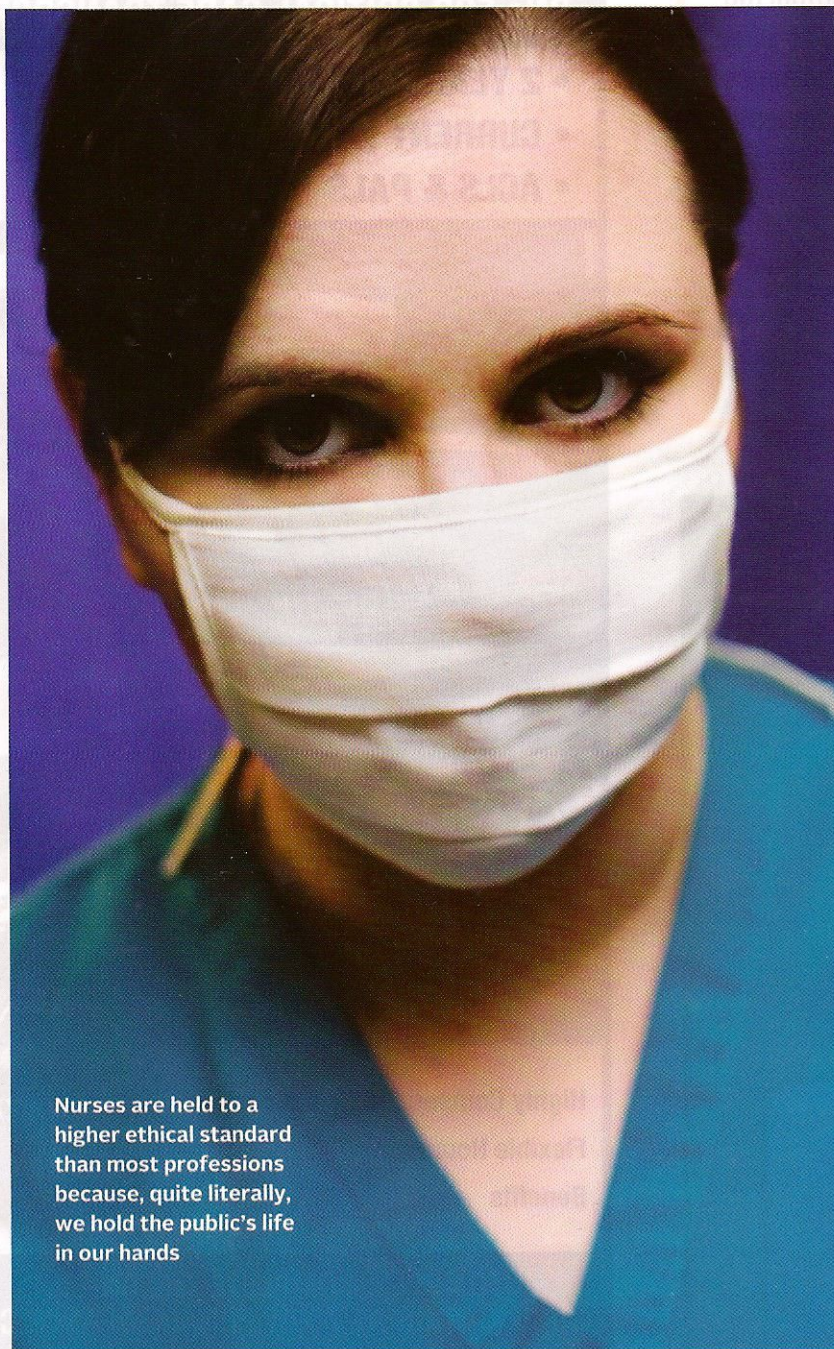


FROM THE FLOOR

By Genevieve M. Clavreul, RN, Ph.D.

Moral Turpitude

When nurses do things that are intentionally evil



Nurses are held to a higher ethical standard than most professions because, quite literally, we hold the public's life in our hands

Nurse "A" Doe's license to practice nursing was revoked in February 2005 by the California Board of Registered Nursing (BRN). This revocation was based on the fact that "A" Doe's criminal conviction was also a case of moral turpitude.

The BRN's regulatory mission is to maintain integrity, high standards, preserve public confidence in Board licensure, and to protect the public from any potential risk of harm. Convicting a nurse on the grounds of moral turpitude is well within their purview.

In the Board's Toolkit

Nurses are in a select group of licensed professionals that are held to a higher standard of ethical behavior than other occupations. This group includes physicians, pharmacists, psychiatrists, and even lawyers, who may find their privileges to practice revoked due to infractions of moral turpitude.

The Nurse's Legal Handbook defines "moral turpitude" as follows: vileness, intentional violence, deceit, fraud or dishonesty of a high degree. It is considered intentionally evil.

As a rule, most nurses today will not find themselves before the BRN solely under a charge of moral turpitude. Instead, such a charge is generally leveled only after a nurse is convicted of some other offense, either criminal or civil. The BRN will then use the charge of moral turpitude as an additional arrow in their arsenal against the offending nurse.

For example, consider the following excerpt from documents provided by the BRN:

In Riverside County Superior Court, Nurse "E" Doe plead guilty to two

Nurse “D” tried to mitigate her involvement by rationalizing that another nurse had stolen the patient’s check. Her licence was revoked

counts of violating Penal Code section 242 (battery on two separate victims). The California Board of Registered Nursing (BRN) concluded that these misdemeanor crimes involved moral turpitude, directly and substantially related to the qualification, functions, and duties of a licentiate.

Additionally, Nurse “E” Doe later entered a plea of *nolo contendere* of one count of violating California Vehicle Code section 2800.1 (evading a peace officer). The BRN concluded that this was also a misdemeanor crime involving moral turpitude.

And finally, Nurse “E” was convicted by a jury in San Bernardino County Superior Court of one count of violating Penal Code section 488/490.5 (petty theft). The BRN concluded that this misdemeanor crime involved moral turpitude, directly and substantially related to the qualification, functions, and duties of a licentiate.

Nurse “E” Doe’s license was revoked.

Varies from Case to Case

This isn’t the first case, nor will it be the last, where a decision of “moral turpitude” would be used to revoke a registered nurse’s license. Boards of Nursing throughout the country are charged to mete out punishment commensurate with the infraction, violation or crime committed. Including a charge of moral turpitude in an accusation varies from state board to state board, and from case to case.

People Can Change

The BRN believes that people are capable of being rehabilitated, which is one of the core beliefs of our criminal justice system. In the documents I reviewed, those nurses who did not receive a favorable verdict were those unwilling to

accept responsibility for their actions.

The following example shows the Board’s willingness to work with a nurse who demonstrates improvement:

In 2002, the California State Board of Pharmacy filed an accusation against “B” Doe, who at that time was working in a local pharmacy as a pharmacy technician. “B” Doe was accused of diverting a controlled substance for her own personal use.

The California State Board of Pharmacy accused “B” Doe of unprofessional conduct and in addition that she committed an act involving moral turpitude, dishonesty, fraud, deceit, or corruption in violation of Business and Professions Code section 4301(f) and that her conduct constituted a violation of Business and Professions Code

Nurse “E” was found guilty of battery on two separate victims, evading a peace officer and petty theft. Moral turpitude was added to the charge

section 4060 and Health and Safety Code section 11173(a).

“B” Doe entered into Stipulated Surrender of License, no criminal charges were filed, nor was she required to pay restitution.

She later enrolled in and graduated from nursing school, applied for and received a probationary license, and found work in a hospital that hired nurses with probationary license status.

However, as the nearest hospital that would employ her was far from her home and required a lengthy commute, she appealed to the BRN for her probationary status to be vacated early.

She provided the BRN with compelling evidence that she had been rehabilitated and that she continued to address the issues that had been the cause of her earlier ethical and professional lapse.

The BRN found that “B” Doe had indeed been rehabilitated and that her probationary period could be ended early, and she could receive a full and unencumbered license to practice nursing.

Others Don’t Change

In another case, when the nurse failed to show appropriate remorse and or acknowledge culpability, the outcome was not so favorable.

In March 2008, Nurse “D” Doe was found guilty in Orange County Superior Court of one count of second-degree commercial burglary, and one count of forgery. Both crimes deemed to involve moral turpitude, which are substantially related to the qualifications, functions and duties of a licentiate.

“D” Doe tried to mitigate her involvement by rationalizing that she wasn’t the one who took the check from the patient, but that another nurse had, and that nurse had given her the check asking her to cash it for her as a favor since the patient had paid her for some “additional services.”

Since that nurse didn’t have an account at the bank that the check was written on, perhaps Nurse “D” Doe (who had an account at said bank) could cash the check for her.

Needless to say, Nurse “D” Doe’s explanation to the BRN was not well received and Nurse “D” Doe’s license was revoked.

TV Nurse Is Intentionally Evil

I'd like to share a recent plot point from the television show, *HawthoRNe*. I'm not a fan of this show since I think it is all about drama and hype and not about elevating or shedding light on our profession. That said, there was a recent episode in which one might conclude a nurse committed an act of moral turpitude.

One nurse, upset and jealous that her fellow nurse had been elevated to the position of head nurse, decided to retaliate. The newly-minted head nurse had been one of the team providing care to a child terminally ill with leukemia. For months she worked at the bedside of this patient, developing a bond with

also learn that she has maliciously deleted all the photos from the camera leaving the mother without the photographic chronicle of her child's dying days.

I'll leave it to my readers to decide if this nurse committed an act of moral turpitude, defined as vileness, intentional violence, deceit, fraud, or dishonesty of a high degree.

Right to Representation

As a sidenote, if you ever find yourself brought before the BRN for discipline, remember that you have a right to be represented by legal counsel. There are attorneys who specialize in defending issues involving professional licensure.

You also have the right to represent

The cast of the fictional medical team on TV's *HawthoRNe*. For entertainment value only, but we can still discuss the character's hypothetical transgressions



both the child and the child's mother.

The mother sat vigil throughout the illness, taking pictures to chronicle the last months and days of her only child's life. After the child died, the mother realized that she had left the camera behind in the hospital room. The head nurse assured the mother that it is safely locked in the nurse's station.

When the head nurse goes to retrieve the camera, she finds it missing and is informed that it's been stolen. In reality, her adversary has hidden it as part of her scheme to retaliate against the head nurse.

Later it's discovered what happened and the adversary nurse is charged and disciplined for the theft of the camera. We

yourself, if you wish. In the cases I cited, there were both favorable and unfavorable outcomes when the nurses had legal representation and when they defended themselves.

Special Trust

As nurses, we are held to a higher standard than other professions and our actions *should* invite greater scrutiny. We must always behave in the highest ethical manner, which is why a charge of moral turpitude is so damaging. We hold a special place of trust with the public, because quite literally, we have the potential to hold their life in our hands. **WN**



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Healthcare Reform Update

What nurses need to know now

by Genevieve Clavreul, RN, Ph.D.

Coverage for Clinical Trial Patients

In the past, many healthcare insurers would refuse to pay for the routine medical care for patients who were participating in clinical trials.

Beginning in 2014, the law requires health plans to pay for routine care costs for patients who participate in clinical trials for prevention, detection and treatment of cancer and other life-threatening diseases and conditions.

Pre-existing Conditions

California's Managed Risk Medical Insurance Board had begun accepting applications. California will receive \$761 million to operate the plan through 2013, by which time insurance rules will have changed so that pre-existing conditions are no longer considered in insurance pricing and eligibility.

To be eligible for the insurance, a person:

- must be a citizen, national or lawfully present in the United States
- must have had no creditable coverage in the six months prior to application
- and have a pre-existing condition as evidenced by proof of denial by an insurance carrier within the past 12 months, or an offer of coverage about the premium level of the program's rate. **WN**

EDITOR'S NOTE: Each issue, we will keep you informed as the "Patient Protection and Affordable Care Act" is enacted.