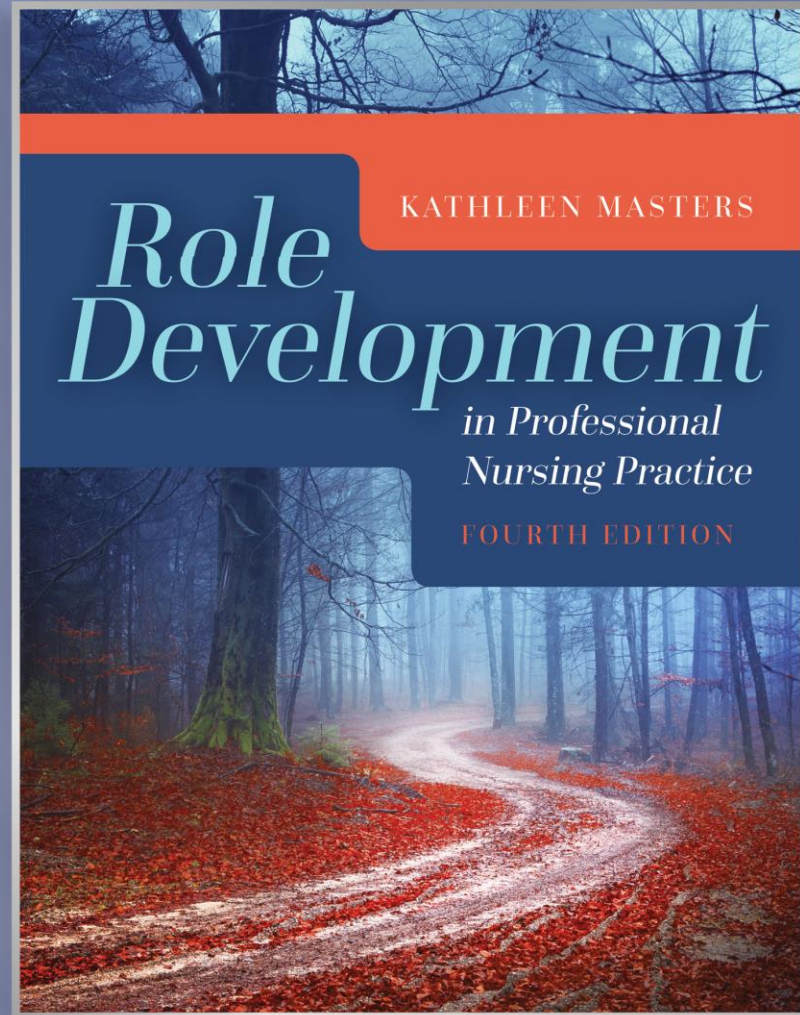


Chapter 15

Law and the Professional Nurse



Sources of Law

- Statutory law
- Administrative law
(regulatory)
- Case law
- Enforcing the law
 - Civil
 - Criminal

Civil Case Flowchart



Nursing Scope and Standards

- Nursing scope of practice describes who, what, where, when, why, and how of nursing practice
- Standards of nursing practice defined as “authoritative statements of the duties of all registered nurses, regardless of role, population or specialty, are expected to perform competently”

Professional Performance Standards

- Ethics
- Education
- Evidence-based practice and research
- Quality of practice
- Communication
- Leadership
- Collaboration
- Professional practice evaluation
- Resource utilization
- Environmental health
- Cultural congruence

Standards: State Boards of Nursing

- Develop scope of practice statements for licensure
- Expand scope statements for advanced practice nurses
- Make decisions about new practices and procedures
- Define new categories of licensure, recognition, and certification
- Determine appropriateness and level of discipline
- Define state accreditation of nursing educational programs

Evidence of Standards of Care Used in Court

- Statutes
- Agency regulations
- Accreditation standards
- Facility documents such as policies and procedures, job descriptions
- Professional nursing guidelines
- Manufacturers' instructions related to medical equipment
- Nursing literature
- Expert testimony

Negligence and Malpractice

- **Negligence** is defined as the failure to act as a reasonably prudent person would have acted in a specific situation
- **Malpractice** is the failure of a professional to use such care as a reasonably prudent member of the profession would use under similar circumstances, which leads to harm

Elements to Prove in Successful Malpractice Case

- Duty owed to the patient
- Breach of the duty owed the patient
- Foreseeability
- Causation
- Injury or harm
- Damages

Avoiding Malpractice and Negligence

- Manage stress
- Adhere to standards of care
- Work in environments that encourage examination of incidents
- Change systems to lower the risk of malpractice

Nursing Licensure

- Registration
- Mandatory licensure
- Certification
- Endorsement
- Nurse Licensure Compact
- National Council of State Boards of Nursing
initial licensure exam (NCLEX)

The Nursing Licensure Compact Explained Video

<https://www.ncsbn.org/364.htm>

State Boards of Nursing

- Obligation to protect safety of public
- Nurse Practice Acts
- Disciplinary actions
- Alternative programs

Board of Nursing Complaint Process: Investigation to Resolution Video

<https://www.ncsbn.org/426.htm>

Informed Consent

- A brief but complete explanation of the patient diagnosis and proposed treatment or procedure
- The name and qualifications of the person who will perform the procedure or treatment
- Information related to available alternatives to the recommended treatment
- Information related to possible complications of the treatment or procedure
- An explanation related to the patient's right to refuse treatment without having care discontinued

Standards of Informed Consent

- The medical standard—what is regarded as a material risk in the medical community
- What a reasonable patient would need to know
- What a particular patient needs to know

Nurse's Role in Informed Consent

- Facilitating informed consent for patient care as a part of providing patient-centered care
- Advocate for patient
- Witness to patient signature

Transparent Health—The Story of Michael Skolnik Video

<https://youtu.be/n83gd1piUu4>

Privacy and Confidentiality

- **Privacy** is the right of a person to be free from unwanted intrusion into the person's personal affairs
- **Confidentiality** of patient information is the obligation of all healthcare providers

HIPAA (1 of 2)

- Patients must be informed of their privacy rights
- Patients must be informed as to who will see their records and for what purpose
- Patients have the right to inspect and obtain a copy of their medical records
- Personal data may not be used for marketing

HIPPA (2 of 2)

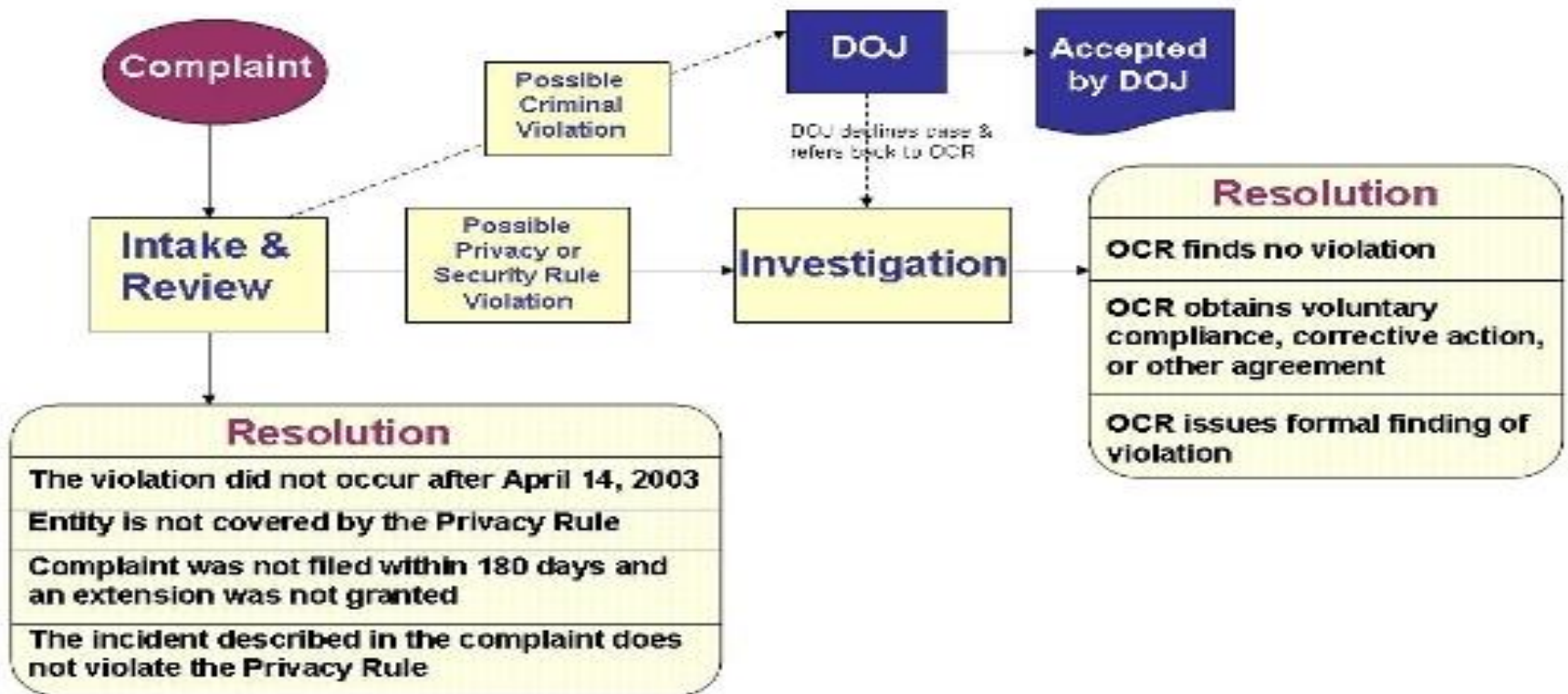
- Valid authorization to release health information must contain certain information, such as a copy of the signed authorization given to the patient, in understandable language, and information about how the patient may revoke this authorization
- Although information may be used for research purposes to assess outbreak of a disease, all individual identifiable data must be removed

Your New Rights Under HIPAA Video

https://youtu.be/3-wV23_E4eQ

HIPAA Complaint Process

HIPAA Privacy & Security Rule Complaint Process



Five Rights of Delegation

- The right task
- The right circumstances
- The right person
- The right direction and communication
- The right supervision and evaluation

The National Council of State Boards of Nursing's *Delegating Effectively* Video

<https://www.ncsbn.org/378.htm>

Model of Professional Nursing Practice Regulation

<http://www.nursingworld.org/modelofpracticeregulation>