

## INTRODUCTION

In the education of mental health care professionals, the teaching of ethical issues is inadequate (McGovern, 1991). This chapter provides a reference for the student and practicing nurse of the basic ethical and legal concepts and their relationship to psychiatric/mental health nursing.

Nurses are constantly faced with the challenge of making difficult decisions regarding good and evil or life and death. A discussion of ethical theory is presented as a foundation on which ethical decisions may be made. The American Nurses' Association (ANA) (1985) has established a code of **ethics** for nurses to use as a framework within which to make ethical choices and decisions (Table 4.1).

Because legislation determines what is *right* or *good* within a society, legal issues pertaining to psychiatric/mental health nursing also are discussed in this chapter. Definitions and rights of psychiatric clients are presented. Nursing competency and client care accountability are compromised when the nurse has inadequate knowledge about the laws that regulate the practice of nursing.

Knowledge of the legal and ethical concepts presented in this chapter will enhance the quality of care the nurse provides in his or her psychiatric/mental health nursing practice, while also protecting the nurse within the parameters of legal accountability. Indeed, the very right to practice nursing carries with

it the responsibility to maintain a specific level of competency and to practice in accordance with certain ethical and legal standards of care.

## DEFINITIONS

King (1984) defines ethics as "a branch of philosophy dealing with values related to human conduct, to the rightness and wrongness of certain actions, and to the goodness and badness of the motives and ends of such actions." **Bioethics** is the term applied to these principles when they refer to concepts within the scope of medicine, nursing, and allied health.

**Moral behavior** is defined as conduct that results from serious critical thinking about how individuals ought to treat others. Moral behavior reflects the way a person interprets basic respect for other people, such as the respect for autonomy, freedom, justice, honesty, and confidentiality (Pappas, 1994).

**Values** are personal beliefs about the truth, beauty, or worth of a thought, object, or behavior (Leach, 1987). **Values clarification** is a process of self-discovery by which people identify their personal values and their value rankings (King, 1984). This process increases awareness of why individuals behave in certain ways. Values clarification is important in nursing to increase understanding about why certain choices and decisions are made over others and how values effect nursing outcomes.

**TABLE 4.1 AMERICAN NURSES' ASSOCIATION CODE OF ETHICS FOR NURSES**

1. The nurse provides services with respect for human dignity and the uniqueness of the client unrestricted by considerations of social or economic status, personal attributes, or the nature of health problems.
2. The nurse safeguards the client's right to privacy by judiciously protecting information of a confidential nature.
3. The nurse acts to safeguard the client and the public when health care and safety are affected by the incompetent, unethical, or illegal practice of any person.
4. The nurse assumes responsibility and accountability for individual nursing judgments and actions.
5. The nurse maintains competence in nursing.
6. The nurse exercises informed judgment and uses individual competence and qualifications as criteria in seeking consultation, accepting responsibilities, and delegating nursing activities to others.
7. The nurse participates in activities that contribute to the ongoing development of the profession's body of knowledge.
8. The nurse participates in the profession's efforts to implement and improve standards of nursing.
9. The nurse participates in the profession's efforts to establish and maintain conditions of employment conducive to high-quality nursing care.
10. The nurse participates in the profession's efforts to protect the public from misinformation and misrepresentation and to maintain the integrity of nursing.
11. The nurse collaborates with members of the health professions and other citizens in promoting community and national efforts to meet the health needs of the public.

SOURCE: American Nurses Association (1985).

A **right** is that which an individual is entitled (by ethical or moral standards) to have, to do, or to receive from others within the limits of the law (Goldstein, Perdeu, & Pruitt, 1989). A right is *absolute* when there is no restriction whatsoever on the individual's entitlement. A *legal right* is one on which the society has agreed and formalized into law. Both the National League for Nursing (NLN) and the American Hospital Association (AHA) have established guidelines of patients' rights. Although these are not considered legal documents, nurses and hospitals are considered responsible for upholding these rights of patients. In certain instances, courts have held this bill of rights to be part of a legal contract between hospital and patient and therefore legally binding (Goldstein, Perdeu, and Pruitt, 1989). The AHA Patient's Bill of Rights is presented in Table 4.2.

## ETHICAL CONSIDERATIONS

### Theoretical Perspectives

An *ethical theory* is a moral principle or a set of moral principles that can be used in assessing what is morally right or morally wrong (Ellis & Hartley, 1995). These principles provide guidelines for ethical decision making.

### Utilitarianism

The basis of **utilitarianism** is "the greatest-happiness principle." This principle holds that actions are right in proportion as they tend to promote happiness and wrong as they tend to produce the reverse of

**TABLE 4.2 AMERICAN HOSPITAL ASSOCIATION PATIENT'S BILL OF RIGHTS**

1. The patient has the right to considerate and respectful care.
2. The patient has the right to obtain from his physician complete current information concerning his diagnosis, treatment, and prognosis in terms the patient can be reasonably expected to understand. When it is not medically advisable to give such information to the patient, the information should be made available to an appropriate person in his behalf. He has the right to know by name the physician responsible for coordinating his care.
3. The patient has the right to receive from his physician information necessary to give informed consent prior to the start of any procedure and/or treatment. Except in emergencies, such information for informed consent should include but not necessarily be limited to the specific procedure and/or treatment, the medically significant risks involved, and the probable duration of incapacitation. Where medically significant alternatives for care or treatment exist, or when the patient requests information concerning medical alternatives, the patient has the right to such information. The patient also has the right to know the name of the person responsible for the procedures and/or treatment.
4. The patient has the right to refuse treatment to the extent permitted by law and to be informed of the medical consequences of his action.
5. The patient has the right to every consideration of his privacy concerning his own medical care program. Case discussion, consultation, examination, and treatment are confidential and should be conducted discreetly. Those not directly involved in his care must have the permission of the patient to be present.
6. The patient has the right to expect that all communications and records pertaining to his care should be treated as confidential.
7. The patient has the right to expect that within its capacity a hospital must make reasonable response to the request of a patient for services. The hospital must provide evaluation, service, and/or referral as indicated by the urgency of the case. When medically permissible, a patient may be transferred to another facility only after he has received complete information and explanation concerning the needs for and alternatives to such a transfer. The institution to which the patient is to be transferred must first have accepted the patient for transfer.
8. The patient has the right to obtain information as to any relationship of his hospital to other health care and educational institutions insofar as his care is concerned. The patient has the right to obtain information as to the existence of any professional relationships among individuals, by name, who are treating him.
9. The patient has the right to be advised if the hospital proposes to engage in or perform human experimentation affecting his care or treatment. The patient has the right to refuse to participate in such research projects.
10. The patient has the right to expect reasonable continuity of care. He has the right to know in advance what appointment times and physicians are available and where. The patient has the right to expect that the hospital will provide a mechanism whereby he is informed by his physician or a delegate of the physician of the patient's continuing health care requirements following discharge.
11. The patient has the right to examine and receive an explanation of his bill regardless of source of payment.
12. The patient has the right to know what hospital rules and regulations apply to his conduct as a patient.

SOURCE: American Hospital Association (1992), with permission.

happiness. Thus, the good is happiness and the right is that which promotes the good. Conversely, the wrongness of an action is determined by its tendency to bring about unhappiness.

A second principle of utilitarianism is "the end justifies the means." An ethical decision based on the utilitarian view would look at the end results of the decision. Action would be taken based on the end results that produced the most good (happiness) for the most people.

### Kantianism

Named for philosopher Immanuel Kant, **Kantianism** is in direct opposition to that of utilitarianism. Kant argued that it is not the consequences or end results that make an action right or wrong; instead, it is the principle on which the action is based that is the morally decisive factor. This theory suggests that our actions are bound by a sense of duty. This theory is often called *deontology* (from the Greek word *deon*, which means "that which is binding; duty"). Kantian-directed ethical decisions are made out of respect for moral law. For example, "I make this choice because it is morally right and my duty to do so" (not because of consideration for a possible outcome).

### Christian Ethics

A basic principle that might be called a Christian philosophy is the "golden rule," which states: "Do unto others as you would have them do unto you" and, alternatively, "Do not do unto others what you would not have them do unto you." The imperative demand of **Christian ethics** is to treat others as moral equals and to recognize the equality of other people by permitting them to act as we do when they occupy a position similar to ours.

### Natural Law Theories

The most general moral precept of the **natural law theory** is "do good and avoid evil." Natural law theorists contend, then, that ethics must be grounded in a concern for the human good. Although the nature of this "human good" is not expounded on, Catholic theologians view natural law as the law inscribed by God into the nature of things—a species of divine law. According to this conception, the Creator endows all things with certain potentialities or tendencies that

serve to define their natural end. The fulfillment of a thing's natural tendencies constitutes the specific good of that thing. For example, the natural tendency of an acorn is to become an oak. What then is the natural potential, or tendency, of human beings? Natural law theorists focus on an attribute that is regarded as distinctively human, as separating human beings from the rest of worldly creatures; that is, they focus on the ability to live according to the dictates of reason. It is with this ability to reason that humans are able to choose "good" over "evil." In natural law, evil acts are never condoned, even if they are intended to advance the noblest of ends.

### Ethical Egoism

**Ethical egoism** espouses the idea that what is right and good is what is best for the individual making the decision. An individual's actions are determined by what is to his or her own advantage. The action may not be best for anyone else involved, but consideration is only for the individual making the decision.

### Ethical Dilemmas

An **ethical dilemma** arises when no explicit reasons exist that govern an action. Ethical dilemmas generally create a great deal of emotion. Often the reasons supporting each side of the argument for action are logical and appropriate. The actions associated with both sides are desirable in some respects and undesirable in others.

Phipps, Long, and Woods (1987) offer the following steps leading to an ethical dilemma:

1. Some evidence indicates that act "X" is morally right and some evidence indicates that act "X" is morally wrong.
2. Evidence on both sides is inconclusive.
3. The individual perceives that he or she ought and ought not perform the act.
4. Some action must be taken.
5. An ethical dilemma exists.

In most situations, *taking no action is considered an action taken.*

### Ethical Principles

Ethical principles are fundamental guidelines that influence decision making. The ethical principles of autonomy, beneficence, nonmaleficence, veracity, and

justice are helpful and used frequently by health care workers to assist with ethical decision making. These principles apply largely to the deontological (Kantianism) ethical theory, in which decisions are made out of a sense of duty.

### Autonomy

The principle of **autonomy** arises from the Kantian duty of respect for people as rational agents. This viewpoint emphasizes the status of people as autonomous moral agents whose right to determine their destinies should be respected in all situations. This presumes that individuals always are capable of making independent choices for themselves. Health care workers know this is not always the case. Children, individuals who are comatose, and the seriously mentally ill are examples of clients who are incapable of making informed choices. In these instances, a representative of the individual usually is asked to intervene and give consent. However, health care workers must ensure that respect for an individual's autonomy is not disregarded in favor of what another person may view as best for the client.

### Beneficence

**Beneficence** refers to one's duty to benefit or promote the good of others. Health care workers who act in their clients' interests are beneficent, provided their actions really do serve the client's best interest. In fact, some duties do seem to take preference over other duties. For example, the duty to respect the autonomy of an individual may be overridden when that individual has been deemed harmful to self or others. Aiken (1994) states:

The difficulty that sometimes arises in implementing the principle of beneficence lies in determining what exactly is good for another and who can best make the decision about this good.

### Nonmaleficence

**Nonmaleficence** is the requirement that health care providers do no harm to their clients, either intentionally or unintentionally (Aiken, 1994). Some philosophers suggest that this principle is more important than beneficence; that is, they support the notion that it is more important to avoid doing harm

than it is to do good. In any event, ethical dilemmas often arise when a conflict exists between an individual's rights (the duty to promote good) and what is thought to best represent the welfare of the individual (the duty to do no harm). An example of this conflict might occur when administering chemotherapy to a cancer patient, knowing it will prolong his or her life but create "harm" (side effects) in the short term.

### Justice

The principle of **justice** has been referred to as the "justice as fairness" principle. It is sometimes referred to as *distributive justice*, and its basic premise lies with the right of individuals to be treated equally regardless of race, gender, marital status, medical diagnosis, social standing, economic level, or religious belief (Aiken, 1994). The concept of justice reflects a duty to treat all individuals equally and fairly. When applied to health care, this principle suggests that all resources within the society (including health care services) ought to be distributed evenly without respect to socioeconomic status. Thus, according to this principle, the vast disparity in the quality of care dispensed to the various classes within our society is unjust. A more equitable distribution of care for all individuals would be favored.

### Veracity

The principle of **veracity** refers to one's duty to always be truthful. Aiken (1994) states, "Veracity requires that the health care provider tell the truth and not intentionally deceive or mislead clients." There are times when limitations must be placed on this principle, such as when the truth would knowingly produce harm or interfere with the recovery process. Being honest is not always easy, but rarely is lying justified. Clients have the right to know about their diagnosis, treatment, and prognosis.

## A Model for Making Ethical Decisions

The following is a set of steps that may be used in making an ethical decision. These steps closely resemble the steps of the nursing process and are adapted from a model suggested by Shelly (1980).

1. **Assessment.** Gather the subjective and objective data about a situation.

2. Problem Identification. Identify the conflict between two or more alternative actions.
3. Plan
  - a. Explore the benefits and consequences of each alternative.
  - b. Consider principles of ethical theories.
  - c. Select an alternative.
4. Implementation. Act on the decision made and communicate the decision to others.
5. Evaluation. Evaluate outcomes.

manner selected. If the outcome is unacceptable, benefits and consequences of the remaining alternatives are reexamined, and steps 3 through 7 in Table 4.3 are repeated.

### Ethical Issues in Psychiatric/ Mental Health Nursing

#### The Right to Refuse Medication

The AHA's (1992) Patient's Bill of Rights states:

The patient has the right to refuse treatment to the extent permitted by law and to be informed of the medical consequences of his action.

A schematic of this model is presented in Figure 4.1. A case study using this decision-making model to build critical thinking skills is presented in Table 4.3. If the outcome is acceptable, action continues in the

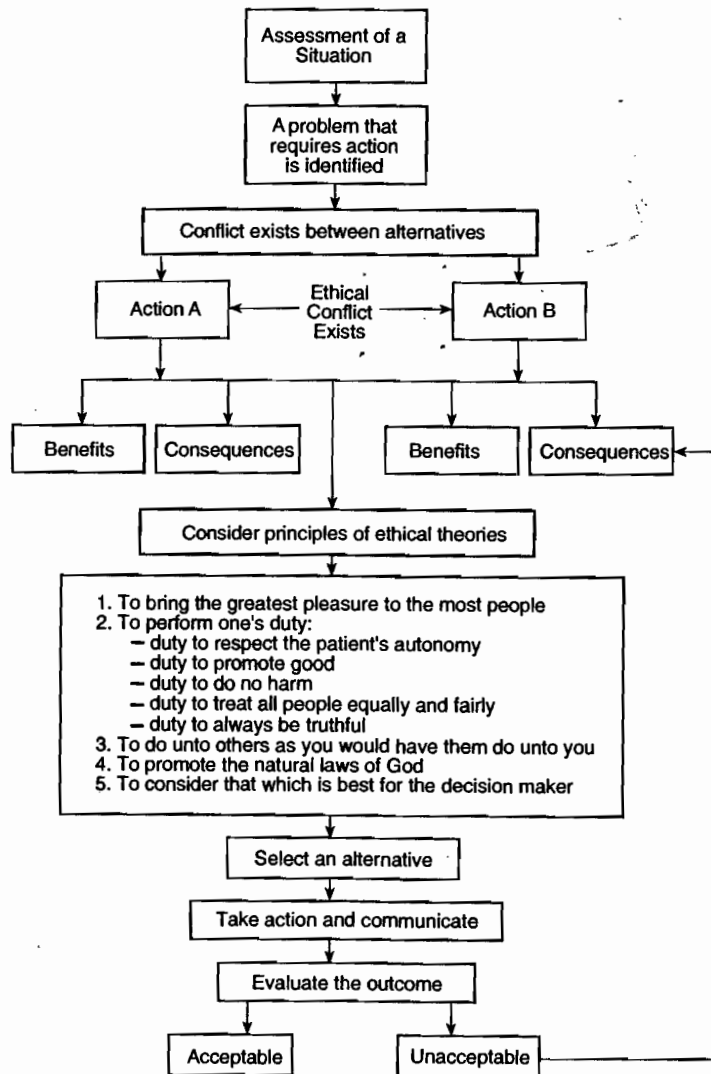


Figure 4.1 Ethical decision-making model.

In psychiatry, refusal of treatment primarily concerns the administration of psychotropic medications. "To the extent permitted by law" may be defined within the U.S. Constitution and several of its amendments (e.g., the First Amendment, which addresses the

rights of speech, thought, and expression; the Eighth Amendment, which grants the right to freedom from cruel and unusual punishment; and the Fifth and Fourteenth Amendments, which grant due process of law and equal protection for all). In psychiatry, "the

**TABLE 4.3 ETHICAL DECISION MAKING—A CASE STUDY**

**STEP 1. ASSESSMENT**

Tonja is a 17-year-old girl who is currently on the psychiatric unit with a diagnosis of conduct disorder. Tonja reports that she has been sexually active since she was 14. She had an abortion when she was 15 and a second one just 6 weeks ago. She states that her mother told her she has "had her last abortion" and that she has to start taking birth control pills. She asks her nurse, Kimberly, to give her some information about the pills and tell her how to go about getting some. Kimberly believes Tonja desperately needs information about birth control pills, as well as other types of contraceptives, but the psychiatric unit is part of a Catholic hospital, and hospital policy prohibits distributing this type of information.

**STEP 2. PROBLEM IDENTIFICATION**

A conflict exists between the client's need for information, the nurse's desire to provide that information, and the institution's policy prohibiting the provision of that information.

**STEP 3. ALTERNATIVES—BENEFITS AND CONSEQUENCES**

Alternative 1. Give the client information and risk losing job.

Alternative 2. Do not give the client information and compromise own values of holistic nursing.

Alternative 3. Refer client to another source outside the hospital and risk a reprimand from supervisor.

**STEP 4. CONSIDER PRINCIPLES OF ETHICAL THEORIES**

Alternative 1. Giving the client information would certainly respect the client's autonomy and would benefit the client by decreasing her chances of becoming pregnant again. It would not be to the best advantage of Kimberly because she would likely lose her job. Also, according to the beliefs of the Catholic hospital, the natural laws of God would be violated.

Alternative 2. Withholding information restricts the client's autonomy. It has the potential for doing harm because without the use of contraceptives, the client may become pregnant again (and she implies that this is not what she wants). Kimberly's Christian ethic is violated because this action is not what she would want "done unto her."

Alternative 3. A referral would respect the client's autonomy, would promote good, and would do no harm (except perhaps to Kimberly's ego from the possible reprimand). Also, this decision would comply with Kimberly's Christian ethic.

**STEP 5. SELECT AN ALTERNATIVE**

Alternative 3 is selected based on the ethical theories of utilitarianism (does the most good for the greatest number), Christian ethics (Kimberly's belief of "Do unto others as you would have others do unto you"), and Kantianism (to perform one's duty) and the ethical principles of autonomy, beneficence, and nonmaleficence. The success of this decision depends on the client's follow-through with the referral and compliance with use of the contraceptives.

**STEP 6. TAKE ACTION AND COMMUNICATE**

Taking action involves providing information in writing for Tonja and perhaps making a phone call and setting up an appointment for her with Planned Parenthood. Communicating suggests sharing the information with Tonja's mother. Communication also includes documentation of the referral in the client's chart.

**STEP 7. EVALUATE THE OUTCOME**

An acceptable outcome might indicate that Tonja did indeed keep her appointment at Planned Parenthood and is complying with the prescribed contraceptive regimen. It might also include Kimberly's input into the change process in her institution to implement these types of referrals to other clients who request them. An unacceptable outcome might be indicated by Tonja's lack of follow-through with the appointment at Planned Parenthood or lack of compliance in using the contraceptives, resulting in another pregnancy. Kimberly may also view a reprimand from her supervisor as an unacceptable outcome, particularly if she is told that she must select other alternatives should this situation arise in the future. This may motivate Kimberly to make another decision—that of seeking employment in an institution that supports a philosophy more consistent with her own.

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**A signed article in a journal**

McCartney, K. (1984). The effect of a quality day care environment upon children's language development. *Developmental Psychology*, 20, pp. 244-60.

**A signed article in a monthly magazine**

Beardsley, T. (1994). For whom the bell curve really tolls. *Scientific American*, January 1995, Volume 272, Number 1, pp. 14-17.

**A signed article in a daily newspaper**

Moore, M. (1994, December 27). Speculation irks Flores. *Journal American*, Section D, p. 1.

**An unsigned article**

What Vietnam did to us. (1981, December 14). *Newsweek*, pp. 46-97.

**A film or videotape**

Hand, D. (Supervising Director) and Disney, W. (Producer). (1937). *Snow White and the seven dwarfs*.  
[Videotape]. Burbank, CA: The Walt Disney Company.

**Computer software**

*Microsoft Works for Windows 95* (1995). [Computer program]. Redmond, WA: Microsoft.