FNP READER

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caring as the relationship between nurse and patient; caring as protection and support of the best interests of the patient, caring as a nursing intervention, caring as a contextual link to multiple aspects, caring as a way of life, and caring as a way to understand the very essence of nursing. Drahošová & Jarošová (2016, 455).

Nursing theorists such as Leininger (1988) and Watson (2003) regard caring as the core of the nursing profession and then put it in context to assist nurses to understand the term. In South Africa, the government has conceptualised caring as a mechanism of putting others first before yourself. This was influenced by the introduction of the Batho Pele (people first) principles, which have been adopted to create a caring ethos for public servants. The majority of nurses in South Africa are part of the public service. They are therefore expected to work within the ambit of the Public Service Act 103 of 1994 and incorporate Batho Pele principles in their day-to-day functioning.

Definitions of caring

Caring is a difficult term to define. Care and caring are defined differently, depending on the context. Caring is an inborn characteristic that every human being possesses. It is the part of us that shows concern for others and this includes caring for other people, caring for animals, plants and even caring for ourselves. So strong is the urge to care that it has become a buzzword (a word that is used often). We hear of people caring for their skins, and caring and nurturing their flowers, pets and other valuables. Mothers are proud of how much they care for their children. This differs from the nurses' care and practice, in that nurses take care of people who are strangers to them, of all races, religions and creeds. Adams (2016) asserts that understanding and defining caring in nursing can be viewed based on two different domains. The first domain views the word 'caring' as a noun, and therefore the act of caring is taking care of another person. The second domain uses 'caring' as an adjective. In this case a caring nurse displays actions of compassion, kindness and concern.

According to Alligold (2014), caring in nursing is seen as the essence and core of nursing, as the tradition of nursing, and as the process of interaction and communication during nursing practice. According to Karašz (2004), nurse theorists, such as Leininger (1988) and Boykin and Schoenhofer (2013), define caring as assistive, supportive or facilitative acts towards or for another individual or group with evident or anticipated needs to ameliorate or improve a human condition or way of life. In her theory of human caring, Watson (2003) emphasises that a caring science perspective is grounded in a relational ontology of being-in-relation, and a worldview of unity and connectedness of

Chapter 6
Caring

FM Mulaudzi

Learning outcomes

At the end of this chapter, you should be able to:

- define caring
- explain the six Cs of caring
- describe eight characteristics of caring
- display a caring attitude towards the patients in your care
- apply the principles of the ethics of caring
- discuss the role of Batho Pele principles as a facilitator of caring in nursing.

Introduction

The nursing profession aims at caring for others, which means having strong feelings and concern for people, nurturing them and intervening to preserve their lives and promote their health. Traits that are characteristic of people who care include a concern for and an interest in others, a belief in people's individual worth and people's uniqueness and dignity accepting people unconditionally and showing empathy, which is a willingness to understand how others feel. A nurse with a caring disposition shows concern for a patient's need for physical care, respect, love and belonging. This is done with the help of the family and other healthcare professionals. The nurse should also demonstrate his or her caring nature to other providers of healthcare, as they will then feel more part of a team and able to cope (Andersson et al. 2015). Drahasoova and Jarasova (2016) maintain that there are different ways to describe caring. They summarise it as follows:

order. Thus, by being able to recognise the other, nurses extend their hearts and care to others. Kong (2008) asserts that caring is a moral imperative, which includes moral feelings of responsibility for others. Caring involves recognition of those who are in need, those who are sick, the poor and the alienated, and having an innate drive to assist them and give them love, compassion, comfort and care.

In the nurses' service pledge, professional nurses profess to take care of everyone who needs them. The ability of nurses to take care sets nursing apart from other health professions. Other health professions focus more on an instrumental (i.e. active) role, while nursing focuses on a holistic approach that is more expressive. The attributes of caring have been defined differently by many authors, however Roach's theory (1987) describes the Cs of caring, which have been supported by other authors to date. Caranto (2015), for example, asserts Roach's six Cs of caring in nursing: compassion, conscience, competence, confidence, commitment and comportment.

Roach's six Cs of caring

Sister Marie Simone Roach of the Roman Catholic nursing order, Sisters of St Martha, was a pioneer in nursing ethics whose influential theory of caring has inspired thousands of nurses and formed the basis for the first code of ethics for nurses in Canada. Her Six Cs of caring theory is described in the following section.

Compassion

Roach maintains that compassion:

- enables a person to be a part of another person's experiences.
- allows a person to be sensitive to the pain and vulnerability of another person.
- is a special quality that allows a person to share with and make room for other people.
- means loving to have and share feelings with patients and understanding patients' feelings.

Compassion, as the core of caring, is seen as love, having and sharing feelings, being a friend and having concern for others. This caring attitude is shown in communication (i.e. listening, talking, explaining, touching, educating, expressing feelings). In the definitions above, compassion has been said to be a quality allowing one to make room for another and to share. When nurses are compassionate, it will come naturally to them to think of the comfort of their patients.

CASE STUDY 6.1

Oh boy! Nurses are really amazing! I was in a car accident and was unconscious for two weeks. I could hear what people were saying, but I could not respond.

Nurses talked to me, they bathed me, touched me with tenderness, and explained everything that they were doing to me, willing me to respond. I would hear them telling me that they were going off duty and that another group would be taking over. That was so special. I could even recognise their voices. I so badly wanted to be conscious again to see if their faces were the same as their lovely caring voices. What surprised me most was that I could feel that what they were doing was done with compassion and commitment.

The caring attributes displayed in this case study characterise the caring actions. The actions show the humanitarian aspects of caring. The nurses displayed respect for the patient by not viewing him as an object. They respected his dignity, and gave him reassurance despite his being unconscious. They showed concern by talking to him even though they knew that he would not be able to respond. He felt their compassion through their communication skills. He felt comfortable in their care; he felt the need to recover and see their caring faces.

Commitment

Commitment is defined as 'a complex affective response characterised by a convergence between one's desires and one's obligations and by deliberate choice to act in accordance with them' (Roach, 1987, 62).

Commitment can be demonstrated by just being there for a patient or the family. It is described as making an intellectual and emotional decision to do something in which you believe. This means that you have thought about the decision, as well as gone with your feelings. Your first commitment should be to yourself, where you decide to do your best under all circumstances. Because of continuous changes in the nursing field, you should also commit yourself to adapting to change to meet the challenges. In this way, you will constantly grow.

Students who choose nursing as a profession commit themselves to caring for those who are vulnerable (weak and at risk). Through training, nurses become involved in professional caring. During the learning/training process nurses provide comfort, do things for the patient, assist and help in providing care. By committing yourself, you are promising faithfully that you will do whatever you have committed yourself to do. For commitment to take place, there must be interest. You have to show interest in a patient to know more about them. A relationship must be formed between you and the patient and,

Comportment

Comportment is defined as a dignified manner or conduct. Comportment is the nurse looking, sounding and acting the professional at all times. The nurse must use the body language that expresses her caring attitude. Her eye contact, tone of voice and communication skills must be those of a professional person and thus aid the wellbeing of her patient. Comportment also includes upholding the professional image of the nurse. One of the ways this is done is by nurses wearing their uniform at all times. The uniform gives them an identity and defines their image and their role in society.

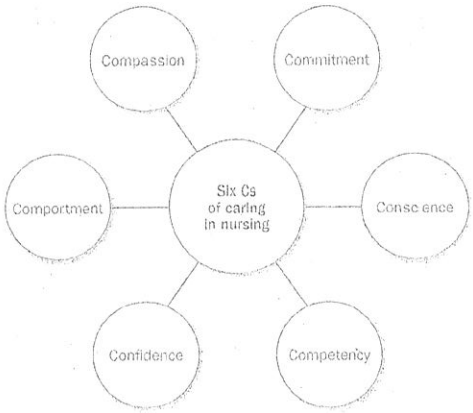

Figure 6.1 The six Cs of caring

Communication as the basis of caring

Caring is the expressive dimension of nursing in which the nurse makes use of her scientific and technological knowledge to provide a caring service. However, technological advancements cause the patient to become more and more removed from personal contact, and consequently, at the same time, cause them to have an even greater need for human comfort and support. This means that as technology excludes touch more and more, nurses will have to compensate by increasing and strengthening their verbal and non-verbal communication skills.

through commitment that relationship may grow into one of understanding and trust. In that situation, care and commitment to caring is possible. Commitment involves doing, loving, showing no bias and 'being there' for the patient.

Conscience

The word 'conscience' has been defined by Roach as 'a state of moral awareness, as a compass directing a person's behaviour according to the moral fitness of things' (Roach, 2002, 60). Conscience tells you whether what you are doing is right or wrong.

If you have a conscience you will show compassion, sympathy, empathy and humility in caring for your patients. The opposite is cruelty, harshness, haughtiness and bad feelings. A person who has a conscience is a person who has ubuntu, or humane feelings, for people in need.

Your conscience causes you to be more deeply concerned about your patient's condition. In this way, the health of the patient becomes the most important part of the nurse's daily tasks.

Competency

'Competency is having knowledge, judgement, skills, energy, experience and motivation. It also means that you can respond to the demands of your professional responsibilities' (Roach, 2002, 68). A competent nurse is able to assess a situation correctly by always being alert. Knowledge and skills also help and guide the nurse towards being professional and responsible.

Your education and knowledge are important factors in developing your competency. For you to experience self-actualisation, you need to believe in your ability to make it through events and changes and to face the future meaningfully, with self-knowledge, autonomy, self-respect and empathy. To be competent you must be able to explain diagnosis and treatment to patients and their families using simple language that they can understand.

Confidence

Confidence is the quality that helps to build trusting relationships. If you are confident, you are sure about your abilities, qualities and ideas. You know what to do without hesitation. Confidence comes with competence, because you cannot be confident about what you are doing if you do not have the required competence. Confidence gives you your self-worth, which enables you to know what you are capable of doing. Confidence gives you courage. Confidence is displayed through the ability to make the family of the patient comfortable. You are able to give them the guarantee that their relative is in safe hands by demonstrating your knowledge and skills of the current treatments and care modalities that are being used to treat their loved one.

Communication forms a link between attributes of caring and is the factor that brings about the unique relationship between the nurse and the patient. This relationship is built on trust, which involves mutual assistance and self-disclosure. To fulfil your caring role you have to build a rapport with your patient, which is an aspect of communication that is often overlooked.

Rapport is the catalyst that transforms a series of contacts into meaningful relationships. To develop this meaningful relationship, you must show concern for and interest in others and have a belief in their worth, dignity and uniqueness. You must be non-judgemental and show both empathy and sympathy. Being non-judgemental requires a nurse to understand that patients have a right to autonomy and that they may have different value systems from their own. Theorists such as Leininger (1988) and Papadoupolus et al., (2016) emphasise that holistic caring in nursing must include the ability of the nurse to assess differences in value systems between herself and that of her patients. This means that the nurse must wholeheartedly embrace cultural diversity. She must respect the cultural beliefs of the patient and his family and therefore promote culturally sensitive, congruent and safe care.

Caring nurses must be aware that in certain instances their role is to empower patients with information to enable them to make informed decisions. For example, nurses may belong to a religion that is against abortion. They must, however, refrain from imposing their values and beliefs upon the patient who seeks to abort. In this case, their role will be to counsel the patient and describe the advantages and disadvantages of abortion without showing their own stance.

An extremely important aspect of communication that is often neglected in building a caring relationship is listening. Listening skills are fundamental to caring. Listening to what patients have to say can prevent conflict and misunderstanding. Nurses must be able to listen to their patients and respond where necessary. During the process of listening, nurses need to encourage patients to talk while reflecting on what is being said. Probing is a skill that nurses need to possess to be able to reach the patient and enable them to talk freely about their pains and ailments. You must therefore not be afraid to ask questions, while keeping focused on the topic under discussion.

You must also try to be sensitive to the feelings of others.

Communication refers not only to what is being said, but also to what and how things are being done. Your ability to recognise and appreciate the patient's and the family's uniqueness, dignity and integrity will determine how you respond to the patient in distress and pain. In order to communicate effectively with one another, truth is needed, and when a person cannot face the truth, communication becomes difficult. Nurses must use the language that patients will be able to understand. The use of difficult terms and jargon undermines the value of communication.

Respect as part of communication

Respect is the core element of the nurse–patient relationship and without it, there can be no meaningful communication. By respecting the patients as equals and human beings who deserve the same amount of respect as they do, nurses are likely to find that patients will be responsive and cooperative, ready to listen and to voice their needs and ask questions. The issue of respect is also a part of the ubuntu philosophy as described in Chapter 1. Respect emphasises caring ethics such as the respect of patients' self-autonomy and human dignity.

CASE STUDY 6.1

A 25-year-old woman, Ms Matome, says that she didn't know how important nurses were until the day her daughter fell and broke her arm. The ambulance took her daughter to the casualty department at the hospital where she was examined, taken for X-rays and had her arm put in a splint. Then she was discharged and told to come back in 10 days.

When she told people later of her experience at the hospital and about the hospital staff, Ms Matome had this to say: 'Everybody was busy running around attending to my daughter's injury, which I appreciated, but nobody bothered to find out how I felt. There I sat, worrying about my daughter and not knowing what to do. Then suddenly, a kind-looking nurse came up to me. She smiled and asked me if I was all right. She showed empathy and sympathy, explaining the kind of treatment my daughter was receiving. She also reassured me that my child would be fine. We chatted for quite some time, and she listened closely to what I was saying. I suddenly felt free to tell her more about my daughter. In return I was comforted and received the sympathy I was yearning for. I do not know how I would have coped without her. With the other health professionals it was as though I did not exist'.

- What does the case study show you about the importance of listening closely to patients and to members of the family?
- Ms Matome had two different experiences of communication with hospital staff while her daughter was being treated. Describe them.
- From what you have seen in hospitals, which experience for family members is most likely? Explain fully why the experience of communication you indicate is the most likely.
- What does the case study teach you about what can be done to improve communication with family members?
- Rapport means a relationship between people that is close and understanding. Explain how the relationship between the nurse and Ms Matome illustrates rapport.
- What role does rapport play in caring?
- Explain why it is important to listen when the patient or his family communicates with you.

Characteristics of caring

Caring is a process during which you learn to know yourself as well as the patient. It is, therefore, a process based on the moral ideal of restoring the patient to a state of well-being.

Mayeroff believed caring offers both the carer and the person who is being cared for opportunities for personal growth. Both the carer and the cared for are actualised and transformed by the relationship which involves patience, honesty, trust, humility, hope and courage. (Mayeroff, 1972e).

CASE STUDY 6.2

Ms Madilonga, who has just given birth to her third child, relates her experiences in hospital as follows: I had heard other women complain about the poor treatment they received in hospital, but my memories of hospital were always good until the day I walked into that hospital for the delivery of my last child. The nurse who was attending to me was really terrible. She was inhumane! Even though I begged for painkillers she told me that she didn't approve of women who wanted to go the 'artificial way'. She told me that pain was the natural way to go and even went as far as quoting Genesis to me. She kept on screaming to me to breathe in and out. She told me that I was a spoilt brat and should have thought of the pain before I made love, and that it was all my own doing. She showed me an instrument called an artery forceps, and told me that if I screamed again she would use the forceps. When the next pain came I naturally screamed again and that was the last time. I felt an unbearable stabbing pain in my loins. The nurse showed me the forceps and told me that she would use them again. After a while the baby was born and the nurse's attitude changed completely. She was very happy and even asked me to forget everything that had happened for the good of the baby. Ms Madilonga summarised her experience as follows: 'I will never, ever trust nurses again. Outside they wear white dresses and you imagine their hearts are as pure as their looks, but underneath those white dresses they are evil.' (*'Ndi nga si tsha dovha nda themba nurse na luthili, muvhulini vho ambara rokho kana hemmbe tshena tshena mara nga ngomu havho mbilu dzavho ndi ntswu ntswu ntswu.'*)

- Describe the attitude of the nurse who delivered the baby. Include examples from the case study to illustrate your points.
- How would you have dealt with the situation if you were in Ms Madilonga's position?
- As a colleague, how would you approach a nurse who acts in this manner?

The case study shows the vulnerability of patients during hospitalisation periods. By being hospitalised, the patients temporarily lose their status either as a mother, father, executive or whatever the position they occupy in society.

Nurses need to be able to recognise and identify their patients' physical, emotional, social and spiritual needs. They can show they care by their compassion expressed in their empathy and sympathy when they speak to their patients. The nurses' use of caring, calm, soothing and reassuring words will have a calming and soothing effect on their patients. Many physical ailments are made worse by stress and fear. Ms Madilonga would have felt comforted if the nurse had been kind, encouraging and understanding. Her autonomy should have been respected. She was within her own rights when she requested the painkiller. The nurse should not have been judgemental, but should have rather responded to the patient's needs and used caring words which would have assisted in alleviating the patient's pains and allaying her anxieties. The case study also shows non-caring behaviour that includes belittling, inhumane actions, lack of recognition of the patient's uniqueness, and physical and emotional abuse. This often dents the image of the nursing profession and its caring domain.

The characteristics of caring as indicated by Morrison (1993) are discussed below.

The eight characteristics of caring

Morrison's eight characteristics make clear how demanding it is to be a caring nurse – very different from most people's image of someone in white, looking at a patient with a gentle, concerned expression.

Knowledge

In caring, you need to know about the patient that you are nursing. You need knowledge of the patient's needs to enable you to intervene. The question is: How much will the patient reveal to you and how will you be able to get the necessary information? This information can be obtained by taking the patient's history and by building a relationship of trust. This gaining of knowledge of the patient will be a test of your competence. You need knowledge obtained from your education as a nurse on how to question your patient competently. Indeed, knowledge underlies everything you do as a competent nurse. For you to be competent, nursing education has to meet the needs of healthcare under promotive, preventive, curative and rehabilitative circumstances and take into account the specific needs of the country, region or community where the caring takes place. Nurses need an effective knowledge base if the credibility of nursing is to be proved.

This knowledge is acquired by:

- doing research and using the findings in real situations.
- generating (thinking up) new theories and testing them.

Nurses are now expected to use evidence-based practice. There is a need for nurses to have up-to-date knowledge. Knowledge is a tool that nurses can use to inform patients about their condition and the care that they need. Nurses in clinical practice must use scientifically-proven evidence and best practices to care for their patients.

Alternating rhythms (learning from experience)

Whatever relationship one person has with another person, whether it is between mother and child, husband and wife or patient and nurse, it is bound to have fluctuations as in any other human relationship. This is because of normal human mood swings. How you feel today is not necessarily how you might feel on another day. These ups and downs are called alternating rhythms.

The best way to cope with these is to modify your way of dealing with situations (Roach, 1987, 107).

Experience means learning by doing. One day you might handle a situation one way, but you may approach it differently the next day because of the experience you have gained. If an experience had a positive outcome, you could handle the situation in the same way, but if it had a negative effect you would have to use a different approach.

In the caring context, alternating rhythms would also mean adjusting to a specific situation under specific conditions. The same pattern cannot be followed with every patient even though they may suffer from the same condition, as people react differently to illness and situations. Culture can play an important role in this regard.

> **Reflection**
> Give suggestions on how the nurse could have handled Ms Madilonga

Patience

Caring for patients requires dedication, devotion and patience. In a caring relationship there is a need to know more about each other. You must not, however, rush a patient into a relationship. You must move at the patient's pace in order to achieve your goal. You must devote your time and energy to caring, and this can be achieved only if you think your efforts are worthwhile.

To build a caring relationship requires cooperation from the patient. If the patient does not understand you because of a language problem or a difference in cultural values they may not cooperate with you. It is your duty then to get

the necessary assistance even if doing this takes more time for you to explain things to the patient. In the end, the nurse who has patience with the patient under the above circumstances will achieve much more than the one who becomes impatient. You also need patience with subordinates who are learning from you. They will learn only if they feel they will not be criticised for being slow to understand and this feeling of freedom to learn comes when they know that their seniors have the necessary patience to teach them. Students cannot learn if the teacher is critical and impatient.

> **Reflection**
> In the case of Ms Madilonga, how would patience have improved the relationship between the nurse and the patient?

Honesty

Honesty is one of the virtues that nurses must possess. It entails the ability to be able to tell the truth. Nurses are often confronted with the issue of being honest in very difficult circumstances, such as a situation where you have to tell patients or families that they have been diagnosed as suffering from a terminal illness or any other condition that is life altering. It is often difficult to be honest or to tell the truth as nurses are not sure if the patients will be able to handle the truth as the information is often devastating to them. The situation poses a moral conflict in which nurses may try to find a way of sharing information in a manner that will be acceptable to the patients and family. In so doing, they may find themselves being dishonest. It is therefore very critical for nurses to understand that honesty is viewed as a prerequisite for good care (Erichsen, Danielsson & Friedrichsen, 2010).

> **Reflection**
> Give suggestions on how the nurse could have handled Ms Madilonga.

Respecting human dignity

Respecting human dignity is an integral part of a caring nursing attitude. Often it may not be beneficial to the patient (in their best interests) to be told the whole truth. You might have to give a controlled response. For example: Husted and Husted (2001) mention a case where a woman has suffered three myocardial infarctions and is going to theatre to have a coronary bypass. Her husband has just died in a car accident on his way to the hospital.

At this point the woman asks the nurse where her husband is. In this situation, there are a number of reasons why the nurse should not tell the truth.

> **Reflection**
> Take a moment to think of why you as a nurse should or should not tell this woman what has happened to her husband. Discuss your reasons with a partner or with the whole class.

If you are expected to care effectively for the patient, the patient also needs to tell the truth. For example, a patient who is suspected of being HIV-positive and who does not give the nurse the correct information about their sexual relationships cannot expect to get the necessary caring.

Trust

A trusting relationship involves showing that you care about the patient, their independent existence and their self-worth. Trust enables you to believe in the patient. Trust includes telling the patient anything he or she needs to know and explaining to the patient anything that they do not understand. It also means supporting the patient's decisions and enabling them to practise self-care (Rutherford, 2015).

Building a trusting relationship does not happen quickly. It takes time and patience. Trust can only be built if you are honest and keep your promises. If it becomes necessary to break a promise, the person you have made the promise to must be informed as soon as possible. Encourage others by giving them recognition for what they have achieved and always do your best when caring for your patients. The public trust nurses and they feel comfortable with us because of the way we display our knowledge, skills, compassion, commitment and care (Rutherford, 2015).

Humility

To display humility is a sign of being mature, because you are sure of your competence and knowledge. When a person has the necessary knowledge, there is no need to act as though they do not know anything, or to be rude. To act in a way that may offend patients will not build a trusting relationship. Speaking down to a patient is never allowed, even if you do not agree with what the patient has done.

The way that you act and perform your duties will be proof of your competence and knowledge. Humility means respecting others for what they are. Humility is displayed when you are thankful for what you know and are prepared to share your knowledge in the correct way. In this way, patients will develop confidence in you and a trusting relationship will grow.

Hope

Hope is the reasonable belief and expectation that good will happen. Any patient in hospital needs hope. It is hope that gives a patient courage and the will to recover from an illness. It is your duty to provide this hope and to try to soothe the patient and assure them that everything will be all right.

You must try never to give false hope, however. This can be more harmful to the patient as it is promising something that cannot happen. You must study the situation and decide what might happen if you give a person false hope.

Courage

Courage enables the caring nurse to advocate for a person's needs and the right to treatment as well as intervening for the patient where such intervention is called for. Moreover, courage and confidence enable the nurse to take calculated risks (risks that have been given a great deal of thought) for the patient.

Courage requires you as a nurse:

- never to violate the rights of your patient
- to defend your own rights
- to accept your own humanity and the humanity of your patient
- to accept the uniqueness and self-ownership of the patient in your care.

The ethics of caring

Nursing needs to uphold the ethos of caring. Nurses are guided by two ethical approaches in caring, that is, the rights-based approach and the relational-ethical approach. The rights-based approach is based on principles such as autonomy, beneficence and non-maleficence, justice, veracity and fidelity. Relational ethics is based on personal values that are guided by virtue ethics.

It has been argued that the proliferation of ethical codes of conduct, and the promulgation of a number of legislation and policies are failing. It is therefore necessary to inculcate in nurses themselves attitudes and virtues to guide human conduct. The ethics of caring must not be informed by the ethics of rules and principles such as beneficence and non-maleficence, which emphasise that we must do no harm but strive to do good. Neither must they be informed by the respect for autonomy, justice or Batho Pele only, but by virtue ethics which emphasise the personal values of a nurse.

Virtue ethics emphasise that it is the character of a person that determines what is good. Virtue ethics do not focus on principles and rules but on the morals and character of an individual. They are about the innate being, who will be able to socialise with others. Virtue ethics instil responsibility, enabling the individual to embrace the 'we' thinking rather than the 'I'. They emphasise

personal traits such as respect, caring, compassion, kindness, warmth, understanding, sharing, humanness, reaching out, wisdom and neighbourliness (Mulaudzi, 2007). Virtues of individuals are important as they:

- determine what they regard as right, good, worthy, beautiful and ethical and provide the standards and norms by which the individual guides their day-to-day behaviour.
- chiefly determine the individual's attitude towards causes and issues with which they come into daily contact, such as political, economic, social and industrial questions.
- determine which ideas, principles and concepts they can accept, assimilate, remember and transmit without distortion.

The principles of virtue ethics are similar to those of ubuntu.

In ubuntu, an individual must be seen in terms of their complementarity with others. The principle of 'I am because you are' makes it possible for people to feel for each other and value each other. Ubuntu is based on values that ensure a happy and qualitative human life in the spirit of a family. Nursing needs a caring culture that not only supports ethical behaviour, but ensures that it also defines and underpins right and wrong conduct at the individual and institutional levels.

Ubuntu transcends all attempts to restrict the term and place it in a category. It is simply a way of living and being that allows our basic goodness to come forth. Chuwa (2012) and Mulaudzi (2007) maintain that ubuntu is about humanness. The fundamental values of ubuntu form the basis or cornerstone of African ethics and they are also the foundational values found in many nations and cultures. The ubuntu philosophy can also provide the moral fabric that determines how nurses behave in Africa and around the globe (Mulaudzi, Libster & Phiri, 2009). Principles of ubuntu such as solidarity, collectivism, consensus, participatory decision making and communitarianism are relevant to caring. Nursing is much more teamwork than an individual effort. Nurses provide care as a group and if they work as a community they complement each other in their caring attitudes. Patients will also feel like part of the family rather than strangers. The principle of participatory decision making and consensus will help the nurse to involve patients in planning their own care. The nurse will be able to respect the patients' integrity and their freedom to choose.

Batho Pele principles as caring ethics

In 1997, government formulated the Batho Pele principles. Batho Pele is a northern Sotho phrase that means people-first. This was done in an attempt, for the first time, to change the prevailing approach to service delivery by

making it citizen-centric, to be more responsive to the diverse needs of our people in order to redress the prevailing imbalance as regards access to services (*Government Gazette*, 1997). Batho Pele principles are based on the Constitution, which emphasises human rights principles. In addition, they embody the principles of ubuntu. Batho Pele principles emphasise caring ethics, a sense of belonging and teamwork. They indicate that the service rendered must be citizen-centric, and that public servants are to be held accountable to the citizens whom they serve. They require public servants to show commitment to the citizenry and to exercise transparency in their work (Khumalo, 2015). In our nursing situation, this will mean that care must be patient-centred. This view supports the principle of putting patient first as alluded in the nursing pledge. The Batho Pele principles also emphasise the notion of holding the individual public servants responsible for their acts and omission. In nursing these are emphasised through its regulatory body, the South African Nursing Council.

The eight principles of Batho Pele are:

- consultation
- service standards
- access
- courtesy
- openness
- transparency
- redress
- value for money.

Attributes of caring

The attributes of caring can be divided into three perspectives, namely:

- those that are derived from a moral ideal
- the nurse's self-actualisation
- personality.

Caring attributes derived from a moral perspective

From a moral perspective, caring includes respect and love for others. People learn these qualities as they grow up. The issue of caring is the basis of ubuntu. In the African culture, children are taught respect and humanism. Ubuntu means 'I care because you care and I am because you are'. This implies that people love and care for each other (Mapadimeng, 2017).

Attributes of caring derived from personality

The personality of 'the carer' is most important. In caring, your personality and character drive your caring attitude. The caring nurse must be someone who is eager to help others. A caring nurse must be empathetic and willing to carry other people's burdens. A caring nurse has the ability to bring out the best in others.

CASE STUDY 6.3

Mrs Jones describes the experience of her stay in hospital with mixed feelings:

'Nurses were always going up and down. When you called for help, some of the nurses would crush you with a "Shut up, I am still busy" look. Their facial expressions were so impersonal. They made no eye contact and their hurried pace told you to keep quiet. However, they were not all the same. There were those with a sense of humour, who were kind and loving and willing to listen to your pleas. They brought joy and happiness so that you no longer felt that you were lonely, forlorn and forsaken'.

- What can you deduce about nurses from Mrs Jonas's statement?
- Under which category of nurse do you fall?
- Does your conscience play a part in the kind of nurse you are?

The government needs competent, knowledgeable, dedicated and virtuous public servants who work within the ambit of Batho Pele to deliver quality services. These people must show commitment, compassion and create a caring ethos. It is personal transformation that will make the Batho Pele principles a reality that is achievable.

Conclusion

Caring means feeling and showing concern for others. In caring for their patients, nurses:

- alleviate their vulnerability
- promote their growth and health
- facilitate their comfort and dignity, or ensure their peaceful death
- preserve and extend human possibility.

Communication links the six major attributes of caring, confidence, compassion, conscience, competency and commitment to bring about a unique nurse–patient relationship, which is built on trust and entails mutual assistance and disclosure of relevant and accurate personal information.

For a problem to be an ethical dilemma, it must have the following characteristics. The problem:

- cannot be solved by using only empirical data (information that can be quantified in numbers).
- is so complex that it is difficult to decide what facts and data are needed to solve it.
- not only affects the immediate situation, but also has far-reaching implications.

Ethical dilemmas are different from moral dilemmas. In an ethical dilemma, a person does not know how to act appropriately in a specific situation because there are two conflicting alternative solutions to the problem. Often, each alternative might appear to be morally right and each may uphold some ethical principles. In a moral dilemma, however, the person knows what the correct action is, but does not want to act accordingly.

A person's basic beliefs and values regarding their duty, rights and aims in life play an important role in making a decision in an ethical dilemma. You should:

- have the specific facts regarding the cause of the dilemma.
- know what the problem is that you have to solve.
- have knowledge of the theories and principles underlying ethical decision making.

How and when do ethical dilemmas occur?

On a daily basis, you, as a nurse, have to make decisions or judgements. What you do will be based on these decisions. To enable you to do this, you should have the knowledge you need to deal with issues. This decision making or judgement could be made on your own or you could make a collective decision together with other health practitioners, the patient and the patient's family.

In South Africa, the changing societal environment and health scenario have brought about many moral and ethical challenges for the nurse practitioner. Among others, they include progressive legislation such as the Choice on Termination of Pregnancy Act 92 of 1996, the Prevention of Domestic Violence Act 116 of 1998, Children's Act 38 of 2005, the ongoing discussions on euthanasia, the Bill of Rights in the Constitution and the Patient's Rights Charter. The HIV/Aids pandemic led to the Charter of Rights on Aids and HIV in 1992 as well as increasing levels of poverty, an influx of illegal immigrants, xenophobia and the impact of technology and social media on healthcare.

In addition, nurses are confronted with new ethical dilemmas. These include the debate regarding ethical and human rights issues surrounding the

Chapter 8
Ethical dilemmas

FM Mulaudzi

Learning Outcomes

At the end of this chapter, you should be able to:

- identify an ethical dilemma
- use the principles on which ethical decision making is based to manage an ethical dilemma.

Introduction

In this chapter, ethical dilemmas related to current issues are discussed. After you have studied the previous chapters, you should be able to manage these dilemmas in your daily practice. Your advocacy role plays an important part in managing ethical dilemmas, but to do this effectively you need to have a thorough knowledge of the principles that guide ethical decision making.

Definition of ethical dilemmas

An ethical dilemma occurs when a situation has no clear answer. Pera and Van Tonder (2011) see an ethical dilemma as having to make a choice between two equally desirable or undesirable alternatives. (A dilemma means you are faced with two things to choose from, and either you want to choose both or you don't want to choose either.) Ethical dilemmas can also be described as complex problems that cannot be solved by the usual problem-solving methods.

issue of universal access to healthcare; the ethical challenges introduced by technological developments in medical and other equipment and the ethical issues brought about by advances in medical science and in the technical skill of surgeons.

To illustrate the ethical difficulties and dilemmas that advances in medicine bring with them, let us look in a little more detail at some of the issues summed up in the paragraph above.

Life-sustaining interventions and equipment have brought about the question of the patient's quality of life and whether or not to terminate the interventions. Gene research, cloning and the use of 3D printing, 3D scans nano medicine and robotics are some of the more recent developments that have given rise to ethical dilemmas that you may have to deal with. Electronic health records that are shared between healthcare providers may also pose ethical challenges such as privacy, confidentiality and ownership of data (Huston, 2013). The advent of smartphones has also added to the privacy, confidentiality and ownership risk. Smartphones can be valuable to enable nurses to get access to knowledge and data that can assist them to render evidence-based and effective nursing care to their patients. At the same time, smartphones may pose an ethical dilemma if they are used inappropriately. For example taking patient's photos in order to post and share them on social media without informed consent.

Areas in which a nurse may encounter ethical dilemmas

Ethical dilemmas in nursing can relate not only to caring for patients but also to nursing practice and interaction with all other health personnel. Many ethical dilemmas occur in nursing practice and midwifery. They most frequently occur in the following areas: HIV/Aids, abortion, euthanasia and/or assisted suicide, sexual orientation, technological advances, child abuse, domestic violence, cultural diversity, racism, substance abuse and managed care.

Ethical dilemmas related to HIV and Aids

HIV attacks a person's immune system and can live in a body for years without obvious effects. When the body is unable to fight infections as a result of HIV, a group of serious illnesses can result, which is known as Aids. However, there are various anti-retroviral drugs available to manage individuals that are infected with HIV. These, together with a healthy lifestyle, help to keep HIV at bay and prevent the infection to a large extent from progressing into Aids.

Persons infected with HIV and those living with Aids are protected by the Constitution, just like any other citizen. However, they have been identified as being more vulnerable than others, and more prone to having their rights violated. To protect people affected with HIV/Aids, they must be afforded the following human rights:

- the right to dignity and non-discrimination
- the right to privacy and confidentiality
- the right to refuse HIV testing.

In addition, their autonomy must also be respected in issues related to their right to decision making. In cases where healthcare practitioners want to involve them in research and want them to make decisions on HIV testing or treatment regimens, their informed consent must be requested. Information must be well explained to them in the language that they can understand. The healthcare practitioners must be thoroughly conversant with the requirements of informed consent as stipulated in the National HIV Testing Services Policy Guidelines 2015 (National Department of Health, 2015).

Every person has the right to privacy, dignity, autonomy and bodily integrity. For this reason, every person must be allowed to give informed consent to any medical treatment. With an HIV test, a person must know what the test is, why it is being done and what the result will mean for them before agreeing to the blood being taken (Van Dyk et al., 2017). Patients should also receive pre-test and post-test counselling to help them understand and accept the effect of a negative or positive result (Van Dyk et al., 2017).

A health worker must get the patient's consent before divulging any information regarding his or her condition or treatment to anyone. If this information is important for the patient's treatment or future care, it must be explained clearly to the patient, but the patient must still give his or her consent. An employer may refuse to keep a person in their service only when that person is too ill to work, not when it is known or suspected that the person is HIV-positive (Van Dyk et al., 2017).

HIV and Aids, as a relatively new pandemic, brought with it new ethical concerns and this in turn stimulated much debate around ethical matters. Some of the ethical issues related to HIV/Aids are disclosure, informed consent, disability rights, economic resources, employment rights, medicine and treatment, duty to warn others, procreation rights, etc. Among the hotly debated issues, one that invoked a lot of interest was the development of a vaccine to prevent HIV infection (London et al., 2012):

- How should permission to conduct trial runs on this vaccine be obtained?
- Who should receive the vaccine?
- What would happen if a person tests HIV-positive after they have been vaccinated?

The South African AIDS Vaccine Initiative (SAAVI) was established in 2000 to assist in the coordination of the development of vaccine in South Africa. The ethical concerns regarding HIV Vaccine Trials (HVT) were raised in African countries remain a concern. A study was conducted by Essack et al., (2010) on the stakeholder perspectives on ethical challenges in HIV vaccine trials in South Africa, and the ethical issues that emanated from HIV Vaccine Trial were identified as follows:

- informed consent
- social harms and physical harms
- collaborative relationship between stakeholders
- fair participant and community selection
- access to treatment for participants who become infected with HIV
- benefits
- payment
- participation of children and adolescents
- confidentiality.

Informed consent is consent given by people who have sufficient mental capacity and enough information to understand what they are consenting to. It raises an ethical issue on whether all participants comprehended the information, issues on the best ways that information can be shared and cultural issues that could affect informed consent. The main issue that was raised was the lack of health literacy, which would affect participants' decision making as they may fail to understand the consequences of their decisions.

Taking the above into consideration, as well as the ethical principles set out in Chapter 2, read the case study below and decide what the correct action would be in the ethical dilemma that forms the basis of the case study.

CASE STUDY 8.1

For 10 years, Joy has been working with a firm that produces powdered milk. She is admitted to hospital with recurring pneumonia. The doctor suspects that she is HIV-positive and sends her blood for HIV testing without her permission. The results of the blood test confirm that she is HIV-positive.

- What are the correct steps to be taken by the healthcare staff?
- Should the healthcare staff tell Joy's family of her HIV status?
- Should the employer be told of Joy's status?
- Does the employer have the right to terminate Joy's duties?
- What health education should be given to Joy?

Abortion

An abortion is when a pregnancy is ended by medical or surgical means before the baby is born. According to the Choice on Termination of Pregnancy Act 92 of 1996 (CTOP), an abortion can be done in South Africa in the following circumstances:

- Before 12 weeks of pregnancy if this is requested by the woman. If the woman wants to end the pregnancy within this time period, she does not need to give reasons.
- Between the 13th and 20th week of pregnancy, if, after consultation with the mother, a doctor decides that there is a risk to either the mother or the foetus. If the mother's social and economic condition is such that she will not be able to care for the baby, or if the pregnancy is the result of rape or incest, an abortion can also be done after the 12th week of conception.
- After the 20th week of pregnancy, an abortion can be done only if a doctor, in consultation with another doctor or registered midwife, believes that the pregnancy could be dangerous to the mother or that the baby will be severely deformed (DENOSA, 1997, 7).

This information is summarised in Table 8.1.

Table 8.1 Procedures for performing an abortion

When can an abortion be done?	Before 12th week	Between 13th and 20th week	After 20th week
Who should be consulted	Performed by midwife or doctor	Doctor in consultation with mother	Doctor in consultation with another doctor or midwife
Reasons for abortion	No reason needs to be given	Risk to mother Danger to mother or foetus	Danger to mother
		Mother's social and economic condition too poverty stricken to support a baby. Baby severely deformed	Baby severely deformed
		Rape or incest	

The abortion may only be performed at a place that has been authorised by the Minister of Health. Counselling should be provided before and after the abortion.

A woman does not need the consent of her husband to have an abortion. The Children's Act 38 of 2005 allows a child of 12 years or older to have an abortion without the consent or knowledge of her parents, providing she is of 'sufficient maturity and has the mental capacity to understand the benefits, risks, social and other implications of the treatment' (section 129). She should be advised to talk to her parents, but cannot be forced to do so. Proper counselling must be done to enable a woman or a young girl to make an informed decision.

Although legalised in South Africa, abortion remains a moral issue for most people, including the health professionals who have to perform it. A commonly held view is that doctors and midwives may not refuse to do an abortion, even if their ethical beliefs are against it. This point is a cause for concern because it is not in line with the Code of Ethics for Nurses as determined by the ICN. Nurses, who do not agree with this point in the act, are advised not to work where they might be expected to perform abortions.

DENOSA, a member of the ICN, states in its policy document on abortions the following regarding the nurse or midwife:

- The nurse/midwife/accoucher's right to freedom of conscience should be respected.
- The nurse/midwife/accoucher who does not wish to participate in direct termination of pregnancy should make her/his viewpoint known in good time.
- The nurse/midwife/accoucher has a responsibility to nurse the patient before and after the procedure.
- The employer has a responsibility to provide facilities for debriefing and counselling (DENOSA, 1997).

Counselling should be available to nurses, as performing an abortion may cause a lot of stress, especially to those nurses who do not believe in abortions. Always bear in mind that it is a woman's reproductive right according to the Constitution to terminate her pregnancy if she chooses to.

Read the following case study and decide what the correct action for the midwife should be and describe it in detail.

CASE STUDY 8.2

Nomsa is a 17-year-old girl who discovers that she is pregnant. After missing two of her menstruation periods she decides to have an abortion at the local Marie Stopes clinic. The midwife at the clinic knows the girl's parents and is not keen to perform the abortion without the parents' consent. She

tells Nomsa that she must first go home and bring one of her parents with her to the clinic. Nomsa is reluctant to do so, but the midwife insists.

- Does Nomsa have the right to insist on having the abortion done?
- Can the midwife refuse to do the abortion?
- Is the midwife correct in asking Nomsa to first consult with her parents?
- What counselling should Nomsa receive, if any, if the midwife decides to perform the abortion?

Euthanasia

Euthanasia can be divided into two categories – active and passive euthanasia:

- Passive euthanasia is when a person, who is fully conscious and who has all the necessary information, refuses treatment at their own free will (e.g. chemotherapy), agrees to only selective treatment (e.g. pain sedation), and is allowed to die.
- Active euthanasia refers to active intervention by a health worker to speed up death.

Closely related to euthanasia is the 'living will'. A living will is a legal document made when a person is well. In this document a person states what they want to happen if they are so ill that they can only be kept alive by artificial means. A living will therefore expresses a person's right to dignity and autonomy when they are close to death. In addition to this, the Constitution supports the right of a terminally ill patient to make decisions about their medical treatment. The Patient Health Charter also supports this. A health worker is not allowed to inject or give a terminally ill patient something to make them die.

However, if a person has signed a living will saying that they refuse any medical treatment, including artificial life-support systems, if this is the only way that he or she can be kept alive, the person's wishes should be respected. Where the family of a patient knows of a living will in which the patient has made a request like this, they may even instruct a doctor to turn off a respirator or any other life-support machine (Iglesius & Vallenjo, 2013).

There are problems related to the implementation of a Living Will, however. Interpreting the wish could cause a problem, especially if the surrogate (i.e. the person representing the patient) is not competent to make the decision.

No person is allowed to kill a very ill person deliberately to prevent them from suffering. To withdraw a life-support system is technically seen as murder, although according to the South African Law Commission, no definite law guides this decision. This point is hotly debated at the moment for the law does not yet recognise euthanasia. However, the case of Stransham-Ford in the Gauteng North High Court (of 29 April 2015) stimulated a new debate as the judge granted him his wish to die. The decision sparked a lot of debate, with

- Can the doctor give him a large dose of morphine to help him to die peacefully? Explain why or why not.
- Should he be kept alive, since the law holds life to be precious above everything?
- Should he be kept alive because no one has the right to terminate life?
- Should only his basic needs be taken care of, by putting him on intravenous fluids and alleviating pain?

Sexual and gender minorities

The term 'sexual and gender minority' is all encompassing. It includes: lesbian, gay, bisexual, transgender, queer, questioning, intersex, pansexual, two-spirit (2s), asexual, ally (LGBTQQIP2SAA) (Muller 2016, 195). Sexual and gender minorities are often faced with discrimination and social prejudice. They are also presumed to be at a greater risk of contracting HIV and other sexually transmissible diseases (STDs). Such people face harassment in their communities and even from their families. Section 9 of the South African Constitution prohibits direct and indirect discrimination by the state on a number of grounds. It also prohibits such discrimination by individuals. It explicitly includes sexual orientation as one of the grounds of prohibited discrimination. When the South African Constitution was enacted with its Bill of Rights, South Africa was hailed as one of the most progressive states and a world leader in human rights law. Section 9(3) states that the state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including sexual orientation and (4) states that an individual may not discriminate against anyone on one or more grounds indicated in (3). In explicitly including the right not to be discriminated against on the grounds of sexual orientation in its Constitution, South Africa led the world in protecting sexual and gender minorities (Cele, Sibiya & Sokhulu, 2015).

As the Constitution is the supreme law in South Africa, all other pieces of legislation and policy must be in line with the Constitution. The nursing code upholds the rights enshrined in the Bill of Rights. It requires nurses to uphold human rights and patient's rights. Nurses are expected to respect the patient's autonomy and treat their patients equally. Nurses are therefore held to the same standard that is expected by the Constitution. Nurses are not allowed to discriminate against patients based on race, ethnicity, gender, nationality, disability and creed. However, this is not the reality on the ground. The nursing profession is currently falling short of the Bill of Rights in that there is failure to uphold the rights of sexual and gender minorities. Being a sexual minority patient in the hospital attracts discrimination and stigma. Issues such as access to health care and how the healthcare of sexual minorities

those against, arguing that it is immoral and illegal to practise euthanasia in South Africa: Amongst those against the decision were the Minister of Health, the Health Professional Council and church representatives (Koenane, 2017). It has been decided that each case will now be looked into based on its own merits, which may include looking carefully at the following:

- A doctor is not allowed to act against a patient's wishes.
- There is no reasonable prospect of recovery.
- The patient has been in a constant state of unconsciousness and there is no possibility of them leading a reasonable life.
- The above points must be confirmed by at least one other doctor not involved in the patient's treatment.
- A written record must be kept of the situation.
- The medical superintendent of a hospital can give permission under the same conditions as above.

Decision making regarding life-support therapy is closely related to euthanasia.

Withdrawal of life-support therapy is a sensitive issue and becomes more complicated as more people become involved. Healthcare professionals must be aware of relevant ethical principles that will assist them in decision making. When the family becomes involved, moral conflict can result. The patient's and the family's right to self-determination and autonomy involve them in this decision making and treatment. The decision has therefore become an interactive process where the medical practitioner is no longer the only one making the decision – the patient and the family are involved too (Shah, 2014).

Your role as a nurse becomes more complicated as you not only participate in the decision making but also act as an advocate to the patient and their family. The National Patients' Rights Charter clearly indicates the patient's right to participate in decision making, confidentiality, privacy, informed consent and refusal of treatment.

CASE STUDY 8.3

Mr Ndou is admitted to ICU after a motor vehicle accident. He is in a serious condition with extensive brain damage as well as multiple fractures. He has a very poor prognosis and will be in a vegetative state for the rest of his life.

He had told his family that he would like to be allowed to die if he should ever be in these circumstances. His family wants the doctor not to give any treatment that would keep Mr Ndou alive. The doctor asks the nurse to turn off the respirator.

- How would the argument of autonomy and beneficence be applied here?
- Should Mr Ndou be allowed to die by having the nurse switch off the life-support system?

Technological advances

Organ donation and human tissue

Technological advances have resulted in organ transplants becoming an everyday occurrence. This has brought about the need for specialised nursing care, but even more important are the complex ethical decisions that go with it.

If you work in a unit where organ transplants are done, you should be aware of the Human Tissue Act 65 of 1983, which describes:

- the legal requirements regarding donors and the removal of tissue
- the consent and authorisation needed for donating tissue confidentially.

As the donor should be dead before an organ may be removed, the core issue here is: When can a person be declared dead?

Medical practitioners usually allocate organs to patients who are awaiting transplants. It would be very valuable, however, if nurses working with transplant patients were included in the decision making. This would give them the satisfaction that allocation was done fairly. A donor's family is contacted by a doctor for consent to use their loved one's organs in transplant operations.

Consent must be given either by the donor before they die or by the donor's relatives after their death. The donor might have told their relatives of their decision, or they may not know. It could also happen that the first time the family knows anything about the donation is when the doctor approaches them about donating an organ. A nurse has to support the family after a patient has been declared dead as, besides their grief, they also have to decide whether or not to give their consent for their organs to be donated. This can be very traumatic. Whatever the family's decision, the nurse has to respect their wish, based on their personal autonomy.

Nurses should be given the opportunity to have open conversations with colleagues, medical personnel and other members of the healthcare team in matters concerning organ transplants (Pera & Van Tonder, 2011). Utilitarianism, the greatest good for the greatest number, morally favours organ transplants. People should keep beneficence in mind too, as more good than harm can result from the donation of organs.

The moral permissibility of organ transplants differs from person to person, as well as from religion to religion. When a patient is declared brain dead the ethical perspective is on the family. Should the family refuse to give consent for organ donation, you, the nurse, will apply the ethical principle of autonomy in dealing with the family.

needs can be met remain a challenge as the structure and administration of the hospitals, including even the records, are not designed to accommodate sexual minorities. For example gender is still recorded as either male or female.

Achmat et al.'s statement on the discrimination against sexual minorities in 1997 is still wholly relevant today:

> *Sexuality education ignores, avoids or even misrepresents same-sex practices or relations and [is] silent on the needs of people who are not heterosexual. This silence results in lesbian, gay, bisexual or transgendered people not receiving sexuality education, appropriate to them, which could make them more susceptible to becoming HIV positive. The LGBTI community scramble for availability, accessibility, acceptability and quality of healthcare services (Achmat et al., 1997, 110).*

It is important that nurses reflect on the issues of sexuality in as far as the health and the well-being of the individual patient is concerned. Nurses have to confront and address their own prejudices about sexuality and maintain an open mind within the context of the law and ethical principles. Muller (2017) argues that the majority of nurses display homophobic and transphobic behaviour. No one should be discriminated against for any reason, including sexual orientation.

CASE STUDY 8.4

Sexual and gender minorities

James was transferred by ambulance as an emergency to the male surgical ward in a provincial hospital due to a head injury that he sustained during a motor vehicle accident. When he regained consciousness, he immediately expressed his dissatisfaction with the ward he found himself in. He explained to the sister that he was gay and he wished to be placed in a unisex ward as he did not feel safe in a male ward. The professional nurse in charge explained to him that the ward was full and there was nothing that could be done to accommodate his needs as they did not have a unisex ward in the hospital. He then requested to be transferred to the side ward where he would not be sharing a room. He was told that the side-wards were also full. He still expressed his dissatisfaction as he felt the ward was not suitable and safe for his stay.

- Identify the ethical dilemma.
- What are the ethical issues that you can identify in this scenario?
- What would you do differently to the sister if you were the professional nurse in charge of the ward?
- Discuss measures that can be put in place to accommodate the LGBTQQIP2SAA community in healthcare settings.

CASE STUDY 8.5

In Unit A, Ms Hill, a 35-year-old mother of two small children, is seriously ill and awaiting a liver transplant. In the trauma unit, a patient is admitted with severe brain damage and death is inevitable. The patient is not registered as an organ donor and he had never mentioned being a donor to his family. According to blood grouping and other tests, the patient would be an ideal donor for Ms Hill.

- What is the responsibility of the healthcare staff in getting consent to use the patient's liver for Ms Hill?
- Who should contact the family to get permission to use the organ?
- When should the family be approached?
- Should Ms Hill be informed of the possibility of receiving a liver?
- What is the nurse's responsibility towards the family of the possible donor?
- What if the family refuses to donate the patient's liver?

Resuscitation

Another ethical issue that emerges from high technology is whether or not to resuscitate. Successful cardiopulmonary resuscitation (CPR) can be one of the most rewarding aspects of nursing care.

The decision to resuscitate or not is often left to a doctor, but nurses are frequently the ones who are present when a patient needs to be resuscitated.

You are responsible for safeguarding the patient's interests and should respect their decision as well as the uniqueness and dignity of every patient. CPR can prolong the process of dying and might deny a patient a peaceful and dignified death. In research reports it has been noted that only 15 per cent of patients who received CPR survive until discharge.

When you believe that CPR is inappropriate or if you are aware of the patient's wish not to be resuscitated, you should inform the doctor of it as soon as possible.

Indications that CPR is unlikely to be successful are:

- when the patient's condition is such that successful CPR is unlikely.
- if there is a record of a mentally competent patient indicating the wish not to be resuscitated.
- if the quality of life for the patient is going to be severely impaired.

Good communication with the family is essential. If the decision not to resuscitate is made for medical reasons, the family needs to be told of this (Landman, 2012). However there is often uncertainty among nursing staff about not resuscitating. Do Not Resuscitate (DNR) does not mean stop caring. Nurses are responsible for end-of- life care (palliative care). They must

continue rendering care to the best of their ability until the end. The DNR sign is sometimes disturbing to the family as it is now a well-known abbreviation. In certain cases, doctors write AND, which means Allow Natural Death. Inappropriate CPR has the following consequences:

- The patient may be denied a dignified and peaceful death.
- It may be distressing for the relatives.
- A cardiac arrest team can become demoralised if they are always 'failing'.
- Other patients may be denied care or treatment while the crash team is preoccupied with CPR.
- There may be inappropriate use of valuable resources, including personnel (Landman, 2012).

Accurate record-keeping is essential in all cases where the decision not to resuscitate is taken.

CASE STUDY 8.6

A 50-year-old patient with cirrhosis of the liver has instructed the nursing staff that he does not want to receive CPR should he have a cardiac arrest. He has not told his family this. During the night he arrests and the intern on duty orders that the patient be resuscitated. The nurse in charge explains about the patient's living will, but the intern demands that CPR be done.

- What is the nurse's responsibility?
- Should they keep to the agreement with the patient?
- Must the doctor's orders be followed?

Child abuse

Although children are regarded as our hope for the future, they are often the most neglected group in society. All over the world, including in the South African community, large numbers of children do not have access to healthcare and are often neglected and abused. If nurses and other healthcare professionals encounter children who show signs of abuse and/or neglect, they are obliged to act as these children's advocates and seek redress.

Statistics on crimes against children indicate that the number in South Africa is rising daily. Hendricks (2014) indicated that for the period 2012-2013, 540 cases for crimes against children were respectively reported. These crimes include sexual assault, abduction and murder of children under the age of 18 years. 'Children are soft targets, physically and emotionally, and children have a sense of trust, especially for elders. This sense of trust results in children looking at adults as mentors for socially and sexually correct behaviour. Lack of proper parental supervision and not teaching children personal safety contribute to child abuse.

CASE STUDY 8.7

As a school nurse you come across a child of 10 who is being sexually abused by her mother's boyfriend. During a routine physical examination by the school doctor, it is found that there are signs of penetration. When you start to ask questions, the child admits that the man and she have a very special secret. He has asked her not to tell anyone the secret. If she does, he will kill her. You do not think that you should keep to your promise of confidentiality to the child, and you are worried about the moral consequences of the case.

- What is your responsibility as a nurse?
- Should you respect the child's confidentiality?
- Who needs to be informed?
- What treatment should the child receive, if any?

Child labour

An aspect of child abuse that is not given enough attention is child labour. There are about 250 million children worldwide between the ages of 5 and 14 years who are already working. 1.2 million of these children involved in child labour are in South Africa. There are different forms of child labour that range from chores to hard labour. Hard labour, such as subjecting children to gathering wood and fetching water from distant places for their household occurs frequently in rural areas. The majority of children are also involved in active jobs on the farms. Although some of the children are only involved in labour after school, the exploitation makes them tired and unable to concentrate fully on their schoolwork. Children are more at risk of physical and mental exhaustion in the workplace than adults are. They are also exposed to health and safety hazards that could endanger their growth and development (Frankel, 2017). For example children working in agricultural settings may be exposed to pesticides, carrying heavy loads, and in certain instances they may also be exposed to psychological trauma.

In addition to child labour, human trafficking affects mainly women and children who are forced to become sex workers and child labourers in all sectors.

Domestic and gender-based violence

The Domestic Violence Act 16 of 1998 defines domestic violence as any emotional, financial and physical trauma experienced by a person in a relationship; in other words, it does not only occur between married couples.

Neglected and abused children are found not only in poor and poverty-stricken strata of society, but in more affluent communities too. The enormity of the problem of child abuse has led to legislation to protect children, for example the Child Care Act 74 of 1983.

This Act imposes a legal duty on nurses to report any cases of suspected child abuse. This Act has been replaced by the Children's Act 38 of 2005 and its amendments, which is very progressive and takes into account the rights of the child. There are many cases that do not come to the attention of the average person, such as sexual molestation and minor physical injuries that do not need medical treatment. Nurses, however, are the people who are most likely to encounter these cases because they are involved in such a wide spectrum of health services. Section 110 of the Children's Amendment Act 41 of 2007 mandates specified professionals to report cases of child abuse. Nurses and midwives are among those specified professionals. It is the duty of the nurse to report abuse to child protection organisations, the police, and the provincial social development department.

Makoea et al. (2012) say that children have many reasons for not telling when they have been abused, including the following:

- A child is too young to know what is happening to them.
- The child and the abuser are closely related.
- There is a stigma attached to being involved. This results in the child struggling with shame and guilt.

What are some of the symptoms you should be looking for when dealing with children who might have been abused? (You should remember that a child will very seldom admit to this on their own.)

Besides physical evidence, there are non-sexual behaviours that could be indicators. You should be on the lookout for the following:

- enuresis
- sleep disturbances
- encopresis and regression
- depression and self-destructive behaviour (Makoea, Roberts & Wards, 2012).

As an advocate for children, you are faced with a difficult, but most important task. You must be committed to getting hold of information on laws and regulations related to protecting children. You must also be aware of child and family welfare organisations and measures to protect the child. Your first priority is to protect the child, but, as an advocate for both the child and the family, you should also know what community resources are available for counselling and therapy.

You also have a responsibility to guide a child towards taking part in ethical decision making. The child should be told what they need to know, depending on their age and ability to understand.

In a situation where love and support should be shown (in other words, the home and the family), people are often at a greater risk of violence than anywhere else.

Domestic violence has been declared as a public health problem with devastating consequences. (Davhana-Maselesele, 2011).

Violence manifests in different forms. It can be physical where women or men are assaulted by their spouses. It can also be in the form of rape, which sometimes also occurs between married couples. In most cases victims of abuse do not report the cases for fear of further assaults or because of fear of losing support. Domestic violence, however, refers not only to women but also to men and elderly parents living with their children.

The elderly are sometimes subjected to economical abuse, which is a form of domestic violence. For many families the pensions of the elderly are the only income the family has and this often leads to serious abuse, neglect and exploitation of the elderly.

It is the health worker's responsibility to recognise domestic violence. This is not always an easy job because, like children, adults who have been abused often do not talk freely about it. This could be out of fear of their family's reaction. They are scared that they will suffer further abuse or violence if the person abusing them finds out that they have told someone else.

Some of the most obvious signs of domestic and gender-based violence include:

- injuries to parts of the body that are usually covered by clothes
- injuries that do not match the explanation that the person gives
- injuries at various stages of healing (as with children)
- physical symptoms related to stress (such as irritable bowel syndrome).

When you start asking questions related to domestic and gender-based violence, you must be extremely cautious. You must remember that the person's safety is very important and that, even though you might want to help to protect them from harm, the patient still has the right to make their own decisions.

A patient must be counselled to make sure that they realise and understands that they are being abused. All cases of domestic violence must be reported. The Domestic Violence Act 16 of 1998, which came into effect on 15 December 1999, empowers people to take action against those who are guilty of abusing them.

Patients should also be told of the positive role Soul City has in relieving violence against women. They have a 24-hour helpline and provide advocacy to make sure that the Domestic Violence Act is upheld effectively.

In addition to Soul City there is an organisation that is dedicated to helping the elderly. Elder Abuse is a national organisation, run by volunteers, that seeks to prevent abuse, neglect and exploitation of older persons, and to give support and advice that aims to empower older persons.

CASE STUDY 8.8

A woman is admitted to the casualty department with multiple injuries to her abdomen and face. At first she explains that she fell from a ladder. On examination, it is clear that she has various other injuries in different stages of healing. She is also nervous and tries to avoid answering questions.

- Describe how you, as the nurse, would try to persuade this woman to give truthful information about her injuries
- Who should be told about the case?
- What guidance should the woman be given?

Cultural diversity and cultural competency

Culture can be defined as those values, beliefs, norms and practices that distinguish one group from another. Cultural groups are distinguished by many characteristics, including mode of dress, language, values, rules or norms of behaviour, economics, politics, law and social control, technology, dietary practices and healthcare (Camphina-Bote, 2011). In South Africa, we have different population groups and 11 official languages. This means that nurses need to be aware of the different cultures these languages signify so that they will avoid giving offence in caring for patients.

In addition, we also have an influx of people from other countries and that on its own constitutes what is viewed as multiculturalism. Multiculturalism is becoming more prevalent as the world becomes more and more a global village. Nurses have to be taught about cultural diversity, which will equip them to render culturally congruent and safe care. Nurses need to be culturally competent. Cultural competence is knowing about other people's cultures. This means nurses must possess cultural awareness, knowledge, skills, and a desire to acquire cultural competence (Camphina-Bote, 2011).

People's beliefs and practices affect how they view illness and diseases. People's decisions and actions are therefore guided by their culture. It can therefore affect how people cope with illness and how they communicate with the members of a healthcare team. As we know, cultural knowledge and cultural awareness may assist nurses to cope better with patients, while the inability to understand patient's culture may cause barriers to communication (Holland, 2017). The following are some of the barriers to cultural communication between patient and nurse:

Substance abuse

Substance abuse includes the abuse of drugs, alcohol and tobacco. A drug is a substance that affects the way the body works. These can be illegal substances such as cocaine, ecstasy, cannabis (marijuana/dagga), etc., and legal medicines, which include painkillers and other stimulant substances, as well as commercial substances, for example, glue, hairspray and correction fluid that can be just as addictive. Alcohol, whether it is wine, beer or any other liquor, and tobacco are also habit-forming substances.

The difference between drug use and drug abuse depends largely on society's attitude. Smoking cigarettes and drinking alcohol is perfectly acceptable in most countries, except those where Islamic law prevails and forbids the use of alcohol or places where laws have been passed on the smoking of tobacco.

Illegal drugs are used for different reasons. These include:

- getting away from life or personal problems.
- experimenting to see what the effects will be.
- group pressure.
- seeking the feelings of pleasure that drug-takers believe can result from using drugs.

Abusing drugs can also be the result of the loss of a loved one, status, ideals, dreams or friendships. Social challenges or isolation can also play a role, as can leaving one's family. As well as those who abuse street drugs, there are people who become addicted to drugs prescribed by doctors. For example, when people seek medical help to overcome the depression caused by loss, they are often prescribed sedatives by doctors to help them cope. However, these need to be prescribed with care as people can also become addicted to sedatives and to the painkillers given after an operation or during illness.

South Africa in recent years has seen an unprecedented influx of drugs being smuggled into the country from all over the world. Thousands of amphetamines in the form of ecstasy tablets are reported to be used in major cities over any single weekend. There has also been a marked increase in the use of cocaine and heroin. An estimated 80 per cent of the youngsters who attend raves are under the influence of alcohol or drugs.

Effect of drugs on the nurse and responsibilities towards colleagues

It has been found that teenagers who use cannabis were 85 times more likely to use cocaine than those who do not use cannabis. Cannabis, or 'dagga' as it is generally known in South Africa, is regarded as a soft drug, which many teenagers start experimenting with while still at school. Nurses who start their

- Anxiety on both the nurse's and the patient's side caused by the nurse's insufficient knowledge about a situation.
- The nurse's assumption that people think the same, instead of her admitting that they could have different views, because she is ignorant about their culture.
- The nurse thinking that her culture is better than another person's because she does not know anything about the other person's culture.
- The nurse's assumption that people of a specific culture all act in the same way.
- Racism, which means the prejudice, and discrimination against someone of a different race based on the belief that one's own race is superior.

When your cultural values, beliefs and practices are different from a patient's, the outcome of a situation can be negative. Two people might not see caring behaviour in the same way. You should aim to learn as much as possible about the values and beliefs of the patients who you nurse.

It is not fair to the patient to expect them to adjust to the culture of the healthcare provider. Instead, you, as the nurse, are expected to be knowledgeable and, to the best of your ability, to nurse the patient according to their culture. It is also your responsibility to provide the patient with the necessary knowledge to help them to adjust, where possible, to the healthcare culture. The healthcare culture does not necessarily refer to your own culture, but to what is expected in a healthcare environment (Louw, 2016).

CASE STUDY 8.9

A 12-year-old girl, diagnosed with leukaemia, was admitted to a hospital in Johannesburg in a serious condition. She had suffered severe haemorrhage and her blood haemoglobin level was very low. The doctor prescribed a blood transfusion. Her parents refused this because they belong to the Jehovah's Witness Church. A blood transfusion was, however, crucial for her recovery as without it, she would most certainly die.

- Should the nurse continue with the doctor's orders (i.e. take blood for compatibility and order the blood)?
- Should the patient's autonomy be respected and, if so, what should the nurse do?
- Should the patient's right to religion be upheld?
- Should the patient's parents be coerced into allowing their daughter to have the blood transfusion?
- What should the general approach towards the patient be?

training when they leave school, mostly around the age of 18 years, are not immune to drugs. Drugs are available as they are sold in areas where students hang out such as clubs, residences and university campuses. As well as this, if they have already been experimenting at school, student nurses might find that having easy access to legal drugs is a temptation. It is the responsibility of nurse educators and managers to warn student nurses as well as other staff members against the dangers of drug abuse. In addition, professional nurses may also be victims of drug abuse. In certain instances, some professional nurses have been known to take Schedule 7 drugs, which are meant for patients, and that on its own presents an ethical dilemma. Nurses should be able to recognise the disease concept of alcoholism and drug dependency.

Signs that could lead you to suspect that someone is addicted to drugs are:

- loss of appetite.
- uncharacteristic aggression or irritability.
- sudden unexplained changes of mood.
- frequent moody behaviour.
- changes in sleep patterns (i.e. insomnia or drowsiness during the day).
- loss of interest in hobbies, sports, etc.
- unusual stains, marks or smells on clothes or body.
- telling lies, taking money or selling belongings.

A person could be an alcoholic if they:

- drink frequently to escape from stress or problems.
- drink more than most people.
- drink alone.
- feel guilty about drinking and promise to drink less.
- blame others for his or her drinking problem.
- deny they have a drinking problem.
- tend to forget what happened during a drinking period.
- lose time from work or school because of drinking.
- lose control when drinking.
- have physical complaints that may be related to drinking.

Depending on the physical and mental state of the person, the SANC will deal relatively leniently with a case of drug dependency. A person is usually given a suspended sentence such as not being allowed to work in an area where dependence-producing substances are under his or her control. Rehabilitation treatment is usually advised.

CASE STUDY 8.10

Registered Nurse Pearl is a very diligent, competent nurse. She was transferred to a hospital in town from a small country hospital three months ago. It has been noted over the last two months that whenever the drugs are checked there seem to be entries that cannot be accounted for, or valium is missing.

Nurse Pearl's conduct also seems to be somewhat suspicious. She is moved to theatre. Here the trilene and pentothal quantities do not balance with the number of operations done.

- As a supervisor, what would your responsibility be?
- How should you start your investigation?
- Should you confront Nurse Pearl?
- If it can be proved that she is guilty, what is your responsibility towards her and the service?

Responsibility of the nurse towards the community regarding drug abuse

The serious physical and psychosocial effects of alcohol and addictive drugs on the development of children and the youth are reason for concern. First of all, it is your responsibility not to get involved in the abuse of drugs, as this could influence your competency and skills and could endanger patients' lives.

Nurses are also often seen as role models to the youth, and if their abusive behaviour is copied, they will be responsible for it. You should find out about the signs and symptoms of drug abuse, as well as the treatment and counselling of affected people.

Managed care

Allocation of limited resources in healthcare has raised a number of ethical questions. Who should receive what care and who should pay what? Healthcare is seen as a national priority, but with limited funds it is a problem to find a means to meet the needs of the total population.

Nurses working in the rural areas as well as in the many informal settlements are familiar with the problem of limited resources. It is, however, not only in these areas that steps are taken to provide healthcare in the most cost-effective ways. Even in the sector where medical aid schemes allow for the payment of medical costs, steps have had to be taken to curb expenses.

Hospitals are experiencing financial pressure, and because of this the costs of hospitalisation are rising. However, medical aids set limits on the amount that can be spent for certain procedures or treatment.

The most recent way of trying to meet patients' needs is managed care or case management. Managed healthcare is defined in the Medical Schemes Act 131 of 1998 as

> *an arrangement through which utilisation of healthcare is monitored through the use of mechanisms which are designed to monitor appropriateness, promote efficacy, quality and cost effectiveness of the delivery of relevant health services.*

These components of managed care are:

- Clinical outcomes need to be achieved within a prescribed period of time, with the caregiver acting as the case manager in episodic group practice.
- Active participation of the patient and the family is essential to achieve the expected outcomes.

Managed care aims to provide care at outpatient-settings to limit the costs of hospitalisation. To do this, providers of healthcare and healthcare insurers (such as medical aids) lay down certain guidelines based on the patients' complaints, symptoms, or tentative diagnosis'. These guidelines suggest the extent and type of service needed to treat a patient who has a specific condition at a specific level of quality in the most cost-effective way. The amount paid is then based on the needs of an average patient with a particular disease or ailment.

An example of payment for a specific condition

If a patient needs to have an appendectomy, it is assumed that the patient will be hospitalised for a maximum of two days. The member of the medical aid must get permission from the medical aid to be hospitalised, before admission. The medical aid will then, if permission is granted, pay for no more than two days in hospital. Should any complications arise, a motivation must be sent to the medical aid to explain the reasons, and to ask for additional days to be paid.

To ensure that costs are kept within the limits that have been laid down, the provider must justify the services needed by the patient. A certain amount of money is given to the provider for a specific patient and the insurer will not pay any extra amount that the services cost, and the patient or the provider will be responsible for the extra money.

Because the goal of insurers seems to be financial gain, the national healthcare policy and financial constraints have led to the need for control in delivering health services. Managed healthcare organisations and medical schemes have responded with the development and employment of systems to manage the funding of risk-related medical events.

CASE STUDY 8.13

Mr Themba is admitted to a private hospital with chest pain. He is diagnosed with coronary artery occlusion and needs to have a cardiac bypass. He belongs to a medical aid that functions on a managed-care basis. The medical aid must first be contacted to get permission to do the bypass, but the surgeon wants to do the operation as soon as possible. After some delay, permission is given, but only a certain amount is allocated for the whole procedure and the hospital staff. After the operation, the patient develops complications, which extend his stay in the ICU, and the money allocated has already been used. The medical aid is not prepared to give more towards treatment in the private hospital.

- Should the patient be transferred to a state hospital?
- Should the family be informed and asked whether they are willing to pay the additional costs?
- Should the patient be informed even if this could have a negative effect on his condition?
- Should treatment continue without consulting with the patient or family?

Possible solutions to the dilemmas

The solutions given below are just guidelines on how to go about solving an ethical dilemma. They also indicate the different ethical principles and theories that you should consider when you are faced with an ethical dilemma and you have to make an ethical decision. You should think about the solutions given and decide whether or not you agree with them. You should also add any ideas of your own that you would have considered in coming to a solution to a dilemma.

Check the ethical decision-making steps and guidelines that can assist you to discuss the resolution.

Dilemma related to HIV/Aids

Refer to Case study 8.1 on page 177.

Why did the doctor have the patient's blood tested without her permission, and should the patient's status be made known?

- **Autonomy:** The patient has the freedom of choice to decide whether she wants her blood tested or not. The patient can also decide whether or not she wants to have her status disclosed to her friends and family. The employer need not be told of the patient's HIV status.
- **Beneficence:** However, in trying to promote good, sending the patient's blood for HIV testing could be a wise decision. You would then be able

- **Beneficence and non-maleficence:** The main intention in any act is to act for the good of the patient and the family, but at the same time to look at how the action will affect you. The intention here may be to relieve pain and suffering for the patient. The intention is also to relieve the family of the emotional trauma of a long illness that has no expected positive outcome.

  The ability of the doctor to predict the outcome will influence the decision that everybody involved will make. The patient's prognosis will also play a role. The patient should be given all the basic treatment to sustain life (i.e. water, food, etc.).
- **Justice:** The right or wrong of the action will be evaluated by each person involved. This will involve not only legal aspects, but also people's own beliefs and values. Distributive justice will be an important factor in making the decision because allocation of scarce resources could play a role. Finances could also be seen to play a role, as medical aid schemes pay only for a limited period, and once the funds have run out, the family may have to pay for the treatment. Individual rights, policies and legislation can also play a role. As shown in the discussion on euthanasia, the South African Law Commission has given guidelines on when a life-support system can be withdrawn. The decision-makers in this case will have to follow those guidelines. Knowledge, skills and emotional factors will also play a role when the people involved have to make the correct decision.

  The doctor will not be able to give a large dose of morphine, as it is still a crime to take a life.

Dilemma related to sexual and gender minorities

Refer to Case study 8.4 on page 183.

The ethical dilemma in this case involves the inability of a hospital to accommodate LGBTQQIP2SAA community in healthcare settings as its wards are designed to accommodate male and female (heteronormative) patients only.

The ethical issues involved are:

- **Respect for autonomy:** James deserves respect as a person. James revealed the information about his status to the professional nurse in charge of the ward, who must keep it confidential and respect his freedom of choice. He has the right to choose how he would like to be treated. He requested to be nursed in a private side-ward as he needed to have privacy. The nurse should find a way of accommodating his request.
- **Beneficence:** We must always do good. James verbalised his problem...

to give the patient treatment (e.g. ARV) that would be to her benefit if she were HIV-positive. When you cannot do good, at least you should do no harm. If nurses know the HIV status of a patient, they should take precautions to prevent themselves from becoming infected and not infecting other patients.
- **Truth-telling/veracity:** If the patient is told, she should also receive the necessary counselling.

Dilemma related to abortion

Refer to Case study 8.2 on page 179.

- **Autonomy and privacy:** The deontologist would argue that according to the Choice on Termination of Pregnancy Act (CTOP), Nomsa has the right to insist that the abortion be performed. Her privacy should also be respected and therefore her parents should not be informed of the procedure.
- **Utilitarianism:** Looking at it from a utilitarian point of view, you could argue that she should be persuaded to inform her parents and not to have the abortion done. This would provide the greatest good for the greatest number of individuals, including the foetus.
- **Paternalism:** This principle means that the individual's freedom to make her own choice is restricted. It could be justified if the reason for informing the parents is to prevent harm to the girl.
- **Beneficence:** As an advocate to Nomsa, you should advise her to go for counselling if you cannot do the counselling yourself. She should also be advised to inform her parents so that they can give her some moral support. The aim is to promote good.
- **Non-maleficence:** Associated with beneficence is non-maleficence, which states that if you cannot do any good, at least you should not do any harm.
- **Justice:** According to the TOP, a nurse cannot refuse to do the abortion. If you do not have the competency to do so, or should your value system not allow you to do so, you should refer Nomsa to someone who can do it.
- **Truth-telling:** You would be correct in asking Nomsa to consider informing her parents of her pregnancy. You cannot force her to do so.

Dilemma related to euthanasia

Refer to Case study 8.3 on page 181.

- **Autonomy:** The patient and the family have both the autonomy and the basic right to make their own decisions related to the use of life-support systems. The specific factors of the case have to be studied to make a decision. Human rights and the patient's rights have to be considered.

It is the responsibility of nurses to do good and avoid inflicting harm (non-maleficence). Harm in this case can be viewed as the inability to provide a comfortable and safe place for the patient.

- **Justice:** in this case James may feel that he is being treated unfairly based on his sexual orientation. He may feel discriminated against.
- **Patients' rights:** According to the Patients' Rights Charter and the Bill of Rights, James has a right to equality, dignity and privacy and so the hospital's failure to accommodate sexual minorities infringes on these rights.
- **Right to safety:** James has a right to be nursed in a conducive to healing and safe environment which will make him feel comfortable.

Measures that can be put in place to accommodate the LGBTQQIP2SAA community in healthcare settings

- Create a hospital structure and buildings that accommodate LGBTQQIP2SAA community for example, toilets that are unisex, private side-wards etc.
- Creation of an inclusive environment.
- Include sexual orientation and gender identity options on the hospital forms.
- Train nurses and all members of the health care team about LGBTQQIP2SAA community and diversity of needs.

Dilemma related to organ transplants

Refer to Case study 8.5 on page 185.

- **Autonomy:** The patient is no longer able to give permission to donate his liver. His family can now act on his behalf. The patient's religion should also be considered before contacting the family, as they may have religious beliefs preventing them from donating the liver. The doctor should be the one to contact the family as soon as possible, perhaps even before the patient dies, as it could be too late to do so afterwards. The autonomy of the family to refuse should be respected.
- **Beneficence and non-maleficence:** Keeping in mind both the donor's and the recipient's rights, more good than harm can be achieved through donating the liver. You would serve as an advocate to the family by being supportive if they agree. You could emphasise the generosity of allowing a mother of two children to have a better life. If the family refuses, you would still provide the necessary support in handling the inevitable death of their family member.
- **Confidentiality:** Raising the hopes of Ms Hill would not be to her benefit, as the disappointment could be detrimental to her health. She should be informed only after permission has been given. Professional health workers are expected to keep information to themselves. For this reason, you would

not reveal the names of the two patients. It is also the family's right to decide otherwise.

Dilemma related to CPR

Refer to Case study 8.6 on page 186.

What is the ethical status of the patient's living will?

- **Autonomy:** The patient's autonomy will not be respected if he is resuscitated, as he will not be allowed to have a dignified death.
- **Beneficence:** Is the doctor acting out of beneficence or is he willing to do harm so that he can be seen to be doing good?
- **Fidelity:** Both the nurse and the intern have agreed to go along with the patient's wish not to be resuscitated. They cannot justify breaking a promise to a patient.

Dilemma related to child abuse

Refer to Case study 8.7 on page 188.

- **Privacy and confidentiality:** When the child told the nurse what her secret was and also told her about the threat, she expected the nurse not to tell anyone else. You would have a moral obligation to the patient, but as she is a minor and the Children's Amendment Act 41 of 2007 instructs you to report a case like this. Your duty and your moral obligation could come into conflict.
- **Beneficence:** The abuse is clearly not in the best interests of the child, as the psychological trauma she experiences can cause her lifelong problems (it would interfere with her normal psychological development). It would therefore not be in the child's best interests for you not to report the case.

  Beneficence requires that the case must be reported, so that the child can live a normal childhood life.
- **Fidelity:** The mother should know the truth so that she can protect her child. The child's fear of being killed if the boyfriend becomes aware that she has exposed him could prompt you not to tell the whole truth. The mother could perhaps be made aware that the child is being molested, but this may or may not safeguard the child against future harm from the boyfriend.

Dilemma related to domestic violence

Refer to Case study 8.8 on page 190.

- **Autonomy:** It is the patient's right not to tell you what the real situation is. You should respect this, while at the same time telling her what can be done to help her if she is a victim of domestic violence.
- **Privacy and confidentiality:** The patient's privacy and confidentiality should be respected. Her case should not be discussed with the rest of the staff except with those who will be directly involved in her treatment. She must be counselled so that she understands her situation and is willing to have the necessary treatment, which may include sessions with a social worker and psychologist.
- **Truth-telling:** You could weigh up the consequences of reporting the case to a social worker without the woman's permission against not reporting it. You would also consider the consequences of repeated abuse or violence.

Dilemma related to cultural diversity

Refer to Case study 8.9 on page 191.

- **Beneficence and non-maleficence:** Alternative treatment should be given until the matter is resolved. The hospital superintendent should be approached for possible legal intervention to act in the interests of the child. Although the patient's religious beliefs are respected, the courts will most likely order that blood be given to the patient in order to save her life. Two constitutional rights are in conflict here, and the right to life in this case means more than the right to religion.
- **Justice and fidelity:** As the patient's advocate, and because of your commitment to doing what is best for the patient, you should tell the doctor of the patient's religious beliefs if you know them. The patient's family should also be informed. The patient cannot be coerced into receiving the transfusion. Both you and the doctor should recognise the patient's right to religion. The patient also has a right to life, which will be sustained by a blood transfusion.
- **Respect and autonomy:** The patient's beliefs and values should always be respected. It is her autonomous decision to belong to whatever religion she wants to belong to. You would have made a commitment to nurse the patient.

Dilemma related to substance abuse

Refer to Case study 8.10 on page 194.

- **Autonomy:** Progressive discipline recognises the autonomy of Nurse Pearl. She has the choice to follow the organisation's rules or to be further disciplined if she does not abide by the rules. If she continues to behave like this and if her services are terminated, she has made the choice herself.

- **Beneficence:** Your actions must entail an effort to promote good for Nurse Pearl as well as for the patients. If non-maleficence is taken into account, you should at least suspend the nurse to make sure that if she can do no good at least she can do no harm. The focus should also be on sending Nurse Pearl for rehabilitation to ensure that she will benefit from the episode.
- **Duty-based reasoning/deontology:** A decision has to be made because everyone is obliged to do what is right. The rules of the institution clearly state that drug abuse cannot be allowed and that certain steps must be taken if someone is suspected of being guilty of abusing drugs.
- **Justice/fidelity:** As a supervisor, you would have accepted the commitment to make sure that the patients and your staff are safe. You must honour your agreement with both and must care for them, listen to them and counsel them when this is needed. The patients have the right to expect that everything is done for their good, and can demand fidelity. You are therefore obliged to counsel the nurse and send her for treatment on the basis of your knowledge. You must have the courage to ensure the safety of the patients.
- **Paternalism:** If the nurse can be proved guilty in this case, you should take on the authority to make a decision for her and send her for treatment, even if she is not willing. In the end, this decision would benefit the nurse and the community at large.
- **Rights-based reasoning:** Nurse Pearl has her basic rights, but she cannot use this as a reason to infringe the rights of others (i.e. the rights of the patients and her colleagues). If she is guilty she will have to be disciplined.
- **Utilitarianism:** As the supervisor, you would like to achieve the greatest good for the greater number of people, and so you should try to solve the problem as soon as possible. If you suspect Nurse Pearl, you should find out her past history. You should find out why the nurse left her previous job and what the report from that hospital said. If any of this information suggests that Nurse Pearl could have a problem, she should be confronted.

Dilemma related to managed care

Refer to Case study 8.11 on page 196.

- **Autonomy:** The patient still has the autonomy to decide whether he would like to be treated in the private hospital or whether he should be transferred to a state hospital. He should, however, be given the necessary information to make an informed decision. He needs to know how much he will have to pay for hospitalisation, and someone should explain this to him very carefully. If the patient is unable to make this decision on his own, the family should be given the chance to decide for him.

- **Beneficence:** The decision should be based on what is best for the patient – to be burdened with big debts on discharge, or to be given the chance to have cheaper care that is not necessarily less effective.
- **Fidelity:** As the advocate to the patient and his family, you must provide support as long as the patient remains in the hospital. He should receive the necessary treatment until alternative arrangements have been made.
- **Justice:** It would be unfair to both the patient and his family not to inform them of the costs involved if he stays in the private hospital for any length of time.
- **Truth-telling:** The patient and his family need to know what the decision to move him or not to move him will mean to them financially, as well as how it will affect his health.

Some more dilemmas to consider

With your group members, consider the following dilemmas and try to work out how they could be resolved. Research the problem and then consult with your facilitator.

The immigrant nurse

You are working in a private clinic as a registered nurse. One of your ward aides is an immigrant nurse from another country. She has been in the country for more than two years and could not be registered by the SANC because she has twice failed the Foreign Registration Examination. (Nurses trained in other countries should pass this examination before they can be registered to practise nursing in South Africa. This is standard procedure in many countries, such as the USA for example.) She has been offered a job as a ward aide so as to make ends meet. However, because she is a registered nurse in her country, she often does the work of a registered nurse.

- Will you report her activities?
- If so, to whom?
- If not, why not?
- Do you think she is being exploited?

Refusal of care

A quadriplegic man of 28 years is admitted to your ward with pneumonia. He also has bedsores in several areas. While recovering from the pneumonia he starts refusing to take his meals. He indicates that he does not wish to continue living.

- What do the patient's bedsores and pneumonia indicate about his life before he was admitted to hospital? What bearing do they have on the man's wish not to continue living?
- Suggest the ethical reasons why this man's wish should not be granted.

National Health Insurance (NHI)

Currently, the South African healthcare system is designed as a curative system. The citizens of the country prefer to go to hospital for curative healthcare services and the primary healthcare model introduced by the National Department of Health in the 1990s is often ignored. Consequently, there is a need to strengthen the promotive and preventive healthcare services. For this reason, primary healthcare reengineering is the basis of the proposed National Health Insurance (NHI) plan.

The curative system is composed of both public and private hospitals. On the whole however, quality healthcare services are deteriorating and are very poor due to factors such as lack of infrastructure, lack of equipment and shortage of staff. There is an economic gap between the poor and the rich. The rich are able to access a better healthcare system as they have medical aid schemes that enable them to have quality care, while the poor are still struggling to access very basic healthcare services (Moyakhe, 2014).

To address the inequity in healthcare access, the government is introducing the National Health Insurance scheme. National Health insurance is a finance method that the National Department of Health aims to introduce to ensure that all South Africans regardless of economic status are able to access and receive equitable quality healthcare services (Moyakhe, 2014). The NDH has established the office of the healthcare standards compliance to ensure that all healthcare institutions are monitored and encouraged to maintain the set standards. It is also envisaged that the infrastructure, such as buildings and equipment of the public hospitals, will be improved and maintained at all times.

The primary healthcare engineering model that has been proposed is critical for the success of NHI. A good referral system is also needed to ensure that all patients have universal access to care. The NHI is currently being piloted in designated hospitals (Amado et al., 2012) .

Drawbacks to the success of NHI are that the ethics of care are severely affected by the shortage of staff and the inability of nurses to provide quality care according to the set standards. Ethical principles such as respect of autonomy of patients and clients, beneficence and non-malificence and justice are often neglected and patients' human rights violated.

- What are the ethical issues related to NHI?
- Discuss how equity, redistribution and social justice will be achieved through the introduction of NHI?
- Critically analyse the concept 'Universal access' in relation to NHI.

Ethical issues occurring within nursing education

Recently, new ethical dilemmas have arisen that nurse educators are faced with daily in universities, classrooms and clinical settings. The academic environment has become difficult and combative. Students of the 21st century are manifesting attitudes that are often a challenge to their lecturers who were socialised in an era where seniority was part of the professional manners of nursing. Hierachical structures were internalised and practised in all spheres of nursing. Nowadays, the students have a tendency to ask a lot of combative questions. This is why they have been termed the 'Y' generation. The lecturers frequently find it difficult to cope. They feel that the students are disrespectful, disruptive, rude and, in certain instances, defiant. Some of the students continue to chat on their phones while the lecturers are busy teaching. They demonstrate bullying and violent behaviour (Fowler & Davis, 2013).

In addition, the nursing programme is very demanding as students have to correlate practice and theory. In most cases, students get frustrated due to the amount of work that they are expected to cover within a short period. They end up cheating, plagiarising, fabricating data and forging the signatures of professional nurses (Fowler & Davis, 2013).

- From this view of student nurses, identify the ethical issues that can arise in an academic environment.
- Give an example of a case study that shows what senior academic nursing staff often have to cope with in their lecture rooms.

Conclusion

Every day, nurses have to make judgements, and decisions based on these judgements. This is often difficult to do, even when it is clear that the patient's best interests should be paramount. Nurses must deal with ethical dilemmas, which are problems that cannot be solved simply on the factual evidence, are so complicated that the solution is unclear and inaccessible, and have implications not only for the present, but also for the future.

In the South African context today, nurses face dilemmas relating to HIV/Aids, abortion, euthanasia, sexual orientation (possibly their own, as well as their patients' and other healthcare providers'), technological advances such as organ transplant and resuscitation, child abuse, domestic violence, cultural diversity, substance abuse (possibly their own, as well as their patients' and other healthcare providers') and managed care. Other dilemmas that can take place in the nursing setting are related to immigrant nurses, and the patient's refusal of treatment.

There are various ways of dealing with such dilemmas. Referring to the case studies provided in this chapter, nurses can learn to deal with the

dilemmas by taking into account the patient's right to autonomy, privacy and confidentiality, and by using models such as beneficence, truth-telling, non-maleficence, utilitarianism, justice, fidelity, deontology and rights-based reasoning.

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What are human rights?

Human rights refer to those basic rights and freedoms to which all humans are entitled. They include civil and political rights, such as the right to life and liberty, freedom of expression and equality before the law, economic, social and cultural rights, the right to food, the right to work and the right to education. Access to healthcare is also a fundamental human right. Other international instruments addressing human rights include:

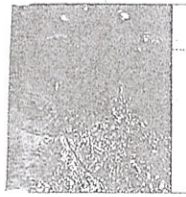
- the Convention on the Rights of the Child (UN, 1989)
- the African Charter on the Rights of the Child (OAU, 1990)
- the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (AU, 2003).

In line with other countries internationally, South Africa also launched its own Bill of Rights for Patients in 1999, referred to as the National Patients' Rights Charter.

This became necessary as complaints regarding hospitalisation and treatment at healthcare centres in general had increased. A commission of enquiry into hospital practices was established to investigate the increasing complaints that patients were being neglected in state hospitals by the erstwhile Gauteng Premier Mbhazima Shilowa in 1999. They had been notified of problems of mismanagement, expired medications being kept at hospitals and a lack of dedication by staff. Healthcare professionals had stated that a shortage of resources was often the reason for complaints and that they were the ones suffering because the patients were dissatisfied. However, it should be noted that the country, being in transition at the time, experienced an unprecedented emigration of healthcare professionals, among them professional nurses, to more developed countries like the United Kingdom for lucrative job opportunities. Standards of care were invariably negatively affected.

Moreover, patient satisfaction is not straightforward and involves several factors including his health, the sort of person he is and what he assumes his medical care and treatment should be.

Patients view the care they receive differently, often based on their knowledge and any other experience they have had of a health service environment. Patients also often feel that they cannot complain or criticise the service, as they receive the service free of charge. Most of the complaints of patients' rights having been violated are in relation to their privacy, self-worth and dignity (Roos, 2000).



Chapter 4

Patients' and nurses' rights

JD Mokoena

Learning Outcomes

At the end of this chapter, you should be able to:

- explain the concept of human rights
- explain the relationship between health and human rights
- prevent violation and abuse of patients' rights in the healthcare situation
- identify the advocacy role of the nurse regarding patients' rights
- identify the patients' responsibilities
- demonstrate insight into fundamental human rights and social justice
- describe the rights of nurses
- identify the rights of health professionals according to the legal framework in South Africa.

Introduction

The United Nations (UN) launched the Universal Declaration of Human Rights in 1948. This is regarded as an important milestone across the world in introducing a culture of human rights amongst member nations of the United Nations and fostering peace in the world after the atrocities of the Second World War. Governments of member countries were charged with the responsibility of providing legislation that would address the rights of people. South Africa responded to this clarion call in 1994 with the onset of the new democratic dispensation, which also ushered in a culture of human rights for its citizens. This new culture was legally cemented by the Constitution of the Republic of South Africa, Act 108 of 1996, which, in chapter 2, provides the Bill of Rights for all.

Patients want to know more about:

- what is happening to them
- what treatment they are going to receive
- what options are available to them
- what results they can expect and the final outcome of the treatment.

The Constitution of the Republic of South Africa, Act 108 of 1996, has empowered many ordinary citizens, including the consumers of healthcare, to become aware of their rights. Principles such as respect for autonomy, informed consent, confidentiality and privacy have always been the basis of nursing ethics. Chapter 2 of the Constitution, which outlines the Bill of Rights, emphasises the need for patient-centred care. It emphasises these ethical principles, placing a greater responsibility on the nurse to follow them in delivering nursing care.

All the above are reasons for having a health rights charter for consumers of healthcare. This should improve the health services, as well as the relationships between healthcare providers and receivers. There is a close relationship between rights and obligations.

- **Rights** are justified claims that individuals can make. These claims can be legally or morally justified.
- **Obligations**, however, are duties or actions that are allocated to or demanded from a person.

The right to healthcare

Section 27 of the Constitution provides for the right to access healthcare. Included in this provision is the right to water and food, which are essential to ensuring quality care. Literature refers to these as the determinants of healthcare, because without them, health cannot be guaranteed.

If we say that the patient has the right to participate in their healthcare, it means that the healthcare provider has the obligation to involve the patient in their care or treatment. In a way this takes into account the respect for the patient's autonomy, which is allied to respect for the human dignity of the patient, the latter of which is a constitutional right. Likewise, if the patient has the right to quality care, it means that they also have the obligation to provide the healthcare staff with the necessary information, so that they can diagnose and treat the patient.

What are the universal rights in healthcare?

Fundamental to all the instruments regarding the rights of patients in healthcare the following appear to be universally common features:

- the right to treatment – the right to refusal of treatment is absolute
- the right to information
- the right to privacy and confidentiality.

The National Patients' Rights Charter

The National Department of Health has shown its commitment to upholding patients' rights by formulating the National Patients' Rights Charter. The aim of this charter are:

- to ensure that improved quality healthcare is provided
- to enhance the relationship between healthcare providers and health consumer
- to tell consumers about the services available and their freedom to choose the service they prefer
- to encourage consumers to report anything that is wrong with the provision of healthcare, so that this can be attended to
- to make sure that patients' rights are upheld by healthcare providers
- to give consumers the opportunity to participate in policy making, thereby building a trusting relationship and confidence in the healthcare service
- to make available the necessary counselling services and specialised services for certain categories of patients.

'The National Patients' Rights Charter is subject to the provision of any law operating within the Republic of South Africa and to the financial means of the country' (Patients' Rights Charter, 2013).

According to the Charter, patients (especially those who make use of public services) have certain rights. These are the right to:

- a healthy and safe environment
- participation in decision making
- access to healthcare
- knowledge of one's health insurance/medical aid scheme
- choice of health service
- be treated by a named healthcare provider
- confidentiality and privacy
- informed consent
- refusal of treatment
- be referred for a second opinion
- continuity of care
- complain about health services (Patients' Rights Charter, 2013, 2–3).

This Charter will be displayed at all state hospitals to ensure that patients are made aware of their rights. Below is a brief discussion on each of these rights.

A healthy and safe environment

An environment is the combination of surroundings, conditions, events and people that affect the development and behaviour of a person. In a nursing context, the environment in which patients are cared for should add to their physical and mental health or well-being. This stresses the fact that patients must be treated in an environment that is good for their health and well-being and implies the following:

- There should be an adequate supply of clean water and an effective waste-disposal and sanitation service.
- The service should be in a pollution-free area.
- Patients should not be subjected to physical and mental torture.
- Patients must be protected against cruelty and inhuman and degrading treatment.
- The physical setting of the healthcare facility should support the therapeutic (healing) goals of the institution.
- The patient must be treated both as a human being and as an individual.

To help to create a healthy and safe environment, the physical arrangements in the health facility must be user-friendly. For example, the colour of the interior, arrangement of the furniture and the atmosphere must aid recovery. The decoration of children's wards must create an atmosphere in which they feel comfortable, as shown on the next page. In the same way, the psychiatric units should create an atmosphere that limits depression.

To ensure that the patient is treated as an individual human being, the following factors must be in place:

- Clothing must be comfortable and their own possessions should be taken care of.
- Food and drink must taste good and the patient's religious beliefs regarding food must be considered.
- The patient must be free from physical and mental risks.
- The patient's privacy and confidentiality must be respected.

The patient is constantly exposed to possible stressors (things that make a person feel stressed or anxious) in the environment that may affect his or her ability to recover. The health of the patient relies on the environment being as stable as possible.

Factors in the environment might affect the patient's:

- bodily structure and functions
- mental processes, and relationships
- social and cultural functions
- life developmer t processes
- spiritual beliefs.

Figure 4.1 A children's ward

The staff working in health services have the responsibility and obligation to provide an environment in which patients feel secure and safe enough to regain their health as soon as possible.

CASE STUDY 4.1

Mr Alpheus Mphidi, a 46-year-old man, was admitted to hospital with a history of depress on. He had to be under observation. The special rooms for disturbed patients (seclusion) were all occupied. The patient was given a bed near the nurses' station on the third floor. One night there was a staff shortage, wit1 only two nurses on duty. One of the patients became aggressive. While the nurses were busy with this patient, Mr Mphidi was spotted standing at the window, which had no burglar bars. One of the nurses rushed to the window to persuade Mr Mphidi to return to his bed.

best interests of the patient (i.e. the decision that is made should be the same decision that the patient would have made if they had been able to do so).

As an advocate to the patient (the person who represents the patient), you must protect the best interests of the patient and make sure that nothing harmful and illegal happens to them. To be sure that the patient benefits from a decision concerning his treatment, you should try to make sure that as many different categories of relevant health personnel as possible are involved in making such a decision.

CASE STUDY 4.2

Mr Nzo is admitted with a coronary thrombosis and is on heparin treatment. On the second day after admission Mr Nzo refuses to have the injection, for no apparent (clear) reason. The nurse tries to convince the patient that it is dangerous for him not to have the injection and explains why he should have it. Mr Nzo, however, still refuses to let the nurse give him the heparin and also will not give her a reason for refusing the injection. The patient has the freedom to make a decision about whether he wants to cooperate and take part in his treatment or to refuse it. The nurse is obliged to provide care and to help the patient to recover. Because she does not have enough information, she should contact his family and the patient's doctor to try to convince the patient of the need for the heparin or to emphasise the risks involved if the medication is not taken.

- As the nurse, what should you do under these circumstances?
- Can you not give the injection because the patient has the right to refuse treatment?
- Is it within your power to give the injection even though he doesn't want it?
- Ethical principles that should be taken into account in making this decision are: the patient's autonomy, freedom and privacy, beneficence and non-maleficence and fidelity.

Access to healthcare

A health system's accessibility depends on how easily a patient can use the services and facilities. Certain factors can result in healthcare not being equally accessible to everyone, including:

- financial constraints
- the country's infrastructure
- awareness of services available
- cultural factors and discrimination.

It seemed as though he was responding to the nurse's request, but after walking a few steps he suddenly turned around, ran to the window and jumped to his death.

- In your opinion, how could this have been prevented?
- What safety precautions should be taken in a unit where psychiatric patients are treated?
- What human resources should be available to ensure patients' safety?
- What risk factors should the personnel be aware of?
- What type of risk management programme should be in place?
- What structural changes need to be done to the unit to ensure the patients' safety?
- What environmental changes are needed to ensure that patients are treated well?

Participation in decision making

In matters related to their health, all citizens should have decision-making power, allowing them freedom of thought, beliefs, opinions and actions. This decision making refers to the development of health policy, as well as participation in the patients' treatment. Policy makers are obliged to consult stakeholders in matters that affect healthcare. This gives patients the opportunity to be involved in policy making at the highest level. As indicated earlier in this chapter, involving the patients in their own care relates to the respect for their right to be autonomous. Patients are entitled to information, including information about the risks and advantages of specific procedures or interaction, or policies that affect their healthcare. Information should be given to patients in the language of their choice, so that they understand it. In cases where the healthcare provider cannot do this, an interpreter should be used.

However, as Montori et al. (2017) point out, not all patients can, should or want to be involved in making decisions about their healthcare. A patient's ability to take part in decision making depends on their mental, emotional and legal ability. It is clear that people in a coma or who are severely mentally disabled, as well as infants and young children, are not able to do so. In addition, there are patients who find having autonomy and the responsibility of making a decision imposed on them disturbing and burdensome. In such people, autonomy means recognition of their vulnerability and avoiding forcing them into making a decision about a health procedure (Montori et al., 2017).

In all cases where a person is incapacitated and cannot make a decision on their own, a surrogate (a substitute decision-maker) can make decisions for the patient. The decision that the surrogate makes must be unbiased and in the

However, governments have an obligation to ensure all their citizens have access to healthcare. In South Africa, this is regarded as a constitutional right (Article 27.1(a) of the Act).

Everyone therefore has the right to use a public healthcare facility. Access to private healthcare facilities, which operate a business enterprise for profit, are subject to the ability to pay for services rendered. However, some private healthcare facilities provide basic care in an emergency, regardless of whether the patient can pay or not.

Generally, in providing rights-based care, the healthcare giver should take note of the following points:

- Patients should receive care as soon as possible, which also means that patients should not wait for a long time before receiving attention.
- The treatment or rehabilitation needed and the possible result should be explained to the patient.
- Patients who are more vulnerable than others – such as those with special needs, including new-born infants, children, pregnant women, the aged, disabled people, patients in pain or people living with HIV or Aids – must receive appropriate attention. These patients should be cared for according to their specific needs.
- Counselling services for reproductive health and HIV/Aids should be available, and patients should be referred to them if necessary. Both the Termination of Pregnancy Act 92 of 1996 and the National Policy on Choice on Testing for HIV Act 116 of 1990, require pre- and post-counselling for both services respectively.
- Palliative care (care that will ease pain or make a patient feel better in some way) should be provided for terminally ill people and those with incurable diseases.
- The healthcare staff should be caring and should try to overcome language difference problems.
- Health information must be available in a language that the patient can understand. The purpose of this right is to treat patients in a treatment setting with equal care, ensuring that patients are not deprived of the care they deserve.
- Everyone should have equal access to healthcare, regardless of their nationality, culture or creed.

CASE STUDY 4.3

Ms Mnguni, a 22-year-old unmarried mother of two, discovers that she is pregnant. Her boyfriend of six years and the father of the two children and the baby she is expecting has jilted her. He has not been able to support her and the children while they lived together. The chances of his supporting them are even worse now that they have broken up. She realises that she will not be able to cope with another child and makes up her mind to have an abortion. On Monday morning she reports to a public hospital to terminate her pregnancy.

After an initial assessment, she is called in for counselling, but is shocked by the counselling she receives. She is not told about the benefits of having an abortion; she is told only that she is still young and should not waste the opportunity of being pregnant – she might regret it later when she wants another baby, but can no longer fall pregnant.

She is referred to the sonar room where she receives similar treatment. From here she is sent to the pharmacy to collect a prescription. The pharmacist reluctantly gives her the prescription without telling her how to use it. Ms Mnguni returns to the nurses, who explain to her how to use the pill she has been given, and tells her to return after three weeks. One of the nurses follows her and says that she must think again about her decision.

In your own view, what were Ms Mnguni's experiences in relation to the following rights? The right:

- to privacy, respect and protection
- not to be subjected to physical and mental torture
- not to be subjected to cruel, inhumane and degrading treatment
- to the special needs of pregnant women
- to effective counselling services
- to staff that display a caring disposition
- to freedom of thought, belief and opinion
- to an environment that is not detrimental to health and well-being.

Before you answer the above questions, you should also read more on patients' autonomy, veracity, beneficence and other ethical principles in Chapter 2.

Knowledge of one's health insurance/medical aid scheme

A member of a health insurance or medical aid scheme is entitled to information about it and, if necessary, to ask the scheme to explain any decisions they make. It is the members' responsibility to know which services any medical scheme

covers so that they don't receive bills they cannot pay. At least 25 per cent of the population can afford private medical insurance. However, the majority of the population cannot afford private medical insurance, and rely on public healthcare services. Rising medical costs are also inhibiting for those who rely on paying cash for medical care. This compromises the fundamental human right of access to healthcare for all. However, in December 2017, two years after the publishing of the White Paper on National Health Insurance, the government is pushing ahead to start introducing, in phases, a national health insurance for all South Africans and abolish private medical aid insurance by 2022. All citizens will benefit from this insurance, which will largely be funded by taxpayers. In this way, the government will facilitate the rights-based approach to healthcare.

CASE STUDY 4.4

Mr Green is hijacked and thrown out of his car after being seriously injured with a knife. He is admitted to a private hospital as it is the nearest to where the accident took place. The hijacker has taken his wallet with all his money and cards. The hospital refuses to treat him unless he pays R1 000. After some time, the hospital contacts his family, who are willing to pay the money. Mr Green is then admitted but now his medical aid refuses to pay back that money. His medical aid provides only for the fees of a public hospital and he is hospitalised for four days. The private hospital expects him to be transferred to a public hospital, but the patient refuses.

- What are Mr Green's rights and can he insist that the medical aid pay?
- What were Mr Green's responsibilities? (He should have studied the conditions of the medical aid when he joined. He should know whether it provided for private hospital fees.)
- Is prior consent needed if he is admitted to hospital?
- What is the hospital's policy regarding payment?

Clearly this is a case of rights and obligations. The patient has the right to be treated, but did he know what the conditions of his medical aid were? It was his obligation to know what his medical aid benefits were. The medical aid will have to pay for whatever they agreed upon in their contract, as that is their obligation. However, they have the right to refuse to pay for treatment not covered in the contract.

Choice of health service

Patients should be able to choose freely where they want to be treated, provided that this does not infringe on the ethical standards of the institution. A patient cannot, for example, ask for an abortion in a clinic that has not been granted

a permit to do abortions. If a patient demands an abortion where this service cannot be provided, the staff should tell the patient where such services are available. It is the responsibility of the institution to inform the patient of any policy that might affect their freedom to choose within that institution (Doheny et al., 1997). The health provider must have a leaflet describing what services are offered to help consumers to decide what they want.

Everyone should know and understand the National Department of Health's referral system, so that he or she is free to make a choice. People should also be told that if they do not follow the correct line of referral, they might have to pay for services provided at another facility. People can only make the correct choice if they have the necessary information. The National Department of Health has the obligation to inform the community how the healthcare system works.

CASE STUDY 4.5

Mrs Pitse's 18-month-old daughter, Thabang, starts vomiting during the night. Mrs Pitse prepares the oral rehydration powder (ORT) for her baby and gives it to her, but it does not help. In the early hours of the morning, she realises that the baby is weak and dehydrated. She has no transport or means of calling an ambulance or taxi. She prays and continues to give the baby the ORT. She later realises that the baby's condition is becoming critical and goes to a level-two hospital, as it is the nearest healthcare facility to her home. Due to transport problems, she arrives at the hospital late. The nurses tell her that the doctor at the Outpatients Department will not see any more patients that day as they have reached their maximum for the day. The nurse does not even look at the baby, but advises the mother to go to the clinic. With the baby on her back, Mrs Pitse has to find transport to the clinic. The baby is certified dead on arrival.

- Do you see the need for informing the patient of her rights? How should the situation be dealt with?
- Answer each of these questions and then indicate how these rights should have been addressed:
  - Was access to a health service adequate in this case?
  - Was the woman aware of the referral system currently operating in the healthcare services?
  - Was a positive disposition displayed by the staff?
  - Did the baby receive emergency care in good time?
  - What about the special provision made for children in the Patients' Rights Charter?

Treatment by a named healthcare provider

The personal characteristics of the patient and the nurse influence an effective nurse–patient relationship. It is also a relationship that develops from the moment the patient and the nurse meet until the patient is discharged. The first encounter is usually the most important phase and forms the basis for the rest of the relationship. People often come to the service with ideas that are based on experiences or things that other people have told them.

To establish a therapeutic (healing) climate, you need to do the following:

- Introduce yourself to the patient.
- Explain briefly the role you, as the nurse, have to play in the situation.
- Know who the patient is that you are dealing with.
- Give the patient the opportunity to introduce themself and their problems.

To help the patients to identify healthcare staff, staff should wear a badge (name tag) indicating their name and designation whether they are a nurse or sister, for example. You must realise that you may have patients who are not able to read, and therefore, a spoken personal introduction is essential.

For a variety of reasons, it is important that patients should know who they are talking to. These reasons include:

- letting patients know whether the person is a professional person who can help them with a problem, or whether the person is one of the administrative or household staff
- giving patients the opportunity to discuss questions about their treatment with the person who first helped them
- helping patients to identify the correct person in a case of misconduct, for example.

The patient has the right to know if the staff who are treating them are students or residents (i.e. qualified doctors) and their status (the importance of their position) in the health team (Doheny et al., 1997).

CASE STUDY 4.6

A patient has given her clinic card to one of the staff at the clinic so that she can be registered for a consultation. She has been waiting for more than four hours, and has not yet been called. If she remains much longer she will miss her transport and will have to walk six kilometres to her home. She asks when she will be seen, but her card cannot be found. The person who took her card did not introduce herself and she is no longer around. The possibility is that she will have to return the next day as it is getting late.

- Which of the patient's rights have been infringed?
- How could this problem have been prevented?
- What are the possible consequences of the situation for both the service and the patient? (What might happen?)
- What was the responsibility of the person who took the card?
- What about the patient's right to be seen in good time?
- What about the accessibility of the health service?

Confidentiality and privacy

All aspects of a patient's health and care should be kept confidential and can be disclosed only with informed consent, except if the law requires it. If someone is suspected of abuse, for example, anyone who knows anything about this must by law disclose the information. All examinations, consultations, treatment and discussion of cases must take place in an environment that takes the patient's privacy into consideration (Doheny et al., 1997). Information on patients' records is included in this right and should therefore be kept confidential. The right protects confidentiality and also controls the disclosure of patient's information without proper authorisation. It also makes sure that the patient's privacy is secure. This constitutional right to privacy is reinforced by the Protection of Personal Information Act 4 of 2013 (POPI). The purpose of the Act is to protect personal information, to find a satisfactory compromise between the right to privacy and the need for the free flow of, and access to information, and to regulate how personal information is processed.

The relationship between a patient and a nurse is based on mutual trust. Confidentiality encourages patients to speak freely about their problems to you, the nurse. You are then able to understand the patient's condition. Patients believe that, if they tell you their private and confidential matters, these will remain secret. The nurse's pledge stresses the importance of keeping patients' information private and confidential. When other healthcare staff involved in the patient's treatment need to have information about a patient, the confidentiality of the information must be stressed. When a patient is admitted, you and the patient make an agreement (even though it is not spoken or written). This agreement must be made objectively (i.e. you must not be biased in any way), with each party noting the autonomy of the other. It is essential to have confidence in an agreement, and this can happen only if the people involved in the agreement trust each other. You cannot, therefore, go into an agreement unless you tell the truth. The principle on which this truthfulness is based is called veracity and it is an essential part of confidentiality and privacy. This agreement assures the patient of privacy and fidelity. Fidelity refers to the nurse keeping their promise of confidentiality

regarding the patient's treatment. If the agreement with the patient is violated, then the patient's privacy is invaded.

> **Reflection**
> Terms like 'autonomy', 'veracity' and 'fidelity' were discussed in Chapter 2. Make sure you understand their meanings. Go back to this chapter if you are not certain of these.

Privacy refers to patients' autonomy to decide what they want people to know about their condition. It also relates to their freedom to tell whomever they want to tell. You should not interfere with any patient's enjoyment of self-ownership and self-determination.

As the records are related to the patient's private information, patients have the right to access their records, except in cases where this is restricted by law. The patient also has the right to have the contents of the records explained to them.

CASE STUDY 4.7

Mashudu Nkondo, an 18-year-old girl, is admitted to hospital with a history of severe abdominal pain. On examination, it is found that she has vaginal bleeding as well. She is diagnosed with an incomplete abortion. Dilatation and curettage is done where retained products of conception are removed. During the operation a long stick is also found in the uterus, which indicates a back street abortion. The professional nurse tells Mashudu what was done and what they found. She is shocked and asks whether her parents have been informed. Mashudu does not want them to know, as they do not know that she is sexually active. The nurse tells her that her parents have not been informed as the staff are waiting for her permission. Mashudu's parents visit her and the nurse in the unit adheres to confidentiality. Mashudu's mother then says that she has to go and fetch something from the car and uses the same lift as two theatre nurses. The nurses discuss the rate of criminal abortion in the area and mention that they have again worked on a teenager who used a stick to abort a foetus. They mention Mashudu's name and surname. Mashudu's mother is shocked and feels betrayed by the nurse who did not inform her of her daughter's correct diagnosis. The manner in which she learned about it is even more shocking.

- Was the nurse correct in not informing the mother of the girl's diagnosis? And what would the correct procedure have been?
- How could the rights of Mashudu have been protected?

- What should be done to the nurses who discussed the patient in the lift?
- What is the responsibility regarding counselling the patient?

Informed consent

Everyone has a right to be given full and accurate information about the nature of one's illnesses, diagnostic procedures, the proposed treatment and risks associated with such treatment and the costs involved.

Truth-telling and informed consent are closely related. For patients to make an informed decision regarding their treatment, they need to know the truth about the treatment they are going to receive, what the possible outcome might be and what their responsibilities are going to be. Informed consent also relates to the patient's right to adequate (enough) and relevant information before an operation or any other invasive procedure.

This right could be seen as a patient's right to autonomy and self-determination, which includes the patient's right to refuse treatment. Patients should be consulted about the treatment they are getting so that they can become involved in their care. Knowing all about their treatment will help them to make informed decisions on, for example, whether or not they agree to have an operation. For patients to make correct decisions, they need to be given accurate information about all the possible options regarding care and treatment.

If you become aware that a patient has not been given sufficient or the correct information to give an informed consent to an intervention, it is your responsibility to contact the doctor and to ask them to give the patient sufficient information and the correct information. The right to information to enable an informed consent also involves telling the patient of any risks related to the intervention.

CASE STUDY 4.6

Mrs Tema, a 30-year-old married woman, is diagnosed with cancer of the cervix. She is advised by her doctor to receive chemotherapy and radiation treatment, but is not informed of the risks involved. She receives the treatment and goes into remission. She and her husband want to have children, but she is unable to fall pregnant. She visits the reproductive health clinic, where she is told by one of the staff that the chemotherapy and radiation are the cause of her infertility.

- What rights of the patient were not given attention?
- Can the patient take the matter to court?

prior permission to transfer the patient, and the transfer must be done with the patient's consent.

CASE STUDY 4.9

Princess Dlamini is a premature baby who has developed hyaline membrane and cannot be treated in the local hospital. She needs to be transferred to a referral hospital where the necessary treatment can be given. An ambulance is called and the baby is transferred to the regional hospital without any previous arrangements being made. When the baby arrives, there is no bed available for her and the admission clerk refuses to admit her. Both the mother and baby have to wait for almost an hour before the necessary arrangements can be made to admit her. In the meantime, the baby's condition gets worse and, shortly after she is admitted, she dies. The mother is now left at a hospital 20 kilometres from home.

- What rights have the mother and baby been denied and what could the implications be for the service?
- What factors were not considered in transferring the baby?
- What happened in the regional hospital to transgress the baby's right to emergency care?
- What ethical principles would play a role in this case?

Continuity of care

Once a healthcare worker has taken responsibility for a patient's care, they may not abandon the patient. The healthcare facility has the same obligation. This has serious implications for a healthcare facility when a patient who is admitted to a private institution does not have enough money to stay there. When care cannot be continued in an institution (for any reason) the patient should be informed of other available and realistic care options.

Reflection

Look again at Case study 4.4. Think about how this case should have been handled and decide what Mr Green and the hospital staff's responsibilities and obligations were.

Complaints about health services

To ensure the patients' safety and to be sure that they receive the best care possible, every patient has the right to complain about the healthcare or the institution where they receive the care. Once a complaint has been lodged, the

- Who can be blamed – the staff member at the clinic or the doctor and staff where she received the treatment?
- What precautions should have been taken?

Refusal of treatment

Patients are free to decline treatment provided that this will not endanger the health of others. Such a refusal can be either in writing or verbal (spoken). Patients should be told of the risks involved if they do not receive the treatment, but under no circumstances may they be coerced (forced) to accept treatment or to sign consent forms. Patients' wishes must be respected even if you disagree with them. Refusal of treatment is the right of the patient to self-determination. Refusing to be treated also relates to refusing to take part in any research project, for example to test new medications or treatment. Once patients have been given all the necessary information in a truthful way, to prevent harm, they can make an informed decision either to accept or to refuse treatment. Whatever the patient's decision is, it must be respected, and the patient must be given considerate, quality care in a caring manner. Not accepting the patient's right to refuse treatment is overriding (i.e. taking no notice of) their autonomy. The right to prevent harm can sometimes be seen as more important than the right of freedom to choose. In a case where this problem arises, moral reasons will have to be given.

Reflection

Go back to Case study 4.2 and answer again the question of whether the nurse has the responsibility to coerce Mr Nzo into receiving the heparin on the principle of beneficence and not doing harm.

Referral for a second opinion

If the patient wants to be referred to another healthcare provider for a second opinion, they should be allowed to do so. This will allow the patient to have a diagnosis either confirmed or not confirmed, and will allow the patient to exercise their right of freedom to choose.

The patient's autonomy and freedom of choice are entrenched in this right to a second opinion. Health professionals do not have the right to refuse a patient the chance to get a second opinion.

Should a patient be transferred for a second opinion or further treatment, the patient must be told of any risks, benefits or alternatives involved in being transferred. The institution to which the patient is transferred to must give