

# Faith Community Nursing: Legal Aspects

## Foundations of Faith Community Nursing Faith Community Nurse Network

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This course is adapted from the Foundations of Faith Community Nursing course based on the curriculum Developed through the Westberg Institute for Faith Community Nursing which is owned by the Spiritual Care Association of New York, NY. Revised 2019.

Joan is a relatively new FCN. She is visiting a member of the faith community who recently had a total knee replacement. The member is having a lot of pain in the surgical site. Joan expresses concern and asks if the member has called her surgeon. The member tells her that the surgeon told her some pain was to be expected and that her daughter would be visiting later that day and would call the doctor. The next day, the daughter calls Joan and is very angry. She states, "My mom's knee was very infected and as a nurse you should have reported that to her doctor right away. My mom is now in the hospital with sepsis."

What concerns do you have about potential legal aspects for Joan?



### Learning Outcomes:

1. Establish professional boundaries in faith community nursing practice.
2. Minimize exposure to liability in faith community nursing practice.
3. Analyze the major areas of accountability in faith community nursing practice using the Scope and Standards of Practice (3<sup>rd</sup> edition, 2017) as a framework.
4. Practice faith community nursing according to the guidelines in your specific state Nurse Practice Act.



**Professional Boundaries:** the \_\_\_\_\_ between the nurse's power and the client's \_\_\_\_\_.

Where does your "power" as a nurse come from?



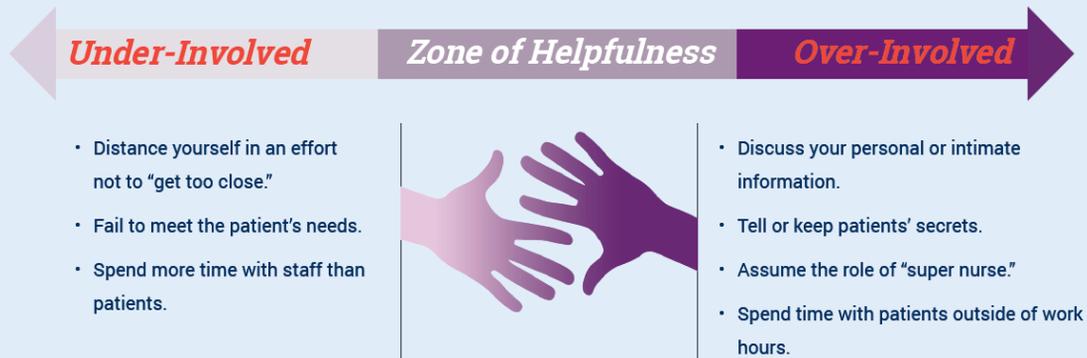
**Boundary Crossings:** brief excursions across professional lines of behavior that may be inadvertent, thoughtless or even purposeful while attempting to meet a need of the patient.

**Boundary Violations:** confusion between the \_\_\_\_\_ of the nurse and the \_\_\_\_\_ of the client.

FIGURE 1.

## PROFESSIONAL BOUNDARIES IN NURSING

Note. Based on information from NCSBN, 2011.



You are a FCN and visit an 85 year old man who lives alone in his apartment. He asks if you can get him a glass of water from his fridge. When you open the fridge, you see containers of moldy food and a dirty pitcher of very cloudy water. Thinking about the Zone of Helpfulness, what are examples of being:

Under-involved?  
 Zone of Helpfulness?  
 Over-involved?



## Guiding Principles for Maintaining Professional Behavior:

1. It is the nurse's responsibility to establish and maintain boundaries that support the **professional relationship**.

What does "professional relationship" mean to you? (hint: pg. 120 participant manual: "while the nature of nursing...")

2. The nurse should examine any boundary crossing, be aware of its potential implications and avoid repeated crossings.
3. The nurse should work within the **Zone of Helpfulness** to the patient.



National Council of State Boards of Nursing, 2018

4. The nurse should be mindful that specific care settings and patient needs can affect the process of drawing boundaries.
5. The nurse should avoid excessive personal disclosure to a patient. Why?
6. The nurse needs to be cognizant of the potential boundary issues that exist in using social media.

Is faith community nursing a care setting that could affect the process of drawing boundaries? Why?



National Council of State Boards of Nursing, 2018

An FCN has been visiting a 88 year old client monthly for several years. Nursing diagnosis: Anxiety, visual impairment, mobility issues, loneliness, chronic pain, spiritual needs.

The client lives alone, has only one child who lives 1000 miles away and has relied on the FCN for rides to the doctor, picking up medication and for emotional and spiritual support. The client often says to the FCN— *"You're like a daughter to me...I love you"* Recently, the client asked the FCN if she would help her write out checks to pay her bills and be her second health care agent in case no one could reach her daughter in an emergency.

What would you advise this FCN to do?

## **Outcome 2: Minimize exposure to liability in faith community nursing.**

**Tort:** a **civil** wrong versus a criminal wrong.

**Intentional tort:** a wrong that was committed deliberately with the intent to harm someone or deliberately interfere with an individual's rights to safety, emotional tranquility, privacy and control over property. Invasion of privacy, theft, property damage, fraud and trespassing are examples.

**Unintentional tort:** an unintended wrong against a person.

### **Could this situation be considered a tort?**

While talking with the priest (her supervisor) an FCN mentions that Philip, a faith community member the nurse visits, is on medication for depression and anxiety. Later, the FCN gets an angry voice mail call from Philip saying that the priest had visited and prayed for his depression and anxiety even though he had never told the priest about either. Philip accuses the FCN of not keeping his medical history confidential.

**Negligence:** failure to act as an ordinarily prudent person would act under similar circumstances causing injury to another person or property. As a professional nurse, you are held to a higher standard than similar professionals in the community.

**Malpractice:** the unintentional failure of a professional to meet the standard of conduct that a reasonable and prudent member of the profession would exercise in similar circumstances resulting in harm. Usually involves unethical or improper conduct or "an unreasonable lack of skill." (Joint Commission)

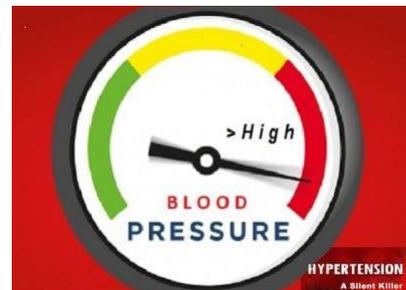
1. The Joint Commission. *Sentinel event glossary of terms*. n.d. [http://www.jointcommission.org/sentinelevents/se\\_glossary.htm](http://www.jointcommission.org/sentinelevents/se_glossary.htm). [Context Link]

**We'll talk about liability insurance shortly!**



An FCN is doing BP screenings at the faith community and a person's blood pressure is 220/130. The client says he's had 6 cups of coffee and a Red Bull that morning. The nurse says, "You need to call your doctor tomorrow and have your blood pressure checked." The client laughs and says, "Oh don't worry...my doctor says my blood pressure is fine." Later that day, the client has a stroke.

What does this situation teach us about liability? Is there anything the FCN could have done to protect his/her liability?



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**For a legal finding of negligence or malpractice  
all four of the following must exist:**

1. Duty to care (obligation to conform to a recognized standard of care)  
A nurse-patient relationship must exist.
2. Injury (plaintiff must establish that damages have occurred.)
3. Breach of duty (the health professional deviated from the established standard of care or failed to adhere to an obligation)
4. Departure from the standard of care must be the cause of the injury.  
The injury was caused by the nurse's error.



Marty's story

**Types of Negligence Specific to FCNs:**

**Assessment failures:**

- Failure to assess and evaluate
- Failure to document assessment and evaluation
- Failure to act in accordance with a patient's wishes for self-determination

**Planning Failures**

- Failure to use assessment for diagnosis and planning of care.

**Implementation failures**

- Communication failures
- Documentation failures
- Follow-up failures

**Evaluation failures**

- Failure to act as a patient advocate.

The child care provider at your faith community texts the FCN during worship "Ian just bit Samantha on her arm. What should I do?" The FCN texts back, "If the skin wasn't broken, just wash it with soap and water. No need to tell parents." Neither the child care provider or the FCN document this incident.

The FCN finds out a week later that Samantha developed a bad infection from the bite. The parents are furious they weren't told about the bite and threaten to leave the faith community.

What types of "failures" does this case illustrate?

What would you have done differently?



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## **Breach of Duty: failure to act consistently with:**

1. Standards established by your state's Nurse Practice Act
2. Standards defined by ANA/HMA Faith Community Nursing Scope and Standards of Practice (2017, 3<sup>rd</sup> Edition)
3. Job description or contracts detailing specific functions, policies procedures established by the organization.

On **page 122-123** of your participant manual, you will see a list of potential healthcare torts. We'll go to **breakout** rooms now.

**Discuss which of these torts could be relevant to FCN practice.**

**If time allows, share what has surprised you about this topic on legal aspects in faith community nursing.**

**Torts** are **civil** wrongs and the resolution of torts is intended to compensate victims, find fault for wrongdoing and discourage the wrongdoer from committing future torts.)

**Criminal Law:** offense against society and so offensive that the state is responsible for prosecuting the offending individual. Individuals can be fined or imprisoned and are likely to lose license.

**Misdemeanors:** illegal medical practice; falsifying a patient's record, failing to report child or elder abuse; altering or forging a prescription.

**Felonies:** drug trafficking; Medicare fraud; theft; rape; murder

### **Mandated Reporters:**

RNs are mandated reporters in at least 47 states.  
FCNs should know the specific requirements and procedures for their state.

What are signs of elder abuse?

What are signs of child abuse?

**The state of Minnesota provides online training for mandated reporters. This would be a great learning opportunity for Minnesota FCNs.**

**If you are from another state, Check out your Department of Human Services or other state websites.**



<https://mn.gov/dhs/people-we-serve/children-and-families/services/child-protection/programs-services/mandated-reporting-training-overview.jsp>

## **Liability/Malpractice insurance is highly recommended for RNs & FCNS**

**Malpractice insurance:** even if you are innocent, obtaining a lawyer can be expensive. It's a fallacy that having insurance makes you more vulnerable to being sued. Having insurance is considered confidential information.

<https://westberginstitute.org/liability-information/>

Sondra uses NSO—annual premium for a part-time position is \$107 (\$1 million/\$3 million)

**Automobile insurance:** if you are using your car in performing your responsibilities, check with your auto insurance company to see if you need a rider to your policy.

**What about your faith community's insurance? Will it cover you? Does it matter if you are paid or unpaid?**

The FCN receives a call from a client asking about the Covid-19 vaccine. The client states: "My doctor thinks I should get the vaccine, but I developed Guillain-Barre syndrome several years ago after getting a vaccine and I also carry an Epi-pen because I'm very allergic to seafood. What do you think I should do?"

What would you do in this situation?



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### **Outcome 3: Analyze the major areas of accountability in faith community nursing using the ANA/HMA Faith Community Nursing: Scope and Standards of Practice as a framework.**

#### **What does it mean to be accountable?**

#### **Who are we accountable to?**

- God—our responsibility is directly connected to stewardship
- Recipients of our services
- The faith community (or other employer)



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### **FCNs are also accountable to:**

- Local and federal laws such as HIPAA (although, technically, a faith community is not governed by HIPAA)
- The Nurse Practice Act in your state
- ANA Code of Ethics for Nurses with Interpretive Statement (2018)
- ANA Nursing: Scope and Standards of Practice (2015)
- ANA and Health Ministries Association: Faith Community Nursing: Scope and Standards of Practice (2017)

### **Outcome 4: Practice faith community nursing according to guidelines in specific state Nurse Practice Act.**

(11) Engaging in any unethical conduct, including, but not limited to, conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient. Actual injury need not be established under this clause.

(12) Engaging in conduct with a patient that is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient, or engaging in sexual exploitation of a patient or former patient.

(13) Obtaining money, property, or services from a patient, other than reasonable fees for services provided to the patient, through the use of undue influence, harassment, duress, deception, or fraud.

(14) Revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law.

(Examples from the Minnesota Board of Nursing Practice Act. 2020)

**Are there any guidelines here that you have questions about?**

**Be sure to find your nurse practice act at your state Board of Nursing website, review it and keep a copy to refer to.**

### Break Out Rooms with Case Studies

#### Case Study 1:

You are an FCN in a faith community of about 200 members. You are concerned because quite often, you see the spiritual leader (your supervisor) meeting with teenagers alone in his office with the door closed. The spiritual leader also gives kids rides home after evening meetings. You realize that this faith community doesn't have any written policies and procedures about the prevention of abuse for clergy and youth workers. You certainly haven't heard of any abuses, but you wonder whether this oversight creates a certain vulnerability for the faith community, its leaders and its members. Discuss this case and what you feel you should do.

#### Case Study 2:

As an FCN, you attend staff meetings weekly. All staff (clergy plus administrative staff, music directors and youth and children directors attend these meetings.) The clergy often devotes at least 15 minutes of the meeting to discussing, in detail, health problems of members. You are often asked questions about the details and you say you're not allowed to discuss them, but you still feel uncomfortable with this health information being shared with everyone on the staff. Discuss this case and what you think you should do.

Sorry, this is not in your slides...but it's an important aspect of our practice:

1. Inform clients of the important of advance care directives. (These are also called "Health Care Directives," "Living Wills", "Power of Attorney for Health Care," "Five Wishes.")
2. Know your state's guidelines on who can legally complete these.
3. In MN, CA, FL, NY, OK and MO, an attorney is not required in order to complete an health care directive. In MO, you must have a notary sign.
4. Anyone over the age of 18 should have an advance care directive.
5. FCNs can assist persons in completing theirs but should have some training to do this.

Honoring Choices, Minnesota <https://honoringchoices.org/>

<https://www.fairview.org/our-community-commitment/honoring-choices>

## Q&A

**What is one important thing you've learned from the Legal Issues module that you will use in your FCN practice?**

### **Optional Break Out Rooms If We Have Time**

**Break Out Rooms:** Look at pages 127 of your participant handbook. There are many competencies listed under **Standard 7: Ethics**

**Discuss this competency with your small group:**

*Acknowledges and respects tenets of the faith and spiritual belief system of a health care consumer.*

How would this competency present a challenge to you if you were serving a client with a very different belief system from your own?

Examples: Prochoice/Prolife  
Vaccination/Anti-vaccination