

3

Legal and Ethical Issues



1. Define the terms *ethics* and *laws* and list examples of legal and ethical behavior

Define the following terms:

ethics

the knowledge of right and wrong.

laws

rules set by the government to help people live peacefully together and to ensure order and safety.

1. Define the terms *ethics* and *laws* and list examples of legal and ethical behavior

Remember:

Ethics and laws guide our behavior. Ethics are the knowledge of right and wrong. An ethical person has a sense of duty and responsibility toward others. He or she always tries to do what is right.

If ethics tell us what we should do, laws tell us what we must do. Laws are usually based on ethics. Governments establish laws to help people live peacefully together and to ensure order and safety.

1. Define the terms *ethics* and *laws* and list examples of legal and ethical behavior

Examples of HHA behaviors that are both legal and ethical:

- Being honest
- Protecting clients' privacy
- Reporting abuse or suspected abuse
- Following the care plan
- Not performing tasks outside the scope of practice

1. Define the terms *ethics* and *laws* and list examples of legal and ethical behavior

Legal and ethical behaviors for HHAs (cont'd):

- Reporting observations and incidents
- Documenting accurately
- Following rules about safety and infection prevention
- Not accepting gifts
- Not becoming personally, sexually, or emotionally involved with clients or family members

1. Define the terms *ethics* and *laws* and list examples of legal and ethical behavior

Read the following scenarios and use them for discussion about maintaining professional boundaries:

- A client does not have money for food so the HHA picks food up and pays for it with his own money, knowing the client will pay him back.
- An HHA needs to leave early to pick up her child but cannot afford to work fewer hours, so she asks the client to sign off on a time card that is not accurate.
- A client asks an HHA to skip measuring his blood pressure “because it’s going to be high” and use the previous day’s measurement when documenting.

1. Define the terms *ethics* and *laws* and list examples of legal and ethical behavior

Read the following scenarios and use them for discussion about maintaining professional boundaries:

- An HHA brings her family to the client's home to visit because they have gotten close and the client wants to meet her children.
- A client asks her HHA to mend a torn sweater because it is her favorite, and the HHA agrees to take it home and work on it after hours.
- An HHA arrives at a client's home earlier than her scheduled shift so she can help the client get the house ready for a party the client is hosting.

2. Explain clients' rights and discuss why they are important

Define the following terms:

neglect

the failure to provide needed care that results in physical, mental, or emotional harm to a person.

negligence

actions, or the failure to act or to provide the proper care for a person, resulting in unintended injury.

2. Explain clients' rights and discuss why they are important

Define the following terms:

malpractice

professional misconduct that results in injury to a person.

abuse

purposeful mistreatment that causes physical, mental, or emotional pain or injury to a person.

physical abuse

intentional or unintentional treatment that causes harm to a person's body.

psychological abuse

emotional harm caused by threatening, scaring, humiliating, intimidating, isolating, or insulting a person, or treating the person as a child.

2. Explain clients' rights and discuss why they are important

Define the following terms:

verbal abuse

the use of spoken or written words, pictures, or gestures that threaten, embarrass, or insult a person.

assault

a threat to harm a person, resulting in the person feeling fearful that she will be harmed.

battery

the intentional touching of a person without her consent.

sexual abuse

nonconsensual contact of any type.

2. Explain clients' rights and discuss why they are important

Define the following terms:

financial abuse

the improper or illegal use of a person's money, possessions, property, or other assets.

domestic violence

physical, sexual, or emotional abuse by spouses, intimate partners, or family members.

workplace violence

verbal, physical, or sexual abuse of staff by other staff members or clients.

false imprisonment

unlawful restraint that affects a person's freedom of movement; includes both the threat of being physically restrained and actually being physically restrained.

2. Explain clients' rights and discuss why they are important

Define the following terms:

involuntary seclusion

the separation of a person from others against the person's will.

sexual harassment

any unwelcome sexual advance or behavior that creates an intimidating, hostile or offensive working environment.

substance abuse

the repeated use of legal or illegal drugs, cigarettes, or alcohol in a way that harms oneself or others.

2. Explain clients' rights and discuss why they are important

Remember:

Home health aides must never abuse clients in any way. They must also try to protect their clients from others who abuse them. If you ever see or suspect that another caregiver or a family member is abusing a client, report this immediately to your supervisor.

Reporting abuse or suspected abuse is not an option—it is the law.

2. Explain clients' rights and discuss why they are important

Refer to the Client's Bill of Rights in the textbook and think about these questions:

Why do you think the Client's Bill of Rights exists?

What does it mean to you as an HHA?

3. List ways to recognize and report elder abuse and neglect

HHAs should know the following points about elder abuse and neglect:

- Approximately 1 in 10 Americans aged 60 or older have experienced some form of elder abuse.
- It is estimated that as many as five million elderly people are abused each year.
- Reasons for abuse include ignorance, inexperience, or inability to care for elders.

3. List ways to recognize and report elder abuse and neglect

Points about elder abuse and neglect (cont'd):

- Types of abuse are physical, psychological, sexual, verbal, financial, and material abuse.
- Elderly people may be deprived of rights by others.
- Neglect may be failing to provide food, clothing, shelter, or medical care.
- Older adults may become self-abusive or neglect their own needs.

3. List ways to recognize and report elder abuse and neglect

Define the following term:

mandated reporters

people who are legally required to report suspected or observed abuse or neglect because they have regular contact with vulnerable populations.

3. List ways to recognize and report elder abuse and neglect

Remember:

As an HHA, you are in the best position to observe and report signs of abuse and neglect.

Handout 3-1: Who is Vulnerable to Abuse or Neglect?



Handout 3-1: Who is Vulnerable to Abuse or Neglect? (*cont'd*)

Some people are more vulnerable to adult abuse or neglect than others. They include the following:

- The elderly
- The physically ill or disabled
- The developmentally disabled
- The mentally ill or disabled
- People with communication problems, such as hearing, speech, and vision impairments

All of these people have a few things in common that make them so vulnerable. They are often unable to stand up for themselves or to report abuse or neglect to others. They may not even understand that they have rights. Often these people can be much more demanding to care for, which increases caregivers' stress.

Caregivers may not have been properly trained to care for these particular people, and they may not understand why these people behave the way they do. Caregivers may also be overworked, tired, stressed, and unappreciated, on top of caring for someone who requires so much time and energy.

These are the people who most need your help and protection from harm. They may not be able to speak for themselves, but the signs of abuse and neglect may speak volumes for them, if you just know how to recognize these signs.

3. List ways to recognize and report elder abuse and neglect

Think about this question:

Why are these people so vulnerable?

Key Material 3-1: Suspicious Injuries

The following are considered suspicious injuries and should be reported:

- Poisoning or traumatic injury
- Teeth marks
- Belt buckle or strap marks
- Bruises, contusions, or welts
- Scars
- Fractures, dislocation
- Burns of unusual shape and in unusual locations, cigarette burns
- Scalding burns
- Scratches and puncture wounds
- Scalp tenderness and patches of missing hair
- Swelling in the face, broken teeth, nasal discharge
- Bruises, bleeding, or discharge from the vaginal area

Key Material 3-2: Signs of Abuse

Signs that could indicate abuse include the following:

- Yelling obscenities
- Fear, apprehension, fear of being alone
- Poor self-control
- Constant pain
- Threatening to hurt others
- Withdrawal or apathy
- Alcohol or drug abuse
- Agitation or anxiety, signs of stress
- Low self-esteem
- Mood changes, confusion, disorientation
- Private conversations are not allowed, or the family member/caregiver is present during all conversations
- Reports of questionable care by the client or his family

Key Material 3-3: Signs of Neglect

Signs that could indicate neglect include the following:

- Pressure ulcers
- Unclean body
- Body lice
- Soiled bedding or incontinence briefs not being changed
- Poorly-fitting clothing
- Unmet needs relating to hearing aids, glasses, etc.
- Weight loss, poor appetite
- Uneaten food
- Dehydration
- Living conditions that are unsafe, unclean, infested, or inadequate
- Client reports of not receiving prescribed medication

3. List ways to recognize and report elder abuse and neglect

Think about this question:

Why are you legally required to report suspected abuse and/or neglect?

4. List examples of behavior supporting and promoting clients' rights

The following behaviors support clients' rights:

- Never abuse
- Observe and report signs of abuse or neglect
- Call client by the proper name. Use pronouns the client prefers.
- Involve clients in planning
- Explain procedures

4. List examples of behavior supporting and promoting clients' rights

Behaviors that support clients' rights (cont'd):

- Respect refusals and report to supervisor
- Tell supervisor about questions, concerns, or complaints
- Be truthful
- Do not gossip
- Keep client information confidential
- Knock and ask for permission to enter

4. List examples of behavior supporting and promoting clients' rights

Behaviors that support clients' rights (cont'd):

- Do not open client's mail
- Do not accept gifts or money
- Report any questionable financial practices
- Respect property
- Report observations

4. List examples of behavior supporting and promoting clients' rights

Critical Thinking: Skits

With a partner create and perform short skits demonstrating each of the listed guidelines for promoting client's rights. One of you should be the client and the other should play the HHA. The rest of the class must guess which guideline is being illustrated.

5. Explain HIPAA and list ways to protect clients' confidentiality

Define the following terms:

confidentiality

the legal and ethical principle of keeping information private.

protected health information (PHI)

information that can be used to identify a person and relates to the patient's condition, any health care that the person has had, and payment for that health care; examples include a person's name, address, telephone number, social security number, email address, and medical record number.

5. Explain HIPAA and list ways to protect clients' confidentiality

Remember:

HIPAA applies to all healthcare providers. There are serious penalties for violating these regulations. Penalties differ depending upon the violation and can include fines ranging from \$100 to \$1.5 million and/or prison sentences of up to ten years.

5. Explain HIPAA and list ways to protect clients' confidentiality

Remember:

Maintaining confidentiality is a legal and ethical obligation. It is part of respecting your clients and their rights. Discussing a client's care or personal affairs with anyone other than your supervisor or another member of the care team violates the law.

5. Explain HIPAA and list ways to protect clients' confidentiality

Critical Thinking: Conversation Starter

Review the guidelines, "Protecting Privacy" on pages 29-30 of the textbook.

Think about these questions:

Can you think of any other ways in which confidentiality might be violated?

How could you prevent them?

6. Discuss and give examples of advance directives

Define the following terms:

advance directives

legal documents that allow people to choose what medical care they wish to have in the event they are unable to make those decisions themselves.

living will

a document that states the medical care that a person wants, or does not want, in case the person becomes unable to make those decisions.

6. Discuss and give examples of advance directives

Define the following terms:

durable power of attorney for health care

a signed, dated, and witnessed legal document that appoints someone else to make the medical decisions for a person in the event he becomes unable to do so.

Physician Orders for Life-Sustaining Treatment (POLST)

a medical order that specifies the treatments a person wishes to receive, not what he wishes to avoid, when he is very ill; decisions are based on conversations between the patient and his healthcare providers.

do not resuscitate (DNR)

an order that tells medical professionals not to perform cardiopulmonary resuscitation.

6. Discuss and give examples of advance directives

Define the following terms:

do not intubate (DNI)

a medical order that tells medical professionals not to place a breathing tube in a person.

do not hospitalize (DNH)

a medical order that states that a person should not be sent to a hospital for treatment; treatment, however, is continued where the person is residing.

6. Discuss and give examples of advance directives

Remember:

You must respect clients' choices regarding advance directives, even if you do not agree with these decisions. Advance directives are each person's individual choice.

7. Identify community resources available to help the elderly

Remember:

Government and private agencies exist in most areas to serve the needs of the elderly. These agencies may have counselors to work with victims of abuse or neglect and other programs to protect senior citizens' rights and contribute to their quality of life.

7. Identify community resources available to help the elderly

You can find resources for the elderly in these ways:

- Look in the phone book or on the internet under community services, senior citizens, aging, or elder services.
- Local churches or synagogues may also have programs for seniors.
- In the United States, many elder services can be found using a service sponsored by the Administration on Aging. The toll-free Eldercare Locator Service operates Monday through Friday, from 9 a.m. to 8 p.m., Eastern time, and can be reached at 800-677-1116 or at www.eldercare.gov.
- The National Resource Center on LGBT Aging provides resources specific to the needs of LGBT elders. 212-741-2247 or www.lgbtagingcenter.org.

Role play

In pairs or small groups, role-play a situation in which the HHA is told by the client's daughter about some suspicious injuries on the client, emphasizing the following:

- With which member of the care team should the HHA talk?
- With whom should the HHA not discuss the information?
- Whose rights is the HHA supposed to support?
- Why is it illegal for the HHA to discuss this situation away from work?

Role play activity (cont'd)

While at the grocery store, an HHA overhears another HHA talking to a friend about a client's condition.

With a partner, role-play the situation. What action should the HHA take?

Critical Thinking: Case study

You overhear another HHA threatening to hit a client; another time the client tells you that the bruises on his arm are from the other HHA grabbing and pushing him.

What action must you take and why? What client rights are involved here?

Critical Thinking: Case study

While at the grocery store, you overhear another HHA talking to a friend about a client's condition.

What action should you take?

