

NURSING LAW AND ETHICS



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FOREWORD



I am delighted to write the foreword for this publication on **NURSING LAW AND ETHICS**. Nursing is a profession that touches the lives of individuals of all ages. The Nurses rendered their services from the womb to the tomb. In executing their daily duties, nurses are faced with many ethical and legal dilemmas. In order to make decisions that comply with ethical and legal standards, it is crucial for nurses to be knowledgeable in knowing how law, ethics and nursing practice interface.

My heartiest congratulations to **Professor Dr Puteri Nemie Jahn Kassim** for being the Author of this book, which nurses must read. This book is timely and very important as the growing realization of the importance of law and ethics in the nursing career is gaining its momentum. Without the knowledge of law and ethics, nurses are not able to make appropriate decisions that will not be in conflict with the requirements and expectations of the legal and ethical standards. This book further, offers valuable insights into the main legal, ethical principles and case scenarios relevant to the nursing practice. With such good knowledge, nurses are able to understand the medico—legal issues that can affect their profession and try to protect themselves as early as possible from all types of legal problems.

Prof Dr Puteri had published several law books, and I believe she is the Authority of the subject. Her continuous effort to create awareness of the subject matter which she is so passionate about, is highly commendable. The book will be a guide for Nurses, Lawyers, Students, Doctors and the general public, who are interested in knowing about the Nursing Law and Ethics.



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PREFACE

Recent changes in the provision of health care have contributed to the growing importance of nursing law and ethics. The role of nurses has transgressed into many litigated areas concerning issues in negligence, informed consent, confidentiality and euthanasia. The nursing legislations do not cater for many legal and ethical issues, which require a comprehensive set of law with considerable convergence between legal and ethical judgments. Technological advances in health care have also created challenges for the nursing profession. These challenges would require them to redress the imbalance by becoming more active in ethical decision-making and become a generalist and specialist, a communicator, a team collaborator, a caring presence as well as a vigilant professional. Educating nurses on the demands of law and high ethical standards would ensure greater accountability, knowledge and personal commitment in providing health care to individuals at every stage of their life. The increase in litigation as well as judicial and legislative intervention in most profession has made it essential for the nursing profession to be more knowledgeable in legal matters and anxious as to the extent of their accountability to their patients. Knowledge of and adherence to the law is an imperative professional responsibility.

DEDICATION

*Love and appreciation to my husband, Azizul
and
children, Haziq, Hafidz, Harith, Ilhami and Aliyya
for lovingly tolerating my absences during the
progress of my book.*

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LIST OF ABBREVIATIONS

AC	Appeal Cases
ALJR	Australian Law Journal Reports 1958 -
All ER	All England Law Reports
ALR	Australian Law Reports
AMR	All Malaysian Reports
Aust. Torts. Rep.	Australian Torts Reports
CA	Court of Appeal
Cal 3d	California Reports Third Series
Cal Rep	California Supreme Court Reports 1850 -
Ch	Chancery (Law Reports)
CLJ	Current Law Journal
CLR	Commonwealth Law Reports
DLR	Dominion Law Reports
Ed	Edition
edit.	editor
<i>et. al</i>	<i>(et alia)</i> : and others
etc	<i>(et cetera)</i> : and so forth
F 2d	Federal Reporter. Second Series (USA) 1924 -
F Supp	Federal Supplement (USA) 1932 -
HL	House of Lords
<i>i.e.</i>	that is
<i>Ibid</i>	<i>(ibidem)</i> : in the same place
<i>Id</i>	<i>(idem)</i> : the same

IR	Irish Reports 1894 -
Kan	Kansas Supreme Court Reports 1862 -
LJ	Lord Justice
LJKB	King's Bench (Law Journal Reports) New Series 1831-1946
Med LR	Medical Law Reports
MLJ	Malayan Law Journal
n.d.	no date
NE 92	North Western Reporter (USA)
NSW	New South Wales
NSWLR	New South Wales Law Reports
NW	North Western Reporter
NW 2d	North Western Reporter, Second Series
NY	New York
NZ	New Zealand
P 2d	Pacific Reporter, Second Series
P.	Pacific Reporter
<i>pbuh</i>	Peace be upon him
QB	Queens Bench (Law Reports)
QBD	Queens Bench Division (Law Reports)
RI	Rhode Island Supreme Court Reports
SASR	South Australian State Reports 1971
SC	Session Cases (Scotland)
SJ	Solicitors Journal
SLT	Scots Law Times
<i>s.w.t.</i>	Subhanahu Wa Ta'ala
UK	United Kingdom
US	United States
v	(versus): against (in legal terms)

Vol	Volume
VR	Victorian Reports (Australia) 1957
Wash	Washington
WLR	Weekly Law Reports

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CHALLENGES TO THE NURSING PROFESSION

1.0 Introduction

Forming the “heart” of medical and health services, nurses provide a comforting human interface between patients and the hospital, and between communities and the healthcare system. The ever changing health environment has required nurses to provide care in an extended role to complement services rendered by other health professionals. These extended roles have made them become more involved in practices that may have profound legal consequences for which they may be held individually responsible. Consequently, nurses have become increasingly aware of the legal and ethical issues that have impacted on their practice and have also recognized the importance of a solid grounding in legal and ethical principles. By having sound knowledge of their legal and ethical responsibilities, they are able to function independently in many healthcare roles and make complex decisions about what is the best course of patient care.

1.1 The Nursing Profession – Changes and Challenges

In Malaysia, nurses represent the largest workforce in the healthcare sector.¹ They are the main providers of healthcare, particularly in rural and remote areas. The nursing workforce has now increased to around 60,000, giving an average of about 2.25 per 1,000 population.² At the moment, there are 45 government

¹ Ten Lin Dee. “The help battalion”, Star Special, Ministry of Health SP5, Tuesday 17 October 2006.

² Relevant data procured from speech by YB Dato’ Dr Chua Soi Lek, ex-Minister of Health Malaysia, at the 11th Joint Malaysia-Singapore Nursing Conference & International Nursing Conference, Hotel Magellan Sutera Harbour, Kota Kinabalu, Sabah, 9 March 2006.