What are the legal implications of providing telephone advice?

Whether it is called telepractice, telephone triage or telephone advice, a nurse-client relationship can be established over the phone. As with other types of client interaction, nurses must adhere to their professional standards and act reasonably and carefully, even with the added complexity of not being able to see or examine the client, who may or may not be the caller. The nurse is professionally and legally accountable for the advice given. If a client suffers injury as a result of a nurse’s advice, it could result in one or all of the following: discipline by the nurse’s employer, sanctions by the nurse’s licensing body, and a finding of negligence by a court.

Is providing telephone advice high risk?

Yes. Risk comes from variables that are outside a nurse’s control, such as the absence of face-to-face contact with the client and having to base an assessment on information from the client or third parties that may be inaccurate, incomplete or misleading. Because of this, extra care must be taken in eliciting information. Documentation is crucial. Details to be recorded may be governed by an employer’s policy but should include: the date and time of the call; the name, telephone number and address of the caller; information received; advice or information given; and referral and follow-up information. The nurse’s name and professional designation should be provided to the caller. The jurisdiction in which the nurse is registered should be conveyed if it is relevant.

Canadian nursing licensing bodies have determined that telehealth nurses are practising in the province or territory in which they are located and currently registered, regardless of the location of the caller. Professional standards and guidelines developed by licensing bodies should be carefully adhered to, as they may be considered the legal standard of care for telepractice.

How can this risk be managed?

Risk management measures can be implemented by nurses and their employers. To reduce the risk of telepractice, employers, including provincial or corporate telehealth services, should:

- ensure they hire nurses with the appropriate education, skills and experience to provide telephone advice;
- provide adequate staffing, orientation and training;
- develop written protocols to ensure proper triage, information-gathering, assessment, advice, and referral;
- ensure ongoing evaluation of protocols for relevancy and accuracy;
- ensure procedures comply with the applicable privacy legislation; and
- provide a system for reporting and follow-up of unusual occurrences.

The nurse should:

- talk directly to the client;
- allow for adequate “talk time”;
• collect adequate data;
• adhere to applicable protocols;
• avoid leading questions;
• avoid medical jargon;
• avoid accepting client self-diagnosis;
• avoid stereotyping callers or problems;
• be sensitive to language and cultural barriers; and
• suggest an alternative type of health care service if communication difficulties are encountered (e.g., emergency room).

The case of *Poole v. Mills Memorial Hospital* highlights the importance of taking time and care in dealing with a call. In this case, an emergency room nurse took the call of a man who asked what would happen if someone took six 50 mg tablets of Imipramine. He spoke in a calm, rather annoyed manner. The nurse knew little about Imipramine other than it was an antidepressant. She started to look it up in the CPS, but noticed a doctor sitting at the nursing station, so she asked him the same question. The doctor replied that 300 mg was within therapeutic range. The nurse relayed this information to the caller. The caller then asked whether the drug could cause hallucinations or confusion. The nurse told him something to the effect that “if it did, the person would sleep it off.”

Shortly thereafter, the doctor decided to call the man back to find out more information only to discover the nurse had not asked the caller any questions, including his name and phone number.

The nurse therefore did not know that, before the man called, he had found his wife hallucinating and disoriented. She had recently been hospitalized with severe depression and had stopped taking the Imipramine prescribed to her. The man found his wife’s bottle of Imipramine empty, whereas it had recently contained 90 pills. He asked his wife how many pills she had taken. She kept giving him different numbers, though all the numbers were under 10. That was the real reason behind his call to the poison control centre, which was the local emergency room.

Within an hour of his call inquiring about Imipramine, the man brought his unconscious, cyanotic wife to the hospital. Resuscitation attempts failed. An autopsy revealed she had taken over 80 tablets of Imipramine. In the ensuing lawsuit, the nurse was found negligent for failing to pursue the matter further by asking pertinent questions of the caller.

**Summary**

Nurses should be familiar with their licensing body’s guidelines and professional standards relating to the provision of telephone advice and telephone nursing triage. The Canadian Nurses Protective Society is also available to you to discuss liability issues related to providing telephone advice and other areas of your nursing practice.

2. See, for example: College of Nurses of Ontario, *Telepractice* (Toronto: Author, 2005) and College of Registered Nurses of Manitoba, Telephone Consultation (Winnipeg: Author, 2008).

*N.B. In this document, the feminine pronoun includes the masculine and vice versa.*

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