



Chapter 2

THE NURSING ASSISTANT

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- 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

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.

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- 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.

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- Other OBRA requirements
 - Retraining and a new competency evaluation program are required for nursing assistants who have not worked for 24 months.
 - Agencies must provide 12 hours of educational programs to nursing assistants every year.
 - Performance reviews are required.



ROLES, RESPONSIBILITIES, AND STANDARDS

- 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

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- 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

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.

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- Before accepting a job:
 - Tell the employer about functions you did not learn.
 - Advise the employer of functions you cannot do for moral or religious reasons.
 - Clearly understand what is expected.
 - 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 a 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.

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- Delegation process. The National Council of State Boards of Nursing (NCSBN) describes four steps:
 - 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

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- 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.
 - Sometimes refusing to follow the nurse's directions is your right and duty.

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- 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.

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

- 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.

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- 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

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- 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

- 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.

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 causing of injury
 - Unreasonable confinement
 - Intimidation
 - Punishment
 - Depriving the person of the goods or services needed for physical, mental, or psychosocial well-being

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- 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.

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- 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 due to:
 - A mental, emotional, physical, or developmental disability
 - Brain damage
 - Changes from aging
 - Patients and residents, regardless of age, are considered vulnerable.

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

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- Federal and state laws require the reporting of elder abuse or suspected abuse.
 - If you suspect abuse, share your concerns and observations with the nurse.
 - 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.