study 2:**

 **The Case of a Pre-School Child Defiled by Her Father (Guido, 2014, p.238)**

The ANP is duty-bound to seek the opinion of the child’s doctor regarding the possibility of the child’s abuse before she forwards the caseworker. In the case of sexual abuse as presented here, it is not all children where threats or force are used, mainly if the perpetrator is the child’s father. He may have used trickery or even persuasion or promise of greater rewards. Consulting with another professional could have helped establish the extent of emotional and psychological abuse besides the physical and sexual assault the child has had to endure in the hands of her father. In the process, some of the questions that would help shed more light on these aspects include but would not be limited to whether she, upon looking at, viewing, or watching, been tempted to engage in the sexual act with other children or used various objects to stimulate herself sexually. Other questions would address the adult or older children she has watched their genitals or those who have ever fondled or used oral-genital stimulation or using which means made her participate in sexual acts. As Krase (2018) reports, the ANP has to report the injury for further investigation because she has a duty of care to the child since the child has less than 18, the suspected perpetrator is her father, and there is already an incident of harm as evidenced by the vaginal tear.

 To determine liability, the judge should use the strict liability principle as once the prosecution does not have to prove a guilty mind in connection to one or more elements that make up the criminal act. The three accused would still face a conviction even if some, like the ANP nurse or the practitioner, do not have criminal negligence. As Duff (2005) points out, strict liability is so called because the accused could get a conviction even if they were genuinely ignorant of some factors that rendered their acts or omissions criminal.

**Case Study 3:**

**Partial Liability against an LPN and Charge Nurse after their Patient Succumbed to Septicemia**

 Under the duty of care, the nurse manager had the residual responsibility of supervising the care of the Veteran who had had hip replacement surgery. Besides instructing the LPN on the patient’s medication, the charge nurse had a duty to warn the patient and LPN on the possible risks connected to the treatment to be on the lookout in case of the onset of adverse events. As ruled in the case of Canterbury V Spence (1972), the onus lay with the practitioner in disclosing the material risks associated with Tylenol 500 mg medication. Using Barrow & Sharma’s rule of thumb for the five rights of nursing delegation, it is clear that there was a better way of delegating the veterans to care for the LPN. The fundamentals of delegation in healthcare are responsibility, which states that RNs have a professional duty to perform patient care duties dependably and reliably, which was negated because the charge nurse never revisited the patient.

 Second is authority, which calls for the assigned individual to have the ability to complete the tasks within the set time, and accountability, which calls for the nurse to have legal liability for actions connected to patient care, which is one of the grounds for the partial liability found in this case. The 5Rs of the delegation is the proper task under the right circumstances to the right person who is given suitable supervision and utilizes the right direction and communication. The four and fifth R, in this case, were not secured adequately because the LPN did not get the proper supervision from the charge leading to the wrong supervision of the patient who, despite developing a high fever to blood poisoning, the treatment directly and communication channels were not adequately utilized leading the patient’s death.

 As explained earlier on, the fundamentals of delegation mean the charge nurse still had the responsibility of supervising the LPN and even checking on the patient when the LPN noted a change in the temperature, hence why she is also liable. As the judge, I would decide that both the charge nurse and the LPN have partial liability. The charge nurse had contributory negligence of not supervising the LPN or informing the patient and the LPN of the possible risks of the medication being administered, while the LPN also should have reported early enough instead of waiting for four hours to monitor the patient’s fever. This implies that healthcare providers would have some partial costs for their joint negligence.

**Conclusion**

In conclusion, these case studies have established that all nurses owe their patients a legal duty of care to their patients and that duty of care is of a higher magnitude compared to the other players who may come into the picture with inadequate or no medical knowledge. Once the nurses have failed in their duty of care and patient harm results, then the patient is justified to expect redress for the harm caused. At the same time, the law should also hold the nurses liable only for actions, and omissions are reasonably foreseeable by their very nature. The nurses should also adopt the view that laws are not cast in stones and when, therefore, they also have an ethical duty to provide patient care in case of emergencies even the law does not obligate them to do.

**References**

Barrow, J. M., & Sharma, S. (2019). Nursing Five Rights of Delegation.

Dowie, I. (2017). Legal, ethical, and professional aspects of the duty of care for nurses. *Nursing Standard*, *32*.

Duff, R. A. (2005). Strict liability, legal presumptions, and the presumption of innocence. *Appraising Strict Liability, Oxford University Press, Oxford*, 125-149.

Guido, G. W. (2014). *Legal and ethical issues in nursing* (6th Ed.). Upper Saddle River, NJ: Prentice-Hall.

Haddad, L. M., & Geiger, R. A. (2019). Nursing Ethical Considerations.

Kaiserman, A. (2017). Partial liability. *Legal Theory*, *23*(1), 1-26.

Krase, M. K. (2008). *Mandated reporting of child abuse and neglect: A practical guide for social workers*. Springer Publishing Company.