

ELSI: Ethical, Legal and Sociocultural Issues in Nursing Viewed through a Complex Synergistic System Lens

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Abstract

As the largest sector of the health professions in the United States with more than three million registered nurses, the world needs to hear our voices in forging a new vision in nursing education and nursing practice. Nursing education and practice is constantly evolving and Nursing 2013 is at the cutting edge of nursing. The purpose of this paper is to integrate Ethics, Legal and Sociocultural Issues (ELSI) as nursing's obligation to society and toward understanding nursing as a Complex Synergistic System (CSS). The theories through which nurses could view ELSI are the complexity theory, synergy theory, and systems theory. Envisioning ELSI through the CSS lens engages nurses in the multifaceted nature of nursing (complexity theory), its collaborative relationship with various disciplines (synergy theory), and the permeability of nursing's boundaries (systems theory). Understanding ELSI through CSS as a theoretical framework and lens grounds nursing education and practice and agitates Nursing 2013 to withstand and transform challenges into opportunities for growth and positive outcomes. CSS is a powerful tool/lens that shapes, magnifies, clarifies, and guides thinking, feeling and behaving in nursing education and practice. Evidence-based literature and practice is used as background and foreground information.

Keywords: Nursing; Theory; Complexity; Synergy; Systems; Ethical issues; Legal issues; Sociocultural issues

Introduction

We are members of the largest sector of healthcare providers in this country. There is more than three million of us and growing. The country needs to hear our voices as Nursing 2013 amplifies a new vision of nursing education and practice. Nursing education and practice is constantly evolving, warranting transformation of the way nursing is taught, learned and practiced. However, nurses are more often than not excluded from decision making processes involving nursing curricula, policies, procedures and regulations. Thus, we suggest a new integrated theoretical framework to guide us in our nursing journey. The purpose of this paper is to define three theories: complexity, synergy, and system to form one theoretical framework as a lens to guide us in our ethical, legal, and sociocultural evidence-based and competent nursing practice [1-3]. A lens such as the Complex Synergistic System (CSS) is a tool or device that magnifies, clarifies and verifies our obligations to society. Using CSS as a lens helps us comprehend the multifaceted nature of nursing (complexity theory), its interrelatedness to other nurses and various disciplines (synergy theory), and the permeability of its boundaries, and that nursing as a profession is greater than the sum of its members (systems theory). The IOM suggests the future of nursing is bright if it transforms itself by re-conceptualizing its role, redesigning nursing education, examining innovative strategies, and attracting, retaining, and graduating well-prepared diverse nurses to lead us as we practice nursing deep into the 21st century [4].

CSS as the Lens

A nurse is held to standards from a variety of sources, including the nurse practice act and the laws and regulations of the jurisdiction in which they practice, the Code of Ethics for Nurses, the Scope and Standards of Nursing Practice, accrediting organization standards, and institutional policies [5,6]. It is expected that the best practice standards derived from research or evidence-based literature guide every nursing action. In order to better understand these nursing actions and the practice standards, various theories of nursing were reviewed [7]. CSS was first developed by Constantino and Crane to be used by forensic nurses as a way to provide comprehensive nursing care to emergency room patients who are survivors of sexual assault [7]. CSS was formed after a decade of discussion, thoughtful dialogue, deliberate questioning, and a search for answers to nagging questions that baffled nursing students, clinicians and educators [8].

Complexity Theory

Complexity theory is a collection of scientific theories that attempt to explain multiple behaviours occurring in dynamic, non-linear form and order. Complexity theory has influenced many areas of study and practice such as medicine, engineering, law, pharmacy, and others [9]. It has great potential for use in nursing. It explores patterns of relationships, how they are sustained, how they are organized, and how outcomes emerge. It reinforces that, although interactions occur at a local level, they have an impact on the entire system, by virtue of their influence on future interactions [8]. Complexity theory shows that nursing practice involves many different complex scopes of knowledge that interrelate not only with each other, but also with other disciplines [10]. By understanding complexity theory, we are reminded that one action or inaction can have drastic effects on another aspect of a patient's overall health outcome. Complexity

theory as applied to practice produces dynamic interactions of diverse individuals who self-organize and produce outcomes that are unpredictable and uncontrollable but healing [11]. Paley characterizes complexity theory very pointedly: simple practitioners who follow simple rules could generate complex structures [12]. Complexity theory is a collection of overlapping and complementary theories from various sciences, including chaos theory, organization theory, and general systems theory. The Plexus Institute considers complexity theory to be the intellectual successor of general systems theory because it combines the case study method and complexity science to create new ways for practitioners to understand the complex synergistic systems that are part of interpersonal relationships and interactions among practitioners [13].

Synergy Theory

Synergy theory is the study of organizations that form partnerships and collaborate with other organizations to fulfil a unified mission and vision. Synergy theory may be applicable in unifying complex alliances, coalitions, and partnerships with nursing [14]. The nurse is suited to act as a leader in interdisciplinary relationships based on an understanding that today's health practice environment requires partnership and collaboration between service providers and other professions to achieve desirable outcomes. In a collaborative environment, there is great potential for the nurse to act as a catalyst to bring synergy to healthcare and nursing practice. A synergistic system creates partnership and capacity to address its mission, vision, roles, and goals. Synergy as a framework acts as a road map that lays out the pathways by which participatory collaborative processes create more effective community problem-solving and improvements in outcomes [15].

Synergy specifies processes that are integral to collaboration that can be generalized across heterogeneous practice settings. It is a prerequisite in building a sense of empowerment among individual members and fostering stronger sociocultural ties among stakeholders and participants. Synergistic partnerships in nursing are most likely to occur when leadership (administration), management (faculty) and membership (students) embody the following characteristics: (1) Being inclusive by involving a broad array of people and organizations central to nursing education and practice; (2) Focusing on the processes of partnership engagement, such as who has influence and control; and (3) Expanding to multiple issues as different areas begin to relate to each other [16]. Where synergy is, systems have the ability to produce the creative leaps in thinking, feeling, and behaving [17]. Synergy is the creative blending of ideas; such ideas have a greater effect than do individual ideas that stand alone.

General Systems Theory

General systems theory (GST) considers interacting entities that form a unified functioning whole having permeable boundaries conducive to input, feedback, output, reverberation, equifinality, and negentropy [18]. General systems theory was proposed in the 1940s by biologist Ludwig von Bertalanffy as a reaction to reductionism and as an attempt to revive the unity of science [19]. Input is information entering the system from the environment. Output is anything leaving the system, crossing the boundary, and entering the environment. Reverberation is a property of systems whereby a change in one part affects other parts of the system, like a ripple caused by a tiny pebble thrown into a pond. The ripple reverberates, expanding until it joins its boundaries. If its boundaries are porous or permeable, it mixes,

and transforms its properties into a complex synergy that continues to provide input and feedback to the pond, albeit in its transformed complex components. Feedback occurs when output returns to the system (input), and it is used to regulate and/or improve the system. Any change in the system or the environment can reverberate out from and into both the system and the environment. Equifinality is an element of an open system as having the capacity to achieve outcomes through various mechanisms and processes. Similar results can be obtained through many different paths. Equifinality allows nursing to achieve its goals through diverse and multidimensional activities and strategies. Nursing lives, grows, adapts to challenges, and seizes opportunities to transform entropy into negative entropy. Negentropy is the opposite of entropy. Entropy is an element of disorder and decay, whereas negentropy, or lack of entropy, maintains order and constant growth in open systems such as nursing. Nursing lives, grows, adapts to challenges, and seizes opportunities to transform entropy into negative entropy. Negentropy sustains nursing so that it survives and flourishes by transforming challenges into opportunities [20]. GSTs are either closed or open. Closed systems are considered detached and isolated from their environment, whereas open systems, which are connected and integrated with their environment, have permeable boundaries and maintain themselves by a continuous input and output of data and energy to and from their environment. Feedback is the constant give and take and breaking down and building up of data and energy. Feedback enhances systems' steady state or dynamic equilibrium [21].

Nursing as a complex synergistic system is constantly buffeted by intentionally and unintentionally created challenges and opportunities that are created by intersections of theory and practice. CSS as a theoretical framework grounds nursing to withstand challenges and transforms them into opportunities. A theoretical framework is a powerful tool that shapes and guides thinking, feeling, and behaving. It provides a lens through which ideas, vision, and mission come into focus. By learning about general systems theory and integrating it into their practice, the nurse appreciates that nursing is an open system that interacts with many different systems, ever growing and adapting to new discoveries and revolutionary changes in healthcare.

ELSI Obligations viewed through CSS Lens

Nurses work with numerous different professions/practitioners (physicians, lawyers, sociologists, pharmacists, business workers, social workers, psychologists, rehabilitation science, lay people, etc.). It is the intersections with these professions that bring us face-to-face with ELSI providing new depth and breadth to nursing education and practice. ELSI is Ethical, Legal, and Sociocultural Issues that comes into view in our interactions with others [22].

The scientific approach is by far the most advanced way to develop CSS as a lens to clarify our understanding of ELSI. The scientific method is more reliable than tradition, authority, or experience. Scientists use the scientific method to develop theories. The scientific method allows a more systematic explanation of how phenomena intersect or interrelate synergistically with others. Theories or concepts provide insight and understanding regarding relationships among phenomena. Frameworks are the hooks which the theory or concept hangs. Frameworks are the foundation that explains how a phenomenon interacts and reacts within the environment. The importance of these frameworks is that they advance both nursing education and nursing practice. Combining three theories-complexity, synergy, and (general) systems-to form one single theoretical

framework for nursing is essential. It magnifies and clarifies each aspect of our ethical, legal and sociocultural obligation to society.

The first concept in ELSI is Ethics in nursing. Nursing is complex because it does not draw from one source of science but rather from several, including nursing, biology, psychology, sociology, medicine, anthropology and others. Role complexity engenders ethical issues to appear in nursing practice. The second concept is the Legal issues in nursing. Synergy in nursing complicates communication thus being mindful of the Legal issues of nursing practice is important. The third and last but not least concept is sociocultural issues [7].

Ethical Issues in ELSI

The ethical theory from which ethical issues flow is the consequentialism theory [23]. The ethical position that is advanced in the theory of consequentialism is that acts are right to the extent that they produce good results and wrong to the extent that they produce bad results. This ethical consequential articulation, also called utilitarianism, encourages the nurses to base decisions on what provides the greatest good for the greatest number of people. This position minimizes the individual's needs and wants and maximizes good outcomes for the greatest number of people [23]. Ethical theories provide a framework for ethical decision making but may not provide specific direction for translation into practice. The following ethical issues provide specific direction and are vital to the role of the nurse. They are issues of nonmaleficence, beneficence, autonomy, justice, and veracity. Understanding ethical issues is crucial in nursing education and practice [22,24].

Nonmaleficence is encapsulated in the saying, "primum non nocere" (above all, do no harm). Beneficence is embedded in the Golden Rule: "Do unto others as you would have others do unto you" [22-25]. The duty of the nurse is to protect the client from harm (nonmaleficence) and to provide service for the good of the client (beneficence). Nonmaleficence and beneficence mean that nursing practice is not just another assignment or duty because good outcomes are driven by more than technological or procedural proficiency. To fulfill the requirements of nonmaleficence and beneficence, the nurse must value the patient's physical, emotional, and spiritual needs; respect individuality; and focus on the multidisciplinary approach to advocacy. Issues of autonomy, justice, veracity, and fidelity guide nursing practice. Autonomy is respect for the right of all persons to self-determination, independence, and goal-setting [26].

Autonomy requires all professionals to respect, protect, and support the important relationships and communication of all people under their care. Autonomy confers self-determination on all human beings, including individuals with diminished capacity by reason of age (children and frail elders) or illness (mental, psychological, or physical disorder; unconscious or semiconscious state; or under the influence of a mind-altering substance). It also includes those who are imprisoned and individuals who do not have the capacity for self-determination. For those with little or no capacity for self-determination, a parent, guardian, or adult child or sibling who holds only the best interest of the dependent should be vested with the dependent's right to self-determination or informed consent. Violation of the ethical principle of autonomy is a violation of the right to being human. Therefore, nurse need to put into practice the ethical issue of autonomy that reflects their values and world view. It might be tempting to surrender to the determination, decisions, and

goals of influential parties, media, healthcare providers and health insurance agencies in dispensing health care. Only with a sincere and genuine respect for persons can we fulfil the requirements of the ethical issue of autonomy.

Justice demands for us to be fair in all interactions and communication. Justice means making certain that policies and procedures in our place of work are consistently and equitably applied without selective dispensation. Veracity comprises truthfulness, trustworthiness, and transparency, all of which are in the eye of the beholder. Trust and trustworthiness are not usually part of a program of study but are more likely to be part of informal discourse among friends and business relationships [27]. To apply the ethical principle of veracity, or truth-telling, we need to be honest, trustworthy, and transparent. In veracity we make certain that patients have all the information they need to make an informed decision about their health or illness and to collaborate actively in an efficient and effective health outcome. Maintaining fidelity also implies that the nurse will uphold his or her commitments to all parties involved, including self, patient, family members, health care organizations, insurance providers, and the government [27].

A Case Study in Applying Ethical Principles

Susan, a 22 year-old Asian is brought to the ED by police officers who found her wandering the streets late at night. She is dazed and confused and the officers suspect she is under the influence of illicit drugs and/or alcohol. Susan mumbles that she was sexually assaulted after leaving a bar alone around two in the morning. She adamantly refuses to file a police report or have forensic evidence collected. She states that the perpetrator told her he would kill her if she told anyone. Further, she admits that she is afraid to report the incident to authorities because the alleged perpetrator is the son of an influential board member of the health care system. Susan complains of severe pain and asks for a pain medication. The nurse knowing Susan could be under the influence of alcohol or drugs told Susan that she can only give Susan pain medication if she consents to be examined by the SANE (Sexual Assault Nurse Examiner) nurse for evidence collection. Susan agrees to treatment of her physical wounds but not to evidence collection and insists on having medication for her pain. Pain medication was ordered but the nurse gave to Susan a placebo because she knows Susan to be "a drug addict". Furthermore, by assuming that she knows who the perpetrator is and Susan's refusal to give informed consent to evidence collection, the nurse calls her supervisor and in the presence of the police said "he did it again but this time the victim refuses examination for evidence collection". Susan is admitted to the surgical unit for broken ribs and a ruptured spleen. Three questions could be asked for discussion purposes in relation to the ethical principles of autonomy, justice, and nonmaleficence 1) Was Susan's autonomy protected and respected? 2) Was justice served? and 3) Was nonmaleficence invoked in the delivery of care and how does this affect the outcome?

Legal Issues in ELSI

In addition to the ethical questions posed by the case scenario above, the question of whether or not the nurse was negligent while providing care for Susan is raised. Negligence is the failure to meet a standard of care, as any reasonably prudent healthcare provider would do possessing similar knowledge and skills under comparable circumstances [22]. Negligence consists of four elements, which must exist and all four must be proven in order for a case of professional

negligence to be found. The elements are as follows: duty, breach of duty, proximate cause, and damages [1,2].

Duty is established when the nurse accepts responsibility for direct care and treatment for an individual [1,2]. Most nurses are employed by a healthcare facility and not independent contractors, so, they do not choose their patients. Thus, by accepting a rotation of duty and assignment, the nurse had the responsibility and the duty to care for Susan. Duty was established when the nurse accepted the responsibility to provide care and treatment for Susan.

Breach of duty occurs when nurses fail to provide an expected standard of care within their specialty, while providing care or treatment to a patient under their care [28]. The nurse in our scenario took inappropriate action to provide Susan with appropriate pain relief, causing Susan significant suffering; therefore, breach of duty is found. Standards of care as established by the ANA [5,6], ASPMN [29], IASP [30], and the Joint Commission [31] indicate that nurses must provide Susan with appropriate pain relief. The California Board of Registered Nursing has indicated that “the use of a placebo in a deceitful manner would not fulfil informed consent parameters.” The prohibition against the use of a placebo for pain management indicates that this is a well-accepted standard of care. The weight given to clinical guidelines and other documents by the courts depends on 1) the degree of acceptance and authority of the practice parameter; 2) the fit between the clinical situation and the practice parameter and 3) validity of the research and evidence for the practice parameter. In this scenario administering a placebo for pain is a breach of duty [1]. The standard of care is for the nurse to assess, reassess the patient’s level of pain, and evaluate the plan of care with regard to pain management. The nurse failed to perform these acts of care and therefore breached the standard of the duty to assess and reassess Susan’s pain.

Proximate cause requires that the negligent act be the proximate (legal) and direct cause of the patient’s injury or loss [2]. Proximate cause is by far the most difficult element to prove among the four elements in negligence. It appears that the action/inaction by the nurse (to provide Susan with a placebo instead of pain medication) was the proximate and direct cause of Susan’s suffering. The nurse neglected the patient’s need for pain medication by administering a placebo and also deceived Susan in believing that she was given pain medication without relief.

There are three types of damages: special, general, and punitive. Special damages provide monetary compensation for expenses incurred by the plaintiff as a consequence of the negligence. General damages, under most circumstances, compensate for damages, such as pain and suffering. Punitive damages are imposed at a specified rate to punish the defendant, set a representative example, and act as a deterrent for future negligent behaviour [1-3]. The actions of the nurse toward Susan meet the legal standards of negligence. The nurse had a duty to provide effective management of pain. Duty was breached by not heeding the standards of care as established by the ANA [5,6], ASPMN [29], IASP [30], and the Joint Commission [31] that require appropriate pain relief.

There are an increasing number of cases in which undertreating pain is defined as “abuse, negligence, malpractice and professional misconduct.” [32p237]. However, no nurse has been held liable for administering too much pain medication to a suffering patient. A nurse has a legal obligation to act in the patient’s behalf to relieve her pain. Nurses are responsible for the appropriate treatment of patients in pain.

Sociocultural Issues in ELSI

The nurse in the above scenario decided to deprive Susan of the appropriate pain medication by giving instead a placebo. Pain is a subjective and a private experience, often expressed in different ways by different people [32]. In this instance Susan alone is the judge, jury, council and plaintiff of the presence and level of pain she is suffering. Sociocultural issues may complicate a case due to nurses’ assumptions and stereotyping of Susan to be of weak character and questionable values as she was sexually assaulted, could be under the influence of alcohol or illicit drugs, and could have a low/high tolerance to pain as an Asian. Despite cultural differences, research has demonstrated that ethnic differences in pain, pain-related sequelae such as emotional distress, pain-related disability and pain coping may be negligible when the ethnic groups are closely matched and that evidence-based interventions to enhance adaptive pain coping and pain relief is effective across ethnic groups [33]. It behooves nurses to use patient-centered culturally competent interventions because in complex synergistic systems, one-size-does-not-fit-all [34].

Implications in Nursing Practice and Nursing Education

Technological advances in healthcare approach, methods and practices have added to the complexity, synergy, and systems (CSS) to nursing education and practice. Nursing intersects with many different disciplines. Furthermore, intersections become diverse and multidirectional because these disciplines are also complex and synergistic systems in and of themselves. Nursing 2013 could accept CSS as a lens we can use to clarify, magnify, and diversify in the discharge of our nursing responsibilities. Nursing is an open system and maintains itself through continuous input and output of data, information, and continuing education to and from its environment. This constant give and take or breaking down into smaller groups and building up of data, energy and feedback, enhances nursing’s steady state or dynamic equilibrium. Nursing has permeable boundaries and is open to new ideas, theories, and procedures. It experiences multiple intersections with, to, and from other disciplines and is transformed through the permeability of its boundaries. Equifinality as an attribute of CSS suggests that outcomes are achieved or reached using different paths. Equifinality allows nursing to achieve its goal through diverse and multidimensional activities and strategies. Because of its equifinality, nursing lives, grows, and adapts to challenges through negative entropy. Negative entropy, or negentropy, sustains nursing so that it will thrive and flourish, not wither away [18].

The value of using the CSS as our lens in nursing education and practice is threefold: (1) It allows for the public debate of philosophical assumptions, providing the opportunity for self-evaluation and accountability to the public and to the profession; (2) It provides a structure of theoretical statements that suggest appropriate and effective nursing interventions; and (3) It underscores hypotheses for systematic scrutiny, review and analysis of emerging care protocols [7, 35]. By using CSS as a lens, nurses can effectively critique their own practice, look for innovations and evidence-based practice, and better prepare themselves to adapt to changing technologies. Furthermore the use of the CSS better engages nurses into their own continuing education, career and growth [36].

As nurses function in a complex synergistic system, they also provide care to a complex ecological domain represented by the patient. The nurse does not work with a patient alone because the

patient belongs also to a complex ecological system. The nurse-patient relationship and nursing interventions impact on the patient's entire ecological domain-individual, intrapersonal, interpersonal, family, and community-no matter the outcome (positive or negative) [37]. Therefore, it behooves every nurse who comes in contact with a patient or client to consider the impact he or she will have on the patient's/client's complex ecological system. Each patient brings a unique collection of personal characteristics to a healthcare situation, including stability, complexity, predictability, and vulnerability [38].

Conclusions

Nursing is a dynamic complex and synergistic system as it strives to redefine and clarify its role [39]. With the recent passing of the Affordable Care Act Healthcare Reform Legislation, nurses are called to act with more responsibility and independence [40]. Thus, the necessity of CSS as a lens to view ELSI in building collaborative relationships with patients, families, and other healthcare providers becomes paramount. Research on a national and global level is needed to support evidence-based practice and clarify the complexity, synergy, and permeability of nursing education and practice. A simple, applicable, and flexible theoretical framework upon which to base education, practice, and research will assist nurses to achieve their goals. How bright the future holds for nursing is yet to be determined, but this is certain: as healthcare enters the second decade and deep into the 21st century, nursing occupies the healthcare stage front and center. Using CSS as a powerful lens through which to view ELSI in nursing education, practice and research is imperative. It is up to Nursing 2013 and nurses worldwide to be visionaries and innovators in collaborating with a diverse GREAT (Gender, Race, Ethnicity, Age, and Talent) nursing community.

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