Introduction to Nursing (OER): Chapter 3

Legal and Ethical Considerations

> *"Despite the esteem in which they are held, nurses can be sued" (Stabler-Haas, p. 170, 2012).*
>
> *"Ethics in nursing integrates knowledge with human caring and compassion, while respecting the dignity, self-determination, and worth of all persons" (NLN, p. 13, 2010).*

In this chapter, students will learn:

- about legal considerations that impact nursing practice
- how ethical principles guide nursing practice

Legal Considerations

Legal Considerations

Healthcare law substantially impacts nursing practice and it is the nurse's responsibility to be aware of and practice within those laws. Laws define practice boundaries and are set by society. When a law is violated, a nurse can be sued, fined, incarcerated, or lose the license to practice (Britannica, n.d.). This section introduces various laws that impact nursing practice and ways to protect the nursing license.

Definition and scope

A law is a rule or set of principles enacted by a government that details how people must act in a given situation (Austin, p. 533, 2017). A law can be prescriptive (something that must be done) or proscriptive (prohibits an action). Healthcare can be defined as "…the collection of laws that have a direct impact on the delivery of health care or on the relationships among those in the

business of health care or between the providers and recipients of healthcare" (Austin, p. 533, 2017).

Historically, healthcare laws governed only forensic pathology and psychiatry but now covers all areas of the healthcare industry (Annas, n.d.). For modern healthcare professionals, medical malpractice has become a fact of life. Nurses who understand legal parameters and standards of care promote safe practice, utilize critical thinking, protect patient rights, and adhere to society's expectations (Potter, Perry, Stockert, and Hall, p. 302, 2017). These actions help protect the nursing license.

The concept of healthcare law is complex and applies to a wide array of legislation, regulation, and litigation (Austin, 20017). The World Health Organization provides substantial resources for healthcare law (https://www.who.int/health-laws/legal-systems/health-laws/en/). In the U.S. laws are created and upheld by the executive, legislative and judicial branches of federal and state governments. The authority for upholding laws is given to agencies that draft more specific rules to support the law, such as the state board of nursing. Several types of law are discussed next.

Constitutional law covers individual rights for due process and equal protection but does not specify rules regarding healthcare law. For example, due process guided the Roe v. Wade Supreme Court decision in 1973. A woman's right to decide was upheld at the federal level and prevented state prohibition laws regarding first trimester abortions. Roe v. Wade is not a law, but a judicial decision which interpreted constitutional law.

Statutory law is created by federal and state legislatures and includes criminal and civil law. Criminal law prevents harm to individuals in a society and provides punishment for crimes with two classifications. A felony is a serious offense such as assisting in suicide or death and can lead to long-term imprisonment or death. A misdemeanor is a less serious crime that can lead to a shorter prison sentence and/or fine and does not cause serious harm. For example, a nurse who parks in a no-parking zone commits a misdemeanor. Civil law protects the rights of individuals within a society and usually involves harm to a person or property. Punishment usually includes a fine.

Nurse Practice Acts are included within statutory laws. In the U.S., each of the fifty states and territories determines rules and regulations for nursing practice within a Nurse Practice Act written by the state legislature (NCSBN, 2018). The agencies responsible for overseeing the law are the state boards of nursing (BON) made up of licensed nurses with representation from the lay community.

Regulatory law grants authority to an agency that enforces statutory rules and regulations. The state boards of nursing (BON) set the educational and licensing requirements for nurses for each state and have the authority to grant, suspended, or revoke licenses (Russell, 2017). The BON holds investigations and hearings regarding disciplinary actions. Chapter Eight contains more information on the granting and renewing of nursing licenses.

Torts are wrongful acts that harm another and can lead to civil liability. Torts also include omissions and infringements of a person's rights. These acts or omissions can be intentional (on purpose), unintentional (by accident or neglect), or quasi intentional (gossip or invasion of privacy) (Potter, Perry, Stockert, and Hall, 2017). Assault and battery are two forms of intentional tort. Threatening to restrain, harm, or force compliance are forms of assault. Battery is intentional touching without consent which is offensive or harmful and always includes assault. For example, in assault, the nurse threatens to give an injection that the patient refused, while in battery, the nurse gives the injection.

Unintentional torts include negligence and malpractice. Negligence occurs when a nurse fails to provide care that a reasonable nurse would give in a similar situation. In other words, the nurse failed to act within standards of nursing practice which resulted in patient harm. Malpractice is "a professional person's wrongful conduct, improper discharge of duties, or failure to meet the standards of acceptable care, which result in harm to another person

(Potter, Perry, Stockert, and Hall, p. 309, 2017). Malpractice occurs when a patient is injured because the nurse owed a duty but did not carry out the duty, and this failure caused an injury (Potter, Perry, Stockert, and Hall, 2017). Examples of malpractice include: Medication errors, intravenous fluids leaning into the skin, burns, falls, and failure to monitor a condition, use proper technique or notify a healthcare provider regarding a change in condition.

Quasi-intentional torts include invasion of privacy and defamation of character. The right to privacy is a basic right in the U.S. All information regarding a patient and his/her healthcare belongs to that patient. Nurses have a legal and ethical responsibility to provide privacy and protect the information. A breach of confidentiality is an unwanted intrusion into a person's private affairs and can be grounds for dismissal from a nursing program or facility. For example, a visitor on an elevator overhears two nurses talking about a patient's condition. care. However, when patients intend to harm themselves or others, patient rights continue but can be overridden to report the intent to the healthcare team. See the section on patient rights regarding confidentiality. Defamation of character is the spreading of information that damages a person's reputation. Malice occurs with the offender knows the accusation is false. Slander is an oral statement whereas libel is a written statement that negatively affects a reputation. For example, a nurse could be charged with slander for spreading a rumor that a patient has a sexually transmitted disease and this information negatively impacted the patient's business.

Attributes, criteria, and context in healthcare

Laws that govern healthcare can be discussed under two major headings: Patient rights and professional nursing responsibilities. For a list of various patient rights, go to https://medlineplus.gov/patientrights.html#cat_51.

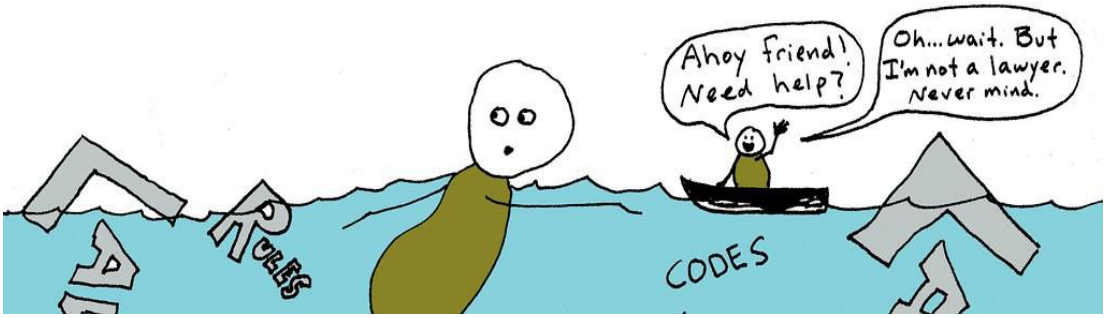
Patient rights

Patient rights come in several forms and cover a variety of healthcare issues. Some rights are mandated by federal laws, while other rights are determined by state law (MedlinePlus, n.d.). This text combines several sources to discuss commonly recognized patient rights: informed consent, advance directives, right to refuse, confidentiality, access to care, safe environment, and healthcare education.

Informed consent. Laws, policies, and procedures that regulate informed consent mandate that patients must agree to allow something to happen based on full knowledge of benefits, risks, alternatives, and consequences of refusal. Nurses usually work within facilities where patients, upon admission, sign consent forms that cover standard nursing care. However, physicians and advanced practice nurses are responsible for obtaining separate consents for treatment such as invasive procedures, surgery, and diagnostic procedures. These providers must provide education and specific information about the procedure before a patient signs the consent. The nurse will sometimes witness a patient signature on these documents, but nurses are not responsible for obtaining informed consent. If the patient does not understand or is questioning whether to proceed, the nurse must report this concern to the provider responsible for the procedure.

Age can make a difference and nurses must know the law. Minors are children who are considered by state law under the direct care of a parent or guardian. An emancipated minor is freed from control by parents or guardians in a court of law. An example of possible confusion would be a 16-year-old mother who can sign for her infant son's circumcision but is not allowed to sign for her own blood transfusion.

Vulnerable persons such as those with disabilities, dementia, or other forms of mental deficit might require another person's signature of informed consent. Competency is a legal term (not a medical diagnosis) that indicates a person is mentally sound and can safely determine self-care. For example, an older adult with dementia would need a legal declaration of incompetence so that a guardian could sign informed consent for healthcare. A guardian or someone with a "power of attorney for healthcare" is usually selected from family members, but if necessary, a trained volunteer could be appointed by the court (Halter, 2018).



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Implied consent. When a patient enters a healthcare facility but is unable to speak or indicate consent, healthcare workers assume implied consent has been given. For example, an unconscious patient brought in by emergency medical personnel would receive standard care without signed consent. As soon as the person is able, a signature is obtained for continued care.

Healthcare education. Today's patients must receive adequate healthcare education that involves all aspects of care: Providers, treatments, and expected outcomes. Nurses teach patients continuously during each phase of care from admission to discharge.

Advance directives. The Patient Self-Determination Act of 1991 requires facilities to provide written information on the patient's right to make decisions about future healthcare. However, for nurses and other healthcare providers to honor those decisions, a written copy of

the advance directives must be in the current medical record. This law also requires healthcare organizations to provide education to staff and the public regarding this right. There are two types of advance directives: Living will and durable power of attorney for healthcare.

Living will. This document specifies treatment and omission of treatment for selected healthcare issues according to patient wishes. For example, a patient might want to be placed on a ventilator after a car crash, but not at the end of life after chronic illness. Sometimes family members are not in agreement with these wishes which presents ethical and legal dilemmas. Nurses work through these issues with other healthcare providers, and sometimes courts of law make determinations.

Durable power of attorney for healthcare. This document identifies someone other than the patient who has the legal authority to make healthcare decisions when the patient is no longer able to choose. Either the patient selects this person before incapacitation, or a court of law determines who serves in this capacity. For example, a person with severe chronic illness might choose one son or daughter as the durable power of attorney for healthcare and a different child as the power of attorney for financial decisions.

Additionally, persons with severe mental illness can prepare an advance directive for mental health care when incapacitated. This written document specifies in detail how the patient prefers to be treated during an episode. These directives usually cover preferred providers, treatment facilities, medications, and designated visitors.

In some states, patients have the right to determine end-of-life care that includes lethal doses of medication. These laws are called "death with dignity" and allow a physician to prescribe medication to hasten death for a terminally ill patient who has less than six months to live. Each state with this type of law has written safeguards and protocols to protect patients and physician licenses. Oregon was the first state to enact such a law in 1997 (Potter, Perry, Stockert, and Hall, 2017).

Right to refuse. The Patient Self-Determination Act of 1991 requires facilities to provide written information concerning rights under state law regarding treatment refusal. Patients who have given prior consent and change their minds have the right to stop any treatment, at any time, and for any reason. The refusal can be given verbally and/or in writing. The only time a healthcare provider can override a refusal for healthcare is when the patient is in serious and imminent danger of harming themselves or someone else (Halter, 2018). For example, a patient who threatens suicide would be placed on a "suicide watch" which takes away the right to privacy until the person is no longer a danger to him/herself.

Restraints and seclusion. The right to refuse treatment also relates to the restriction of freedom. Recent legislation provides strict guidelines for overriding a patient's right to freedom of movement. Always, the least restrictive means must be used to

ensure protection from harm. For example, a patient with dementia cannot be restrained for long periods due to a fall risk nor can a combative patient be secluded unnecessarily. Nurses must address underlying causes before using restraints or seclusion methods. Standard nursing actions to de-escalate a patient are: Verbal calming, reducing stimulation, actively listening, providing diversion, and offering 'as needed' medication (Halter, 2018). Nurses must protect patients and the nursing license by following policies and procedures to protect patients from unnecessary treatment. Negligence in this area could result in charges for assault and/or battery.

Confidentiality. Private patient information must always be protected and is a sacred trust. In 1996, the Health Information Portability and Accountability Act (HIPAA) set clear guidelines for patients and healthcare workers. The law is complex, but a nurse can determine whether information should be disclosed by asking this question: Is there a need to know, a right to know, or a want to know? For example, is the information needed to provide safe care (need)? Is the data something the patient or family has a right to know (right)? Or is the information something that a person wants to know but is not needed to provide safe care (want)? Breaches in confidentially include looking up a neighbor's health record when the nurse is not caring for that person (want) or placing health information on social media about a patient without consent (right). Nurses must also be careful that computer screens and paper records are out of view of the public and non-clinical staff. When transferring healthcare information through fax or the internet, nurses must follow policies and procedures set by the facilities that hold the patient data. The patient must give consent for the transfer of all information and should determine which loved ones have the right to access and receive health information.

Duty to warn third parties. An exception to confidentiality laws includes the responsibility to warn other persons of potential harm (Halter, 2018). For example, if a patient reports a plan to harm another person, the nurse must report this intention so that the potential victim can be protected. The procedure for reporting varies in each state so the nurse should know the law and follow facility policies and procedures to report the danger.

Reporting abuse and neglect. Any suspected abuse or neglect of vulnerable persons such as children, disabled persons, or the elderly must be reported through facility channels regardless of confidentiality laws. The nurse has a legal responsibility and must document facts to support the findings. Since state laws vary, nurses should be aware of regulations that mandate reporting.

Access to care. The Patient Protection and Affordable Care Act of 2010 is also known as the Affordable Care Act (ACA). This law expanded access to healthcare for millions of Americans to include mental health in parity with physical care (Halter, 2018). The law is complex; however, four themes impact nursing care: Consumer rights and protections, affordable healthcare coverage, increased access to care, and stronger Medicare for vulnerable populations. Consumer rights now include a provision that patients cannot be turned away from health insurance due to a pre-existing condition.

Safe environment. Patients have a right to receive care in safe environments. This right includes adequate staffing, infection prevention, reduction of risks, and employees who work within their scope of practice and competencies. Breaches of this right include inadequate staffing which places a patient at risk for abandonment and decreased quality of care; lack of sanitation or aseptic technique which might cause an infection; and equipment failures which result in injury. Additional factors include mandatory overtime, assignments to specialties without adequate training, student employees who practice outside job descriptions, and failure to verification of prescriptions that prevent medical errors.

Professional nursing responsibilities and patient advocacy

Professional malpractice insurance can protect a nurse's professional well-being and personal finances. Even though most employers provide malpractice insurance, the agency lawyers will represent the facility first and foremost. Registered nurses should always carry a private malpractice policy to pay for costs regarding incidents that occur during work hours and for breaches of the nurse practice act when not working (Stabler-Haas, 2012). For example, the facility malpractice insurance might pay for a portion of the lawyer fees and settlement, leaving the nurse liable for the remaining amount. Additionally, healthcare advice given to persons outside of work hours that is not within the scope of practice can lead to litigation. For example, a registered nurse gives a medical diagnosis with recommendations for treatment that only an advanced practice registered nurse should give. Most schools of nursing require students to purchase malpractice insurance as well (Stabler-Haas, 2012).

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Good Samaritan Laws. All fifty states and Washington, D.C. have a “good Samaritan” law that protects healthcare professionals who assist in emergencies outside of work. If the nurse acts within his/her scope of practice and accepted standards, the nurse is immune from liability. The aid must be given during an emergency as an unpaid volunteer. If a person is conscious, the nurse should ask permission to assist, however, if the person is unconscious, implied consent rules apply (USLegal.com, n.d.). It is important to know what the Good Samaritan Law covers in the state in which the emergency occurs (LawInfo.com, n.d.). In some states, once committed to providing emergency care, the nurse must remain with the person until care is transferred to professionals who can continue care, such as emergency medical personnel. Any nurse who leaves without transferring care could be liable for patient abandonment and injuries that occur after leaving.

Exemplars

The following examples highlight the nurse’s responsibility for adhering to professional standards, healthcare laws, and the code of ethics.

Negligence and malpractice

Harriet Costa, an RN with ten years' experience in medical/surgical nursing, returned to work after only having six hours of sleep and a 16-hour shift the day before. She entered a patient's room to administer an intravenous antibiotic without checking the patient's armband or medical record for allergies. After starting the IV, Harriett did not return to the room for over an hour. The patient was severely allergic to the medication which was listed on the armband and in the medical record. The 76-year-old woman suffered a life-threatening reaction that was not discovered in a timely manner. Her heart stopped and she was placed on life support. She did not recover and eventually died.

Harriet had omitted standard safety practices, including two of the eight rights of medication administration (right patient, medication, dose, route, time, documentation, reason, and response). She had failed to scan the intravenous bag and patient armband, which would have flagged the allergy. She also did not monitor the patient's response to the medication. Harriet was terminated from the hospital. The family filed a civil lawsuit and won a settlement of $1,000,000. The state board of nursing suspended her license for nine months followed by practice restrictions for two years. She was required to make continuing education presentations to nurses and students on the prevention of medication errors. Later, a criminal complaint charged her with patient abuse and neglect which caused death. A jury found her guilty and the court sentenced her to two years imprisonment with permanent revocation of her nursing license.

Standards of care (tort)

Charles Stovall, RN, an intensive care unit nurse, was caring for a patient after cardiac catheterization. He failed to monitor the insertion site and pulses in the lower leg which is standard nursing practice after this procedure. The patient developed a hematoma (collection of blood under the skin) at the site which stopped blood flow to the leg. Normally, nurses check the site and pulses every 15 to 30 minutes. However, Charles checked the pulses only twice in two hours and did not look at the insertion site. On his last check, the right pulse was absent, and he discovered the large hematoma, so he notified the physician. The patient was rushed to surgery where the hematoma was evacuated, and the blood flow was re-established. Additional information was discovered by the doctor who reported Charles to his supervisor: The patient had complained of pressure at the site for two hours, but this complaint was ignored. This nurse had also documented decreased foot pulses every thirty minutes but had not made rounds that often. Charles was suspended from work and was required to attend continuing education sessions regarding proper documentation and the critical assessment of patients after cardiac catheterization. This patient could have hemorrhaged and died or lost a leg due to a lack of blood flow. Later, Charles was investigated by the state board of nursing for falsifying medical records. His license was suspended for two years so he was unable to work as a registered nurse. He found two low paying jobs to support his family, and his wife returned to work as a teacher.

Breach of duty and abandonment

Susan Alexander, an RN working for a home health agency, had a caseload of 45 patients when only 30-35 patients are the

Susan Alexander, an RN working for a home health agency, had a caseload of 45 patients when only 30-35 patients are the standard for home care nurses. Most of her patients were high acuity which meant that they needed more visits each week to provide adequate nursing care. To cover the heavy assignment, she reduced the number of visits to selected patients – less than their condition required. Due to this negligence, one of Susan's patients missed several doses of medication. The patient was found by a neighbor two weeks after Susan's last visit and called 911. The patient was semiconscious with a very high blood pressure of 240/130. After stabilization in the intensive care unit, the patient reported that she had called Susan's cell phone each day for seven days to fill her medication box. Susan reportedly told the patient that she would be there the next day or the next but did not arrive. The hospital nurse practitioner called the home care agency to find out what had happened before writing discharge orders. The agency supervisor was unaware of the problem and agreed to investigate the situation. The supervisor assigned a different nurse to the case and reported Susan to the corporate office. Meetings were held regarding the consequences of inadequate staffing and a new policy was initiated. No longer would home care nurses at this agency be assigned more than 35 patients and the acuity levels would be adjusted to ensure each nurse could provide safe and high-quality nursing care. Susan's caseload was closely supervised for twelve months and during this probationary period, she was empowered to advocate for high-quality patient care.

Ethical Considerations

Ethical Considerations

Ethics explains the ideals that people strive for within standards of professional practice. When ethics are violated, a nurse can be sanctioned by a professional organization and possibly fired. This section addresses the ethical responsibilities of professional nurses.

Definitions and scope

Ethics is the science of proper conduct and character (Potter, Perry, Stockert, and Hall, 2017). Ethics deals specifically with elements of right and wrong (NLN, 2010). How one reacts to ethical situations reflect the person’s innate core values, beliefs, and characteristics. Morality is a broad term without a single, commonly recognized definition and refers to an accepted set of social standards. These standards become a culture's code of ethics (Bennett-Woods, 2017).

The National League for Nursing (NLN) defines ethics as a core value that reflects “consideration of personal, societal, and professional values, principles, and codes that shape nursing practice” (NLN, p. 13, 2010). Nurses who practice ethically act as moral agents when caring for patients, families, and communities and blend nursing knowledge with caring, compassion, dignity, and respect for each individual (NLN, 2010).

The ANA Standards of Practice state that registered nurses practice ethically (ANA, 2010). An entire book is dedicated to understanding the Code of Ethics set forth by the ANA (Fowler, 2015). These standards are written to guarantee the public that nurses are expected to exhibit exceptional professional behaviors. Additionally, when nurses find themselves in uncomfortable practice situations, the ANA’s Code of Ethics supports adherence with professional standards. The nine provisions are listed below. For a deeper understanding of this code, resources are listed on the reference page (Fowler, 2015; Lachman, Swanson, and Winland-Brown, 2015; Winland-Brown, Lachman, and Swanson,2015).

1. The nurse practices with compassion and respect for the inherent dignity, worth, and unique attributes of every person.
2. The nurse’s primary commitment is to the patient, whether an individual, family, group, community, or population.
3. The nurse promotes, advocates for, and protects the rights, health, and safety of the patient.
4. The nurse has authority, accountability, and responsibility for nursing practice; makes decisions; and takes action consistent with the obligation to promote health and to provide optimal care.
5. The nurse owes the same duties to self as to others, including the responsibility to promote health and safety, preserve wholeness of character and integrity, maintain competence, and continue personal and professional growth.

6. The nurse, through individual and collective effort, establishes, maintains, and improves the ethical environment of the work setting and conditions of employment that are conducive to safe, quality health care.
7. The nurse, in all roles and settings, advances the profession through research and scholarly inquiry, professional standards development, and the generation of both nursing and health policy.
8. The nurse collaborates with other health professionals and the public to protect human rights, promote health diplomacy, and reduce health disparities.
9. The profession of nursing, collectively through its professional organizations, must articulate nursing values, maintain the integrity of the profession, and integrate principles of social justice into nursing and health policy.

The scope of ethics is broad and encompasses several dimensions of human life. Nurses must fully understand how these dimensions form the ethical foundation for professional practice (Bennett-Woods, 2017). The following dimensions guide nursing practice:

- **Societal ethics** provides a basis for ethical behavior through laws and regulations. Professional standards of care are based on those rules and ethical obligations owed to each patient. Following the law is the most basic ethical practice and demonstrates that people are accountable for fulfilling civic duties.
- **Bioethics** occurs when ethical principles are applied to healthcare. Most issues involve the life sciences and technology (Michigan State University, n.d.).
    - Clinical ethics encompass decisions made at the patient's bedside and involve patient care issues.
    - Research ethics examines the ethical conduct of persons who perform research on humans and animals.
- **Organizational ethics** are the formal and informal principles that guide behavior, decisions, and actions of members within an organization. These ideas direct the mission, values, financial stewardship, and response to community needs. For example, a board of directors votes to spend money ethically or fraudulently.
- **Professional ethics** includes the standards and expectations set by a profession. Members within the profession are held to high standards that prescribe expected roles. Most codes of conduct are aimed at the highest ideals of the profession. The first principle in the ANA Code of Ethics is "The nurse, in all professional relationships, practices with compassion and respect for the inherent dignity, worth, and uniqueness of every individual, unrestricted by considerations of social or economic status, personal attributes, or the nature of health problems" (ANA, 2015). The relationship between the nurse and the patient must always be ethical regardless of personal opinions, preferences, and beliefs.
- **Personal ethics** continuously overlap with other dimensions. Nurses sometimes are challenged to practice according to professional ethics which conflict with personal ethics. Personal ethics are an individual's ethical foundation which develops from personal beliefs, values, and experience and these change over time. Ethical conflicts can also change as new technology and knowledge emerge. Nurses decide individually whether to practice in a setting where conflicts arise or choose to work in settings where personal and professional ethics agree.

Attributes, criteria, and context in healthcare

The NLN states that registered nurses should act as moral agents when caring for patients, families, communities, and organizations and respect the dignity, self-determination, and worth of all persons (NLN, p. 13, 2010). Integrity is another core value of the nursing profession which provides a foundation for acting ethically and is demonstrated through open communication, humility, honesty, and doing the right thing (NLN, 2010).

The beliefs, values, and methods that define ethical practice are influenced by a variety of sources. Those sources include culture, peer response to situations, professional education, and most importantly, family. Ethical problems and dilemmas occur daily in the nursing profession. The ability to manage these situations requires critical thinking. An ethical problem is usually just a simple concern that has an ethical component. Most ethical problems have a clear solution, but on occasion, complexities can cloud decision-making. An ethical dilemma involves a problem with a "no-win" solution. To do what is right, the nurse must first do something wrong. Unfortunately, these situations often occur during end-of-life care.

Moral distress occurs when nurses are unable to act on ethical principles, have conflicts between personal and professional

ethics, or act outside of either code. In other words, the nurse knows the right thing to do but fails to act due to internal or external factors (Bennett-Woods, p. 409, 2017). The impact of moral distress occurs in two phases. First, the nurse becomes angry, frustrated, guilt-ridden, anxious, and withdrawn. The second stage is called "reactive distress" and is characterized by lingering feelings that accumulate over time. This moral residue leads to conflicted feelings and behaviors. Next, the nurse may consciously object to a plan of care or fail to follow orders. Later, the nurse becomes desensitized and actively withdraws from situations with potential ethical issues. Finally, as feelings continue without resolution the nurse becomes physically and emotionally stressed, experiences burnout, and/or leaves the profession (Bennett-Woods, p. 409, 2017).

To address ethical issues, nurses can follow a systematic approach such as the Four Topics Method (Jonsen, Sieger, and Winslade, 2015). In this process, the nurse reviews the scenario and considers patient preferences, quality of life, and context such as legal, financial, religious, and other potential conflicts. Nurses faced with an ethical issue should ask four questions to analyze the dilemma (Bennett-Woods, p. 407, 2017):

- Do I have a duty to tell the truth?
- What is the greater harm?
- To whom is my primary loyalty?
- What is in the best interest of my patient?

These considerations reflect ethical principles such as beneficence, nonmaleficence, autonomy, and justice.

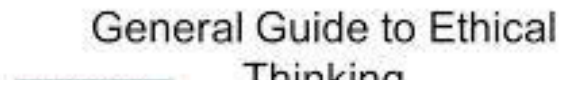
Image source: Nursesceus.com

Ethical principles

An ethical principle is very similar to a camera lens were multiple solutions can be chosen depending on which angle is used to approach the problem. Nurses must abide by these ethical principles: Beneficence, fidelity, justice, and nonmaleficence (Bennett-Woods, 2017; Potter, Perry, Stockert, and Hall, 2017). Bennett-Woods adds respect and Potter, Perry, Stockert, and Hall add autonomy. Additional principles are explained in the ANA Code of Ethics for Nurses: Accountability, advocacy, confidentiality, and responsibility (Fowler, 2015).

- **Accountability** answers for one's own actions.
- **Advocacy** supports a patient's health, safety, and rights.
- **Autonomy** includes patients in decisions for all aspects of care while telling the truth.
- **Beneficence** does what is god and what is right for the patient.
- **Confidentiality** protects a patient's personal health information.
- **Fidelity** keeps promises and is loyal.
- **Justice** approaches every decision and situation with fairness.
- **Nonmaleficence does** no harm.
- **Respect** has unconditional regard for the dignity and worth of each person.
- **Responsibility** adheres to professional obligations and follows through competently

Novice and expert nurses can use the concept map below to incorporate ethics into daily practice.



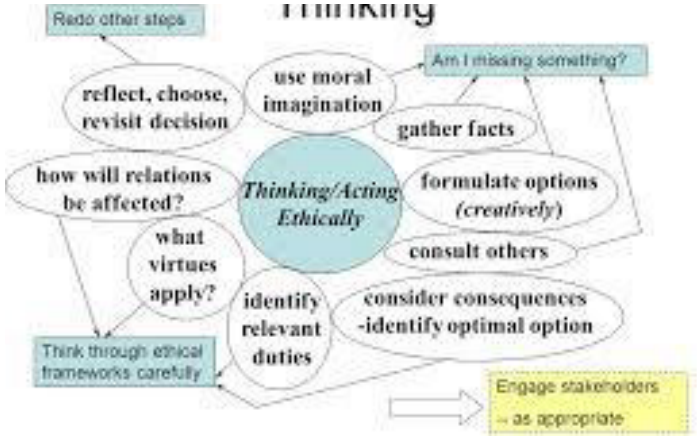


Image source: Nursesceus.com, retrieved from Ethics (presentation adapted from Prof. J. Christman's and A. Lau's Workshop on Ethics) Our goal: systematic approach Definition Ethical Frameworks.

Ethical Theory

Ethical theories are systems of thought that attempt to explain how and why humans should live. These frameworks can be categorized as action-based theories that ask, "What should I do?" (Taylor, Lynn, & Bartlett, p. 103, 2019). A multitude of ethical theories guides professional practice. Nurses gravitate toward theories based on personal preferences. Some nurses will use a flexible theory where others prefer rule-based theories. Each theory approaches situations in a somewhat different manner which may or may not lead to similar decisions. Four types of theories are explained below:

- **Ethics of Duty**. Deontological theory states that moral duty is self-evident, needing no further justification. It is the right thing to do. For example, the nurse reports a co-worker to the manager for diverting narcotics.
- **Ethics of consequence**. Teleological theory states that moral action is based entirely on the outcomes or consequences. For example, the nurse reports a co-worker for the diverted narcotics because of concern for the patient's pain and discomfort.
- **Ethics of character**. Virtue theory is based on life experience and a willingness to reflect on actions. Characteristics of the individual are primary sources of moral actions. For example, the nurse reports the diverted narcotics to help the coworker while also protecting the patient.
- **Ethics of relationship.** These theories focus on the nature and obligations present in all communities. For example, the nurse might choose to convince the coworker to self-report and go with her to help navigate the legal ramifications of unethical actions.

Image source: Johns Hopkins Berman Institute of Bioethics

Ethical Issues

A research article by Fry and Riley (n.d.) examined the ethical issues faced by nurses in the workplace. The purpose of the study was to determine the type of ethical issues nurses encountered regularly. The survey determined that nurses' most frequent concerns were about: "1) protecting patient's rights and human dignity, 2) respecting or not respecting informed consent to treatment, 3) providing care with possible risks to the health of the nurse, 4) using or not using chemical or physical restraints, and 5) staffing patterns that limit patient access to nursing care" (Fry and Riley, p. 9, n.d.). Additionally, nurses listed these issues as the most personally disturbing:

- “Prolonging the living and dying process with inappropriate measure"
- Policies that could threaten the quality of care
- Coping with staffing patterns that limit patient access to nursing care
- Not considering the quality of a patient’s life
- Implementing managed care policies that threaten quality of care
- Working with unethical or impaired colleagues” (Fry and Riley, p. 9, n.d.).
- In the study, 30% of the nurses encountered ethical issues one to four times a week. Eighty-three percent discussed the issue with pees, but only 66% reported the dilemma to managers.

Clinical decisions are not the sole responsibility of the nurse, especially when it involves an ethical issue. Most healthcare facilities encourage nurses to report unethical behavior or concerns. Organizational ethics teams step in when ethical decision-making creates a conflict between the team, the patient, and/or the patient's family. To promote ethical nursing practice, a group of nurses developed several bold ideas at the National Nursing Summit for nursing ethics (Rushton, Broome, and the Nursing Ethics for the 21st Century Summit Group, 2014). One idea was to "develop and sustain work environments that support ethical nursing practice" through vision setting, resource allocation, cost-benefit reports, and communication strategies that inform the public and policymakers (Rushton, Broome, and the Nursing Ethics for the 21st Century Summit Group, 2014). These visionaries defined what nurses know and need to know regarding ethical practice and made recommendations for nursing education. The group encourages nurses to recognize moral distress, identify root causes, and develop a variety of self-care practices that prevent and mitigate moral distress.

Exemplars

The following scenarios reflect ethical behavior in nursing practice.

Confidentiality

A student nurse provided nursing care to her neighbor who was admitted to the hospital for cancer treatment. The patient did not want other neighbors or her sister to know that she was in the hospital again but did not mention this to the student nurse. After clinical that day, the student posted a note on social media about her wonderful interaction with a favorite neighbor. She posted the neighbor’s name and hospital room so others could go visit to support this precious person. The patient complained to the hospital and asked that the student not return the next day. The hospital administrator contacted the director of the nursing program regarding this breach of confidentiality and refused to allow any further clinical experiences for all students. The student was called into the office and dismissed from the nursing program with no possibility for re-entry. This student was in her last semester of school and would not be able to graduate or sit for the state license exam, but the HIPPA law was broken and a breach of professional confidentiality had occurred.

Advanced Directives

A 67-year-old male with one son and no other significant other was admitted for congestive heart failure, kidney failure, and end-stage lung disease. He had no advance directive regarding his wishes for end-of-life care. His condition required mechanical ventilation (machine-assisted breathing) which was ineffective in maintaining his oxygen levels. He was unconscious and unable to make his wishes known. The son was distraught and did not know what to do. He asked the nurse to help him make a life-and-death decision for his father. The physician had explained that an advance directive would have given the healthcare team very specific directions about healthcare preferences. The son, as the next of kin, could make decisions but was conflicted about

turning off the ventilator without knowing his father's preferences. The nurse explained that ethical decisions can be supported by consulting with the ethics committee. After much discussion, an examination of the patient's condition, and consideration of his potential quality of life, the son gave his permission to the physician for the removal of all life support measures. The patient died peacefully with his son and grandson beside him. An advance directive or power of attorney for healthcare would have made it easier for the son and healthcare team.

Summary

Summary

In this chapter, students learned about:

- legal considerations
- ethical considerations

Key Terms

Key Terms

- Abandonment
- Accountability
- Advance directive
- Advocacy
- Assault
- Autonomy
- Battery
- Beneficence
- Confidentiality
- Ethical dilemma
- Ethics
- Felony
- Fidelity
- Healthcare law
- Informed consent
- Justice
- Libel
- Malice
- Malpractice
- Misdemeanor
- Moral distress
- Negligence
- Nonmaleficence
- Respect
- Responsibility
- Slander

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