

ETHICAL PRINCIPLES

Burkhardt - Chapter 3 - *Ethical Principles*

Ethical principles: basic and obvious moral truths that guide deliberation and action

Respect for persons: implication that one considers others to be worth of high regard

- Precept which underlies ethical principles
- Basis for ethical principles discussed below

AUTONOMY

- Means self-governing
- Frequently used as contrast to undesirable states
 - Dependency, coercion
 - Paternalism, thoughtlessness, habit
- **Freedom to make choices** re an issue affecting one's life
- Concept is culturally dependent
 - Important in cultures regarding individuals as unique and valuable members of society
 - Less meaningful in cultures wherein individual is not valued above society
 - Communistic states: society (collective good) has higher value than individual
 - Slavery, minorities not respected
 - Women expected to be subservient to men, children exploited

Pattern of autonomy - 4 basic elements

- Respect for persons - essential element in insuring autonomy
- Implied ability to determine personal goals
- Implied competence to determine personal action
 - Certain groups felt to be incompetent (incapable of making choices)
 - Children, fetuses, mentally-impaired individuals
- Freedom to act on choices which are made
 - Absent in totalitarian, communistic societies
 - Absent in instances where means to accomplish choice does not exist
Example: indigent person who does not have health care insurance

Threats to autonomy

Patient role is dependent one; health care worker in expertise role

Health care industry potential to dehumanizes and erodes autonomy of consumers

- Disrobed on entering hospital; asked questions re private matters
- Forced to relinquish money and belongings
- Expected to remain in bed; privacy virtually impossible
- Follow hospital schedule and regiment
- Patient's expected to follow plans else labeled noncompliant

Potential threats to patient autonomy

- Nurses may falsely assume patients have same values and goals as provider
 - Elderly person choosing to stay at home when viewed as incapable
 - COPD patient who smokes
- Failure to recognize that patient's thought processes may differ from provider
 - Differences not in values but in thinking patterns
 - Backgrounds, cultures, patterns of thinking
- Incorrect assumptions re patient's knowledge base
 - Providers have specialized health care knowledge
 - Failure to recognize deficits in patient knowledge base
- "Work of nursing" becomes the major focus
 - Frenzied pace and unrealistic workloads, staffing reduction
 - Advanced technology, bottom-line management
 - Profit centered health care environment

INFORMED CONSENT

- Patients are informed re the possible outcomes, alternatives and risks of treatment
- Required to freely give consent
- Legal protection of patient's right to personal autonomy concerning treatments and procedures

PATERNALISM - PARENTALISM

- Gender-based term that means acting in a fatherly manner
- Implies benevolent decision making, protection, discipline
- Carries negative connotation
- Parentalism is a non-gender-biased term with similar meaning(s)
- Health care arena: terminology refers to professionals who restrict others autonomy
- Usually practice to protect perceived incompetence or diminished decision-making capacity
 - Provider chooses for the patient that which is reasonable thought to be in best interest
 - Example: one would assume patient would choose to be protected from injury
 - Example: restraining elderly patient believed to be at danger of falling or wandering
- Can be viewed as form of advocacy when genuine concern combined with diminished capacity
- Risk of harm alone is not enough to judge a person incompetent
 - Persons in a free society are allowed to make decisions which are contrary to self-interest so long as they are made competently
- Person must be truly incompetent to make decisions to justify paternalism
- Exception: Even competent persons cannot be allowed to act in ways to cause harm to others
- Health care professionals frequently guilty of unjustified paternalism
 - Believe they have superior knowledge re outcomes and clinical risks
 - May ignore other factors which contribute to patient's decision making
 - Economic considerations, lifestyles, values, role
 - Culture, spiritual beliefs
- Nursing and medical literature may vary in perspective on paternalism
 - Nursing views it negatively
 - Medical literature may view it positively

NONCOMPLIANCE

- Denotes unwillingness on part of patient to participate in health care activities
- Typically denotes activities planned by provider but carried out by patient
- Examples of typical issues of noncompliance
 - Taking medications, maintaining therapeutic weight loss, smoking cessation
- Just as likely to represent failure of provider as that of patient

- Important concepts re non-compliance
 - Autonomous participation of patient in health care plan is essential
 - Autonomy and patient participation encourages compliance
 - Plans which are based in science but don't account for patient often fail
 - Provider must assess patients ability to comply
 - Lack of resources, lack of knowledge, lack of support from family
 - Dissonance from psychological factors or cultural beliefs
 - Finances are major reason for lack of compliance with filling RX

- Some advocate withhold services to non-compliant patients based on limited resources
- American Nurses Association (ANA) does not support withholding based on noncompliance
 - Code for Nurses with Interpretative Statements can be interpreted to respect noncompliance as right of patient - may reflect social, cultural, religious norms
 - Refusal to participate regardless of outcome is the prerogative of the patient
 - Non-compliance must not effect care - choice belongs to patient
 - Frowns upon "labeling" of patients with terminology as "non-compliance"

BENEFICENCE

- Requires nurses to act in ways which benefit patients
- Lays groundwork for trust in the nursing profession
- Beneficence has 3 major components
 - Do or promote good**
 - Questions arise when those involved cannot decide on what is "good"
 - Example: patient with lingering, painful, terminal illness

 - Prevent Harm**
 - " Nurse acts to safeguard client and public when health care and safety are affected by incompetent, unethical practice of any person" (ANA Code for Nurses with Interpretive Statement - 1985)

 - Remove Harm or Evil**
 - Code outlines steps to be taken to facilitate removing harm
 - Voicing objecting to practice, reporting violations to authority, etc.

NONMALEFICENCE

- Act in a manner so as to avoid harm
 - Deliberate harm, risk of harm
 - Harm occurring during performance of beneficial acts
- Examples
 - Prohibition against research that assumes negative outcomes
 - Prohibition against unnecessary procedures for economic gain or learning experience
- Avoid harm as a consequence of doing good
 - Prescribing medication where side-effects are worse than disease treated
 - Incompetence to practice wherein one fails to recognize and report serious symptoms

VERACITY

- Practice of telling the truth
- Truthfulness widely accepted as a universal virtue
- Nursing literature frequently cites Immanuel Kant and John Stuart Mill - both support truthfulness
- Bioethicists disagree re absolute necessity of truth telling

ARGUMENTS FAVORING VERACITY

- Per Martin Buber (1965) communication occurs only where there are no barriers
- Lying and deception creates barrier thus prohibits meaningful communication and relationships
- Nurses must be truthful to effective communicate where communication is considered the cornerstone of nurse-patient relationship
- Manipulating info for purpose of controlling others is akin to coercion to control (Jameton, 1984)
- Lying prohibits others from participating in decisions on an equal basis
 - Used to benefit patient - constitutes paternalism
 - Used against patient - fraud
- Deceiving others may constitute an unnecessary assumption of responsibility
 - Implication deception: unfortunate consequences suggest that deceiver is responsible
 - Implication veracity: bad consequences which follow truth telling results in attribution of responsibility to unfortunate nature of reality
- Truth-telling engenders trust where nurse-patient relationship felt to be based on trust
 - Patients are willing to suspend some autonomy on basis of the relationship
 - Without trust some patients' needs may go unmet
- American Hospital Association supports veracity in Patient's Bill of Rights
 - Patients have right to complete and current info concerning dx, tx and prognosis
 - Directed at physicians but nurses have responsibility as advocates
- ANA Code for Nurses with Interpretive statements (1985) supports veracity
 - Subsequent statements support principle but recognize situations which are exception
 - Recognize certain situations where patients right to info may be suspended

ARGUMENTS SUPPORTING NON-VERACITY

- Dramatic discrepancy in literature between nursing and medical perspectives on veracity
- Perspectives drawn from medical literature
 - Physicians often claim that patients do not want bad news and truth in all settings
 - Truth has potential to harm
 - Lies may be appropriate in the name of beneficence
 - Patients may lack sufficient knowledge re physiology to interpret med info accurately
 - Some patients may not want truth re: illness
 - Physicians do not have absolute responsibility to tell truth particularly where hope and positive outlook may be life-affirming
 - Distinction made between lying and deception
 - Absolute duty to avoid lying
 - No duty to avoid deceive
 - Example: MVA where mom is critical and 2 of 4 children are killed
 - Veracity never given much consideration in medical literature
 - Veracity absent from all oaths, codes and prayers even Hippocratic Oath
 - American Medical Association Code of Ethics (1847) endorses some form of deception
 - Avoid "all things which have tendency to discourage patient and depress his spirits" (Bok, 1994 p 683)

- Nursing and medicine have apparent different perspectives
- Recognizing differing viewpoints is essential for collaboration

CONFIDENTIALITY

- Nondisclosure of private or secret information with which one is entrusted
- Codes and oaths of nursing and medicine dating back many centuries
- ANA committee on Ethics is unequivocal
- Mentioned on Nightingale Pledge
- Addressed in Hippocratic Oath
- Disagreement re the absolute requirement in all situations
- Ability to maintain privacy is an expression of autonomy
 - Maintains dignity of individual esp concerning personal details
 - Maintains control over one's own life
- Two arguments favor maintaining confidentiality
 - Individual's right to control personal info and protect privacy
 - Private discussions
 - Revealing info with other professionals - implications for sensitive info
 - Sensitive info: embarrassment, ridicule, discrimination, deprivation of rights
 - Inadvertent revealing of info - partial disclosure
 - Argument of utility
 - Patients will hesitate to reveal info to providers if they suspect abuse
 - Patients will not seek care if info is not confidential
 - Mental illness, alcoholism, drug addiction if revealed can lead to public scorn
- Government policy recognizes the problem
 - Confidential nature of family planning is mandated
 - AIDS patients

LIMITS OF CONFIDENTIALITY

- Arguments favor questioning the absolute obligation in certain situations
- Issue of harm and vulnerability
 - Where maintaining confidentiality results in preventable wrongful harm to an innocent
 - Example: mandatory premarital testing for syphilis
 - Example 1976 ruling of wrongful death of Tatiana Tarsoff (California)
 - Doctors Lawrence Moore and Harvey Powelson were held responsible for wrongful death when patient, Prosenjit Poddar, killed Tarsoff after confiding his intention to said psychologist who failed to inform patient or family. Obligation to protect innocent third party was held to supercede obligation to maintain confidentiality
 - Foreseeability is important consideration in situations if confidentiality vs duty to warn
 - Must reasonably foresee harm to an innocent other to warrant violation
 - Precludes blanket disclosure that might predict harm to others
- Privacy is held subordinate to state's fundamental right to enact law to promote public health
- Vulnerability principle
 - Duty to intervene stronger when third party is dependent on others or vulnerable
 - Vulnerable individuals have relative inability to protect selves e.g. child abuse
 - Nurses have absolute duty to report child abuse

JUSTICE

Ethical principle relating to fair, equitable and appropriate treatment via what is due to persons
Recognizes that giving to some will deny receipt to others who might otherwise receive

Distributive justice when concept is applied to goods and services

- Impossible for all people to have finite supply of goods and services
- Governments formulate/enforce policies dealing with fair and equitable distribution

Decisions re distributive justice on a variety of levels

- Government: policy on broad public health issues: medicare, immunizations
- Hospitals: intensive care beds, ER services
- Nurses: decide how to allocate time among patients assigned

CONCEPTS IN HEALTH CARE RELEVANT TO DISTRIBUTIVE JUSTICE

1. What percentage of our resources is reasonable to spend on health care?
2. What aspects of health care should receive the most resources
3. Which patients to have access to limited health care staff, equipment, resources, etc.

Who is entitled to goods and services? Historical approaches vary

- To each equally
- To each according to need
- To each according to merit
- To each according to social contribution
- To each according to person's rights
- To each according to individual effort
- To each as you would be done by
- To each according to the greatest good to the greatest number

OPPOSING VIEWS

Egalitarian views: systems where all receive equally regardless of need

Proposed nationalized health care system encompasses several principles

- System of entitlement to all - all are eligible
- Needs perspective: some would need more services than others

Practicality issues with limited resources

Friedrich Nietzsche view: to each according to his present or future social contribution

- Superior individuals exist; society should enhance these "supermen"
- Not very equitable or appealing to many in US

Libertarian view: to each according to his rights

Golden rule view: to each as you would have done by

Work ethic view: receive according to effort put forth - common in US culture

Needs view:

- Entitlement programs: combo of needs and greatest goods theory
- Based on needs of individual
- Greatest good for greatest number of people

FIDELITY

- Principle of **faithfulness** and practice of **keeping promises**
- Nursing's right to practice based on processes of licensure and certification
 - **Contract with society**: rights and responsibilities and mechanism for accountability
 - No other group can practice within domain of nursing as a profession
 - Rights also mandate nurses uphold responsibilities inherent in contract with society
- Members expected to be faithful to society that grants the right to practice
 - Uphold professions code of ethics
 - Practice within established scope of practice and definitions
 - Remain competent in practice
 - Abide by policies of employing institutions
 - Keep promises to individual patients
- **To be a nurse is to make these implied promises**