Weiss | Tappen | Grimley

ESSENTIALS OF Nursing Leadership & Management

SEVENTH EDITION

F.A. DAVIS

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F. A. Davis Company
1915 Arch Street
Philadelphia, PA 19103
www.fadavis.com

Printed in the United States of America

Last digit indicates print number: 10 9 8 7 6 5 4 3 2 1

Acquisitions Editor: Jacalyn Sharp
Content Project Manager: Sean West
Design and Illustration Manager: Carolyn O'Brien

Library of Congress Cataloging-in-Publication Data

Names: Weiss, Sally A., 1950- author. | Tappen, Ruth M., author. | Grimley, Karen A., author.
Title: Essentials of nursing leadership & management / Sally A. Weiss, Ruth M. Tappen, Karen A. Grimley.
Description: Seventh edition. | Philadelphia : F. A. Davis Company, [2019] | Includes bibliographical references and index.
Identifiers: LCCN 2019000397 (print) | LCCN 2019001079 (ebook) | ISBN 9780803699045 | ISBN 9780803669536 (pbk. : alk. paper)
Subjects: | MESH: Leadership | Nursing, Supervisory | Nursing Services—organization & administration | United States
Classification: LCC RT89 (ebook) | LCC RT89 (print) | NLM WY 105 | DDC 362.17/3068—dc23
LC record available at https://lccn.loc.gov/2019000397

Dedication

To my granddaughter, Sydni, and my grandsons, Logan and Ian. Their curiosity and hunger for learning remind me how nurturing our novice nurses helps them in their quest to seek new knowledge and continue their professional growth.

—Sally A. Weiss

To students, colleagues, family, and friends, who have taught me so much about leadership.

—Ruth M. Tappen

To my kids, Kristina, Kathleen, Meagan, and Ian, for their love and understanding during this lifelong pursuit of learning. To my dad for teaching me that the only limits we face are the ones we create and to my mom for instilling the value of a good education.

—Karen A. Grimley

Preface

We are pleased to bring our readers this seventh edition of *Essentials of Nursing Leadership & Management*. This new edition has been updated to reflect the dynamic health-care environment, new safety and quality initiatives, and changes in the nursing practice environment. As in our previous editions, the content, examples, and diagrams were designed with the goal of assisting the new graduate to make the transition to professional nursing practice.

Our readers may have noticed that we have added a new author to our team: Dr. Karen A. Grimley, Chief Nurse Executive at UCLA Health Center and Vice Dean of the School of Nursing at UCLA. We are delighted to have her join us, bringing a fresh perspective to this new edition.

The seventh edition of *Essentials of Nursing Leadership & Management* focuses on essential leadership and management skills and the knowledge needed by the staff nurse as a key member of the interprofessional health-care team and manager of patient care. Issues related to setting priorities, delegation, quality improvement, legal parameters of nursing practice, and ethical issues were also updated for this edition.

This edition discusses current quality and safety issues and the high demands placed on nurses in the current health-care environment. In addition, we continue to bring you comprehensive, practical information on developing a nursing career and addressing the many workplace issues that may arise in practice.

This new edition of *Essentials of Nursing Leadership & Management* will provide a strong foundation for the beginning nurse leader. We want to thank all of the people at F. A. Davis for their continued support and assistance in bringing this edition to fruition. We also want to thank our contributors, reviewers, colleagues, and students for their enthusiastic support. Thank you all.

—Sally A. Weiss
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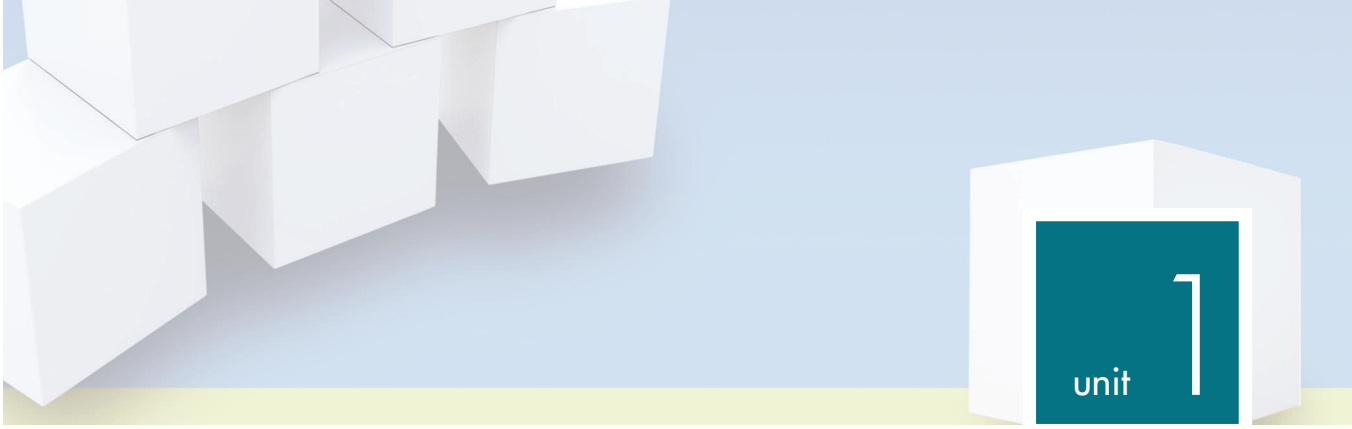

unit 1

Professionalism

chapter 1

Characteristics of a Profession

OBJECTIVES

After reading this chapter, the student should be able to:

- Explain the qualities associated with a profession
- Differentiate between a job, a vocation, and a profession
- Discuss professional behaviors
- Determine the characteristics associated with nursing as a profession
- Explain licensure and certification
- Summarize the relationship between social change and the advancement of nursing as a profession
- Discuss some of the issues faced by the nursing profession
- Explain current changes impacting nursing's future

OUTLINE

Introduction

It is often said that you do not know where you are going until you know where you have been. More than 40 years ago, Beletz (1974) wrote that most people thought of nurses in gender-linked, task-oriented terms: "a female who performs unpleasant technical jobs and functions as an assistant to the physician" (p. 432). Interestingly, physicians in the 1800s viewed nursing as a complement to medicine. According to Warrington (1839), ". . . the prescriptions of the best physician are useless unless they be timely and properly administered and attended to by the nurse" (p. iv).

In its earliest years, most nursing care occurred at home. Even in 1791 when the first hospital opened in Philadelphia, nurses continued to care for patients in their own home settings. It took almost another century before nursing moved into hospitals. These institutions, mostly dominated by male physicians, promoted the idea that nurses acted as the "handmaidens" to the better-educated, more capable men in the medical field.

The level of care differed greatly in these early health-care institutions. Those operated by the religious nursing orders gave high-quality care to patients. In others, care varied greatly from good to almost none at all. Although the image of nurses and nursing has advanced considerably since then, some still think of nurses as helpers who carry out the physician's orders.

It comes as no surprise that nursing and health care have converged and reached a crossing point. Nurses face a new age for human experience; the very foundations of health practices and therapeutic interventions continue to be dramatically altered by significantly transformed scientific, technological, cultural, political, and social realities (Porter-O'Grady, 2003). The global environment needs nurses more than ever to meet the health-care needs of all.

Nursing sees itself as a profession rather than a job or vocation and continues with this quest for its place among the health-care disciplines. However, what defines a profession? What behaviors are expected from the members of the profession? Chapter 1 discusses nursing as a profession with its own identity and place within this new and ever-changing health-care system.

Professionalism

Definition of a Profession

A vocation or calling defines "meaningful work" depending on an individual's point of view (Dik & Duffy, 2009). Nursing started as a vocation or "calling." Until Nightingale, most nursing occurred through religious orders. To care for the ill and infirmed was a duty (Kalisch & Kalisch, 2004). In early years, despite the education required, nursing was considered a job or vocation (Cardillo, 2013).

Providing a definition for a "profession" or "professional" is not as easy as it appears. The term is used all the time; however, what characteristics define a professional? According to Saks (2012), several theoretical approaches have been applied to creating a definition of a profession, the older of these looking only at knowledge and expertise, whereas later ones include a code of ethics, practice standards, licensure, and certification, as well as expected behaviors (Post, 2014).

Nurses engage in specialized education and training confirmed by successfully passing the National Council Licensure Examination (NCLEX®) and receiving a license to practice in each state. Nurses follow a code of ethics and recognized practice standards and a body of continuous research that forms and directs our practice. Nurses function autonomously within the designated scope of practice, formulating and delivering a plan of care for clients, applying judgments, and utilizing critical thinking skills in decision making (Cardillo, 2013).

Professional Behaviors

According to Post (2014), professional characteristics or behaviors include:

- Consideration
- Empathy
- Respect
- Ethical and moral values
- Accountability
- Commitment to lifelong learning
- Honesty

Professionalism denotes a commitment to carry out specialized responsibilities and observe ethical principles while remaining responsive to diverse recipients (Al-Rubaish, 2010). Communicating

effectively and courteously within the work environment is expected professional behavior. State boards of nursing through the nurse practice acts elaborate expected behaviors in a registered nurse's professional practice and personal life (National Council of State Boards of Nursing [NCSBN], 2012, 2016). Nurses may lose their licenses for a variety of actions deemed unprofessional or illegal. For example, inappropriate use of social media, posting emotionally charged statements in blogs or forums, driving without a license, and committing felonies outside of professional practice may be cause for suspending or revoking a nursing license.

Commitment to others remains central to a profession. In nursing, this entails commitment to colleagues, lifelong learning, and accountability for one's actions. Professionalism in the workplace means coming to work when scheduled and on time. Coming to work late shows disrespect to your peers and colleagues. It also indicates to your supervisor that this position is not important to you.

Always portray a positive attitude. Although everyone experiences a bad day, projecting personal feelings and issues onto others affects the work environment. Many agencies and institutions have dress codes. Dress appropriately per the employer's expectations. Wearing heavy makeup, colognes, or inappropriate hairstyles demonstrates a lack of professionalism. Finally, always speak professionally to everyone in the work environment. A good rule to follow should be, "If you wouldn't say it in front of your grandmother, do not say it in the workplace" (McKay, 2017).

Work politics often create an unfavorable environment. Stay away from gossip or engaging in negative comments about others in the workplace. Change the topic or indicate a lack of interest in this type of verbal exchange. Negativity is contagious and affects workplace morale. Professionals maintain a positive attitude in the work environment. If the environment affects this attitude, it is time to look for another position (McKay, 2017).

Lastly, professional behavior entails honesty and accountability. If a day off is needed, take a personal or vacation day; save sick days for illness. Own up to errors. In nursing, an error may result in injury or death. The health-care environment should promote a culture of safety, not one of punishment for errors. This is discussed more in later chapters.

Evolution of Nursing as a Profession

Nursing Defined

The changes that have occurred in nursing are reflected in the definitions of nursing that have developed through time. In 1859, Florence Nightingale defined the goal of nursing as putting the client "in the best possible condition for nature to act upon him" (Nightingale, 1992/1859, p. 79). In 1966, Virginia Henderson focused her definition on the uniqueness of nursing:

> *The unique function of the nurse is to assist the individual, sick or well, in the performance of those activities contributing to health or its recovery (or to peaceful death) that he would perform unaided if he had the necessary strength, will or knowledge. And to do this in such a way as to help him gain independence as rapidly as possible. (Henderson, 1966, p. 21)*

Martha Rogers defined *nursing practice* as "the process by which this body of knowledge, nursing science, is used for the purpose of assisting human beings to achieve maximum health within the potential of each person" (Rogers, 1988, p. 100). Rogers emphasized that nursing is concerned with *all* people, only some of whom are ill.

In the modern nursing era, nurses are viewed as collaborative members of the health-care team. Nursing has emerged as a strong field of its own in which nurses have a wide range of obligations, responsibilities, and accountability. Recent polls show that nurses are considered the most trusted group of professionals because of their knowledge, expertise, and ability to care for diverse populations.

Nightingale's concepts of nursing care became the basis of modern theory development, and in today's language, she used evidence-based practice to promote nursing. Her 1859 book *Notes on Nursing: What It Is and What It Is Not* laid the foundation for modern nursing education and practice. Many nursing theorists have used Nightingale's thoughts as a basis for constructing their view of nursing.

Nightingale believed that schools of nursing must be independent institutions and that women who were selected to attend the schools should be

from the higher levels of society. Many of Nightingale's beliefs about nursing education are still applicable, particularly those involved with the progress of students, the use of diaries kept by students, and the need for integrating theory into clinical practice (Roberts, 1937).

The Nightingale school served as a model for nursing education. Its graduates were sought worldwide. Many of them established schools and became matrons (superintendents) in hospitals in other parts of England, the British Commonwealth, and the United States. However, very few schools were able to remain financially independent of the hospitals and thus lost much of their autonomy. This was in contradiction to Nightingale's philosophy that the training schools were educational institutions, not part of any service agency.

The National Council Licensure Examination

Professions require advanced education and an advanced area of knowledge and training. Many are regulated in some way and have a licensure or certification requirement to enter practice. This holds true for teachers, attorneys, physicians, and pilots, just to name a few. The purpose of a professional license is to ensure public safety, by setting a level of standard that indicates an individual has acquired the necessary knowledge and skills to enter into the profession.

Licensure

Licensure for nurses is defined by the NCSBN as the process by which boards of nursing grant permission to an individual to engage in nursing practice after determining that the applicant has attained the competency necessary to perform a unique scope of practice. Licensure is necessary when the regulated activities are complex, require specialized knowledge and skill, and involve independent decision making (NCSBN, 2012). Government agencies grant licenses allowing an individual to engage in a professional practice and use a specific title. State boards of nursing issue nursing licenses. This limits practice to a specific jurisdiction. However, as the NCLEX® is a nationally recognized examination, many states have joined together to form a "compact" where the license in one state is recognized in another. States belonging to the compact passed legislation adopting the terms of the agreement. The state in which the nurse resides is considered the home state, and license renewal occurs in the home state (NCSBN, 2018a).

Licensure may be mandatory or permissive. Permissive licensure is a voluntary arrangement whereby an individual chooses to become licensed to demonstrate competence. However, the license is not required to practice. In this situation a mandatory license is not required to practice. Mandatory licensure requires a nurse to be licensed in order to practice. In the United States and Canada, licensure is mandatory.

Licensure by Endorsement

If a state is not a member of the compact, nurses licensed in one state may obtain a license in another state through the process of endorsement. Each application is considered independently and is granted a license based on the rules and regulations of the state.

States differ in the number of continuing education credits required, mandatory courses, and other educational requirements. Some states may require that nurses meet the current criteria for licensure at the time of application, whereas others may grant the license based on the criteria in effect at the time of the original license. When applying for a license through endorsement, a nurse should always contact the board of nursing for the state and ask about the exact requirements for licensure in that state. This information is usually found on the state board of nursing Web site.

NURSYS is a national database that houses information on licensed nurses. Nurses applying for licensure by endorsement may verify their licenses through this database. The nurse's license verification is available immediately to the endorsing board of nursing (NCSBN, 2016). Not all states belong to NURSYS.

Qualifications for Licensure

The basic qualification for licensure requires graduation from an approved nursing program. In the United States, each state may add additional requirements, such as disclosures regarding health or medications that could affect practice. Most states require disclosure of criminal conviction.

Licensure by Examination

A major accomplishment in the history of nursing licensure was the creation of the Bureau of State Boards of Nurse Examiners. The formation of this agency led to the development of an identical examination in all states. The original examination, called the State Board Test Pool Examination, was created by the testing department of the National League for Nursing (NLN). This was completed through a collaborative contract with the state boards. Initially, each state determined its own passing score; however, the states did eventually adopt a common passing score. The examination is called the NCLEX-RN® and is used in all states and territories of the United States. This test is prepared and administered through a professional testing company.

NCLEX-RN®

The NCLEX-RN® is administered through computerized adaptive testing (CAT). Candidates need to register to take the examination at an approved testing center in the state in which they intend to practice. Because of a large test bank, CAT permits a variety of questions to be administered to a group of candidates. Candidates taking the examination at the same time may not necessarily receive the same questions. Once a candidate answers a question, the computer analyzes the response and then chooses an appropriate question to ask next. If the candidate answers the question correctly, the following question may be more difficult; if the candidate answers incorrectly, the next question may be easier.

In April 2016, the NCSBN released the updated test plan. The new test plan redistributed the percentages for each content area and updated the question format with increased use of technology that better simulated patient care situations. More updated information on the NCLEX® test plans may be found on the NCSBN Web site (www.ncsbn.org).

Political Influences and the Advance of Nursing Professionals

Nursing made many advances during the time of social upheaval and change. The passing of the Social Security Act in 1935 strengthened public health services. Public health nursing found itself in an ideal position to step up and assume responsibility for providing care to dependent mothers and children, the blind, and disabled children (Black, 2014). In 1965, under President Lyndon B. Johnson, amendments to the Social Security Act designed to ensure access to health care for the elder adult, the poor, and the disabled resulted in the creation of Medicare and Medicaid (Centers for Medicare and Medicaid Services [CMS], 2017). Health insurance companies emerged and increased in number during this time as well. Hospitals started to rely on Medicare, Medicaid, and insurance reimbursement for services. Care for the sick and new opportunities and roles emerged for nurses within this environment.

Historically, as a profession, nursing has made most of its advances during times of social change. The 1960s through the 1980s brought many changes for both women and nursing. In 1964, President Johnson signed the Civil Rights Act, which guaranteed equal treatment for all individuals and prohibited gender discrimination in the workplace. However, the law lacked enforcement. During this time, the feminist movement gained momentum, and the National Organization for Women was founded to help women achieve equality and give women a voice. Nursing moved forward as well. Specialty care disciplines developed. Advances in technology gave way to the more complex medical–surgical treatments such as cardiothoracic surgery, complex neurosurgical techniques, and the emergence of intensive care environments to care for these patients. These changes fostered the development of specialization for nurses and physicians, creating a shortage of primary care physicians. The public demanded increased access to health care, and nursing again stepped forward by developing an advanced practice role for nurses to meet the primary health-care needs of the public.

Throughout the years, wars created situations that facilitated changes in nursing and its role within society. Wars increased the nation's need for nurses and the public's awareness of nursing's role in society (Kalisch & Kalisch, 2004). Nurses served in the military during both world wars and the Korean conflict and changed nursing practice during the time of war. For the first time, nurses were close to the front and worked in mobile hospital units. Often they lacked necessary supplies

and equipment (Kalisch & Kalisch, 2004). They found themselves in situations where they needed to function independently and make immediate decisions, often assuming roles normally associated with the physicians and surgeons.

The Vietnam War afforded nurses opportunities to push beyond the boundaries as they functioned in mobile hospital units in the war theater, often without direct supervision of physicians. These nurses performed emergency procedures such as tracheostomies and chest tube insertions in order to preserve the lives of the wounded soldiers (Texas Tech University, 2017). After functioning independently in the field, many nurses felt restricted by the practice limits placed on them when they returned home.

Challenges for society and nurses continued from the 1980s through 2000. The 1980s were marked by the emergence of the HIV virus and AIDS. Although we know more about HIV and AIDs today than we knew more than 30 years ago, society's fear of the disease stigmatized groups of individuals and created fear among global populations and health-care providers. Nurses became instrumental in educating the public and working directly with infected individuals.

The increase in available technology allowed for the widespread use of life-support systems. Nurses working in critical care areas often faced ethical dilemmas involving the use of these technologies. During this time period, nurses voiced their opinions and concerns and helped in formulating policies addressing these issues within their communities and institutions. The field of hospice nursing received a renewed interest and support (National Hospice and Palliative Care Organization [NHPCO], 2012); therefore, the number of hospice care providers grew and opened new opportunities for nurses.

The first part of the 21st century introduced nurses to situations beyond anyone's imagination. Nursing's response to the terrorist attack on the World Trade Center and during the onset and aftermath of Hurricane Katrina raised multiple questions regarding nurses' abilities to react to major disasters. Nurses, physicians, and other health-care providers attempted to care for and protect patients under horrific conditions. Nurses found themselves trying to function "during unfamiliar and unusual conditions with the health care environment that may necessitate adaptations to recognized standards of nursing practice" (American Nurses Association [ANA], 2006).

Nursing has recognized the need for the profession to understand and function during human-caused and natural disasters such as 9/11 and hurricanes. The profession has answered the call by increasing disaster preparedness training for nurses.

Nursing and Health-Care Reform

For more than 40 years, Florence Nightingale played an influential part in most of the important health-care reforms of her time. Her accomplishments went beyond the scope of nursing and nursing education, affecting all aspects of health care and social reform.

Nightingale contributed to health-care reform through her work during the Crimean War, where she greatly improved the health and well-being of the British soldiers. She kept accurate records and accountings of her interventions and outcomes, and on her return to England she continued this work and reformed the conditions in hospitals and health care.

The 21st century brings both challenges and opportunities for nursing. It is estimated that more than 434,000 nurses will be needed by the year 2024 (Bureau of Labor Statistics [BLS], 2017). The severe nursing shortage has increased the demand for more nurses, whereas the passing of the Affordable Care Act (ACA) offers opportunities for nurses to take the lead in providing primary health care to those who need it. More advanced practice nurses will be needed to address the needs of the diverse population in this country. Health-care reform is discussed in more detail in Chapter 16.

Nursing Today

Issues specific to nursing reflect the problems and concerns of the health-care system as a whole. The average age of nurses in the United States is 46.8 years, and approximately 50% of the nursing workforce is older than 50 (NCSBN, 2015). Because of changes in the economy, many nurses who planned to retire have instead found it necessary to remain in the workforce. However, the recent data collected also noted an increase in men

entering the field as well as an increase in younger and more diverse populations seeking nursing careers.

Concerns about the supply of registered nurses (RNs) and staffing shortages persist in both the United States and abroad. For the first time, multiple generations of nurses find themselves working together within the health-care environment. The oldest of the generations, the early baby boomers, planned to retire during the last several years; however, economics have forced many to remain in the workplace. They presently work alongside Generation X (born between 1965 and 1979) and the generation known as the millennials (born in 1980 and later). Nurses from the baby boomer generation and Generation X provide the majority of bedside care. Where the millennials find themselves comfortable with technology, the baby boomers feel the "old ways" worked well.

Generational issues in the nursing workforce present potential conflicts in the work environment as these generations come with differing viewpoints as they attempt to work together within the health-care community (Bragg, 2014; Moore, Everly, & Bauer, 2016). Each generation brings its own set of core values to the workplace. In order to be successful and work together as cohesive teams, each generation needs to value the others' skills and perspectives. This requires active and assertive communication, recognizing the individual skill sets of the generations, and placing individuals in positions that fit their specific characteristics.

The related issues of excessive workload, mandatory overtime, scheduling, abuse, workplace violence, and lack of professional autonomy contribute to the concerns regarding the nursing shortage (Clarke, 2015; Wheatley, 2017). These issues impact the workplace environment and often place patients at risk. Professional behavior requires respect and integrity, as well as safe practice.

The Future of Professional Nursing

The changes in health care and the increased need for primary care providers has opened the door for nursing. The Institute of Medicine (IOM, 2010) report specifically stated that nurses should be permitted to practice to the full extent of their education. Nurses are educated to care for individuals who have chronic illnesses and need health teaching and monitoring.

Advanced practice nurses (APRNs) are qualified to diagnose and treat certain conditions. These highly educated nurses are more than physician extenders as they sit for board certification examinations and are licensed by the states in which they practice. Educational requirements for APRNs include a minimum of a master's degree in nursing with a clinical focus, and a designated number of clinical hours. Many nurse practitioners are obtaining the Doctor of Nursing Practice (DNP) degree. The American Association of Critical Care Nurses (AACN) and the NLN both promote this as the terminal degree for nurse practitioners. Areas of advanced practice include family nurse practitioner, acute care nurse practitioner, pediatric nurse practitioner, and certified nurse midwife.

Conclusion

Professional behavior is an important component of nursing practice. It is outlined and guided by state nurse practice acts, the ethical codes, and standards of practice. Acting professionally both while in the workplace and in one's personal life is also an expectation. As nursing moves forward in the 21st century, the need for committed professionals and innovative nurse leaders is greater than ever. Society's demand for high-quality health care at an affordable cost is now law and an impetus for change in how nurses function in the new environment.

Employers, colleagues, and peers depend on new nurses to act professionally and provide safe, quality patient care. Taking advantage of expanding educational opportunities, engaging in lifelong learning, and seeking certification in a specialty demonstrate professional commitment.

Nursing has its roots as a calling and vocation. It originated in the community, moved to hospitals, returned to the community, and is now seen in multiple practice settings. The ACA has opened doors for more opportunities for nurses, and the IOM report on the *Future of Nursing* states that nurses need to be permitted to use their educational skills in the health-care environment.

Often students ask the question: "So what can I do? I am a new graduate." Get involved in your profession by joining organizations and becoming politically active. Continue pursuing excellence and set the stage for those who will come after you.

Study Questions

1. Read *Notes on Nursing: What It Is and What It Is Not* by Florence Nightingale. How much of its content is still true today?
2. What is your definition of nursing? How does it compare or contrast with Virginia Henderson's definition?
3. Review the mission and purpose of the ANA or another national nursing organization online. Do you believe that nurses should belong to these organizations? Explain your answer.
4. Professional behaviors include a commitment to lifelong learning. What does "lifelong learning" mean beyond mandatory continuing education?
5. Formulate your plan to prepare for the NCLEX®.

Case Studies to Promote Critical Reasoning

Case I

Thomas went to nursing school on a U.S. Public Health Service scholarship. He has been directed to go to a rural village in a small Central American country to work in a local health center. Several other nurses have been sent to this village, and the residents forced them to leave.

The village lacks electricity and plumbing; water comes from in-ground wells. The villagers and children suffer from frequent episodes of gastrointestinal disorders.

1. How do you think Florence Nightingale would have approached these issues?
2. What do you think Thomas should do first to gain the trust of the residents of the village?
3. Explain how APRNs would contribute to the health and welfare of the residents of the village.

Case II

The younger nurses in your health-care institution have created a petition to change the dress code policy. They feel it is antiquated and rigid. Rather than wearing uniforms or scrubs on the nursing units, they would prefer to wear more contemporary clothing such as khakis and nice shirts with the agency logo along with laboratory coats. The older-generation nurses feel that this will detract from the nursing image, as patients expect nurses to dress in uniforms or scrubs and this is what defines them as a "profession."

1. What are your thoughts regarding the image of nursing and uniforms?
2. Do you feel that uniforms define nurses? Explain your reasoning.
3. Explain the reasons certain generations may see this as a threat to their professionalism.
4. Which side would you support? Explain your answer with current research.

NCLEX®-Style Review Questions

1. Nursing has its origins with
   1. Florence Nightingale
   2. The Knights of Columbus
   3. Religious orders
   4. Wars and battles

2. Who stated that the "function of the nurse is to assist the individual, sick or well, in the performance of those activities contributing to health or its recovery (or to peaceful death)"?
   1. Henderson
   2. Rogers
   3. Robb
   4. Nightingale

3. You are participating in a clinical care coordination conference for a patient with terminal cancer. You talk with your colleagues about using the nursing code of ethics for professional registered nurses to guide care decisions. A non-nursing colleague asks about this code. Which of the following statements best describes this code?
   1. Improves communication between the nurse and the patient
   2. Protects the patient's right of autonomy
   3. Ensures identical care to all patients
   4. Acts as a guide for professional behaviors in giving patient care

4. The NCLEX® for nurses is exactly the same in every state in the United States. The examination:
   1. Guarantees safe nursing care for all patients
   2. Ensures standard nursing care for all patients
   3. Ensures that honest and ethical care is provided
   4. Provides a minimal standard of knowledge for a registered nurse in practice

5. APRNs generally: **Select all that apply.**
   1. Function independently
   2. Function as unit directors
   3. Work in acute care settings
   4. Work in the university setting
   5. Hold advanced degrees

6. Nurses at a community hospital are in an education program to learn how to use a new pressure-relieving device for patients at risk for pressure ulcers. This is which type of education?
   1. Continuing education
   2. Graduate education
   3. In-service education
   4. Professional registered nurse education

7. Which of the following is unique to a professional standard of decision making? **Select all that apply.**
   1. Weighs benefits and risks when making a decision
   2. Analyzes and examines choices more independently
   3. Concrete thinking
   4. Anticipates when to make choices without others' assistance

8. Nursing practice in the 21st century is an art and science that focuses on:
   1. The client
   2. The nursing process
   3. Cultural diversity
   4. The health-care facility

9. Which of the following represent the knowledge and skills expected of the professional nurse? **Select all that apply.**
   1. Accountability
   2. Advocacy
   3. Autonomy
   4. Social networking
   5. Participation in nursing blogs

10. Professional accountability serves the following purpose: **Select all that apply.**
    1. To provide a basis for ethical decision making
    2. To respect the decision of the client
    3. To maintain standards of health
    4. To evaluate new professional practices and reassess existing ones
    5. To belong to a professional organization.

chapter 2

Professional Ethics and Values

OBJECTIVES

After reading this chapter, the student should be able to:

- Discuss ways individuals form values
- Differentiate between laws and ethics
- Explain the relationship between personal ethics and professional ethics
- Examine various ethical theories
- Explore the concept of virtue ethics
- Apply ethical principles to an ethical issue
- Evaluate the influence organizational ethics exerts on nursing practice
- Identify an ethical dilemma in the clinical setting
- Discuss current ethical issues in health care and possible solutions

OUTLINE

Doctors at the Massachusetts General Hospital for Children faced an ethical challenge when a pair of conjoined twins born in Africa arrived last year seeking surgery that could save only one of them. The twins were connected at the abdomen and pelvis, sharing a liver and bladder, and had three legs. An examination by doctors at the hospital determined that only one of the girls was likely to survive the surgery, but that if doctors did not act, both would die. The case had posed the hospital with the challenge both of ensuring that the parents understood the risks of the procedure and that the hundreds of medical professionals needed to perform the complex series of operations to separate the children were comfortable with the ethics of the situation (Malone, 2017). Which child should live, and which child should die?

This is only one of many modern ethical dilemmas faced by health-care personnel. If you were a member of the ethics committee, what decision might you make? How would you come to that decision? Which twin would live and which would die?

In previous centuries, health-care practitioners had neither the knowledge nor the technology to make determinations regarding prolonging life, sustaining life, or even creating life. The main function of nurses and physicians was to support patients and families through times of illness, help them toward recovery, or provide comfort until death. There were very few complicated decisions such as "Who shall live and who shall die?" During the latter part of the 20th century and through the first part of the 21st century, technological advances such as multiple-organ transplantation, use of stem cells, new biologically based pharmaceuticals, and sophisticated life-support systems created unique situations stimulating serious conversations and debates. The costs of these life-saving treatments and technologies presented new dilemmas as to who should provide and pay for them, as well as who should receive them.

Health care saw its first technological advances during 1947 and 1948 as the polio epidemic raged through Europe and the United States. This devastating disease initiated the development of units for patients who required manual ventilation (the "iron lung"). During this period, Danish physicians invented a method of manual ventilation by placing a tube into the trachea of polio patients. This initiated the creation of mechanical ventilation as we know it today. The development of mechanical ventilation required more intensive nursing care and patient observation. The care and monitoring of patients proved to be more efficient when nurses kept patients in a single care area, hence the term *intensive care.*

The late 1960s brought greater technological advances. Open heart surgery, in its infancy at the time, became available for patients who were seriously ill with cardiovascular disease. These patients required specialized nursing care and nurses specifically educated in the use of advancing technologies. These new therapies and monitoring methods provided the impetus for the creation of intensive care units and the critical care nursing specialty (Vincent, 2013).

In the past, the vast majority of individuals receiving critical care services would have died. However, the development of new drugs and advances in biomechanical technology permit health-care personnel to challenge nature. These advances have enabled providers to offer patients treatments that in many cases increase their life expectancy and enhance their quality of life. However, this progress is not without its shortcomings as it also presents new perplexing questions.

The ability to prolong life has created some heart-wrenching situations for families and complex ethical dilemmas for health-care professionals. Decisions regarding terminating life support on an adolescent involved in a motor vehicle accident, instituting life support on a 65-year-old productive father, or a mother becoming pregnant in order to provide stem cells for her older child who has a terminally ill disease are just a few examples. At what point do parents say good-bye to their neonate who was born far too early to survive outside the womb? Families and professionals face some of the most difficult ethical decisions at times such as these. How is death defined? When does it occur? Perhaps these questions need to be asked: "What is life? Is there a difference between life and living?"

To find answers to these questions, health-care professionals look to philosophy, especially the branch that deals with human behavior. Through time, to assist in dealing with these issues, the field

of biomedical ethics (or simply bioethics) evolved. This subdiscipline of ethics, the philosophical study of morality, is the study of medical morality, which concerns the moral and social implications of health care and science in human life (Numminen, Repo, & Leino-Kilpi, 2017).

In order to understand biomedical ethics, it is important to appreciate the basic concepts of values, belief systems, ethical theories, and morality. The following sections will define these concepts and then discuss ways nurses can help the interprofessional team and families resolve ethical dilemmas.

Values

Individuals talk about value and values all the time. The term *value* refers to the worth of an object or thing. However, the term *values* refers to how individuals feel about ideas, situations, and concepts. *Merriam-Webster's Collegiate Dictionary* defines *value* as the "estimated or appraised worth of something, or that quality of a thing that makes it more or less desirable, useful" (Merriam-Webster Dictionary, 2017). Values, then, are judgments about the importance or unimportance of objects, ideas, attitudes, and attributes. Individuals incorporate values as part of their conscience and worldview. Values provide a frame of reference and act as pilots to guide behaviors and assist people in making choices.

Morals

Morals arise from an individual's conscience. They act as a guide for individual behavior and are learned through family systems, instruction, and socialization. Morals find their basis within individual values and have a larger social component than values (Ma, 2013). They focus more on "good" versus "bad" behaviors. For example, if you value fairness and integrity, then your morals include those values, and you judge others based on your concept of morality (Maxwell & Narvaez, 2013).

Values and Moral Reasoning

Reasoning is the process of making inferences from a body of information and entails forming conclusions, making judgments, or making inferences from knowledge for the purpose of answering questions, solving problems, and formulating a plan that determines actions (McHugh & Way, 2018). Reasoning allows individuals to think for themselves and not to take the beliefs and judgments of others at face value. Moral reasoning relates to the process of forming conclusions and creating action plans centered on moral or ethical issues.

Values, viewpoints, and methods of moral reasoning have developed through time. Older worldviews have now emerged in modern history, such as the emphasis on virtue ethics or a focus on what type of person one would prefer to become (McLeod-Sordjan, 2014). Virtue ethics are discussed later in this chapter.

Value Systems

A value system is a set of related values. For example, one person may value (believe to be important) societal aspects of life, such as money, objects, and status. Another person may value more abstract concepts such as kindness, charity, and caring. Values may vary significantly, based on an individual's culture, family teachings, and religious upbringing. An individual's system of values frequently affects how he or she makes decisions. For example, one person may base a decision on cost, whereas another person placed in the same situation may base the decision on a more abstract quality, such as kindness. Values fall into different categories:

- Intrinsic values are those related to sustaining life, such as food and water (Zimmerman & Zalta, 2014).
- Extrinsic values are not essential to life. They include the value of objects, both physical and abstract. Extrinsic values are not an end in themselves but offer a means of achieving something else. Things, people, and material items are extrinsically valuable (Zimmerman & Zalta, 2014).
- Personal values are qualities that people consider important in their private lives. Concepts such as strong family ties and acceptance by others are personal values.
- Professional values are qualities considered important by a professional group. Autonomy, integrity, and commitment are examples of professional values.

People's behaviors are motivated by values. Individuals take risks, relinquish their own comfort and security, and generate extraordinary efforts

because of their values (Zimmerman & Zalta, 2014). Patients who have traumatic brain injuries may overcome tremendous barriers because they value independence. Race car drivers may risk death or other serious injury because they value competition and winning.

Values also generate the standards by which people judge others. For example, someone who values work more than leisure activities will look unfavorably on a coworker who refuses to work throughout the weekend. A person who believes that health is more important than wealth would approve of spending money on a relaxing vacation or perhaps joining a health club rather than investing the money.

Often people adopt the values of individuals they admire. For example, a nursing student may begin to value humor after observing it used effectively with patients. Values provide a guide for decision making and give additional meaning to life. Individuals develop a sense of satisfaction when they work toward achieving values they believe are important (Tuckett, 2015).

How Values Are Developed

Values are learned (Taylor, 2012). Ethicists attribute the basic question of whether values are taught, inherited, or passed on by some other mechanism to Plato, who lived more than 2,000 years ago. A recent theory suggests that values and moral knowledge are acquired much in the same manner as other forms of knowledge, through real-world experience.

Values can be taught directly, incorporated through societal norms, and modeled through behavior. Children learn by watching their parents, friends, teachers, and religious leaders. Through continuous reinforcement, children eventually learn about and then adopt values as their own. Because of the values they hold dear, people often make great demands on themselves and others, ignoring the personal cost. For example:

Niesa grew up in a family where educational achievement was highly valued. Not surprisingly, she adopted this as one of her own values. Niesa became a physician, married, and had a son, Dino. She placed a great deal of effort on teaching her son the necessary educational skills in order to get him into the "best private school" in the area. As he moved through the program, his grades did not reflect his mother's great effort, and he felt that he had disappointed his mother as well as himself. By the time Dino reached 9 years of age, he had developed a variety of somatic complaints such as stomach ailments and headaches.

Values change with experience and maturity. For example, young children often value objects, such as a favorite blanket or toy. Older children are more likely to value a specific event, such as a family vacation. As children enter adolescence, they place more value on peer opinions than those of their parents. Young adults often place value on certain ideals such as heroism. The values of adults are formed from all these experiences as well as from learning and thought.

The number of values that people hold is not as important as what values they consider important. Choices are influenced by values. The way people use their own time and money, choose friends, and pursue a career are all influenced by values.

Values Clarification

Values clarification is deciding what one believes is important. It is the process that helps people become aware of their values. Values play an important role in everyday decision making. For this reason, nurses need to be aware of what they do and do not value. This process helps them to behave in a manner that is consistent with their values.

Both personal and professional values influence nurses' decisions (McLeod-Sordjan, 2014). Understanding one's own values simplifies solving problems, making decisions, and developing better relationships with others when one begins to realize how others develop their values. Kirschenbaum (2011) suggested using a three-step model of choosing, prizing, and acting with seven substeps to identify one's own values (Box 2-1).

You may have used this method when making the decision to go to nursing school. For some people, nursing is a first career; for others, a second career. Using the model in Box 2-1, the valuing process is analyzed:

box 2-1

Values Clarification

Choosing

1. Choosing freely
2. Choosing from alternatives
3. Deciding after giving consideration to the consequences of each alternative

Prizing

4. Being satisfied about the choice
5. Being willing to declare the choice to others

Acting

6. Making the choice a part of one's worldview and incorporating it into behavior
7. Repeating the choice

Source: Adapted from Raths, L. E., Harmon, M., & Simmons, S. B. (1979). Values and teaching. *New York, NY: Charles E. Merrill.*

1. **Choosing** After researching alternative career options, you freely choose nursing school. This choice was most likely influenced by such factors as educational achievement and abilities, finances, support and encouragement from others, time, and feelings about people.
2. **Prizing** Once the choice was made, you were satisfied with it and told your friends about it.
3. **Acting** You entered school and started the journey toward your new career. Later in your career, you may decide to return to school for a bachelor's or master's degree in nursing.

As you progressed through school, you probably started to develop a new set of values—your professional values. Professional values are those established as being important in your practice. The values include caring, quality of care, and ethical behaviors (McLeod-Sordjan, 2014).

Belief Systems

Belief systems are an organized way of thinking about why people exist in the universe. The purpose of belief systems is to explain issues such as life and death, good and evil, and health and illness. Usually these systems include an ethical code that specifies appropriate behaviors. People may have a personal belief system, participate in a religion that provides such a system, or follow a combination of the two.

Members of primitive societies worshipped events in nature. Unable to understand the science of weather, for example, early civilizations believed these events to be under the control of someone or something that needed to be appeased. Therefore, they developed rituals and ceremonies to pacify these unknown entities. They called these entities "gods" and believed that certain behaviors either pleased or angered the gods. Because these societies associated certain behaviors with specific outcomes, they created a belief system that enabled them to function as a group.

As higher civilizations evolved, belief systems became more complex. Archeology has provided evidence of the religious practices of ancient civilizations that support the evolution of belief systems (Ball, 2015). The Aztec, Mayan, Incan, and Polynesian cultures had a religious belief system composed of many gods and goddesses for the same functions. The Greek, Roman, Egyptian, and Scandinavian societies believed in a hierarchal system of gods and goddesses. Although given various names by the different cultures, it is very interesting that most of the deities had similar purposes. For example, the Greeks looked at Zeus as the king of the Greek gods, whereas Jupiter was his Roman counterpart. Thor was the king of the Norse gods. All three used a thunderbolt as their symbol. Sociologists believe that these religions developed to explain what was then unexplainable. Human beings have a deep need to create order from chaos and to have logical explanations for events. Religion offers theological explanations to answer questions that cannot be explained by "pure science."

Along with the creation of rites and rituals, religions also developed codes of behaviors or ethical codes. These codes contribute to the social order and provide rules regarding how to treat family members, neighbors, and the young and the old. Many religions also developed rules regarding marriage, sexual practices, business practices, property ownership, and inheritance.

For some individuals, the advancement of science has minimized their need for belief systems, as science can now provide explanations for many previously unexplainable phenomena. In fact, the technology explosion has created an even greater need for belief systems. Technological advances often place people in situations where they may welcome rather than oppose religious convictions to guide difficult decisions. Many religions, particularly Christianity, focus on the will of

a supreme being; technology, for example, is considered a gift that allows health-care personnel to maintain the life of a loved one. Other religions, such as certain branches of Judaism, focus on free choice or free will, leaving such decisions in the hands of humankind. For example, many Jewish leaders believe that if genetic testing indicates that an infant will be born with a disease such as Tay-Sachs that causes severe suffering and ultimately death, terminating the pregnancy may be an acceptable option.

Belief systems often help survivors in making decisions and living with them afterward. So far, technological advances have created more questions than answers. As science explains more and more previously unexplainable phenomena, people need beliefs and values to guide their use of this new knowledge.

Ethics and Morals

Although the terms *morals* and *ethics* are often used interchangeably, *ethics* usually refers to a standardized code as a guide to behaviors, whereas *morals* usually refers to an individual's personal code for acceptable behavior.

Ethics

Ethics is the part of philosophy that deals with the rightness or wrongness of human behavior. It is also concerned with the motives behind that behavior. *Bioethics*, specifically, is the application of ethics to issues that pertain to life and death. The implication is that judgments can be made about the rightness or goodness of health-care practices.

Ethical Theories

Several ethical theories have emerged to justify moral principles (Baumane-Vitolina, Cals, & Sumilo, 2016). *Deontological theories* take their norms and rules from the duties that individuals owe each other by the goodness of the commitments they make and the roles they take upon themselves. The term *deontological* comes from the Greek word *deon* (duty). This theory is attributed to the 18th-century philosopher Immanuel Kant (Kant, 1949). Deontological ethics considers the intention of the action. In other words, it is the individual's good intentions or goodwill (Kant, 1949) that determines the worthiness or goodness of the action.

Teleological theories take their norms or rules for behaviors from the consequences of the action. This theory is also called utilitarianism. According to this concept, what makes an action right or wrong is its utility, or usefulness. Usefulness is considered to be the right amount of "happiness" the action carries. "Right" encompasses actions that result in good outcomes, whereas "wrong" actions end in bad outcomes. This theory originated with David Hume, a Scottish philosopher. According to Hume, "Reason is and ought to be the slave of passions" (Hume, 1978, p. 212). Based on this idea, ethics depends on what people want and desire. The passions determine what is right or wrong. However, individuals who follow teleological theory disagree on how to decide on the "rightness" or "wrongness" of an action because individual passions differ.

Principalism is an arising theory receiving a great deal of attention in the biomedical ethics community. This theory integrates existing ethical principles and tries to resolve conflicts by relating one or more of these principles to a given situation (Hine, 2011; Varelius, 2013). Ethical principles actually influence professional decision making more than ethical theories.

Ethical Principles

Ethical codes are based on principles that can be used to judge behavior. Ethical principles assist decision making because they are a standard for measuring actions. They may be the basis for laws, but they themselves are not laws. Laws are rules created by governing bodies. Laws operate because the government holds the power to enforce them. They are usually quite specific, as are the consequences for disobeying them. Ethical principles are not confined to specific behaviors. They act as guides for appropriate behaviors. They also consider the situation in which a decision must be made. Ethical principles speak to the essence of the law rather than to the exactness of the law. Here is an example:

> Mrs. Gustav, 88 years old, was admitted to the hospital in acute respiratory distress. She was diagnosed with aspiration pneumonia and soon became septic, developing acute respiratory distress syndrome (ARDS). She had a living will, and her attorney was her designated health-care

surrogate. Her competence to make decisions remained uncertain because of her illness. The physician presented the situation to the attorney, indicating that without a feeding tube and tracheostomy, Mrs. Gustav would die. According to the laws governing living wills and health-care surrogates, the attorney could have made the decision to withhold all treatments. However, he believed he had an ethical obligation to discuss the situation with his client. The client requested the tracheostomy be performed and the feeding tube inserted, which was done.

Following are several of the ethical principles that are most important to nursing practice: autonomy, nonmaleficence, beneficence, justice, fidelity, confidentiality, veracity, and accountability. In some situations, two or more ethical principles may conflict with each other, leading to an ethical dilemma. Making a decision under these circumstances causes difficulty and often results in extreme stress for those who need to make the decision.

Autonomy

Autonomy is the freedom to make decisions for oneself. This ethical principle requires that nurses respect patients' rights to make their own choices about treatments. Informed consent before treatment, surgery, or participation in research provides an example of autonomy. To be able to make an autonomous choice, individuals need to be informed of the purpose, benefits, and risks of the procedures. Nurses accomplish this by assessing the individuals' understanding of the information provided to them and supporting their choices.

Closely linked to the ethical principle of autonomy is the legal issue of competence. A patient needs to be deemed competent in order to make a decision regarding treatment options. When patients refuse treatment, health-care personnel and family members who think differently often question the patient's "competence" to make a decision. Of note is the fact that when patients agree with health providers' treatment decisions, rarely is their competence questioned (Shahriari, Mohammadi, Abbaszadeh, & Bahrami, 2013).

Nurses often find themselves in a position to protect a patient's autonomy. They do this by preventing others from interfering with the patient's right to proceed with a decision. If a nurse observes that a patient received insufficient information to make an appropriate choice, is being coerced into a decision, or lacks an understanding of the consequences of the choice, then the nurse may act as a patient advocate to ensure the principle of autonomy (Rahmani, Ghahramanian, & Alahbakhshian, 2010).

Sometimes nurses have difficulty with the principle of autonomy because it also requires respecting another person's choice, even when the nurse disagrees. According to the principle of autonomy, nurses may not replace a patient's decision with their own, even when the nurses deeply believe that the patient made the wrong choice. Nurses may, however, discuss concerns with patients and ensure that patients considered the consequences of the decision before making it (Rahmani et al., 2010).

Nonmaleficence

The ethical principle of nonmaleficence requires that no harm be done, either deliberately or unintentionally. This rather complicated word comes from Latin roots, *non,* which means not; *male* (pronounced mah-leh), which means bad; and *facere,* which means to do.

The principle of nonmaleficence also requires nurses to protect individuals who lack the ability to protect themselves because of their physical or mental condition. An infant, a person under anesthesia, and a person suffering from dementia are examples of individuals with limited ability to protect themselves from danger or those who may cause them harm. Nurses are ethically obligated to protect their patients when the patients are unable to protect themselves.

Often, treatments meant to improve patient health lead to harm. This is not the intention of the nurse or of other health-care personnel, but it is a direct result of treatment. Nosocomial infections because of hospitalization are harmful to patients. The nurses, however, did not deliberately cause the infection. The side effects of chemotherapy or radiation may also result in harm. Chemotherapeutic agents cause a decrease in immunity that may result in a severe infection, and radiation may burn or damage the skin. For this reason, many choose not to pursue treatments.

The obligation to do no harm extends to the nurse who for some reason is not functioning at an optimal level. For example, a nurse who is impaired

by alcohol or drugs knowingly places patients at risk. According to the principle of nonmaleficence, other nurses who observe such behavior have an ethical obligation to protect patients.

Beneficence

The word *beneficence* also comes from Latin: *bene,* which means well, and *facere,* which means to do.

The principle of beneficence demands that good be done for the benefit of others. For nurses, this means more than delivering competent physical or technical care. It requires helping patients meet all their needs, whether physical, social, or emotional. Beneficence is caring in the truest sense, and caring fuses thought, feeling, and action. It requires knowing and being truly understanding of the situation and the thoughts and ideas of the individual (Benner & Wruble, 1989).

Sometimes physicians, nurses, and families withhold information from patients for the sake of beneficence. The problem with doing this is that it does not allow competent individuals to make their own decisions based on all available information. In an attempt to be beneficent, the principle of autonomy is violated. This is just one example of the ethical dilemmas encountered in nursing practice. For instance:

> Mrs. Liu was admitted to the oncology unit with ovarian cancer. She is scheduled to begin chemotherapy treatments. Her two children and her husband have requested that the physician ensure that Mrs. Liu not be told her diagnosis because they believe she would not be able to cope with it. The physician communicated this information to the nursing staff and placed an order in the patient's electronic medical record (EMR). After the first treatment, Mrs. Liu became very ill. She refused the next treatment, stating she did not feel sick until she came to the hospital. She asked the nurse what could possibly be wrong with her that she needed a medicine that made her sick when she did not feel sick before. She then said, "Only people who get cancer medicine get this sick! Do I have cancer?"

As the nurse, you understand the order that the patient not be told her diagnosis. You also understand your role as a patient advocate. Consider the following questions:

1. To whom do you owe your duty: to the patient or the family?
2. How do you think you may be able to be a patient advocate in this situation?
3. What information would you communicate to the family members, and how could you assist them in dealing with their mother's concerns?

Justice

The principle of justice obliges nurses and other health-care professionals to treat every person equally regardless of gender, sexual orientation, religion, ethnicity, disease, or social standing (Johnstone, 2011). This principle also applies in the work and educational settings. Based on this principle, all individuals should be treated and judged by the same criteria. The following example illustrates this:

> Mr. Laury was found on the street by the police, who brought him to the emergency department. He was assessed and admitted to a medical unit. Mr. Laury was in deplorable condition: His clothes were dirty and ragged, he was unshaven, and he was covered with blood. His diagnosis was chronic alcoholism, complicated by esophageal varices and end-stage liver disease. Several nursing students overheard the staff discussing Mr. Laury. The essence of the conversation was that no one wanted to care for him because he was "dirty and smelly," and he brought this condition on himself. The students, upset by what they heard, went to the clinical faculty to discuss the situation. The clinical faculty explained that based on the ethical principle of justice, every individual has a right to good care despite his or her economic or social position.

The concept of distributive justice necessitates the fair allocation of responsibilities and advantages, especially in a society where resources may be limited. Considered an ethical principle, distributive justice refers to what society, or a larger group, feels is indebted to its individual members regarding: (1) individual needs, contributions, and

responsibilities; (2) the resources available to the society or organization; and (3) the society's or organization's responsibility to the common good (Capp, Savage, & Clarke, 2001). Increased health-care costs through the years and access to care have become social and political issues. In order to understand distributive justice, we must address the concepts of need, individual effort, ability to pay, contribution to society, and age (Zahedi et al., 2013).

Age has become a controversial issue as it leads to questions pertaining to quality of life (Skedgel, Wailoo, & Akehurst, 2015). The other issue regarding age revolves around technology in neonatal care. How do health-care providers place a value on one person's life being higher than that of another? Should millions of dollars be spent preserving the life of an 80-year-old man who volunteers in his community, plays golf twice a week, and teaches reading to underprivileged children, or should money be spent on a 26-week-old fetus that will most likely require intensive therapies and treatments for a lifetime, adding up to millions of health-care dollars? In the social and business world, welfare payments are based on need, and jobs and promotions are usually distributed on the basis of an individual's contributions and achievements. Is it possible to apply these measures to health-care allocations?

Philosopher John Rawls addressed the issues of fairness and justice as the foundation of social structures (Ekmekci & Arda, 2015). Rawls addresses the issue of fair distribution of social goods using the idea of the original position to negotiate the principles of justice. The original position based on Kant's (1949) social contract theory presents a hypothetical situation where individuals, known as negotiators, act as trustees for the interests of all individuals. These individuals are knowledgeable in the areas of sociology, political science, and economics. However, this position places certain limitations on them known as the *veil of ignorance,* which eliminates information about age, gender, socioeconomic status, and religious convictions. With the absence of this information, the vested interests of all parties disappear. According to Rawls, in a just society the rights protected by justice are not political bargaining issues or subject to the calculations of social interests. Simply put, everyone has the same rights and liberties (Ekmekci & Arda, 2015).

Fidelity

The principle of fidelity requires loyalty. It is a promise that the individual will fulfill all commitments made to himself or herself and to others. For nurses, fidelity includes the professional's loyalty to fulfill all responsibilities and agreements expected as part of professional practice. Fidelity is the basis for the concept of accountability—taking responsibility for one's own actions (Ostlund, Backstrom, Lindh, Sundin, & Saveman, 2015).

Confidentiality

The principle of confidentiality states that anything patients say to nurses and other health-care providers must be held in the strictest confidence. Confidentiality presents both an ethical and legal issue. Exceptions only exist when patients give permission for the sharing of information or when the law requires the release of specific information. Sometimes simply sharing information without revealing an individual's name can be a breach of confidentiality if the situation and the individual are identifiable.

Nurses come into contact with people from all walks of life. Within communities, individuals know other individuals who know others, creating "micro-communities" of information. Individuals have lost families, employment, and insurance coverage because nurses shared confidential information and others acted on that knowledge (Beltran-Aroca, Girela-Lopez, Collazo-Chao, Montero-Pérez-Barquero, & Muñoz-Villanueva, 2016).

In today's electronic environment, the principle of confidentiality has become a major concern, especially in light of the security breaches that have occurred throughout the last several years. Many health-care institutions, insurance companies, and businesses use electronic media to transfer sensitive and confidential information, allowing more opportunities for a breakdown in confidentiality. Health-care institutions and providers have attempted to address the situation through the use of passwords, limited access, and cybersecurity. However, it has become more apparent that the securest of systems remain vulnerable to hacking and illegal access.

Veracity

Veracity requires nurses to be truthful. Truth is fundamental to building a trusting relationship.

Intentionally deceiving or misleading a patient is a violation of this principle. Deliberately omitting a part of the truth is deception and violates the principle of veracity. This principle often creates ethical dilemmas. When is it permissible to lie? Some ethicists believe it is never appropriate to deceive another individual. Others think that if another ethical principle overrides veracity, then lying is acceptable (Sokol, 2007). Consider this situation:

Ms. Allen has been told that her father suffers from Alzheimer's disease. The nurse practitioner wants to come into the home to discuss treatment options. Ms. Allen refuses, explaining that under no circumstances should the nurse practitioner tell her father the diagnosis. Ms. Allen bases her concern on past statements made by her father. She explains to the nurse practitioner that if her father finds out his diagnosis, he will take his own life. The nurse practitioner provides information on the newest treatments and available medications that might help. However, these treatments and medications are only available through a research study. To participate in the study, the patient needs to be aware of the benefits and the risks. Ms. Allen continues refusing to allow anyone to tell her father his diagnosis because of her certainty that he will commit suicide.

The nurse practitioner faces a dilemma: Does he abide by Ms. Allen's wishes based on the principle of beneficence, or does he abide by the principle of veracity and inform his patient of the diagnosis? If he goes against Ms. Allen's wishes and tells the patient his diagnosis, and he commits suicide, has nonmaleficence been violated? Did the practitioner's action cause harm? What would you do in this situation?

Accountability

Accountability is linked to fidelity and means accepting responsibility for one's own actions. Nurses are accountable to their patients and to their colleagues. When providing care to patients, nurses are responsible for their actions, good and poor. If something was not done, do not chart it and tell a colleague that it was completed. An example of violating accountability is the story of Anna:

Anna was a registered nurse who worked nights on an acute care medical unit. She was an excellent nurse; however, as the acuity of the patients' conditions increased, she was unable to keep up with both patients' needs and the technology, particularly intravenous fluids and lines. The pumps confused her, so often she would take the fluids off the pump and "monitor her IVs" the way she did in the past. She started to document that all the IVs were infusing as they should, even when they were not. Each morning the day shift would find that the actual infused amount did not agree with the documentation, even though "pumps" were found for each patient. One night, Anna allowed an entire liter of intravenous fluids to be infused in 2 hours into a patient who had heart failure. When the day staff came on duty, they found the patient expired, the bag empty, and the tubing filled with blood. The IV was attached to the pump. Anna's documentation showed 800 mLs left in the bag. It was not until after a lawsuit was filed that Anna assumed responsibility for her behavior.

The idea of a standard of care evolves from the principle of accountability. Standards of care provide a rule for measuring nursing actions and safety issues. According to the Institute of Medicine (IOM), organizations also hold accountability for patient care and the actions of personnel. Based on the Institute for Healthcare Improvement (IHI), health-care organizations have a duty to ensure a safe environment and that all personnel receive appropriate training and education (IHI, 2018).

Ethical Codes

A code of ethics is a formal statement of the rules of ethical behavior for a particular group of individuals. A code of ethics is one of the hallmarks of a profession. This code makes clear the behavior expected of its members.

The American Nurses Association (ANA) *Code of Ethics for Nurses With Interpretive Statements* (Olsen & Stokes, 2016) provides values, standards, and principles to help nursing function as a profession. The ANA developed the original code in 1985; it has gone through several revisions during

the years since its development and may be viewed online at www.nursingworld.org.

Ethical codes remain subject to change. They reflect the values of the profession and the society for which they were developed. Changes occur as society and technology evolve. For example, years ago no thought was given to Do Not Resuscitate (DNR) orders or withholding food or fluids. Technological advances have since made it possible to keep people in a type of twilight life, comatose and unable to participate in living in any way, thus making DNR and withholding very important issues in health care. Technology and scientific advancements increased knowledge and skills, but the ability to make decisions regarding care continues to be guided by ethical principles.

Virtue Ethics

Virtue ethics focuses on virtues or moral character, rather than on duties or rules that emphasize consequences of actions. Consider the following:

> Carlos is driving along the highway and discovers a crying child sitting by a fallen bicycle. It is obvious that the child needs assistance. From one ethical standpoint (utilitarianism), helping the child will increase Carlos's feelings of "doing good." The deontological stance states that by helping, Carlos is behaving in accordance with a moral rule such as "Do unto others. . . ." Virtue ethics looks at the fact that, by helping, Carlos would be acting charitable or benevolent.

Plato and Aristotle are considered the founders of virtue ethics. Its roots can be found in Chinese philosophy. During the 1800s, virtue ethics disappeared, but in the late 1950s it re-emerged as an Anglo-American philosophy. Neither deontology nor utilitarianism considered the virtues of moral character and education and the question: "What type of person should I be, and how should I live" (Sakellariouv, 2015). Virtues include qualities such as honesty, generosity, altruism, and reliability. They are concerned with many other elements as well, such as emotions and emotional reactions, choices, values, needs, insights, attitudes, interests, and expectations. Nursing has practiced virtue ethics for many years.

Nursing Ethics

Up to this point, the ethical principles discussed apply to ethics for nurses; however, nurses do not customarily find themselves enmeshed in the biomedical ethical decision-making processes that gain attention. The ethical principles that guide nursing practice are rooted in the philosophy and science of health care.

Relationships are the center of nursing ethics. Nursing ethics, viewed from the perspective of nursing theory and practice, deals with the experiences and needs of nurses and their perceptions of these experiences (Johnstone, 2011).

Organizational Ethics

Organizational ethics focus on the workplace at the organizational level. Every organization, even one with hundreds of thousands of employees, consists of individuals. Each individual makes his or her own decisions about how to behave in the workplace (Carucci, 2016), and every person has the opportunity to make an organization a more or less ethical place. These individual decisions exert a powerful effect on the lives of many others in the organization as well as the surrounding community.

Most organizations create a set of values that guide the organizational ideals, practices, and expectations (Leonard, 2018). Although given varying "names," such as core values, practice values, and so on, they lay the groundwork for expectations for employees. What is most important is that employees see that the organization practices what it states. Leadership, especially senior leadership, is the most critical factor in promoting an ethical culture.

When looking for a professional position, it is important to consider the organizational culture and ethical guides. What are the values and beliefs of the organization? Do they blend with yours, or are they in conflict with your value system? To discover this information, look at the organization's mission, vision, and value statements. Speak with other nurses who work in the organization. Do they see consistency between what the organization states and what it actually expects from employees? For example, if an organization states that it collaborates with the nurses in decision making, do nurses sit on committees that provide input toward the decision-making process (Choi,

Jang, Park, & Lee, 2014)? Conflicts between a nurse's professional values and those of the organization result in moral distress for the nurse.

Ethical Issues on the Nursing Unit

Organizational ethics refer to the values and expected behaviors entrenched within the organizational culture. The nursing unit represents a subculture within a health-care organization. Ideally, the nursing unit should mirror the ethical atmosphere and culture of the organization. This requires the individuals who staff the unit to embrace the same values and model the expected behaviors (Choi et al., 2014).

Conflicts with the values and ethics among individuals who work together on a unit often create issues that result in moral suffering for some nurses. Moral suffering occurs when nurses experience a feeling of uneasiness or concern regarding behaviors or circumstances that challenge their own morals and beliefs (Epstein & Hamric, 2009; Morley, 2016). These situations may be the result of unit policies, physician's orders that the nurse believes may not be beneficial for the patient, professional behaviors of colleagues, or family attitudes about the patient (Morley, 2016).

Perhaps one of the most disconcerting ethical issues nurses on the patient care unit face is the one that challenges their professional values and ethics. Friendships often emerge from work relationships, and these friendships may interfere with judgments. Similarly, strong negative feelings may cloud a nurse's ability to view a situation fairly and without prejudice. Consider the following:

Irina and James attended nursing school together and developed a strong friendship. They work together on the pediatric surgical unit of a large teaching hospital. The hospital provides full tuition reimbursement for graduate education, so both decided to return to graduate school together and enrolled in a nurse practitioner program. Irina made a medication error that she decided not to report, an error that resulted in a child being transferred to the pediatric intensive care unit. James realized what happened and confronted Irina, who begged him not to say anything. James knew the error needed to be reported, but how would this affect his friendship with Irina? Taking this situation to the other extreme, if a friendship had not been involved, would James react the same way? What would you do in this situation?

When working with others, it is important to hold true to your personal values and moral standards. Practicing virtue ethics, that is, "doing the right thing," may cause difficulty because of the possible consequences of the action. Nurses should support each other, but not at the expense of patients or each other's professional duties. There are times when not acting virtuously may cause a colleague more harm.

Moral Distress in Nursing Practice

Moral distress occurs when nurses know the action they need to take, but for some reason find themselves unable to act (Fourie, 2015). This is usually the result of external forces or loyalties (Hamric, 2014). Therefore, the action or actions they take create conflict as the decision goes against their personal and professional values, morals, and beliefs (Morley, 2016). These situations challenge nurses' integrity and authenticity.

Studies have shown that nurses exposed to moral distress suffer from emotional and physical problems and eventually leave the bedside and the profession. Sources of moral distress vary; however, contributing factors include end-of-life challenges, nurse-physician conflicts, workplace bullying or violence, and disrespectful interactions (Oh & Gastmans, 2015). Nursing organizations such as the American Association of Critical Care Nurses (AACN, 2018) have developed guidelines addressing the issue of moral distress.

Ethical Dilemmas

What is a dilemma? The word *dilemma* is of Greek derivation. A lemma was an animal resembling a ram and having two horns. Thus came the saying, "stuck on the horns of a dilemma." The story of Hugo illustrates a hypothetical dilemma with a touch of humor:

One day Hugo, dressed in a bright red cape, walked through his village into the countryside.

The wind caught the corners of his cape, and it was whipped in all directions. As he continued down the dusty road, Hugo happened to pass by a lemma. Hugo's bright red cape caught the lemma's attention. Lowering its head, with its two horns posed in attack position, the animal started chasing Hugo down the road. Panting and exhausted, Hugo reached the end of the road only to find himself blocked by a huge stone wall. He turned to face the lemma, which was ready to charge. A decision needed to be made, and Hugo's life depended on this decision. If he moved to the left, the lemma would gore his heart. If he moved to the right, the lemma would gore his liver. No matter what his decision, Hugo would be "stuck on the horns of the lemma."

Similar to Hugo, nurses are often faced with difficult dilemmas. Also, as Hugo found, a dilemma can be a choice between two serious alternatives. An ethical dilemma occurs when a problem exists that forces a choice between two or more ethical principles. Deciding in favor of one principle will violate the other. Both sides have goodness and badness to them; however, neither decision satisfies all the criteria that apply (Jie, 2015).

Ethical dilemmas also carry the added burden of emotions. Feelings of anger, frustration, and fear often override rational decision making. Consider the case of Mr. Rodney:

Mr. Rodney, 85 years old, was admitted to the neuroscience unit after suffering a left hemispheric bleed while playing golf with his friends. He had a total right hemiplegia and a Glasgow Coma Score of 8. He had been receiving intravenous fluids for 4 days, and the neurologist raised the question of placing a jejunostomy tube for enteral feedings. The older of his two children asked what the chances of his recovery were. The neurologist explained that Mr. Rodney's current state was probably the best he could attain but that "miracles happen every day," and that some diagnostic tests might help in determining the prognosis. The family requested the tests. After the results were available, the neurologist explained that the prognosis remained grave and that the intravenous fluids were insufficient to sustain life. The jejunostomy tube would be a necessity if the family wished to continue with food and fluids. After the neurologist left, the family asked the nurse, Gloria, who had been caring for Mr. Rodney during the previous 3 days, "If this was your father, what would you do?" Once the family asked Gloria this question, the situation became an ethical dilemma for her as well.

If you were Gloria, how might you respond? Depending on your answer, what ethical principles would be in conflict here?

Resolving Ethical Dilemmas Faced by Nurses

Ethical dilemmas can occur in any aspect of life, personal or professional. This section focuses on the resolution of professional dilemmas. The various models for resolving ethical dilemmas consist of 5 to 14 sequential steps. Each step begins with a complete understanding of the dilemma and concludes with the evaluation of the implemented decision.

The nursing process provides a helpful mechanism for finding solutions to ethical dilemmas. The first step is assessment, including identification of the problem. The simplest way to do this is to create a statement that summarizes the issue. The remainder of the process evolves from this statement (Box 2-2).

Assessment

Ask yourself, "Am I directly involved in this dilemma?" An issue is not an ethical dilemma for nurses unless they find themselves directly involved in the situation or have been asked for their opinion. Some nurses involved themselves

box 2-2

Questions to Help Resolve Ethical Dilemmas

- What are the medical facts?
- What are the psychosocial facts?
- What are the patient's wishes?
- What values are in conflict?

in situations even when no one solicited their opinion. This is generally unwarranted unless the issue involves a violation of the professional code of ethics.

Nurses are frequently in the position of hearing both sides of an ethical dilemma. Often individuals only want an empathetic listener. At other times, when guidance is requested, nurses can help people work through the decision-making process (remember the principle of autonomy) (Barlow, Hargreaves, & Gillibrand, 2018).

Collecting data from all the decision makers helps identify the reasoning process used by the individuals as they struggle with the issue. The following questions assist in the information-gathering process:

- **What are the medical facts?** Find out how the physicians, nurse practitioners, and all members of the interprofessional health-care team view the patient's condition and treatment options. Speak with the patient if possible, and determine his or her understanding of the situation.
- **What are the psychosocial facts?** What is the emotional state of the patient right now? The patient's family? What kind of relationship exists between the patient and his or her family? What are the patient's living conditions? Who are the individuals who form the patient's support system? How are they involved in the patient's care? What is the patient's ability to make medical decisions about his or her care? Do financial considerations need to be taken into account? What does the patient value? What does the patient's family value? The answers to these questions will provide a better understanding of the situation. Ask more questions, if necessary, to complete the picture. The social facts of a situation also include the institutional policies, legal aspects, and economic factors. The personal belief systems of the providers may also influence this aspect.
- **What are the cultural beliefs?** Cultural beliefs play a major role in ethical decisions. Some cultures do not allow surgical interventions as they fear that the "life force" may escape. Many cultures forbid organ donation. Other cultures focus on the sanctity of life, thereby requesting that providers use all available methods for sustaining life.
- **What are the patient's wishes?** Remember the ethical principle of autonomy? With very few exceptions, if the patient is competent, his or her decisions take precedence. Too often, the family's or provider's worldview and belief system overshadow those of the patient. Nurses can assist by maintaining the focus on the patient. If the patient is unable to communicate, try to discover if the individual discussed the issue in the past. If the patient completed a living will or advance directives and designated a health-care surrogate, this helps determine the patient's wishes. By interviewing family members, the nurse can often learn about conversations where the patient voiced his or her feelings about treatment decisions. Using guided interviewing, the nurse can encourage the family to share anecdotes that provide relevant insights into the patient's values and beliefs.
- **What values are in conflict?** To assess values, begin by listing each person involved in the situation. Then identify values represented by each person. Ask such questions as, "What do you feel is the most pressing issue here?" and "Tell me more about your feelings regarding this situation." In some cases, there may be little disagreement among the people involved, just a different way of expressing individual beliefs. However, in others, a serious value conflict may exist.

Planning

For planning to be successful, everyone involved in the decision must be included in the process. Thompson and Thompson (1992) listed three specific and integrated phases of this planning:

1. **Determine the goals of treatment** Is cure a goal, or is the goal a peaceful death at home? These goals need to be patient-focused, reality-centered, and attainable. They should be consistent with current medical treatment and, if possible, measurable according to an established period.
2. **Identify the decision makers** As mentioned earlier, nurses may not be decision makers in these health-related ethical dilemmas. It is important to know who the decision makers are and their belief systems. A patient who has the capability to participate makes the

task less complicated. However, critically ill or terminally ill patients may be too exhausted to speak for themselves or ensure their voices are heard. When this happens, the patient needs an advocate, which might be family members, friends, spiritual advisors, or nurses. A family member may need to be designated as a primary decision maker or *health-care surrogate.* The creation of living wills, advance directives, and the appointment of a health-care surrogate while a person is healthy often eases the burden for the decision makers during a later crisis. These are discussed in more detail in Chapter 3.

3. **List and rank all the options** Performing this task involves all decision makers. It is sometimes helpful to begin with the least desired choice and methodically work toward the preferred treatment choice that will most likely produce the desired outcome. Engaging all participating parties in a discussion identifying each one's beliefs regarding attaining a reasonable outcome using available medical expertise often helps. Often sharing ideas in a controlled situation allows everyone involved to realize that everyone wants the same goal but perhaps has varying opinions on how to reach it.

Implementation

During the implementation phase, the patient or surrogate (substitute) decision maker(s) and members of the health-care team reach a mutually acceptable decision. This occurs through open discussion and negotiation. An example of negotiation follows:

Olivia's mother, Angela, has Stage IV ovarian cancer. She and Olivia have discussed treatment options. Angela's physician suggested the use of a new chemotherapeutic agent that has demonstrated success in many cases. Angela states emphatically that she has "had enough" and prefers to spend her remaining time doing whatever she chooses. Olivia wants her mother to try the medication. To resolve the dilemma, the oncology nurse practitioner and physician speak with Olivia and her mother. Everyone reviews the facts and expresses their feelings. Seeing Olivia's distress, Angela says, "OK, I will try the drug for a month. If there is no improvement after this time, I want to stop all treatment and live out the time I have with my daughter and her family." All agreed that this was a reasonable decision.

The role of the nurse during the implementation phase is to ensure the communication remains open. Ethical dilemmas are emotional issues, filled with guilt, sorrow, anger, and other strong emotions. These strong feelings create communication failures among decision makers. Remind yourself of the three ethical principles: autonomy, beneficence, and nonmaleficence, and think, "I am here to do what is best for this patient."

Keep in mind that an ethical dilemma is not always a choice between two attractive alternatives. Many dilemmas revolve around two unattractive, even unpleasant choices. In the previous scenario, Angela's choices did not include what she truly wants: good health and a long life.

Once an agreement is reached, the decision makers must accept it. Sometimes an agreement cannot be reached because the parties are unable to reconcile their conflicting belief patterns or values. At other times, caregivers are unable to recognize the worth of the patient's point of view. Occasionally, the patient or surrogate may make a request that is not institutionally or legally possible. When this occurs, a different institution or physician may be able to honor the request. In some instances, a patient or surrogate may ask for information that reflects illegal acts. When this happens, the nurse needs to explore whether the patient and the family considered the consequences of their proposed actions. This now presents a dilemma for the nurse as, depending on the request, he or she may need to notify upper-level administration or the authorities. This conflicts with the principle of confidentiality. It may be necessary to bring other counselors into the discussion (with the patient's permission) to negotiate the agreement.

Evaluation

As in the nursing process, the purpose of evaluation in resolving ethical dilemmas is to determine whether the desired outcomes have occurred. In

box 2-3

The MORAL Model

M: Massage the dilemma
O: Outline the option
R: Resolve the dilemma
A: Act by applying the chosen option
L: Look back and evaluate the complete process, including actions taken

the case of Mr. Rodney, some of the questions that could be posed by Gloria to the family are as follows:

- "I have noticed the amount of time you have been spending with your father. Have you observed any changes in his condition?"
- "I see the neurologist spoke to you about the test results and your father's prognosis. How do you feel about the situation?"
- "Now that the neurologist spoke to you about your father's condition, have you considered future alternatives?"

Changes in patient status, availability of medical treatment, and social factors may call for reevaluation of a situation. The course of treatment may need to be altered. Continued communication and cooperation among the decision makers are essential.

Another model, the MORAL model created by Thiroux in 1977 and refined for nursing by Halloran in 1992, has gained popularity and is considered a standard for dealing with ethical dilemmas (Toren & Wagner, 2010). This ethical decision-making model is easily implemented in all patient care settings (Box 2-3).

Current Ethical Issues

Probably one of the most well-known events that brought attention to some of the ethical dilemmas regarding end-of-life issues occurred in 1988 when Dr. Jack Kevorkian (sometimes called Dr. Death by the media) openly admitted to giving some patients, at their request, a lethal dose of medication, resulting in the patients' deaths. His statement raised the consciousness of the American people and the health-care system about the issues of euthanasia and assisted suicide. Do individuals have the right to consciously end their own lives when they are suffering from a terminal condition? If they are unable to perform the act themselves, should others assist them in ending their lives? Should assisted suicide be legalized? Physician-assisted suicide is currently legal in eight jurisdictions; Oregon was one of the first states, and in 2018 Hawaii recognized this legal right with the passage of the *Our Choice Act* (ProCon .org, 2018).

The Terri Schiavo case gained tremendous media attention, probably becoming the most important case of clinical ethics as it brought forward the deep divisions and fears that reside in society regarding life and death, as well as the role of the government and courts in these decisions (Quill, 2005). Many aspects of the case may never be completely clarified; however, it raised many questions that laid the groundwork for present ethical decisions in similar situations and beyond.

The primary goal of nursing and health-care professions is to keep people alive and well or, if this cannot be done, to help them live as comfortably as possible and achieve a peaceful death. To accomplish this end, health-care professionals struggle to improve their knowledge and skills so they can care for their patients and provide the best quality of life possible. The costs involved in achieving this goal can be astronomical.

Questions are being raised more and more about who should receive the benefits of technology. The competition for resources also creates ethical dilemmas. Other difficult questions, such as who should pay for care when the illness may have been caused by poor health practices such as smoking and substance abuse, are now under consideration. Many employers and health insurance companies evaluate the health status of individuals before determining the cost of their health-care premiums. For example, individuals who smoke or are overweight are considered to have a higher risk for chronic disease. Individuals with less risky behaviors and better health indicators may pay less for coverage (CDC, 2015).

Practice Issues Related to Technology

Technology and Treatment

In issues of technology, the principles of beneficence and nonmaleficence may be in conflict. For example, a specific advancement in medical technology administered with the intention of "doing

good" may cause harm. At times, this is an accepted consequence and the patient is aware of the risk. However, in situations where little or no improvement is expected, the issue becomes whether the benefit outweighs the risk. Suffering from induced technology may include multiple components for the patient and family.

Today, many infants born prematurely or with extremely low birthweights who long ago would have been considered unable to survive are maintained on mechanical devices in highly sophisticated neonatal units. This process may keep the infants alive only to die later or live with chronic, and often severe, disabilities. These children require highly technological treatments and specialized medical, educational, and supportive services.

The use of ultrasound throughout a pregnancy is supported by evidence-based practice and is a standard of care. In the past, these pictures were mostly two-dimensional and used to determine fetal weight and size in relation to the mother's pelvic anatomy. Today, this technology has evolved to where the fetus's internal organ structure is visualized, and defects not known before are detectable. This presents parents with additional options, leading to other decisions.

Technology and Genetics

Genetic diagnosis is a process that involves analyzing the parents or an embryo for a genetic disorder. This is done before in vitro fertilization. Once the egg is fertilized, the embryos are tested, and only those without genetic flaws are implanted. *Genetic screening* of parents has also entered the standard of care, particularly in the presence of a family history. Parents are offered this option when seeking prenatal care. Some parents refuse to have genetic testing as their value and belief systems preclude them from making a decision that may lead to terminating the pregnancy.

Genetic screening leads to issues pertaining to reproductive rights and also opens new issues. What is a disability versus a disorder, and who decides? Is a disability a disease, and does it need to be prevented? The technology is also used to determine whether individuals are predisposed to certain diseases such as Alzheimer's or Huntington's chorea. This has created additional ethical issues regarding genetic screening. For example:

> Christy, who is 32 years old, is diagnosed with a nonhormonally dependent breast cancer. She has two daughters, ages 6 and 4 years old, respectively. Christy's mother and maternal grandmother had breast cancer, and her maternal grandfather died from prostate cancer. Neither her mother nor grandmother survived more than 5 years post-treatment. Christy's physician suggested she obtain genetic testing for the *BRCA1* and *BRCA2* genes before deciding on a treatment plan. Christy meets with the nurse geneticist and asks the following questions: "If I am positive for the genes, what are my options? Should I have a bilateral mastectomy with reconstruction? Will I be able to get health insurance coverage, or will the company charge me a higher premium? What are the future implications for my daughters?"

As the nurse, how might you address these concerns?

Genetic engineering is the ability to change the genetic nature of an organism. Researchers have created disease-resistant fruits and vegetables as well as certain medications using this process. Theoretically, genetic engineering allows for the genetic alteration of an embryo, eliminating genetic flaws and creating healthier babies. Envision being able to "engineer your child." Imagine, as Aldous Huxley did in *Brave New World* (1932), being able to create a society of perfect individuals: "We also predestine and condition. We decant our babies as socialized human beings, as Alphas or Epsilons as future sewer workers or future . . . he was going to say future World controllers but correcting himself said future directors of Hatcheries instead" (p. 12). The ethical implications pertaining to genetic technology are profound. For example, some of the questions raised by the Human Genome Project related to:

- Fairness in the use of genetic information
- Privacy and confidentiality of obtained genetic information
- Genetic testing of an individual because of a family history

However, genetics has also allowed health-care providers to identify individuals who may have a greater risk for heart disease and diabetes and

begin early treatment and lifestyle changes to minimize or prevent the onset or complications of these disorders. Pharmacogenetics presently incorporates pharmacology and genetics and allows more targeted treatments for individuals by addressing their genetic makeup.

DNA Use and Protection

Recently, Butler (2015) approached the subject of DNA use and protection. Presently, DNA is mostly used in forensic science for the identification of individuals, military personnel, or possible criminal evidence. However, questions remain as to the protection of this information and what is considered legal usage. The birth of companies that offer individuals the ability to discover their DNA and ancestral origins presents a greater level of concern both legally and ethically.

Stem Cell Use and Research

Stem cell use and research issues have emerged during this decade. Stem cell transplants for the treatment of certain cancers are considered an acceptable treatment option when others have failed. They are usually harvested from a matching donor. The ethics of stem cell use focuses on how to access them. Should fetal tissue be used to harvest stem cells? Companies now offer prospective parents the option of obtaining and storing fetal cord blood and tissue for future use should the need arise. Although this is costly and not covered by insurance, many parents opt to do this.

When faced with the prospect of a child who is dying from a terminal illness, some parents have resorted to conceiving a sibling for the purpose of harvesting stem cells from the sibling to save the life of the ill child. Nurses who work in pediatrics and pediatric oncology units may find themselves dealing with this situation. It is important for nurses to examine their own feelings regarding these issues and understand that, regardless of their personal beliefs, the family is in need of sensitivity and the best nursing care.

Professional Dilemmas

Most of this chapter dealt with patient issues; however, ethical problems may involve leadership and management issues. What should you do about an impaired coworker? Personal loyalties may cause conflict with professional ethics, creating an ethical dilemma. For this reason, most nurse practice acts address this concern and require the reporting of impaired professionals while also providing rehabilitation for those who need it.

Other professional dilemmas revolve around competence. How do you deal with incompetent health-care personnel? This situation frustrates both staff and management. Regulations created to protect individuals from unjustified loss of position and the magnitude of paperwork, remediation, and the time it takes to terminate an incompetent health-care worker often compel management to tolerate the situation.

Employing institutions that provide nursing services have an obligation to establish a process for reporting and handling practices that jeopardize patient safety (Gong, Song, Wu, & Hua, 2015). The behaviors of incompetent staff place patients and other staff members in jeopardy. Eventually, the incompetency may lead to legal action that could have been avoided if appropriate leadership pursued a different approach.

Conclusion

Nurses and other health-care personnel find themselves confronting more ethical dilemmas in this ever-changing health-care environment. More questions are being raised with fewer answers available. New guidelines need to be developed to assist in finding viable solutions to these challenging questions. Technology wields enormous power to alter the human organism, the promise to eradicate diseases that plague humankind, and the ability for health-care professionals to prolong human life. However, fiscal resources and economics may force the health-care profession to rethink answers to questions such as, "What is life versus living?" and "When is it okay to terminate a human life?" Will society become the brave new world of Aldous Huxley? Again and again the question is raised, "Who shall live and who shall die?" How will you answer?

Study Questions

1. What is the difference between intrinsic and extrinsic values? Make a list of your intrinsic values.
2. Consider a decision you recently made that you based on your values. How did you make your choice?
3. Describe how you could use the valuing process of choosing, prizing, and acting in making the decision considered in Question 2.
4. Which of your personal values would be primary if you were assigned to care for an anencephalic infant whose parents have decided to donate the baby's organs?
5. The parents of the anencephalic infant in Question 4 confront you and ask, "What would you do if this were your baby?" What do you think would be most important for you to consider in responding to them?
6. Your friend is single and feels that her "biological clock is ticking." She decides to undergo in vitro fertilization using donor sperm. She tells you that she has researched the donor's background extensively and wants to show you the "template" for her child. She asks for your professional opinion about this situation. How would you respond? Identify the ethical principles involved.
7. During the past several weeks, you have noticed that your closest friend, Jamie, has been erratic and making poor patient care decisions. On two separate occasions you quietly intervened and "fixed" his errors. You have also noticed that he volunteers to give pain medications to other nurses' patients, and you see him standing very close to other nurses when they remove controlled substances from the medication distribution system. Today, you watched him go to the center immediately after another colleague and then saw him go into the men's room. Within about 20 minutes his behavior changed completely. You suspect that he is taking controlled substances. You and Jamie have been friends for more than 20 years. You grew up together and went to nursing school together. You realize that if you approach him, you may jeopardize this close friendship that means a great deal to you. Using the MORAL ethical decision-making model, devise a plan to resolve this dilemma.

Case Study to Promote Critical Thinking

Andy is assigned to care for a 14-year-old girl, Amanda, admitted with a large tumor located in the left groin area. During an assessment, Amanda shares her personal feelings with Andy. She tells him that she "feels different" from her friends. She is ashamed of her physical development because all her girlfriends have "breasts" and boyfriends. She is very flat-chested and embarrassed. Andy listens attentively to Amanda and helps her focus on some of her positive attributes and talents.

A computed tomography (CT) scan is ordered and reveals that the tumor extends to what appears to be the ovary. A gynecological surgeon is called in to evaluate the situation. An ultrasonic-guided biopsy is performed. It is discovered that the tumor is actually an enlarged lymph node, and the "ovary" is actually a testis. Amanda has both male and female gonads.

When the information is given to Amanda's parents, they do not want her to know. They feel that she was raised as "their daughter." They ask the surgeon to remove the male gonads and leave

only the female gonads. That way, "Amanda will never need to know." The surgeon refuses to do this. Andy believes the parents should discuss the situation with Amanda as they are denying her choices. The parents are adamant about Amanda not knowing anything. Andy returns to Amanda's room, and Amanda begins asking all types of questions regarding the tests and the treatments. Andy hesitates before answering, and Amanda picks up on this, demanding he tell her the truth.

1. How should Andy respond?
2. What ethical principles are in conflict?
3. What are the long-term effects of Andy's decision?

NCLEX®-Style Review Questions

1. Several studies have shown that although care planning and advance directives are available to clients, only a minority actually complete them. Which of the following has been shown to be related to completing an advance directive? **Select all that apply.**
   1. African American race
   2. Younger age
   3. History of chronic illness
   4. Lower socioeconomic status
   5. Higher education

2. *The ANA Code of Ethics With Interpretive Statements* guides nurses in ethical behaviors. Provision 3 of the *ANA Code of Ethics* says: "The nurse promotes, advocates for, and strives to protect the health, safety, and rights of the patient." Which of the following best describes an example of this provision?
   1. Respecting the patient's privacy and confidentiality when caring for him
   2. Serving on a committee that will improve the environment of patient care
   3. Maintaining professional boundaries when working with a patient
   4. Caring for oneself before trying to care for another person

3. Health Insurance Portability and Accountability Act (HIPAA) regulations guard confidentiality. In several situations, confidentiality can be breached and information can be reported to other entities. Which of the following meet these criteria? **Select all that apply.**
   1. The patient is from a correctional institution.
   2. The situation involves child abuse.
   3. An injury occurred from a firearm.
   4. The patient is a physician.
   5. The breach of information was unintentional.

4. A patient asks a nurse if he has to agree to the health provider's treatment plan. The nurse asks the patient about his concerns. Which ethical principle is the nurse applying in this situation? **Select all that apply.**
   1. Beneficence
   2. Autonomy
   3. Veracity
   4. Justice

5. Which best describes the difference between patient privacy and patient confidentiality?
   1. Confidentiality occurs between persons who are close, whereas privacy can affect anyone.
   2. Privacy is the right to be free from intrusion into personal matters, whereas confidentiality is protection from sharing a person's information.
   3. Confidentiality involves the use of technology for protection, whereas privacy uses physical components of protection.
   4. Privacy involves protection from being watched, whereas confidentiality involves protection from verbal exchanges.

6. A nurse is working on an ethics committee to determine the best course of action for a patient who is dying. The nurse considers the positive and negative outcomes of the decision to assist with choices. Which best describes the distinction of using a list when making an ethical decision?
   1. The nurse can back up her reasons for why she has decided to provide a certain type of care.
   2. The nurse can compare the benefits of one choice over another.
   3. The nurse can communicate the best choice of action to the interdisciplinary team.
   4. The nurse can provide care based on developed policies and standards.

7. A nurse is caring for a patient who feels that life should not be prolonged when hope is gone. She has decided that she does not want extraordinary measures taken when her life is at its end. She has discussed her feelings with her family and health-care provider. The nurse realizes that this is an example of:
   1. Affirming a value
   2. Choosing a value
   3. Prizing a value
   4. Reflecting a value

8. Which of the following demonstrates a nurse as advocating for a patient? The nurse
   1. calls a nursing supervisor in conflicting situations.
   2. reviews and understands the law as it applies to the client's clinical condition.
   3. documents all clinical changes in the medical record in a timely manner.
   4. assesses the client's point of view and prepares to articulate this point of view.

9. A nurse's significant other undergoes exploratory surgery at the hospital where the nurse is an employee. Which practice is most appropriate?
   1. The nurse is an employee; therefore, access to the chart is permissible.
   2. Access to the chart requires a signed release form.
   3. The relationship with the client provides the nurse special access to the chart.
   4. The nurse can ask the surgeon to discuss the outcome of the surgery.

10. A nurse is providing care to a patient whose family has previously brought suit against another hospital and two physicians. Under which ethical principle should the nurse practice?
    1. Justice
    2. Veracity
    3. Autonomy
    4. Nonmaleficence

chapter 3

Nursing Practice and the Law

OBJECTIVES

After reading this chapter, the student should be able to:

- Describe three major forms of laws
- Identify the differences among the various types of laws
- Clarify the criteria that determine negligence from malpractice
- Differentiate between an intentional and an unintentional tort
- Support the use of standards of care in determining negligence and malpractice
- Explain how nurse practice acts protect the public
- Differentiate between internal standards and external standards
- Examine the role advance directives play in protecting client rights
- Discuss the legal implications of the Health Insurance Portability and Accountability Act (HIPAA)
- Identify legal issues surrounding the use of electronic medical records

OUTLINE

The courtroom seemed cold and sterile. Scanning her surroundings with nervous eyes, Naomi knew how Alice must have felt when the Queen of Hearts screamed for her head. The image of the White Rabbit running through the woods, looking at his watch, yelling, "I'm late! I'm late!" flashed before her eyes. For a few moments, she indulged herself in thoughts of being able to turn back the clock and rewrite the past. The future certainly looked grim at that moment. The calling of her name broke her reverie. Ms. Cornish, the attorney for the plaintiff, wanted her undivided attention regarding the inauspicious day when she committed a fatal medication error. That day, the client died following a cardiac arrest because Naomi failed to follow the standard of practice for administering a chemotherapy medication. She removed the appropriate medication from the automated system; however, she made a calculation error and did not check this against the order. Her 15 years of nursing experience meant little to the court. She stood alone. She was being sued for malpractice, with the possibility of criminal charges should she be found guilty of contributing to the client's death.

As client advocates, nurses have a responsibility to deliver safe and effective care to their clients. This expectation requires nurses to have professional knowledge at their expected level of practice and be proficient in technical skills. A working knowledge of the legal system, client rights, and behaviors that may result in lawsuits helps nurses to act as client advocates. As long as nurses practice according to the established standards of care, they may be able to avoid the kind of day in court Naomi experienced.

General Principles

Meaning of Law

The word *law* holds several meanings. For the purposes of this chapter, law refers to any system of regulation that governs the conduct of individuals within a community or society, in response to the need for regularity, consistency, and justice (Riches & Allen, 2013). In other words, law means those rules that prescribe and control social conduct in a formal and legally binding manner. Laws are created in one of three ways:

1. *Statutory laws* are created by various legislative bodies, such as state legislatures or Congress. Some examples of federal statutes include the Patient Self-Determination Act of 1990 (PSDA), the Americans with Disabilities Act, and, more recently, the Affordable Care Act. State statutes include the state nurse practice acts and the Good Samaritan Act. Laws that govern nursing practice fall under the category of statutory law.
2. *Common law* is the traditional unwritten law of England, based on custom and use. It dates back to 1066 A.D. when William of Normandy won the Battle of Hastings (Riches & Allen, 2013). This law develops within the court system as the judicial system makes decisions in various cases and sets precedents for future cases. A decision rendered in one case may affect decisions made in later cases of a similar nature. For this reason, one case sets a precedent for another.
3. *Administrative law* includes the procedures created by administrative agencies (governmental bodies of the city, county, states, or federal government) involving rules, regulations, applications, licenses, permits, hearings, appeals, and decision making. These governing boards have the duty to meet the intent of laws or statutes.

Sources of Law

The Constitution

The U.S. Constitution is the foundation of American law. The Bill of Rights, composed of the first 10 amendments to the Constitution, laid the foundation for the protection of individual rights. These laws define and limit the power of government and protect citizens' rights, such as freedom of speech, assembly, religion, and the press. They also prevent the government from intruding into personal choices. State constitutions may expand individual rights but cannot limit nor deprive people of rights guaranteed by the U.S. Constitution.

Constitutional law evolves. As individuals or groups bring suits that challenge interpretations of the Constitution, decisions are made concerning the application of the law to that particular event. An example of this is the protection of "freedom of speech." Is the use of obscenities protected?

Can one person threaten or criticize another? The freedom to criticize is protected; however, threats are not. The definition of obscenity has been clarified by the U.S. Supreme Court based on three separate cases. The decisions made in these cases evolved into what is referred to as the *Miller test* (Department of Justice, 2015).

Statutes

Statutes are written laws created by a government or accepted governing body. Localities, state legislatures, and the U.S. Congress generate statutes. Local statutes are usually referred to as ordinances. Requiring all residents to use a specific city garbage bag is an example of a local ordinance.

At the federal level, conference committees comprising representatives of both houses of Congress negotiate the resolution of differences on the working of a bill before it is voted upon by both houses of Congress and sent to the president to be signed into law. If the bill does not meet with the approval of the executive branch of government, the president holds the right to veto it. If that occurs, the legislative branch needs enough votes to override the veto, or the bill will not become law.

Administrative Law

Federal agencies concerned with health-care–related laws include the Department of Health and Human Services (DHHS), the Department of Labor, and the Department of Education. Agencies that focus on health-care law at the state level involve state health departments and licensing boards.

Administrative agencies are staffed with professionals who develop the specific rules and regulations that direct the implementation of statutory laws. These rules need to be reasonable and consistent with existing statutory law and the intent of the legislature. The targeted individuals and groups review and comment before these rules go into effect. For example, specific statutory laws give the state boards of nursing (SBONs) the authority to issue and revoke licenses. This means that each SBON holds the responsibility to oversee the professional nurse's competence.

Types of Laws

Another way to view the legal system is to divide laws into categories, such as public law and private law. Public law encompasses state, constitutional, administrative, and criminal law, whereas private law (civil law) covers contracts, torts, and property.

Criminal Law

Criminal or penal law focuses on crime and punishment. Societies created these laws to protect citizens from threatening actions. Criminal acts, although directed toward individuals, are considered offenses against the state. The perpetrator of the act is punished, and the victim receives no compensation for injury or damages. Criminal law subdivides into three categories:

1. **Felony:** the most serious category, including such acts as homicide, grand larceny, and nurse practice act violations.
2. **Misdemeanor:** includes lesser offenses such as traffic violations or shoplifting of a small dollar amount.
3. **Juvenile:** crimes carried out by individuals younger than 18 years of age; specific ages vary by state and crimes.

There are occasions when a nurse breaks a law and is tried in criminal court. A nurse who obtains or distributes controlled substances illegally either for personal use or for the use of others is violating the law. Falsification of records of controlled substances is also a criminal action. In some states, altering a patient record may lead to both civil and criminal action depending on the treatment outcome (Zhong, McCarthy, & Alexander, 2016). Although the following is an older case, it provides an excellent example of negligence resulting in criminal charges brought against a nurse:

In *New Jersey State v. Winter,* Nurse V needed to administer a blood transfusion. Because she was in a rush, she neglected to check the paperwork properly and therefore failed to follow the established standard of practice for blood administration. The client was transfused with incompatible blood, suffered a transfusion reaction, and died. Nurse V then intentionally attempted to conceal her conduct. She falsified the records, disposed of the blood and administration equipment, and did not notify the client's health-care provider of the error. The jury found Nurse V guilty of simple manslaughter and sentenced her to 5 years in prison (Sanbar, 2007).

Civil Law

Civil laws usually involve the violation of one person's rights by another person. Areas of civil law that particularly affect nurses are tort law, contract law, antitrust law, employment discrimination, and labor laws.

Tort

The remainder of this chapter focuses primarily on tort law. By definition, tort law consists of a body of rights, obligations, and remedies that courts apply during civil proceedings for the purpose of providing relief for individuals who suffered harm from the wrongful acts of others. Tort laws serve two basic functions: (1) to compensate a victim for any damages or losses incurred by the defendant's actions (or inaction) and (2) to discourage the defendant from repeating the behavior in the future (LaMance, 2018). The individual who incurs the injury or damage is known as the plaintiff, whereas the person who caused the injury or damage is referred to as the defendant. Tort law recognizes that individuals, in their relationships to one another, have a general duty to avoid harm. For example, automobile drivers have a duty to drive safely so that others will not be harmed. A construction company has a duty to build a structure that meets code and will not collapse, resulting in harm to individuals using it (Viglucci & Staletovich, 2017). Nurses have a duty to deliver care in such a manner that the consumers of care are not harmed. These legal duties of care may be violated intentionally or unintentionally.

Quasi-Intentional Tort

A quasi-intentional tort includes voluntary wrongful acts based on speech. These are committed by a person or entity against another person or entity that inflicts economic harm or damage to reputation. For example, a defamation of character through slander or libel or an invasion of privacy is considered a quasi-intentional tort (Garner, 2014).

Negligence

Negligence is an unintentional tort of acting or failing to act as an ordinary, reasonable, prudent person, resulting in harm to the person to whom the duty of care is owed (Garner, 2014). For negligence to occur the following elements must be present: duty, breach of duty, causation, and harm or injury (Jacoby & Scruth, 2017). All four elements need to be present in the determination of negligence.

Nurses find themselves in these situations when they fail to meet a specified standard of practice or standard of care. The duty of care is the standard (Wade, 2015). For example, if a nurse administers the incorrect medication to a client, but the client does not suffer any injury, the element of harm is not met. However, if a nurse administers the appropriate pain medication to a client and fails to raise the side rails and the client falls and breaks a hip, all four elements of negligence have been satisfied. The law defines the standard of care as that which any reasonable, prudent practitioner with similar education and experience would do or not do in a similar circumstance (Jacoby & Scruth, 2017; Sanbar, 2007).

Malpractice

Malpractice is the term applied to professional negligence (Sohn, 2013). This term is used when the fulfillment of duties requires specialized education. In most malpractice suits, the facilities employing the nurses who cared for a client are named as the defendants in the suit. These types of cases fall under the legal principle known as *vicarious liability* (West, 2016).

Three doctrines come under the principle of vicarious liability: *respondeat superior,* the borrowed servant doctrine, and the "captain of the ship" doctrine. The captain of the ship doctrine, an adaptation of the borrowed servant rules, emerged from the case of *McConnell v. Williams* and refers to medical malpractice (*McConnell v. Williams,* 1949). The ruling declared that the person in charge is held accountable for all those falling under his or her supervision, regardless of whether the "captain" is directly responsible for the alleged error or act of alleged negligence, and despite the others' positions as hospital employees (Stern, 1949).

An important principle in understanding negligence is *respondeat superior* ("let the master answer") (Thornton, 2010). This doctrine holds employers liable for any negligence by their employees when the employees were acting under the scope of employment. The "borrowed servant" rules come into play when an employee may be subject to the control and direction of an entity other than the primary employer. In this

particular situation, someone other than an individual's primary employer is held accountable for his or her actions. This was the basis for the ruling in *McConnell v. Williams* and its application to the captain of the ship doctrine. Consider the following scenario:

A nursing clinical faculty instructed his students not to administer any medication without his direct supervision. Marcos, a second-level student, was unable to find the faculty, so he decided to administer digoxin to his client without faculty supervision. The ordered dose was 0.125 milligrams. He requested that one of the nurses access the automated medication dispensing system for him. The unit dose came as 0.5 milligrams/milliliter. Marcos administered the entire amount of medication without checking the dose, the client's digoxin level, and the potassium levels. The client became toxic, developed a dysrhythmia, and was transferred to the intensive care unit. The family sued the hospital and the nursing school for malpractice. The clinical faculty was also sued under the principle of *respondeat superior,* even though specific instructions were given to students regarding administering medications without direct faculty supervision.

Other Laws Relevant to Nursing Practice

Good Samaritan Laws

Fear of being sued often prevents trained professionals from providing assistance in emergency situations. To encourage physicians and nurses to respond to emergencies, many states developed what are now known as Good Samaritan laws. These laws protect health-care professionals from civil liability as long as they behave in the same manner as an ordinary reasonable and prudent professional in the same or similar circumstances. In other words, the professional standards of care still apply. However, if the provider receives a payment for the care given, the Good Samaritan laws do not hold.

Confidentiality

It is possible for nurses to find themselves involved in lawsuits other than those involving negligence. For example, clients have the right to confidentiality, and it is the duty of the professional nurse to ensure this right (Guglielmo, 2013). This assures the client that information obtained by a nurse while providing care will not be communicated to anyone who does not have a need to know. This includes giving information without a client's signed release or removing documents from a health-care provider with a client's name or other information.

The Health Insurance Portability and Accountability Act (HIPAA) of 1996 was passed as an effort to preserve confidentiality, protect the privacy of health information, and improve the portability and continuation of health-care coverage. The HIPAA gave Congress until August 1999 to pass this legislation. Congress failed to act, and the DHHS took over developing the appropriate regulations (Charters, 2003). The latest version of HIPAA can be found on the Health and Human Services Web site at www.hhs.gov.

The increased use of electronic medical records (EMRs) and transfer of client information presents many confidentiality issues. It is important for nurses to be aware of the guidelines protecting the sharing and transfer of information through electronic sources. Although most health-care institutions have internal procedures to protect client confidentiality, recently, several major health-care organizations found themselves victims of hacking and were held accountable for the dissemination of private information. However, it is exceptionally difficult to file lawsuits for these types of breaches (Worth, 2017).

Consider the following example:

Evan was admitted to the hospital for pneumonia. With Evan's permission, an HIV test was performed, and the result was positive. This information was available on the computerized laboratory printout. A nurse inadvertently left the laboratory results up on the computer screen, which partially faced the hallway. One of Evan's coworkers, who had come to visit him, saw the report on the screen and reported

the test results to Evan's supervisor. When Evan returned to work, he was terminated for "poor job performance," although he had superior evaluations. In the process of filing a discrimination suit against his employer, Evan discovered that the information about his health status had come from this source. A lawsuit was filed against the hospital and the nurse involved based on a breach of confidentiality.

Social Networking

Another issue affecting confidentiality involves social networking. The definition of *social media* is extensive and consistently changing. The term usually refers to Internet-based tools that permit individuals and groups to meet and communicate; to share information, ideas, personal messages, images, and other content; and to collaborate with other users in real time (Ventola, 2014). Social media use is widespread across all ages and professions and is universal throughout the world.

Social media modalities provide health-care professionals with Internet-based methods that assist them in sharing information; engaging in discussions on health-care policy and practice issues; encouraging healthy behaviors; connecting with the public; and educating and interacting with patients, caregivers, students, and colleagues (Ventola, 2014). These modalities convey information about a person's personality, values, and priorities, and the first impression generated by this content can be lasting (Bernhardt, Alber, & Gold, 2014).

Employers, academic institutions, and other organizations often view social media content and develop perceptions about prospective employees, students, and possible clientele based on this content (Denecke et al., 2015). A person who consciously posts personal information on social media sites has willingly given access to anyone to view it for any purpose. Therefore, it is only logical that those who do not use discretion in deciding what content to post online may also be unable to exercise sensible professional judgment.

Several years ago Microsoft conducted a survey revealing that 79% of employers accessed online information regarding potential employees, and only 7% of job candidates knew of this possibility (MacMillan, 2013).

However, the increased use of social networking comes with a downside. A major threat centers on issues such as breaches of confidentiality and defamation of character. The posting of unprofessional content has the potential to damage the reputations of health-care professionals, students, and affiliated institutions. Recently, a surgeon posted videos of herself dancing in the operating room while engaged in performing surgery on patients. A mishap occurred during one of the surgeries, and the patient suffered a respiratory arrest. Patients and the public saw the videos, and therefore several malpractice suits have been filed against the physician (Hartung, 2018).

Behaviors associated with unprofessional actions include violations of patient privacy; the use of profanity or biased language; images of sexual impropriety or drunkenness; and inappropriate comments about patients, an employer, or a school (Peck, 2014). Nursing boards have also disciplined nurses for violations involving online disclosure of patients' personal health information and have imposed sanctions ranging from letters of concern to license suspensions (MacMillan, 2013). In 2009, a U.S. District Court upheld the expulsion of a nursing student for violating the school's honor code because the student made offensive comments regarding the race, sex, and religion of patients (Peck, 2014). More information about social media guidelines is available at www.socialmediagovernance.com. This resource includes 247 social media policies, many for health-care institutions or professional societies, such as the Mayo Clinic, Kaiser Permanente, and the American Nurses Association (ANA; Grajales, Sheps, Ho, Novak-Lauscher, & Eysenbach, 2014).

The increased use of smartphones has led to increased violations of confidentiality (Ventola, 2014). These infractions often occur without intent yet pose a risk to both clients and health-care personnel. Posting pictures and information on social networking sites that involve clinical experiences or work experiences can present a risk to patient confidentiality and violate HIPAA regulations. To comply with the HIPAA Privacy Rule, clinical information or stories posted on social media that deal with clients or patients must have all personal identifying information removed. The HIPAA Privacy Rule places heavy financial penalties and possible criminal charges on the unauthorized release of *individually identifiable* health

information by health-care providers, institutions, and other entities that provide confidential physical or psychological care. For this reason, many institutions have implemented policies that affect employees and student affiliations. These policies may result in employee termination or cancelation of agreements with outside agencies using the health-care institution.

Take the following example:

Several nursing students who received scholarships from an affiliated health-care organization, composed of multiple hospitals, were working their required shift in the emergency department. The staff brought in a birthday cake for one of the emergency department physicians. One of the students snapped a "selfie" with the staff and the physician and posted it on her social network page. The computer screen with the names and information of the clients in the emergency department at the time was clearly visible behind the group. Another staff member noticed this and immediately notified the chief nursing officer of the hospital. The nursing student lost her scholarship, was terminated from her job, was required to return all monies to the organization, and was identified as a "Do Not Hire" within the organization. Disciplinary actions were instituted against the staff involved in the incident. Because this organization owned all the hospitals, clinics, and physician practices within the geographic area, the student needed to attempt to gain employment in an area 50 miles from her home.

Slander and Libel

Slander and libel are categorized as quasi-intentional torts. The term *slander* refers to the spoken word, whereas *libel* refers to the written word. Nurses rarely think of themselves as being guilty of slander or libel, but making a false verbal statement about a client's condition that may result in an injury is considered slander. Making a false written statement is libel. For example, verbally stating that a client who had blood drawn for drug testing has a substance abuse problem, when in fact the client does not carry that diagnosis, could be considered a slanderous statement.

Slander and libel also refer to statements made about coworkers or other individuals whom you may encounter in both your professional and educational life. Think before you speak and write. Sometimes what may appear to be harmless to you, such as a complaint, may contain statements that damage another person's credibility personally and professionally. Consider this example:

Several nurses on a unit were having difficulty with a nurse manager. Rather than approach the manager or follow the chain of command, they decided to send a written statement to the chief executive officer (CEO) of the hospital. In this letter, they embellished some of the incidents that occurred and took statements that the nurse manager made out of context, changing the meaning of the remarks. The CEO called the nurse manager to the office and reprimanded her for these events and statements that had in fact not occurred, documented the meeting, and developed an action plan that was placed in her personnel file. The nurse manager sued the nurses for slander and libel based on the premise that her personal and professional reputation had been tainted. She also filed a complaint against the hospital CEO for failure to appropriately investigate the situation, demanding a verbal and written apology.

False Imprisonment

False imprisonment is confining an individual against his or her will by either physical (restraining) or verbal (detaining) means. The following represent examples of false imprisonment:

- Using restraints on individuals without the appropriate written consent or following protocols
- Restraining mentally challenged individuals who do not represent a threat to themselves or others
- Detaining unwilling clients in an institution when they desire to leave
- Keeping persons who are medically cleared for discharge for an unreasonable amount of time

- Removing a client's clothing to prevent him or her from leaving the institution
- Threatening clients with some form of physical, emotional, or legal action if they insist on leaving

Sometimes clients are a danger to themselves and to others. Nurses need to decide on the appropriateness of restraints as a protective measure. Nurses should always try to obtain the cooperation of the client before applying any type of restraint and follow the institutional protocols and standards for restraint use (Springer, 2015). The first step is to attempt to identify a reason for the risky or threatening behavior and resolve the problem. If this fails, document the need for restraints, consult with the health-care provider, and conduct a complete assessment of the patient's physical and mental status. Systematic documentation and continuous assessment are of highest importance when caring for clients who have restraints. Any changes in client status must be reported and documented. Failure to follow these guidelines may result in greater harm to the client and possibly a lawsuit for the staff. Consider the following example:

Mr. Harvey, an 87-year-old man, was admitted from home to the emergency department with severe lower abdominal pain and vomiting of 3 days' duration. Before admission, he and his wife lived alone, remained active in the community, and cared for themselves without difficulty. Physical assessment revealed severe dehydration and acute distress. Physical examination revealed a ruptured appendix. A surgeon was called, and after a successful surgery, Mr. Harvey was sent to the intensive care unit for 24 hours. He was transferred to the surgical floor awake, alert, and oriented and in stable condition. Later that night he became confused, irritable, and anxious. He attempted to climb out of bed and pulled out his indwelling urinary catheter. The nurse restrained him. The next day his irritability and confusion continued. Mr. Harvey's nurse placed him in a chair, tying and restraining his hands. When his wife came to the hospital 3 hours later, she found him in the chair, completely unresponsive. He had died of cardiopulmonary arrest. A lawsuit of wrongful death and false imprisonment was brought against the nurse manager, the nurses caring for Mr. Harvey, and the institution. It was determined that the primary cause of Mr. Harvey's behavior was hypoxemia. A violation of law occurred with the failure of the nursing staff to notify the physician of the client's condition and to follow the institution's standard of practice on the use of restraints.

To protect themselves against charges of negligence and false imprisonment in cases similar to this one, nurses should discuss safety needs with clients, their families, or other members of the health-care team. Careful assessment and documentation of client status remain imperative and are also components of good nursing practice. Confusion, irritability, and anxiety often result from metabolic causes that need correction, not restraint.

There are statutes and case laws specific to the admission of clients to psychiatric institutions. Most states have guidelines for emergency involuntary hospitalization for a specific period of time. Involuntary admission is considered necessary when clients demonstrate a danger to themselves or others. Specific procedures and legal guidelines must be followed. A determination by a judge or administrative agency or certification by a specified number of health-care providers that a person's mental health justifies his or her detention and treatment may be required. Once admitted, these clients may not be restrained unless the guidelines established by state law and the institution's policies provide for this possibility. Clients who voluntarily admit themselves to psychiatric institutions are also protected against false imprisonment. Nurses working in areas such as emergency departments, mental health facilities, and so forth, need to be cognizant of these issues and find out the policies of their state and employing institution.

Assault and Battery

Assault is threatening to do harm. Battery is touching another person without his or her consent. The significance of an assault lies in the threat: "If you don't stop pushing that call bell, I'll sedate you" is considered an assaultive statement. Battery would occur if the sedation was given when it was refused,