

Free critical thinking on ethical and legal considerations in nursing

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Physical abuse in a nursing home is considered any action that causes patients “ pain, damage, either intentionally or recklessly [including] striking, kicking, pushing, burning, strangling, the inappropriate use of drugs and physical restraints” (Buzgova & Ivanova, 2009, pp. 3-4).

The law regarding institutional abuses against residents in nursing homes provides that it is a duty to report any believed abuse upon the residents, which falls in the responsibility of every person who suspects such a treatment upon the nursing home patients. Moreover, in the case of the employees who fail to report such treatment, they become subject to civil penalty (Alexander & Alexander, 2011).

Based on this provision, there can be stated that Mrs. Lewis acted correctly by reporting the abuse suspicion, exercising her duty as an employee. Had she not have reported the believed abuses upon the patients coming from the Shady Rest Nursing Home, she would have been considered responsible for tolerating the bad treatments upon the patients and she herself would have been convicted, or she would have been subjected to disciplinary actions and the withdraw of her license according to the law (Bailey, 2010).

The fact that the nurse was further threatened by her boss with dismissal if she made any other reporting of believed abuse, reveals a bullying behavior upon the medical personnel, which should not be tolerated (Center of American Nurses, 2008). Therefore, the nurse’s action of consulting a lawyer was justified. Mrs. Lewis was constraint from three sides: from the legal one, which stipulated clear consequences for not reporting the believed abuse cases, from her employer’s side, as she was threatened that she would have been fired if she would have reported other cases of abuse and from the

ethical responsibility of not tolerating abuse against other persons and moreover, against patients.

Regarding the nurses' responsibility towards the patients, researchers differentiate between two approaches: obligation – based ethics and responsibility – based ethics. From an obligation – based ethics approach (corresponding to utilitarianism, deontology or principlism philosophies), the nurse Lewis should have considered the obligations that she responded to (her duty to care for patients), while from a responsibility – based ethics approach, she should have focused on the relationship with others (how to best meet the responsibility of caring for patients) (Lachman, 2012).

However, the deontology and the law do not change the fact that the Nurse Lewis was constrained with either losing her job had she continued reporting the abuse cases, either being drawn responsible herself for the abuses and subjected to the law consequences. Intimidating the health care professionals with license withdraw or conviction for protecting the patients represents a power abuse in itself, which is a groundless provision when dealing with health case ethics. Nevertheless, as there is no other instrument for making sure that the care professionals are reporting the suspected care abuses, although power is not an appropriate tool it is currently one that works and that prevents patients from being harmed within care institutions.

The Intensive Care Unit represents an area within a hospital that is equipped with special trained staff, treating patients that suffer from illness, injuries and complications that threaten their lives, wherein the medical and nursing staff have the role of monitoring them, providing an experienced and trained

care (College of Intensive Care Medicine, 2011).

In this case, working under – staffed, as in the described case can be risky and can have severe consequences upon the patients, especially upon the ventilated patients or upon those suffering other critical conditions, cases that require special care and supervision from a trained ICU nurse to each patient. Likewise, the health of the medically determined patients can be threatened if there are not sufficient ICU nurses to look after them. This implies that working understaffed represents a high risk for the patients and although the nursing supervisor, Mrs. Allesfertig tried to support the ICU section by borrowing nurses from other floors, it did not cover for the needs of the critical patients, allowing for the risk to persist on the ICU section. Therefore, the decision that Dr. BestKnabe took, of closing the unit for further admission until staffing problem will be solved is correct and the staffing policy that he initiated should allow nurses the authority to refuse to admit patients, for the sake of the patients.

Therefore, there are both ethical and legal considerations in relation to this approach to staffing policy. The ethical considerations refer to the fact that nurses are responsible for the existent patients' lives. Accepting new patients in the ICU section, considering its understaffed condition, would mean that the existent nurses would have to divide their care for more patients than the number of patients recommended for properly managing their critical conditions. In understaffing situations, the stress is higher, allowing the nurses to be more exposed to errors, which would bring accusations of malpractice that could finalize in court, where both the nurse and the hospital would be cited for malpractice, respectively improper

working conditions. Moreover, understaffing also implies the possibility that one nurse should be in two places in the same time, which reveals the hospital's negligence, as the nurse cannot be held responsible, because she follows the superiors' directives (Legal Eagle Eye Newsletter, 1996). The legal considerations imply that nurses must provide care for the patients and when a situation appears that is conflicting with providing proper care, it is the nurses responsibility to respond and report that situation (" Working Understaffed",).

Taking this policy as a precedence for any upcoming policy regarding the trained ICU nurses should be the result of an in – depth analysis and of a justified decision, serving the interests of the patients, assuring that they benefit of proper care services, unthreatened by insecure situations such as understaffing.

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