Impaired Nurses: Reclaiming Careers

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By
Emil Vernarec

She may suffer from depression. He may depend on drugs or alcohol just to get by. She may hide a medical condition that's slowing her down. But do they know that more and more nursing boards are intervening to provide help?
By ANDREA SLOAN, RN, JD, and EMIL VERNAREC

ANDREA SLOAN is an attorney in private practice in McLean, Va.She specializes in healthcare and employment law, bioethics, and risk management. EMIL VERNAREC is a senior editor on RN.

Jane had been a med/surg nurse for 20 years. Recently, marital and family problems were pushing her toward a breakdown. One night at work, she took a Xanax from a patient's medication drawer. It helped ease her tension. So from then on, she took more meds, working her way up to narcotic analgesics.

Confronted by her manager, Jane indignantly denied any wrongdoing and resigned immediately. Over the years, Jane moved through a series of nursing home jobs, quitting whenever a supervisor became suspicious of her. At her last job, she was caught hiding a syringe containing morphine in her pocket. She lost her job, was arrested for possession of a narcotic, and, followinga conviction, lost her nursing license.

Kevin, an orthopedic nurse, had begun weekend binge-drinking in college. Eight years later, he still indulged in the habit several times a month. He denied being analcoholic because he could "control" his drinking. One Monday, Kevin came to work clearly hungover. He told his manager that he had been up late with some friends. But during that shift, he administered the wrong antibiotics to two patients with similar names.

When the error became known, a co-worker who had been at the party reported Kevin's drinking to the nurse manager. Kevin was fired. His manager made no mention of the drinking, just the medication errors, fearing a lawsuit for defamation of character.

Millie suffered from clinical depression. A few days a month, she simply could not manage to make it out the door. At first her co-workers were sympathetic; lately, though, her unreliability, her glumness, and her increasing isolation had become an annoyance. After showing up late for work three times in one month, Millie was fired. She made a weak suicide attempt, taking a small overdose of sleeping pills and then calling her daughter. The ED physician who treated her felt obligated to report the suicide attempt to the Board of Nursing. After a hearing, her license was suspended for two years.
Linda had a "bad back." Her disc problems had worsened over the years to the point that the pain made it impossible for her to walk. Her doctor advised surgery, but Linda, a single parent with college-age children, felt she couldn't afford the time off.

With increasing frequency, she took shortcuts just to make it through her 12-hour shifts. On one particularly busy day, when the ICU was short-staffed and Linda was in extreme pain, her patient coded. Linda could not get up out of her chair to assist. The patient died. Linda was fired and her inaction was reported to the state board, which suspended her license for two years.

You may know a nurse just like one of these—no longer able to practice with reasonable skill and safety because of impairment from drugs, alcohol, a mental health disorder, or physical illness. Their impairments put their patients at risk, cost them their jobs, and jeopardized their nursing licenses.

There is no question that action was necessary, given the risk to patient safety. What's troubling is that, in each case, a treatable medical condition had to be handled through a disciplinary process.

In 1992, when RN last reported on nurses impaired by substance abuse, only 13 state Boards of Nursing provided an alternative to a disciplinary approach.1 Legislation to establish such programs was pending in 18 other states. Today, according to the last survey by the National Council of State Boards of Nursing, 37 states have some type of program to channel impaired practitioners into treatment and rehab, monitor their return to work, and spare their licenses.2

In addition to rehabilitating nurses with chemical dependence, most of these programs also serve nurses impaired by certain mental illnesses, such as anxiety, depression, bipolar disorder, and schizophrenia. Some cover nurses with physical disabilities as well.

Compassion has practical advantages

Several factors have led state boards to adopt such programs. First, a punitive system creates barriers to reporting and keeps impaired nurses from getting help.Nurse colleagues or practitioners who are treating an impaired nurse may well hesitate to report something that could cost a nurse her job and license.

From an employer's standpoint, the fear of litigation often makes it easier to dismiss a nurse without charges of misconduct. But this practice leaves the nurse, who is at risk of harming patients and herself, free to seek work elsewhere.

Even if a nurse is reported to the state board, a purely disciplinary approach to impairment not only shows an utterly "un-nurse-like" lack of compassion, it doesn't adequately protect the public. A board investigation can take months, during which time the nurse in question can continue working without restraint. If she is licensed in another state, she can simply move away to avoid disciplinary action altogether.

A perfect example is the story that appeared last fall in the Chicago Tribune's series on nurses and medical errors. Placed on probation in June 1994 for diverting pain meds, one nurse job-hopped, continuing to divert drugs for four years before her license was suspended indefinitely, in May 1999.[3]

By contrast, in the same time period, a nurse referred to an impaired practitioner program could be well on her way to recovery and back to work under close monitoring. A review of Florida's Intervention Project for Nurses—the first of its kind, established in 1983—reported recovery rates of 75% in nurses addicted to drugs or alcohol.[4]

Finally, an alternative program is cheaper to administer than an investigation. In the Diversion Program set up by the California Board of Registered Nursing, the cost of participation in a four-year program for chemical dependence is about a third the cost of pursuing traditional discipline for a single violation.

Recovery calls for commitment

Impaired practitioner programs go by various names. Florida calls its program the Intervention Project for Nurses; other states, including Texas, use the term "peer assistance" in their program names. Still others, like California, call it a "diversion program" (because nurses are diverted from discipline to treatment) or an alternative program.

Although they fall under the jurisdiction of the state boards, these programs are generally administered by contract agencies or organizations. They are not a cake walk: Nurses must make an average commitment of two to five years of active participation in treatment and monitoring.

But in return, depending on the nature and severity of the impairment, most states will let a nurse maintain his or her license in good standing during and after participation. Some states, such as Massachusetts, however, require that a nurse surrender all other current licenses until she has successfully completed the program.

What it takes to undergo rehab

While no two programs are exactly alike, here's the general pattern they follow:
Often, a nurse does not learn about a program until she is under investigation or facing the loss of her license. Some state boards contact the nurse after receiving a complaint (including anonymous ones) from an employer or a concerned co-worker and offer her the chance to participate. But ideally, a nurse volunteers on her own.

Some programs are open only to practitioners currently licensed by that state's board. In some states, though, nursing students and RNs licensed in another state, but who are applying for a license in that state, can participate.

Strictly speaking, all the programs are voluntary—although in many instances, the only alternative is suspension or revocation of a nurse's license. A nurse entering a program undergoes an extensive interview and evaluation and signs an agreement that contains specific terms and conditions tailored to her impairment. It is legally binding.

Nurses must also agree not to use nonprescribed mood-altering substances including drugs and alcohol. Failure to comply can mean expulsion from the program and immediate disciplinary action.

The type of treatment required depends on the nature and level of a nurse's disability. Chemical dependence and severe psychological or physical impairments may require immediate inpatient treatment. All programs require counseling and ongoing participation in support groups, with periodic progress reports. For substance abusers, attendance at a 12-step program such as Alcoholics Anonymous or Narcotics Anonymous is mandatory, as are random urine drug screens and blood alcohol tests, sometimes under a highly restrictive policy—one positive test and you're out.

Although participation in the monitoring program itself is usually free, or at minimal cost to the nurse, the costs of treatment and drug screens are the nurse's responsibility. Her health or disability insurance may cover all or most ofthese costs, but co-pays and treatment costs beyond the usual fee an insurer covers may still present a serious financial barrier, especially to a nurse who has to quit working to participate.

The return to work

The ability to work during treatment is an important incentive to keep participants compliant. Initially, a nurse may be required to stop working immediately so she can be assessed and then focus on recovery. However, once she meets specific criteria—often in as little as two weeks—and is deemed fit to work, she can return to nursing.

In most programs, she will need to notify her employer that she is taking part in an impaired practitioner program. She will also be assigned a workplace supervisor, who will communicate regularly with the program director about the nurse's work performance and progress in recovery.

Some job modification—such as a change to a less stressful job or shift—may be necessary to make the work environment conducive to recovery and to ensure adequate monitoring. Chemically dependent nurses are not permitted to work in settings where they have access to controlled medications. Generally, the intensity of participation and monitoring is reduced after a period of proven compliance with prescribed treatment plans.

Measures to ensure patient safety

Because of the need for close supervision, an impaired practitioner is usually not allowed to work for multiple employers, to be self-employed, to do agency nursing, to take on private-duty assignments for a nursing registry, to work inhome health, or to be floated to other units. Any job change must also be approved by the program director. Some programs don't allow a nurse to continue to participate if she moves out of state.

Eligibility requirements also serve as a public safety net. Nurses who have caused serious patient harm or death, or who are otherwise judged to be too great a risk to patients, usually do not have the option to participate in diversion programs.

The same may hold true for nurses who have previously been disciplined for drug or alcohol dependence, nurses terminated from another state's program for lack of compliance, and nurses with a history of selling or diverting drugs to others, felony convictions, or sexual misconduct.

Many programs have a zero-tolerance policy for nurses who do not comply with their treatment course—one slip and disciplinary proceedings will begin immediately.

Finally, a nurse who has stolen drugs may face criminal proceedings independent of the Board's decisions about her license. In some cases, a nurse may be required to participate in an impaired practitioner program as a condition of her probation and plea agreement. She may even avoid having a permanent criminal record if she completes the program.

Clearing the record

One of the greatest fears expressed by nurses about impaired practitioner programsis the loss of confidentiality. Complete confidentiality, of course, is impossible, since a nurse is required to attend support groups, and when she returns to work, she must tell her employer that she's taking part in an impaired practitioner program.

Nurses may worry that, despite guarantees, their employers will find a reason to fire them and that no one else will want to hire them. With some employers, these fears may be justified; however, federal and some state laws protect employees with disabilities and guarantee medical leave under certain circumstances. (Seet he box on page 61 for more information on the federal laws.)

Most impaired practitioner programs make specific provisions to ensure as much confidentiality as possible. For example, in some states, a report of a nurse's participation in a program will not be entered into licensure records or will be removed once she successfully completes the program. In most states, records that are kept cannot be subpoenaed or made a part of a court proceeding.

The federal Public Health Services Act also gives specific protection to certain medical records of drug and alcohol treatment and rehab.[5] Such records cannot be disclosed without the patient's consent (or a court order) and can't be subpoenaed or used in criminal proceedings. Unauthorized disclosure may result in civil or criminal penalties.

New reporting requirements give an impaired nurse an even greater incentive to accept the minimal incursions on privacy required by a diversion program rather than face disciplinary proceedings. The incentive: She can avoid having the details of her impairment turn up on a recently implemented national data bank. As of November 1999, federal and state government agencies (including nursing boards) and health plans have been required to report to the Healthcare Integrity and Protection Data Bank (HIPDB) all final adverse actions taken against a healthcare provider, supplier, or practitioner since August 21, 1996.[6]

How nurses can get help or help a colleague

At a minimum, a nurse should be able to recognize the signs and symptoms of impairment—in herself or a co-worker (see the box at right). In addition, nurses should find out whether their state board has an impaired practitioner program and what conditions it's designed to handle. (You can find contact information for each state Board of Nursing on the Web site of their national council, www.ncsbn.org).

If your state does not offer an alternative to discipline, get involved with your state nursing association to support legislation to establish one.

Every nurse has a duty to uphold the standards of her profession by reporting a nurse whose impairment makes her unfit to practice. While it may be difficult to report a colleague, covering up or ignoring the problem poses serious safety risks. And most state boards accept anonymous reports, so you can maintain your confidentiality. Where state law requires hospitals and healthcare providers to report practitioners for impairment or unprofessional conduct, it also grants immunity from civil liability as long as the report is made in good faith.

Finally, if you believe you are suffering from a health disorder that impairs your ability to safely practice nursing, make the effort to get help. Your action today can protect your patients, your family, your career, and even your life.

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FEDERAL PROTECTION FOR IMPAIRED NURSES

Nurses may be concerned that taking part in animpaired practitioner program could cost them their jobs. For most nurses, two federal laws offer protection against discrimination and can assure nurses of continued employment while they undergo rehabilitation.

The Federal Family and Medical Leave Act offers eligible employees 12 work weeks of unpaid leave per year for treatment for a serious health condition—which would include impairment from substance abuse, mental illness, or a physical disability that keeps a nurse from performing an essential function of her job. 1 The FMLA guarantees that upon returning from leave, the employee will be given the same job, or an equivalent one. This leave can be taken in increments as small as one hour. (For more onthis topic, see "Legally Speaking," RN, September2000.)

The Americans with Disabilities Act protects qualified individuals against discrimination in job application procedures, hiring, advancement, discharge, compensation, training, and other aspects ofemployment. 2 Mental illnesses and serious physical impairments, including chemical dependence, are likely to be covered under this law. The law also requires employers to make reasonable accommodations for an individual with a disability. For a nurse, this could include reduced work schedules or specific shifts that allow time for therapy. The ADA does not protect a nurse who is unable to perform the essential functions of the job because of her disability and does not offer protection for illegal drug use.

References

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2. U.S.Equal Employment Opportunity Commission. U.S. Department of Justice Civil Rights Division. "Americans with Disabilities Act. Questions and Answers." www.usdoj.gov/crt/ada /qandaeng.htm (8 Nov 2000).

NURSES ARE AS VULNERABLE AS ANYONE ELSE

Alcohol and drug abuse is no more prevalent among nurses than it is among the general population, says Alison M. Trinkoff, RN, ScD, FAAN, professor at the University of Maryland School of Nursingin Baltimore. But, she says, nurses are more likely to use prescription drugs "on their own"—that is, without a prescription, in greater quantity than prescribed, or for reasons other than those prescribed—and certain aspects of their workplace may put them at greater risk of substance abuse. Trinkoff's most recently published study, based on a national survey of 3,600 nurses, found that nurses were significantly more likely to engage in substance abuse if they had easy access in the workplace to prescription drugs, social ties with substance abusers, decreased adherence to conventional societal norms, and role strain, which was measured through ratings on job demands and depressive symptoms.

% OF NURSES WHO REPORT…

Depressive symptoms
18.8%
Heavy alcohol use*
17.0
Use of prescription drugs ("on their own"**)
6.9
Illicit drug use
3.8

* Defined as "consuming five or more drinks on one occasion."

** Used without a prescription, in greater quantity than prescribed, or for reasons other than those prescribed.
Source: Trinkoff,A. M., Zhou, Q., et al. (2000). Workplaceaccess, negative proscriptions, job strain, and substance use in registerednurses. Nursing Research,49(2), 83.

WARNING SIGNS OF IMPAIRMENT

The Texas Peer Assistance Program for Nurses lists the following behavior patterns as warning signs that a nurse may be impaired by chemical dependence or a mental health disorder.

Alcoholism
Irritability, mood swings
Elaborate excuses for behavior; unkept appearance
Blackouts (periods of temporary amnesia)
Impaired motor coordination, slurred speech, flushed face, bloodshot eyes
Numerous injuries, burns, bruises, etc., with vague explanations for same
Smell of alcohol on breath, or excessive use of mouthwash, mints, etc.
Increased isolation from others

Drug addiction
Rapid changes in mood and/or performance
Frequent absence from unit; frequent use of restroom
May work a lot of overtime, usually arriving early and staying late
Increased somatic complaints necessitating prescriptions of pain medications
Consistently signs out more or larger amounts of controlled drugs than anyoneelse; excessive wasting of drugs
Often volunteers to medicate other nurses' patients; may wear long sleeves allthe time
Increased isolation from others
Patients complain that pain medication is not effective or they deny receivingmedication
Excessive discrepancies in signing and documentation procedures of controlledsubstances

Mental health disorder
Depressed, lethargic, unable to focus or concentrate, apathetic
Makes many mistakes at work
Erratic behavior or mood swings
Inappropriate or bizarre behavior or speech
May also exhibit some of the same or similar characteristics as chemicallydependent nurses

Source: TexasPeer Assistance Program for Nurses/Texas Nurses Association.

www.texasnurses.org/foundation/tpapn/warningsigns.html **(10 October 2000).**
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