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Managing Legal Risks in Preceptorships **By Ethyllynn Phillips**

What are the legal risks in preceptoring? The key is accountability for all, whether you are the registered nurse or the student.

Acting as a preceptor to a student nurse is an essential component of that student's education. You are helping to shape the nurses of the future by sharing the knowledge and wisdom you have gained from practising your profession. The College of Nurses of Ontario states that "Preceptorship is a complex interactive process during which the professional role is learned."¹

Barriers to Preceptorship

Sometimes registered nurses (RNs) on a unit are reluctant to become involved in the clinical experience afforded the student nurse. They may feel they lack the time to be able to teach or monitor a student while managing their own assigned duties. RNs may be reluctant to mentor or instruct a student nurse out of fear of being held accountable professionally and legally if the student nurse makes an error that results in client injury. It is important to remember that *each nurse is accountable for her or his own actions*. This includes student nurses.

Managing the Legal Risks

Competence is one of the foremost considerations in the preceptorship of the student nurse. The preceptor, the educator and the student must ensure that the clinical experience is safe for the patients while being beneficial to the student.

The educator must ensure that the curriculum is current and relevant. Courts, in considering the standard of care applicable in a given situation, take into account many factors and would not look favourably on methods that have not been recognized as current practice for some time. Before placing a student in a clinical setting, the educator must be aware of the capabilities of the student.

A preceptor must be aware of the scope of the student's knowledge and skills before undertaking to supervise that student. The preceptor is entitled to rely on information given to her or him by the educator regarding the student's capabilities. It is the preceptor's responsibility to also determine from the student the limitations of that student's knowledge and skills.

The competence of the student nurse must be clearly defined. She or he is responsible for any nursing actions that she or he performs and can be named a defendant in litigation arising out of patient injury. For example, the British Columbia Supreme Court allowed the addition of three defendants to an existing lawsuit, namely, a student nurse, the student's supervisor and the student's university. The Court determined that the prejudice to the plaintiff if these parties were not added would be substantial, as the plaintiff intended to add all members of the nursing staff caring for the patient and had not originally appreciated the significance of the student nurse status.²²

The student nurse *must* know her or his own capabilities and competencies and adhere to them. If the student is not competent to perform a nursing action, she or he should not perform that action until deemed competent to do so. The student must tell the responsible person that she or he is not qualified to carry out the assigned task. Student nurses are not held to a standard of perfection; rather, they are held to the standard of their peers.

Communication among the educator, the preceptor and the student must be clear and unambiguous. Each must understand their role in the education process and promptly communicate problems and concerns. In determining which patients could appropriately be designated as recipients of care for the student, the educator should consult with the head nurse or nursing unit manager. The educator should follow the scope of activity designated as appropriate to students participating in a clinical experience in that facility. As well, the educator should ascertain from the head nurse or the nursing unit manager which nurses would be appropriate to precept the student. There must be clear communication between the educator and the preceptor regarding the extent of the student's capabilities.

The role of the preceptor must be clearly understood and followed; there may be an agreement in writing or a contract defining that role. There must be a process in place to allow for feedback between the educator, the preceptor and the student. Instructions to the student must be clearly communicated.

The student nurse should determine with the educator and the preceptor the goals and objectives to be achieved in order to meet the student's needs in the clinical experience. There must be open communication among these parties. The student is responsible to seek clarification and/or assistance regarding any unclear policies, procedures or assignments relating to the clinical experience.

Policies and procedures are essential risk management and communication tools in any nursing setting. It is important that they be understood and followed. In the clinical education setting, the student must be made aware of the importance of adhering to them and of the possible consequences if they are not followed. In a Nova Scotia case, a patient incurred injury to the sciatic nerve from an intramuscular (I.M.) injection administered by a student nurse to the buttock area. The Court found the hospital negligent because it permitted student nurses in the usually busy emergency department to give unsupervised I.M. injections knowing that damage to the sciatic nerve was a major risk of intramuscular injections to the dorsogluteal area. In this particular situation, the Court determined the student nurse had not properly followed the procedure as she had held back the patient's underwear while administering the injection and, therefore, could not properly map the injection site.³

There should be policies, procedures and guidelines in place for disseminating information to the student and for fairly evaluating the ability of the student to comprehend and safely practise the knowledge and skills that she or he has been taught. The educator, the preceptor and the student must know the policies and procedures of the facility relating to a clinical experience for student nurses and must work within those predetermined boundaries.

Delegation and supervision are important components of the clinical education experience. There must be a designated person to supervise the student in the clinical setting. The preceptor has the responsibility to delegate appropriately to the student nurse.⁴ Failure to delegate and supervise appropriately could result in a finding of negligence against the preceptor. In a recent Ontario case, a team leader was found to be negligent in her supervision of a novice nurse. The Court found "that the Team

Leader had completely failed to perform her assigning and supervisory duties in accordance with an appropriate standard of nursing care" and awarded damages against her and against the novice nurse.⁵ Should patient injury occur and a lawsuit ensue, it would be difficult to find that preceptor at fault if the preceptor has correctly followed the proper guidelines and taught and supervised the student appropriately. Students may be permitted to perform controlled acts under specific circumstances. In Ontario, for example, one of the five exceptions authorizing controlled acts under the *Regulated Health Professions Act* occurs when the person is fulfilling the requirements to become a member of a health profession and the act is within the scope of practice of the profession and is done under the supervision or direction of a member of the profession.⁶ Key words to remember are "under the supervision or direction." If direct supervision is required then direct supervision must be given. Failure to comply could result not only in a finding of negligence against the student but also against the supervisor.

Practice Standards

"It is the responsibility of all registered nurses and nursing students to understand the Nursing Practice Standards and apply them to their nursing practice, regardless of their areas of practice or roles."⁷ It would be difficult for a court to find negligence in the actions of an RN who contributes to the education of nursing students by practising safely and competently and according to appropriate standards. However, if a student nurse performs a nursing action which is one an RN would perform (e.g. administration of an I.M. injection), that student will be held to the standard of an RN. Student nurses, like all other nurses, are accountable for their own actions.

References:

1. College of Nurses of Ontario. [Quality Practice: A resource for employers of nurses](#), Students on clinical placement, Toronto: Author, May, 1(3), 2002.
2. Cowherd v. Mission Memorial Hospital Foundation [2001].B.C.J. No. 2088; 2001 B.C.S.C. 1359 B.C.S.C., online: QL (BCJ).
3. Roberts v. Cape Breton Regional Hospital [1997] N.S.J. No. 345; (1997) 162 N.S.R. (2d) 342 (N.S.S.C.), online: QL (NSJ).
4. Phillips, E. Delegation and Liability, Canadian Nurse, September, 93(8), 1987, 47.
5. Granger (Litigation Guardian of) v. Ottawa General Hospital [1996] O.J. No.2129, D.R.S. 96-08886. (O.C.J. (G.D.)), online: QL (ORP) @ para 86.
6. [Regulated Health Professions Act](#), S.O. 1991, c.18, s.29.(1) b.
7. Alberta Association of Registered Nurses, Nursing Practice Standards, Edmonton: Author, September, 1999, 3.