

Example of ethical and legal issue case study

[Parts of the World](#), [Australia](#)



Introduction

Gillick Competency Principle⁴

Roles and responsibilities of nurses⁵

Conclusion⁸

References: 10

Ethical and Legal issue

This case study focuses on a minor girl who does not want her parents to know that she is pregnant. She is contemplating terminating the pregnancy via an abortion without consulting or seeking the consent of her parents. According to the 2010 Health Practitioner Regulation National Law (WA) Bill, a minor is a person aged less than 18 years. The client in question, Chin Lee, is a minor because she is only 15 years old. In Western Australia, minors are governed by separate rules and regulations. Minors in the state require parental consent for abortion. In this case, an informed consent from Chin Lee does not fulfill legal requirements because she is less than 16 years old. However, Chin Lee has decided and informed her health carers that she does not want to involve her parents. The normal procedure would have been to arrange a discussion with her parents and obtain their consent. Since Chin Lee does not want to inform them about her pregnancy and her decision to abort the unborn child, the best course of action is to seek the advice of an additional counselor or an external party and also to determine the legal aspects in this issue.

Chin Lee can approach the Children's Court and seek an order permitting her not to disclose the information of her pregnancy and decision to abort the

child to her parents. A medical practitioner needs to be involved: he or she will evaluate the patient's level of maturity and social circumstances and provide a report in form of a letter (Dixon, 2003, p. 27). The reason why Chin Lee needs a court order is because according to Chin Lee, her parents are extremely strict and have no notion that she is sexually active. Additionally, she fears that if information on her pregnancy is disclosed, it will cause significant embarrassment to her and her family (Government of Western Australia Department of Health, 2012). If the Magistrate decides that her parents should not be informed about her pregnancy and decision to undergo an abortion, then an informed consent can be obtained from Chin Lee (Dixon, 2003, p. 27). Notably, Singapore does not have a legal provision for Chin Lee to seek guidance from the children's court. Therefore, the concerned health carers have to resolve the dilemma through application of ethical theories and principles.

Nurses and midwives have to adhere to a prescribed ethical code of conduct. The most instrumental ethical requirement is that they should prioritize the determination of the needs and values of their clients' and should not discriminate clients and patients on the basis of either their ethnicity, gender, economic or social status, age, or religion (ANMC, 2012). Nurses and midwives should, additionally, abide to the confidentiality clause and desist from disclosing information related to the health of the client which has been shared in the course of caring for the patient (Singapore Nursing Board, 2006). Also, they have to respect the four ethical principles of autonomy, beneficence, non-maleficence, and justice. These requirements, in this case, pose an ethical dilemma for the nurse caring for Chin Lee because he or she

has to decide whether to adhere to or to breach them. They also provide some degree of guidance on how the case can be resolved through their application.

Gillick Competency Principle

The Gillick Competency Principle came into effect in Australia in the year 1992. It relates to parental guidance and information with respect to the use of contraceptives and decisions related to abortion and pregnancy amongst minors. The principle first came into effect in England when Mrs. Gillick, a social activist filed a case with the Department of Health and Social Services over the family planning guidelines that had been formulated. According to this directive, minors had full rights to use contraceptives without parental consent. The final decision on this case was given by the House of Lords. The final guidelines were provided by Lord Fraser and Lord Scarman. These guidelines related to instances when a minor can use contraceptives without parental knowledge. The landmark judgment made in the case was that a minor is capable of providing informed consent but only when the minor in question “ achieves a sufficient understanding and intelligence to enable him or her to understand fully what is proposed” (Cornock, 2007, p. 142).

In this case therefore, the ethical dilemma lies in whether to respect the patients right to autonomy or not because Chin Lee is a minor who may not be able to provide an informed consent. Moreover, there is no comprehensive guidance on the elements which may be evaluated in order to determine sufficient maturity. This is an area which has been left to the judgment of the medical practitioner (Stewart, Kerridge, & Parker, 2008, p. 84).

Another dilemma is posed by the confidentiality requirement; nurses and midwives should adhere to the confidentiality and privacy clause while providing care (Smeltzer, Bare, Hinkle, & Cheever, 2009, p. 35). This implies that in this case, the health carers cannot contact the client's parents, guardians or any concerned person without the explicit consent of the patient. Additionally, they cannot divulge details of this case to anyone else without getting client's consent (ANMC, 2012).

The case, therefore, is characterized by an ethical dilemma whereby the nurse or the medical practitioner has to decide whether to respect or contravene the patient's right to self-determination and obtain or desist from obtaining an informed consent from Chin Lee. It is crucial that the national principles be referred to before any decisions are taken. The principles state that nurses are responsible for making certain professional judgments when a specific task is beyond their capacity. They also state that nurses can consult the other members of the health care team whom they believe will be able to provide rational and suitable advice with respect to a certain case (Australian Nursing and Midwifery Council, 2007). The principles also mention that a registered nurse is responsible for making certain decisions for instance, those relating to the most appropriate person to conduct a particular task in nursing care. In this case, the decision on Chin's competency to provide an informed consent should be taken by the nurse or medical practitioner in consultation with experts and peers in the health care domain under the clause of utmost confidentiality (Australian Nursing and Midwifery Council, 2007).

Roles and Responsibilities of Nurses

Healthcare and medical aid is a constantly changing domain wherein a sizeable sum of money is spent annually towards financing sophisticated and high quality research. There are numerous novel medicines, clinical processes, and medical tools frequently invented in this domain. The main goal of all medical practitioners including nurses, midwives, doctors and other hospital staff is to provide the best possible treatment and care to clients.

As children start growing up, parents and elders start providing them with certain responsibilities and to allow them to make certain decisions on their own. This is a preparation stage where children's decision making abilities are nurtured to enable them to make decisions as adults. However, the period of adolescent lies between the periods of childhood and adulthood. During this period, parents and elders should be extra sensitive towards children because this is their growing stage but since individual adolescents mature at their own pace, not each one of them is mature enough to understand certain situations. Most adolescents lack the qualities of moral responsibility and experience and may not be able to weigh the outcome of their actions and decisions in a rational manner (Montgomery, 2002, p. 249). In relation to Chin Lee's case, she is a minor and at her age, she may not fully appreciate the consequences of her actions. She maintains that she comes from a household where her parents are strict and her pregnancy may cause in a lot of issues for her. In this case, the medical practitioner may take an informed consent only when the following criteria are fulfilled.

- The medical professional ensures that the information provided to the client is lucid and the client completely understands the data provided to her. In

this case, the nurse should hold a frank discussion with Chin Lee informing her about her medical condition and describe the options of possible treatments available to her.

- The patient is properly counseled on the consequences associated with her decisions. In other words, Chin Lee should be informed about the advantages and disadvantages of a particular line of treatment.
- Before the consent is obtained from Chin Lee with respect to the line of treatment of her choice, certain risks (if present) are fully disclosed to her.
- Finally, if the medical practitioner decides to opt for an informed consent, relevant discussion and the consent of the patient concerned is documented and recorded (Government of Western Australia Department of Health, 2012).

In the above case, Chin Lee needs to be counseled to consult her parents first prior to making decisions on her medical condition. If she persists in her wish not to contact her parents or guardians; the nurse should provide alternative solutions to Chin Lee which may involve legal consultation with experts or possible solutions which are in the best interest of the patient (Dixon, 2003, p. 27).

The nurse should also consider the professional boundaries pertinent to the case. In nursing, professional boundaries can be explained as the maintenance of certain limits that protect the space between the vulnerability of the client and the power of the nurse (Australian Nursing and Midwifery Council, 2010). In this case, Chin Lee is a minor who is extremely vulnerable because her case contains confidential and sensitive information. The nurse should show empathy to the patient and preserve her dignity by

conveying respect and kindness in regards to the client's vulnerability.

The ANMC has provided a nursing summary guide which aids and assists nurses in taking certain decisions. The outlined steps for the ethical decision making process are as follows:

- The client's needs need to be recognized. In this case, the nurse needs to provide adequate counseling and care to Chin Lee in order to find out her actual needs.
- The next step requires the nurse to reflect on the scope and standards of nursing practice and accordingly ascertain whether Chin Lee's case needs any legal consultation or it falls under the scope and practice of nursing. In this case, a legal advice should be sought as the girl is a minor and does not want to involve her parents/guardians.
- The next step dwells on whether the case needs organizational support or is within the context of practice. In Chin Lee's case, the nurse needs to consider certain sanctions like whether the organization supports the practice of providing legal consultation and/or the decision for informed consent since the client is a minor. The nurse also needs to find out whether certain potential risks have been recognized, whether relevant parties have been contacted for consultation who in this case will be supervisors and legal consultants.
- The subsequent step requires the selection of a competent individual who may be able to perform relevant tasks. The nurse needs to consider certain responsibilities and roles and find out whether the person performing the activity has the required knowledge, authority, ability and skills with supervision, education, and support. Also the required level of education,

support, and supervision needed for handling this case has to be determined. The nurse additionally needs to ensure that delegation of authority is properly conducted and the individual assisting in the case of Chin Lee understands their accountability and responsibility towards the client.

The ANMC's ethical decision making model outlines the above mentioned steps and if all these steps are adequately followed then the activity needs to be either performed by the nurse or be delegated to a competent individual. The ensuing step is to document the decision taken and the tasks that followed. The final step entails evaluation of the outcomes of the decision and actions for future reference and study. If any one of the above mentioned steps cannot be followed, the nurse needs to seek advice from other health professionals, collaborate, refer the client to someone else, or if necessary, plan for an integrated method or a change in practice. The latter also needs to be documented and monitored in order to ascertain whether modification (s) is/are necessary following which the decision making process is restarted afresh (Australian Nursing and Midwifery Council, 2007).

Conclusion

Nursing is a dynamic field whereby a lot of skills, knowledge, and counseling are required to influence a client in an ethical and positive manner. It is the nurse's sole concern to advocate for the well being of the patient by ensuring that decisions made take the client's health and well being into consideration. In this case, the nurse needs to be well-versed with the ethical codes, practices, and standards related to nursing. The nurse should have clear understanding of the ethical principles of beneficence and autonomy.

Ethical principles should also be used in fostering an environment of respect, care, honesty, and openness. In this case, the concerned nurse manager should facilitate discussion with other staff nurses whereby a lot of support and encouragement is provided to the formulation of ethical principles to guide the management of medical patients.

The case of Chin Lee is very sensitive because she is a minor who is totally vulnerable at this moment. It poses an ethical dilemma for health practitioners who have to determine whether to respect or breach Chin's right to autonomy. The nurse should exercise caution and adhere to prescribed professional and ethical standards when providing treatment to her. The code of ethics and professional standards prescribed by the Australian Nurses and Midwifery Council should be followed in resolving this case. The national framework for decision making laid down by the Australian health department should also be consulted. It is also important that certain ethical steps be followed with the pertinent concern being the well being of the client.

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