“You’ll Hear From My Attorney!” Navigating the Contemporary Legal Minefield in Nursing Education

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And not to minimize the impact of landmines...from *Landmine and Cluster Munition Monitor Report 2011*
And we do have our own tragic landmines...November 8, 2002
Nevertheless today’s nursing classrooms have students who are:

- Depressed
- Financially stressed
- From dysfunctional backgrounds
- Challenged by learning disabilities
- Not skilled at autonomous decision-making
- Suffering from any number of physical and/or mental health issues AND

**We live in a very litigious environment/country**
Objectives

- Discuss the legal issues pertaining to the role of the nursing faculty member in the classroom and clinical environment
- Analyze various student and faculty cases using a legal framework
Unfortunately, this is a phrase that all too many of us get to hear in our lives. In many sectors, including academia, it has become the “trump card” in how people think they can get a dispute resolved their way: threaten to get “the lawyers” involved, and people acquiesce (Oxholm, 2011).
In fact, many of us do not know our rights. What we have is a sense of entitlement that comes as a result of living in one of the world’s richest countries, having the privilege of attending a college or university, all added to an excess of lawyer advertising and the publicity given to some seemingly outrageous jury awards (Oxholm, 2012).
Deciding Who’s Right

- Academic Chain of Command
- Ombudsman
- Mediation
- Administrative Hearings
- Arbitrations
- Trials

But few cases ever make it to trial in court - they are dismissed as either frivolous, due to summary judgment, or are settled out of court.
Sources of the Law

- Federal Constitution: supreme law of the land
- State Constitutions
- Statutes: (i.e. Clean Air Act: Congress; Nurse Practice Act: State)
Administrative law, rules, regulations: criteria for obtaining licensure, procedure for a hearing, Common law or case law- judge-made or court-made decisions, based on precedent, custom, usage, & tradition..

(stare decisis = to stand by things decided)
Legal Basis for Nursing Education

1. Judicial opinion
2. Nurse Practice Acts of each jurisdiction
3. Health and Safety Codes
4. Precedent or tradition
Legal Issues Commonly Encountered by Faculty & Academic Administrators

- Breach of Contract
- Discrimination, Harassment or Retaliation Claims
- Judicial Deference to Academic Decisions
- Distinction between academic and disciplinary matters
- The University-Faculty Relationship
- Tort Claims
Breach of Contract

It is often alleged in the plaintiff’s complaint that the institution breached its contract, meaning that it failed to abide by or violated some provision of the contract.

A contract can be oral, written, or a combination of both; it can be created formally (e.g., in a legal-looking document with signatures at the bottom) or informally (e.g., through a letter or a telephone call); and it can be formed by action and conduct as well as by words.
Breach of Contract

- Both state and private institutions can be held liable for breach of contract to a student, faculty member or employee since each of these relationships is of a contractual nature.

- For example, the contract between a private institution and a student is comprised of the written guidelines, policies and procedures as contained in the written materials distributed to students over the course of their enrollment in the institution.

New professor hired, did not disclose on hire she had MS; immediately claimed she could work online from home.

Tenure-track professor got a negative mid-point review and claimed breech of contract since she had very little mentoring to perform successfully in her three year probationary role.
Discrimination, Harassment or Retaliation Claims

- Race and National Origin
- Sex or gender
- Disability Discrimination and Reasonable Accommodations
- Religious Discrimination and Accommodations
- Age Discrimination
- Retaliation Claims
Examples

Race and National Origin: African-American student claims her clinical instructor is biased against African-Americans.

Sex or gender: Lesbian faculty member attending a college-wide diversity seminar openly claims the college is hostile to sexual minorities.

Disability Discrimination and Reasonable Accommodations: Most common is ADHD students requesting more test time and/or quiet, secluded space and older faculty demanding larger computer screens because of failing eyesight.

Religious Discrimination and Accommodations: Muslim student wants to wear her hijab in clinical and during tests.

Age Discrimination: Older student claims professor is ageist because he criticizes her mildly in class that cannot recall material previous anatomy course.

Retaliation Claims: Non-tenure track professor refuses to take on obtaining more RN/BSN clinical sites (more work) after she is criticized for lack of scholarly productivity and told “only stars” get promoted.
Be it a student challenging an academic dismissal or a faculty member challenging a decision to deny tenure, both federal and state courts will defer to legitimate academic decisions of the faculty and institution.

The courts distinguish between academic dismissals and disciplinary dismissals. They require more due process in disciplinary matters than in academic ones. Although the line is not always clear, it is important to properly classify whether the issue at question is an academic or a disciplinary one.

Examples: **Academic**: Students do not like way psych faculty is scoring exams. **Disciplinary**: Student brings cell phone to clinical which is absolutely against policy.
The AAUP Statement defines academic freedoms at including the “full freedom in research and in the publication of the results,” “freedom in the class room in discussing their subject” and freedom from institutional censorship or discipline when the faculty member speaks or writes as a citizen.
First Amendment constitutional claims can not be brought against a private institution. However, a private institution (as well as a state institution) may promise academic freedom to faculty members through the faculty contract or an institutional policy.

*American Association of University Professors (AAUP) 1940 Statement of Principles on Academic Freedom and Tenure*
Tort Claims – Originate From Common Law

- Negligence
- Medical Malpractice
- Failure to Rescue
- Educational Malpractice
- Defamation
  - Slander – spoken
  - Libel – written
Role of the Nursing Faculty Member

- Be familiar with the academic and clinical policies at your institution
- Provide due process or similar process if you are in a private institution
- Consult the department chair or university attorney depending on your role – they are advisory, however
- Document in a timely and objective manner – maintain your own file
- Follow your own policies – or at least know your own policies. Even HR policies – they are often not widely publicized.
Questions?
You receive an email from a BSN accelerated nursing student, Jeremy Johnson who is presently in his third semester of four semesters of study, and who is contesting his clinical failure. You are told Mr. Johnson has anger management issues by the clinical faculty member, Doris Russert. Professor Russert reports that Mr. Johnson had an outburst at the nurse’s station on a busy pediatric floor and she has awarded Mr. Johnson a clinical grade of unsatisfactory for unprofessional behavior. She also states that he had an anger management issue in clinical conference and left the conference abruptly.
When you meet with Mr. Johnson, you note that he is 6 foot 6 inches tall and is built similarly in stature to a professional football player. Mr. Johnson claims that the clinical faculty member changed the time of the clinical day and did not notify him. He states that he expressed frustration at the nurse’s station but did not have an outburst. He also tells you that Professor Russert did not observe him and was not on the unit at the time. He begins to cry and tells you that he is being treated like a monster because of his size.
Questions

- What questions do you need to ask Professor Russert?
- What documentation do you need to review?
- What is your best course of action?
Critical Elements to Consider

- Consult the university attorney when you are confronted with a new or difficult situation.
- Consult the university attorney to review high stakes policies such as clinical misconduct, clinical failure, or clinical dismissal policies.
- As a faculty member, you must provide the student with an opportunity to be heard before rushing to summary judgment.
- Consult academic policies related to clinical failure prior to informing the student verbally or in writing.
Critical Elements to Consider

- Maintain daily evidence-based anecdotal documentation

Remember: Most cases related to clinical misconduct or performance issues have been upheld by the courts as long as due process has been afforded to the student and the nursing program followed its own policies
Critical Elements to Consider

- If you are a novice faculty member, consult an experienced faculty member to review your documentation.
- If you are an experienced faculty member or academic administrator, educate new faculty about student’s due process rights.
- Provide the student advanced notice of a clinical failure.
- Case resolution...
You receive a phone call from an irate, parent, Mr. Strazzoli. His daughter, Alyssa, is a senior in the undergraduate nursing program. Mr. Strazzoli asks to meet with you and the Dean to discuss his daughter’s academic performance. Alyssa has failed the comprehensive examination and states that she is unable to graduate in two weeks if she does not pass the exam on her second attempt. Mr. Strazzoli is quite angry and tells you that he just spent over a $100,000 on his daughter’s education and that this policy is complete nonsense. He says is daughter is not getting her due process since this was not the policy when she began the nursing program. He threatens to retain an attorney. You inform Mr. Strazzoli that Alyssa must complete the Student Authorization to Discuss and Disclose an Education Record Form, in accordance with the Family Educational Rights and Privacy Act ("FERPA").
What is the Family Educational Rights and Privacy Act ("FERPA") and why is it relevant?
Does Mr. Strazzoli have a case?
How should the director first proceed?
What policies should be in place?
Discuss the use of required diagnostic and standardized testing in the curriculum in open houses and new student orientation. Example: Each student is required to take the following comprehensive exam (Hesi Exit) and standardized exams (Hesi Specialty Exams) throughout the curriculum. The Hesi Specialty Exams will gradually increase in percentage of the total course grade throughout the curriculum to assist the student with mastery of content and proficiency in standardized testing. Students will be required to take a Hesi in all clinical nursing courses.
Prevention Tips

Send a letter to new nursing students addressing the use of standardized testing in the curriculum and the use of a comprehensive exam. Require students to sign the notification letter, indicating that they have read and understood it.

Make sure all curriculum and policy changes for the new academic year are in the handbook and on the web by the first day of class and that they are congruent!

Put a statement in the front of the Student Handbook that curricula and policies are still subject to change.

Emphasize to “helicopter parents” that advocacy by their adult child is the best practice to follow.
Nurse Advocacy

Nurses need to advocate for sick and vulnerable patients; therefore, nursing majors need to learn to advocate for themselves so they can later advocate for patients. Parents who understand this issue are far less inclined to intervene unless the issue is very significant. It is important that parents are educated during new student orientation. The dean or department chair should also ask parents directly for their cooperation in facilitating their child’s independence. Although this approach will go a long way in addressing the issue, some parents will inevitably call. For those, some suggestions include the following:
Try to defuse the situation. If a parent comes to the dean or faculty member with an issue, the first thing one should do is to encourage the parent to allow the child to solve his or her own problems and insist that the student speak to you or the respective faculty member directly. Tell the parent, for example, “Alyssa needs to approach the faculty on her own and discuss study alternatives, but it needs to be her voice. You can coach Alyssa from the sidelines.”
Critical Elements to Consider

- Have students complete the FERPA authorization form if you need to discuss their academic records with their parents.
- Review the student’s transcripts for science and nursing grades below a B.
- Review student data related to pass rates on both the comprehensive exam and NCLEX-RN/PN.
- Provide remediation support to the student, someone who is well versed in testing and the NCLEX-RN.
Critical Elements to Consider

- Offer the comprehensive exam within an academic course such as senior seminar. Consider a diversified approach to the course, such as testing of core competency skills review, simulation and clinical evaluation, and content/test review to ensure competent practitioners – in other words have more than “one hoop” and require students demonstrate competency on a variety of measures, not just one.

- Offer counseling services to student to decrease anxiety
Critical Elements to Consider

- Do a comparative analysis to find out who has not passed NCLEX-RN using students’ admission criteria, science grades, and clinical course grades.
- Discuss NCLEX-RN in new student orientation.
- Identify high-risk students and offer appropriate support early; supports include English language support, tutoring, test-taking strategies, and other academic support assessments — but do not lower bar.
Questions?
Patrick Kelly is a 23 year old student in the 12 month Accelerated Nursing Program. Patrick is also a member of the College Rifle Club. Patrick has had several outbursts in class which he has equated to anxiety. One Friday you receive the following email from Ms. Josephine Sadler, Patrick’s clinical instructor:
“I spoke to Patrick privately in an office this morning at clinical and informed him of my assessment that he was not prepared for clinical today. He begins to cry and would not stop. I was afraid to leave him in the office alone for a minute, in fear that he would do something to himself or me. I asked him to leave and he continued to cry inexorably when I attempted to speak with him. He was unable to listen and he would not leave the clinical site. I was half tempted to call security but I did not want to create a scene. He finally left the site after much coaxing and coaching. I have other students to educate. I cannot deal with this behavior on a busy medical unit. He is not psychologically well enough to be in the program and needs extensive counseling. I do not want him back in my group at this time.”

Josephine Sadler, MSN, RN
What questions do you need to ask Professor Sadler?
What documentation do you need to review?
What is your best course of action?
Consult the university attorney
(Note: University administrators and legal counsel are not clinicians and may not fully appreciate the specific safety implications of an accommodation respective to the clinical arena)

Consult the Office of Disability Services

Know your college’s policies and procedures as well as the appropriate state laws. The universities interpretation of FERPA and its emergency exceptions should be emphasized
Critical Elements to Consider:

- Initiate **Emergency Protocol** for any reference to harm self or others or extreme emotional distress
- Document behaviors only and “do not diagnose” the student
- Contact the Director or Dean or Department Chair regarding the distressed student
- Refer student to Student Counseling Center
Critical Elements to Consider:

- Do not provide an accommodation without official accommodation from the Office of Disability
- Be familiar with the Nursing Program’s Technical Standards
- Implement preventive strategies such as emails related to student counseling services during “high stress” times such as midterms and finals
Critical Elements to Consider:

- Offer faculty development sessions to faculty related to best practices in addressing students with mental health issues and psychiatric disabilities; particularly “warning signs” that warrant attention.

- Case resolution....
Professor Reilly is a non-tenured faculty member in the acute nurse practitioner program. You receive a phone call from the department chair of a local nurse practitioner program, Dr. Wilson, informing you that Professor Reilly was drunk at the National Organization for Nurse Practitioner Faculty (NONPF) meeting, slurring her words and falling asleep at the table. When you ask Dr. Wilson if you can use his name, he tells you that he was not at the meeting but he will ask the faculty members who reported the incident to him if you can use their names. He then calls back and says that the two faculty members do not wish to be involved. You consult with Professor Reilly’s department chair, who did not attend this particular meeting; however, she notes that Professor Reilly has been absent many Fridays and Mondays and has multiple excuses. She does not note any unusual behavior.
In consultation with the department chair, you also ask to see the nurse practitioner faculty members who attended the same NONPF meeting about their observations. The faculty members confirm Professor Reilly’s behavior at the national meeting. One of the faculty states that Professor Reilly has a serious drinking problem and has been hospitalized in the past. She also reports that she has seen Professor Reilly go to her car to get a drink during the day. You are also concerned because Professor Reilly has a clinical position at a local hospital in the cardiothoracic intensive care unit once a week where she practices as an acute nurse practitioner.
Questions

- How would you proceed?
- Is disciplinary action appropriate?
- Is Professor Reilly protected under the Americans With Disabilities Act (ADA)?
- Should Professor Reilly be reported to the state board of nursing?
Critical Elements to Consider

- Consult human resources and the employee assistance program.
- Document employee behaviors and written and verbal communications when you suspect alcohol abuse.
- Consult the alcohol and drug abuse policy at your institution.
- Follow your own policies.
- Maintain the confidentiality of the faculty member or employee vigorously.
Critical Elements to Consider

- Consult the state board of nursing for reporting advice and direction.

- The office of disability and/or human resources should discuss specific limitations that the faculty member with alcoholism experiences with the faculty member’s department chair or supervisor.

- The office of disability and/or human resources should discuss how these limitations affect the faculty’s job performance with the faculty member’s department chair supervisor.
In consultation with the office of disability services (ODS), accommodations may be available to reduce or eliminate problems.

Once accommodations are in place, ODS should meet with the faculty member with alcoholism to evaluate the effectiveness of the accommodations.

Provide the faculty member with due process if discipline or discharge is warranted.

Resolution of case...
Questions?
Michael Babaya is a 38-year old international nursing student in the accelerated nursing program. In his first clinical course, Principles of Nursing, Mr. Babaya has been on clinical warning for lack of clinical preparation and failure to meet clinical objectives related to basic skills. Professor Smith initiated a learning contract with Mr. Babaya and the lab faculty member has also worked extensively with Mr. Babaya to no avail. On the last clinical day, Mr. Babaya confronts Professor Smith and demands to know if he passed clinical. Professor Smith states that Mr. Babaya’s clinical performance is best addressed in her office rather than on the clinical unit. Mr. Babaya raises his voice and begins to yell, “I demand to know now, do you hear me! “As he approaches Professor Smith and backs her into the corner, concerned staff members immediately call security and come to the aid of Professor Smith. Mr. Babaya is escorted off the unit.
After the clinical incident, Mr. Babaya shows up at Professor Smith’s office at 7:30 PM the following evening attempting to convince her to pass him in the course. When Professor Smith explains that she cannot change his grade, he becomes increasingly angry. He approaches her desk, raises his voice, and begins to yell, “You have to pass me! I quit my job and gave up everything for this program.” Professor Smith is alone in the office and become quite frightened.
Questions

- What prevention tips could Professor Smith take?
- How should Professor Smith respond?
- Who should be notified?
Address attitudes and perceptions that contribute to violence through education, curriculum integration, and other efforts (Langford, 2004)

Offer counseling to students at “high stress” times, such as during midterm and final examinations

Deliver “bad news” to students during normal office hours in a private office in a high volume area
Critical Elements to Consider

- Do not keep concerns related to student harassment to oneself-Alert your supervisor and public safety
- Alert security ahead of time if you suspect that a student, faculty, or staff member may be violent when you deliver bad news
- Alert security when you are working late, then lock your office and take necessary safety precautions
Critical Elements to Consider

- Educate faculty, students, and staff about the need to report concerning behavior to public safety
- Educate and promote bystander intervention (Langford, 2004)
- Convey clear expectations for conduct among students, faculty, and staff (Langford, 2004)
Critical Elements to Consider

Create and disseminate comprehensive policies and procedures addressing behavior—strong enforcement of violent behavior sends a clear message about intolerance for violent behavior (Langford, 2004)

Provide a range of support services for students, including mental health services, crisis management, and comprehensive services for victims (Langford, 2004)

Offer campus safety classes in orientation and offer campus escort service
Establish comprehensive alcohol and other drug prevention programs

Do not keep your concerns related to aggressive, disturbing, or depressive behaviors to yourself. Notify Your Supervisor and the Office of Public Safety with any questions/concerns

Determine if a situation requires immediate intervention. (Consider whether the student a danger to himself, herself, or others. If yes, then contact security or public safety immediately)
Critical Elements to Consider

- If you feel uncomfortable or unsafe, trust your instincts.
- Faculty, students, and staff should register for the emergency notification system via text and email on cell phone.
- Publicize Victim Support Services on campus.
- Convene a Threat Assessment Task Force.
- Resolution of case...
Liz Rodriguez, a sophomore nursing major in your clinical group, approaches you. She is very upset. She states that she began dating the former boyfriend of Lindsey Jackson, another nursing student. She states that Lindsey has posted several offensive messages about her on her Facebook page, most of which are nasty, about her. Liz also says that Lindsey had posted several mean comments on Liz’s own Facebook page, before she removed her as a friend.
All of this is made worse by the fact that Lindsey’s cruel status updates about Liz are so frequent that they are regularly appearing on the top of her friends’ news feeds. Liz shows you a copy of one of the wall posts that Lindsey posted before she “unfriended her” and that Liz had saved on her computer. The message reads, “I hate Lindsey Jackson, that whore. I am not going to let this slide. I will go crazy and really hurt that b—!” Liz tells you that the postings are so embarrassing that she just cannot function as a student in the same class with her anymore, and begins to cry.
Questions

- How would you proceed?
- Does the school have any jurisdiction over the Facebook page?
- Does Lindsey Jackson’s threatening electronic message fall under the school’s published Student Code of Conduct?
- How would you document this incident?
- Case resolution...
Questions?
Student Incivility

Your Role: Faculty, Professor McDermott

You receive this email:

“Dear Fellow Students:
Professor Burns’ Class - 95 students - 6 failures
Professor McDermott’s Class - 60 students - 10 failures
Pending - 5 pending grades (not sure who’s section)
Looking at the numbers, who received the quality educational experience and who didn't?
As a consumer if you don't feel that you’re learning experience from Professor McDermott (in the class room) over the past quarter has been one of quality, then you need to e-mail Dr. Little, Dean, and the President personally and give them your opinions. **Professor McDermott is a horrible teacher and should be fired.** The professors have the ability to assign us extra credit work according to the syllabus, although the professor has said that traditionally they haven't done so.
Student Incivility

Professor McDermott also went on to say that "this course was set up to weed out the men from the boys". Well, all of the little boys really need to speak up immediately to Dr. Little and the President via e-mail. If we don't speak up and request this assignment as a whole group, we will get nothing. As for the men that the course has produced, well you to could find yourselves in this same scenario in the up coming quarters. It is pertinent that you support your class mates in reporting your experiences from this quarter, as well as help to set precedence in making available extra credit assignments, which could be applied when you have a borderline grade (this could also apply to those who are striving to move from a B grade to an A). Please act quickly, as our next quarter starts Monday.

Bernard F
Questions

- Who would you consult for advice?
- Is this free speech and/or uncivil behavior on the part of Bernard F?
- Where else could Mr. F file a complaint?
- How would you counsel Mr. F?
Critical Elements to Consider

- Consult your chair or Dean with potential legal situations.
- As a faculty member, you must provide the student with an opportunity to be heard before rushing to summary judgment.
- Consult academic policies related to student misconduct prior to informing the student verbally or in writing.
- Consult legal before publishing new student conduct policies.
- If you are an experienced faculty member or academic administrator, educate new faculty about students’ due process rights, and about due diligence.
Documentation & Policies & Procedures

- Document student behavior in an objective manner including, date, time, location, witnesses, and action taken
- Provide the student advanced notice of an administrative meeting or disciplinary hearing
- Maintain daily evidence-based anecdotal documentation
- **Remember:** Most cases related to clinical misconduct or performance issues have been upheld by the courts as long as due process has been afforded to the student and the nursing program followed its own policies. Classroom misconduct needs to closely follow university/college handbooks guidelines.
Incivility Cases From Attendees

What are some of the incivility issues you have faced in your career?
Emerging Legal Issues in Nursing Education

- Students will present with more disabilities.
- High failure rates on NCLEX-RN since 2013 – likely to persist until 2016 and beyond; do failing students have any legal recourse?
- What legal issues might the Ebola virus place on nursing educational programs?
- Can we really reasonable accommodate mentally ill students into nursing?
- How can we manage student with addictions?
Disability Issues

Donna Glee, a nursing student midway through the nursing program, was denied employment as a nurse intern in a telemetry unit at a local hospital because of her disclosure of a hearing deficit. A paid or unpaid internship is a program requirement in the summer of the end of the junior year. Hospital officials cite concerns related to patient safety because Ms. Glee will not be able to hear cardiac monitor alarms. The student wears bilateral hearing aids and is able to converse reasonably well in face-to-face situations.
Ms. Glee has been approved for accommodations from the university’s office of disability services. The accommodations consist of note-taking support in class and use of an amplified stethoscope in the clinical setting. She has met all academic and clinical requirements to date. However, Ms. Glee acknowledges significant auditory processing problems in large groups or with multidirectional auditory stimuli. The prognosis is that her auditory capacity will continue to decline and she will become totally deaf within an unspecified time frame.
Ms. Glee approaches the BSN program coordinator, Dr. Clinton, and questions how the recent denial of employment and associated functional limitations will influence both her continued progression in the nursing program and her career aspirations of becoming a registered nurse.
Legal protection for students with disabilities in higher education is addressed in federal laws specifically in section 504 of the 1973 Rehabilitation Act (29 U.S.C. § 794) and Title II of the 1990 Americans With Disabilities Act (42 U.S.C. § 12132). These somewhat overlapping laws aim to protect the rights of disabled individuals, those individuals who have a physical or mental disability that “substantially limits” one or more of their major life activities.
In academic settings, learning is viewed as a major life activity. These laws require universities to make *reasonable and necessary* modifications to rules, policies, or practices to prevent discrimination against qualified students based on disability. The ADA also requires that institutions designate a compliance officer (and disability staff as needed) to address ADA compliance issues, qualify students with disabilities, and identify appropriate academic adjustments as indicated.
Questions:

- In this case, do you believe there is a valid disability claim by the student?
- How would you resolve this case if you were the nursing faculty charged with making a final determination?
The denial of Ms. Glee for employment for a university required internship highlights the fact that while on clinical rotations and intern work-related activities, students are invited guests of the host facility and subject to their decisions regarding patient care delivery in their respective institutions. The nursing program maintained that it would continue to assist Ms. Glee in finding quality clinical educational experiences and alternate clinical sites that would provide opportunities for her to increase knowledge and skills in fulfillment of her degree requirements.
However, it was beyond the academic program’s purview to demand that health-care facilities honor the range of accommodations provided to students in the academic environment. If Ms. Glee’s disability worsens to the degree that her academic/clinical performance are significantly compromised, safety issues emerge, or reasonable accommodations are no longer feasible, her continued progression in the nursing program would need to be reevaluated.
Principles Guiding Implementation of Accommodations

- Formal notification by student of perceived or qualified disability
- Disability verification/qualification by designated disability personnel
- Integrity of educational program and academic standards
- Determination of reasonable accommodations
- Notification and implementation of accommodation (how to operationalize?)
- Established procedures for complaints and appeals
- Resolution of case...
Technical Standards for All Programs

Technical standards deemed fundamental for admission and successful student progression/graduation in the nursing program must also be clearly defined and must be defensible as essential elements of the curriculum. These essential requirements are generally classified in terms of (1) the ability to observe and communicate; (2) physical capacity and motor skills; (3) cognitive skills and intellectual capacity; (4) decision-making skills; and (5) behavioral, social, and professional attributes. Once established, the technical standards should be included in student recruitment and application materials, posted in program Web sites, and published in student handbooks.
Emerging Legal Issues in Nursing Education

- Students will present with more disabilities.
- High failure rates on NCLEX-RN since 2013 (NCLEX-PN too?) – likely to persist until 2016 and beyond; do failing students have any legal recourse?
- What legal issues might the Ebola virus place on nursing educational programs?
- Can we really reasonable accommodate mentally ill students into nursing?
- How can we manage student with addictions?
1) How would you manage uncivil faculty behavior? Dr. H. rarely attends meetings or arrives late and either checks her email or leaves periodically to take phone calls?

2) A cadre of senior tenured faculty subtly intimidate junior faculty members with various issues by hanging the tenure and promotion card over their heads.

3) The Vice President for Research’s wife is in your department as a faculty member. She uses her connections to exert influence with her schedule and other matters.
What Other Legal Issues Do You See in Nursing Education?
Many potential legal cases are ultimately resolved by faculty and academic nursing administrators at various levels using sound judgment, ethical principles, and data-driven decision-making so sound solutions can be put forth to resolve some very complex problems. It must be noted that every case, however, is uniquely different, and the best decisions are resolved by adhering to policies, remaining objective, and consulting legal counsel as appropriate.
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Questions