

Ethical Considerations

ELLEN JOHNSON BA, RN, SANE-A, CEN

Objectives

Discuss professional and ethical conduct and decision making as they relate to the care of the sexual assault patient population

Identify three resources that may be used when dealing with an ethical concern

Ethics

Moral principles that govern a person's or group's behavior

Professional ethical responsibilities

- Autonomy (pt. choices)
- Beneficence (for the benefit or well-being)
- Non-maleficance (do not cause harm)
- Veracity (truthfulness)
- Confidentiality
- Justice

ANA Code of Ethics

The nurse practices with compassion and respect for the inherent dignity, worth, and unique attributes of every person.

The nurse's primary commitment is to the patient, whether an individual, family, group, community, or population.

The nurse promotes, advocates for, and protects the rights, health, and safety of the patient.

Ethics is NOT

- The same as feelings
- Religion
- Following the law
- Following culturally accepted norms
- Science

When weighing decisions, which option:

Produces the most good and does the least harm?

Best respects the rights of those affected?

Treats people fairly, without discrimination or favoritism?

Best serves the community as a whole?

Expresses the values of the person making the decision?

Consent concerns

Too drunk, too drugged, or too psychotic to understand the SANE consent

- Cannot stay awake, cannot cooperate, cannot give hx

Those who have known cognitive disabilities and have a designated guardian

Seriously ill or injured, may be on a vent and sedated

Minors????

Concerns and controversies when SA patients cannot consent

Should the physical exam be done?

Should evidence be collected?

Should the evidence be released to LE?

Incapacitated Patients

What are the implications with suspected sexual assault?

What are we allowed to do?

Ethical and legal concerns

What is the right thing to do?

What would the patient want?

Is there a designated legal representative?

Is there a surrogate available who can make decisions?

Should a court order be obtained?

Why is there suspicion that SA occurred?

Found without clothing/clothing in disarray

Suspicion of genital injury/genital penetration

Suspicious circumstances surrounding unconscious patient

Other?

Questions to consider

- Is the cause of the incapacity short lived?
- Will procedures be done that will remove evidence?
- If there is concern that SA occurred?
- Should the patient be checked for injury?

Safety concerns

Exams or parts of exams should not be performed if there is concern for patient or SANE safety

What about photography?

Should photos be taken of non-genital injuries?

How about genital injuries?

Are there other ways to document injuries besides photos?

This situation WILL eventually come up

- Have a policy and procedures in place ahead of time
- Implied consent does not apply
- Involve hospital legal counsel plus:
 - Advocacy
 - LE
 - County prosecutors
 - Others?

Minor consent and confidentiality

- Right to confidential care and treatment related to pregnancy, STI's
- If minor consents, then they are responsible for the bill
 - Minor has control over medical record
- Mandated reporting supersedes confidentiality

Minors

- Age of consent for most medical treatment is age 18
- Age of consent for sex is age 16
- If under 16 sexual contact is a crime, but it is not necessarily a mandated report
 - If not mandated report pt. decides whether to report to LE
- Sexual contact that falls under child abuse guidelines is a mandated report

Hospital ethics committee

Legal

Risk management

Colleagues

Pastoral care

Resources

Pierce-Weeks, J. & Campbell, P. (2008) The challenges forensic nurses face when their patient is comatose: Addressing the needs of our most vulnerable patient population. *Journal of Forensic Nursing*, 4, 104-110.

Eiselein, E.M., Hunt, B., Peth, H.A. & Sellas, M. I. (2008). Forensic evidence collection: What are your legal obligations? *ED Legal Letter*, March, 33-35.

Speck, P. M., & Ropero-Miller, J.D. (2010). Webinar: An Overview of Drug-Facilitated Sexual Assault SANE/SAFE/SART Protocol 1. Forensic Science Education. www.rti.org/forensiced. August24th

Other available resources

There are many concerns/varied opinions

It is very important to have policies and procedures in place ahead of time

Multidisciplinary approach is key

Bottom line
