

LEGAL AND ETHICAL ISSUES

MLA EDUCATION DAY
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PLAN FOR WORKSHOP

- Review of some terminology
- Case Study
- Discussion or “real life” experiences of legal and/or ethical challenges

- *****Please note: this workshop and case study are not intended to give legal advice. Any legal advice must be sought from the attorneys who represent the employers, employees, institutions and/or professional societies.**

DUTY OF CARE

- Because of position, skill and knowledge, a person must act in a way which provides service in a manner which does not do harm

COMPETENCE

- Requisite or adequate abilities/skills to perform specified tasks
- Ability to perform duties to acceptable **standards of care** as set by the regulatory body of the profession

CONSENT

- Expressed
 - Oral or written
- Implied
 - Presenting for procedure or treatment

LIABILITY

- Direct
 - Responsibility for action carried out by person who performs this action
- Vicarious
 - Responsibility for action of another person due to position

NEGLIGENCE

- Failure to do something which a **reasonable and prudent man**, guided by those considerations which ordinarily regulate human affairs, would do or doing something which a **reasonable and prudent man** would **not** do, thereby causing injury

NEGLIGENCE

- One may be personally negligent for his own omissions or commissions, or in certain situations, vicariously negligent for the acts of his “servant”

Finding of liability for negligence

- Duty of care
- Standard of care
- Injury
- Causation

Duty of Care

- It must be established that a duty of care is owed by the defendant
- Person accepts responsibility for care by accepting position and by possession of skills and knowledge required of that position

Standard of Care

- Must be proven that defendant did not meet **reasonable standards** established by profession

Injury

- Must be proven
- Involves injury to one's person or property

Causation

- Must prove a causal link between defendant's act and the injury or loss

ETHICS

- Many definitions
- The study of standards of right and wrong
- That part of philosophy dealing with moral conduct, duty and judgment
- **Formal professional rules of right and wrong; system of conduct**
- Moral principle by which a person is guided

ETHICS

- A broader, conceptual definition of ethics is concerned with motives and attitudes and their relationship to the good of the individual
- Values interwoven with ethics

Confidentiality

- **Cornerstone of ethical behaviour**
- Obligation **not** to discuss or divulge any information received in the course of carrying out duties
- Information regarding patient is privileged

CASE STUDY

- Instructions and case to be given at the workshop
- Small group work
- Discussion

“Real life” examples

- If time allows, we invite you to bring some examples of legal or ethical challenges you have faced.
