Jurisprudence and Ethical Issues in Health Promotion: A Critical Assessment of Nursing Practices

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ABSTRACT

The study examined the jurisprudence and ethical issues in health promotion with respect to nursing. The study centered on the laws and ethics governing the profession of nursing. Nurses are responsible to provide their clients/patients with the high-quality care. They are undoubtedly confronted with various ethical challenges in their professional practice, so they should be familiar with ethical codes of conduct and the essentials of ethical decision making. Nursing jurisprudence is a fundamental guidance for nursing as many other professions. Law and ethics affect nursing by defining nursing roles and determining the scope of nursing practice to prevent misunderstandings and inappropriate relationships. Violations of professional boundaries may result in loss of employment and licensure and civil action, depending on the severity of violation. In summary, the Nursing code of ethics addresses the primary goals and values of nursing. It was recommended that Nurses and other health practitioners should observe ethical principles and/or codes to help promote the quality of service provided and rendered and to help coordinate them.

KEYWORDS: Jurisprudence, Ethical Issues, Health Promotion, Nursing Practices

INTRODUCTION

Nursing Jurisprudence is the area of law that comprises all legal rules & principles affecting practice of nursing. It includes study & interpretation of rules & principles & their application in regulating the practice of nursing. Jurisprudence is the science of law while ethics comprises rules of behavior that are based on morals. Law and ethics guide regulatory authorities to determine educational standards and licensing requirements for nurses, define legal and illegal conduct, define ethical and unethical conduct, and establish and enforce disciplinary procedures. Both share the goal of creating and maintaining social good (Brock &Mastroianni, 2013). Professional nurses should understand the influence of law and ethics on their daily practice.

The World Health Organization defines health promotion as the process of enabling people to increase control over, and to improve, their health. It moves beyond a focus on individual behavior towards a wide range of social and environmental interventions (World Health Organization. Health promotion, 2013). Among strategies that aim to deal with public health problems, health promotion purports to help people achieve better health (Tengland,

2012). Health promotion therefore aims to lead to better health by changing health-related behavior or lifestyle.

Nurse Practice Acts: The primary force in jurisprudence is the Nurse Practice Act. It is the statutory law of each state and territory. The Nurse Practice Act may vary somewhat from one state/territory to another. In some cases, special programs for impaired nurses may be included in the Nurse Practice Act. The Acts generally includes:

- Licensure requirements, including continuing education requirements and frequency of re-licensure.

- Conditions under which one is admitted into nursing practice, including education standards and nursing diplomas or degrees.

- Disciplinary procedures in the event of negligence, malpractice, abuse, or impairment.

- The composition and authority of the state/territory Board of Nursing, which implements and oversees the Nurse Practice Act.

An example of the Nurse Practice Acts is the PSDA (1990)

Patient Self Determination Act: The PSDA (1990) requires facilities and healthcare programs to inform patients of their right to make decisions, to inquire as to whether patients have executed advance directives, to document patients' wishes related to medical care, to avoid discriminating against those with advance directives, and to provide educational programs to staff, patients, and the community regarding ethical issues associated with self-determination and advance directives.

Law and ethics affect nursing by defining nursing roles and determining the scope of nursing practice. One of such Laws includes the Law of Professional Boundaries, stating that;

The nurse must always maintain professional boundaries with patients and colleagues to prevent misunderstandings and inappropriate relationships. Violations of professional boundaries may result in loss of employment and licensure and civil action, depending on the severity of violation. Nurses are ever-increasingly confronted with complex concerns in their practice. Nursing jurisprudence is a fundamental guidance for nursing as many other professions.

Statement of the Problem

Nursing practice has attained status that ethics and jurisprudence govern it. The nursing code of ethics is a formal statement of the ideals and values of nursing and ethical principles that serve as standards for nurses" actions. Jurisprudence is the scientific study of law; law is defined as those set of rules made by humans, which regulate social conduct in formally prescribed and legally binding manner.

Ethics of nursing and law are necessary in nursing because nursing is concerned with providing services that impact on human life and health and some of the situations the nurse encounters in practice pose a dilemma that if not well handled, will impact negatively on the client and all that are concerned. Standards must therefore, be set to guide the nurse to conduct himself/herself

properly, make adequate decisions and carry out actions that are appropriate and safe for the client and thus protect herself/himself from litigation. These standards are found in the ethics of nursing. However, due to the lack of awareness and understanding of the moral issues and ethics in nursing, this study, Jurisprudence and ethical issues in health promotion is designed to provide nurses with an understanding of moral issues, which form the basis for professional ethics in nursing and medical practice. It will introduce nurses to the statutory and common laws as they affect nursing and the legal implications of contractual responsibilities in nursing practice.

Ethics and Nursing

Nurses' Involvement in Biomedical Ethics: Nurses typically encounter ethical issues in three realmsof biomedical ethics including the broad, overarching, health-related problems that impact policy on society as a whole; dilemmas that arise within organizations; and those that affect patient populations or individual patients. Nurse researchers, policy makers, educators, consultants, administrators, ethicists, advanced practice nurses, and clinical nurses all encounter biomedical-related ethical problems every day (Moon, Taylor, McDonald, Hughes &Carrese, 2009; Ulrich, Taylor, Soeken, Donnell, Farrar, Danis, & Grady (2010).

On a policy or societal level, broad questions are asked. Examples of such queries may include discussion about whether access to healthcare is a right or a privilege; how to protect research participants from harm; the fairest method for resource distribution during an Ebola crisis; or the inappropriateness of punitive measures against pregnant women who use drugs and alcohol. Nurses are involved in these questions as clinicians, researchers, policy makers, ethicists, and educators. They may participate in preparation of position statements and guidance documents from federal and national organizations such as the Presidential Commission for the Study of Bioethical Issues, the American Nurses Association, or the American Association of Critical Care Nurses (AACN), to name a few (Presidential Commission, 2015; ANA, 2015, AACN, 2015).

At the organizational level, many ethically challenging questions arise for nurses. In the 1980s, Chambliss conducted a sociological study of hospital nurses to better understand the kinds of ethical issues that arose (Chambliss, 1996). He embedded himself in a hospital setting and soon found that it was the organization and the nurse's central place within it—the multiple loyalties, hierarchies of power, the tendency within systems to be slow to change and to impede individual practicethat was often a cause of nurses' ethical dilemmas.

More recent literature about organizational ethics and culture has explored the hospital ethical climate and the culture of quality and safety, as well as shifts in financial concerns that influence professional practice (Austin, 2007; Engelhard, 2014; Institute of Medicine [IOM], 2001; Mills, 2014; Peter, Macfarlane, & O'Brien-Pallas, 2004). In their analysis of the moral habitability of the nursing work environment, Peter, Macfarlane, & Brien-Pallas. (2004) found evidence of oppressive environments, moral suffering, and unclear, overwhelming role expectations. They also found, however, that nurses tended to identify paths of resistance and influence, such as finding strength in numbers and being assertive in order to achieve their goals. Other studies have evaluated relationships between ethical climate and job satisfaction, ethics stress (stressors related to ethical dilemmas within the healthcare setting), and moral distress (situations where the "right" action is known but cannot be carried out). Researchers have found that poor ethical

climates were correlated with higher levels of moral distress, poorer job satisfaction, and increased likelihood of intent to leave a position (Hamric & Blackhall, 2001; Whitehead, Herbertson, Hamric, Epstein & Fisher, 2015; Pauly, Varcoe, Storch& Newton, 2009; Ulrich, Donnell, Taylor, Farrar, Danis, & Grady Thus, it is clear that the organizational ethics aspects of healthcare are important factors for nurses.

On a clinical level, ethical questions arise every day. In a study of the ethical issues encountered by nurses, Ulrich et al. (2010) found that more than 60% of nurses identified patient's rights, autonomy, and informed consent as frequent or daily problems. Other common issues included advanced care planning, surrogate decision making, end-of-life decision making, and breeches of confidentiality (Ulrich et al., 2007). Pavlish, Brown-Saltzman, Hersh, Shirk &Rounkle (2011) explored the ethical issues, actions and regrets of nurses and found that unnecessary pain and suffering, difficult decision making, and inattention to patient autonomy were problematic. Nurses acted in several ways to address these problems, such as communicating and speaking up, advocating and collaborating, being present and empathetic, and being informed (Pavlish et al., 2011).

A Brief History of the Code of Ethics

The first formal code of ethics for nurses was adopted in 1950 (Fowler 1997). However, a need for ethical guidance was recognized soon after modern nursing began to formalize in the mid-1800s. Although in 1896, one of the initial goals of the newly established American Nurses Association was to write a code of ethics, urgent issues such as nurse registration, the welfare of nurses, and accreditation processes for nursing schools took precedence (Fowler, 1997). Thus, for many years, nurses had no formalized code of ethics and used Gretter's Nightingale Pledge, akin to medicine's Hippocratic Oath, to guide their practice (ANA, N.D.).

In the early 1900s, Isabel Hampton Robb's text, *Nursing's Ethics for Hospital and Private Use* described the obligations of the nurse to the patient, physician, institution, self, and profession and the creativity needed to find solutions to problems and provide good nursing care. In 1926, the ANA published a "suggested" code which provided the first outline of ethical behavior for nurses (ANA, 1926). The provisions were framed in terms of the various relationships between the nurse and patient; the nurse and medicine; and nurses and their profession. For example, the relation of the nurse to the patient involved "bringing all of the knowledge, skill, and devotion" to the work (ANA, 1926, p. 600).

At the same time as the suggested code, ethics was on the minds of nurse faculty and administrators in terms of training and educating nursing students and practicing nurses (Crawford, 1926; Ethical Problems, 1926; Ethical Problems, 1933; Fowler, 1997). Their work highlights the thinking of the time, that is, that character was a significant factor in determining right action. Ms. Beulah Crawford's article, *How and What to Teach in Nursing Ethics* stated, "…in the end, it is the character of the nurse which makes her; if she has the right principles she will not go far wrong in the minor matters" (Crawford, 1926, p. 211) and included nursing etiquette or rules of conduct in the hospital setting. The article provided direction about which aspects of character and living help a nurse "steer her craft safely on the stormy seas" (p. 212), such as accepting authority, being adaptable to difficult situations, being industrious, and using "judgment in the use of the tongue" (p. 212).

A "Tentative Code" in 1940 (ANA, 1940) described nursing as a profession and outlined many provisions similar to those in the 1926 suggested code, including framing the provisions in terms of relationships to patient, colleagues, and profession. The first formal Code for Professional Nurses was adopted in 1950 and was edited slightly before being revised in 1960 (Fowler, 1997). The 1960 Code for Professional Nurses outlined 17 provisions beginning with the "fundamental responsibility…to conserve life, to alleviate suffering, and to promote health" and extending to accountability for practice and conduct, participation in research and "action on matters of legislation affecting nurses" (ANA, 1960, p. 1287) .

The 1968 revision of the Code included several significant changes (ANA, 1968). First, prior to this revision, the provisions were simply listed with little, if any, interpretation. The new code provided brief interpretations which helped the nurse see how the provision might be applied. Second, the provisions were reduced from 17 to a more manageable 10. Finally, there was a fundamental shift in language in the 1968 revision. The obligations of the nurse changed from generalized responsibilities to "conserve life, alleviate suffering and promote health" (ANA, 1960, p 1287) to a deeper, more duty-based obligation to "respect the dignity of man, unrestricted by considerations of nationality, race, creed, color, or status" and to "safeguard the individual's right to privacy" (ANA, 1968, p. 2582). With changes in the level of practice independence; advances in technology; societal changes; and expansion of nursing practice into advanced practice roles, research, education, health policy, and administration, the Code has been revised over time to introduce obligations to advance the profession and build and maintain a healthy work environment (ANA, 1976; ANA, 1985; ANA, 2001; ANA, 2015b).

The Modern Code of Ethics

As in the past, the current Code of Ethics with Interpretive Statements (ANA, 2015b) forms a central foundation for our profession to guide nurses in their decisions and conduct. It establishes an ethical standard that is non-negotiable in all roles and in all settings. The Code is written by nurses to express their understanding of their professional commitment to society. It describes the profession's values, obligations, duties, and professional ideals. The provisions and interpretive statements reflect broad expectations without articulating exact activities or behaviors. The 2015 Code "addresses individual as well as collective nursing intentions and actions; it requires each nurse to demonstrate ethical competence in professional life" (ANA, 2015b, p. vii). Nurse practice acts in many states incorporate the Code of Ethics. Even though the Code is primarily ethics-related, it also has legal implications. Given the importance of the Code to the profession on so many levels, revisions continue on a regular basis.

Changes in the 2015 Code of Ethics for Nurses

The revision process led to several significant changes in the 2015 Code of Ethics (ANA, 2015b). Overall, the document's language has been updated. For example, terms such as "technology," "social media," "genetics," "incivility in the workplace," "pain and suffering," and "evidence informed practice" have been added. Other broad changes include increased emphasis on nursing leadership; renewed emphasis on the inclusion of nurses in all roles and in all settings; and strengthening of the nurse's voice in social and health policy and of the nurse's role in global health. The preface was revised to strengthen the purpose of the Code, the ethical framework, and the context. A new introduction now clarifies terms such as "patient," "client,"

and "consumer," "moral," "ethical," and the differences between "must," "ought," and "should." A glossary of terms was added and a list of online resources and other support documents will be posted on the ANA website.

The Code Provisions have been reworded to be more concise and better articulate their intent, although the general structure remains the same as the 2001 Code (ANA, 2001). For example, the first three provisions still describe the most fundamental values and commitments of the nurse; the next three address boundaries of duty and loyalty, and the last three address aspects of duties beyond individual patient encounters. Finally, there were significant changes to the interpretive statements, where content has been updated to improve relevance to modern day practice, reorganized for consistency with the wording in the provisions, and revised to reduce redundancy.

The ICN Code of Ethics for Nurses

Nurses have four fundamental responsibilities: to promote health, to prevent illness, to restore health and to alleviate suffering The need for nursing is universal; inherent in nursing is respect for life, dignity, and rights of man. It is unrestricted by considerations of nationality, race, creed, color, age, sex, politics or social status. Nurses render health services to the individual, family and the community and coordinate their services with those related groups. The ICN code of ethics for nurses has four principal elements that outline the standards of ethical conduct.

Elements of the Code

1. Nurse and People

The nurses' primary responsibility is to people requiring nursing care. In providing care, the nurse promotes an environment in which the human rights, values, customs and spiritual beliefs of the individual, family and community are respected. The nurse ensures that the individual receives sufficient information on which to base consent for care and related treatment The nurse holds in confidence personal information and uses judgment in sharing the information. The nurse shares with society the responsibility for initiating and supporting actions to meet the health and social needs of the public in particular, those of vulnerable population. The nurse also shares responsibility to sustain and protect the natural environment from depletion, pollution, degradation and destruction.

2. Nurses and Practice

The nurse carries responsibility and accountability for nursing practice and for maintaining competence by continual learning. The nurse maintains a standard of personal health such that the ability to provide care is not compromise. The nurse uses judgment regarding individual competence when accepting and delegating responsibility. The nurse at all times maintains standards of personal conduct which reflect well on the profession and enhance public confidence. The nurse in providing care ensures that use of technology and scientific advances are compatible with the safety, dignity and right of people.

3. Nurse and the Profession

The nurse assumes the major role in determining and implementing acceptable standards of clinical nursing practice, management research and education. The nurse is active in developing a core of research-based professional knowledge. The nurse acting through the professional organization participates in creating and maintaining equitable social and economic working condition in nursing.

4. Nurses and Co-Workers

The nurse sustains a cooperative relationship with co-workers in nursing and other fields. The nurse takes appropriate action to safeguard individuals when their care is endangered by a co-worker or any other person. Professional Nursing Associations of various countries, including America, have either adopted the ICN code of ethics or formulated their professional nursing ethics to reflect the needs of their socio-cultural environment.

Ethical Code for Nurses and Midwives

- As a nurse, your fundamental responsibility is four fold: To promote health, to prevent illness, to restore health, to alleviate suffering. Most important is the respect for life, dignity and right of man.
- Your primary responsibility is to those who need nursing care regardless of race, creed, religion, culture, values and custom. You should also hold in sincere confidence personal information about all your clients and use judgment in sharing this information.
- As a professional nurse, you carry personal responsibility for nursing practice and for maintaining competence by continuous learning.
- When acting in a professional capacity, you should at all times maintain standards of personal conduct, which reflect credit upon the profession.
- You must at all times be prepared to share with other citizens the responsibility for initiating and supporting the health and social needs of the public.
- It is your duty to sustain a co-operative relationship with colleagues in nursing and co-workers in other fields.
- You must always take appropriate action to safeguard the individual when his or her care is endangered by a co-worker or any other person.

You and the Profession

- You must at all times be prepared to play the major role in determining and implementing desirable standards of nursing practice and nursing education.
- You must be active in developing a core of professional knowledge.
- You must act through the professional organization; participate in establishing and maintaining equitable, social and economic working conditions in nursing.

The ICN code of ethics places on the nurse responsibilities of not only providing nursing care, but also of promoting a suitable environment for care, maintaining effective relationship with other health care providers, advancing nursing knowledge and initiating and supporting action to

improve the general health Also the code addresses the primary goals and values of the nursing profession as well as all those that the nurse is accountable to for her actions. The primary goals and values are described in the preamble of the ICN code of ethics. Critical analyses of the codes show a reflection of such universal values as:

1. Respect for human rights including right to life, dignity and to be treated with respect.
2. Autonomy or right to self-determination.
3. Beneficence (doing good) and non-malfeasance (avoiding violence)
4. Justice (equal treatment irrespective of color, race, age, etc.)

Professional nursing ethics also include what has been described as the rules of action or standards to be followed in practice. The four elements of the ICN code of ethics--nurses and people, nurses and practice, nurses and the profession and nurses and co-workers, give a framework for the standards of conduct. Although ICN code of ethics provides a good framework for ethical decision-making in nursing, it will have meaning only if it is applied to the practice of nursing and health care. The ICN has gone further to show the application of the elements of the ICN code.

Conclusion

Nursing code of ethics addresses the primary goals and values of nursing. It illustrates moral and professional obligations of nurses for prevention of diseases, promoting health in the society, communicating with colleagues, management of health care systems, and research activities. From many reviews made by researchers, it has been observed that nurses do not really observe and use the code of ethics, and this has become a barrier to patient advocacy. So it is important that nurses apply the code in nursing education, clinical practice, management and research in order to serve the interests and needs of the profession more efficiently. This way, the goals of nursing will be achieved and the values maintained.

Recommendations

1. Lecturers in college and department of health education should help the student observe ethical code and/or principles in order to promote the interest and needs of the profession more efficiently.

2. Nurses and other health practitioners should observe ethical principles and/or codes to help promote the quality of service provided and rendered and to help coordinate them.

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