

Continuing the Dialogue: A Response to Kikuchi's Critique of the 2002 CNA Code of Ethics

The Canadian Nurses Association (CNA) Ethics Advisory Committee welcomes June Kikuchi's recent critique and recommendations regarding the *2002 CNA Code of Ethics for Registered Nurses*. As Dr. Kikuchi (2004: 38) suggests at the conclusion of her essay, "it is not easy to (re)formulate a sound, practical and relevant code of ethics amidst a plurality of views about ethical matters." It is not only the plurality of ethical viewpoints that makes this task difficult. Balancing the need for soundness with practicality and relevance is a difficult task in its own right. To provide depth of concept analysis sufficient to pre-empt reasonable disagreements about theoretical matters (e.g., preferred conceptions of justice, concepts of health and illness, what it may mean to show respect, etc.) would require covering territory that would undermine its usefulness in giving practical guidance on moral matters. Conversely, to be overly prescriptive and lacking in sufficient detail to aid nurses in understanding their basic ethical obligations would serve only to limit nurses' opportunities to develop optimally their capacity to make sound ethical judgments.

Balance is important. In part, this is why CNA, through the work of its Ethics Committee, has preferred a diverse eclectic approach to fulfilling the Association's mandate to establish the ethical parameters of nursing practice and to assist registered nurses to uphold these standards. It is important, first of

all, to see the Code in its proper context. It is but one piece in an array of ethical documents and resources provided by CNA to help guide nurses in their ethical judgments. This is made clear in the preamble to the Code:

While codes of ethics can serve to guide practice, it takes more than knowledge of general rules to ensure ethical practice. Sensitivity and receptivity to ethical questions must be part of nurses' basic education and should evolve as nurses develop their professional practice. Nursing practice involves attention to ethics at various levels: the individual person, the health care agency or program, the community, society and internationally. (CNA 2002: 2)

The point that truly ethical practice requires nurses to explore for themselves ethical learning outside of the Code is further emphasized by the inclusion of a section on Ethics Reading Resources in the 2002 Code. This addition points nurses to sources that have informed development of the 2002 Code, and are intended to broaden nurses' knowledge about ethical issues and assist in the Code's interpretation and application. It is important to stress that the 2002 Code is the result of a broad-based and iterative consultation process that distilled a plurality of ethical views (from both inside and outside nursing) into a single document that we believe meets the criteria of soundness, practicality and relevance.

While space does not allow detailed discussion here of what we would consider an adequate examination of the substantive issues raised by Dr. Kikuchi, it is important that we at least take this opportunity to continue the dialogue by way of a brief response.

It is, as Dr. Kikuchi suggests, important for us to understand the Code if we are to be expected to follow it. The call for greater conceptual clarity is laudable. However, we need also to recognize the constraint imposed by the current state of both knowledge and consensus in regard to key ethical issues and concepts. Many of the ideas for which Dr. Kikuchi encourages nurses to establish clear definitions remain conceptually opaque and deeply contentious, even among specialists. Take, for example, the difficulty in defining adequately health and well-being. The fact “that there is not much agreement in the nursing literature about the nature of health and well-being, nor about what or whose definition of health and well-being ought to serve as the basis of nursing practice...” (Kikuchi 2004: 30) is not a reason for the Code to take a stand on such matters. Rather, in the context of such uncertainty and contention, it would be arbitrary and presumptuous for nursing to do so. The lack of consensus provides justification for embracing plurality in this case.

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Our conception of health continues to evolve as our knowledge in related areas expands and deepens. As we learn more about how features of society, genetic endowment and healthcare affect the health of individuals and of populations, our notion of what health entails will continue to change. A broadening and somewhat amorphous definition of health is unlikely to confuse nurses about their role in particular practice settings, as Cribb and Duncan (2002; cited in Kikuchi 2004) seem to suggest. Health has many aspects, and nursing has evolved as a diverse practice because of this fact. While having a

single unified definition of health may help “direct and unify” the efforts of nurses, it is not clear why unity of purpose should be considered a virtue when nursing care is delivered in a context of widely diverse needs. The wording of the Code is intended to reflect CNA’s acceptance of a reasonable plurality of views about health and the role of nurses within the healthcare system. Individual nurses should be encouraged by this to consider and expand their own views about health and well-being.

Similarly, there are understandings of “advocacy” that vary a great deal from the narrow, legalistic (termed “simplistic advocacy” by Raphael 1995) definition invoked and then criticized by Dr. Kikuchi. Various contexts are likely to require nurses to advocate in different ways and therefore draw upon different conceptions of advocacy. The notion of “existential advocacy” (Raphael 1995), for example, shares much with the “deliberative” model of the physician–patient relationship proposed by Emanuel and Emanuel (1991; cited in Peters 2004) and described in Elizabeth Peters’ (2004) commentary on Dr. Kikuchi’s paper. Nurses need to be familiar with various forms of advocacy, not in order to summarily select the best model, but to select the model that best matches the circumstance. Thus, the Code remains agnostic regarding a preferred model of advocacy.

When sorting through the difficult and thorny terrain of choice, respect and nursing judgment, it must be kept in mind that professional judgments are not trump cards that can be drawn to

settle disagreements about values between nurses and patients. Rather, professional judgment itself must be directed towards the interests (broadly conceived and variously defined) of the patient; otherwise, it becomes mere personal judgment. Furthermore, there are well-established justifications for certain forms of paternalism in health-care, none of which are grounded on differences in judgments about values. Decisions to abrogate patient choice need to be carefully justified in each specific case. No blanket policy can guide nurses in this determination.

Much can be said also of Dr. Kikuchi’s treatment of the value of justice as it is articulated in the 2002 Code. It will suffice here to restate that justice involves more than fairness. Despite common but erroneous readings of Rawls (1971), no reputable justice theorist has in fact ever argued that justice and fairness are synonymous. Aspects of justice mentioned in the Code include fairness, equity, attention to human rights, the marginalization of persons or groups and more. The purpose of the Code, however, is not to be exhaustive in its description of justice, but to provide nurses with a general sense of what justice entails in order to lay a foundation for thinking about justice as it relates to their practice and profession.

The best codes of ethics play a regulative rather than a strictly prescriptive role in the moral life of a profession. They ought to be prescriptive only when well-justified and firm consensus can be reached. When there exists widespread and reasonable disagreement, codes of