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## Jurisprudence and Ethical Issues in Health Promotion with Respect to Nursing

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### ABSTRACT

*Health promotion is a key element of public health practice, but understanding of the concept is controversial. Health promotion has significant potential to alter people's lifestyles. It aims to "make the healthy choice, the easy choice, the unhealthy choice and the more difficult choice", and seeks to influence people to change their health related behaviour. Health promotion is best achieved with the aid of nurses who are responsible to provide their clients/patients with the high-quality care and these provisions are protected by law which is defined in their various codes of practice. They are undoubtedly confronted with various ethical challenges in their professional practice, so they should be familiar with ethical codes of conduct. The codes outline how the nurses should behave ethically as a profession, and how they should decide when encountering barriers which might prevent them from fulfilling their professional obligations since it illustrates moral and professional obligations for prevention of diseases, promoting health in the society, communicating with colleagues, management of health care systems, and research activities. National Association of Nigerian Nurses and Midwives (NANNM) stipulate in their code of conduct that the fundamental responsibility of a nurse is to promote health, to prevent illness, to restore health, and to alleviate suffering. Most important is the respect for life, dignity and right of man. The study recommends that (NANNM) should make sure that ethical codes are being implemented in schools and health sector and make sure that nurses and health practitioners observe ethical standard thereby improving quality health service rendered by the health sectors.*

**KEYWORDS: Jurisprudence, Ethical Issues, Health Promotion, Nursing.**

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### INTRODUCTION

Nursing jurisprudence has to do with the application and interpretation of regulations, laws, and principles of law to the profession of nursing. Nursing is regulated by law because the practice of nursing exposes individuals to possible risk, especially if nurses are not adequately prepared for the practice of nursing. Therefore, nurses must meet various requirements in order to practice. The requirement according to Wanda Lockwood (2018) has to do with Nurse Practice Acts: The primary force in jurisprudence is the Nurse Practice Act, which is the statutory law of each state and territory. The Nurse Practice Act may vary somewhat from one state/territory to another but generally includes:

- (i) The composition and authority of the state/territory Board of Nursing, which implements and oversees the Nurse Practice Act;

- (ii) Conditions under which one is admitted into nursing practice, including education standards and nursing diplomas or degrees;
- (iii) Scope of practice for all levels of nursing from nursing assistants to advance practice nurses, including titles and specific licensure;
- (iv) Licensure requirements, including continuing education requirements and frequency of re-licensure (The purpose of a nursing license is to set minimum qualifications required for employment or entry level in order to ensure safe and effective provision of nursing care to patients and to provide assurance to the general public that the nurse may practice within the boundaries established by the nurse's scope of practice.);
- (v) Grounds for disciplinary action against nurses and types of violations and;
- (vi) Disciplinary procedures in the event of negligence, malpractice, abuse, or impairment.

In some cases, special programmes for impaired nurses may be included in the Nurse Practice Act. Litigation may occur if a patient suffers or believe to have suffered adverse effects of negligent care. Litigation most often relates to specific types of failures on the part of nurses: failure to follow standards of care, failure to adequately communicate (to patient, physician, and other nurses), failure to adequately document (if it isn't documented, it wasn't done), failure to carry out appropriate assessment and monitoring of patients, and failure to delegate appropriately. Violation of the law may result in loss of employment and licensure and civil action, depending on the severity of the violation.

In relating ethics to jurisprudence, ethics has been described as beginning where the law ends. Both share the goal of creating and maintaining social good (Brock & Mastroianni, 2013). Ethics never stands alone, nor does the law. Some issues that have both ethical and legal components include: access to medical care, informed consent, confidentiality and exceptions to confidentiality, mandatory reporting, mandatory drug testing, privileged communication with healthcare providers, advance directives, reproductive rights/abortion and physician-assisted suicide (**Jed et al, 2020**), and such laws as Affordability Care Act and Law of Distributive Justice regulate the ethics in the nursing profession.

- (i) Affordability Care Act: this law touches on the ethical principles of *beneficence* (kindness) and *non-maleficence* (do no harm) by setting up affordable healthcare exchanges and plans. The exchanges are an integral part of the complicated issue that is created when healthcare is mandated. It is based on the concept that mandating health insurance without addressing affordability would cause significant harm to individuals and families who are struggling financially (Lachman, 2012).
- (ii) Law of Distributive Justice: addresses the degree to which healthcare services are distributed equitably throughout society.

**Jed et al, (2020) noted that**, although ethics attempts to identify all available options to a given problem and consider the implications of each option, the law often places limits on those options. This intersection of the law and ethic often creates conflict and raises some important questions which when made justice to helps in the profession.

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 behaviour 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 has significant potential to alter people's lifestyles. It aims to "make the healthy choice, the easy choice, the unhealthy choice and the more difficult choice", and seeks to influence people to change their health related behaviour, e.g. to stop smoking, more exercise, eating healthy food, practicing safe sex, wearing helmets, etc (Buchanan 2000 & Holland S 2007). Health promotion therefore aims to lead to better health by changing health-related behaviour or lifestyle.

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 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.

In Iran, studies have shown nurses' weaknesses in the knowledge of ethics and its application in practice (Borhani et al 2009 & Hassanpou et al, 2011). In a qualitative study carried out by Negarandeh et, al. (2005), the nurses identified "lack of code of ethics" as a barrier to patient advocacy in Iran. Sanjari et al, (2008), also, reviewed nursing codes of ethics and emphasized the necessity of compiling a national code of ethics for nurses in healthcare setting. They suggested an adapted code considering cultural context and background of the country. Considering the growing activities in the field of medical and healthcare ethics in the country, and in order to address the needs and help to fulfill goals of health care system in the country, the Code of Ethics for Nurses is considered to serve the interests and needs of the profession more efficiently, since it illustrate 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.

## **STATEMENT OF THE PROBLEM**

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**

**Ethics** is a branch of philosophy that deals with right and wrong. It is a system of principles and rules of conduct recognized and accepted by a specific group or culture. Nurses typically encounter ethical issues in three realms of biomedical ethics including the broad, overarching, health-related problems that impact policy or 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 bio-medically-related ethical problems every day (Moon, Taylor, McDonald, Hughes & Carrese, 2009; Ulrich et al., 2010).

On a policy or societal level, broad questions are asked. Examples of such queries may include 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, 2015a,

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).

### **The Modern 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. As in the past, the current Code of Ethics with Interpretive Statements (ANA, 2015b) forms a central foundation for the nursing profession to guide them 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 is normally 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, colour, 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 nurse's 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 organisation 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 (Anarado, 2000). Professional Nursing Associations of various countries, including Nigeria, have adopted the ICN code of ethics and also formulated their professional nursing ethics to reflect the needs of their socio-cultural environment. The National Association of Nigerian Nurses and Midwives (NANNM) code of ethics culled from the 1973 edition of the ICN code is presented below.

### **Ethical Code for National Association of Nigeria Nurses and Midwives (NANNM)**

- 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 organisation; 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 and wellbeing of the people. 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-maleficence (avoiding violence)
4. Justice (equal treatment irrespective of colour, 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 goal 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. The National Association of Nigeria Nurses and Midwives (NANNM) should also make sure that ethical codes are being implemented in schools and health sector and make sure

that nurses and health practitioners observe ethical standard thereby improving quality health service rendered by the health sectors.

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



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