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International Institute of Health Sciences



 *Assignment*

Program and Batch: Diploma in General Nursing

Module: Ethics

Title: Development in Austrailian Laws and Health Related Laws.

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 Due Date: 17th February 2014

Lecturer: Dr. Kithsiri Edirisingha

ABSTRACT

This report is mainly done in the purpose of giving nursing students a fair knowledge about the development of Australian law form early beginning up to now.

My group made an collective effort in gathering information based to our report, we succeeded in presenting an outline to our topic which will enable all the nursing students an idea about the laws available before, now and also about the sequence of development of the law.

This will give all students a clear scope of the present ruling laws as well, which is an essential issue in knowing the law before having to face it.

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**Introduction**

 The main feature of this report is to give a brief idea about the development of Australian law

 and health related laws. We have described this topic into four sub topics, which are

 introduction to law, development of Australian law and health related laws, sources of law,

 types of law and the torts of law.

 In the first sub topic it is included simple definition for law and the origin of law in Australia.

The second sub topic it is basically the sources of law and basic health related legislative acts

 in Australia.

Then the rest of this report is pointed out the types of law, the differences between the types of laws and the civil wrong which means the torts described the important of that to health care professions.

**Introduction to law**

The law is an officially recognized, enforceable system of rule.

Why do we need to have laws is to:

* Protect us and others
* Control our activities
* Set standards

**Development of Australian laws and health related laws**

Australian constitution of 1901 established a federal system of government, under which powers are distributed between the federal government and state. With the passing of the Australia act in 1986, the influence of the English system of law as notably lessened.

Australian has nine legal systems

* Eight state and territory system
* One federal system

Each of federal and state systems incorporates with three separate branches of government.

* Legislative
* Executive
* Judicial

In addition parliament makes laws the executive governments’ administers the law and the judiciary in dependently interprets and applies them.

**Sources of law**

There are two main sources.

* Common law
* Parliamentary law

**Common law**

It is developed in courts by judges. Common law is based on the principle of precedent which referred to judge-made law.

**Parliamentary law**

State and federal parliaments are responsible for creating legislation, which presented in the form of acts or statutes.

Many acts of parliament have direct application to a nurses’ role and function.

The important two acts for daily practice Australian nurses.

* Health practitioner regulation nurse law act 2009
* Consent to medical treatment and palliative care act 1995

**Other legislative acts for nurses** (kerridge l, 2009)(law and legislation)(law and legislation)(kerridge,Lowe,Mcphee 2009)

* Health regulation act 1996(QLD)
* Health care act 2008(SA)
* Health act 1937(QLD)
* Misuse of drugs act(TAS)
* Drug and alcohol treatment act 2007(NSW)
* Medicines, poisons and therapeutic goods act 2008(ACT)
* Drugs of dependence act 1989(ACT)
* Dangerous substances act 2004(ACT)

**Types of law**

There are two types of laws.

* Criminal law
* Civil law (includes family law, industrial law, land and environment law)

**Criminal law** is a body of law that relates to crime. It regulates social conduct and proscribes threatening, harming or otherwise endangering the health safety or moral welfare of people. It includes the punishment of people who violate these laws.

**Civil law** is all law that’s not criminal and harm. It deals with the allocation of monetary compensation. It has nothing to do with punishment.

The law of torts.

Tort is usually described as a civil wrong. This law is awarding damages, compensates individuals whose personal right, freedoms or interests have been infringed by others.

The most relevant to nursing are;

* Negligence
* Negligent advice
* Assault
* Defamation
* Bailment
* Negligence.

It is the most frequent type of civil action in courts. It’s by far the most common tort alleged against health professionals.

In order to win an action for negligence a plaintiff must prove four matters.

* 4D’S OF NEGLIGENCE.
1. Duty- the existence of a duty of care.
2. Dereliction- breach of the duty by failing to live up to the appropriate standard of care.
3. Damage- is suffered
4. Direct- a sufficiently close connection between the act or omission of the defendant and the damage.
* All four elements must be proved by the plaintiff on the balance of probabilities.
* That is by the nurse’s act or omission of an act, it must be reasonably foreseeable that damage could result.
* Assault

It involves the creation in the mind of another of the fear of imminent, unwanted, physical contact. The threat does not need to involve any actual touching, nor does it need to be explicitly communicated.

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