Use of Jurisprudence to Teach Professional Negligence

Jurisprudence—sometimes referred to as case law—consists of actual court decisions written by judges or justices. A court decision contains a narration of facts, the legal issue or question of fact raised, the court's decision, and the reasoning behind the court's ruling. The use of jurisprudence as a learning strategy is well established in law schools; yet, the use of jurisprudence as a pedagogical tool does not appear in the nursing education literature.

The nurse's role demands that he or she has an "in-depth knowledge of nursing law to engage in the legally safe and competent practice of nursing" (Smith-Pittman, Richardson, & Lin, 1999, p. 401). In the current complex health care environment, a nurse's accountability is increasing and makes the nurse more vulnerable to litigation involving professional negligence than ever before (Croke, 2006; Weld & Bibb, 2009). Transitioning into the field of professional nursing, a student must be cognizant of the legal aspects of professional negligence. The use of jurisprudence to teach professional negligence can serve to concretize this abstract legal concept with real-life practical scenarios.

Learning Objective

The aim of the activity is for students to synthesize their knowledge of professional negligence and apply their analytical skills to consider the facts of the case and render decisions on the presence or absence of professional negligence. The teaching project was presented in two separate classes to 98 senior baccalaureate nursing students at two universities in the Philippines. The Philippines is one of the biggest suppliers of nurses to the United States. Of all non–U.S.-born registered nurses, close to half (i.e., 48.7%) are Filipinos (Health Resources and Services Administration, 2010). Thus, it is important for Filipino students to consider the practice environment in the United States, where more than 90% of the students in this teaching activity wanted to work.

Learning Strategy

The author conducted a lecture on the four basic elements of professional negligence: (a) duty, (b) breach of duty, (c) causation, and (d) injury. The students were then presented with a narration of facts from four court cases wherein the primary issue was whether professional negligence existed. From a determination of the facts, each student then analyzed whether the nurse was liable for professional negligence. By a show of hands, students voted on the culpability of the health care worker. As there were varying opinions, there was an open discussion on why there was a legal basis for professional negligence; if found otherwise, students had to justify which element of professional negligence was missing. After this open discussion, the actual decision of the court and the rationales for the ruling were presented to the students by the author.

Student Evaluation and Learning

A 5-item pretest and posttest were conducted to assess the students' objective knowledge of professional negligence and its elements. The mean pretest scores were 0.25/5 for University A and 0.05/5 for University B, and, after the lecture and presentation of the jurisprudence, knowledge considerably improved with posttest scores of 3.1/5 (University A) and 3.7/5 (University B). Ideally, an alternative teaching method, such as a traditional lecture, should have been used for a comparison of the learning effectiveness. Based on score improvement and students' receptiveness to the learning strategy, the use of jurisprudence was justified and should be further investigated for its effectiveness. Finally, in selecting jurisprudence used in this activity, cases were purposely chosen where one element was missing to constitute negligence. This emphasized a huge legal point that, for a professional negligence case to have merit, all elements must be present (Croke, 2006).

References

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