

Guido, *Legal and Ethical Issues in Nursing*, 6e

Chapter 01

Question 1

Type: MCSA

A nurse would like to advocate for a modification of the state's nursing practice act and believes the best strategy is to contact the persons with authority to write and change this statutory law. Whom should the nurse contact?

1. State board of nursing
2. State governor
3. State legislature
4. State nursing association

Correct Answer: 3

Rationale 1: State boards of nursing are involved in the implementation and enforcement of the nurse practice act but not charged with writing the law.

Rationale 2: Governors may appoint members of those on the state board of nursing, but are not involved in writing nursing practice acts.

Rationale 3: State legislative bodies create and pass the individual nursing practice acts (statutory laws) and create state boards of nursing or state boards of nurse examiners (state administrative agencies) to implement and enforce those acts.

Rationale 4: State nursing associations may promote or seek to change nurse practice acts, but they cannot do so independently.

Global Rationale:

Cognitive Level: Applying

Client Need: Safe Effective Care Environment

Client Need Sub: Management of Care

Nursing/Integrated Concepts: Nursing Process: Implementation

Learning Outcome: 1.1 Define the term law and describe four sources from which law is derived, including constitutional, statutory, administrative, and judicial (decisional) law.

Question 2

Type: MCSA

A patient brought suit against a hospital for injuries sustained in a fall. The case went to trial and the jury found for the hospital. Can the patient take this same suit and evidence to another trial court in hopes of a different decision?

1. No, because of the doctrine of *res judicata*
2. Yes, *stare decisis* allows retrial
3. Yes, because of the doctrine of precedent
4. No, this is a landmark decision

Correct Answer: 1

Rationale 1: *Res judicata* means “a thing or matter settled by judgment” and applies when a legal dispute has been decided by a competent court of jurisdiction. This doctrine prevents the same parties in the original lawsuit from retrying the same issues involved in the first lawsuit.

Rationale 2: *Stare decisis* means to “let the decision stand” and is applied by courts of law in cases with similar fact patterns that have been previously decided by the court system.

Rationale 3: The doctrine of precedent means to “let the decision stand” and is applied by courts of law in cases with similar fact patterns that have been previously decided by the court system. Landmark decisions signify that precedent is changed by the current court decision.

Rationale 4: Landmark decisions signify that precedent is changed by the current court decision.

Global Rationale:

Cognitive Level: Analyzing

Client Need: Safe Effective Care Environment

Client Need Sub: Management of Care

Nursing/Integrated Concepts: Nursing Process: Assessment

Learning Outcome: 1.2 Compare and contrast the doctrines of precedent (*stare decisis*) and *res judicata*.

Question 3

Type: MCSA

The circumstances of a lawsuit cause it to be under the jurisdiction of more than one court. In this case, the nurse expects that which court will have the greatest personal jurisdiction?

1. Federal Supreme Court
2. Federal district court
3. State supreme court

4. State trial court

Correct Answer: 1

Rationale 1: The federal Supreme Court is the highest court in the country and its decisions will affect all citizens. It passes across all state and federal district boundaries, thus having the highest impact on people.

Rationale 2: Federal district courts are the first of the three levels of federal courts. They are not the courts with widest jurisdiction.

Rationale 3: The state supreme court is the final authority for state issues, unless a federal issue or constitutional right is involved.

Rationale 4: A state trial court is often the first court to hear legal disputes. It does not hold the widest jurisdiction.

Global Rationale:

Cognitive Level: Applying

Client Need: Safe Effective Care Environment

Client Need Sub: Management of Care

Nursing/Integrated Concepts: Nursing Process: Assessment

Learning Outcome: 1.3 Define and give an application of jurisdiction and a landmark decision.

Question 4

Type: MCSA

Several state nursing associations are working together in an attempt to change a constitutional law. These associations should ask for which action on this law?

1. Repeal
2. Expansion
3. Amendment
4. Redefinition

Correct Answer: 3

Rationale 1: Statutory laws can be repealed, but constitutional laws cannot.

Rationale 2: Statutory laws and administrative bodies can be expanded, but constitutional laws cannot.

Rationale 3: Constitutional law is a system of fundamental laws or principles for the governance of a nation, society, corporation, or other aggregate of individuals. It is the highest form of statutory law and is changed only by amendment.

Rationale 4: Administrative bodies may be redefined, but constitutional laws cannot.

Global Rationale:

Cognitive Level: Applying

Client Need: Safe Effective Care Environment

Client Need Sub: Management of Care

Nursing/Integrated Concepts: Nursing Process: Implementation

Learning Outcome: 1.4 List four ways in which laws can be changed.

Question 5

Type: MCSA

An emergency department patient was injured while attacking his neighbor with a knife. After treatment the patient was arrested and charged with battery and assault. Which classification or type of law would determine the case against this defendant?

1. Criminal law
2. Civil law
3. Private law
4. Constitutional law

Correct Answer: 1

Rationale 1: Criminal law is appropriate in this case because the act against the neighbor was of a nature that was offensive and harmful.

Rationale 2: Civil law is concerned with the rights and privileges of a citizen.

Rationale 3: Private law is synonymous with civil and common law and is not the law of most importance in this case.

Rationale 4: Constitutional law is a system of fundamental laws and principles for the governance of a nation.

Global Rationale:

Cognitive Level: Applying

Client Need: Safe Effective Care Environment

Client Need Sub: Management of Care

Nursing/Integrated Concepts: Nursing Process: Assessment

Learning Outcome: 1.5 Define classifications of law, including common, civil, criminal, public, and private law.

Question 6

Type: MCSA

A person who was injured in a motor vehicle accident sued the driver to recover hospital costs. Which type of law would be enforced in this situation?

1. Tort law
2. Public law
3. Constitutional law
4. Procedural law

Correct Answer: 1

Rationale 1: Tort law is the only option that has a process for allowing the determination of damages and compensation for damages in this case scenario. Tort laws govern wrongful acts that are harmful to an individual.

Rationale 2: Public law is the branch of law concerned with the state in its political capacity. There is no information in this scenario to indicate that a criminal offense occurred.

Rationale 3: Constitutional law is a system of fundamental laws or principles for the governance of a nation, society, corporation, or other aggregate of individuals. The purpose of a constitution is to establish the basis of a governing system.

Rationale 4: Procedural law concerns the process and rights of the individual charged with violating substantive law, and does not apply to this situation.

Global Rationale:

Cognitive Level: Analyzing

Client Need: Safe Effective Care Environment

Client Need Sub: Management of Care

Nursing/Integrated Concepts: Nursing Process: Assessment

Learning Outcome: 1.5 Define classifications of law, including common, civil, criminal, public, and private law.

Question 7

Type: MCSA

An emergency department nurse has agreed to testify as an expert witness in a lawsuit involving a child. The opposing attorney questions the nurse's qualifications as a pediatric nurse. Which type of law does this scenario reflect?

1. Due process of law
2. Private law

3. Substantive law

4. Procedural law

Correct Answer: 4

Rationale 1: Due process of law applies only to state actions and not to actions of private citizens.

Rationale 2: Private law is synonymous with civil or common law.

Rationale 3: Substantive law concerns the specific wrong, harm, or duty that caused the lawsuit or an action to be brought against an individual.

Rationale 4: Procedural law concerns the processes and rights of the individual charged with violating substantive law, and includes questions of admissibility of evidence and qualifications of expert witnesses.

Global Rationale:

Cognitive Level: Applying

Client Need: Safe Effective Care Environment

Client Need Sub: Management of Care

Nursing/Integrated Concepts: Nursing Process: Assessment

Learning Outcome: 1.6 Distinguish between substantive and procedural law, and state why each is important to professional nursing practice.

Question 8

Type: MCMA

A nurse is scheduled to appear before the state board of nursing in regard to action against the nurse's license. Which occurrences would violate due process of law?

Note: Credit will be given only if all correct choices and no incorrect choices are selected.

Standard Text: Select all that apply.

1. The time of the hearing was changed without adequate notice to the nurse.
2. The nurse was told the meeting was in regard to a complaint about the agency where the nurse was employed.
3. Other nurses involved in the situation leading to the action were not similarly summoned before the board.
4. The nurse was suspended by her private employer pending outcome of this action.
5. A snow storm forced postponement of the board meeting until next month.

Correct Answer: 1,2

Rationale 1: The nurse must be given adequate notice of changes in the hearing schedule or due process of law is violated.

Rationale 2: The nurse must be given proper information about the purpose of the meeting or due process of law is violated.

Rationale 3: Each nurse's participation in this situation is individual. Other nurses may not have committed actionable offenses. If their actions were equally as actionable, this would violate the equal protection of the law concept, not due process of law.

Rationale 4: Due process of law applies only to state actions, not to that of private citizens.

Rationale 5: As long as the nurse has adequate notice of this postponement, due process of law is not violated.

Global Rationale:

Cognitive Level: Analyzing

Client Need: Safe Effective Care Environment

Client Need Sub: Management of Care

Nursing/Integrated Concepts: Nursing Process: Implementation

Learning Outcome: 1.7 Discuss due process and equal protection of the law.

Question 9

Type: MCSA

A county-supported hospital elects to limit surgical procedures for morbid obesity to male patients. Female patients receive pharmacologic therapy, counseling, and instruction for diet and exercise, but are excluded from operative procedures. Under which legal concept is this illegal?

1. *Res judicata*
2. Due process of law
3. *Stare decisis*
4. Equal protection under the law

Correct Answer: 4

Rationale 1: *Res judicata* means “a thing or matter settled by judgment” and prevents the same parties in the original lawsuit from retrying the same issues involved in the first lawsuit.

Rationale 2: Due process of law ensures that fair procedures are followed in enforcing rules.

Rationale 3: The doctrine of precedent, or *stare decisis*, means to “let the decision stand” and is applied by courts of law in cases with similar fact patterns that have been previously decided by the court system.

Rationale 4: Equal protection under the law holds that all similarly situated persons will be affected similarly.

Global Rationale:

Cognitive Level: Applying

Client Need: Safe Effective Care Environment

Client Need Sub: Management of Care

Nursing/Integrated Concepts: Nursing Process: Implementation

Learning Outcome: 1.7 Discuss due process and equal protection of the law.

Question 10

Type: MCSA

In which case would the judge serve both as a fact-finder and determiner of questions of law?

1. Trial by jury is waived by both sides.
2. The jury asks the judge to address both types of questions.
3. The case is so complex that the jury is unable to decide the question.
4. The attorneys for the plaintiff agree to such a condition.

Correct Answer: 1

Rationale 1: Only in the case where there is no jury does the judge address and answer both questions of law and fact.

Rationale 2: The jury is seated to determine questions of fact and cannot ask the judge to assume that responsibility.

Rationale 3: Determining questions of fact is the responsibility of the jury.

Rationale 4: The attorneys for the plaintiff cannot make this determination.

Global Rationale:

Cognitive Level: Applying

Client Need: Safe Effective Care Environment

Client Need Sub: Management of Care

Nursing/Integrated Concepts: Nursing Process: Assessment

Learning Outcome: 1.8 Differentiate between questions of law and questions of fact in trial settings, and give an example of both.

Question 11

Type: MCSA

During a jury trial, the presence of a nurse–patient relationship is questioned. What kind of question is this and who would determine it?

1. Fact to be determined by the judge
2. Law to be determined by the jury
3. Law to be determined by the judge
4. Fact to be determined by the jury

Correct Answer: 4

Rationale 1: Judges determine law.

Rationale 2: The jury determines fact.

Rationale 3: The presence of a nurse–patient relationship is determined by the evidence and therefore is a fact and not a law.

Rationale 4: The nurse–patient relationship constitutes a determination as to whether a relationship existed. This is determined by the evidence and therefore is a fact. Facts are determined by the jury.

Global Rationale:

Cognitive Level: Analyzing

Client Need: Safe Effective Care Environment

Client Need Sub: Management of Care

Nursing/Integrated Concepts: Nursing Process: Assessment

Learning Outcome: 1.8 Differentiate between questions of law and questions of fact in trial settings, and give an example of both.

Question 12

Type: MCMA

A patient says, “I was told my back pain is the result care I received when I was in the hospital a year ago. How long do I have to file a lawsuit?” Which statements made by the nurse are appropriate?

Note: Credit will be given only if all correct choices and no incorrect choices are selected.

Standard Text: Select all that apply.

1. “A general rule is 2 years from the time you knew what caused your injury.”
2. “State laws differ on the statute of limitation for personal injury.”

3. “It is too late if you knew you had back pain right after the fall.”
4. “You should move to Washington because their statute of limitation is longer.”
5. “In some cases it depends if the injury was due to trauma or disease.”

Correct Answer: 1,2,5

Rationale 1: The “discovery rule” is a general guideline stating that patients have 2 years from the time that they knew or should have known of the injury to file a personal injury lawsuit. This is a fact that the nurse would be justified in providing to a patient.

Rationale 2: State laws differ widely on statutes of limitations. This is a fact that the nurse would be justified in providing to a patient.

Rationale 3: The nurse is not prepared to determine if it is “too late” to file this suit and should not make this statement.

Rationale 4: The statute of limitation of the state in which the injury occurred would apply.

Rationale 5: Some courts have distinguished between traumatic injury cases and diseases cases. This is a fact and the nurse would be justified in providing this information to the patient.

Global Rationale:

Cognitive Level: Analyzing

Client Need: Safe Effective Care Environment

Client Need Sub: Management of Care

Nursing/Integrated Concepts: Nursing Process: Implementation

Learning Outcome: 1.11 Describe statutes of limitation, their significance, and their purposes.

Question 13

Type: MCMA

An employee asks for time off to be a juror in a case before the state appellate court. The unit is very busy and this employee’s absence would affect patient care. How should the nurse manager respond to this request?

Note: Credit will be given only if all correct choices and no incorrect choices are selected.

Standard Text: Select all that apply.

1. Give the employee the time off because jury service is required upon subpoena.
2. Refuse the request and refer the employee to the personnel department for review of the employee manual.
3. Insist that the employee contact the county clerk to request release from jury duty.

4. Ask the employee more questions about the request.
5. Tell the employee that service as a juror for this case is not required.

Correct Answer: 4,5

Rationale 1: The nurse manager should not give this employee time off.

Rationale 2: There is no need for this employee to review the employee manual.

Rationale 3: This employee does not need to contact the county clerk.

Rationale 4: The nurse manager should ask questions to gain additional information before responding further to this request.

Rationale 5: State appellate courts have no jurors.

Global Rationale:

Cognitive Level: Analyzing

Client Need: Safe Effective Care Environment

Client Need Sub: Management of Care

Nursing/Integrated Concepts: Nursing Process: Implementation

Learning Outcome: 1.10 Explain the functions of the trial courts, appellate courts, and supreme courts at both the state and federal levels.

Question 14

Type: MCMA

A nurse has been called to testify in a case that will be tried in family court. The nurse anticipates that the case will involve one of which situations?

Note: Credit will be given only if all correct choices and no incorrect choices are selected.

Standard Text: Select all that apply.

1. Adoption
2. Estate division
3. Child abuse
4. Divorce
5. Child custody

Correct Answer: 1,4,5

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Rationale 1: Adoptions are under the jurisdiction of family court.

Rationale 2: Wills and estates are under the jurisdiction of probate courts.

Rationale 3: Criminal matters are under the jurisdiction of criminal courts.

Rationale 4: Divorces are under the jurisdiction of family court.

Rationale 5: Child custody is under the jurisdiction of family court.

Global Rationale:

Cognitive Level: Applying

Client Need: Safe Effective Care Environment

Client Need Sub: Management of Care

Nursing/Integrated Concepts: Nursing Process: Assessment

Learning Outcome: 1.9 List two types of jurisdictions, giving the definition and an example of each.

Question 15

Type: MCMA

A nurse reads that a case involving the care provided in a hospital will be reviewed by the United States Supreme Court. The nurse suspects that which situations could have occurred?

Note: Credit will be given only if all correct choices and no incorrect choices are selected.

Standard Text: Select all that apply.

1. The case involves a constitutional issue.
2. Two lower federal courts have reached different conclusions in the case.
3. The hospital involved is a military hospital.
4. The care in question included the suspicion of premeditated homicide.
5. The patient involved in the case was an undocumented alien.

Correct Answer: 1,2,3

Rationale 1: The U.S. Supreme Court reviews cases in which constitutional issues have been decided.

Rationale 2: The U.S. Supreme Court reviews cases in which two or more lower courts have reached different conclusions.

Rationale 3: Typically the care in a civilian hospital would be under the jurisdiction of state courts. Cases involving military, veterans', or other federally funded health centers are frequently settled in federal courts. This may result in Supreme Court review.

Rationale 4: The question of premeditated homicide would not change the jurisdiction to the federal system.

Rationale 5: The citizenship status of the patient involved in the case would not determine if the case was under federal jurisdiction.

Global Rationale:

Cognitive Level: Analyzing

Client Need: Safe Effective Care Environment

Client Need Sub: Management of Care

Nursing/Integrated Concepts: Nursing Process: Assessment

Learning Outcome: 1.10 Explain the functions of the trial courts, appellate courts, and supreme courts at both the state and federal levels.