**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.
- 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**

General Practitioner’s Report (GPR) – BMA and Association of British Insurers at www.bma.org.uk and related material at www.abi.org.uk

Guidance on combating transphobic bullying in schools (Home Office 2010) at www.gires.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

**Written by Dr David T Evans, Senior Lecturer in Sexual Health, University of Greenwich, London.**
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.

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’, ‘transphobia’ or ‘heterosexism’. Heterosexism can also present late in disease.

The Nursing Care of Lesbian, Gay, Bisexual and Transgender (LGBT) People – guidance for nursing staff)

Work undertaken by the RCN, in which LGBT people were interviewed about their experience of nursing care, shows that some nurses refuse to acknowledge the status of a same-sex partner, denying visiting rights and access to information. There is no legal basis for these actions and they may be contrary to the NMC Code – Standards of conduct, performance and ethics for nurses and midwives (2008).

The civil partnership registration for same-sex couples, as far as health care is concerned, gives civil partners the same rights and responsibilities as married people. Likewise, transgender people who have their acquired gender recognised by law are entitled to change their birth certificates and to marry in their acquired gender. This is law in the UK, Gender Recognition Act 2004 and Civil Partnership Act 2004, Sex Discrimination (Amendment to Legislation) Regulations 2009).

The legal position

Many health care professionals will only discuss a patient’s issues with a ‘next of kin’. This is unethically – 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 (2004) and the Mental Health Act (2007), in line with the Civil Partnership Act (2004), refer instead to ‘nominated relatives’, ‘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 herself 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. Some LGBT people may have had their children within a heterosexual relationship, and, if they were married at the time of the birth, the biological father will automatically have parental responsibility. The biological mother has parental responsibility whether she is married or not.

The partner of a lesbian mother may have parental responsibility if they live together and have applied through the court for a residence order under the Adoption & Children Act 2002/the Children Act 2004. This would normally include granting authority to the non-biological parent to make health decisions and consent to treatment on behalf of the child. Gay man and lesbian women may now foster and adopt children as 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, 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 British Medical Association and the Association of British Insurers have issued guidelines which state that doctors do not have to reveal all aspects of their patients’ history, nor disclose incidents of STIs provided there are no long-term health implications.

Insurance companies should not ask whether an applicant for insurance has had a HIV or Hepatitis B or C test, had counselling in connection with such a test, or received a negative result.

Nurses also need to recognise that some LGBT people will not feel comfortable using various sexuality terms to label or define themselves to others and some will have concerns about such information being documented. Potentially complex situations can arise with transgender people in relation to single sex wards or received a negative result.

When a same-sex or transgender partner has been deceased 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).

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 has provided that reasonable enquiries have been made which show that it would not be against the wishes of the deceased nor their relatives. A same-sex partner or a registered civil partner, or a spouse of a transsexual person could therefore have legal authority to authorise transplantation. If they are a registered or a same-sex partner, in relation to single sex wards or received a negative result.

When a same-sex or transgender partner has been deceased 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).