On the duty to disclose the nurse anesthetist’s participation in anesthesia procedures

The authority of a physician and other health care professionals such as a nurse anesthetist, to treat a particular patient rests on that patient’s grant of consent. Care may not be rendered until a consent either has been secured or can be implied. For consent to be valid, it must be obtained only after the patient has been informed of the various risks, hazards, and complications associated with the particular procedure. In addition, information which describes the composition of the surgical team in charge of the procedure should be supplied. Included in this statement should be an indication that a nurse anesthetist may induce and/or maintain the anesthesia.

In an analogous situation, the American Medical Association (AMA) has provided some guidelines regarding disclosure of the health care team participants. The AMA’s Council on Ethical Practices has stated that patients should be informed that students, interns and residents may take an active part in the operation, and that their participation will be in accordance with their respective levels of skill and experience. Moreover, all procedures involving these individuals will be conducted under the supervision of the surgeon in charge.

It has been suggested by some health care professionals that the American Medical Association’s guidelines should be extended to include notice that a nurse anesthetist may conduct anesthesia procedures. In a previous article (June, 1977, AANA Journal), we discussed a case where a nurse anesthetist was found not liable for failing to have secured an informed consent. However, this may not cover the situation where the patient has or has not been informed that a nurse anesthetist will participate in the surgical operation.

Focus on nurse anesthetists

The precise contents of any suggested consent form will depend to great extent on both the laws of the particular state in which the nurse anesthetist practices as well as the character of the hospital setting. In situations where nurse anesthetists function under the direct supervision of an anesthesiologist, many hospitals provide that only the latter be identified and further require that information specifically associated with the administering and maintaining of the anesthesia be given.

In these instances, it is said that a nurse anesthetist functions as a member
of the surgical team, and hence, is included within that broad description, or the further description of the anesthesiologist or "his designee." Identification as such may be sufficient in many states.

It is, however, this author's opinion that in all situations it is more desirable to provide the patient with specific information as to the type of health care professional who will be both administering or maintaining the anesthesia. This is especially true if a separate anesthesia form is utilized—one which is in addition to the surgical consent form.

It should be remembered that completion of an appropriately drafted consent form is not compliance, as such, with the legal requirement. The consent form is intended merely to evidence the fact that an oral conversation took place with the patient, at which time he or she was given sufficient information to make an informed judgment as to whether to proceed with the planned procedure and that the patient in fact gave his or her consent.

If a nurse anesthetist is involved in obtaining the patient's consent, then, in all probability, the factor of participation has been effectively disclosed to the patient. However, since the primary purpose of any consent form is to document the contents of the oral conversation, it is desirable for this fact to also be included in the form.

On the other hand, unlike medical students and some interns, nurse anesthetists are fully licensed individuals who possess legal capacity to render the anesthesia services as delineated by state law or regulation. Hence, the need to disclose the nature of the activity to be performed by a nurse anesthetist is not as acute as with medical students.

In situations in which a nurse anesthetist is under the overall direction of a physician non-anesthesiologist, usually, it is incumbent upon the nurse anesthetist to ascertain that necessary information is given to the patient regarding the anesthesia procedure, possible complications, and the like.

The situation with respect to student nurse anesthetists again depends substantially upon the law of each particular state. In all situations, student nurse anesthetists are licensed registered nurses. However, in those jurisdictions which require either separate licensure or specialty certification for a registered nurse to be eligible to practice anesthesia, the situation is virtually parallel to the same situation with respect to medical students.

**What to include in a consent form**

An example of what has been deemed a proper consent form includes a statement to the effect that the patient has been informed and agrees that the surgery may be performed by a professional health care team of trained individuals including physicians, anesthesiologists, residents, interns, nurse anesthetists, and students. Furthermore, the form should indicate that any and all of these people may take an active part in the procedure commensurate with their skills, abilities, education, and experience in that particular procedure.

In providing information to the patient, prior to his or her signing the form, the doctor or nurse anesthetist should indicate that a nurse anesthetist is a licensed professional, educated in certain aspects of anesthesia induction and maintenance. Likewise, the patient should be informed that the nurse anesthetist will provide services within the limitations of his or her license. Where he or she is under the supervision of an anesthesiologist, this fact should be communicated.

Finally, in providing the information to the patient, the nurse anesthetist, under the overall direction of the surgeon in charge, should consider discussing the nature of the particular procedures and the possible complications. Areas of consent and the degree of information provided can be a very delicate situation.