

Wednesday, April 29

- 0730 - 0830 Registration  
0830 - 1000 "New Hopes for Infertile Couples," (Dr. M. Kroach)  
0830 - 1000 "Laughter in the Workplace," (TBA)  
0830 - 1130 Workshop: "Extracapsular Cataract Extraction and Intraocular Lens Implant," Pharmacia Wet Lab, (Dr. B. Sniderman; Cathey Loveys) Pre-registration limited to 8  
1000 - 1030 Coffee Break  
1000 - 1130 "Nephrolithotripsy," (Dr. Hershorn)  
1030 - 1130 "Wise Wardrobing," (Karen McConvey)  
**1130-1400 Viewing of Exhibits and Lunch**  
1400 - 1600 "Operating Room or Court Room - Enter at Your Own Risk," (Dr. Young, Coroner)  
1600 Closing Ceremonies

- Video workshops will be held daily between 0830 and 1600 as alternatives to the regular sessions.
- Registration per day is \$25.00 (which does **not** include the Dinner/Dance Ticket). A 3-day package registration is \$100.00 and includes the Dinner/Dance ticket; after April 10, \$110.00.
- The Dinner/Dance ticket is \$35.00.

• **Delegate enquiries to:**

Miss Audrey Macdonald  
Convenor-Publicity Committee  
2301 Mountaingrove Ave.  
Burlington, Ontario  
L7P 2H8

• **Exhibitor enquiries to:**

Valerie Shirreff  
The Mississauga Hospital  
100 The Queensway  
Mississauga, Ontario  
L5N 2H6 (416) 848-7628



**PLANNING COMMITTEE - GREATER TORONTO O. R. NURSES**

The Planning Committee for the 15th Regional Conference for Operating Room Nurses sponsored by the Operating Room Nurses of Greater Toronto. (Back row, left to right): Linda Elbert, Mary Barstow, Jane Dewhurst, Janice Ferris, Vija Hay, Elizabeth Jones, Marilyn Evans, Beverly Schmocker, Karen Wales. (Third row, left to right): Cathy Lovett, Debbie Lacey, Marie White, Rosemarie Atwell, Edna Quammie, Bonnie Jean Gilchrist. (Second row, Left to right): Hilda Gatchell, Audrey Macdonald, Valerie Shirreff, Diana Jorgensen, Sharon Ball, Rosalyn Hollett. (Front row, left to right): Carole Starr, Jane Cunningham, Donna Kaufmann, Marlene Muir. (Missing): Sharon Corbie, Wanda Ward, Carol Lenox, Jeany Backer, Regina Trudgeon and Margo Fretz.

# The operating room nurse, AIDS, and the law

By L.E. & F.A. Rozovsky

The threat of the incurable killer AIDS has many health professionals worried about their legal responsibilities. Operating room nurses being more likely to face exposure than many others, must be especially aware.

Of the many legal duties imposed on operating room nurses, five are of particular importance when the patient is suffering from AIDS. The duties which must be evaluated are:

1. the hospital's duty to the patient
2. the nurse's duty to the patient
3. the nurse's duty to the hospital
4. the duty to the state
5. the hospital's duty to the nurse

## 1. The hospital's duty to the patient

The first duty is that of the hospital to the AIDS patient. This duty must be considered in two parts. The first is whether the hospital is under a legal obligation to admit the patient in the first place.

The issue of whether any person has a right to be admitted to a hospital in Canada has not been thoroughly discussed by the courts. However, in many provinces, provisions exist under the public hospitals statute or under obligations dealing with this subject.

In most provinces there is a modified right to be admitted when it is medically necessary and on the recommendation of a physician and where there is accommodation. This right, however, is not absolute and, in any case, differs from province to province. Many provinces have no legislation at all on the subject. In these provinces it is very doubtful as to whether there is a legal right to admission.

The result is that a hospital may be in a position to refuse to admit an AIDS patient.

Once the patient is admitted to the hospital, the duty of the hospital and its staff is to treat the patient according to average, reasonable standards in

the circumstances. The staff must care for the patient, given his or her condition, in the same way in which care for other patients is given according to the standards that are reasonable in light of their condition.

## 2. The nurse's duty to the patient

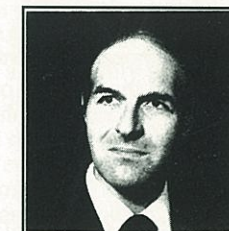
As in the case of all patients, the nurse has a direct and independent duty to the AIDS patient, quite apart from his or her duty to his or her employer. This duty is to treat the AIDS patient in a manner consistent with average, reasonable and competent nursing standards in the same or similar circumstances.

To do this, it is incumbent upon the nurse to find out what the current standards are in caring for AIDS

### About the authors

Lorne E. Rozovsky, is a Halifax lawyer with the firm of Patterson Kitz, and Adjunct Associate Professor of Medicine and Law and Lecturer in Dentistry at Dalhousie University. He is also an Honorary Fellow of the American College of Legal Medicine.

Fay A. Rozovsky is a member of the Massachusetts and Florida Bars and an Associate Professor of Gerontology at Mount St. Vicent University in Halifax. She is also a consultant in health administration, risk management and quality assurance and visiting lecturer at Harvard, School of Public Health.



# Report claims every year up to 70,000 Canadians acquire infections during hospital stay.<sup>†</sup>



Wound infections are a significant problem in Canadian hospitals.

## Over 20,000 of these nosocomial infections could develop in surgical wounds.\*

An operating room nurses' publication, in an article, recently stated that nosocomial infections afflict 3%-7% of patients in Canadian hospitals.

According to a report on the subject by the Bureau of Infection Control "...of all hospital services in a 'general' hospital, surgery has the highest rate of infection." The report also stated that: "Not surprisingly, wound infections are the most common infection in the surgical service in all hospital categories where these data were gathered."<sup>††</sup>

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For a free sample of Mepore Plus and pertinent product information, please write to Sancellia Inc.

<sup>†</sup>The Operating Room Nursing Journal  
Vol. 3 #5 Oct./Nov. 1985

<sup>††</sup>The Bureau of Infection Control's Interim Report  
on Canadian Nosocomial Infection Control  
Surveillance Program.

\*Figures calculated from Canadian Hospital Directory  
Buyers' Guide and Statistical Compendium, 1985, CHA



victims. Considering that the state of knowledge about the disease is in such a state of flux and so much misinformation is so widely published, it is important for the nurse to keep up-to-date and well informed. In this sense, there is no difference between the duty the nurse has in caring for the AIDS patient or in caring for a patient suffering any other ailment.

The important key is that the nurse must constantly be upgrading his/her knowledge. This is particularly true in dealing with new situations, such as when there was an outbreak of Legionnaires' Disease, or in encountering a patient with a tropical disease not ordinarily seen in Canada.

Some nurses, for various reasons, may not wish to care for the patient. Quite apart from the nurse's duty to her employer, once the nurse has taken on a patient, she cannot abandon that patient. S/he has a duty to act reasonably, which means continuous care. The abandonment of a patient which results in patient injury, constitutes negligence and may be the basis of a malpractice suit.

### 3. The nurse's duty to the hospital

The basis for the nurse's duty to the patient is that he or she is holding out as a professional nurse. Therefore, the law says that he/she must act as would the average, reasonable and competent nurse in the circumstances.

However, all nurses who are employees of hospitals have a double duty. They not only have a duty to the patient, they also have a duty to the hospital as their employer. The reason for this is that the nurse, in taking on employment as a professional nurse, is in effect holding herself out as a professional nurse. The employer, in relying on that fact, acquires a legal right to receive nursing services according to the standards of the average, reasonable and competent nurse in the circumstances.

It should be noted that the operating room nurse is in a slightly different position than is the average floor nurse. S/he is not merely holding himself/herself out to the patient and the hospital as simply a nurse. S/he is holding himself/herself out as an operating room nurse.

Therefore, the hospital and the patient have the legal right to expect standards of the average, reasonable and competent operating room nurse in dealing with an AIDS patient.

If a patient is injured due to the failure of a nurse to meet these standards, the patient is entitled to take legal action against the hospital, the nurse, or both. The hospital and nurse are individually responsible, as well as being responsible together.

The burning question is whether the nurse can refuse to care for a patient with AIDS. The basic legal position is that, unless the hospital has hired the nurse to do tasks quite different from those required by an AIDS patient, the hospital, as the employer, can assign the nurse to whatever work the administration sees fit.

However, there may be a collective agreement with the nurses which allows the nurse to refuse to care for patients in situations in which the nurses think such work would be dangerous to their health.

In some provinces the provincial occupational health and safety legislation may also allow workers to refuse to do work which is felt to be dangerous to one's health or life. In both cases, nurses should seek legal advice in order to determine their position.

### 4. The duty to the state

In a number of provinces, AIDS and even a positive ELISA test for AIDS is a reportable disease. This means that there is a duty to report to public health officials that the patient has the disease. Ordinarily, this duty to report falls on a doctor or a laboratory. However, under some legislation, it may rest on anyone who suspects the existence of the disease.

The dilemma for the operating room nurse arises when he or she knows or suspects that a person has AIDS and also knows it has not been reported, or that its existence is being covered up. Instructions may have been issued that no mention of the disease is to be made on the record.

This could be quite a plausible situation since normally the disease is transmitted through homosexual contact, extramarital contact or non-medical drug usage, all of which the patient might wish to have concealed.

The question is whether the nurse is under a legislated duty to report. A careful review of communicable disease provisions under provincial public health acts should therefore be made to determine this factor.

### 5. The hospitals duty to the nurse

Just as an employee has a duty to the employer, so does the employer have a duty to an employee. The basic duty is to provide a reasonably safe work environment, and to avoid actions which could cause reasonably foreseeable harm.

In admitting a patient suffering from AIDS, or in fact any other communicable disease, the hospital is under an obligation to its staff to take reasonable

**"With the enormous amount of publicity being given to AIDS and the amount of misinformation, it is important that...all operating room nurses become well informed on the subject."**

precautions to minimize the risk of infection. This means that the hospital itself has an obligation to learn as much as possible about the communicability of AIDS and how to reduce that risk. The hospital is not, however, obliged to insure that working with an AIDS patient is guaranteed to be without risk. The employees have the right to demand that these steps be taken.

In some provinces occupational health and safety legislation may give to the employees, including operating room nurses, the right to refuse to work in situations which are unreasonably dangerous.

Such a right might be included in a collective agreement where the nurses are unionized. In any case, such a right, whether it exists or not, or to

what extent, depends on the province and the institution. Legal advice should be sought to determine a definitive answer.

### Conclusion

With the enormous amount of of publicity being given to AIDS and the amount of misinformation, it is important that all health professionals and particularly operating room nurses become well informed on the subject. Armed with the facts about the dreaded disease, advice can then be sought from legal counsel for nurses' associations and nurses' unions as to the legal position of the nurse and the patient with AIDS.

## Surgikos Award winner to be announced at Greater Toronto O.R. Conference

The Annual Conference of the Operating Room Nurses Association of Greater Toronto, scheduled for the Constellation Hotel in Toronto April 27-29, will be the locale for the awarding of the 1986 Surgikos Editorial Award. This will be the forth time since the inception of the Canadian Operating Room Nursing Journal that the award has been presented.

### Past Surgikos Award winners

Last year's recipient was Jerry Rudney, an operating room technician (urology) from the Health Sciences Centre in Winnipeg. His award-winning article, "Ultrasonic Percutaneous Lithotripsy," is found in Volume 3, Number 1, Feb.'85.

Previous winners are: 1984, Jean Savickis, Hospital for Sick Children, Toronto. Her article on the separation of conjoined twins is found in Volume 2, Number 4, September, 1984. The first recipient of the Surgikos Editorial Award was Joanne Teskey, an operating room nurse at Sunnybrook Medical Centre in Toronto. Her winning submission, "O.R. Preceptors Promote Competence," is found in Volume 1, Numer 2, April, 1983.

The Surgikos Editorial Award consists of a \$2,500 cash award and commemorative plaque, and is given annually by Surgikos Canada for the best adjudicated article to be published in the Canadian

Operating Room Nursing Journal.

The Award, which is administered by the Operating Room Nurses Association of Canada (ORNAC), is open to all operating room nurses, technicians, staff nurses, instructors, and students, full or part-time, engaged in some area of operating room nursing instruction, for example, post-basic programs, O.R.T. programs, etc.

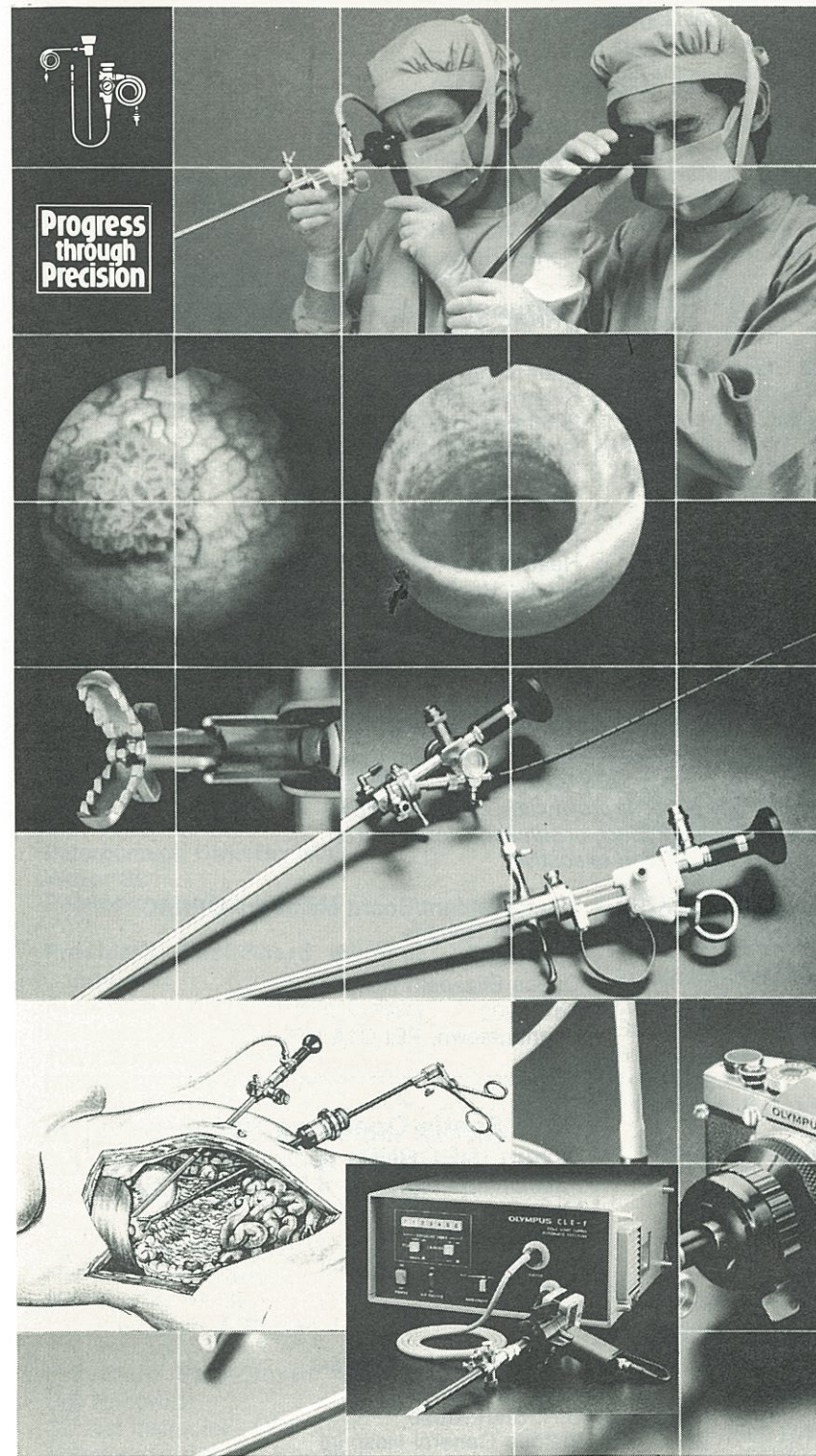
It will be the responsibility of ORNAC to establish the criteria for judging submissions, and to select the judges for the competition. All submissions become the property of the Canadian Operating Room Nursing Journal, and will be subject to the usual editorial rules and regulations of the Journal.

### Educational award

As an educational award, the funds provided must be used by the recipient within 12 months, or within a reasonable time should there be contingencies. The award can be used to cover and allay costs incurred while attending operating room-related courses, seminars, workshops, conferences or for special programs or projects related to operating room nursing.

The Editorial Awards Committee of the Canadian Operating Room Nurses Association is chaired by Muriel Shewchuk, Foothill Hospital, Calgary.

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