Providing care in an emergency situation outside the work environment

This advice sheet has been written to provide supplementary guidance to that which can be found in The Code: Standards of conduct, performance and ethics for nurses and midwives, (the Code), on providing care in an emergency situation outside the work environment.

Duty of care

In the United Kingdom, there is generally no legal obligation on a person to provide care or assistance in an emergency situation. In essence there is generally no legal liability for omission to act. However, there are a limited number of relationships where courts in the United Kingdom have found that a positive duty of care exists. One such relationship is that which exists between a nurse or midwife and the person they are responsible for providing care to.

Legally nurses and midwives are required to act if they:
- have an existing professional relationship with the injured person
- have caused the situation which created the risk and resulted in injury to the person

Professional responsibility

In an emergency, in or outside the work setting, nurses and midwives have a professional duty to provide care. When considering providing care in an emergency situation nurses and midwives need to remember that they are personally accountable for any actions and omissions in their practice and must always be able to justify their decisions. Therefore, if a nurse or midwife chooses to walk away from an emergency situation they could be called to account for this.

Standard of care

Nurses and midwives who provide care in an emergency would be expected to employ the highest professional standard of care. They would be judged against what could reasonably be expected from someone with their knowledge, skills and abilities when placed in those particular circumstances. They would need to ensure that this is within the limits of their competence and that they are able to demonstrate that they have acted in the persons best interests.

The Code

The following principles are stated in the Code:
As a professional, you are personally accountable for actions and omissions in your practice and must always be able to justify your decisions;

You must be able to demonstrate that you have acted in someone’s best interests if you have provided care in an emergency;

You must recognise and work within the limits of your competence.

Liability

There are principally two means by which the risk of personal liability may be minimised. The first is by good practice and the second is by taking out adequate indemnity insurance.

The NMC recommends that nurses and midwives obtain adequate professional indemnity insurance. The Code states:

The NMC recommends that a registered nurse, midwife or specialist community public health nurse, in advising, treating and caring for patients/clients, has professional indemnity insurance. This is in the interests of clients, patients and registrants in the event of claims of professional negligence.

Whilst employers have vicarious liability for the negligent acts and/or omissions of their employees, such cover does not normally extend to activities undertaken outside the registrant’s employment. Independent practice would not be covered by vicarious liability. It is the individual registrant’s responsibility to establish their insurance status and take appropriate action.

In situations where an employer does not have vicarious liability, the NMC recommends that registrants obtain adequate professional indemnity insurance. If unable to secure professional indemnity insurance, a registrant will need to demonstrate that all their clients/patients are fully informed of this fact and the implications this might have in the event of a claim for professional negligence.

It may be helpful to explain that the NMC is not an insurance provider and is unable to provide information on the scope of an employer’s vicarious liability or on professional indemnity insurance. However, it is our understanding that the trade unions and professional bodies, e.g. CPHVA, MDU, Royal College of Nursing, Royal College of Midwives, UNISON do, as part of membership, include cover for ‘Good Samaritan Acts’. Nurses and midwives are still advised to seek further information on the scope of their employer’s vicarious liability insurance and professional indemnity insurance from their employer or their professional organisations/trade union.

Further information

- CPHVA http://www.amicus-cphva.org/
- MDU  http://www.the-mdu.com/
- Royal College of Nursing  http://www.rcn.org.uk/
- Royal College of Midwives http://www.rcm.org.uk/
- UNISON http://www.unison.org.uk/