

Legal Nursing

Legally: What is Quality Care?

Understanding Nursing Standards

As a Certified Legal Nurse Consultant (CLNC), my primary role is to evaluate, analyze, and render informed opinions about the “quality of care” delivered by the health care team. Whether we are representing the plaintiff (injured) or defense (health care providers), we are trying to determine if the standard of care was met in a medical malpractice case. Basically, did the patient receive quality care?

The Institute of Medicine (IOM) defines *quality* as “the degree to which health services for individuals and populations increase the likelihood of desired health outcomes and are consistent with current professional knowledge” (Field & Lohr, 1992, p. 100). This definition led to what we now consider *standards*. The American Society of Clinical Oncology sought to understand the use of the term *standard of care* in its article “What Does the Medical Profession Mean by ‘Standard of Care?’” (Strauss & Thomas, 2009). While there is no medical definition of standard of care, the term is firmly established in law and is defined as, “the caution that a reasonable person in similar circumstances would exercise in providing care to a patient” (Strauss & Thomas, 2009, p. 1). As early as 1860, the Supreme Court of Illinois ruled, “When a person assumes the profession of physician and surgeon, he must...be held to employ a reasonable amount of skill and care” (Strauss & Thomas, 2009, p. 1). The lawsuit in question claimed that a physician, represented by none other than Abraham Lincoln, was negligent in the improper application of a plaster cast. In time, the Supreme Court identified a number of factors that may be used to determine whether evidence submitted as scientific knowledge is valid:

- The theory or technique has been tested as scientifically valid.
- The idea has been subjected to scientific peer review or published in scientific journals.
- The theory or technique is generally accepted as valid as the relevant technique.
- The known or potential rate of error was involved in the technique.

As nurses, the scope and standards of practice are established by The American Nurses Association (ANA). In addition, there are standards relevant to our specialties. The AMSN website (www.amsn.org) provides members with the

Scope and Standards at no cost. The *Scope and Standards of Medical-Surgical Nursing Practice, 5th Edition* (2012), can be downloaded and utilized for assurance in providing quality care.

Current Nursing (2010) says, “Standard is an acknowledged measure of comparison for quantitative or qualitative value, criterion, or norm. A standard is a practice that enjoys general recognition and conformity among professionals or an authoritative statement by which the quality of practice, service, or education can be judged. It is also defined as a performance model that results from integrating criteria with norms and is used to judge quality of nursing objectives, orders and methods.” Standards of nursing practice also derive from our facilities’ policies and procedures, job descriptions, and state nurse practice acts.

As CLNCs, we utilize nursing standards, policies and procedures, job descriptions, and state nurse practice acts as descriptive statements of the desired quality to evaluate health care. This knowledge allows us to be proactive in avoiding a malpractice claim. Taking the time to understand the legal principles of malpractice and employing them in our day-to-day activities can protect us from future litigations. Simply put, providing quality patient care and following the standards of our profession, policies and procedure of our facilities, and state nurse practice acts will decrease our risk of malpractice claims. In addition, it is extremely important that we know the specifics of our job descriptions and perform only the skills that are within our scope of practice (Reising & Allen, 2007).

Nurses that consistently provide quality care follow these simple guidelines:

- Remain current in your field of practice or specialty.
 - ◆ Attend facility in-service programs.
 - ◆ Remain active in specialty organizations (e.g., AMSN).
 - ◆ Obtain CEUs relevant to your field of practice.
 - ◆ Know your job description.
- Know your strengths and weaknesses.
 - ◆ Don’t accept assignments if you are unsure of your competency.
 - ◆ Request education and skill practice to obtain competency.
- Maintain all safety protocols when administering medications.
 - ◆ Use the five rights of medication administration.
 - ◆ Never co-sign for a narcotic waste that you did not witness.
- Obtain clear orders.
 - ◆ Never treat any patient without orders from his or her health care provider unless it’s an emergency.
 - ◆ Verify the accuracy of orders that are unclear.

If you have any questions or comments regarding the “Legal Nursing” column, or if you are interested in writing, please contact Column Editor Helen P. Neil at hpneilrn@cox.net.

- ◆ Document your efforts to obtain clarity.
- Delegate safely.
 - ◆ Nurses are responsible for the duties that they delegate to subordinates.
 - ◆ Report incompetence through the chain of command.
- Do not use equipment that you are unfamiliar with.
 - ◆ Make sure you have documented competency.
 - ◆ Know how to detect equipment failures and document.
- Never make a statement a patient or family member may construe as an admission of guilt or fault.
 - ◆ My personal favorite, "Sorry, we are short staffed tonight." You have just informed your patient/family member that you don't have what you need to provide quality care for that shift.
 - ◆ My second favorite, "Oh sorry, the dayshift always leaves this undone." The appropriate response is, "I am so sorry that happened, let me take care of that for you right now."
- Document all patient care activities and communications.
 - ◆ Remember: if you don't document it, it was not done. For example: During a deposition, a nurse informed us that she "always" did her own vital signs. The last set of documented vital signs was at 1800; the patient was found unresponsive at 2333. Without the documentation, we were not able to verify that the patient had been monitored accurately every 2 hours. The family verified that Nurse XYZ had done vitals, but without the documentation, we were not able to confirm that patient remained in the safety zone. The lack of documentation indicated that this patient did not receive quality care. The family was awarded a million-dollar settlement.
 - ◆ In another case, upon admission a family informed the staff that the patient (a stroke survivor) often displayed a lack of self-control. This information was not communicated to the staff. A nursing assistant placed a plate of red beans and sausage in front of the patient. Before she could cut the sausage, Mr. ABC had grabbed the entire piece and swallowed it whole. Unfortunately, he did not survive and the family was awarded several million dollars.
- Know how to invoke the chain of command in your facility, and use it appropriately.
 - ◆ A nurse testified that she had attempted to obtain a scheduled IV medication for her patient from the pharmacy several times. She even requested assistance from her supervisor, but got no response. The patient had a negative outcome. Unfortunately, the nurse did not document her attempts to obtain the medication nor did she document her conversation with the supervisor. The supervisor testified that she

did not remember the nurse's request. While we all believed that the nurse had indeed contacted the pharmacy and supervisor, we were unable to verify those events, and the family was awarded a substantial settlement.

- Carry your own malpractice insurance. Without personal nursing malpractice insurance, you are dependent on the attorney representing the facility; their first priority is to defend the facility. During a suit, the nurse needs an attorney dedicated solely to his or her own interests.

No one will argue that nurses are the primary caregivers in all health care settings. When nurses focus on improving health care quality and patient safety, they increase the incidence of maintaining an honest, respectful patient/nurse relationship. All nurses must have thorough evidence-based knowledge of the impact of the care they provide on the outcomes of their patients' experiences in order to reduce the risk of a malpractice case. Our role in providing quality health care is only expected to increase as hospitals meet the challenges of working with fewer resources. The time to be proactive is now.

References

- Academy of Medical-Surgical Nurses (AMSN). (2012). *Scope and standards of medical-surgical nursing practice* (5th ed.). Pitman, NJ: Author.
- Current Nursing. (2010). *Nursing management – Quality assurance in nursing: Standards*. Retrieved from http://currentnursing.com/nursing_management/quality_standards_nursing.html
- Field, M.J., & Lohr, K.N. (Eds.). (1992). *Guidelines for clinical practice: From development to use*. Washington, DC: National Academy Press.
- Reising, D., & Allen, P. (2007). Protecting yourself from malpractice claims. *American Nurse Today*, 2(2), 39-43.
- Strauss, D.C., & Thomas, J.M. (2009). What does the medical profession mean by "standard of care?" *Journal of Clinical Oncology*, 27(32), 192-193.

Suggested Readings

- Advice on avoiding lawsuits. (2003, January). *Nursing*, 33(1), 34-35. Retrieved from http://journals.lww.com/nursing/fulltext/2003/01001/advice_on_avoiding_lawsuits.11.aspx
- Draper, D., Felland, L., Liebhaber, A., & Melichar, L. (2008). The role of nurses in hospital quality improvement. *Research Brief*, (3), 1-8.
- Nursing World (NW). (2014). *The impact of nursing care on quality*. Retrieved from <http://nursingworld.org/MainMenuCategories/ThePracticeofProfessionalNursing/PatientSafetyQuality/Research-Measurement/Nursing-and-Quality.pdf>

Helen P. Neil, MSN, RN, CLNC, is President and Owner, Neil Nurse Consulting, LLC, New Orleans, LA. She is the "Legal Nursing" Column Editor.

President Speaks on Ethics

AMSN President Jill Arzouman, MS, RN, ACNS-BC, CMSRN, was recently interviewed by TravelNursing.com to discuss her thoughts on the updated *Code of Ethics for Nurses with Interpretive Statements*. Read what she and American Nurses Association President Pamela Cipriano had to say by visiting the "AMSN News" section of amsn.org.

Copyright of MEDSURG Nursing is the property of Jannetti Publications, Inc. and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.