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THE ROLE OF THE SOUTH AFRICAN NURSING COUNCIL IN PROMOTING ETHICAL PRACTICE IN THE NURSING PROFESSION: A NORMATIVE ANALYSIS

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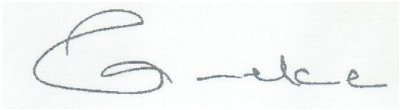
DECLARATION

This research report represents my own original work, produced with supervisory assistance. All the relevant sources of knowledge that I have used during the course of writing this research report have been fully credited and acknowledged. Furthermore, this research report has not been submitted for any academic or examination purposes at any other university.



12 May 2015

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Abstract

In response to an increasing number of litigations relating to nursing care errors, negligence or acts and omissions that arise mostly due to unprofessional or unethical behaviour by nurse practitioners, compounded by the growing awareness of patient's rights, nurse practitioners as such need an intervention by the regulatory body, the South African Nursing Council (SANC).

The argument presented in this report is regarding the obligatory role of SANC to uphold professional and ethical practice for nurses in terms of the curriculum, the scope of practice, the code of ethics, continuing professional development and by offering an appropriate workplace ethical climate. The basis of the argument is philosophical perspectives, legislation and moral theories related to ethical practice. The moral theories applied to this study are deontology, utilitarianism, virtue ethics and Ubuntu as an African moral theory, whereas legislation relates to rules and regulations related to nursing practice.

The overall significance of the study is to enhance nursing care with specific focus on upholding ethical principles from the SANC position, that will positively impact on the improvement of health care by nurses with reference to the Nursing Act No. 33 of 2005, The Bill of Rights (Constitution of South Africa), The Universal Declaration of Human Rights, the Patient's Rights Charter, the International Council of Nurses (ICN) , the South African Nursing Council Code of ethics and the National Health Act 61 of 2003.

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Dedication

This research report is dedicated to all the midwives and the pregnant women in Gauteng Province, South Africa.

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CHAPTER 1

OVERVIEW OF THE STUDY

1.1 INTRODUCTION

Chapter 1 introduces the study and presents the background, statement of the research problem, an overview of the thesis statement and the argument, the rationale of the study, the study objectives, literature related to the problem statement, the methods used to gather information, ethical considerations and the outline of chapters.

1.2 BACKGROUND AND STATEMENT OF RESEARCH PROBLEM

Nurses and midwives in South Africa[1] are the frontline health care practitioners in providing care to the community as they form the bulk of the health force. The care provided by nurse practitioners is a unique life experience, characterised by "a unique relationship between health care users and nurse practitioners which is multifaceted and highly complex" (Summer, 2001). Nurses are expected to comply with policies and legislation governing their profession so that they are able to pick up complications and intervene accordingly (Maputle & Hiss, 2010). Nursing practice is governed by skills and knowledge which provides grounding to ethical clinical decision making.

[1] Nurses refer to both general nurses and midwives within the context of this study

Ethics refers to “a branch of philosophy that address human behaviour and ideal ways of being. A systematic approach to understanding, analyzing and distinguishing matters of right and wrong, good and bad, admirable and deplorable as they exist along the continuum and as they relate to the wellbeing of and the relationships among sentient beings” (nurse practitioners and health care users) (Rich & Butts).

The American Nursing Association’s (ANA) code of ethics and other literature defines nursing as “the protection, promotion and optimization of health and abilities, the prevention of illness and injury, the alleviation of suffering through the diagnosis and treatment of human response and advocacy in the care of individuals, families, communities and populations” (ANA, 2010). The definition is said to focus on human responses, theory application, nursing interventions and outcomes. I underlined protection, alleviation of suffering and advocacy as key concepts aligned to the nurse practitioner’s ethical behaviour.

As stated in the preamble of the International Council of Nurses (ICN, 2012) and the South African Nursing Council (SANC, 2013) Code of ethics for nurses, nurse practitioners have four fundamental responsibilities which are: “the promotion of health, the prevention of illness, the restoration of health and the alleviation of suffering”.[2] All these responsibilities are to a certain extent embedded within the norms of nursing practice according to the ANA, based on the fact that nursing is by nature a moral endeavour.

As stated by ICN (2012) nurse practitioners need more than just an understanding of ethics but should display commitment to ethics through appropriate ethical behaviour

[2]The international code of ethics for nurses was (ICN, 2012). SANC, 2013. Code of Ethics for Nursing Practitioners in South Africa.

in nursing practice. It seems sensible that if an ethically acceptable level of nursing care is to be achieved, a critical reflection is required on the SANC as the regulatory body for the nursing profession, as moral obligations are socially constructed and imposed by authorities such as the SANC.

South Africa has recently been burdened by serious adverse events happening mostly in labour units which has led to litigations arising from issues that are multifactorial and often include system issues beyond the control of nurse practitioners, however most of the reported cases pertains to the unethical behaviour of nurses. As an example, the maternity care failures that women described in a report of Human Rights Watch (2011) in monitoring maternal care in the Eastern Cape, "contributes to violations of human right to life, health and the right to freedom from cruel, inhuman and degrading treatment" as revealed from women's responses to interviews. This kind of behaviour from midwives as nurse practitioners, is unethical.

The Minister of Health has announced that the amount of lawsuits already paid by the various Provincial Departments of health amounts to R1.7 billion in the past seven years.[3] It has been reported that nurse practitioners often raise issues of shortage of staff and adverse working conditions as mitigating factors when defending themselves against complaints of failure to continuously assess, monitor and evaluate the wellbeing of health care users (DoH, 2011. Nurse practitioners often argue that the task has been carried out but they had difficulty in recording their actions as they have to attend to other emergencies, which compromises effective nursing care. Selebi and Minaar (2007) cited Seshoka (2005) stating that public hospitals are hounded by dire shortages of skilled nurse practitioners. In addition, the

[3] Maphumulo (2011). City Press 13 November.

authors stated that when nurse practitioners are overloaded due to shortages and absenteeism the delivery of quality care may be jeopardized. Nyathi (2008) corroborates the above saying that increased workload leads to low morale which then may lead to low standard of care and that any practice which falls below the required standard of a professional is malpractice. Furthermore, Arries (2006) conducted a study that led to the formulation of practice standards in ethical decision-making and this was based on the SANC‘s disciplinary reports on cases of unprofessional conduct observed during 1993-1998. The study highlighted the observed disciplinary cases that reflected scenarios where the nurse had made decisions to either maintain, restore or promote the health of a patient, which were probably unprofessionally conducted. The study further concluded that the nurse’s clinical decision making was “ineffective, as it did not adhere to the framework of clinical, ethical and legal correctness for any nursing action and ethical decision making” (Arries, 2006). The quality of nursing care often lies within the quality of the decisions taken by nurse practitioners, clinical decisions that are taken on daily basis and that have an impact on the wellbeing of patients.

The Nursing Update (2011) indicated that patient risks within health care practice are escalating, and factors such as excessive workloads, reduction of support services, increasing /advancing technology and lack of material resources were identified as contributing to professional malpractice. Two hundred and thirty-five (235) cases were handled by the Professional Conduct Committee (PCC) of SANC during 2010-2013 and fifty-nine emanated from obstetric units (Complaints Register SANC: 2013). Another sensitive issue reported by the media is that a midwife stabbed a 20 year old pregnant woman with a pair of scissors during childbirth. The pregnant

woman needed support and compassionate care from the midwife, however this was not the case as the pregnant woman sustained injuries from the stabbing (Sowetan, 2009)[4].

Regarding the working conditions and the attitude of nurse practitioners in South Africa, Zuma (2007), a registered nurse, asked a question “Are nurses a silent group in the health care arena”? The question was based on Zuma having observed and being puzzled by the silence of nurse practitioners in situations which requires them to speak about the ills evident in their working environment. There is an indication of the existence of a rigid and oppressive nature of relations amongst nurse practitioners and a hierarchy of decision making as senior managers often do not invite nurse managers to strategic planning retreats, but will invite them to cosmetic events like the unveiling of a plan where decisions have already been taken. Furthermore, that nurse practitioners are being pressured by shortage of staff without challenging managers to motivate for more overtime budget or to outsource staff.

This culture of silence was also discussed in an article entitled “From silence to voice” by Robinson (2007) in the International Nursing Review Journal as stated by Zuma (2007). The author also argued that nursing education is not immune to this silence (Zuma, 2007). The concern here is that nurse practitioners have a tendency to deliver without questioning instructions given in authority, which display a dependent function that compromises the independent function of a nurse practitioner which is characterised by autonomy.

[4] Sowetan, 3 March 2009

Zuma further indicated that nurse practitioners are said to also have a tendency of only taking minutes from official meetings, only to give feedback to colleagues in the unit without having any input. However during informal meetings, the same will relate how impractical the management's ideas were. The implication of this passive attitude is non-service delivery and managers wonder why things are not done as agreed in the meetings. These conditions have a negative impact on ethical and professional behaviour by nurse practitioners.

With reference to Kohlberg's theory of moral development, the "silence factor in nurses" the nurse practitioner's moral reasoning relates to the pre-conventional (pre-moral) stage (as discussed in Kohlberg's moral development stages) that is based on initial moral maturity that is "egocentric, subjective and obedient to authority". The pre-conventional level of moral development may be displayed by "the new and inexperienced nurse practitioner who practices from an egocentric perspective, obedient to the rules of the profession and the organisation she works for", that may compromise ethical behaviour (Summer, 2001). My view is that nurses seem to get stuck in this pre-conventional level of moral development without progressing to the conventional (orientation to law and order) and the post-conventional level (autonomous thinking and acting) (Pera & Van Tonder, 2011). Moral underdevelopment may as such, contribute to unethical behaviour.

Another professional nurse from the city of Johannesburg (Katise Mawela), posed a concern regarding the attitude of nurse practitioners that have a negative impact on service delivery. He observed that most nurse practitioners holds a traditional

perception that believe people (health care users) need to be told what to do and not listened to, and that nurses become aggressive and defensive whenever they are challenged by health care users. For me this implies an ignorance or limitation in ethical knowledge by nurse practitioners with reference to the application of the basic ethical principles and the rights of patients. Mawela further recommended that it is imperative for those who are carrying the responsibility of teaching nurses at colleges and universities to address this shortcoming if the profession is to be maintained and sustained as noble (Mawela, 2014). Moodley (2006) as a guest editorial highlighted that there is a wide range of ethical dilemmas in clinical practice across various disciplines in health care, a very complex and sometimes hostile system for patients.

The research questions I address in this study are:

- Are there shortcomings in terms of the role of the SANC in enhancing professional and ethical practice for nurses?
- Is the South African Nursing Council as the regulatory body for nurses in South Africa, morally obliged to uphold and maintain professional and ethical conduct that is morally appropriate for the nursing profession?
- What should nurse practitioners refer to, for them to develop moral wisdom and to establish a more complete account of moral nursing practice other than virtue ethics?

1.3 THESIS STATEMENT

My interest was driven by noting cases of malpractice presented by the South African Nursing Council (SANC) and a general concern from communities regarding moral degeneration in the nursing profession, as reflected in the media and several research studies done on the perception of nursing care by the community. The argument I make in this report is that the SANC has a moral obligation to ensure that nurse practitioners are encouraged and empowered in becoming ethical professionals. The above claim is defended by the following arguments: the curriculum content as the foundation of nursing education should address ethical and legal aspects of nursing adequately; the Scope of Practice for nurse practitioners should reflect ethical practice; and the code of ethics for nursing practitioners in South Africa as developed by SANC in 2013, is, on its own not adequate to equip nurses with ethical principles, moral norms and legal perspectives related to health care.

1.4 RATIONALE FOR THE STUDY

The overall significance of the study lies in its contribution to enhancing nursing care with specific focus on upholding professional and ethical principles from the SANC context, that will positively impact on the improvement of health care by nurses with reference to the Nursing Act No. 33 of 2005, The Bill of Rights (Constitution of South Africa), the Universal Declaration of Human Rights, the Patient's Rights Charter, the ICN and SANC Code of ethics and the National Health Act 61 of 2003.

The objectives of SANC, as stated in the Nursing Act[5] are broadly to "uphold and maintain professional and ethical standards for nursing".

A National Nursing Summit was held in South Africa in the Sandton Convention Centre, Johannesburg on April 2011. The overall aim of the National Summit was to "reconstruct and revitalize the nursing profession" (DoH, 2011) by addressing the challenges faced by the nursing profession. Two of the seven themes developed Nursing Education and Training and Professional Ethos and Ethics. A National core curriculum where ethics content would be incorporated into all basic and post basic nursing programs was recommended at this summit. A Ministerial Task Team that was appointed by the then Minister of Health in October 2011 that was to refine recommendations contained in the nursing compact (DoH, 2011).

The strategic plan for nursing education, training and practice included, amongst others, that professional ethos and ethics be included as a compulsory content for all modules at all levels of nursing practice (that includes nursing education) and that ethos and ethics be part of Continuing Professional Development (CPD). It seems that ethics content in the ethos and professional practice of nurses have to a certain extent been included in nursing curricula. However, it has been noted that educators have largely not succeeded in unpacking ethics and teaching this content for practical application as stated by London and Baldwin-Ragaven (2008). Based on the Minister of Health's concern regarding the declining ethical practice by nurse practitioners and the general complaints from the health care users, one can make

[5]Nursing Act No. 33 of 2005. South African Nursing Council. P8-10.

an assumption that nurses do not seem to regard ethics as significant to their professional role and practice.

In a feedback for the National Nursing Summit (2011), Makwakwa, who was assigned to collate information on ethical standards from various sources, stated that 'It is a common cry in South Africa that nurses are not as caring as they used to be as when you care, you must care with compassion, commitment, love and respect for human dignity" which are ethical attributes. The Minister of Health also emphasized that the nursing profession should work towards restoring ethical standards that have been eroded and that are rarely applied nowadays (Mail & Guardian, 2011).

The study will contribute to measures put in place from the National Summit that are aimed at addressing ethical behaviour amongst nurse practitioners.

1.5 THE STUDY OBJECTIVES

1.5.1 Main objective

To provide a normative account of the obligations of the SANC in promoting ethical practice in the nursing profession.

1.5.2 Sub-objectives

- To defend the fundamental claim that the SANC has a legal and moral obligation to promote ethical practice in the nursing profession
- To identify – on the basis of international best practice and professional ethical principles – some of the strategies the SANC ought to adopt in order to fulfil its obligation to promote ethical practice in the nursing profession, including strategies related to:
  - the content of ethics in the curriculum for the education and training of nurses and midwives
  - the code of ethics for nurse practitioners
  - ongoing interventions aimed at enhancing awareness of and adherence to ethical practice amongst registered nursing practitioners

1.6 METHODS

1.6.1 Study design

This report is purely normative in nature. It is based on a desk and library search. No new data was collected or analysed and no study participants were involved. The typical research methods and standards applicable to philosophical research are applied. The study primarily involved the interpretation and critical analysis of salient texts and the posing and defence of new arguments. A critical analysis of relevant texts involved the definition and clarification of concepts, the identification and criticism of assumptions, the analysis and evaluation of theoretical frameworks, the development and defence of arguments, the use of counter-examples, and the articulation of the most plausible interpretation of significant concepts found in the sources. Sources of literature included articles at the University of the Witwatersrand Library, Online Library Sources, Pubmed, Jstor, Wiley Science and Google Scholar.

An analysis of official documents and codes of conduct from the SANC as a statutory body for the nursing profession and related legislation is included. The sources of data were relevant legislation for example the SANC Code of ethics for Nursing practitioner under the provision of the Nursing Act 33 of 2005.

Document review, a technique used to “categorise, investigate, interpret and identify limitations of written documents and implementations” as discussed by Payne and Payne (2004) was applied in the context of this study. The analysis of documents is based on the positivism perspective that reality is universal, objective and

quantifiable (Polit & Beck, 2012).The study referenced some of the general literature relating to nursing ethics and professionalism.

1.7 ARGUMENTATIVE STRATEGY

I argue that the SANC is morally obliged to uphold and maintain professional and ethical practice for the nursing profession, with reference to the nursing curriculum and the Scope of Practice of nurses, as it is crucial for nurse practitioners to possess knowledge of ethics and apply ethical and legal standards for making ethical decisions in clinical practice, and as such contribute to the growth of bioethics and function effectively as moral agents in the health care system.

The SANC stipulated as one of the aims of the Bachelor of Nursing and Midwifery (a generic programme in nursing) qualification framework as "to equip graduates with a developed sense of equity, justice and service ethics that will ensure that they work in a responsible and accountable manner, irrespective of their chosen workplace". The first exit level outcome for the program is "to identify and address ethical and legal issues based on critical reflection on the suitability of different ethical value (and legal) systems to the nursing and midwifery practice within the legal framework".[6] These exit outcomes are also reflected in the other lower categories of nursing in a modified level. The SANC has as such, a responsibility to ensure that these outcomes are met accordingly.

[6]South African Nursing Council. Bachelor of Nursing and Midwifery Qualification Framework.

My argument also reflects on the obligation-based moral theories (consequentialism and deontology) regarding some of the well-known flaws and their possible impact on the nursing profession. The theories are discussed in line with virtue ethics.

Hwang and Park (2014) conducted a study on the ethical climate of the workplace in a Korean Hospital and concluded by stating some of the actions that promote a positive ethical climate are: “a continuing education for nurses on nursing ethics” and “increasing the nurses’ accessibility to ethics resources” which have an implication on SANC as a regulatory body for nursing education.

An ethical climate is determined by “an individual’s perception of how ethical issues in their work environment are handled”, whereas the concept “workplace ethical climate” represents “an organisation’s policies, procedures and practices on ethical issues” (Hwang & Park, 2014). Furthermore, “ethical climate is closely related to moral distress (an experience of serious moral compromises in practice according to one’s accepted professional values and standards) which is not shaped by the characteristics of an individual only, but also by the organisational and structural contexts within which nurses and midwives work” (Hwang & Park, 2014), of which the SANC should uphold.

Several studies − for example (Viney, 1996; Davies, Clarke, Connaughty, Cook, Mackenzie, McCormica, O’Leane & Stutzer 1996; Kushnasamy, 1999; Fenton, 1988; Readman & Fry, 2000 as cited by Nathaniel, 2003) − suggest that moral distress contributes to the factors that negatively affect the nurse’s capacity to care, a factor that further contributes to the nurses’ loss of ethical integrity, dissatisfaction with

nursing care by health care recipients and subsequent loss of nurses from the profession, this in turn contributes to the frequently cited shortage of nurses and the fact that many nurses feel powerless to act upon their moral judgement within the hierachial systems of health care. The workplace deficiencies like staff shortage, substandard equipment and unreasonable institutional expectations are reported to render moral standards untenable (Nathaniel, 2003).

The most important premise of my argument is that in order to address ethical behaviour amongst nurses, teaching ethics for nurses should begin theoretically in the classroom and not only in a form of code of ethics.

1.8 ETHICAL CONSIDERATIONS

A waiver for ethical clearance was obtained from the Human Research Ethics Committee (medical). As stated by Glenn (2009), the researcher ensured the relevancy of the documents reviewed to the research problem and purpose and ascertained that the “content of the documents fits the conceptual framework of the study”. The authenticity, credibility, accuracy, representativeness and meaning (Mogalakwe, 2006) were addressed through identifying the endorsement of documents by relevant organisations. The researcher demonstrated objectivity and sensitivity in the selection and analysis of data from any reviewed document (Bowen, 2009).

1.9 CHAPTER OUTLINE

Chapter 1 presents an overview of the study, chapter 2 discuss literature regarding the South African Nursing Council's obligatory role in the nursing profession and other regulatory bodies, chapter 3 presents philosophical perspectives and moral theories applicable to the context of the study, chapter 4 provides an argument on the role of SANC in relation to the consequentialist, deontologist and virtue ethics as theoretical frameworks, chapter 5 presents summary, conclusions and recommendations.

1.10 CONCLUSION

South Africa was the first country in the world to achieve state registration for nurses and the establishment of the South African Nursing Council in 1944 was a significant milestone in the governance and the regulation of the nursing profession.

Professional governance is vital in protecting and ensuring quality nursing education through relevant legislation. Ethical practice should be given a priority especially as the SANC statistics (DoH, 2011) reveals that complaints against nurse practitioners have increased three hundred fold since 1996.

CHAPTER 2

LITERATURE REVIEW

2.1 INTRODUCTION

Chapter two discusses literature on the origin and role of the SANC, other international regulatory bodies, related legislation and the social context of the nursing profession. on the role of the south African nursing council, other international regulatory bodies, legislation , professionalism and the social context of nursing.

2.2 THE SOUTH AFRICAN NURSING COUNCIL (SANC)

The South African Nursing Council (SANC) was established by section 2 of the Nursing Act (Act no. 33 of 2005) and continues to exist as a juristic organisation. SANC is the regulating body responsible for setting standards of practice and education for nurse practitioners in South Africa and some of its vital roles are: enforcing standards of nursing practice, public protection through the investigation of complaints against nurse practitioners and the support and assistance of professional members. The vision of SANC is stated as “excellence in professionalism and advocacy for the health care users” whereas the mission statement is “to serve and protect health care users by regulating the nursing profession” (SANC, 2004-2015; Mabuda, 2012).

The SANC as a registering authority for nurse practitioners, informs nursing practice through legal frameworks and the code of conduct for nurse practitioners by receiving its authority from legislation. The overall role of SANC as the profession's regulatory body is "the oversight, monitoring and control of nurses on the basis of principles, guidelines and regulations deemed important by the profession" (SANC, 2006). The objectives of SANC as stated in the Nursing Act, 2005 Act No. 33 of 2005 are:

> "to serve and protect the public in matters involving health services generally and nursing services in particular; perform its functions in the best interests of the public and in accordance with national health policy as determined by the Minister; promote the provision of nursing services to the inhabitants of the Republic that comply with universal norms and values; establish, improve, control conditions, standards and quality of nursing education and training within the ambit of this Act and any other applicable law; promote and maintain liaison and communication with all stakeholders regarding nursing standards, and in particular standards of nursing education and training and professional conduct and practice in and outside the Republic; advice the Minister on the amendment or adaptation of this Act regarding matters pertaining to nursing; be transparent and accountable to the public in achieving its objectives and in performing its functions; uphold and maintain professional and ethical standards within nursing" (Nursing Act No. 33 of 2005).

The Council investigates and takes disciplinary steps against any member of the profession for unprofessional conduct in terms of Section 46 and 47 of the Nursing Act and also takes into account other regulations such as the Scope of practice

(R2598 of 1984a), Government Gazette (GG) R2488 of 1990 which is the regulation that stipulates the conditions under which midwives should practice, and Acts or Omissions (R387 of 1985), which are disciplinary measures pertaining to the nurses acts and omissions. Section 46 of the act deals with the procedure of inquiry by Council into charges of unprofessional conduct and Section 47 outline the types of penalties to be applied when a registered person is found guilty (SANC, 2005).

Health care students are required to make frequent decisions in their everyday practice that almost always comprise of an ethical encounter. At each ethical encounter there are opportunities for “good” or “bad” decisions being made which may either benefit or harm health care users (Gillian, 2008). Based on the findings of Gillian’s study that addressed challenging ethical practice and revealed that students perceived the knowledge of principles as good but a challenge to apply, bad decisions may occur because of the disconnect between theory and practice. Correlation of theory and practice in the teaching of ethics will definitely enhance the application.

Legal and ethical frameworks inform the nursing profession and have an influence on the nurse’s ability to advocate for patients when their safety is at stake. The advocacy role of the SANC should be aimed at enhancing professionalism in the nursing profession which entails a commitment to society that demonstrates a nurse practitioner’s scientific knowledge, accountability and responsibility as stated by McLeod-Sordjan (2014).

2.3 INTERNATIONAL PERSPECTIVES REGARDING PROFESSIONAL REGULATION

2.3.1The International Council of Nurses (ICN)

The International Council of Nurses, of which South Africa is a member, forms a cornerstone for ethical practice as it provides a framework for the standards of conduct. The ICN was founded in 1899 as a “federation of non-political and self-governing national nurses associations. The main purpose of the ICN is to provide a platform through which national associations share interest in the promotion of health and caring of the sick”. In essence the ICN “ensures the quality of nursing care for all, sound health policies globally, the advancement of nursing knowledge, and the presence worldwide of a respected nursing profession and a competent and satisfied nursing workforce” (Mathews, 2012).

The elements of the code as per the ICN are that “a nurse should promote an environment in which human rights, values, customs and spiritual beliefs of the individual, family and community are respected; the nurse to address issues of consent to care by providing information and to demonstrate professional values for example by holding in confidence matters pertaining to patient care; strive to foster and maintain a practice culture promoting ethical behaviour and open dialogue; contributing to an ethical organisational environment and challenging unethical practices and settings; the nurse should also act through the professional organisation and participate in creating a positive practice environment by maintaining safe, equitable and economic working conditions” (which reflects on

SANC as a professional body to take responsibility in ensuring a positive practice environment) (ICN, 2012).

2.3.2 The Canadian Nurses Association (CAN)

The Canadian Nurses Association (CAN) has also developed national standards and a code of ethics. In addition to CAN setting standards for practice, it regulates nursing education standards for nursing programs. “The nursing profession in Canada is regulated in the public interest through regulatory nursing organizations established in every province” (OMalley, 2014). With reference to nursing education, “all nursing programs in Canada prepare candidates to write the same nursing entrance test in a form of a national examination that allows uniformity by reducing the amount of variation in student assessment between provinces”. CAN further ensures public protection by providing support to the nurses in an attempt to curb poor nursing practice. Consultants are available in all provincial organisations to address concerns pertaining to nursing practice. A website and monthly publications are available as a platform for nurses to share concerns. This is an ideal approach for the South African Nursing Council to emulate.

The Association of Canadian Medical Colleges on social accountability is of the opinion that students should collaborate in groups, advocate for social change and improve education in other countries. Social accountability is defined by the World Health Organization as “the medical school’s obligation to direct their education, research and service activities towards addressing the priority health concerns of the community, region, and/or nation they have a mandate to serve. The priority health concerns are to be identified jointly by governments, health care organizations,

healthcare professionals and the public" (Boelen & Woollard, 2009; Parboosingh, 2003).

The integration of social accountability and professionalism as components of the health sciences curriculum enhances the achievement of appropriate educational outcomes and ensures an effective and efficient health care system with reference to ethical practice for example, that of Canada includes concepts regarding public protection and the role of regulatory bodies within the content taught to nursing students (OMalley, 2014). The above discussion illustrates that the CAN's ethical foundation focus on nursing education that is correlated to nursing practice.

2.3.3 The American Nurses Association (ANA)

The American Nurses Association (ANA) is a professional organisation for registered nurses in the United States (Matthews, 2012). ANA advances and protect the profession of nursing through fostering high standards of nursing.

2.3.4 The Indian Nursing Council (INC)

The Indian Nursing Council (INC) as authorised by the Indian Nursing Council Act of 1947 in 1949, provides standards for the regulation of nursing education and nursing registration in India as the only national legislation directly related to the practice of nursing. The INC consults with the International Council of Nurses for matters relating to the code of conduct for nurses.[7]

[7] Mhtml://C:\Users\mathijm\Documents\NURSING EDUCATION.mht

The United Kingdom reported 5609 claims of clinical negligence in 2005 and 3766 claims on non-clinical negligence according to the findings of Tingle & Cribb (2007). Tingle further stated that the statistics for litigations continue to rise as the members of the public are more informed of their rights to health care. Ho (2009) conducted a study on medico-legal aspects of obstetrics and the role of a midwife as the number of malpractices around childbirth issues continue to rise. The study revealed the most common allegations made in obstetric litigations for example the initiation of procedures without adequate client information or obtaining informed consent, (Ho, 2009) and that litigation increases because the clients are more educated and have higher expectations and generally demands more.

The commonality amongst all these nursing regulatory bodies and associations is that they are affiliated to ICN (which upholds ethical practice) and seem to have mechanisms or principles in place that support ethical and professional practice, with an emphasis on clinical practice rather than on nursing education.

2.4 LEGISLATION

The discussion that follows outlines the legislative framework that impacts on ethical practice in nursing.

2.4.1 The Constitution of South Africa

The basis of the Constitution (1996) is the Bill of Rights. The Bill of Rights reflects some of the main ethical principles of relevance to bioethics. In particular, the

principles of autonomy, beneficence, non-maleficence and justice provide a framework for health law (McQuoid-Mason, 2013). Autonomy aligns to a person's right to: bodily and psychological integrity (s12 (2), dignity (s10), privacy (s14) and life (s11). Beneficence aligns to the right to life (s11), access to health care (s27 (1) and access to information (s32 (1). Non-maleficence is recognised in the Constitution by means of "the right to an environment that is not harmful" (ethical harm) (s24 (a), "not to be treated in a cruel, inhuman or degrading manner" (unethical) (s12(1) and "not to be subjected to medical or scientific experiments without consent" (s12(2)(c). Justice and fairness are reflected in the Constitution with reference to "the right to equal treatment and non-discrimination (s9) and the right to lawful, reasonable and procedurally fair administrative treatment". The above principles serves as a basis for ethical practice applicable to both nurses, patients and the South African Nursing Council. The Patient's Rights Charter supports autonomy by stipulating the importance of informed consent and that patients should participate in decision making regarding their health care.

2.4.2 The National Health Act No. 61 of 2003

The National Health Act (an obligation to care) unites the national health system in a common goal to actively promote and improve health within national guidelines, norms and standards. The Act takes into account the obligations imposed by the Constitution and other laws pertaining to health services that include nursing care with regard to the rights of the health care users and the duties of the heath care personnel (chapter 2). The guidelines on obtaining a informed consent as a core right are stipulated under chapter 2 section 7. Confidentiality pertaining to disclosure

and non-disclosure of information is outlined. Informed consent should be routinely obtained from health care users as a way of ensuring autonomy and self-determination.

2.4.3 The National Qualifications Framework Act No. 67 of 2008

Section 6 (1) – NQF Levels 1-10 discuses competencies regarding ethical practice in each NQF levels that apply to nursing practice, which should be fully incorporated within the nursing education programmes to guide the teaching of ethics.

2.4.4 Regulations relating to the Scope of Practice

The scope of practice of a nurse entails "the acts and procedures which may be performed by the scientifically based physical, chemical, psychological, social, educational and technological means applicable to health care practice"[8], as reflected in the SANC (2014).

2.4.5 Regulations setting out the Acts or Omissions [9]

Regulation 387 of 1985 (as amended) stipulates the conditions under which SANC may institute disciplinary measures against nurse practitioner's' adverse conduct. This includes assault, abuse, harassment of health care users and colleagues or any conduct bringing the profession into disrepute and disclosure of information) chapter 2 subsections 9, 10 and 13(1.

[8] Regulation 2598 of 1984 as amended
[9] Amendment: no. 767 of 2014

2.5 THE SOCIAL CONTEXT OF NURSING

The American Nursing Association (ANA, 2010), in the Social Policy Statement, defines nursing as being characterised by: “the provision of a caring relationship that facilitates health and healing; the assurance of safe, quality and safe evidence-based practice and the provision of attention to the range of human experiences and responses to health and illness within the physical and social environments” (ANA, 2010). Within this characteristic reflects the social determinants of health.

A social contract exist between society and the profession as a means of enhancing provider-recipient relationship as articulated and maintained by the American Nursing Association (ANA, 2010) and other professional organisations that “Nursing is the protection, promotion and optimization of health, the prevention of illness and injury, the alleviation of suffering through the diagnosis and treatment of human response and advocacy in the care of individuals, families, communities and populations” (Neuman, nd.). The social contract is based on the fact that “society grants the profession’s authority over functions vital to itself and permits nurses considerable autonomy in the conduct of nursing care and that the authority of nursing is said to be based on social responsibility derived from a complex social base and social contract” (ANA, 2010; Waugh, 1993; NLN[10], 2015). Pellegrino, as cited by (Antwi, Chigumba, Mutambasere & Seyuba, 2013) “affirms that healthcare professionals possess a special body of knowledge, practice within an ethical

[10] National League for Nursing (NLN). The Voice for Nursing Education.

framework, commit to the fulfilment of societal needs and that professionalism is linked to ethical obligations" (Antwi et al 2013).

The nursing profession's trusted position in nursing (which is currently under threat, within the South African context because of unethical behaviour of nurse practitioners) obligates nurses with a responsibility to provide the very best nursing care. An example of an unethical behaviour is reflected in the following response from a study by Menon (2010) on the perception of care in Zambian women attending community antenatal clinics:

> *"Like N, when you book, she cheeks you, I could not even call her aside and tell her that I have a problem, I once terminated my pregnancy because N will let everyone hear about your problem, and when you talk softly to her, she will shout and say is that how you speak to your mother, I was afraid and ended up telling her that this is my first pregnancy?"*

There was evidence that women did not feel confident about disclosing information to the midwives, which is unethical as it compromises the principles of autonomy, informed choices, confidentiality, access to health, human dignity and the right to information.

This relies on one being professionally trained and clinically competent. This responsibility extends to the regulatory body as a foundation for the social contract, as reflected within the various responsibilities of the body. Nursing is responsible to the society within which it developed and continues to evolve in a sense that its focus should be to serve the interest of the society. Nursing should be flexible and

dynamic to accommodate the changing nature of society's needs. The nurse practitioners are expected to act responsibly and provide care according to "a code of ethics to all in need, regardless of their social, cultural or economic standing", an obligation stated in the Nurses Pledge of service, that is also binding to SANC (SANC, 2004-2015).

Nursing's social contract reflects the "long standing core values and ethics applicable to nursing practice" as stated in ANA (2010) and as also reflected in the "Nurses Pledge of service"[11], an oath undertaken by each nurse on admittance to the profession. The code of ethics serves as a guideline for the social contract. The quality of health care should remain the social and political priorities of nursing practice. To support the social contract, regulatory bodies set standards for the mandated quality of care by providing guidelines and protocols to attain better health outcomes (Matthews, 2012). The obligatory role of the nurse is based on the regulatory body and the social contract (ANA, 2010).

According to ANA (2010), the factors that affirm the social contract are that:

"human experience is contextually and culturally defined; the relationship between the nurse and the patient occurs within the context of the values and believes of the patient and the nurse; humans manifest a unity of body, mind and spirit; health and illness are human experiences and that the presence of illness does not preclude health nor does optimal health preclude illness; individual responsibility and inter-professional involvement are essential and that the public policy and the health care

[11] Nurses' Pledge. SANC, 2004-2015.

delivery system influence the health and wellbeing of society and professional nursing”, which SANC is responsible to provide.

Embedded within the social contract in the nursing profession is the establishment and maintenance of a professional code of ethics, determining the standards of practice and specifying educational requirements for entry into the profession. SANC has reasonably addressed ethical behaviour through the 2013 ethical code except for fostering the incorporation of ethics in nursing theory with reference to the nursing curriculum, nursing research in ethics for the purpose of enhancing evidence-based ethical nursing practice and the establishment of continuous professional competence (CPD). Self- regulation of nurses is provided for within the social contract in a form of autonomy (the capacity and ability of a nurse to determine his or her actions within the scope of nursing practice that requires responsibility and accountability), as an independent and dependent practitioner.

In support of the social contract, nurse practitioners are legally accountable for the actions and omissions regarding nursing care provided as per the guidelines of Regulation 387 of 1985 as amended. The legal contract between society and the nursing profession as per the American Nurses Association Social Policy Statement (2003) is defined by statute and associated rules and regulations for example the Constitution in South Africa (RSA, 1996).

Professional collaboration and coordination of health care is another relevant factor within the social context of nursing as nurses have to establish effective working relationships with other health care professionals to provide a service. Nurse

practitioners are central to health care provision as they are with patients 24 hours a day. Successful collaboration calls for nurses to respond to the dynamic health needs, diversity and the acknowledgement of other health care professionals. The ethical perspective comes into play at this stage, as collaboration is characterised by human interaction, communication, values and respect for all stake holders in health care provision. SANC has a social contract with the society on behalf of the nursing profession.

2.6 PROFESSIONALISM AND THE MORAL OBLIGATION OF STATUTORY NURSING COUNCILS

2.6.1 Professionalism in nursing

As stated in the policy statement of ANA (2003), professionalism in the context of nursing implies that "Nursing is the pivotal health care profession, highly valued for its specialized knowledge, skill and caring in improving the health status of the public and ensuring safe, effective quality care". Nursing is both a science and an art whereby its knowledge base includes nursing science, philosophy and ethics, bio-psychosocial sciences, skills, organizational and technological sciences (Mathews, 2012). Competency in the nursing profession also depends on continued expansion of knowledge. The nursing profession should as such, fulfil the society's nursing care needs offered by providing qualified and appropriately prepared nurses who embrace and act according to a code of ethics. Nurses' moral reasoning needs to be deliberate and practically wise to facilitate patients' wellbeing.

Nurse practitioners are expected to provide quality care to health care users who rely on their expertise, knowledge and professional skills. In circumstances where malpractice has occurred or the family is not satisfied about the care provided, the family or patient often seek answers from nurses and the SANC may also institute disciplinary action against the nurse practitioner ,as stipulated under the functions of the council, section 4.1.l.iii (SANC, 2006).

The appointment of the Chief Nursing Officer in South Africa (CNO) in 2013 is envisaged as having a positive impact on ethical practice as the CNO is responsible for national workforce planning, developing, advising and enacting nursing policies as stated by McCarthy, Voss, Salmon, Gross, Kelley & Riley (2013). It would be ideal for SANC to work hand in hand with the CNO.

2.6.2 Role of statutory nursing councils

A statutory nursing council as a professional regulatory body is “one whose primary role is to protect the public and which is established on the basis of a legal mandate. Professional regulation entails a professional body’s “oversight, monitoring and control of its members based on principles, guidelines and legislation deemed applicable” as stated by ANA (Neuman, nd.).

Regulatory bodies exercise a regulatory function that:

> “specifies the requirement for entry into the nursing profession, sets out and imposes requirements for continued membership and professional education,

> provides a set of regulations or code of professional ethics to which members must adhere or risk the sanction or expulsion from the profession, and undertakes disciplinary action if it is determined that a nurse failed to act according to professional standards" (Matthews, 2012).

> "The regulation of the nursing profession implies that certain standards and rules are in place under specific legislation that concern the profession. Nursing regulation exists to protect the public that is vulnerable when sick and is unable to independently meet its own needs. Regulating the nursing profession increases the probability that the public will receive knowledge- based, competent and ethical care from nurses" (OMalley, 2014).

Nursing councils as regulatory bodies are mandated by statute by the Government to regulate the education and practice of the nursing profession (Churchman & Woodhouse, 1998; Farkiya, 2012). A regulatory body might also act as a membership organisation that often restricts the right to practice if a nurse is not a fully paid member, as in the case with the SANC.

Regulatory bodies play a significant role in ensuring the quality of nursing education, which is education that contributes fully to the development of the individual and society characterised by a degree of commitment towards excellence and the inculcation of human values in the students (Farkiya, 2012). This role can be achieved amongst others, through regulatory bodies playing the role of facilitators, establishment and maintenance of education standards, quality assurance, continuous professional development and the revision of curricula to make it more relevant to current health care needs.

Within the standards of professional nursing practice are the responsibilities which nurse practitioners are accountable for, and the professional values and priorities. Standards describe competences in clinical nursing practice that relate to the quality of nursing education undertaken (OMalley, 2014).

Nursing regulatory bodies have a responsibility to nurses and the public to develop standards that address the needs of the public that specifies educational programs, policies, procedures, protocols, and the evaluation of nursing service delivery systems (ANA, 2010).

McCarthy, Voss, Salmon, Gross, Kelley & Riley conducted (2013) a survey in Nairobi (2011) to establish stakeholders' roles, responsibilities and involvement with nursing and midwifery regulation and the challenges regarding the regulation of the nursing profession. The stakeholders represented thirteen African countries with an equal representation amongst chief nursing officers, professional association presidents and academicians.

The results revealed that all stakeholders were involved with activities pertaining to professional development of nurses and midwives and only 78% of academicians stated that they were represented on the national council. Challenges in nursing regulation that were identified included: lack of capacity of nursing councils and carrying out their regulatory functions, lack of autonomy, insufficient human resource and expertise in council members, lack of monitoring of professional conduct and the regulation of nursing education which was the second most frequently cited

challenge (McCarthy, et al, 2013). The implication of these results calls for each nursing council to reflect on its service delivery and challenges as a basis to transform nursing regulation.

The Scope of Nursing Practice, the Standards of Professional Nursing Practice, and the Code of Ethics for Nurses, the social policy statement serve as standards and the foundation for legislation and regulatory policies to assure protection of the public's safety (Styles, Schumann, Bickford & White, 2008 as cited in ANA, 2010).

2.7 CONCLUSION

Chapter 2 discussed the role of the SANC as a regulatory body, roles of other international nursing councils, professionalism and the social contract in the nursing profession.

CHAPTER 3

PHILOSOPHICAL PERSPECTIVES AND MORAL THEORIES

3.1 INTRODUCTION

Chapter 3 presents philosophical and moral theories applicable to the ethical practice in the nursing profession.

3.2 PHILOSOPHICAL PERSPECTIVES AND MORAL THEORIES

Nursing's social policy statement regards nursing "as both a science and art as professional nursing practice requires a nurse to have an understanding of nursing science, philosophy, ethics, social, and the physical and economic determinants of health and that nurses are expected to acquire a knowledge base of theories that are congruent with nursing values and nursing practice" (Neuman, nd.).

Theories of philosophers such as Kant, Aristotle, Bentham and Mill serve as implicit foundations of contemporary moral theories. The most applicable moral theories for this study as a knowledge base are

the modern approaches i.e. principlism, deontology or Kantian ethics, utilitarianism and consequentialism and the pre-modern perfectionist approach referred to as virtue ethics. Ubuntu as an African moral theory is also briefly referred to.

3.2.1 Principlism

Principlism refers to the four foundational principles of Biomedical ethics as developed by Beauchamp and Childress, which are respect for autonomy, beneficence, non-maleficence and justice, drawn from a widely shared conception of morality. These principles serve as a theoretical framework for teaching ethics to health care professionals and a means for deliberate moral justification through appropriate ethical practice (Christen, Ineichen & Tanner, 2014).

The four ethical principles have equal status with none having priority over the other unless in a specific context, for example where the action is in the best interest of the patient. According to principlism, more than one principle is often relevant in ethical situations and judgement regarding which principle takes precedence should be based on other applicable rules and justification for moral behaviour, as principlism is objective, impersonal, impartial and intellectual (Tschudin, 2006).

With reference to nursing care, autonomy refers to nurses respecting the patient's informed choices. Professional autonomy on the other hand, requires the nurse to have the capacity and the ability to deliberate a course of action and to put that plan into action with accountability and responsibility. Professional autonomy is granted by SANC through the independent function of a nurse stipulated in the nurses' scope of practice. Autonomy allows the patient to choose and be an advocate for their own health care, as of their request of ethical behaviour by nurses in the context of nursing care (Pera & van Tonder, 2011).

Beneficence implies that nurse practitioners take actions to benefit the recipient of health care and to facilitate the patient's wellbeing. Beauchamp and Childress further suggest two principles of beneficence "positive beneficence and utility". The principle of positive beneficence asks that "moral agents provide benefit", while the principle of utility requires that "moral agents weigh benefits and deficits to produce the best results" (Lawrence, 2007; Clarke, 2009).

Non-maleficence is a passive principle that is universally applied as it involves refraining from actions that might harm others. As stated by Lawrence (2007), it is not uncommon to see the words "*primum non nocere"* first "do no harm" with reference to non-maleficence. The nurse should as such, not harm health care users by providing unethical nursing care service. What nurse practitioners have to do is to put the health care user in the best health care situation for nature to act upon (for the healing process to take place) to the best interest of the patient.

Justice within nursing refers to offering nursing care that the health care user deserves and ensuring that available resources are distributed fairly. Justice further advocates respect for people's rights and respect for morally acceptable laws. These four ethical principles, although considered incomplete by some ethicist like Holm (1995) and Lustig (1992) form the foundation for ethically sound nursing care. They are meant to provide a set of moral commitments, common language and a set of common moral issues. Nurse practitioners have a special relation with and an obligation to help the patient, which should be ensured by SANC as the regulatory body. Justice within nursing is further viewed from the social perspective, as social justice gives privilege to the most vulnerable, which are the recipients of health care

in the context of this study. Just nursing care places reasonable parameters on rights claimed by individuals, which are both nurse practitioners and the healthcare recipients.

3.2.2 Kantian Deontology

Immanuel Kant (1724-1804) who many believe to be the most influential philosopher on deontology regarding his belief that moral principles are "a *priori* synthetic" (Clarke, 2009) and "are inherent in each human being and that humanity is indeed valuable". Kant's *priori* method refers to the fact that "the ultimate subject matter of ethics is the nature and content and principles that determines a rational will". This implies the establishment of the fundamental principle of morality a *priori* that may be complemented by drawing conclusion on observations of human beings and their behaviour" (Johnson, 2008) (as of the nurses' ethical behaviour) in order to generate conclusions about how nurse practitioners ought to act. Deontologists asks a fundamental question "what ought I to do" as deontology is based on moral obligation and duty of the action, implying that a person should act from a sense of duty. Deontology or duty based morality "identify some acts as right or wrong" (Clarke, 2009) because of the sort of things they are, under a series of rules. People have to "act accordingly, regardless of the good or bad consequences that may be produced".

People (nurse practitioners too) have to "understand what their moral duties regarding nursing care are and what correct rules exist to regulate those duties", because if nurses follow duties correctly, for example, by applying the basic ethical

principles, they would be behaving morally from a deontologist point of view. The Nurse's code of ethics, the Pledge of service undertaken as an oath by nurses at graduation and the Nurse's scope of practice are deontological as they outline some of the rules expected to be upheld by nurses. The Nurse's scope of practice outlines the duties to be carried out by each category of nurse practitioners, and is as such "deontological" as it is characterised by a focus on duty. Doing one's duty is what is considered ethically correct (Cline, 2014). Deontology emphasises the value of every human being, provides the basis for human rights and offer equal respect to all human beings, which are principles inherent in nursing practice.

Regarding human conduct, Kant emphasised that only an action done on the basis of good will is the right action, regardless of the consequences. Similarly, the use of ethical principles as a foundation in nursing care and adhering to the principle that "one cannot treat a person as a means to an end", is fundamental to acceptable nursing practice. Kant believed that action done from duty has moral worth, not because of its outcome but on the principle of acting out of reference to the law and doing one's duty (Heubel & Biller-Andorno; Johnson, 2008). The SANC should as such adhere to its duty to regulate nursing practice.

Kant proposed the concept of a "*categorical imperative*" that a moral human being had to obey, a rule that is true in all circumstances and that is universal, for example basic ethical principles. One should always act in such a way that one is willing for the action to be a general law that everyone may use under similar situations. The categorical imperative expressed by Kant is that "all human beings should be treated as free and equal members of a shared moral community", a rule applicable to the

recipients of nursing care as well as nurses. Furthermore, Kant states that people should always be treated "*as valuable as an end in themselves and not just as means to an end"* (Johnson, 2008). Professional and ethical behaviour as regulated by the SANC is a form of "categorical imperative" as rules should be generalised to all nurses in practice.

As applied to the context of nursing care, Kant also agrees that people can be used as "means to ends" for example by student nurses in practice, but with a condition that "they are also being treated as an end in themselves". The notion of a "*good will*" applies in a sense that "caring" as the core of nursing might not be offered because it is a morally right thing to do, but because nurses have a "*duty to care*". Kant's moral theory may also be read as the interpretation of the "Golden Rule", "*Do unto others as you would like them do unto you"* (Hursthouse, 2012), which carries a universalist connotation related to Christianity.

Based on the types of deontological ethics, duty theory proposes that an action is morally right if it is in accord with some list of duties and obligations like nursing care. Furthermore, the Rights theory states that "an action is morally right if it adequately respects the rights of all humans which are health care seekers in the context of this study" (Cline, 2014).

Deontology may produce a conflict of interest when two duties are equally compelling for example when a nurse has to do her duty like wound dressing and the patient is not consenting to the procedure. A conflict is that the wound might not heal and get septic and patient's right to self determination should be respected.

However, the conflict may be resolved by applying and justifying other ethical principles for example beneficence. Deontic rules might also have a limitation in that they do not account for a nurse's natural affection like sympathy and empathy that are ethically orientated since deontology is "duty based".

From a deontological perspective, the SANC is duty bound as a regulatory body to provide directives and maintain ethical nursing practice based on Kant's hypothetical imperative and the duties or rules that nurse practitioners have to observe if the outcome of ethical healthcare should be met.

3.2.3 Utilitarianism/consequentialism

Consequentialists Jeremy Bentham (1789-1948) and John Stuart Mill (1863-1910) proposed the moral theory of utilitarianism based on the principle that "the end justifies the means". This is a normative system providing a standard by which an individual (a nurse) ought to act "so as to produce the best consequences possible". The utilitarianism philosophers are interested in the consequence of the act and not the act itself (West, nd.). Utilitarianism revolves around the concept of "the end justifies the means" as consequentialism in utilitarianism is based on the fact that "an action must be judged by its consequences on the happiness of the largest number of people, which is based on the principle of utility", as stated by Bentham in "*Introduction in the principles of morality and legislation*".

Bentham, one of the founders of utilitarianism, argued the principle of utility

> "as a moral principle aimed at the promotion of the good of the society" (Hortense, 2010). Bentham believed that only in terms of a utilitarian interpretation do words such as "ought, right and wrong have meaning and that whenever anyone attempts to combat the principle of utility, he does so with reasons drawn from the principle itself". Bentham and Mill both believed that human actions are motivated entirely by pleasure and pain; and Mill saw that motivation as a basis for the argument that, since happiness is the sole end of human action, the promotion of happiness is the test by which to judge all human conduct"(West, nd.)

Utilitarians believes in maximising pleasure and minimising pain, a principle applicable to nursing care as patients seeks health care to avoid pain or illhealth. Nursing care would as such, be regarded effective if a large number of people affected by it are happy.

A nurse ought to act so as to produce the best nursing care possible in order to respond to the utilitarian question "What ought a man to do?". The issue of what should be done from the utilitarian perspective reflects on the role of the SANC as a regulatory body for nurses to provide policies that would reduce harm during nursing care for example the code of ethics 2013 and more legislation that will produce the greatest and acceptable nursing care for the greatest number of health care recipients.

Utilitarianism focuses on "the good and the bad produced by the act, whether in the process of the act or at the end of the act, also taking into consideration both the immediate and long term consequences of one's actions" (West, nd.). The

consequences of unethical behaviour by nurses might lead to, for example, non-compliance from patients, loss of trustworthiness and the security of health care service and delays in seeking health care that might compromise the patient's wellbeing.

The unethical behaviour of nurses is as such morally wrong from the utilitarian perspective. Given its insistence on summing the benefits and harms of all people, utilitarianism directs nurses "to look beyond self-interest to consider impartially the interests of all persons affected by their actions". John Stuart Mill wrote that "*the happiness which forms the utilitarian standard of what is right in conduct, is not … (one's) own happiness, but that of all concerned. In an era today characterised by the age of self-interest, utilitarianism is a powerful reminder that morality calls us to look beyond self to the good of all"* (Velasquez et al, 2014).

"Utilitarianism" as described by Hare (an Oxford moral philosopher) and other utilitarians, for example Richard Brandt, rests on what is known as the "golden rule" of workplace ethics. According to this rule, "an individual is responsible for, and concerned with, the well-being and happiness of others". The golden rule holds that "ethical individuals are those who avoid causing harm and seek ways to help others". Utilitarianism is therefore concerned with actions that produce benefit and avoid harm. Utilitarian workplace values include "honesty, keeping promises, professionalism, caring for others, accountability and avoiding conflict of interest", values embedded in nursing practice (Velasquez et al, 2014).

There are two basic types of utilitarianism that are applied in the workplace: “rule utilitarianism” and “act utilitarianism. Rule utilitarianism concerns itself with fairness, while act utilitarianism is concerned with doing good for the benefit of others (Anderson, nd). A rule utilitarian”, for example, looks to benefit the greatest number of people through the most just and fair means.

SANC as a “rule utilitarianist” should set stringent workplace ethical standards (code of ethics) in the workplace that guides the behavior of nurses. Workplace ethical standards should provide guidance on “workplace conduct, ethical conduct training and advice, disciplinary action for ethical violations” and the like. Utilitarianism in the workplace is “associated with numerous advantages, including enhanced teamwork and productivity”, which is ideal for nursing practice. A nurse as an “act utilitarian” should be able to choose the most ethically correct action for the benefit of healthcare recipients, based on the standards put forward by the SANC.

Critics of utilitarianism claim that “it is an overly optimistic theory that fails to take into account motivations, focusing entirely on actions”. Moreover, workplace ethical practice on the basis of utilitarianism is best achieved and sustained if it is supported by “written policies, procedures and a strong ethical culture in the organization”, which justifies the role of the SANC in providing these policies for nursing practice. Top-management (institutional) support is imperative, as are ongoing training programs in ethics and workplace morality. The utilitarian philosophy might also compromise the principle of autonomy and beneficence in nursing care when individual needs are overridden by the needs of the community in an attempt to

maximize happiness for a larger number of people, with an added possibility of harming individual patients in the process.

3.2.4 Virtue ethics

Virtue ethics is focused on acting exclusively according to one's true nature, an internal part of one's identity, an ideal "caring being" in the context of nursing. A Western moral philosophy with a belief that life has a goal or purpose (teleology). "The goal of life is to pursue the good and once the good is achieved a human being would experience happiness" (Clarke, 2009).

Nursing is inherently a moral profession as stated by Jameton (1984). Nursing found its "origin, purpose and meaning within the context of culturally accepted moral norms, individual values and perceived health and social needs" (Burkhardt & Nathaniel, 2003). Andrew Jameton, a contemporary philosopher, refers to nursing as a "morally centered health care profession" (Nathaniel, 2003). Virtue ethics asks the question "What sort of person must one be to be an excellent person?" (Armstrong, 2006; Hursthouse, 2012). With reference to the character of the nurse as a moral agent, virtuous behaviour will reflect amongst others, patience, generosity, fidelity, kindness and benevolence which are morally admirable characteristics (Pera & Van Tonder, 2011). Nurse's perception of what it means to be a good nurse and to do the right thing in a study by Smith and Godfrey (2002) was that "ethical nursing is a complex endeavour in which a variety of decision-making frameworks are used. High value was placed on both analytic personal attributes that nurses bring into nursing by virtue of the persons they are".

The once prevalent notion of a virtuous person being obedient, submissive and self sacrificing has faded. It is as such, ideal that an individual taking up nursing as a profession should be equipped with certain virtues for example, sensitivity, compassion, kindness (Pera & van Tonder, 2011). The challenge is how would these attributes be determined as criteria to screen students admitted into the nursing profession?

My observation based on informal conversation with nursing students as a nursing lecturer for 20 years, is that many students apply for nursing not because they are virtuous, but because students receive some stipend during training or that other professions especially in Medical Schools could not accommodate the students. How can one provide effective nursing care if she or he did not initially want to be a nurse? Can we manage to develop these virtues through nursing education and professional socialization only if we claim virtues to be intrinsic? Probably not, unless to a very limited extent.

High quality and morally good traits infused by virtues such as patience, compassion, tolerance, empathy, respect etc are aligned with the basic ethical principles (Pera & van Tonder, 2011) that are characterised by respect for patients, doing good, fairness in patient care and preventing or avoiding harm.

When health care users seek nursing care they partly surrender their autonomy with a hope that nurses are caring, since an ethical imperative of a nurse practitioner is to uphold a patient's autonomy. For a virtue ethicist, helping the patient would be

charitable or benevolent as opposed to a utilitarian who will focus on maximizing the patient's wellbeing as a consequence of her care and a deontologist who would be "doing what she is supposed to do (function)" or "doing to others as she would like others to do unto her" (Clarke, 2009).

The findings of a qualitative study by Chokwe and Wright (2012) on establishing caring as a core-concept in educating midwifery students led to the establishment of the following ethical themes: individualisation, showing respect for humankind, being a good role model, being compassionate, kind and approachable and being conscientious which are attributes associated with a virtuous person. This finding justify that the ethics of care is one aspect of virtue ethics.

Aristotle made a distinction between moral and intellectual virtues. Intellectual virtue refers to "wisdom and intelligence" whereas "moral virtue refers to "liberality, temperance and courage" and that a sense of balance is required between the two (Clarke, 2009). The intellectual virtue can be acquired from classroom learning and moral virtue through a hidden curriculum that "consists of values and beliefs taught through verbal and nonverbal communication" (Billings & Halstead, 2012). The role of SANC would be to provide a curriculum that would enhance intellectual and moral virtues. Virtue allows for flexibility that other moral theories, for example utilitarianism and deontology lack. Virtue ethics focuses on understanding interpersonal relationship which is an attribute in nursing care. As of other moral theories, virtue ethics is characterised by moral decision-making (Hursthouse, 2012).

It is conceivable that one may enter the nursing profession already equipped with certain relevant virtuous traits like kindness and sensitivity, however, nursing

education and professional socialisation also involve acquiring virtuous traits for a nurse to engage in good practice. Virtue ethics can be nurtured through a formal nursing education curriculum and, a hidden curriculum achieved through clinical mentoring of student nurses and codes of ethics. As virtues are context specific, a student should cultivate virtues from a specific context of nursing (Pera & van Tonder, 2011).

Despite the criticism that virtue ethics is flawed because it has no criteria to establish whether an action is virtuous, Edwards (2009) argues that “a moral character is important as there is more to morality than simply the performance of right actions, doing one’s duty or securing the greatest good and that patients would hope that nurses caring for them are genuinely good and not just pretending to be caring. Edwards further states that some of virtue ethics attributes can be aligned with the four basic ethical principles (autonomy, beneficence, non-maleficence and justice).

A qualitative study by Smith and Godfrey (2002) on “being a good nurse and doing the right thing” led to the notion of virtue ethics through the themes that emerged from interviews, these were: **personal characteristics** that consist of all those attributes that a good nurse brings into nursing by virtue of the person she is, and how the person demonstrates those attributes in everyday life” which includes “caring, compassion, respect for self and others and therapeutic communication patterns”. Participants from Smith and Godfrey’s study reflected comments regarding a virtuous nurse as one who “truly cares about people; flexible; compassionate; respecting self and respecting others feelings and beliefs”. **Professional characteristics** consists of “all those aspects of the nurse's practice that exists by

virtue of his or her being a member of the nursing profession" (Smith & Godfrey, 2002). The nurses' commitment to those served, as reflected in the nursing professions' code of ethics; nursing practice regulations; nursing standards of care; the nurse's own philosophy of nursing and the code of ethics. Responses from participants included: "*acting within the current scope of nursing practice*" and "*being a role model to the public and the profession*", a principle pertaining to professional accountability and responsibility aimed at acting in the best interest of the patient.

3.2.5 Ubuntu (an African moral theory)

The phrase of "I am because we are" and the fact that Ubuntu is communitarian as opposed to individualistic (Metz, 2007) might impose a need to include "Ubuntu" in addressing the obligation of the SANC regarding ethical practice for nurses. However, ubuntu provides a philosophical stance within the African context although not yet well addressed in the educational system. Ubuntu provides a basis for virtues as it speaks about interconnectedness that exist between a nurse- patient relationship in a form of a social contract. It advocates for treating others as human beings, understanding others' frames of reference (values and beliefs); recognising the social being of others and being sensitive to their needs (Thomas, 2009) (SANC for nurses). Ubuntu reflects virtues pertaining to care, respect, sympathy, consideration, patience, kindness, warmth, empathy, loyalty and understanding (Pera & Van Tonder 2011), attributes relevant to nursing practice to be enhanced by SANC.

From a legal perspective, as presented by Judge Yvonne Mokgoro, Ubuntu is "a philosophy of life, which in its most fundamental sense represents personhood,

humanity, humaneness and morality and that the African values which manifest themselves in Ubuntu are in consonance with the values of the Constitution generally and those of the Bill of Rights in particular" (Mokgoro,1998).

3.3 CONCLUSION

Chapter 3 addressed some of the moral theories applicable ethical practice. The integration of deontology, utilitarianism, ubuntu and virtue ethics call for nurse practitioners not to only be duty bound, but to reflect character and the consequences of their actions.

CHAPTER 4

ARGUMENT INCORPORATING THE LEGAL, THEORETICAL AND PHILOSOPHICAL PERSPECTIVES OF NURSING CARE

4.1 INTRODUCTION

Chapter four presents an argument regarding the obligatory role of the SANC in enhancing ethical practice. The argument incorporates the legal, theoretical and philosophical perspectives of ethical and professional practice, both nationally and internationally.

4.2 THE REGULATORY ROLE OF THE SOUTH AFRICAN NURSING COUNCIL

“A regulatory body in the context of education, is an external organization that has been empowered by legislation to oversee and control the educational process and outputs relevant to it” (Farkiya, 2012). SANC is mandated by the South African Government to regulate the nursing profession in the interest of the public (Nursing Act, 2005) by for example protecting the image of nurse practitioners and making them feel valued and appreciated in the workplace that will improve the retention of nurses and improve patient outcomes. The self-regulation that the SANC currently holds is a privilege granted by the government.

4.2.1 The SANC vision and mission statement

The SANC vision is stated as “excellence in professionalism and advocacy for health care users” and the mission “we serve and protect health care users by ensuring quality nursing and midwifery care, through collaborative partnerships and facilitating an enabling environment”.

I argue that the mission and vision statement of the SANC is inadequate because the focus is on the health care users only and it says nothing regarding the nurses as health care providers. The fact that the SANC’s mission is to facilitate an enabling environment pose a two dimensional principle that is applicable to both the health care users and nurses and as such obligate the SANC to provide nurses with an environment that enable nurses to provide ethically acceptable care.

4.3 THE SANC CODE OF ETHICS (2013)

The SANC, through the Ministerial task team from the Nursing Summit, developed and published a formal document in May 2013 (Code of ethics for nursing practitioners in South Africa) in response to recommendation 3 of the strategic plan that aims at the incorporation of professional ethos and ethics in nursing education curriculum. The aim of the Code of ethics as reflected in the purpose statement is that “it is the foundation of ethical decision-making aimed at informing nursing practitioners and the public of ethical and moral principles applicable to nurses in the performance of their duties” (SANC, 2013). The code aims to offer all nurse

practitioners (registered under the Nursing Act) guidelines on moral and ethical decision making (SANC, 2013).

The code of ethics is said to be a foundation as reflected in the purpose statement, which cannot be as the code is offered as a guideline for nursing practice, ethics content should be introduced at the nursing education level for it to serve as a foundation. The implication is that if moral development is introduced fundamentally at the level of practice, it will definitely have limited impact on the ethical behaviour of nurse practitioners.

The preamble states that “the code of ethics does not only provide guidance to nurses in the process of decision-making but is a binding document” (SANC, 2013). I am of the opinion that the code would hold a much stronger contractual obligation if the teaching of ethics was initiated in theory. However, the ethical principles outlined in the Code of Ethics are clearly stated and somehow address the basic ethical principles reflected in for example, the International Council of Nurses Code of Ethics (ICN, 2012) and the American Nurses Association (ANA, 2003).

Furthermore, there is a statement in the code of ethics that “ethical principles have to be upheld at all times by all nursing practitioners in whatever role they fulfil as direct or indirect patient care providers, including amongst others, educators, administrators, researchers and policy makers” I believe that for the ethical principles to be upheld, they should be incorporated within the nursing education curriculum as justified by the Canadian Association of Nursing (CAN).

As part of the functions of SANC as stipulated in the Nursing act (2005), SANC is mandated to ensure that persons registered in terms of the Nursing Act offer health care users respect according to their constitutional rights to human dignity, bodily and psychological integrity and equality (which can be achieved through the incorporation of ethics in the education of nursing students).

Furthermore, SANC is responsible to determine the scope of practice for nurses that aligns to the curriculum and the code of ethics (Nursing Act, 2005). The initiative by SANC in developing the code of ethics in 2013 as "a set of principles and rules by which nursing as a profession is expected to demonstrate a commitment to the society and regulate the moral behaviour of its members is acknowledged". Much as the code of ethics offers a basic expression of ethical knowing and irrespective of ethics being practically inclined, the SANC code of ethics on its own is not adequate to address the challenge that nurse practitioners have regarding ethics.

As stated in its preamble that "This Code of Ethics for Nurses in South Africa reminds all nursing practitioners of their responsibilities towards individuals …", I am of the opinion that for the code of ethics to be a reminder, the contents thereof should have been incorporated within the nursing curriculum and taught to nursing students, otherwise the code serves merely as a procedural policy. The importance of and the contribution of theoretical frameworks for example those by Kohlberg and Gilligan to enhance the student nurses' cognitive development, the use of rules and guidelines and rational justification of ethical choices made cannot be undermined.

The Nightingale pledge was the first code of ethics provided to nurses in a form of a modified version of the Hippocratic Oath in 1893 (Matthews, 2012). The application

and sanctions under 5.3 in the SANC code of ethics states that “the code is enforced by the professional conduct committee which hears matters where unprofessional conduct arises from poor ethical decision-making or the lack of ethical decision-making” (SANC, 2013). The sanctions further state that “failure to adhere to the provisions of the Code or violations thereof attracts the same sanctions as those of non-adherence to the regulations regarding acts and omissions and that it may bring the Nursing Practitioner’s practice into question and endanger registration to practice” (SANC, 2013).

I further argue that the SANC code of ethics provides an unstructured basis to nursing care practice without any guidance on its application, especially with regard to principles in human rights and nursing law. The code does not provide absolute rules that are free of conflict and ambiguity as codes do not provide exact directives for ethical decision making but only guidelines. The role of the SANC in enhancing ethical practice at all levels of nursing could be based on the three main normative elements as discussed by (Agich, 2007) which are: *respect for professional integrity* that implies a respect for legitimate professional judgement and discretion, inter-professional support and respect and shared leadership; *respect for health care users* characterised by respect for patient’s values and rights and a transparent service delivery and *respect for nurse practitioners* by providing an open communication system, participation and buy-in of nurse practitioners and justice in sharing the benefits of the SANC.

4.4 THE SCOPE OF PRACTICE OF NURSES

As stated in the CNA position statement (2006), “the Scope of practice refers to activities that nurses are educated and authorized to perform as set out in legislation and complemented by standards, guidelines and policy positions of nursing regulatory bodies”. The scope of practice statement by the ANA (2004) is described as the “who, what, where, when, why and how of the nursing practice and that it depends on the nurse practitioner’s educational preparation, competency (an expected level of performance that integrates knowledge, skills, abilities and judgement which is foundational to professional autonomy) and the needs of the society the nurse practitioner serves” (ANA, 2010). It is as such paramount that the educational content adequately address ethical and legal perspectives in nursing practice in order to provide a foundation for the scope of practice.

The scope of practice differs according to each category of nursing. Nurses are responsible and accountable to practice in accordance with the scope of practice. The capacity of a nurse to determine own actions as a dependant, interdependent and independent and an autonomous practitioner should be reflected within the scope of practice. Scopes of practice need to be reviewed to align with changing health care needs, a principle the SANC has adhered to that also address the concern raised at the National Summit regarding the unethical behaviour of nurses.

The requirements for professional and ethical practice by nurses in the revised scope of practice (2014) are to “demonstrate knowledge and insight into laws and regulations relevant to nursing practice; practice nursing in accordance with laws and

regulations; protect human rights; create an enabling environment; practice in an ethically just manner and accept and assume accountability and responsibility" (SANC, 2014).

My concern is that the scope is presented as broad concepts regarding ethical practice for example "practice in an ethically just manner"? What does this mean to a nurse who has never been taught ethical principles in the classroom? Basic ethical principles could have been reflected in the scope of practice (autonomy, beneficence, non-maleficence, justice …). Regarding "creating an enabling environment for ethical practice", I regard this as a primary responsibility of the SANC and only a secondary responsibility of individual nurse practitioner as an ethical environment should cater for both the nurse practitioners and health care users.

It seems ethically and morally appropriate that SANC provide a comprehensive Scope of Practice for nurses and implement measures that ensure compliance to the code of professional ethics and not only mitigate for unprofessional behaviour or misconduct by nurses, by for example, the provision of continuous professional development programmes (CPD) as highlighted in the National Nursing Summit 2011, and to also advocate for working conditions that enable nurse practitioners to act ethically. In addition to providing an opportunity for thinking from an ethical perspective, which is integral to nursing practice, nurse practitioners have to acquire skills not only to build ethical relationships with health care users, but to also protect themselves as health care practitioners.

4.5 THE NURSES' RIGHTS

The International Council of Nurses (2012) declares that nurse practitioners have the right to perform nursing according to the codes of ethics. The legal rights for nurse practitioners are outlined in the Nursing Act (33 of 2005) and other legislation for example the Constitution of South Africa (Chapter 2, 1996). Nurse practitioners who do not regard themselves as worthy of care cannot fully care for others as stated by Rich & Butts with reference to a statement by (ANA, 2001).

The nurses' rights from the SANC's perspective as stipulated in the SANC's ten year plan (2004-2014) are said not to be "an end in itself but a means of ensuring an improved service to patients and to enable a nurse to provide effective care". In acknowledging the nurse practitioner's rights, the following relates to ethical practice which are the right to:

> "Practice in accordance with the scope that is legally permissible; a safe working environment compatible with efficient care with availability of relevant resources; a working environment that is free of threats, intimidation and/or interference; in-service education relevant to job description; continuing professional development (CPD); not to participate in unethical or incompetent practice (SANC 2004-2014) and the conscientious objection based on properly informing the employer in writing and that it does not interfere with the safety of patients" (SANC, 2002)[12]

[12] SANC recognises conscientious objection. www.Christian View.org

In addition to the practice rights, nurse practitioners have moral rights which are for example the right to be heard by supervisors and the employer, the right to be treated with respect and dignity, the right to confidentiality and the right to act according to their own personal convictions and value systems as stated by Tschudin (1993, cited by Pera & Van Tonder, 2011).

Makwakwa's report of the National Summit in the Mail & Guardian (2011) was that nurse practitioners often defend themselves by highlighting that their rights are overridden by patients' rights that are noticeable as being commonly displayed in health care facilities boards whereas those of the nurse practitioners are not. Under the guidance of the Constitution and with reference to the labour relations (section 23(1)), every nurse practitioner has the right to fair labour practice that should be provided for by the SANC, in which case this would be the provision of a positive practice environment whereby nurse practitioners work in a safe environment that protects their rights, and that allows them to preserve and improve the health of patients.

The initiation by the Democratic Nursing Organisation of South Africa (DENOSA) by embarking on a nationwide project (in collaboration with the South African Medical Association) regarding "positive practice environment" is highly welcomed by the nursing fraternity. Although the focus of this project is on occupational safety, staffing ratio and staff remuneration, the issues related to ethical practice will be addressed to a certain extent (Hagemeister, 2013).

My response to the factors that were presented as responses on the consultations from the National Summit that were conducted with nurses in all the nine provinces

in South Africa (March 2011) on the factors that contribute to nurses' moral degeneration, is that yes the nurses' rights are to a certain extent overlooked by the profession and the community, that many who are recruited in nursing choose it as a second choice to for example, medical practice, especially the students that are trained by Nursing Departments based at Medical Schools. One other reason is the high unemployment rate leading to recruitment of people who do not have commitment to nursing but are merely in need of a salary.

The issue of the nurse practitioner's remuneration was also raised as a further problem as nurse practitioners are moonlighting and come to work exhausted resulting in them being insensitive to patient care. This aspect is compounded by shortage of staff that leads to nurse practitioners being overworked. Shortage of staff emerges in all studies that relates to management regarding patient care. A strategy was put in place by the Government to calculate staffing ratio according to criteria (Workload Indicators of Staffing Need (WISN) by WHO (1998), but a challenge is that insufficient numbers of nurse practitioners would be available to comply with the ratio that is calculated based on the frequently reported shortage of nurse practitioners.

The Truth and Reconciliation Commission of 1998 in addressing the health sector under apartheid has challenged both institutions and individuals to integrate human rights norms (which includes ethical behaviour) into the practice of health care professionals in South Africa (London & Baldwin-Ragaven, 2008).

4.6 THE NURSING CURRICULUM

As highlighted by McLeod-Sordjan (2014), the teaching of ethics in nursing serves a vital role in ensuring professionalism which is characterised by scientific knowledge, accountability and responsibility. A curriculum that includes ethics is as such important as a basis for the nurses' moral reasoning. "Professional ethics are shaped not only within the discipline of nursing but also by philosophy, theory, history, societal expectations, and the prevailing state of health care practice" of which in the context of this study, is the prevailing state of the nurses ethical behaviour in South Africa. It is as such recommended that nurses should apply ethical codes at all levels of practice, including nursing education, to enhance meaningful ethical practice, autonomy and professional behaviour.

I refer to the variation regarding ethical guidelines in the SANC regulations pertaining to Diploma in Midwifery (Regulation 254 of 1975 as amended), the regulation relating to "the approval of and the minimum requirements for the Education and Training of a Nurse (General, Psychiatric and Community) and Midwife leading to registration as a nurse" (Regulation 425 of 1985 as amended) and the Bachelor of Nursing and Midwifery Qualification Framework (SANC, nd).

Regulation 254 states in the programme that "the ethical foundations of midwifery shall be emphasized throughout the course (s5(ii)". Regulation 425 states programme objectives that the student on completion of the course of study "is able to maintain the ethical and moral codes of the profession and practise within the

prescriptions of the relevant laws" (s2(d). The regulation further includes ethos and professional practice as a subject for the course (s3(a). However, the framework for the Bachelor degree reflects concepts like sense of equity, justice, service ethics, and accountability under the purpose of the qualification. The exit level outcome for the programme with reference to ethics is that "the student should identify and address ethical and legal issues based on critical reflection on the suitability of different ethical value and legal systems to the nursing and midwifery practice within the legal framework"[13]. The associated assessment criteria is "advocacy activities that promote individual, group and community rights with respect to law and health care provision, consistent application of practice in a manner that reflects a clear understanding and interpretation of the requirements of the SANC health care legislation, ethical codes, professional accountability and responsibility and that standards for the practice of nursing and midwifery are interpreted and applied consistently in line with their spirit and intent" (R425, 1985).

I acknowledge that the curriculum for the three programmes and the National Qualification Framework levels (NQF) are not similar but I argue against the curriculum guidelines for ethical practice that are somehow superficially presented for the Diploma in Midwifery and the Diploma in General Nursing with reference to the SANC Regulation R425 of 1985 (Regulation relating to the approval of and the minimum requirement for the education and training of a nurse (general, psychiatric and community) and midwife leading to registration and the Qualification Framework for Bachelor of Nursing and Midwifery (SANC, nd). The basis for my argument is that these three categories of students and as professional nurses work under similar

[13] http://sanc.co.za/pdf/New Qual Bachelors Degree pdf

context that call upon ethical behaviour. Ethical behaviour should be practiced reasonably by all nurses in all nursing care context but why more weighting given on the Bachelor degree through regulation by the same organisation? The same nurses have same ethical obligation and go through the same disciplinary process as per regulation 387 of the SANC. Emphasis should be put on the curriculum as the foundation for nursing practice.

I believe that nurses who are taught moral theories and ethical practice embedded in the nursing curriculum are more likely to demonstrate professional virtuous behaviour. Rosenkoetter and Milstead, as cited by McLeod-Sordjan (2014) referred to the 1983 “code of ethics for nurse educators” regarding their obligation to educate nurses for a global society. Nursing students need to develop skills in ethical analysis and moral decision making for them to be able to address ethical conflicts that arise in nursing practice, through skills that are achievable in an educational context. The curriculum should therefore focus on the development of “moral agents with critical thinking and moral reasoning and not only the code of ethics” (McLeod-Sordjan (2014) in order for the nursing student to acquire the ability to incorporate multiple perspectives when analysing ethical issues. McLeod-Sordjan (2014) further suggests that the evaluation of ethical knowing and the student’s moral reasoning outcomes is core to nursing education.

As stated by Billings & Halstead (2012) and other literature, the teaching of ethics in nursing education is characterised by the three domains of learning which are: the cognitive, affective and psychomotor domains. The cognitive domain incorporates the theoretical and philosophical perspectives of ethics, that includes the basic

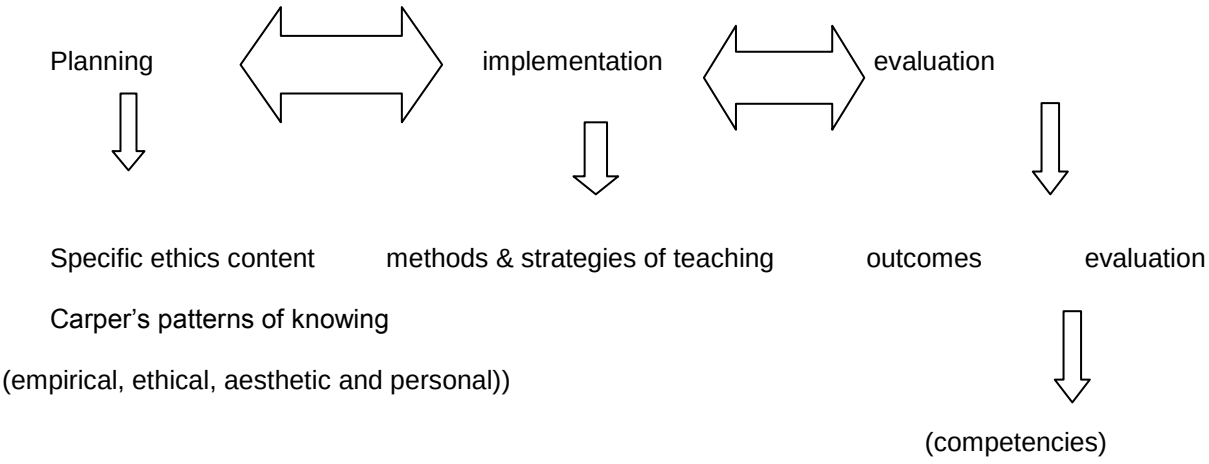
principles, autonomy, beneficence, non-maleficence and justice and other moral theories. Reference is here made to Carper's patterns of knowing as a dimension to morality (Billings & Halstead, 2012; Pera & van Tonder, 2011), (empirical, ethical, aesthetic and personal). "Ethical knowing" is the moral component which focuses on matters of obligation or what ought to be done and goes beyond knowing the norms or ethical codes of a profession" (Billings & Halstead, 2012). The affective and psychomotor domains are more evident in the nurse-patient interaction, of course being founded on cognitive ability.

The submission by the Democratic Nursing Organisation of South Africa (DENOSA) at the Truth and Reconciliation Commission (TRC, 1998) was that "the nursing education training does not equip health professionals with either the values required to undertake critical analysis of their skills or practical skills to advocate for vulnerable patients and communities" (London, et al 2008). A recommendation by the ICN is that the nursing curriculum should include aspects of "human rights, equity, justice, solidarity as the basis for health care"; educators to provide teaching and learning opportunities for ethical principles that includes "informed consent, privacy and confidentiality" and to introduce in the curricula concepts of professional values and instil in learners the need to safeguard the individual, family or community when care is endangered by health care personnel (ICN, 2012)[14]. Educators who teach ethics to nursing students are required to "have both a solid experience in the field of clinical practice and a sound theoretical knowledge base in the field of ethics for them to be able to adequately apply ethics theories to the cases they use for simulation" (Bagnasco, Catania, Aleo & Sasso, 2014).

[14] http://www.icn.ch/images/stories/documents/publications/free

A literature review in moral reasoning by McLeod-Sordjan (2014), indicates that "development occurs progressively over time and is supported by exposure to ethical dilemmas during the course of nursing education, and that moral reasoning is enhanced by education and training and ultimately lead to improved moral judgement in practice", which justifies the importance of the incorporation of ethics within nursing education curricula. Furthermore, ethics and professionalism can be enhanced through experiential learning in the classroom by use of moral reasoning. The importance of the evaluation of outcomes in student's ethical practice cannot be overlooked as core to the teaching of ethics. Refer Figure 4.1.

Figure 4.1 Curricula model for teaching ethics



Regarding nursing education, the SANC is regarded as an education and training quality assurer in terms of section 5 of the South African Qualifications Authority Act (SAQA), 1995 (Act 58 of 1995) for all nursing qualifications (Nursing Act, 2005). SAQA presents ten categories of level descriptors to describe applied competencies as a requirement for the South African National Qualifications Framework[15]. Ethics

[15] Government Gazette, 11 November 2011. No. 34749

and professional practice is one of the ten categories. The level descriptors "describes learning achievement at each particular level of NQF that provides an indication of the learning outcomes and assessment criteria that are appropriate to a qualification at that level".

The curricula need to address ethics in depth in the foundation of preparing nurses for clinical practice not for example, by introducing the concept in less than eight hours in some Nursing departments that are linked to medical schools, in response to the exit outcomes outlined in the Bachelor of Nursing and Midwifery Qualification Framework (SANC, nd.) and being a component of the faculty of Health sciences.

Another challenge might be that in the current workforce of Nurse educators, most have shown limited interest in taking ethics as a speciality, which reflects back on the foundation that the educators obtained during their training. A contributory factor could be that the nurse educators' core competency for professional, ethical and legal practice[16] are broadly stated and non directive. The shortage of nurse educators skilled in ethics poses a challenge of lack of facilitators of student nurses in the undergraduate programs. It is justified by McLeod-Sordjan (2014) that the code of ethics and curricula form the basis for moral reasoning as professionalism is rooted in ethical knowledge and moral reasoning skill is framed by nursing's code of ethics.

Amongst the factors that influence moral behaviour, the hidden or informal curricula plays a significant role in fostering the student's ability to exercise sound clinical

[16] SANC. Core competencies for nurse educators. Special EDCO May 2012.

judgement by use of ethical standards and ethical behaviour. It consists of values and beliefs taught through verbal and non-verbal communication. (Billings & Halstead, 2012) states that the Faculty might be unaware of what is taught through their expressions and interactions with students but that students are conscious of the “hidden agenda” which may have a more lasting impact on student learning than the written curriculum. The hidden curricula is reflected through role modelling as it comprises aspects of exemplary behaviour for example sets of professional and ward rules that are confronted by students and expected to be acknowledged. The focus of nursing education should therefore be in the best interest of the community they serve by addressing the social purpose and moral obligations of the curriculum (Boellen & Woollard, 2009).

The key question that needs to be asked regarding the nursing curriculum is “what content should the students in nursing education be taught to enable them to achieve core competencies in professional ethics, human rights and nursing law and how would these competencies be assessed?” Competencies can be developed by reflecting on the Scope of Practice for nurses and the practice standards as per the guideline in the SANC document on “The relationship between the scope of practice, practice standards and competencies” (SANC, nd). The SANC code of ethics and the “revised scope of practice for nurses” (2014) are much welcomed, however, I am of the opinion that the curriculum as a foundation for nursing practice should be given priority.

The findings of a study by Nathaniel (2003) on moral reckoning in nursing led to recommendations for nursing educators to strengthen nursing ethics in nursing

education by ensuring a relevant curriculum that address ethics, assisting students to develop ethics self-awareness and promote an opportunity for them to learn about normative ethics. Nurse educators should further prepare students to engage in ethical dialogue with other health care professionals. In support of the hidden curriculum, “educators should behave honestly, fairly and with self-control, the best educator is arguably not the one who feigns honesty, fairness and self-control , but the one who is actually honest, fair and self-controlled” (Walker & Ivanhoe, 2007). Students should also be prepared for the realities of day to day practice by use of teaching strategies that will empower the student’s learning process for ethics.

Rich and Butts (nd) on addressing the foundations of ethical practice, argued that if nurses have to be part of the global dialogue regarding ethics, nurse practitioners should do more than practice ethics based on personal opinions, intuition, values and beliefs, and that “it is important for nurses to have an understanding of various ethical concepts, theories, principles and approaches” (Rich & Butts, nd.) that can only be offered within formal nursing education that is regulated by the SANC.

The Human Rights, Ethics and Professional Practice committee recommended a uniform program to guide the education and training of professional ethics, human rights and medical law for the undergraduate and postgraduate programs, a curriculum that would constitute at least 10% of examinable aspects of ethics and professional practice. The recommendation was based on the fact that the current health care needs are “dynamic, extremely complex and present multi-faceted ethical dilemma within the context of resource constraints and that professional

misconduct is on the increase" (HPCSA, 2005). It would be ideal for the SANC to adopt these ideas.

For the nurse practitioners, I recommend 20% of the examinable ethics content as the nurses remain with patients for a longer period as compared to medical practitioners. The Education and Training Regulations of the SANC (R425) for undergraduates in Diploma Nursing Programmes does not address ethical practice, however, the postgraduate curriculum in some University Health Sciences Departments, for example the University of South Africa has a module specifically for ethics and professional practice (module HSE3705). Nurse practitioners are disadvantaged by this system as a very minimal number of nurses register for postgraduate studies.

A study conducted by Harvey, Mason and Ward in 1995 as reported by Churchman (1999)on the impact of the regulatory bodies on the curriculum in the UK revealed that professional bodies use various approaches to specify curriculum content . Some of the regulatory bodies are committed to a curriculum and provide a model curriculum whereas other bodies only indicate the type of content or outcome competencies, a situation applicable to SANC, and some have partnership with the Nursing education institutions in mutual development of a curriculum. However, the establishment and maintenance of academic standards for nurses lies with the professional body.

4.7 CONCLUSION

Chapter four presented an argument on the role of the SANC with reference to the scope of practice of nurses, the rights of nurse practitioners and the SANC code of ethics and their contribution in enhancing ethical practice.

CHAPTER 5

SUMMARY AND RECOMMENDATIONS

5.1 INTRODUCTION

Chapter 5 presents a discussion on the summary, conclusions and recommendations regarding the obligatory role of the SANC to enhance ethical behaviour in the nursing profession.

5.2 SUMMARY

As a profession, nursing undertakes a specific ethical commitment to maximise the wellbeing of those under nursing care with reference to, for example, the “Nurses Pledge of Service” and the “social contract”. The implication is that nurse practitioners should advocate for the promotion of their rights and uphold the ethical care of those seeking heath care, with reference to the Bill of Rights as stipulated in the Constitution, (1996). Nurse practitioners have a clear obligation to respect the dignity of service users. The notion of respecting the dignity of human beings is at the heart of ethical codes as stated in the Amnesty International (2000) and the Constitution (1996) (London,2008). Literature indicates global challenges regarding caring for health care users in an ethically acceptable manner by nurse practitioners that emanates from various factors that include a lack of both material and human resources (Stellenberg & Dorse, 2014). Caring of health care receivers in an unethical manner compromises patient care and fundamental human rights of respect and human dignity. For nurse practitioners to overcome this situation, the

SANC have to come on board as the regulatory body. The facilitation of ethics education in nursing students is core and fundamental to ethical practice. This statement is supported by Bagnasco, Catania, Aleo and Sasso (2014) on their argument that “nurses do not always have the competences to engage in ethical practice and that ethics education can increase ethical perception in nursing students and develop their reflective skills in a safe learning environment”. The authors further recommended that “clinical training should offer students a learning opportunity that goes beyond the identification of the psychological needs, symptoms and nursing interventions...[but also] the identification of the values, choices and rights of the person they care for” (Bagnasco, et al, 2014). A call for an increased awareness of social conscience in all health professionals in support of ethical practice was made by (Antwi et al, 2013).

Collaboration play a major role in enhancing ethical practice. This could be achieved by, for example, by the SANC becoming a member of the eight international Nursing and Midwifery Regulatory Organisations (Australia, New Zealand, Ireland, United Kingdom, United States, Singapore, College of Nurses of Ontario and College of Registered Nurses of British Columbia) that signed a Memorandum of Understanding with the purpose of developing and maintaining closer links between the organisations to develop standards for the regulation of nursing practice and to facilitate the sharing of professional knowledge (Nurseland, 2011), that includes professional and ethical practice.

5.2.1 The study objective and questions

The research questions and objectives were addressed as follows:

- *Are there shortcomings in terms of the role of the SANC in enhancing professional and ethical practice for nurses?*

SANC seems for a long period to have focused on registration, setting standards of licence to practice as a nurse and the commissioning of disciplinary activities, with less focus on professional education and addressing critical professional competencies concerning ethical practice. It is only post the National Summit in 2011 that measures have been put in place for example the code of ethics, Continuous Professional Development programmes and the revision of the Scope of practice for professional nurses. The SANC has, during its entire existence applied the code of ethics of the International Council, without modifying it for the South African context, until 2013 in response to the recommendation by the National Nursing Summit held in 2011.

The most significance shortcoming is a limitation of the ethical content of ethics that reflects in the SANC curriculum. The nursing curricula should form a foundation for ethos and professional practice.

- *Is the South African Nursing Council as the regulatory body for nurses in South Africa, morally obliged to uphold and maintain professional and ethical conduct that is morally appropriate for the nursing profession?*

The SANC is morally and legally obliged to ensure and maintain ethical conduct which is one of its stipulated functions. The SANC has demonstrated responsibility by developing the code of ethics for nurse practitioners in 2013.The moral theories referred to in the study are principlism, deontology, consequentialism, virtue ethics, informed consent and Ubuntu. The Bioethics principles (autonomy, beneficence, non-maleficence and justice), deontological “duty to care” perspective, the “consequences” of nursing care based on utilitarianism , character traits in terms of virtues and Ubuntu principles play a significant role in enhancing ethical practice. However, there are some inherent challenges in teaching these theories, principles or concepts for example the concept of “informed consent” that is presented in a descriptive format.

“Informed consent” is addressed in chapter 2 of the Bill of Rights as stated in section 2c that “everyone has the right to bodily and psychological integrity, which includes the right not to be subjected to medical or scientific experiments without their informed consent”. This definition of “consent” by the Constitution somehow limits the importance and impact of obtaining consent in the context of nursing care (as the focus is on medical care) and may as such compromise the “autonomy” or “self determination” of health care users. Notwithstanding that “consent” is a tool that “protects patients from abuse and exploitation” (Schrems, 2014), or rather the violation of ethical principles. However, the National Health Act clearly sets out the requirements of an “informed consent” and the obligation of the health care providers to uphold this. A study on Indonesian physicians and nurses led to the conclusion that “inter-professional education is needed to promote inter-professional

collaboration and intervention to improve informed consent practice that should be tailored to the hospital context" (Susilo, van Dalen, Chenault & Scherpbier, 2014).

The SANC has a moral duty to obey statutory obligations to promote ethical practice as it is mandated by the Government. The SANC's legal obligation is with reference to the Constitution that declares the right to health care for all citizens; the Health Act of 61 of 2003 that justifies a health care practitioner's obligation to care; the Nursing Act no. 33 of 2005 who's objectives are to uphold and maintain professional and ethical standards within nursing and the International Declaration of human Rights that protects the rights of both the health care recipients and the nurses.

- *What should nurse practitioners refer to, for them to develop moral wisdom and to establish a more complete account of moral nursing practice other than virtue ethics?*

"The ethics of care, therefore, turns out to be one part of the ethics of virtue" (Rachels) implies that virtues on their own cannot allow a nurse to provide care that is ethically based.

"What sort of a person must I be to be an excellent person? And w*hat sort of a person must I be to be a caring person?* (Pera & Van Tonder, 2011; Hursthouse, 2012). Do these statements reflect a virtue principle or an obligation? The ethics of virtue is character based, an internal part of one's identity and achieved through the socialization and continuing refinement of morality of a nurse who elects to follow a role model in order to enhance a balanced approach to nursing care that could be achieved through the formal and informal (hidden) curriculum. Much as caring is

viewed from a practical perspective, it is crucial that the nurse is equipped with cognitive, affective and psychomotor skills, which applies to intellectual virtue as described by (Aristotle, 1980) as both moral and intellectual virtues incorporates caring.

The cognitive, affective and psychomotor domains of learning are as such, important to sustain a caring ethic, which address the principle of knowing what to do, when and how to do in caring (Pera & Van Tonder, 2011). The modernized viewpoint of virtue ethics compensates deontology and consequentialist ethical theories as it focuses on people's relationships specifically on provider-patient interaction. This is based on the renewed perspective of virtue ethics that incorporates Aristotelian notion of ideals (Berglund 2007 as cited by Pera & Van Tonder, 2011).

According to Armstrong (2006), for high quality care to be delivered, critical reflection is required on the role of the caregiver as well as the interpersonal and character traits that ought to be demonstrated by the caregiver. The role in caring can be aligned to deontology (duty to care) based on a moral obligation for a profession, for example the South African Nursing Council in terms of the nursing profession. In addition to providing an opportunity for thinking from an ethical perspective, which is integral to nursing practice, nurses have to acquire skills not only to build ethical relationships with patients, but also to protect themselves as nurse practitioners. " Virtue ethics asserts that "a right action in any given circumstances is that action a virtuous person does or would perform in those circumstances" (Johnson, 2008), as of nursing care.

5.3 STRATEGIES RECOMMENDED FOR THE SANC

The strategies recommended for the SANC to:

- The SANC, as a stake holder in nursing practice, has to advocate for and protect nurses regarding matters pertaining to ethical practice rather than only undertaking disciplinary procedures.
- Reflect on SAQA level descriptors for ethics and professional practice as a basis to develop a nursing curriculum that will provide nurses with a theoretical foundation for ethical behaviour which was also recommended at the National Summit of 2011 (recommendation 3.3) that ethics should be mainstreamed in nursing education and training.
- Refer to the "Core curriculum on Human Rights, Ethics and Medical Law for Health Care Practitioners" for guidelines on content to be included in the nursing curriculum[17] and "Guidelines for good practice in the health care professions"[18]
- The SANC to foster relations with other relevant international organisations for an exchange of professional knowledge that contribute to the development of ethical standards and as such, to better protect the health and welfare of health care users
- The SANC's role is to provide oversight of nursing practice and should as such ensure a nurses workplace environment that is conducive to ethical practice that will result in improved patient outcomes. A conducive environment is characterised by supportive leadership, the involvement of

[17] Compiled by: the Committee on Human Rights, Ethics and Professional Practice
[18] HPCSA. Edited by the Human Rights, Ethics and Professional Practice, May 2008.

nursing staff in decision making regarding the institution i.e. participatory management, commitment to clinical practice, autonomy and accountability.

This is in line with strategy 5 for nursing education (DoH, 2011), by creating a positive practice environment (PPE) "that strengthen[s] and support[s] the workforce that will lead to a positive impact on patient outcomes and organisational cost-effectiveness that will ensure quality healthcare".

Furthermore, creating a positive or quality practice environment, according to the Alberta Association of Registered nurses, is an aspect that fosters excellence in nursing practice through quality patient care, collaborative and interdisciplinary approaches to client care, and shared decision making[19], maximising the knowledge, skills and abilities of all nurses and a culture that respect and values nurses, all of which enhances professional and ethical practice.

- Addressing a power imbalance (from the nursing perspective) in relation to workload that has an impact on delegation. There is an indication of horizontal violence in the nursing fraternity which is referred to as the oppression of nurses by nurses. Power imbalance may lead to an increased likelihood of diminished patient care outcomes, limited autonomy and work dissatisfaction This aspect can be addressed by use of strategies to review workloads (Zuma, 2007) in collaboration with the Chief Nursing Officer's Advisory Board.
- Clinical supervision, setting standards for ethical practice in the workplace and "tracking performance over time to determine the link between implementing improvement initiatives and achieving intended results" (DoH,

[19] http://www.arnnl.nf.ca/documents/publications/collaborative Nursing Practice Guiding Principles June 08

2011) that will assist nurses to manage ethical dilemma which can be facilitated through setting up of workplace ethics committees for clinical practice that will conduct review programs that investigates and act upon complaints about a nurse's practice before litigation occurs and by

- Including professional practice and work ethics as compulsory components of in-service education and CPD programmes for all categories of nurse practitioners, providing specific CPD points for ethical practice to enhance ethical behaviour and to provide a framework for nurses to justify how nurse practitioners have maintained their competence and have enhanced their practice which will allow them to renew their registration (The Canadian system).
- Re-orientating nurse educators on the importance of ethics and professional practice in the context of nursing education.
- The implication of this shortage is that nurses are overworked and become insensitive in their care as the focus is on completing tasks related to health care and not offering holistic care that incorporates ethical principles. There is evidence of nurses being overworked as stated by Khanyile (2011) that a nurse patient ratio of 1:261 which compromises quality care based on the report that was presented by Econex consultancy (Sowetan, 2011).
- Refer to the World Health Organisations' Global standards for the initial education of professional nurses and midwives which goal is "to establish educational criteria and that is based on evidence and competency" (WHO, 1998).

- Regulating entry into the Nursing profession through eligibility criteria in order to curb the challenge of the nursing profession being a last resort to people's career choices (OMalley, 2009).

SANC should foster the autonomy of the nurse practitioners as an employee by use of the following principles:

- Establishing a process of assessing and understanding the challenges and needs of the nurses and recipients of health care.
- Identifying policy changes that will address the needs of nurses and the recipient of health care.
- Identifying those who have power to influence policy or others who have similar interest in addressing the needs.
- Assess the institutions' strength and weaknesses with regard to addressing current and future needs and resources that could be accessed to pursue the needed change or adjustment.
- Developing a plan to evaluate progress and success regarding nursing practice that includes ethical practice jointly with academics in nursing schools

5.4 CONCLUSION

Nursing profession regulation determines, establishes and maintain the scope and standard of nursing education and practice, thereby ensuring competency in the provision of health care. Armstrong (2006), in a publication on "towards a strong virtue ethic for nursing practice, claimed that nurses are left without the necessary

tools to resolve moral conflicts". SANC need to address limitations and develop a balance for the regulation and monitoring of ethical practice in both nursing education and clinical practice, with the support of existing ethico-legal framework for nursing practice. However, ethical behaviour within nursing practice should not be imposed but be context-realistic by considering its "practical feasibility and its psychological acceptability" (De Vries & Gordijn, 2009), that can be achieved through empirical ethics (use of qualitative and quantitative methods and designs).

Based on the fact that the SANC is the custodian of the nursing profession that provides oversight over nursing practice and nursing education, the National Summit (DoH, 2011), in its strategy to promote the effectiveness of SANC as a nursing regulatory body, resolved that "the SANC need to accelerate the execution of its role following numerous concerns during pre-summit provincial consultations and at a Summit in 2011 about the SANC's ability to provide the necessary services", which includes upholding professional and ethical practice.

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