5-2002

Ethics in Perioperative Practice—Patient Advocacy

Kathryn Schroeter

AORN Journal : The Official Voice of Perioperative Nursing, Vol. 75, No. 5 (May 2002): 941-949. DOI.

Ethics in Perioperative Practice—Patient Advocacy

Kathryn Schroeter
Froedtert Hospital, Milwaukee, WI
Medical College of Wisconsin, Milwaukee, WI

Editor's note: This is the second in a nine-part series that explores the effect the American Nurses Association's (ANA's) Code of Ethics for Nurses with Interpretive Statements has on perioperative nurses Each article in this series will deal with one of the nine provisions outlined in the ANA code, along with interpretations and examples for perioperative nurses. At the conclusion of this series, perioperative explications of the ANA code will be included in AORN's 2003 Standards, Recommended Practices, and Guidelines.

ABSTRACT

Though often difficult, ethical decision making is necessary when caring for surgical patients. Perioperative nurses have to recognize ethical dilemmas and be prepared to take action based on the ethical code outlined in the American Nurses Association's (ANA's) Code of Ethics for Nurses with

Interpretive Statements. In this second of a nine-part series that will help perioperative nurses relate the ANA code to their own area of practice, the author looks at the third provision statement, which addresses nurses' position as patient advocates. *AORN J* 75 (May 2002) 941–949.

Perioperative nurses make ethical decisions daily, and they need to be prepared to take action based on the ethical code outlined in the American Nurses Association's (ANA's) *Code of Ethics for Nurses with Interpretive Statements.* This article is intended to help perioperative nurses relate the ANA code to their own area of practice, and it focuses on provision three of the 2001 ANA code, which says, “The nurse promotes, advocates for, and strives to protect the health, safety, and rights of the patient.”[1]

This provision directs perioperative nurses' role as protectors of their patients. As an offshoot of respect for people, which was discussed in the previous article in this series (A*ORN Journal* , April 2002), nurses must apply the principles of autonomy, justice, beneficence, nonmaleficence, fidelity, and veracity when ensuring their patients' rights, health, and safety. Provision three in the ANA code conceptually addresses privacy, confidentiality, research participation, and practice standards. In terms of behavior, this provision espouses patient advocacy. The necessity for patient advocacy stems from the impact of illness on an individual's autonomy and ability to make decisions.

ADVOCACY

Many perioperative practice issues involve ethics and advocacy. Researchers have identified these issues as including lack of respect for the patient's dignity, withholding of information or blatant lying to patients, inadequate consents, incompetent health care providers, and do-not-resuscitate orders.[2]

In nursing, advocacy often is viewed as a duty or obligation that arises from nurses' role as continual observers of their patients' conditions. Patient advocacy is part of a patients' conditions. Patient advocacy is part of a patient's rights in the Patient's Bill of Rights put forth by the American Hospital Association. This document includes the statement that “activities must be conducted with an overriding concern for the patient, and above all, the recognition of his dignity as a human being.”[3]

Nurses act as patient advocates by protecting patients from incompetent, unethical, or illegal practices and by complying with facility policies of competent performance, federal regulations from such entities as the Occupational Safety and Health Administration, state nurse practice acts, and accrediting agency (eg, the Joint Commission on Accreditation of Healthcare Organizations) requirements. Nurses also should confirm clinicians' privileges and credentials.[4]

Advocacy in nursing has two components. The first is that advocacy in the nursing role implies that nurses support patients' autonomy or patients' rights to freely choose, regardless of whether the nurse agrees with patients' decisions. Second, advocacy in nursing includes the nurse's ability to take action on behalf of the patient.[5] The term advocacy is especially applicable to the perioperative practice environment because it is during this phase of the surgical experience that sedated or anesthetized patients are vulnerable.

Nurses have the potential to develop relationships with patients that put them in a position of trust. Patients trust that their nurses will support and follow through with any concerns or issues that have been discussed. Nurses consistently are close and accessible to patients, so they often are the first to

identify a patient's ethical concerns and become mediators or messengers in relaying these concerns to other members of the health care team.

As patient advocates, perioperative nurses must ensure both the quality and continuity of care delivered to their surgical patients. In the perioperative setting, nurses continually assess the care of perioperative patients, attempting to ensure that patients' physical, emotional, and ethical needs are met. Nurses, as patients' moral agents, must be ready and able to advocate for patients' needs whenever necessary while providing perioperative care. Additionally, they should intervene to protect the patient's safety.[6] Safety issues can take many forms, from verifying patient identity and the surgical site to medication administration; however, the OR often contains other safety concerns, such as the assurance of aseptic technique and the potential for injury from lasers, electrosurgical units, chemicals, and positioning.[7] Ensuring patient safety in the perioperative environment is just one way in which nurses advocate for surgical patients.

In the perioperative setting, time often limits a nurse's ability to get to know a patient intimately. The factor of time constraints may affect the advocacy component of perioperative nursing such that a nurse may be too hurried to adequately address a patient's needs.

CONFLICTING LOYALTIES

Perioperative nurses may find that they experience conflicting loyalties to themselves, their patients, their coworkers, or their employers. These conflicting loyalties may include supporting a patient's decision that is contrary to the beliefs of the physician or the institution's philosophy and mission. This type of conflict should be brought forth via the proper channels of nursing management.

Perioperative nurses also work closely and often for long hours with surgeons, surgical technologists, surgical assistants, and other nurses as members of the surgical team. The closeness of these working relationships may result in difficult situations for nurses if they have to confront an impaired surgeon or coworker who also may be a close friend.[8] Working in an impaired condition can take many forms, including, but not limited to, substance abuse, emotional stress, illness, injury, or lack of sleep. For example, when a perioperative nurse sees a coworker with cuts on his or her hand from weekend gardening, the nurse should talk with the coworker about requesting another assignment. This protects the patient from potential increased risks related to aseptic technique.

AGE-SPECIFIC ADVOCACY

Nurses can counsel and support the parents of their pediatric patients as they reach decisions about what is in the best interest of their child (eg, the consent process). Nurses must demonstrate age-specific competency in the care of children at different age levels. An adolescent or mature minor, for example, may be able to participate much more in assenting to treatment decisions.[9]

Nurses must be as objective as possible when giving information. For example, nurses may knowingly or unknowingly manipulate parents into making a decision that the health care team prefers by relating only those facts that would support that particular decision. It often is useful to give parents time and encourage them to get a second or even a third opinion in difficult ethical circumstances. If the ethical conflict persists, a consultation with the ethics committee may be appropriate.

In pediatrics, one of the primary roles of both nurses and physicians is that of patient advocate. It is imperative for nurses to advocate for the child's preferences when appropriate. Nurses also must know that parental power is not absolute and is restricted by the welfare of the child.

In the case of older adult patients, the consent process may require more time and assurance that all questions have been understood and answered adequately. In instances when the older adult patient is nondecisional, comatose, or has some level of brain injury or disease that prohibits decision making, information must be relayed to the appropriate decision maker (eg, power-of-attorney for health care, designated family member). If the patient's family members or designated decision-makers have any questions or concerns about consent, the procedure, or anything else regarding the procedure, the perioperative nurse should relay the concerns to the surgeon or department nurse managers before starting the procedure.

PRIVACY AND CONFIDENTIALITY

Perioperative nurses accept responsibility for nursing actions to safeguard the privacy rights of surgical patients by carefully protecting confidential information. The patient's confidence that information given to the nurse will remain private is an important element in the nurse-patient relationship. Without this assurance, the patient might be unwilling to divulge information critical to his or her care.[10]

Nurses' acting to protect patients' rights is based on the inherent respect for an individual's privacy and autonomy, the special trust formed in the nurse-patient relationship, the good of society, and the prevention of harm to the patient. One of the primary outcomes identified in the Perioperative Nursing Data Set (PNDS) states that patient rights are to be supported.[11] To ensure that patient rights are supported during the surgical experience, nurses should involve patients in decision making that affects the perioperative plan of care. Nurses strive to maintain patient privacy by minimizing patient exposure and keeping doors and windows closed.[12] They also must treat deceased patients with respect and provide a private area where family members may view the deceased.[13] In this way, the nurse also advocates for the deceased patient's family members. It is important that nurses make an effort to provide patient care that is consistent and comparable to other levels of care provided from all caregivers, regardless of the situation or setting.[14]

There are, however, legal exceptions to the maintenance of confidentiality that necessitate divulgence, including testifying in court; reporting a communicable disease; reporting child abuse, spouse abuse, or elder abuse; reporting gunshot or suspicious wounds if there is a reasonable cause to believe the wound occurred as a result of a crime; and reporting for workers' compensation cases. The legal duty of confidentiality may be breached by an overriding duty to protect others who are endangered by the patient. For example, in *Tarasoff v Regents of the University of California* (14,551 P2d 334 [Cal 1976]), the California Supreme Court found that despite a duty of confidentiality, a patient who poses a danger to another may give rise to a countervailing duty to breach the confidentiality to protect the other person.[15]

There may be other situations in which there is an ethical demand for nurses to consider breaching patient confidentiality. Such a problem may occur when a patient who is HIV positive refuses to tell his or her spouse or significant other of the infection, thus placing the other at risk of contracting a lethal

disease. The nurse who is aware of this may be torn between duty to the patient and the stronger ethical duty to warn an unsuspecting person of significant danger.

In addition, an increase in the use of automated patient records and documentation makes it more difficult for health care providers to ensure confidentiality of such stored records. Many hospitals and institutions are asking nurses to sign agreements of confidentiality regarding computer passwords and codes. In the past, it never was acceptable practice to leave a patient's chart out in a public area, but today nurses must be careful not to have patient information visible to the public from a computer screen.[16] Imagine a scenario in which a patient's perioperative record is left on the computer screen when the nurse is out of the room transporting the patient to the postanesthesia care unit. During the nurse's absence, environmental services staff members may have access to this information on the screen when cleaning the room between procedures. Although reading the patient's record ordinarily may not be tempting, if the patient is a celebrity or someone staff members know, it may be more enticing. Regardless of the patient's identity, steps must be taken to ensure information is secured from access by unauthorized persons. Perioperative nurses have an ethical responsibility to protect the patient's privacy and the security of his or her information.

PRACTICE STANDARDS

The PNDS specifies that nurses should adhere to professional standards of practice (eg, AORN recommended practices and guidelines) as well as state-specific nurse practice acts.[17] Comparable levels of care must be provided regardless of the setting in which the care is given. Nurses must provide care in a nondiscriminatory and nonprejudicial manner.[18] Examples of this in perioperative practice occur when nurses apply standards of nursing practice consistently to all patients with sensitivity to disability, economic, educational, cultural, religious, racial, age, and sexual differences; refrain from derogatory comments about patients, family members, significant others, colleagues, and other associates; plan for appropriate substitute nursing care if personal beliefs conflict with required care; and respect patients' health care decisions.

The principle of justice would dictate that all patients receive the same care regardless of any type of personal attribute. Perioperative nurses provide nursing care directed to meet the comprehensive needs of all patients, thus taking into consideration aspects of culture, language, perception of pain, significant others, values, and beliefs.

The nurse preserves and protects the patient's autonomy, dignity, and human rights. This is done by supporting the patient's participation in decision making, implementing advance directives as appropriate, and confirming consent.[19]

Nurses must act according to their values, as well as appropriate practice standards and codes of ethics. Advocacy is not only for patients; nurses may choose to advocate for themselves if put in an ethical situation that requires compromising personal values. Nurses should recognize when they must opt out of certain aspects of patient care that are in conflict with their religious or moral beliefs. This should be discussed when interviewing for a position, as not all nursing roles allow for an opportunity to step back from providing care.

RESEARCH PARTICIPATION

Clinical research is performed in a variety of health care settings, from hospitals to clinics and laboratories. Perioperative nurses may be involved in clinical research at various stages and must be aware of the ethical issues inherent to research in which human participants are involved. Ethical issues in research include, but are not limited to,

- the ethical design of the research study (ie, risks cannot outweigh potential benefits to society or the individual);
- the selection of participants for the study, which also must reflect an unbiased, nonjudgmental approach on the part of the researcher (eg, participants should not be only males or females unless the protocol is studying a related phenomenon);
- participants freely giving consent and being informed appropriately (ie, the consent form should be readable at approximately an eighth-grade level and should be translated into other languages as appropriate);
- confidentiality evidenced throughout the protocol and consent;
- approval from the institutional review board (IRB) for protocols involving human participants—the purpose of IRB review is to ensure protection of human subjects or participants in research[20];
- stipends for participation that cannot be construed as coercive to participants (ie, amounts that unduly influence recruitment of participants); and
- participants should be free to quit the study protocol at any time during the research process.

Nurses may function as primary investigators, but they also may be asked to assist in the facilitation of clinical research via data collection (eg, reviewing patient records, talking with patients). It is important that researchers communicate with nurses regarding their study protocols so that appropriate instruction related to their participation may be provided before initiation of the study. For example, if nurses are expected to collect tissue specimens from patients, they will need to know how to gather, store, and transport the specimens so as not to contaminate them or make an error in the process.

Furthermore, nurses must be able to see that a patient has consented to participation in the research study to assess if the patient has any questions or requires further explanation. Nurses need to know who the primary investigators are and how to contact them if needed. In addition, steps must be in place to maintain the confidentiality of the patient at all times during the research process.

Nurses also may be involved in studies using a placebo. Again, it is imperative for researchers to discuss their protocol in advance with nursing staff members so concerns can be addressed before data collection. Nurses should not be forced to participate in research protocols unless they are comfortable with the study and have had all questions answered by the primary investigator. Patients, too, can refuse to participate at any point in the study process, and that must be made clear to patients who are contemplating participating in a study. In research, as in cases of ordinary patient care, nurses must be able to act on illegal or questionable (eg, incompetent) practices.

CASE STUDY ONE

Ms S is scheduled for a laparoscopic hernia repair. She is an adult woman who is capable of making her own decisions. During the interview in the preoperative holding area, she mentions concerns about the surgical procedure to the perioperative nurse and indicates that she would like to speak to the surgeon before being transferred to the OR. She states that she is very nervous and is contemplating not going through with the procedure. The anesthesia care provider enters the holding area, reviews Ms S's chart, and prepares to start the IV line. To advocate for the patient, the nurse should prevent invasive treatment until the patient is ready to make a decision.

The perioperative nurse should inform the anesthesia care provider of Ms S's questions and concerns. The nurse also must ensure that medications are not delivered until the surgeon can speak with Ms S. The surgeon should be notified that Ms S needs to talk with him or her as soon as possible. The nurse can use the interim time to confirm or share information that might help Ms S ask the surgeon appropriate questions. Ms S needs to be reassured that her concerns will be addressed and that she is not under any pressure to make a decision. The patient also must understand that she is free to change her mind at any time and does not have to go through with the procedure.

CASE STUDY TWO

A perioperative staff nurse has arrived at work with an intense smell of alcohol on his breath. Several perioperative nurses have noticed it and are concerned about his ability to provide competent care for his surgical patient. At times, the nurse appears able to function, but at other times (ie, when pouring fluids into a container on the sterile field, when drawing medications), he seems unsteady and unstable. When asked if he is feeling all right, he responds by stating that he is “feeling great—never better!” The nurses all believe that the patient is at risk for injury if this impaired nurse is left to continue to care for the patient in the OR. To advocate in this situation, nurses should protect the patient as well as the coworker.

There is an obvious potential risk for the safety of the patient when under the care of an impaired health care worker. The nurse in this case also needs help to continue his practice and nursing career. Nurses who observe this situation must report their concerns to the department manager or appropriate administrator for intercession. The risk must be removed from the patient. The manager then must take appropriate action on the patient's behalf and the staff members' behalf. The manager must act to remove the nurse from the care environment and provide another caregiver for the patient. Furthermore, the manager should attempt to obtain assistance for the staff member to deal with the problem at hand (ie, substance abuse). Perioperative nurses should be aware of support programs offered to staff members to effectively treat such problems.

CONCLUSION

For nurses to advocate for their patients, they must be empowered, but if advocacy is an expectation of the nurse's role, there should be a certain amount of authority inherent in the role to ensure that patients' needs are met. Conflicts may be resolved more quickly if nurses have authority to confront a situation at the time it presents. Health care administrators must ensure that nurses are given a voice

with which to advocate for their patients. Corporate compliance is one way in which organizations are attempting to promote advocacy in health care, especially via nurses.

Perioperative nurses, by virtue of the nurse-patient relationship, have obligations to provide safe, professional, and ethical patient care. It is important that nurses know how to manage ethical decisions appropriately so that patients' ethical rights can be honored without compromising the nurse's own moral conscience. Assuming the stance of a patient advocate involves acting on ethical principles and values.

As health care shifts toward a more cost-oriented focus, it becomes imperative for nurses and other health care providers to understand the concepts and issues that affect patient care. As a result, nurses need to develop an understanding of the ethical terminology and considerations that will enable them to manage such situations in the future. They cannot deny their responsibility and accountability to their patients. It no longer is enough to just do no harm. Nurses must be able to act to ensure that safe, competent, legal, and ethical care is provided to all patients.

Biography

Kathryn Schroeter, *RN, MS, MA, CNOR, is surgical services educator at Froedtert Hospital, Milwaukee, a clinical faculty member in bioethics at the Medical College of Wisconsin, Milwaukee, and a member of the AORN Ethics Task Force.*

NOTES

1 American Nurses Association. Code of Ethics for Nurses with Interpretive Statements. Washington, DC: American Nurses Association. 2001.

2 AR Killen, ST Fry, S Damrosch. “Ethics and human rights issues in perioperative nurses: A subsample of Maryland nurses,”. *Seminars in Perioperative Nursing*. April 1996; 5: 77– 83.
AR Killen. “Caring and competence: Perioperative nurses tell their stories,”. *Seminars in Perioperative Nursing*. April 1996; 5: 72– 76.
CA King, JM Miskovic. “Ethical issues: A survey of perioperative nurses,”. *Seminars in Perioperative Nursing*. April 1996; 5: 84– 91.
K Schroeter. “Ethical perception and resulting action in perioperative nurses,”. *AORN Journal*. May 1999; 69: 991– 1002.
I Von Post. “Exploring ethical dilemmas in perioperative nursing practice through critical incidents,”. *Nursing Ethics*. September 1996; 3: 236– 249.

3 “A patient's bill of rights,”. In WT Reich, ed. Encyclopedia of Bioethics. New York: Free Press. 1978, 1782, 1783.

4 S Beyea, ed. Perioperative Nursing Data Set. second ed. Denver: AORN, Inc. 2002, 177.

5 K Schroeter. “Advocacy in perioperative nursing practice,”. *AORN Journal*. June 2000; 71: 1207– 1222.

6 Beyea, ed, *Perioperative Nursing Data Set* , second ed, 177.

7 *Ibid* , 179.

8 Schroeter, “Advocacy in perioperative nursing practice,” 1207-1222.

9 K Schroeter et al. *Practical Ethics for Nurses and Nursing Students* (Baltimore: University Publishing Group, in press).

10 *Ibid.*

11 Beyea, ed, *Perioperative Nursing Data Set* , 176.

12 *Ibid* , 184.
13 *Ibid* , 183.
14 *Ibid* , 176.
15 Schroeter et al, *Practical Ethics for Nurses and Nursing Students.*
16 *Ibid*
17 Beyea, ed, *Perioperative Nursing Data Set* , 177.
18 *Ibid* , 176.
19 *Ibid*
20 Schroeter et al, *Practical Ethics for Nurses and Nursing Students.*