

Moral, Ethical, and Legal Decision-making in Controversial NP Practice Situations

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ABSTRACT

Nurse practitioners motivated by beneficence initiate policy change, conduct research, provide testimony, compose position statements, and act in many ways that illustrate tough decisions. Strictly moral decisions are generated from within while legal decisions are mandated from without, but ethical decisions embrace a wider scope, placing most of their emphasis on the benefit of others. Ethical decisions balance principles of morals and legalities in analysis and usually require moral courage. An important aspect of decision-making is preserving moral courage and preventing moral distress associated with controversial practice situations.

Keywords: ANA Code of Ethics, conscientious objection, ethical decision-making, moral courage, moral distress

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INTRODUCTION

In controversial practice situations, preserving one's moral integrity and meeting the patient's needs is the goal. Ideally, challenging decisions result in professionalism that benefits the common good and leaves the nurse practitioner (NP) with a sense of moral wholeness. The most recent American Nurses Association (ANA) Code of Ethics (The Code) provides general guidelines for professional behavior applicable to advanced practice. The Code encourages nurses to exhibit moral courage to prevent moral distress in the face of controversy. Moral courage is defined as an individual's capacity to overcome fear and to stand up for one's core values.¹

The aims of this article are to: describe select controversial NP practice situations with examples of decision-making to include moral, ethical, or legal reasoning by applying select frameworks; examine the impact of moral courage in advanced nursing practice; and report outcomes of moral-ethical-legal decisions, including the use of the conscientious objection (CO).

DEFINITIONS AND PRINCIPLES

In general, legal decision-making involves following or not following rules of law, regulations, and policies. It can be oversimplified by the analogy of "coloring between the lines." Moral decision-making is an individual's attempt(s) to determine right or wrong actions based on standards of acceptable conduct. Ethical decision-making is defined as a process of synthesizing both moral and legal influences, including historic traditions, laws, social expectations, and future influences, and deriving a final analysis. Non-maleficence and beneficence, core nursing values, influence the behavior of nurses to act in the best interest of the patient. CO is defined as the request, resistance, or refusal to participate in an activity that an individual considers incompatible with his/her religious, moral, philosophical, ethical, or humanitarian beliefs.²

Rightness is composed of both morals and ethics, which may be influenced and individualized by many factors. Presumptively, ethical decision-making incorporates social mores, yet addresses a broader scope of complex questions of right and wrong. In NP

practice, there is a primary legal presumption that, to practice ethically, one must first practice legally. However, in some controversial situations, it is possible to act legally without acting ethically (Narrative 1).

Narrative exemplars based on actual or composite situations follow.

Narrative 1. Hypothetical based on the ANA's ethical prohibition to nurses' involvement in any aspect of capital punishment.

Narrative 2. Author's professional experience.

This concerns private conversations with colleagues and students. Patient and student identifiers are removed to protect patient and student confidentiality.

Narrative 3. Arkansas *BON v Morrison* caselaw.

Narrative 4. Hypothetical based on professional experience as shared with me by colleagues in palliative care.

Narrative 5. Medical literature, news reports, and actual personal clinical experiences.

Narrative 6. Caselaw and literature, hypothetical based on same.

At times, NPs, like other health care professionals, may find the boundaries of moral, ethical, and legal behavior skewed. In controversial decision-making, initially, the NP should ensure knowledge of their scope of practice as outlined by their state's nurse practice act (NPA) and the collaborating practice agreement (CPA), if applicable. Ambiguity in understanding, ignorance, lack of acceptance, or failure to follow regulations may lead to faulty reasoning, an improper decision, and ultimately disciplinary action (Narrative 3).

Wide variability in the type of encounters producing NP moral distress leads to multiple determinants of response. Beyond a legal challenge, a medley of influences will potentially shape the manner in which moral-ethical situations are experienced. In a study of almost 200 NPs engaged in primary care, Laabs identified 16 controversial situations in NP practice that elicit moral distress. About 8% of the NPs reported both a controversial situation and some form of "distress." The source of "distress" was not always attributable to moral controversy.³ One criticism of that 2007 study was the minimal information available to assist NPs in localizing and defining distress.

NPs may face opposing factors, experience moral distress, and need moral courage in controversial situations as they strive to balance the patient's expectations with their own personal ethos, beliefs, and morals. A number of assistive tools are available for NPs' use in moral-ethical decision-making, including 2 nursing-specific examples, the American Association of Critical Care Nurses (AACN) 4 A's (Table 1) and Lachman's CODE mnemonic (Table 2). A third, step-by-step ethical decision-making tool used by staff at the West Virginia Health Science Center, Robert C. Byrd Ethics Center, is offered for interdisciplinary and group use (see Table 3).

The ANA provides the models, as well as a wide variety of literature for nurses concerning ethics, professionalism, moral distress, and moral courage, on their website (<http://www.nursingworld.org/codeofethics>). The 4 A's example endorsed by the AACN was applied in a recent study about the experience of moral distress on emergency room nurses, and Lachman's CODE mnemonic, similar to the SWOT analysis (strengths, weaknesses, opportunities, threats), provides a practical reminder of one's professional obligations, strengths, and challenges.^{4,5}

The West Virginia University Health Science Center Process of Ethical Decision Making (WVPEDM) model, designed for group decision-making (eg, interdisciplinary care) in determining end-of-life options, may be useful in a variety of clinical settings (Table 3). Positive outcomes by promoting others in the process of analysis are based on the following:

1. Consensus decisions are stronger.
2. The involvement of the team mitigates risk.
3. Allowing all stakeholders an opportunity to experience moral courage from serious clinical controversies actually reduces moral distress.⁶

Table 1. AACN's 4 A's to Rise Above Moral Distress

Ask appropriate questions
Affirm your distress and commitment to yourself
Assess and analyze the source(s) of your distress
Act. Take and maintain the desired action.

AACN = American Association of Critical Care Nurses.

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