

ANA Code of Ethics Review

The first ANA code of ethics was formally adopted by ANA in 1950. The last update prior to 2015 was in 2001. Correctly noting that the practice of nursing has evolved in its art and science along with society in the 65 intervening years, the ANA issued its latest revised code for 2015.

What is immediately apparent is that the ANA is conflating changes in society with a necessary change in the ethical values of the profession. The ANA is not calling for a new expression of ethical values because of issues not previously experienced. They are not citing advances in medical practice and reflecting on application of ethics on these situations, but actually changing the ethical values underpinning the practice of nursing claiming in the preface, "As nursing and its social context change, the Code must also change." From an objective perspective, what was ethically "right" in 1950 would be ethically "right" in 2015, and what was ethically "wrong" in 1950 would be ethically "wrong" on 2015 and it would be only the application of the principles to emerging practices that would need to be addressed. This document does not do that. The ANA claims that societal changes are a reason for revising its code of ethics.

The societal changes that are being addressed are the evolving ethical principles promoted by some in the medical profession which are at odds with traditional mores of society. The undergirding principle is that of autonomy which allows for such practices as abortion, euthanasia and assisted suicide, concepts which remain at odds with the principles of many people, including those in the medical profession. Patient autonomy trumps the conscience of the nurse.

Some other general observations about the code can be made prior to dealing with its nine provisions. This overview is based on observation of the actions of the ANA with regard to the nurses they purport to represent. "Purport" is appropriate here because, while the ANA may be long on words to define where they stand with regard to nurses in the workplace, they have been found short on their follow-through with representation. This is particularly apparent in their lack of support for nurses who have issues with their conscience in the workplace.

The Ethical Code is extremely deferential to the rights of the patient to the exclusion of the rights of the nurse who should be represented by his or her professional organization. While patient rights are an important consideration, the Code of Ethics showcases the patient's rights as paramount, reflecting the emphasis on the current bioethics emphasis on autonomy. But the practicing nurse, too, has autonomy and these rights should be represented by the professional organization to which the nurse pays his or her dues.

When it comes to speak for either the patient or the nurse, in recent years the ANA has come squarely down on the side of the patient to the exclusion of the nurse. Whatever faults one might think our trade and labor unions may have, they actually support those they represent who pay their dues to the unions for that representation. Perhaps the ANA should represent the rights of nurses more and that would stem the decline of membership which is now numbers less than 7% of all registered nurses in this country. It is painful to those of us who take an opposite position of the ANA on issues when they do not represent us and we would hope that they would take heed.

When it comes to the nurse-patient relationship, in general, nurses do not need to be told to care for and respect the patient. While the motivation to become a member of the medical profession has shifted in recent years, many continue to be motivated by altruism and will put the patient needs and comfort first in any case. Although job security and financial recompense may be a current motivation, altruism continues to be a driving factor for many in the nursing profession and if the ANA would focus on this positive aspect of their members they could certainly attract more of them as members.

The reflection on the philosophy of ethics in the introduction is perhaps somewhat esoteric and beyond the scope of the average nurse. Although much ink is spilled on this discussion, it is unnecessary to review it here and to leave that to the philosophers.

The Nine Provisions

Provision 1 rightly deals with the dignity of each person and respect for his or her values and it specifically states that this respect “is not affected by illness, ability, socioeconomic status, functional status, or proximity to death.” But it also deals with The Right to Self Determination which can be troubling for the nurse. *Autonomy* is the main of the four principles of modern bioethics (*beneficence*, *nonmaleficence* and *justice* being the other three). It is roughly synonymous with self-determination. It can be problematic for the nurse when his or her patient determines that they either want or deny treatment that is not either in their best interest or is counter to the values of the nurse in the situation such as abortion or assisted suicide. Yet, this principle is held in highest regard as the first of the four principles. The emphasis on autonomy in the guise of respect for the patient’s wishes as paramount reflects a situation ethics where there is no objective right or wrong and it presents an ethical dilemma for many nurses.

The Interpretive Statement for Provision 1 does state that the respect for the patient decision “does not require that the nurse agree with or support all patient choices.” Although the ANA position statement on reproductive health of 2010 found online which specifically addresses this issue states that “nurses have the right to refuse to participate in a particular case on ethical grounds,” the “ANA believes that healthcare clients have the right to privacy and the right to make decisions about personal health care based on full information and without coercion.” Based on how these situations have played out in the workplace, the sympathy has always been on the side of patient autonomy. The ANA did not step up to protect the conscience rights of nurses like Cathy Cenzone-deCarlo or the twelve nurses in New Jersey when their positions were threatened with dismissal if they did not participate in abortion. That role was left to the Alliance Defending Freedom.

In clinical practice, there are two issues. First of all, patients cannot always exercise their full autonomy with the result that their self-determination is often colored or influenced by relatives or medical personnel. So there is little sense in giving it the all-important status it usually receives. Secondly, the question for nurses is also relevant when and where exactly patient autonomy is paramount; in some medical decisions maybe, but often not in nursing procedures.

When science unequivocally determines that life begins at conception, not implantation or even later in pregnancy, and the ANA professes to encourage nurses to stand up for the vulnerable and weak, it should stand to reason that the ANA would regard the unborn as a person with rights just as any other person being treated by the nurse.

With regard to the end-of-life, **Provision 1** makes it clear that the nurse may not act with the sole intent of ending life, but it does not eliminate “compassion” as a motive to end a life thereby justifying a nurse’s participation in euthanasia or assisted suicide. The deliberate destruction of life is not acceptable under any circumstances.

Provision 2 begins with the primacy of the nurse’s commitment to the patient’s interest and states that “Where conflict persists, the nurse’s commitment remains to the identified patient.” This clarifies the commitment of the nurse to the patient who may also be a member of a “family, group, community or population” whose interest the nurse must also consider. This presents less concern than Provision 1 from an ethical standpoint conflict of interest and appropriate professional boundaries are included in this discussion.

Provision 3 states that the “nurse promotes, advocates for, and protects the rights, health, and safety of the patient.” The ANA rightfully acknowledges that “The duty to maintain confidentiality is not absolute and may be limited as necessary, to protect the patient or other parties, or by law or regulation such as mandated reporting for safety or public health reasons.” This entire six point provision, while somewhat verbose, makes sense except for the awareness of the special concerns raised by research involving vulnerable groups. Again, the unborn child is not considered as a vulnerable individual in this consideration.

The official position statement of the ANA regarding the use of stem cells in research can be found online. It encourages such research using both embryonic and adult stem cells. The ANA takes exception to the limitations placed on it by President Bush in 2001 and his veto of subsequent legislation to fund the research (see online policy on stem cells). The ANA continues to promote the use of stem cell research, both embryonic and adult, using the defense that “Stem cell research will have a significant impact on health and the quality of life. Research and therapeutic processes use adult, fetal and embryonic stem cells to explore the possibilities of growing new organs and tissues to replace those that are damaged or diseased.....ANA recognizes the potential for stem cell research to provide relief through prevention, diagnosis and/or treatment for patients with a wide variety of complex diseases. ANA also recognizes that stem cell research raises significant ethical considerations. ANA supports the ethical use of stem cells for research and therapeutic purposes that impact health.”

Somehow the destruction of nascent human life in embryonic form is “ethical” in the ANA Code of Ethics.

Provision 4 is also quite innocuous except for the provision that again reinforces its commitment to “self-determination” of the patient. It would seem that an organization established to represent the interest of the nurse would focus on just that, yet throughout the document the nurse is subjugated to the patient by reinforcement of this bioethical principle. Does the ANA not intend to serve the interest of the nurses it represents while traditionally seeking the best interest of the patient?

Provision 5 is probably the most important one for the nurse in today’s workplace because it is the only place where it focuses on the nurse and her obligation to follow her conscience. The ANA rightly expands their call for respect for the moral worth and dignity to all human beings to the nurse as well. The criticism of this section is not in what is said as much as by experience in how the ANA acts. They are conspicuous by their absence in coming to the defense of nurses who exercise their right of

conscience in the workplace, leaving the nurse to fend for himself or herself and navigating through a maze of legal entanglements.

The proposal to have the nurse hand over the care for a patient to a colleague who does not have objections amounts to condoning the procedure. Perhaps the ANA could recommend that the nurse with a conscientious objection be allowed to hand back the assignment to whoever assigned the task to her. This would emphasize the objection.

Provision 6 places the burden of maintaining an ethical workplace environment on the nurse. It again deals with philosophical discussion of virtue, morals and *good vs. bad* and the nurse's obligation to the beneficence, nonmaleficence and justice are noted in this section. It is the only place where there is significant mention of support for the nurse in an attempt to remedy the workplace. "These (professional organizations) advocate for nurses by supporting legislation; publishing position statements; maintaining standards of practice; and monitoring social, professional, and healthcare changes." Unfortunately, the legislation supported by the ANA is counter to the wishes and values of many of the nurses it purports to represent. The state chapters of ANA have gone on record as opposing such things as conscience clause protection for all medical professionals and caps on patient loads which have become excessive in recent years.

Provision 7 deals with advancement of the profession and again specifically addresses research on both human and animal subjects. The criticism again lies in the lack of respect for the human embryo as a research object because they are not included in the ANA definition of "research employing human participants." In view of their position statement on human embryo research, it is difficult to explain their statement, "Nurses remain committed to patients/participants throughout the continuum of care and during their participation in research....the patient's rights and autonomy must be honored and respected. Patient's/participant's welfare may never be sacrificed for research ends." Perhaps a review of human fetology and embryology which places a new human being as beginning with the union of the sperm and the egg is in order.

Aside from an ongoing controversy over just what constitutes a human right as proposed in **Provision 8**, it opens a whole new scope of obligations for the nurse which are previously not considered to be in his or her purview. While promotion of the laudable goals established by the ANA is desirable, the extent to which the burden to promote them by the nurse is unreasonable. Perhaps it needs to be noted here that, while the ANA has no problem with it, abortion is not healthcare.

The list of abuses cited in section 8.4 states "Of grave concern to nurses are genocide, the global feminization of poverty, abuse, rape as an instrument of war, hate crimes, human trafficking, the oppression of exploitation of migrant workers, and all such human rights violations." There is no mention of abortion which claims more lives than war, of growing infanticide, of physician assisted suicide or of euthanasia. The unborn are not mentioned in the list of socially stigmatized groups. All the concerns mentioned here are certainly concerns for today. They are concerns for every man, woman and child. It is inappropriate to place the burden of the correction on the nurse.

Provision 8 is also the only place where the term "utilitarian" is used. It is a term coined in 1871 by philosopher Jeremy Bentham which states that any action which helps the greatest number of people is a good action. It has been described as a philosophy of ethics in which the happiness of the greatest number of people in society is considered good. Its place in medicine has been a matter of great

controversy since its introduction because it focuses only on the goal or consequences to the exclusion of any consideration bad or evil, no matter how much the individual patient is harmed, if, on balance, the “greater good” is achieved. It is troublesome that the ANA would refer to it as a framework on which to make its decisions in nursing.

Provision 9 again wades into the muddy waters of social justice and employs an abundance of words to make a plea for it and the articulation of nursing values as promoted by the ANA.

In summary, the *Code of Ethics for Nurses with Interpretive Statements* is a verbose document which can be very problematic for the practicing nurse, especially for one who holds to an objective perspective of right and wrong. In any case, it is certainly not reading for the faint-hearted and there is little practical guidance in it. Any helpful guidance is buried in the overwrought philosophical discussion.

Emphasis placed on the four principles of modern bioethics is troubling, particularly the emphasis on autonomy which allows for participation in assisted suicide and on “justice” which has been used to deny treatment when a utilitarian view of medicine is accepted.

The most disappointing aspect is its lack of focus on the nurse who is altruistic and who needs support in her efforts to provide for the patient. While the emphasis on the commitment to the patient is to be lauded as a good thing, who then takes the part of the nurse in her conscience issues? The deference to social justice is also troubling as an added burden for the nurse.

While autonomy is the basic principle of modern bioethics, the ANA would do well to establish rights of the nurse as a fellow human being as well as those of the patient.