Canadian Nurses Protective Society

infoLAW®

Emergency Room Closures

Vol. 20, No. 3,
July 2012

In the face of scarce health human resources, amalgamation of health services and changing demographics, some hospitals have been forced to close their emergency departments temporarily or permanently. Communications to this effect must be made widely to the public by the hospital or health region. Consequently, a nurse encountering an emergent patient during a closure would be by chance rather than by design.

Emergency room and outpatient department nurses may worry about their legal obligations during a closure. Given that a health institution can generally set the parameters for the administration of nursing care on its premises, nurses may feel divided between their professional inclination to assist patients who present despite the closure, a belief that they are prohibited from doing so by the decision to close the emergency room, and the challenge of providing emergency assistance without the resources available when the department is open.

Does a nurse have a duty to a patient who presents at a closed emergency room?

At present, Canadian courts have yet to address this specific situation. However, at least one decision suggests that in a true emergency, where the life of a patient may be at risk, a court may not consider itself bound by internal organizational rules to determine if a duty of care existed. In that case,[1] a patient presented in the emergency department with suspected myocardial infarction. The emergency physician on duty was otherwise occupied in the surgical suite. The court found that another physician who was working in the hospital, but not on duty or on call in the emergency department, had a legal duty to provide assistance to the patient when asked to do so by nursing staff. Similarly, a court may find that a nurse who encounters an emergent patient during a closure has a duty to assist by acting within the scope of nursing legislation and regulation,[2] by acting within her knowledge and skills, and by calling for help, if intervening in the above noted ways would be of greater benefit to the patient than being redirected to the closest emergency service.

Risk Management Considerations in Planning for a Closure

A contingency plan formulated in advance of a closure would address any uncertainty and likely lead to better patient outcomes. The plan should include a public component to notify the population of the closure, and an internal plan to adequately inform staff of the closure and how to attend to the emergency patients that may present despite the notification.

Communication to the public

The hospital must take steps to communicate to the public and external emergency services (ambulance services, after care clinics, etc.) if it cannot offer emergency medical care temporarily or permanently.[3] Various methods of media could be used, including public broadcast and signage at strategic locations advising would-be patients of the recommended course of action, such as going to the closest hospital with emergency services.

Communication between management and nursing staff

Good communication with frontline staff will be key. Nurses affected by the closure should be given information about the timing of the closure, any diversions to other hospitals that have been arranged, what is expected of nurses by their employer, and contact details for the most responsible administrator. This is particularly important if an outpatient department entrance remains open for persons to access the building for reasons other than emergent care. That fact alone may mean patients, or those accompanying them, arrive in the hope and expectation of emergency care despite posted information about the closure.

Patient Management

It is common and usual practice for doctors and nurses to work as a team in emergency care. Medical directives, verbal orders, regulations and policies empower nurses to act very quickly. As a result, nurses can act prior to a physician assessment and written orders. In normal circumstances, medical assessments and orders will be made soon after, during the same episode of care. In the altered circumstances of a closure, this will not occur since the unit will generally not be staffed with doctors and nurses.

A plan regarding patient management might identify approved practices to assist patients who seek urgent care despite the closure. The plan may consist of nursing assessments, any legally authorized nursing practices (including First Aid, BCLS or ACLS for nurses with this extra certification), and assisting the patient or companion to obtain other emergency medical services. It would be based on the scope of nursing practice and would be in compliance with the hospital's efforts to redirect such patients to a facility where their needs could be met. Such intervention cannot and will not encompass all of what emergency and outpatient nurses are accustomed to providing their patients in usual circumstances. It may also identify practices which are outside the scope of nursing practice and should not be implemented in these altered circumstances, such as ordering tests or administering unprescribed medications,[4] which are usually implemented pursuant to an order, directive or protocol. If there are directives for nurses in place, by a physician or nurse practitioner orders, the health facility should decide if they are suspended during a closure since there will not be a doctor or nurse practitioner to oversee the course of patient care.

Please contact CNPS at **1-800-267-3390** if you have questions regarding the professional implications of emergency room closures and visit our website at **www.cnps.ca**.

---

1. *Egedebo v Windermere District Hospital Assn,* 1991 CanLII 1921 (BCSC) (online: http://canlii.ca/t/1crqw).
2. For example, Ontario Regulation 275/94 (General) made pursuant to the *Nursing Act, 1991*, s15(4)2 and s15(5) authorizes Ontario RNs and NPs to start an i.v. of normal saline if they have the knowledge, skill and judgment to perform the appropriate assessment and procedure, when delaying its establishment would harm the patient. Section 15(4)2 reads as follows:

   > Venipuncture to establish peripheral intravenous access and maintain patency, using a solution of normal saline (0.9 per cent), in circumstances in which,
   >
   > i. the individual requires medical attention, and
   >
   > ii. delaying venipuncture is likely to be harmful to the individual.

3. *Baynham v Robertson* (1993), 18 CCLT (2d) 15 (Ont Gen Div).
4. An example of a medication a nurse might assist a person in taking is their own prescription nitroglycerin.

Related infoLAWs of interest: Emergency Room Nursing, Negligence. Available at **www.cnps.ca**.

N.B. In this document, the feminine pronoun includes the masculine and vice versa except where referring to a participant in a legal proceeding.