Editorial Advisory Board

Correspondence

Dear Editors:

Nursing Law & Ethics seems to be getting better with each issue. The first three issues raised my concern that you were focusing solely on hospital nurses, especially staff nurses. While I believe that there is a need for articles addressing the concerns of this very important segment of the nursing profession, it is disquieting to see an entire journal ignore all other aspects of the profession for three months. The April issue's lead article is a very positive step. It begins to distinguish between nursing and medical care and to address areas of concern to nurses in other than the "traditional" hospital setting.

I believe it is very important for a professional nursing journal to be clear in its advocacy of nursing as a separate and distinct profession. This is an area in which I would hope to see some shifting of focus in *NLE*. Nathan Hershey blatantly misses this point in his article in the January issue. He encourages nurses to "capture . . . *anything* that physicians might be *willing* to *yield*" and then says that this would enhance nursing. This may not be his attitude but I must say it reads *very* poorly; further, the response to Veronica O'Day's letter in the March issue might have been better thought out. I agree that professionalism is promoted by a forum of open discussion, but I don't believe you provided that opportunity. I don't believe Ms. O'Day misread Mr. Hershey at all and would rather have seen a reply asking for further reader opinion on the subject or an article taking another perspective rather than Hershey's — this would have provided more of the open discussion to which you allude. Frankly, the editors' reply reads like a put down and might be somewhat intimidating to prospective correspondents.

There are two other points which I think fail to support the image and concept of nursing as a separate and distinct profession, one is specific the other vague. Specifically I would prefer the reference shelf section have a different title, other than Medicolegal (perhaps Nursing Law News) and be laid out differently. I would like to see items specific to nursing first and then a sub-section, perhaps titled related areas of concern, with references not specifically nursing. I do like the selected periodical articles and notice that many of the selection come from nursing literature. I would hope that very few of the selections come from literature that is specifically directed a physicians. I believe that all professions gain from reading each other's li erature but not to the exclusion of one own.

The more vague point is the overall flavor of the journal. I would hope to see it address issues of concern to nur ing as a profession. The first four issu seem to give a lot of space to nursing i response to medicine. I believe these issues are of crucial importance and I'm delighted to see a journal informin the practicing hospital nurse so well. The issues that are discussed are well covered and specific enough, in most cases, to be helpful to the practicing nurse in the hospital setting. Addition ally it is refreshing to see a journal speaking to practicing nurses in a man ner that assumes that they are both intelligent and concerned with the more in depth issues of hospital nursing pra tice. However, there are nurses practi ing in different ways and in other settings; I would hope *NLE* recognizes and supports this by addressing issues of concern to nurses in many differen settings.

I encourage you in your endeavor and commend your efforts in publishing a journal addressing itself to the legal and ethical questions in nursing. Overall I have positive feelings about the potential of such a journal. I like t *Dear Mary* column and hope to see it expand to include even more diversity

Please enter my subscription.

Sincerely,
Jennifer MacPherson,
R.N., Ph.D. Cand.
New York University
Division of Nursing

The editors thank you for your thoughtful comments and suggestion It is certainly expected that NLE *will include further articles of interest to nurses other than those who are hospital-based; however, nurses are still in greatest numbers in hospitals, and the legal and ethical issues faced by them are not unique to the hospita setting. Your comments about the Re erence Shelf are well-taken: note that the format and the name of this featu have been changed – it is now headed "Nursing Law & Ethics Reference Shelf."*

(Continued on page 9)

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the terminally ill for the "protection" of the rest of society.

The recent history of state statutes enacted to "legalize" Laetrile reflects a mistrust of both the FDA and the medical establishment. There is, however, still an opportunity to widen the Laetrile debate to include all drugs for the terminally ill, a debate which could result in a victory for patients over rigid rules that themselves produce unnecessary suffering. Currently, however, nurses must live within the law that in most states now prohibits the prescription or use of Laetrile, even by the terminally ill.[15]

References

1. *Tuma v. Board of Nursing*, 593 P.2d 711 (Idaho 1979).
2. *Rutherford v. U.S.*, 339 F. Supp. 1208 (W.D. Okla. 1975).
3. *Rutherford v. U.S.*, 542 F.2d 1137 (10th Cir. 1976).
4. *Rutherford v. U.S.*, 424 F. Supp. 105 (W.D. Okla. 1977).
5. *Rutherford v. U.S.*, 429 F. Supp. 506 (W.D. Okla. 1977).
6. 42 Fed. Reg. 39767-39806 (Aug. 5, 1977).
7. SOLZHENITSYN AI, THE CANCER WARD (Dell Pub. Co., New York, 1967) at 428.
8. The United States Supreme Court noted that there are currently more than 300 experimental cancer drugs available to critically ill cancer patients in authorized institutions, and that in 1977 more than 90,000 cancer patients participated in Veterans Administration and National Cancer Institute-sponsored research on these drugs. *U.S. v. Rutherford*, 544 U.S. 442 (1979), note 17.
9. *Rutherford v. U.S.*, 438 F. Supp. 1287 (W.D. Okla. 1977).
10. *Rutherford v. U.S.*, 582 F.2d 1234 (10th Cir. 1977).
11. *U.S. v. Rutherford*, 544 U.S. 442 (1979).
12. *Id.*
13. *Rutherford v. U.S.*, 616 F.2d 455 (10th Cir. 1980).
14. *Medicare and Medicaid Programs: Prohibition Against Payment for Less than Effective Drugs*, 45 Fed. Reg. 37858 (June 5, 1980).
15. Unless the parents can find a licensed physician willing to administer Laetrile to their cancer-stricken child, and unless the child is stable or improving on such a regimen, parents may not permit the use of Laetrile or other unproven remedies on their children. *See*, Horwitz E, *Of Love and Laetrile: Medical Decision Making in a Child's Best Interests*, AMERICAN JOURNAL OF LAW AND MEDICINE 5(3):271 (1979).

Correspondence *Continued*

As for Professor Hershey's January article and Ms. O'Day's letter – we regret any put-down which may have been read into our response. However, we still believe that Hershey presents some serious and valid arguments which must be addressed by professional nursing. In his article in this issue, Professor Hershey discusses, in depth, the controversial issues which he only touched upon back in January. We are pleased to give him the opportunity to do so – next month, NLE *will print a response to Professor Hershey's article.*

We invite comments from readers and will print all letters, with the expectation that true dialogue is the essence of resolving professional issues.

Dear Ms. Greenlaw:

In your article, *Responding to Patients' Requests for Information* (April, 1980) you seem to assume that nurses practice independently and with autonomy. This assumption is not valid and has probably never been true for nurses employed by hospitals. Thus, the suggestions for resolving ethical conflicts when a client requests information are overly simplistic and impractical.

By perpetuating this widely embraced and idealistic assumption, you grossly underestimate the comprehensive power of the medical establishment. The physician who is displeased with a nursing intervention can initiate actions which may range from loss of license to censure by nursing superiors. That punitive actions are taken against nurses is a widely accepted fact and a cause of fear to the staff nurse who acts as patient advocate. In addition, the legal system in this country which mystifies the physician-patient relationship upholds the practitioner's right to non-interference.

Those who are leaders within the nursing profession must confront consumers with their responsibility to educate themselves about medical care. It must be widely disseminated that medicine is NOT a science and that many treatments are simply trial and error attempts. This information should be presented with an approach that heightens the consumers' involvement in treatment and their right to self-determination. Authors who write about nursing ethics must stop making the nurse the "good mother" who feels guilty when the "decisive father" takes action. Dialogue between the professions is essential with the understanding that the consumer has the last word.

Very truly yours,
Kathleen M. Nokes,
M.A., R.N.
Brooklyn, N.Y.

Your letter expresses the important view held by a large number of nurses. I agree with you that many nurses fear retaliation when they act as patient advocate. I also agree with your final paragraph, that the health care consumer's right of choice is paramount.

There are, however, a number of points in your letter with which I disagree. The "assumption that nurses practice independently and with autonomy" is far from widely embraced – furthermore, in the April article to which you refer, I explicitly describe the nurse's role (in giving information to patients) and how that role combines with that of physicians. Of course, describing what nurses "can" do, or even what they "should" do, can only go so far: ultimately the individual nurse must decide what her course of action will be, and the decision is a deeply personal one.

As for the reality of punitive actions – I do not agree that the legal system in this country upholds the physician's right to non-interference. The Tuma *case discussed and quoted in my April article, does* not *support your statement, nor do any of the cases discussed in my February article on reporting incompetent colleagues. Nurses, independently licensed professionals, have a separate duty to patients which is exclusively within their own control. It* is *true that within institutions, medical groups may seek retaliation against nurses who speak out – a "reality of the workplace." But another reality is that nurses, if they support one another, have more power than any other health care group. It is when one nurse speaks out that retaliation is easy – it's not easy to retaliate against a large group of nurses. As long as nurses take the position: "I know I should speak out, but I can't because the doctor (or the hospital) won't let me . . ." then we remain as isolated individuals, rather than unified professionals.*

JLG.