Abandonment of patients by home health nursing agencies: An ethical analysis of the dilemma

Home health care nurses are facing the ethical dilemma of discontinuing care to nonpaying needy patients or facing agency economic demise. Nurses perceive discontinuing care under such circumstances as patient abandonment. Ethical analysis of the dilemma yields two conclusions: (1) discontinuing care under non-life-threatening circumstances is not abandonment and does not violate the duty of beneficence, and (2) nurses do have an obligation to inform society of such instances so that public policy decision makers can be armed with that information when making allocation decisions.

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TODAY'S economic climate is forcing nurses to ration care to patients. This is especially troubling to nurses working in the home health care arena, where some nurse-run agencies are forced to either refuse care to nonpaying patients or go out of business.[1,2] Nurses, knowing that these individuals must often go without needed home health care, may believe they are abandoning their patients and compromising their personal and professional ethical obligations if they discontinue care. What ought a nurse to do when confronted with such a situation? Intense psychological pressure is created by this ethical dilemma, and it contributes to professional and workplace dissatisfaction for nurses, most of whom entered the profession in the first place "to serve people."[1]

A search of current nursing literature reveals that the ethical dilemma posed by the possibility of patient abandonment in the home health care arena has not been addressed. This article explores the ethical

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and moral aspects of discontinuing provision of home health care, for economic reasons, to patients who, in the nurse's best professional judgment, continue to need such care. Extremely important and complex economic and legal issues are involved in patient abandonment, but this article will not attempt to explicate them in depth. Rather, the focus will be on the ethical aspects of the dilemma, which has been called to the author's attention by colleagues working currently in home health care agencies.

This ethical dilemma will be analyzed following an accepted pattern of rational ethical inquiry.[3-7] Such inquiry involves gathering the facts; examining the choices; reflecting on the values, moral principles, rights, and duties that are applicable in the situation; and arriving at the best possible answer or solution to the question or dilemma addressed. Since "the very nature of ethics is one of dilemmas,"[8(pvi)] and an ethical dilemma is one where "moral claims conflict with one another,"[4(p6)] disagreements and alternative positions may result, but one hopes that the process of ethical inquiry will result in a state of reflective equilibrium, enabling the nurse to select a course of action at least morally tolerable, if not completely satisfactory.

The following definitions will clarify terms used throughout. *Abandon* means "to withdraw protection, support, or help.... Abandon suggests that the thing or person left may be helpless without protection."[9(p43)] *Ethics* is a level of activity that implies using a rational process to deliberate among moral principles and concepts or choices to justify a decision or course of action (ie, to indicate what ought to be done).[10] *Morals* are the fundamental principles and basic concepts deliberated in ethics. The source of such standards is wide ranging, deriving from one's environment, culture, religion, and laws. Many philosophers consider beliefs about moral principles and standards of lesser certainty than absolute knowledge, yet they are stronger and bear a certain consensus and responsibility for action more prescriptive than that of a simple matter of taste or preference.

IDENTIFYING THE PROBLEM AND GATHERING THE FACTS

The ethical dilemma explored in this article is the situation encountered by a nurse-director of a home health care agency when all potential sources of payment for home health care services have denied economic support, yet it is obvious to the nurse that continued home health care services are necessary if the patient is to maintain what the nurse deems a minimum standard of health and well-being. The nurse's immediate choice of action is between two unsatisfactory solutions, leaving a patient without needed home health care, or threatening the economic existence of the agency, leading to potential societal harm by depriving many other patients of such care. Similar economic constraints are being encountered in long-term care institutions as well, but for clarity, the issue in this article will be limited to the home health care environment.

Although the issue unquestionably includes the broader problem of ethics in the arena of public policy, the focus of this article will be on the individual nurse, with inclusion of the broader aspect only as

necessary. Further, although the term abandonment is also used in the legal arena, this article's focus will be on the ethical, not legal, aspects of the question of patient abandonment. Is the nurse obligated to continue to provide home health care to an economically destitute patient? Does refusing to provide such care violate personal and professional moral standards of service? Is discontinuation of such service abandonment of the patient?

Such situations are occurring daily and causing considerable consternation among nurses confronted with the dilemma. Evidence of concern about the situation is widespread, and the problem is increasing. Multiple references to the problem appear in recent health care literature.[11-20] According to Droste,[21] approximately 6% of home health care claims today are being denied by Medicare, and it is estimated that this will increase to 8% before it will decrease. The problem of denials escalated in April 1985, when regional offices started pressuring local intermediaries to meet minimum mandated savings rations. Since Medicare provides more than 70% of home health care agency revenue,[11] these denials directly affect the caring relationship between the home health care agency nurse and patient. Other sources of funding, such as private third party payers or community-based resources are sometimes available, but there remain a number of patients who do not meet any such guidelines. Thus, the problem of people without funds requesting home health care is a very real one.

Another factual part of the problem is the question of need for home health care. Medicare's regulations for home health care are not specific[13]: for instance, a patient is eligible for home health care if skilled nursing care is needed. All nurses are aware of the ambiguity of interpretation of the term skilled. Furthermore, under some circumstances, care by a home health aide is funded, but in some instances nurse-run agencies must also deny this level of care to patients they perceive as needing it. The standards allowing or disallowing payment for home health care are not now based on the judgment of professional nurses. This fact contributes heavily to the dilemma nurses face.

While some might perceive the issue of funding separate from the issue of discontinuing care, this author considers it a motivating force of the dilemma. First, the assumption is made that the agency in question is practicing good business management and all possible avenues have been explored to maintain the viability of the agency and still provide care to needy patients who cannot pay. Thus, the problem stems from public policy. If funding were adequate, the dilemma would not exist. Although this article will not attempt to explore the public policy issue in depth, nurses' responsibility for informing the public of the impact of policy on individuals will be addressed as necessary to better analyze the issue of patient abandonment as it is affected by public policy.

EXAMINING THE CHOICES

Social justice: Allocation of scarce resources

The issue of patient abandonment is a problem of social justice (or more accurately, social injustice) and falls in the

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ethical arena of the allocation of scarce resources. If economic resources were infinite, or distributed in a different manner within the social structure, the patient would receive the needed care and the agency would be adequately compensated. However, since funds are not unlimited within US society, decisions have been made by private organizations and government alike regarding how such funds will be distributed. Currently, priorities for overall health care spending are aimed at acute care and high technology.[15] With the increase in age of the population, and the accompanying increase in the chronically ill, society is going to have to take a hard look at realigning these priorities.

Microallocation and macroallocation

General distribution guidelines for society's resources on a large scale can be termed macroallocation and include allocation of funds in and among all facets of society, not only within health care. Microallocation decisions occur at a more local level, and usually occur after macroallocation decisions are made. A microallocation decision is made at the individual agency level regarding whether or not to accept a nonpaying patient, using criteria developed by such an agency to ration the resources accorded them at the macro level.

Because the issue confronting the individual nurse at the micro level is affected by allocations at the macro level, resolution of the overriding cause of the conflict must be addressed at the macro level. Macro-level changes that would ensure financial coverage for the patients now facing denial of services would ease the agency's financial plight, but currently the uncomfortable economic reality is that agencies must be reimbursed or they cannot provide services. Since macro-level change processes are usually lengthy, the prospect of immediate resolution of the micro problem is not likely, and the nurse will have to contend with the dilemma for some time to come.

Respect for human dignity

Integral to the professional nursing practice is respect for human dignity. Traditionally this respect takes priority over economic considerations. Clearly, the nurse who believes that devaluation of the human dignity of the individual patient is occurring will find his or her moral standard violated. Yet consideration of the human dignity of society as a whole, as well as of individuals, cannot be ignored. Thus the nurse's choice remains whether or not to provide care to nonpaying patients, with either alternative equally unsatisfactory.

PERTINENT ETHICAL THEORY

After identifying the problem, gathering facts, and examining the choices, the next step in ethical inquiry is to engage in reflective deliberation regarding possible moral guidelines that will aid in resolution

of the dilemma. This process involves systematically using the process of reason to explore pertinent ethical theory, including values, moral principles, duties, and obligations that apply to any and all aspects of the situation.

Philosophical perspective of distributive justice

Historically, philosophy offers guidelines for just distribution of resources. At least from the time of Plato,[22] philosophers have considered several criteria as options for fair or just distribution of limited resources, assuming equal distribution of a portion to each is impossible. Distribution may be according to merit or desert (entitlement), social worth, need, similarity to another receiving the resource, or even randomly, as in a lottery. But consensus regarding selection of one or more criteria for resource distribution, within society at large and specifically in health care, has not been reached and is a subject of numerous contemporary publications.[23-31]

Currently the criteria used to decide who may receive home health care depend on a combination of the above theoretical possibilities. Those who have accumulated means of payment can buy care. This can be considered entitlement: such individuals or families presumably have earned or merit the right to receive such care. In one way or another, they have been able to accrue enough resources and have chosen to use them in this way, rather than to secure other goods. In other instances, society decrees desert based on individual need: for instance, care may be awarded to those with certain disabilities, because they reputedly deserve society's help. A debate now centering on social worth is focused on the aged.[32] Although age is named as being a potential criterion for limiting allocation of scarce resources in health care, the underlying implication includes the worth of an aged individual in terms of future societal contribution. It is obvious that requirements for being an eligible recipient of home nursing care vary widely and are not easily manipulated by the nurse or agency on an individual basis. The nurse must therefore look beyond traditional philosophical views regarding distributive justice for moral guidelines that will assist in solving the dilemma presented when his or her agency cannot provide care for such a patient.

Role-designated moral guidelines

Significant in the issue of possible patient abandonment are the variety of roles the nurse fills, since conflicting moral standards contribute to the ethical dilemma. First and foremost, a nurse is an individual adult human being, with values and moral standards developed during a lifetime. A significant additional role imposed on this human being is the role of the professional nurse, which carries with it the values, goals, and ethical codes of nursing that influence the nurse's obligations and conduct. The nurse is part (or the entire unit) of both a nuclear and an extended family. He or she is also a member of a larger society, which can be defined and circumscribed in a variety of ways, such as governmental, geographical, ethnic, and religious, all of which entail values, standards, and often obligations to others. And last, but certainly not least, the nurse commonly works for an agency that

has its own standards, role expectations, and expectations of conduct.

With such wide-ranging potential sources for moral standards, it is no wonder that conflicts arise. The nurse might then ask the following questions: How can I prioritize moral standards that conflict when I use them to help me decide between the alternatives of continuing care unreimbursed or abandoning the patient? Is discontinuing care truly abandonment? Can discontinuing care be justified ethically? What are a patient's rights to home health care? What are my rights as an individual and as a professional? What are the agency's rights as an institution? What are the rights of society at large to health care? What are the obligations entailed by these rights, as well as those obligations arising from sources other than rights?

Consequentialism

In looking at potential consequences of an action, one usually assigns a good or bad value to those consequences. Since values can derive from a wide variety of sources, it is impossible to arrive at an absolute definition or measure of good and bad, but it is usually possible to ascertain whether consequences are good or bad relative to some standard. Yet one must consider the consequences as they apply to more than one side, or party, when a conflict is involved, and in the question of individual patient abandonment, consequences good for the patient (continuing care) may be bad for the agency (insufficient available resources), and vice versa. For the nurse, consequences of either action may be both good and bad. Continuing care may satisfy strong feelings of moral responsibility and obligation to respect the dignity of fellow humans and to the profession, yet jeopardize a job; discontinuing care may protect the job and enable the agency to continue caring for many other patients who would not be served if the agency did not have adequate resources to do so, yet leave the nurse extremely distraught over failure to meet personal moral and professional expectations. Thus, careful consideration of the consequences of either action for guidance toward resolving the conflict simply perpetuates the conflict. It appears that balancing risks and benefits of consequences will be necessary if any priority is to be established. The nurse needs to consider moral rules and principles as a potential source of help.

Moral principles

Rules or principles of ethical conduct have been derived from a variety of sources including religion and philosophy. Rules can provide satisfactory solutions in some situations, but in others the rules may be inadequate or even conflict when two or more of them are applied to the same situation.

The following situation is an example of rule conflict and is often used by philosophers to illustrate this point. A German homeowner, hiding Jewish people in his attic during the Hitler regime, is confronted by Nazi storm troopers at the door. If he reveals that there are Jews in his attic, he will certainly be an accomplice to their murder, violating the "Do not kill" rule, yet if he lies he will violate the rule "Do not lie." More pertinent to nursing are situations where information regarding the

death of a loved one might be temporarily withheld from a trauma victim in very unstable physiological condition. Lying might be necessary in this instance to prevent possible killing.

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The problem of patient abandonment in the home health care arena exemplifies inadequacy rather than conflict of rules: this problem lies in those rules or duties that are impossible to fulfill in entirety. Such duties are designated as "imperfect duties" by Kant in his famous *Groundwork of the Metaphysic of Morals.*[33] According to Kant, perfect duties are usually negative duties, and are fairly easily described. Included in the perfect category are the rules "Do not kill" and "Do not make false promises." These duties are considered perfect duties because it is clear where their boundaries lie, except when they conflict with each other. On the other hand, imperfect duties are positive duties that cannot be carried out to an absolute extent. For instance, "Cultivate your talents to the fullest" and "Help others" (the duty of beneficence) carry infinite possibilities. It is unlikely that anyone could cultivate all of his or her talents. While "Provide food so the hungry do not starve" seems to be a sensible rule to follow, the responsibility of each human being who possesses at least minimally adequate resources toward those who do not is difficult to determine. Unquestionably criteria of distance; family, filial, and civic responsibility; and feasibility enter the picture and prevent absolute fulfillment of such a duty by any one individual.

Agency and nurse responsibility to help others in providing home nursing care is certainly one of these imperfect duties. It is impossible for one nurse or agency to provide home nursing care for everyone in need of such services. Thus decisions regarding allocation of services must be made. Those left without care may be considered to be abandoned.

If one tries to judge the duty of beneficence by the more conservative standards of nonmaleficence, the problem remains. Even the slightly more restricted "Do no harm" rule is open to interpretation: how much deprivation of what degree of quality of care is harm? Thus reliance on moral principles or rules, while somewhat helpful, does not resolve the ethical conflict that arises when it appears economically necessary to terminate or deny home care nursing services.

Consideration of other issues is necessary. Questions of the rights of the patient to some nondesignated quality of health care must be reflected on, as well as the obligations carried by the nurse and agency as members of society, of the nursing profession, and of the human race.

Rights and obligations

Rights, and the duties or obligations that arise from them, are a complex subject that generates considerable debate among philosophers and lay people alike. The *Encyclopedia of Philosophy*[34] describes the attention paid by philosophers over the years to a variety of rights (religious, legal, moral,

human, natural), commenting on the various interpretations and on the relationship of rights to duties or obligations. Some rights entail a duty or obligation on the part of a human being. But human rights are described as basic human needs, and it is noted that they do not obligate any individual or government to supply them; rather, they presuppose a standard below which no human being should fall. It is suggested that coping with meeting such standards must occur in the arena of social justice.

What constitutes fundamental human rights, those rights deserved by virtue of being human, is a subject for argument. For instance, while freedom is often considered one of these rights, it is limited when it encroaches on another's freedom. Another seemingly fundamental human right, the right not to starve to death, is not accepted by all cultures of the world; some societies approve of allowing unwanted infants or the elderly to starve. Neither is this particular right limited to humans: few in US culture would accept someone's right to let a puppy, for example, starve.

Differences also exist over the right to health care. There are those who argue that health care is a fundamental human right and there are those who disagree. Furthermore, since health care is a very broad concept, questions of rights to health care necessarily involve questions of whose rights to what standard of health care. Attempts continue to define a minimally decent standard of care, but again there is a lack of harmony among those who attempt such definition. Standards vary among cultures, governments, and even families on the same block in any US city.

Such indecisiveness regarding rights and standards affects one trying to make a just decision regarding home health care for patients without economic resources. While most nurses would agree that patients involved in this situation would benefit from home nursing care, many would argue that it is not their fundamental right. Usually the idea of protection of a fundamental right involves a more immediate life-threatening situation than deprivation of home nursing care. The American Nurses' Association (ANA)[35] code of ethics discusses protection of human dignity and protection of an individual's right to autonomy in health care, but does not define a right to health care. It appears that the issue of whether a fundamental human right to health care exists is clouded by ambiguity.

Abandonment

The term abandonment is often used in reference to the legal responsibility of health care providers in emergency situations where an individual's life is at risk.[36] Use of the term abandonment implies that the patient is helpless, which in turn implies that harm may occur if help is not rendered. Attention has been focused on standards of acute care, and minimal standards in the chronic care arena are sorely lacking. A minimum standard of harm has not been established. This problem is one of those addressed in report by the Hastings Center project on ethics and chronic illness.[15]

Collective obligations

One might ask, if minimal standards for home care could be established and agreed on by all of society, can an agency (as

compared to an individual) actually bear a moral responsibility to meet such standards? Consensus within the business and philosophic community seems to lie in the direction of an affirmative answer. DeGeorge[37] and others[38,39] explain that when any collective (a group of individuals, such as an agency's administrators or management persons) engages in rational decision making, (such as making policies or rules within its structure), it generates an obligation to be responsible for the consequences of such decisions. Using this interpretation, a home health care agency might certainly be held responsible for some designated degree or measure of harm occurring to its patients as a result of its decisions. However, if minimum standards of well-being are not designated, and the individuals to whom such standards are obligated are not defined, it can be difficult to assess agency responsibility.

The issue of the obligation of professional nurses to provide quality health care without regard to economic compensation is skirted by the ANA code of ethics. It offers general principles to guide and evaluate nursing actions: "The nurse provides services with respect for human dignity and the uniqueness of the client, unrestricted by considerations of social or economic status, personal attributes, or the nature of health problems."[35(p2)] This statement seems unclear in regard to the phrases "provides services" and "respect": does it mean that the provision of services is unrestricted, or that respect for dignity and uniqueness is unrestricted? The interpretive statement further explains that "need for health care is universal, transcending all ... economic difference ... [and] is delivered without prejudicial behavior."[35(p3)] Although the code indicates that respect for the patient must be maintained without regard to economic status, it is unclear regarding any link of provision of services with the nurse's need for direct reimbursement. Thus it appears that there are no clear patient rights or professional nursing obligations that would mandate that the nurse continue to provide home health care services in the face of peril to the agency due to economic resource depletion.

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IMPLICATIONS OF MORAL THEORY

Does the home health care nurse have a moral obligation to continue such care? This author argues that the nurse does not. The moral principle of beneficence does not imply that every nurse has to give home health care service to every needy patient. Nonmaleficence is subject to wide interpretation. Minimum standards of health care have not been defined; thus, it is difficult to determine what level of deprivation of care will cause what degree of harm. Obligation to provide care regardless of a person's ability to pay has traditionally been upheld only in emergency situations where the risk of death is imminent if care is not provided.

Is the nurse abandoning the patient? This author believes that discontinuing home nursing care is not abandonment in most situations. Helplessness is implied by the definition of abandonment, and degrees of helplessness are difficult to define or measure. Society does provide safety nets for people in life-threatening situations, and nurses must, of course, refer patients with such dire needs to institutional care.

The problem lies in the differing interpretations of minimum standards of care by funding sources and by professional nurses. Individual and societal consequences of providing care while imperiling the agency are difficult to measure. Declaring one consequence superior to another in terms of respect for human dignity is therefore impossible.

Assignment of rights and the obligations they may entail is ambiguous; thus, rights provide no clear-cut guidelines for resolution of the dilemma. The ANA code of ethics is intended to provide guidance, not ultimata, and its guidelines are general, not specific, regarding nursing obligations to individuals. The code is clearer in the area of responsibility of nurses to society as a collective. It states that (1) "nurses have an obligation to promote equitable access to nursing and health care for all people," (2) "nurses should ensure [adequate] representation [of nursing's values, goals and commitments] by active participation in decision making in institutional and political arenas to assure a just distribution of health care and nursing resources," and (3) "nurses should actively promote the collaborative planning required to ensure the availability and accessibility of high quality health services to all persons whose health needs are unmet."[35(p16)]

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Therefore, no clear moral or ethical obligation exists for the nurse decision maker to continue care of the nonpaying patient. And discontinuation or denial of care, where immediate, life-threatening consequences are not likely, is not abandonment.

Yet, although the nurse is not morally or ethically obligated to provide care for a nonpaying patient who is well enough to be at home and not in immediate life-threatening danger, this does not mean that no professional responsibility exists. Nurses do have a professional responsibility to promote public awareness of the existence of denial of aid to needy persons. According to Evans,[16] change will only occur if and when public sentiment is aroused to the point that society-wide changes are made. In a thorough analysis of health care allocation and rationing decisions, he suggests that only when the public is exposed to micro-level rationing decisions that it feels are contrary to the interest of the persons involved will changes be made at the macro level.

What then should a nurse and a nursing agency do in such a situation? Unless the patient is in an immediate life-threatening situation, the nurse may discontinue care without violating a moral obligation or being considered as having abandoned the patient. However, as suggested by Curtin,[40(p12)] "nursing is a moral art," and wise application of knowledge and skill to benefit human welfare is a moral end of the nursing profession. Curtin further states

that "nursing and the individual nurse are in very vital positions to help create a climate respectful of the human rights and needs of patients."[40(p19)] Thus, while maintaining patient confidentiality, the nurse must share information with public policy makers, informing them of micro-level rationing decisions that rest on social criteria for devaluing human lives, so that they can better choose among the options when public policy allocation decisions are made.

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