

NUR 5011 Study Guide

- **INTRO TO THE LAW, MEDICAL RECORDS AND CONFIDENTIALITY**
- Discuss the relevance of law to health care professionals
 - Health Law: the provision of patient and client by health professionals is based on a framework of legal principles and legislative provisions which regulate and determine the standard of care to be delivered and the rights and obligations of both the provider and the recipients of the care.
 - Includes civil/criminal/common/contract/regulation of industrial relations and agreements/the statutory arrangements between states/territory/federal.
 - Difference between civil and criminal law
 - Civil: seeks to compensate wrongs done
 - The standard of proof-balance of probabilities (>51%)
 - Criminal: seeks to punish wrongs done
 - The standard of proof-beyond reasonable doubt (>99.9%)
 - Legal obligations to protect public
 - Nurses bound by acts, legislations, and code of conduct to protect the public
 - NMBA Code of Conduct 2018
 - Statements set out in Code regarding professional conduct
 - Medical Treatment Act 1988 **important!!!!!!**
 - Patient right to refuse treatment
 - Act outlines trespass to patient refusing treatment

- Outlines protection of professional from civil/criminal liability if they act in good faith
- Palliative care cannot be refused
- Medical Treatment Planning and Decisions Act 2016
important!!!!!!
 - Patient can nominate medical treatment decision-maker
 - Outlines advance care directives
 - Instructional directive: future treatment that patient consents/does not consent to
 - Values directive: patients values/preferences for future treatment
 - Treatment mustn't be given to patient who has refused it (i.e. in emergency situations)
 - Palliative care must be given
 - **THIS ACT IS UPDATED VERSION OF MEDICAL TREATMENT ACT 1988**
- Health Records Act 2001
 - Patient has right to access their medical records
 - Patient records must be kept confidential
- Mental Health Act 2014
 - Promotes voluntary treatment over compulsory treatment
 - Promotes supported decision-making with patient
 - Treatment should be of least intrusive/restrictive manner
- DNR/NFR
 - Medical order to withhold CPR
 - Is issued in consultation with patient/decision-maker/guardian
 - Can be covered in advance care directive

- **Identify** the sources and types of Australian law
 - Developed from both the historical links with Britain as a colonial power and the federation of the colonies.
 - The Commonwealth Constitution Act 1900 (UK) passed by British Parliament effectively transformed each of the colonies into separate states federated under the name of the Commonwealth of Australia. In AU, we have 2 sources of the law:
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 - Parliamentary Law and Case Law (Common Law)
- Discuss the hierarchy of the courts and understand the concept of jurisdiction
 - Court system
 - Adversarial VS Inquisitorial court systems
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 - Doctrine of precedent
 - Like case should be treated alike
 - When judges decide cases, they base the decisions off of past judicial decisions in situations where the facts are the same (particularly in the same hierarchy)
 - Also known as stare decisis
 - **Identify** the legal basis for the rule of confidentiality and privacy
 - Confidentiality prima facie, conditional in nature
 - Code of conduct, health legislation
 - Explain the potential legal outcomes if a breach in confidentiality or privacy does occur
 - Contract suspended
 - Litigation
 - Negligence
 - Etc.