

# Jurisprudence and Nursing Ethics

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By Melissa K Slate, RN, BA, MA

## Objectives

By the end of this educational encounter, the nurse will be able to:

1. Identify ethical issues in nursing practice
2. Describe the role of nurses in the ethical practice of health care
3. Recall principles of the Code of Ethics

**Purpose:** This course is intended to give the nurse an overview of the Nurse's Code of Ethics, and assist the nurse in developing his or her own practical ethical decision making skills.

**Ethics-** Rules of conduct recognized in respect to a particular class of human actions or a particular group.

The American Nurses Association wrote the Code of Ethics for Nurses in order to serve the following purposes:

- As a statement of the ethical obligations and duties of every person who chooses to enter the profession of nursing.
- To act as the nonnegotiable standard of ethics
- To serve as an expression of the understanding on nursing's commitment to society.

The Code of Ethics is a dynamic document that is constantly changing. As the morals and values of society change, the document changes to reflect those morals and values. There is also an International Code of Ethics for Nurses that closely parallels the premise of the ANA Code of Ethics.

The need for nursing care is Universal and within the provision of nursing care are basic inherent principles that provide the framework for nursing practice. The ANA Code of Ethics has nine provisions grouped into three general areas while the International Council of Nurses Code of Ethics is grouped into four distinct areas. These four distinct areas define the responsibilities of the individual nurse and nursing as a whole. The four areas are: to promote health, to prevent illness, to restore health, and to alleviate suffering. Nursing also embraces human rights and provides care without regard to conditions of race or culture. In nursing, the patient may be an individual, a family, or a community (ICN).

The three distinct areas of the American Nurses Association Code of Ethics are involved with the fundamental values and commitments of the nurse, the boundaries of duty and loyalty, and duties beyond individual patient encounters (ANA).

### **Provision 1.**

The nurse, in all professional relationships, practices with compassion and the recognition of human dignity and worth that is present in every individual.

**1.1 Respect for human dignity.** In the provision of care, the nurse respects the beliefs and customs of the individual, family, or community. The nurse takes into account the values and needs of all persons in the professional relationship.

**1.2 Relationships to patients.** The need for health care is universal regardless of the unique differences of each patient. The nurse establishes therapeutic relationships with patients and administers nursing care that respects the unique differences of the patient. This includes considerations of lifestyle, value system, and religious beliefs. Respect for the

values and beliefs, of the patient, does not imply that the nurse condones those beliefs or practices on a personal level.

**1.3 The nature of health problems.** The nurse does not allow the disease, disability, or functional status of the patient to determine the individual's worth. The nurse respects the rights, dignity, and worth of all those who require nursing services for support, comfort, health restoration, or health promotion and prevention. The nurse plans and individualizes care to allow the person to live with as much physical, spiritual, social, and emotional well-being as possible. This care extends to the families of the patient and continues across the health continuum. This is especially important as the patient and family traverse the various processes at the end of life. Nurses act as advocates for the patient and family, assessing the responsible and appropriate use of life-sustaining care in accordance with the wishes of the patient and family. The nurse serves as a guide, helping to provide complete and appropriate information without bias or the inflection of personal values and beliefs upon the patient. The nurse provides pain management and the provision of comfort to the patient even though those measures may hasten death. The emphasis is on avoiding needless pain and suffering in the dying process, however, the nurse does not act with the sole intent of ending a patient's life regardless of the benevolence of the intentions. The invaluable experience of nurses in care at the end of life should be used to assist education, research, practice and the development of policies.

**1.4 The right to self-determination.** Respect for human dignity requires that the nurse acknowledge and understand that the patient has certain rights and one of the foremost rights is the right to self-determination. Self-determination is also called autonomy and forms the basis for informed consent within the healthcare system. Patients have the right to decide what is to be done with and to their own person and part of that right involves the right to have the information and facts necessary to make an intelligent and enlightened decision regarding health care decision making. Patients have the right to assistance in weighing the benefits and risks of treatment or the refusal of treatment without any inflection of the morals, values, or beliefs of the nurse in the decision making process. The nurse should uphold and

encourage the participation and planning of the individual in the decision making process to the extent that they are willing and able to participate. Nurses have an obligation to be aware of patient rights and to advocate for the patient in the provision of those rights. The nurse also has a duty to assess the understanding of the patient regarding information presented and to further clarify or explain information given so the patient has a clear understanding of that information. If the patient is unable to make decisions, then a surrogate decision maker should be sought. If a surrogate is not available, then decisions should be made on behalf of the patient, following the patient's wishes in as far as they are known and the decisions should be made with the best interest of the patient in mind. The nurse also recognizes that individuals are members of a community and that there may be situations in which the benefits of the community at large outweigh the patient's right to autonomy, such as when issues of the public health are at stake. Limitation of individual rights is always a deviation from the standard of care and is justified only when a less restrictive means of preserving the greater good is not available.

**1.5 Relationships with colleagues and others.** The principle of respect extends to all those with whom the nurse interacts. The nurse maintains relationships that are caring and compassionate with a commitment to fair treatment of others and to conflict resolution. The nurse serves and functions in many roles and within each of these roles the nurse treats colleagues, employees, students, and assistants with dignity and respect. This means that the nurse does not engage in actions that are based on prejudice or harassment or threatening of others. The nurse also engages in the collaboration with others to ensure the provision of quality healthcare services.

**Provision 2.** The primary commitment of the nurse is to the patient, whether the patient is defined as an individual, group, or community.

**2.1 The interests of the patient are primary.** The paramount interest of the nurse is in provision of unique care that is based upon the needs of the patient. The nurse attempts to include the patient in the planning of care provision, allowing for the ability of the patient to participate. The nurse assures that the patient finds the plan of care acceptable and oversees the implementation of that plan. The plan of care considers

the place of the patient within family networks and where conflict exists between the wishes of the patient and other family members, attempts are made to resolve the conflict. When the conflict remains unresolved, the nurse holds to the commitment that the wishes of the patient remain supreme.

**2.2 Conflict of interest for nurses.** In healthcare, the nurse may frequently encounter situations where conflicts of interest exist. The nurse never exploits the patient for any type of personal gain whether it be financial or psychological. The nurse considers his/her personal values, the values of the patient, and others involved in the care process when guiding the patient to make decisions. The nurse foremost assures that those decisions are based on the safety, comfort, and best interests of the patient and the care plan. Conflicts may arise when incentive plans to decrease spending oppose the needs of the patient. When the nurse perceives a potential conflict of interest, he/she should reveal the potential conflict to all pertinent parties and in some instances, remove himself/herself from the situation.

**2.3 Collaboration.** Collaboration is not just cooperation. Collaboration is the concentrated effort of multiple members of the healthcare team in order to achieve a desired outcome. In healthcare, the goal is centered on the needs of the patient. Because of the need for multidisciplinary team efforts in the health care setting, teams must operate within a realm of professional respect and trust. Therefore, the role of nursing within the team must be clearly defined, represented, and preserved. There should be open dialogue and shared decision making among all members of the healthcare team and the patient. Nurses should advocate for the participation of all relevant members of the health care team, and ascertain that all vital questions are asked and that necessary information for informed decision-making is provided. Collaboration exists through many different levels in nursing and may be direct or indirect. Indirect collaboration occurs through the support of team members directly involved in care process by way of the setting of standards, the teaching of skills, the management of care environments, or the enlargement of knowledge among the team members.

**2.4 Professional boundaries.** The intimate nature of nursing often presents challenges as nurses share problems and difficulties with patients that can be quite stressful. The nurse strives to maintain appropriate professional boundaries at all times to avoid compromise of the therapeutic relationship. Nurse-patient and nurse-colleague relationships differ from unstructured personal friendships. The working of colleagues in close concert with one another and dependence between the nurse and colleagues and the nurse and the patient present circumstances in which professional boundaries can become blurred or distorted. When the nurse finds that professional boundaries are becoming endangered she/he should seek assistance from peers/supervisors or seek to remove themselves from the situation.

**Provision 3. The nurse seeks to protect the health, safety, and rights of the patient.**

**3.1 Privacy.** The nurse acts as an advocate for the patient's right to privacy. The need for medical care does not justify unwanted intrusions into a patient's privacy. The nurse safeguard's not only the patient's physical privacy, but also ensures that sensitive auditory information is not overheard during discussions with the patient or colleagues about the patient's case. The nurse also takes measures to maintain the confidentiality of the patient's medical record.

**3.2 Confidentiality.** The trust between the patient and the patient's safety could be compromised by unnecessary revelation of medical information. The nurse should ensure that information is revealed in an ethical manner and on a need to know basis within the bounds of the law and with the patient's permission using the minimum amount of information necessary. With regard to public health, or the safety of others the nurse may have to reveal information for the greater good within the bounds of the law. However, the nurse always follows standards of care or policies regarding such information. Where conflict seems to exist, or the nurse is unsure of a definite course of action, the counsel of a supervisor should be sought.

**3.3 Protection of patients in research.** Each patient has the right to make an informed decision regarding their participation in research. As an advocate for the patient,

nurses have a responsibility to ensure that patients are presented with information about any research being performed to the extent that an informed decision can be made. In addition, the patient has the right to refuse to participate in, or choose to withdraw from, any research project at any time. The research should be conducted by persons who are qualified to do the research, and the research should be governed by a review board to oversee and protect the patient and the ethical integrity of the research being conducted. The nurse should also be aware that conflicts may arise from research conducted upon vulnerable groups of individuals such as the mentally ill, children, prisoners, students, the poor and the elderly. Nurses have a duty to question, report, and refuse to participate in research that they deem morally objectionable.

**3.4 Standards and Review mechanisms.** Nursing has a duty to ensure that only individual who are competent and exhibit the skills and knowledge necessary to practice remain in the nursing profession. Nursing educators have a duty to affirm that basic competency is achieved and that a commitment to professional practice standards is promoted before the individual nurse begins to practice. Nurse managers and administrators have a responsibility to evaluate the skills and competence of each nurse under their supervision prior to assigning the nurse tasks beyond entrylevel academic preparation. The nurse has a responsibility to know and to maintain current standards of practice. Nurses should participate in programs which address continuing quality improvement such as ethics committees, quality improvement programs or credentialing programs that help the nurse to attain elevated levels of quality care. Nurse managers should assure that their employees have access to and the opportunity to be included in ethics committees. Nurses should bring forward difficult cases for review and works to achieve the inclusion of others in discussions regarding patient care dilemmas. Nurses should actively promote and participate in activities which promote safety and reduce errors in practice. Nurses are also expected to report errors committed or observed during the course of their practice to appropriate supervisory personnel. The nurse should not under any circumstance, condone through silence or participate in any act which serves to place blame or to hide

the commission of an error. These activities are counterproductive, as they do not fix the circumstances that lead to the commission of the error.

**3.5 Acting on questionable practice.** The nurse has a responsibility foremost to the patient across the lifespan and inclusive of all settings in which health care services are needed. Being an advocate means that the nurse takes action against any incompetent, illegal, unethical, or impaired practice by any member of the health care team or healthcare system that jeopardizes the health, well being or rights of the patient. To achieve competence in this role the nurse must know the standards of care, the Code of Ethics, the policies and procedures of the institution, and the applicable state and Federal Laws. When the nurse becomes aware of questionable or inappropriate practice, the nurse should express concerns to the person who is responsible for the questionable conduct. The effect upon the patient, and to nursing in general, should be brought to the person's attention. When elements of the healthcare system threaten the safe delivery of care, the well being of the patient or encroach upon the rights of the patient, the issue should be brought to the attention of the manager or the administrator. If indicated or deemed necessary, the matter should be brought to the attention of the higher authority or to outside regulatory agencies as appropriate. There should be standards and policies in place for reporting impaired or incompetent practice so that the issue goes through a chain of command and lessens the chances of reprisals against the reporting nurse. Some situations may warrant the inclusion of more than one regulatory body. Reporting unethical practice or issues of competence may present substantial risk to the nurse, even when done appropriately, however those risks do not eliminate an obligation to address serious risks to patient safety.

**3.6 Addressing impaired practice.** The duty of the nurse is to protect the patient, the public, and the profession from harm when a colleague's practice appears to be impaired. The nurse exhibits compassion to colleagues who are recovering from illness or whose illness interferes with job performance. When a nurse suspects that a colleague's practice is impaired, the nurse has a duty to protect both the patient and to assure that the impaired individual receives the necessary help



needed for recovery. The nurse should begin by consulting supervisory personnel, it may also be necessary to confront the nurse in a supportive manner and assist the impaired nurse in accessing appropriate resources. Nurses should follow policies outlined by the profession and the employing organization when assisting colleagues whose performance may be impaired by physical or mental illness or personal circumstances. The nurse should support the return to practice of any individual who is ready to resume their role within the profession after seeking appropriate resources. If the impaired person represents a threat to their self or others then the nurse should report the problem to those in authority to address the situation. This must occur regardless of whether the impaired person has sought help or not. Nurses who advocate for colleagues whose job performance carries a risk for harm should be protected from negative consequences. Advocacy is not always an easy process and the nurse should follow workplace policies. If appropriate policies do not exist, or the policies infringe upon the rights of the impaired nurse or demand resignation, then assistance should be sought from state agencies or professional associations.

#### **4. Responsibility and Accountability.**

##### **4.1 Acceptance of Responsibility and Accountability.**

Nurses are responsible for their own practice and the care that their patients receive. Nursing practice includes acts of delegation, research, teaching, and management. The nurse is responsible for following standards of care in all practice. As the roles of nursing change, nurses are faced with more complex decisions regarding delegation and management of care. The nurse must exercise judgment in accepting responsibilities, delegating, and seeking the counsel of others in the course of their duties. When advanced practice nurses write orders for treatments to be carried out by other nurses, then both the nurse writing the order and the nurse that is carrying out the order have responsibility for the judgments and actions taken as these are not acts of delegation.

**4.2 Accountability for nursing judgment and action.** To be accountable means that you answer to yourself and to others for your actions. Nurses practice within a

framework or morality that values self-determination, respect, and dignity. Nurses are accountable for their actions within this framework regardless of institutional policies or procedures.

#### **4.3 Responsibility for nursing judgment and action.**

Responsibility is the liability or accountability that comes from actions completed as part of a particular role. Nurses accept or reject specific role demands based upon their particular educational and experiential abilities. Nurses who work in an administrative capacity have no direct contact with a patient but still are responsible for the nursing care received by the patient due to the supervisory duties that they have with regard to the employee giving the direct care. Nurses must not allow others to perform nursing care which is prohibited by nursing standards or state nursing practice acts. The individual nurse is also responsible for assessing their own competence and keeping their practice within the standards of the current standards of care for the specialty in which they are practicing and the state nursing practice acts. When a nurse assesses that the needs of the patient go beyond their individual competence he/she should seek appropriate resources through supervisors, colleagues, or other venues to ensure that the care given the patient meets standards and that the health and safety needs of the patient are met.

#### **4.4 Delegation of nursing activities.**

The nurse is responsible for the quality of nursing care given to patients. The nurse is responsible for assessing the competency of other nurses and health care personnel before transferring or assigning care duties of patients to other colleagues. The nurse is also responsible for monitoring the activities of these personnel and evaluating the quality of care that is provided to the patient. Nurses must not assign task to individuals which he/she knows that they are not qualified to perform. Nurses that serve in a management or administrative functions must assure that policies and guidelines are in place to assist nurses in achieving competencies necessary to provide safe and effective care for patients. Nurses who function in the role of educator share a responsibility for providing safe and effective care for the patient. The educator must carefully assess the skills of the person assigned to provide nursing care and must give support to the learner in order to

protect both the patient and the learner. **Provision 5.** The nurse has a duty to self to maintain competence and to continue professional growth.

5.1 **Moral self-respect.** Nurses have the same moral obligation to self as they do to others. The nurse must maintain self-respect, professional growth and competence, wholeness of character and personal integrity.

5.2 **Professional growth and maintenance of competence.** Competence affects one's self-esteem, self-worth, professional status and gives meaning to work. Nursing is held to the highest standards through peer review and self-evaluation. Continuing to maintain professional competence has implications for others, but also for the individual nurse as well. This continuing competence requires a commitment to lifelong learning and an awareness of ongoing issues and changing standards in the practice of professional nursing.

5.3 **Wholeness of character.** Nurses have both personal and professional identities which are not totally integrated nor are totally separate. Within the process of becoming a professional, the nurse embraces the values of the profession and integrates them within personal values. With regard to ethical decision-making, nurses have a duty to openness and respect for the values of others, and by expressing their values even though they might differ from others or might not prevail ensure that a wide range of moral views are expressed and considered. The wholeness of character encompasses relationships with patients also. When asked by the patient to give a personal opinion on a subject, the nurse is generally free to do so provided that the opinion does not hamper or influence the validity of the patient's informed decision making. The nurse should also make sure that the opinion does not place them in the position of crossing personal or professional boundaries and is morally correct. The nurse must be aware that their professional role may unduly influence the patient in decision-making. Therefore, assisting the patient to clarify his or her own values and beliefs is likely to prove to be the most helpful. When the nurse encounters situations that the actions, values, and beliefs, are personally and socially unacceptable, the nurse renders skilled professional and respectful care.

**5.4 Preservation of integrity.** Economic constraints within the healthcare system may be especially problematic for the integrity of the nurse. Threats to integrity may include requests to deceive patients, withhold information, to falsify records, or the verbal abuse of patients or coworkers. Other request may involve requests for the nurse to act in ways which are a violation of the values of the profession or in direct violation of the code of ethics. Nurses have a duty to retain the integrity of their profession and to accept compromise only to the extent that the compromise upholds the values and integrity of the profession. Integrity preserving compromises do not risk the dignity or well-being of others. Nurses who are faced with requests that violate the integrity of the profession should voice their objections. When a particular action, activity, or treatment is morally objectionable to the nurse, or when it may put both the patient and the practice of nursing at risk the nurse may refuse to participate upon moral grounds. The nurse should not use the moral objection and refusal to participate as a means of personal convenience. This objection may not protect the nurse against penalty. The nurse who chooses to object should make the decision known in appropriate ways and if possible with plenty of time for alternate means to be made for patient care. The nurse is obligated to preserve patient safety, not abandon the patient, and to withdraw participation only when alternative means for patient care have been made.

**Provision 6.** The nurse facilitates improvement of the healthcare environment.

**6.1 Influence of the environment on moral virtues and values.** Virtues are moral habits that influence people to do what is right and are the hallmark of a morally good person. Excellence is the habit that predisposes a person to perform a task well. Virtues and excellence can be nurtured or hindered by the environment. Nurses have an obligation to assist in the creation, and maintenance of environments that nurture excellence and virtues.

**6.2 Influence of the environment on ethical obligation.** All nurses have a responsibility for creating, maintaining, and fostering environments that are supportive toward nurses meeting their ethical obligations. Working environments

include the norms of peers as well as policies and procedures of the organization. Elements that can either be barriers or foster ethical practice include incentive programs, disciplinary policies, health and safety programs, and organizational structure. Environments which allow for grievance procedures and the fair and equitable treatment of nurses foster the performance of nursing care according to standards.

**6.3 Responsibility for the healthcare environment.** The nurse is responsible for fostering a moral environment that supports and respects peers and identifies issues that need to be addressed. Nurse administrators have the responsibility for making sure that their nurses have input into the safety and working conditions within their facility. Nurses should not condone nor agree to unsafe nursing practices even if they do not participate in unsafe practices; to do so is paramount to condoning the practices. Nurses should not remain employed in facilities which violate patient rights or participate in unsafe practices. Nurses should address concerns about the healthcare environment through appropriate channels.

**Provision 7.** The nurse assists in advancement of the profession through contributions to practice, education, administration, and knowledge development.

**7.1 Advancing the profession through active involvement in nursing and in healthcare policy.** Nurses should contribute in some way to the advancement or leadership of professional organizations. The profession can also be advanced by serving in mentoring roles, leadership positions, or on professional committees within their organization. The self-employed nurse can serve to advance the profession by acting as a model of professional integrity. Advancement of the profession can also be accomplished through civic activities. Nurse educators promote the advancement of nursing through the fostering of professionalism and civic values. Nurse managers and administrators are responsible for providing an environment that promotes ethical integrity and professionalism; while nurse researchers are responsible for contributing to the body of knowledge that supports and advances nursing practice.

**7.2 Advancing the profession by developing, implementing, and maintaining professional standards in clinical, administrative, and educational practice.** Standards are guidelines which reflect the grounding of nursing in ethical principles and a defined body of scientific knowledge. It is the responsibility of nursing to define its own scope of practice within the bounds of state nurse practice acts and the nurse's code of ethics

**7.3 Advancing the practice of nursing through the development of knowledge and implementation to practice.** The body of nursing should engage in scholarly inquiry to identify, evaluate, and expand the body of knowledge that defines nursing practice. Nursing knowledge come from both the realms of the sciences and the humanities. These activities are necessary to maintain nursing's obligations to society.

**Provision 8.** The nurse collaborates with the public and other health professionals in promoting community, national and international efforts to meet health needs.

**8.1 Health needs and concerns.** The profession of nursing is committed to promoting the health, welfare, and safety of all people. The individual nurse has an obligation to be aware of not only the health needs of the individual, but also the broader global health issues such as world hunger, proper sanitation, and clean drinking water. Providing access to health care for all people requires that collaboration occur across multiple disciplines.

**8.2 Responsibilities to the public.** Nurses both as individuals and as a collective body have the responsibility to be aware of threats to individual health and to the health of the community as a whole. Through community support and participation, nurses are able to educate the public about threats to individual and community health and safety and impart necessary knowledge to assist informed decisionmaking regarding those threats. Nurses also support initiatives to remove barriers to health and safety such as violence, poverty, and homelessness. The nurse recognizes that the community is a culturally diverse mix of individuals and thus does not impart or impress his/her values upon other with values which differ.

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