

The legal and the ethical aspects of nursing profile

Introduction

There are many legal and the ethical issues present in the case study outlined here. The legal issues associated in the case study are the negligence reflected by the use to the patient and the breaches of the patient rights. The poor performance of the nurse as per the case study also is treated as the lack of the maintenance of the ethical issue here. The protection of the welfare of the patient also has not been maintained by the nurse in the present case study. Another ethical issue regarding the not maintenance of the respect of the patient also has been rejected in the current case study. As per the view of Billings & Halstead (2013), it is important to be skilled with the ethical component by the nurses along with the clinic expertise in her. At the same time, it is also important to maintain the legal aspects in their practices so that both the legal and the ethical issues will be established in an excellent manner.

According to the view of Hamric, Hanson, Tracy, & O'Grady (2013), as per the correctional setting, the patients are at the core of the nursing profession. The full care should be offered to the patients as per the requirement. In this aspect, the nurses should be able to reflect the proper ethical decision-making process in their practices for the full benefit to the patients. The excellent performance of the nurses is the key requirement. The maintenance of the moral and the legal aspects of the nursing practice also is likely to enhance the effectiveness of the nurses. The ethical and the legal theories in the nursing practices help to build the strong decision-making capabilities. Here, the legal test and the ethical test based on the case study have been discussed.

The test on Legal aspect

The legal implications of the nursing practice are closely related to the federal laws, the tort of negligence and the Wrongs Act 1958 as per the requirement of the cases study. The three essential elements of the legal aspects associated with the nursing practice have been described in this section.

As per the view of Anastasi & Anderson (2012), it is more important to consider the lack of the negligence in the nursing practice as it is directly linked to the welfare of the patients. It has been mentioned by Potter, Perry, Stockert, & Hall (2013), that the negligence is something that the most judicious people will not do to bring the harm to the patients. On the other hand,

Huber (2013), has mentioned that it is the act of failure by the nurse within her job role. Weber (2012), has also mentioned the negligence as the fact of the carelessness reflected by the nurse. As per the case study, the nurse A appointed to take care Mrs. Y has reflected her negligence fact during her duty hours. The nurse went to the tea break and found that Mrs. Y was lying on the floor with the clotting of the fresh blood around her neck, the massive heart attack has been faced by Mrs. Y while she was moving towards the toilet. In that case, the nurse as supposed to be alert regarding each and every step of the patient. The carelessness has been reflected by the action of the nurse performed.

The lawyers use to call this taking care ability of the nurses as the Ordinary reasonable, judicious person rule (ccn, 2016). As per the rule, the nurses are required to be skilled with the standard care to the patients. As per the case study, the nurse was not able to meet the minimum criteria of the taken care ability and has reflected the act of the negligence. The patient here in the case study has faced the massive accident due to the massive heart attack, but, this oversightact could have caused the death of the patient. There are four basic essential elements in the negligence. They are the duty of care, the tort of negligence, negligence claim, and the medical negligence.

As per the view of Huber (2013), the duty is something critical which the nurse owe to the patient. The nurse should be sufficiently loyal to the patients regarding their recovery. It is the duty of the nurse to take care in a complete manner so that the patient will feel comfortable and safe while is attended by the appointed nurse. Nurses are required to be fully conscious so that no harm is happening to the allotted patient to her. But, as per the case study, the nurse was not able to carry out her duty and the patient has faced the accident.

The next element in the negligence is the tort of negligence or the breach of the duty to be performed by the nurse. This breach of the duty refers to the section when the nurse is not able to maintain the safe environment for the patient. Here the wrongs Act (1958) is applicable. The wrongs act defines the term that the definite person is termed as negligent if and only I the risk was foreseeable (nursetogether, 2012). It is also applicable to the case when the nurse was not interested in taking the measurable precaution from the expected risk. In the case study, the patient was suffering from the Osteoporosis, asthma, and the hypotension. So, it can be expected that anything serious can happen to the patients, and the acute observation of the activities of the

patient was required, which was not considered by the nurse. So, the breach of the duty or the tort of the duty has been tested as per the case study. So, the proper care should be taken by the nurse for the quick recovery and the prevention of the further injury of the patients.

The third element is the negligence claim. As per the view of Masters (2015), this element is referring to the term of proving the low or high injury to the patients. If the injury is happening to the patients then the negligence is claimed and if the damage is not happening to the patient then the negligence is not claimed. As per the case study scenario, the negligence is ultimately being claimed. Here, Mrs. Y was fallen on the ground for the massive heart attack and was hit by the floor. Her head was bleeding. So, the massive injury has been taken place in the case. So, the negligence claim is tested here. As per the wrongs act (1958), the threshold leveled the patient can claim injury. Here, Mrs. Y was physically injured, and the damage level was high. So the claim by the patient is justified here from the legal aspects. Thus, the negligence fact reflected by the nurse may be termed as the poor patient care which does not satisfy the essential elements of damages.

The causation is another important fact to be considered here. It is recognized as the cause and effect concept to the injury (Huang, Sun, & Lien, 2015). This is the most difficult section to be proved based on the scenario. The lack of the negligence reflected by the nurse is directly resulting in the adverse effect on the patients. As per the case study, the tea break taken by the nurse was required to be substituted by another skilled nurse so that the massive heart attack and the bleeding accident could have been avoided. Due to the lack of the precautions, this incident also proves the fact of the causation from the legal aspect of the nursing practice in an efficient manner.

The fourth element is the negligence in the medical profession. As per the view of the Patton & Lewallen (2015), it is the most important fact abides by the rules and the regulations of the nursing profession. As per the rules and regulations of the nursing profession like the other health care professionals, it is required to take the acute care of the patients so that they will be able to get recovered soon. As per the case study, the nurse Y was supposed to be careful enough regarding the chest problem as Mrs. Y was not fit by heart as well. At the same time, she was also suffering from the asthma problem. So the additional care was supposed to be taken by the nurse while she was moving out for the tea break. She should have appointed any other nurse, so

the proper education could have been applying to the patient if any energy would have raised. So, the case study scenario has tested all the legal aspects raise against the nurse Y due to the fact of the negligence.

The test on Ethical aspect

After the discussion regarding the legal analysis based on the scenario, the test on the ethical aspects related to the nursing practice based on the same case study is important. As per the view of Stuart (2014), the nursing practice has been initiated in England in the year 1800s at the school that has been founded by the Florence Nightingale. By the end of the 1800s, the modern practice of the nursing has been initiated and by the beginning of the 1890s, the ethical aspects of the nursing practices were seriously started to be discussed. The ICN (International Council of Nurses) which is the founder of the ethical conducts of the Nursing Practice are recognized as the pioneer of the ethics maintainer of the nursing practice. In this aspect, there are different theories related to the ethical aspects of the nursing practice. The ANA code of ethical conduct in the nursing practice is considered as the non-negotiable practice (Porter, 2013).

According to the view of de Veer, Francke, & Willems (2013), the ethical dilemma in the nursing practice is the most common factor. Here the nurses get confused to take the necessary decisions and use to get confused to make the priority. Based on the concept, the Nurse A was unable to decide that whether she is supposed to leave Mrs. Y alone or she should have arranged someone to take care of Mrs Y for this short duration of her tea break as the condition of the patient was not in good condition. So, the ethical dilemma has been proved in this case.

If the ethical theories based on the nursing practice is required to be discussed, then it can be stated that there are four important theories. They are Consequentialism, Deontology, Virtue Ethics, and Principlism (advanced practice, 2016). Based on the case study scenario, the Deontology, and the Principlism are the two important theories that are required to be discussed. The consequentialism theory is based on the offering of the moral support to the patient which has been offered by the nurse concerned here to Mrs. Y (Ukcu, 2016). So, the test on this ethical background is positive. Also, the theory of the Virtue Ethics is not justified for the current study as it is again related to the offering of the moral value to the patient (Holloway & Wheeler, 2013).

The Deontology theory is the important criticism of the Consequentialism theory as it deals with the duties and the responsibilities to be performed by the nurses to their patients. It describes the proper justification of the action of the nurses (Burkhardt & Nathaniel, 2013). As per this Deontology theory all the patients should be treated with equal respect, and also, realistic moral values are required to be reflected by the nurses to the patients. The most important Deontology theory is of Immanuel Kant in the 18th century. The term “Kantianism” is the most modern term in the ethical aspects of the nursing practice. This term is associated with the concepts such as “not to lie”, “not to kill”, and also “not people let to be injured”, and also “not to break the promises made by the nurse to the patient. So, based on the discussion about the Deontology theory, the violation of the ethical aspect of the Nurse A in her duty towards Mrs. A has been tested and justified.

Now, for the discussion regarding the Principlism, it can be stated that it is the most common ethical approach used in the health care division. It has been initiated by Beauchamp and Childress in the year 2008. It is the most important ethical theory based on the judgments. This theory is comprised of four distinct ethical principles. They are Respect for Autonomy, Beneficence, Non – Maleficence, and justice (Plant & Narayanasamy, 2013). All these or basic principles of the Principlism is addressed for the graduate nurse those are engaged with the normal treatment and the most critical treatment of the patients.

As per the view of Butts & Rich (2015), the concept of the autonomy is based on the self-rule and the self-decision making the process for the wellbeing of others. As per the case study, the self-decision making the process by the Nurse A for the total caring of Mrs. Y. It has been argued by Johnstone (2015), that the concept of the autonomy is the top priority among the four principles of the Principlism, where it has been stated by Gastmans (2013), that all the four principles of the Principlism have the equal preferences. In the health care sector, the concept of the autonomy is the self-respect of the patients by asking them the consent of the treatment options and by accepting the treatment refusal by the patient. Here, the nurse was supposed to let the patient know regarding the detailed treatment process in advance. As per the cases study, the proper decision for the proper care of the patient was not taken by the nurse, so the massive heart attack has been taken place followed by the accident even when Mrs. Y was under the supervision of the nurse and was under the treatment of other diseases.

It has been mentioned by Milligan & Winch (2015), that the term of the Beneficence is based on the concept of the mercy, compassion, and the charity. This concept is justified in the nursing profile by the complete care and the offering of the benefit to the patient using the positive resources for the wellbeing. Here, the Nurse A was not successful to offer the complete benefit to Mrs. Y, and the accident had taken place. The subtle support was required to be offered to the patient to maintain the ethical aspect of the nursing profile. Sometimes, the nurses use to face some conflicts in maintaining the self-respect of the patient regarding the autonomy and also in maintaining the Beneficence concept to offer the complete care to the patient (Holloway & Wheeler, 2013). When the autonomy of the patient use to get high preference rather than the beneficence, then it is called paternalism.

The concept of the non – maleficence is based on the concept of “no – offering the harm” (Hamric, Hanson, Tracy, & O’Grady, 2013). In the nursing practice, it is directly associated with the concept of the avoidance of the negligent care of the patient. As per the case study, the test of the non – maleficence was not justified as the nurse has reflected the avoidance of the proper care and has established the negligent care to Mrs. Y and the resultant fat was the accident by hitting the head with the wall while moving towards the toilet. No one was there to take care of the patient in that situation, and the sides of the bed were also not pulled up so that any accident could have been avoided. The proper decision-making process was not adopted by the nurse for the complete well-being so that the small negligence which may cause the significant loss could have been avoided. The extraordinary care treatment should have been taken by Nurse A to avoid any adverse situation as happened in the case study.

The last principle can be referred as the concept of justice. It can be defined as the definite virtue and the ethical framework based on the duty to be performed by the nurse towards the patients. As per the view of Holloway & Wheeler (2013), it is also based on the concept of the equal distribution of the care and the treatment facilities to the patients those are under the supervision. The proper decisions are required to be taken by the nurse for the proper allocation of the resources for the complete care of the patients. As per the case study, the distribution of the resource regarding the nurses was not made. As a consequent, when the nurse A went to the tea break, no one was there to take care of Mrs. Y. As a result, the accident has taken place by violating the ethical aspects in a large manner.

Conclusion

The essay was based on the discussion of the legal and the ethical aspects of the nursing practice. As per the case study, the legal aspects and the ethical aspects were not maintained by the nurse. The negligence act has been tested on the case study scenario and also the Wrongs Act(1958) has been justified as the consequences of the case study scenario. The breach of the duty of the nurse, the negligence claim, and the causation also have been tested in a large manner. Along with the test of the legal aspects, the test of the ethical aspects regarding the performance of the nurses regarding the performance also has been done. Both the theories of the ethical aspects regarding Deontology and the Principlism have been tested. The lack of the maintenance of the ethical aspect without any equal distribution of the resources for the proper benefit offering to the patient has been verified. So, it is required by the nurses to take care of the maintenance of the ethical and the legal aspect in a positive manner.

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