17 percent thought it excellent; and, 23 per cent considered it poor or fair. The primary concerns of the nurses polled were:

- poor working conditions and relationships
- not enough nurses hired for the workload
- shiftwork too long and tiring
- too many non-nursing tasks, e.g. housekeeping and clerical work
- too much bureaucratic/administrative interference
- insufficient time to give quality care
- no back-up or nursing support system
- inadequate compensation compared to other professions
- long-term service not rewarded since the salary grid stops after seven years service (50 per cent of working nurses are now at this level).

The range of frustrations within the profession is astonishing, particularly the finding that nurses spend an average of 30 per cent of their time on non-nursing functions. By speaking out about these conditions, nurses are making a collective plea for help, both to save their profession and to prevent further serious deterioration of long-held, high quality standards of patient care.

Recommendations for change

Solutions to the problem of declining quality patient care, the fundamental issue, will require government and hospital administration to change their attitudes and policies regarding registered nurses, the frontline caregivers. Such changes will require major structural adjustments if the true potential of nurses is to be realized and the quality of patient care improved. Four major issues require attention:

(1) Compensation

Salary levels and structures must be improved to recognize experience, advanced nursing education, and shift work. Shift differentials must be sufficient to ensure adequate staffing on all shifts. Rotating shifts should no longer be considered a requirement of employment but instead, replaced with an option of permanent shifts.

(2) Support staff

Clerical/housekeeping staff must be increased to allow nurses more time to care for patients. Better pay and adequate support staff might yield better patient care without substantial increases in costs.

(3) Incentives

Compared to other professions, such as teaching, nursing lags behind in providing perks for developing skills, advanced education or remaining in the profession. Tuition support and paid sabbaticals would do much to encourage nurses to remain in a given position longer and thus reduce staff turnover.

(4) Working relationships

Much of the dissatisfaction nurses have with their working lives comes from having insufficient input into the organization and delivery of health care. This very issue was cited during the recent nurses strikes in Saskatchewan and Alberta. Increased participation in the decision making process on an equal basis with other members of the health care team would go a long way in alleviating the sense of powerlessness and the lack of recognition nurses now are enduring.

Many of the concerns and recommendations are not new, but the current staffing shortage and the looming crisis if the exodus from the profession continues demands immediate attention.

The ONA position is: that fundamental changes in the system must be made to allow nurses to function as they were educated to function.

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Innovative surgical techniques
The legal aspects

By L. E. & F. A. Rozovsky

Surgical innovation makes for "good copy" in newspapers, on television and on radio. Breaking new frontiers which promise the saving of lives captures the interest of almost everyone. With innovation, however, come concerns about legal liability.

Legal concerns revolve around negligence, consent, and confidentiality. O.R. nurses have good reason to share these concerns, particularly if they are involved in breaking new surgical ground. There are, however, measures which can be taken to minimize these concerns for OR nurses.

Putting the legal worries in context

To appreciate the legal concerns stemming from surgical innovation, it is useful to review the three main areas of responsibility:

1. Negligence - The basic legal rule is that doctors and nurses must provide care consistent with average, reasonable and prudent care in the same or similar circumstances. The "stakes" are higher when the "circumstances" involve innovative or experimental surgical procedures. What would be the duty of care for "routine" cardiac bypass surgery, is not the same standard applied to novel open-heart operative procedures.

The duty of care is raised because doctors and nurses engaged in innovative surgery are holding themselves out as being capable of greater sophistication and expertise. In essence, doctors and nurses in this category are saying they have the extra training, experience and skill to conduct bold new techniques that others are unable to perform.

The net effect of this higher threshold of responsibility is that negligence can be established against the innovators which would not be true in the case of professionals who held themselves out at the regular level of professional competence.

2. Consent - Aside from negligence, those engaged in innovative surgical techniques should be mindful of the requirements for consent in these circumstances. Canadian case law suggests that in the case of innovative or experimental procedures there is duty to provide far more information than is required for ordinary surgery or medical treatment.[1] It is not enough to provide details about material risks that a reasonable person in the patient's position would want to know in the same or similar circumstances. Rather, patients are entitled to information about all known risks associated with the innovative or experimental operation.

The difficulty with consent to innovative and experimental surgical operations is that little may be known about the risks associated with such procedures. Only with experience will the true measure of risks be clear enough to develop a picture for patients. Therefore, it is important for surgical pioneers to make it clear to patients the limitations of their knowledge of risk factors.

Aside from case law on the topic, surgeons should also take into account the consent "guidelines" published by the Medical Research Council (MRC) of Canada.[2] These guidelines might have direct bearing, particularly if the surgical protocol is part of an MRC funded study.

3. Confidentiality - Patient confidentiality can prove troublesome with surgical innovation. Hospitals are often anxious to "spread the word" that their surgical teams have broken new ground in the effort to overcome difficult hurdles in patient care. The media thrive on such news, soaking up every

detail possible through scheduled press conferences, interviews with hospital administrators, and members of the surgical team. The media will also attempt to contact the family of patients so that the press can expose the "human interest" side.

For hospitals, surgeons and nurses, a careful balance must be struck between publicizing surgical innovation and respecting the anonymity of patients and their families. Any careless leaks to the media can prove embarrassing. It could also lead to litigation if these "leaks" violate provincial laws governing disclosure of patient information.

A checklist for avoiding legal problems in innovative surgery

Short of preventing surgical innovation as a means of avoiding liability, there are some practical steps that can be taken to lessen the likelihood of legal problems. These include the following:

1. Hospital screening of proposed surgical innovation One major step is to screen all surgical innovation prior to any human intervention. This screening process should include the development of a multidisciplinary committee, consisting of surgeons, nurses, administrative representatives, lay persons, and clergy. The committee would not include in its membership those who are directly involved in the proposed surgical intervention. They would review the innovative technique in terms of need, risk and benefit to the patient, availability of appropriate intra-operative and post-operative support as well as the impact of the innovation on the availability of surgical resources to other patients.

Only those procedures which are cleared by the hospital based committee would be attempted on patients. Those deemed deficient would be referred back to the surgeon for further development.

2. Application of MRC Requirements If the procedure involves MRC funding, a research ethics board in the hospital would have to review and approve the surgical research protocol. The protocol review would follow the MRC human research guidelines, including those dealing with consent. Protocols not meeting guidelines would not be approved.

3. Consent Policy on Innovative Surgery A detailed policy on consent to innovative surgery should be developed. This policy would outline the requirements for obtaining consent and documentation. It would take into account "problem" cases such as consent for those incapable of authorizing the innovative operation. The policy would also address the proper means for educating those responsible for securing an effective consent to surgery.

4. A Media Policy for Innovative Surgery Although all hospitals should have a well-written policy on contact with the media, special attention should be paid to the content governing public disclosure of innovative surgery. This should include information on who is to be the hospital spokesman, and proper responses to media inquiries. This requires staff education, including in-service programmes for OR nursing staff who may be confronted with seemingly innocuous questions from reporters.

5. A QA/RM Programme for Innovative Surgery When new ground is being broken in surgery, it is important to carefully monitor patient care and risk exposure. This includes environmental factors for patient and staff, infection control, anaesthesia, as well as intra-operative and post-operative patient management. For OR nurses, this will require development of practical quality assurance standards, effective means for problem identification and resolution, as well as efficient channels of communication. It will also require effective interdisciplinary cooperation to assure the quality of patient care and at the same time, minimize risk exposure.

Conclusion

With the growing awareness of patient rights, concern about liability, and pressure for innovative surgical techniques, a balance must be struck which deals with all of these concerns. Such a balance can be reached through a cooperative approach to planning in which O.R. nurses take a leading role. ■

References

1. See, Halushka v. The University of Saskatchewan (1965), 53 D.L.R. (2d) 436 (Sask. Q.B.).
2. "Guidelines on Research Involving Human Subjects 1987." Ottawa: MRC, 1987.

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