

Avoiding litigation: legal-based mediation education for nurses

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Introduction

In response to an increasing number of litigations relating to medical errors and growing awareness of patients' rights, training for a medical mediator, who engages in a mediating role in a hospital, is in progress. Mediation is a dialogue based negotiation, and is one of conflict management models, which aims to resolve confrontations resulting from different values and interests held between individuals or nations. Mediation also aims to manage individuals' psychological and emotional conflicts.

Following the establishment of a medical safety administration department at our institution in 2003, multidisciplinary teams including nurse medical safety officers have taken the lead in tackling prevention of in-house medical errors. The activities included mediation education for nurses, in which the legal aspects of various problem cases were discussed with the guidance from the hospital's legal advisors. By enabling nurses to act as first responders to a problem using mediation skills based on direct conversation, it was expected that nurses could promote good communication between patient and medical staff prior to escalation of a situation to something serious like medical litigation.

This poster describes our mediation education program. We hope that sharing our experience would facilitate discussion of how to design an effective training program for medical mediators.

The Outline of Mediation Education

Nursing administrators presented problem cases they were personally dealing with and then discussed these cases in groups. The hospital's legal advisors commented on legal aspects and participants learned how to build good legal and ethical relationships as a nurse.

Results

The First Session date:2013-8-28

In the first session, 20 nursing administrators and 6 legal advisors examined two cases regarding "dealing with family." Key words included "family registration law", "legal heirs" and "livelihood protection law", and the definition of family was thoroughly debated.

The Second Session date:2013-9-25

In the second session, a topic of "dealing with a patient's verbal abuse and violence" was discussed by 22 nursing administrators and 6 legal advisors. Key words of this session were "patient's competence in decision-making", "a charge relating to infliction of bodily injury", and "criminal intimidation."

The nursing administrators received legal advice on how to deal with situations where nurses are exposed to immediate danger. In particular, nursing administrators realized the importance in discussing these issues in nursing and multidisciplinary conferences, if the issue can be solved by medical teams or if patients' violence and verbal abuse result from their illnesses.

The Third Session date:2013-10-9

In the third session, a topic of "nursing records" and "personal information" was discussed by 19 nursing administrators and 4 legal advisors. Key words of this session were "nursing records", "personal information", "legal admissibility of evidence" and "confidentiality obligation."

The nursing administrators received legal advice on "Sexual harassment is an illegal act.", "it is needed an organizational approach rather than personal approach.", "Nursing records have legal admissibility of evidence." and "Validity of personal information is sharing information."

The Forth Session date:2013-12-11

In the fourth session, a topic of "physician's order" and "nursing records" was discussed by 21 nursing administrators and 6 legal advisors. Key words of this session were "specific nurse", "medical practice" and "receiving physician's order."

The nursing administrators received legal advice on "To allow a nurse to do treatment is required a comprehensive order, but it is necessary to order concretely and record continuous observation in nursing documents."

The Fifth Session date:2014-1-22

In the fifth session, a topic of "decision making" and "a fee paid by a patient to enable to him/her to use a treatment room beyond the range of the patient's health insurance" was discussed by 20 nursing administrators and 6 legal advisors. Key words of this session were "decision making", "patient administration", "public assistance" and "advance directives."

The nursing administrators received legal advice on "It is important right of self-determination based on patient's view of life and death.", "There is no way of being discontinued when a patient makes a decision by him/her after receiving explanation of merit and demerit of a treatment.", "A grave decision-making is given effect.", "a fee paid by a patient to enable to him/her to use a treatment room should be obeyed the hospital rule."

The Sixth Session date:2014-2-26,3-12

In the sixth session, a topic of "unauthorized access to electronic health record system," "disclosure of personal information," and "Social Network Service" was discussed by 59 nursing administrators and 6 legal advisors. We summarized past five sessions in this session.

The nursing administrators received legal advice on how to deal with documents of confidentiality obligation for nursing students, defamation of a person or hospital written in SNS, and personal information of an employee on the hospital homepage, etc.

Outcome

The researchers selected the nursing administrators and the cases discussed, and 61 out of 84 nursing administrators participated in the first to five sessions. In the sixth session we invited 61 nurses higher than a chief nurse among nursing administrators in order to summarize those legal study sessions, and 59 nursing administrators participated in the session.

We exchanged opinions freely with layers and had the meaningful times. It was an opportunity to consider whether the daily troublesomeness was ethical or legal problem. Then the nurse managers appropriately guide those staff nurses by realizing the importance of nursing documents more, and they have attempted to stand against a patient causing trouble in resolute attitude

Discussion

In addition to providing an opportunity for thinking from an ethical perspective, which is integral to nursing, consideration of problem cases from a legal standpoint during discussion with legal advisors enables nurses to acquire the skills to not only build relationships with patients but also protect themselves as nurses.

The outcomes of this educational program have not yet been evaluated. However, it is expected the continuance of this educational program would lead to desirable changes in the behaviors of nursing administrators.