Provision 3

The nurse promotes, advocates for, and protects the rights, health and safety of the patient.

3.1 Protection of the Rights of Privacy and Confidentiality

Privacy is the right to control access to and disclosure or nondisclosure of information pertaining to oneself, and to control the circumstances, timing, and extent to which information might be disclosed. The need for health care does not justify unwanted or unwarranted intrusion into people’s lives. Nurses safeguard the individual’s, family’s, and community’s right to privacy. The nurse advocates for an environment that provides sufficient physical privacy, including privacy for discussions of a personal nature. Nurses also participate in the maintenance of and policies and practices that protect both personal and clinical information at institutional and societal levels.

Confidentiality pertains to the nondisclosure of personal information that has been communicated within the nurse–patient relationship. Central to that relationship is an element of trust and an expectation that personal information will not be divulged without consent. The nurse has a duty to maintain confidentiality of all patient information, both personal and clinical in the work setting and off duty in all venues, including social media or any other means. Because of the rapidly evolving means of communication and the porous nature of social media, nurses must maintain vigilance regarding commentary that intentionally and/or unintentionally breaches their obligation to maintain and protect patients' rights to privacy and confidentiality.
The patient’s well-being could be jeopardized and the fundamental trust between patient and nurse damaged by unauthorized access to data or by the inappropriate or unwanted disclosure of identifiable information. Patient rights are the primary factors in any decisions concerning personal information, whether from or about the patient. This pertains to all information in any manner that is communicated or transmitted. Nurses are responsible for providing accurate, relevant data to members of the healthcare team and others who have a need to know. The duty to maintain confidentiality is not absolute and may need to be modified in order to protect the patient, other innocent parties, and in circumstances of required disclosure such as mandated reporting or for safety or public health reasons.

Information used for purposes of peer review, professional practice evaluation, third-party payments, and other quality improvement or risk management mechanisms may only be disclosed under defined policies, mandates, or protocols. These written guidelines must assure that the rights, well-being, and safety of the patient remain protected. Only that information directly relevant to a task or specific responsibility should be disclosed. When using electronic communications or in electronic health records, special effort should be made to maintain data security.
3.2 Protection of Human Participants in Research

Stemming from the right to autonomy or self-determination, individuals have the right to choose whether or not to participate in research as a human subject. Participants or legal surrogates must receive sufficient and materially relevant information to make informed decisions and to understand that they have the right to decline to participate or to withdraw at any time without fear of adverse consequences or reprisal. Information needed for informed consent includes the nature of participation, potential harms and benefits, available alternatives to taking part in the study, and how the data will be protected. It must be communicated in a manner that is comprehensible to the patient. Prior to implementation, all research must be approved by a formally constituted and qualified review board to ensure participant protection and the ethical integrity of the research.

Nurses should be aware of the special concerns raised by research involving vulnerable groups, including patients, children, minority populations, prisoners, pregnant women, fetuses, the elderly, cognitively impaired persons, and economically or educationally disadvantaged persons. The nurse who directs or engages in research activities in any capacity should be fully informed about the qualifications of the principal investigator, the rights and obligations of all those involved in the particular research study, and the ethical conduct of research in general. Nurses have a duty to question and, if necessary, to report research that is ethically questionable and to decline to participate.
3.3 Performance Standards and Review Mechanisms

Professional nursing is a process of education and formation that involves the ongoing acquisition and development of the knowledge, skills, dispositions, practice experiences, commitment, relational maturity, and personal integrity essential for professional practice. Nurse educators must ensure that basic competence and commitment to professional practice exist prior to entry into practice. Nurse managers and executives similarly ensure that nurses have the required knowledge, skills, and dispositions to perform clinical responsibilities requiring preparation beyond the basic academic programs. In this way nurses—individually, collectively and as a profession—are responsible and accountable for nursing practice and professional behavior.

3.4 Professional Competence in Nursing Practice

Nurses must lead in the development of policies and review mechanisms to promote patient health and safety, reduce errors, and create a culture of excellence. When errors occur, nurses must follow institutional guidelines in reporting errors to the appropriate authority and ensure responsible disclosure of errors to patients. Nurses must establish processes where mistakes or errors are revealed and nurses are personally accountable, and any system factors that led to error are rectified. Error should be corrected or remediated, not punished. When error occurs, whether one’s own or an error of a coworker, nurses may not participate in, or condone through silence, any attempts to hide it. Engaging the appropriate intra-institutional sequence of reporting and authority is critical to maintaining a safe patient care environment.
Nurses must use the chain of authority when a problem or issue has escalated beyond their problem-solving ability and/or scope of responsibility or authority. Issue reporting escalation ensures that appropriate individuals are aware of the concern. Communication should start at the level closest to the event and escalate only as the situation warrants.

3.5 Protecting Patient Health and Safety by Action on Questionable Practice

Nurses must be alert to and take appropriate action in instances of incompetent, unethical, illegal, or impaired practice or any actions that place the rights or best interests of the patient in jeopardy. To function effectively, nurses must be knowledgeable about The Code of Ethics of Ethics for Nurses, standards of practice of the profession, relevant federal, state and local laws and regulations, and the employing organization’s policies and procedures.

When nurses are aware of inappropriate or questionable practice, the concern should be expressed to the person involved, focusing on the patient’s best interests as well as the integrity of nursing practice. When practices in the healthcare delivery system or organization threaten the welfare of the patient, similar action should be directed to the responsible administrator or, if indicated, to an appropriate higher authority within the institution or agency, or to an appropriate external authority. When incompetent, unethical, illegal, or impaired practice is not corrected and continues to jeopardize patient well-being and safety, the problem must be reported to appropriate external authorities such as practice committees of professional
organizations and regulatory, licensing, and quality assurance agencies or boards.

Some situations are sufficiently egregious that they may warrant the notification and involvement of all such groups.

Nurses should use established processes for reporting and handling questionable practices. All nurses have a responsibility to assist those “whistleblowers” who identify potentially questionable practice and to reduce the risk of reprisal against the reporting nurse. State nurses associations should be prepared to provide their members with advice and support in the development and evaluation of such processes and reporting procedures. Accurate reporting and factual documentation are essential for all such actions. When a nurse chooses to engage in the act of responsible reporting about situations that are perceived as unethical, incompetent, illegal, or impaired, the professional organization has a responsibility to protect the practice of those nurses who choose formally to report their concerns. Reporting questionable practices, even when done appropriately, may present substantial risk to the nurse; nevertheless, such risk does not eliminate the obligation to address threats to patient safety.

3.6 Patient Protection and Impaired Practice

Nurses must protect the patient, the public, and the profession from potential harm when a colleague’s practice appears to be impaired. When another’s practice appears to be impaired, the nurse’s duty is to take action to protect patients and to ensure that the impaired individual receives assistance. This process begins with consulting
supervisory personnel and includes approaching the individual in a clear and
supportive manner and helping the individual to access appropriate resources. The
nurse extends compassion and caring to colleagues throughout processes of
identification, remediation, and recovery.

Nurses must follow policies of the employing organization, guidelines outlined by
the profession, and relevant laws to assist colleagues whose job performance may be
adversely affected by mental or physical illness or by personal circumstances. Nurses
in all professional relationships must advocate in instances of impairment for
appropriate assistance, treatment, and access to fair institutional and legal processes.
This includes supporting the return to practice of individuals who have sought
assistance and, after recovery, are ready to resume professional duties. If impaired
practice poses a threat or danger to self or others, regardless of whether the individual
has sought help, the nurse must report the individual to persons authorized to address
the problem. Nurses who report those whose job performance creates risk should be
protected from retaliation or other negative consequences. If workplace policies do
not exist or are inappropriate—that is, they deny the nurse in question access to due
legal process or demand resignation—nurses may obtain guidance from professional
associations, state peer assistance programs, employee assistance programs, or similar
resources.