Lesbian, gay, bisexual and transgender patients or clients
Guidance for nursing staff on next of kin issues

Conclusion
Nursing staff should:

- Be sensitive about the way they request information from patients, using language which is inclusive, and neither offensive nor embarrassing.

- Ask for a contact person to whom information should be given, rather than using the term ‘next of kin’. They should also find out the names of those people the patient wishes or does not wish to have contact with.

- Challenge heterosexist, homophobic, biphobic, transphobic and any other discriminatory attitudes and behaviour in nursing colleagues, clerical staff, other patients and service users.

- Make it safe for LGBT patients and LGBT parents of children who are patients to be open about their relationships, so that families can be supported during times of illness. This includes respect for privacy and confidentiality.

- Be mindful that there are laws relating to all of these issues in order to promote and achieve sexuality equality and outlaw discrimination.

Nursing practice should be to ensure that clients and their partners or significant others are treated with dignity and respect, irrespective of their gender or sexual orientation.

References

Guidance on combating transphobic bullying in schools (Home Office 2010) at www.gendertrust.org.uk/assets/Schools_TransphobicBullying.pdf and www.stonewall.org.uk/educationforall


Resources
Gender Identity Research and Education Society
www.gires.org.uk

Mind for better mental health
www.mind.org.uk

PACE – Project for Advocacy, Counselling and Education – promoting lesbian and gay health
www.pacehealth.org.uk

RCN-accredited Sexual Health Skill e-learning course
www.gre.ac.uk/schools/health/current_publications

Stonewall – equality and justice for lesbians, gay men and bisexuals
www.stonewall.org.uk

The Gender Trust
www.gendertrust.org.uk

Lesbian, gay, bisexual and transgender patients or clients
Guidance for nursing staff on next of kin issues

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Discrimination by health care staff

The RCN recognises that stigma, prejudice and discrimination does still exist towards LGBT people and that many of their specific health care needs are not recognised (see RCN. The nursing care of lesbian, gay, bisexual and transgender clients – guidance for nursing staff). Discrimination against these client groups is called ‘homophobia’, ‘biphobia’ and ‘transphobia’. Heterosexism can also present itself: this is the automatic assumption that everyone is heterosexual and that heterosexuality is inherently superior to, and preferable to, other sexualities. This can mean established working practices lead to unequal treatment eg treating a homosexual partner differently to a heterosexual partner.


For legal matters, such as consent to treatment for a person unable to freely give it for her or himself, refer to latest judicial rulings and/or legislation. The underlying rule must be to always act in the patient’s best interest.

Children with LGBT parents

LGBT parents may suffer at the hands of society’s prejudices and positive health care support can be a great consolation. Having a family, whether it be a same sex couple or a family unit or a couple. A gay man who has fathered a child is able to apply for a residence order if he lives with the child, or he can be granted parental responsibility by the birth mother. A court order, like a residence order, clarifies whether an individual has parental responsibility and gives nursing staff clear authority to recognise such relationships. However, in practice, many lesbian and gay parents may choose not to seek such formal action. Any person who is involved with a child would expect to be included in their care if the child was in hospital or being nursed in the community. It is in the child’s interest that such relationships continue uninterrupted.

Confidentiality, access, information and documentation

When eliciting information about partners or ‘significant others’, nursing staff need to tell patients the reason for the request and how the details will be recorded. It is also important to ascertain from patients who they wish information to be given to and who they might wish it to be withheld from. This applies to seeking medical information to be given to visitors, and anyone over the telephone. Where the patient is unable to state their own views, individual circumstances should be considered. Nursing staff should not make judgements themselves and should also remain alert to the potential for conflict with other relatives. Local guidelines should be devised to deal with this kind of situation.

The RCN recognises that stigma, prejudice and discrimination does still exist towards LGBT people and that many of their specific health care needs are not recognised (see RCN. The nursing care of lesbian, gay, bisexual and transgender clients – guidance for nursing staff). Discrimination against these client groups is called ‘homophobia’, ‘biphobia’ and ‘transphobia’. Heterosexism can also present itself: this is the automatic assumption that everyone is heterosexual and that heterosexuality is inherently superior to, and preferable to, other sexualities. This can mean established working practices lead to unequal treatment eg treating a homosexual partner differently to a heterosexual partner.

Gender reassignment

This is law in the UK, the Gender Recognition Act 2004 and Civil Partnership Act 2004, Sex Discrimination (Amendment to Legislation) Regulations 2009).

The Royal College of Nursing (RCN) celebrates diversity through a commitment to developing and promoting good practice and equal care to all patients. The RCN has actively championed numerous positive changes in UK law in favour of equality for lesbian, gay, bisexual and transgender (LGBT) people, and continues in its efforts to challenge all forms of stigma, prejudice and discrimination in health care.

The legal position

Many health care professionals will only discuss a patient’s issues with a ‘next of kin’. This is – unofficially – presumed to mean a blood relative or heterosexual spouse. For day-to-day care of clients without a registered partner or spouse, the patient/doctor’s wishes in whom they choose as a nominated person should be respected. This may include a partner or friend not registered in law.

The Children Act (2000) and the Mental Health Act (2007), in line with the Civil Partnership Act (2004), require instead to ‘treat equally’ ‘nominated person’ and those with ‘parental responsibility’ or ‘guardianship’.

For legal matters, such as consent to treatment for a person unable to freely give it for her or himself, refer to latest judicial rulings and/or legislation. The underlying rule must be to always act in the patient’s best interest.

Dealing with death

Provisions within the Human Tissue Act of 1961 allow a non-relative to receive a body, arrange a funeral and give permission for a post-mortem to be carried out. According to the act, if a person dies in hospital, the hospital authority has lawful possession of the body and the hospital administrator has legal authority to direct that organ or tissue transplantation takes place. This is provided that reasonable enquires have been made which show that it would not be against the wishes of the deceased nor their relatives. A same-sex partner or partner of a transsexual person could therefore have legal rights if there is a registered partner, or a spouse of a transsexual person, then they would have the same legal rights and obligations as a heterosexual married person.

When a same-sex or transgender partner has been bereaved they may not receive the same support and recognition as a heterosexual partner. There are specialist counselling services available and nurses can find out about these by contacting their local gay and lesbian switchboard or The Gender Trust (www.gendertrust.org.uk).