Legal and Ethical Dimensions of Nursing
Advocacy: Lessons from Practice

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Objectives

• To examine ethical dimensions of nursing advocacy through nursing ethics literature.
• To examine legal dimensions of nursing advocacy through legal case law.
• Identify barriers to nursing advocacy at the bedside.
Early lessons in bedside advocacy from a preemie nurse

• Baby Doe debate in the 1970s and 1980s
• Is withdrawal/withholding of life-sustaining treatment for critically ill neonates ethically justifiable?
• Who is ultimately responsible for the decision? Who is the neonate’s advocate?
Early lessons in advocacy from a public defender

• Lawyers are given wide latitude to make reasonable tactical decisions in advocating for their clients.
• Constitutional requirements should support the lawyer’s overriding mission of vigorous advocacy.
• Courts who evaluate ineffective assistance of counsel cases should be deferential to counsel’s decisions and avoid scrutinizing in hindsight.

Ethical dimensions of nursing advocacy

Moreover, if in prescribing the procedures to be employed the physician goes into minute details as to the way in which certain of them are to be carried out, his wishes are to be law to the nurse. The question whether she agrees perfectly with his recommendations, or believes that her own methods are better, has no bearing on the case... Her sole duty is to obey orders, and so long as she does this, she is not to be held responsible for untoward events.

Isabel Hampton Robb (1900)

Nursing Ethics: For Hospital and Private Use
The Code of Ethics for Nurses
Provision 3

The nurse promotes, advocates for, and protects the rights, health and safety of the patient.

American Nurse’s Association Code of Ethics(2015)
Legal dimensions of nursing advocacy

The court stated that it accepted the testimony of Nurse Pickett. The trial court held that the plaintiff’s claim for relief would require nurses to engage in the practice of medicine when their only duty to the patient is to inform the attending physician of the patient’s condition and to follow the physician’s orders relating to the patient’s care.

Berdyck v. Shinde (1993) Ohio St. 3d.
OAC 4723-4-03 Standards relating to competent practice as a registered nurse

(F) When clarifying an order, the registered nurse shall, in a timely manner:

(1) Consult with an appropriate licensed practitioner;

(2) Notify the ordering practitioner when the registered nurse makes the decision not to follow the order or administer the medication or treatment as prescribed;

(3) Document that the practitioner was notified of the decision not to follow the order or administer the medication or treatment, including the reason for not doing so; and

(4) Take any other action needed to assure the safety of the client.
OAC 4723-4-03 Standards relating to competent practice as a registered nurse

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(4) Take any other action needed to assure the safety of the client.
“The standards of competent performance also require the nurse to act “as the client’s advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client.” (Finnerty, 2008).
Barriers to Bedside Advocacy

- Institutional Dynamics
- Time constraints
- Lack of motivation
Concluding remarks

. . . It is only by doing our work for the work’s sake, that we can hope to obtain the best and the most far-reaching results, and that our chosen profession will stand out as a beacon, . . . that will cause it to shine with a penetrating and attractive light, towards which all, who when in physical and mental suffering need to be ministered unto, may turn with the full assurance that they will not do so in vain.

Isabel Hampton Robb (1900)

*Nursing Ethics: For Hospital and Private Use*
THANK YOU!

Women’s Soldier’s and Sailor’s Aid Society
Soldiers’ and Sailors’ Monument, 1888
References

- Ohio Rev. Code. Ch. 4723-04-03.
- Robb, I. (1900) Nursing Ethics: For hospital and private use. Cleveland: Koeckert.