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ETHICAL DILEMMA

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Ethical considerations for the nursing care of Transgender patients in the Intensive Care Unit

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Abstract

There is more discussion than ever surrounding the health and care needs of Transgender communities. However, there is limited research on the care of Transgender patients in the Intensive Care Unit which can contribute to knowledge gaps, inconsistencies and uncertainties surrounding health care practices. This article is not intended to address all of the specific needs of Transgender patients in ICU, but to explore the ethical considerations for caring for a Transgender woman in the ICU. In doing so, this article will explore some specific considerations around gender affirming care, challenging discrimination, physiological changes, and systems change to enhance care.

KEYWORDS

adult intensive care, ethical issues in practice, Transgender health

INTRODUCTION

Nurses have a responsibility to provide high quality, evidenced-based care to all patients, regardless of gender identity. This responsibility is enshrined within national and international professional codes of conduct, and founded upon the ethical principles of beneficence, ensuring our practice is to the benefit of our patients, and non-maleficence, ensuring our practice does not cause undue harm.¹⁻⁴ With visibility and discussion around gender diversity and the needs of Transgender patients growing across health care, specific consideration of the needs of Transgender patients is warranted.

In order to uphold a high standard of patient care, it is important that nurses are familiar with the physical and social considerations among Transgender patients. While there are still significant gaps in the evidence around caring for Transgender patients, by taking into account some of these considerations, nurses can eliminate preconceived bias and ensure that the care provided to patients is in accordance with the fundamental ethical principles that underpin clinical practice.

Within this article, we will consider issues of valid personal clinical data and the specificity of care related to Transgender patients, showcasing how the principle of beneficence may lead to dilemmas in maintaining patient confidentiality and promoting autonomy. We will then lay out some of the physiological considerations which might support clinical decision making, bearing in mind there is a dearth of evidence on this cohort of patients. We will also address the issue of discrimination in care, and challenging discriminatory practice. Concluding, we will highlight the wider systems issues in addressing justice for Transgender patients in ICU and beyond. We do not comprehensively address every aspect of care for a Transgender patient in this article; however, we signpost towards some of the ethical considerations for nurses to take into account, framed around a specific case.

The clinical case developed by the authors is designed to demonstrate the ethical challenges that can arise in critical care environments when treating Transgender patients. It is not representative of any specific case, but developed based on a collective series of clinical experiences. The authors of this paper are experienced nurses from

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critical and acute care backgrounds and the authorship represents both Cisgender and Transgender individuals.

BACKGROUND 2

While there is evidence of Transgender people living throughout history, it is undoubtable that discourse and visibility of Transgender people in society are greater than ever before and this is also the case in health care.⁵ The term Transgender or Trans is an umbrella term which refers to a person whose gender identity differs from the biological sex they were assigned at birth. Specifically, a Trans woman is a person who has been assigned as male at birth, may have had childhood experiences being identified as a boy, but goes on to transition to live as a woman. For many Trans people, their transition will include medical or surgical treatment to allow for their identity to be expressed physically; however, this is not always the case, and it is not necessary for a Trans person to receive any medical treatment to support a gender transition.

While there is a growing evidence base around the care and treatment of Trans people specifically related to medical and surgical interventions to assist transitioning, more general guidance on the care of Trans patients is lacking. With this lack of specific guidance, treatment decisions for individual Transgender patients can give rise to ethical concerns, such as deciding the degree to which it is necessary for the patient's Trans status to be known within the team. As discussed in a later section, it is important to ensure the correct balance of maintaining a patient's right to privacy whilst ensuring they receive the care that they need.

It is important to note that Transgender communities face specific health inequalities, especially in terms of mental health, suicidality and substance use disorders. These issues are confounded further by poor experiences of health care services.^{6,7} When nurses are aware that specific marginalized groups face inequities, there is an ethical and moral imperative for nurses to address this within their practice and the systems they work within. While not addressing all of these issues, this article hopes to inspire practice development and a more inclusive experience for Trans people in ICU.

3 **CLINICAL CASE**

Kellie, a 58 year old Transgender woman has been admitted to the Intensive Care Unit (ICU) for the treatment of sepsis secondary to a lower respiratory tract infection. Kellie is being supported with invasive mechanical ventilation and vasopressor therapy. Throughout the course of Kellie's admission, some concerns have been expressed by nursing staff who have never looked after a Transgender patient before, and more specifically there have been concerns raised about potential interactions between Kellie's hormone therapy and medication being used in the ICU. Kellie is legally recognized as a woman; however, her health records currently show a M in the sex record, as the health information system being used in the hospital does not

capture gender identity. Kellie has been prescribed the feminizing hormone oestrogen for the past five years, and also receives a gonadotrophin-releasing hormone analogue (GNRHa) by intramuscular injection every twelve weeks to suppress endogenous testoerone levels. She has previously undergone some facial cosmetic surgery and breast augmentation, but she has not had genital surgery, sometimes referred to as bottom surgery. Kellie is on a waiting list to have these procedures performed.

Some staff have reported discriminatory language being used by colleagues when talking about Kellie failing to refer to her with feminized pronouns and instead using "he" when referring to her.

4 | KEY INFORMATION AS THE BASIS FOR **BENEFICENT CARE: CHALLENGES IN** MAINTAINING CONFIDENTIALITY AND PROMOTING AUTONOMY

Beneficence is a key factor in ensuring one does good in their care; in order to provide care which will enhance health and well-being, key information and knowledge about the patient being cared involves having the appropriate knowledge and information related to the patient being cared for.8

Kellie is a Transgender woman (or Trans woman), meaning she was assigned male at birth but now identifies as a woman. However, it will be evident to everyone who encounters her that Kellie is Trans; it is likely that most people will presume that she is a cisgender woman. An important initial consideration for the nurses who look after Kellie will be determining if and when they should tell others, within the multidisciplinary team, that she is Trans. This dilemma will lead to need to balance the necessity of informing colleagues of relevant information to promote positive health outcomes, along with Kellie's right to confidentiality and the autonomy to disclose this herself.

The maintenance of confidentiality is a key ethical consideration identified by the International Council of Nurses, "Nurses hold in confidence personal information and respect the privacy, confidentiality and interests of patients"; so while Kellie is Trans, this information is personal to her. Kellie is also entitled under law in many jurisdictions, across Europe, North America and other regions, to her Trans status not being unnecessarily shared or discussed. This legal right requires careful balancing with the need to ensure Kellie receives the best evidence-based care, which will mean her Trans status will likely need to be taken into account in some circumstances. This, in itself, may lead to an ethical dilemma for nurses caring for Kellie.

It is of course important that staff caring for Kellie recognize that Kellie is a woman and in terms of how staff interact with Kellie, they should refer to her as a woman, using feminine pronouns such as she and her. Using correct pronouns is a core aspect of what is referred to as gender affirming communication and care, which essentially recognizes the patients' right to identify and express their gender in a way which is authentic and meaningful for them.⁵

While recognizing that legally Kellie is a woman, there is also a need for those caring for her to make themselves aware of potential

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treatment considerations related to her ongoing medical treatment for transitioning, and her biological sex (assigned at birth). As Kellie is unable to communicate effectively because of her current medical condition in the ICU, this information may potentially be attained from her next of kin. Surrogate decision making and history taking is a common occurrence in the ICU where patients are unable to communicate themselves. However, it is also important to consider that many Transgender patients do not disclose their Transgender status to family members, and as a result, nurses must be sure to strike a balance between maintaining patient confidentiality and seeking information from family members.

The balance of safeguarding a patient's confidentiality and respecting their autonomy, with the need to attain accurate information in a timely manner, is one which should be given consideration. Kellie should be centrally involved in making decisions related to her care and treatment; however, this level of autonomy can be difficult to promote in a patient, like Kellie, who is receiving mechanical ventilation and high level cardiovascular support. While this potential dilemma may prove difficult for those caring for Kellie, it may be balanced by ensuring that decisions around best interests and the need for accurate information are ultimately taken with consideration to our primary duties to them. ¹⁰ It is Kellie's right to only disclose her Trans identity to those who she wishes to, but in seeking information about Kellie's transitioning treatment, staff may inadvertently disclose this to family members.

Once Kellie is in a position to communicate more effectively, checking in around preferred pronouns, and confirming her current treatment and goals will help to clarify clinical needs, and is also important in recognizing patient autonomy ensuring that her wishes are respected in terms of the treatment she receives and how she is treated. Where information on her treatment is available, specialist input from an endocrinology or gender specialist team may be helpful to guide further treatment decisions. Promoting autonomy is an ongoing discussion in critical care practice, and because of the nature of the patient cohort and interventions often poses difficulties; in Kellie's case, it is important to note that overlooking her right to disclose her identity autonomously may have further consequences for her relationships later.

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While Kellie identifies and expresses herself as a woman, there may be specific considerations needed because of both her biological sex (assigned at birth), and some of the medical treatment she has received in her journey of transition detailed above. As stated earlier, some Trans people may decide not to have surgical procedures or any medical intervention. It is not essential to have medical intervention to transition, and in many jurisdictions, there is a system of self-identification; this means that people can attain a legal change in gender without any medical intervention. This being the case, many Trans people, like Kellie, choose to engage with medical services to support them to express an appearance more congruent with their gender. 12 Because Kellie is taking gender-affirming hormone therapy, if her dose is due during her stay in hospital, it would be essential for those prescribing and administering this medication to know why it is being administered. As Kellie hasn't had bottom surgery, her anatomical features may misalign with normative expectations for that of a woman,

so when Kellie is undergoing diagnostic or other interventions it may be important to sensitively inform those performing those interventions to expect male anatomy.

When caring for Kellie, the beneficence associated with consciously seeking out the information required to provide safe, appropriate and effective care relates to how nurses should not only avoid harming Kellie, but also actively promote her welfare; Varkey (2021) describes this as the positive requirement of beneficence.¹⁰

5 | PHYSIOLOGICAL CONSIDERATIONS FOR ICU INTERVENTIONS: A LACK OF EVIDENCE AS A CHALLENGE IN PREVENTING HARM

As highlighted in the International Council of Nurses code for ethical practice, the responsibility for maintaining competence and keeping oneself professionally informed, lies with nurses themselves.³ As previously mentioned, recognizing Kellie as a woman and providing affirmative care is an essential component to ethical and person-centred practice while she is in the ICU. However, because Kellie was born male, there are certain considerations which should be given to her potential physiological response to ICU therapies.

It is important to note that there is a dearth of evidence related specifically to the care of Transgender patients in ICU; however, some of the potential considerations to be taken into account relate to issues regarding the impact of hormone therapy, including the impact on laboratory values. There are also specificities which might impact airway management in light of Kellie's cosmetic facial surgeries. Nurses have a duty of care to do no harm in their practice and to be aware of potential physiological considerations. Research into this area is being conducted currently by the Trans Gap Project, details about which can be found on their web site: https://transgapproject.wordpress.com/.

The IC' Code of Ethics for Nurses (2021) emphasizes that nurses should promote a culture of safety in health care settings, recognizing and addressing threats to patients and safe care in health practices, services and settings.^{3,18} An awareness of the physiological considerations for all patients regardless of gender identity is a fundamental aspect of patient safety, which is embedded in nursing ethics. On the other hand, the World Health Organization (WHO) highlight that health care providers believe that delivering safe care is implied through following their ethical code of conduct and that that this is synonymous with being a member of their profession.¹⁹ A fundamental aspect of acting ethically is the provision of safe care. However, there is a need to see beyond this, and to realize that every day in health care institutions across the world, patients are exposed to risks associated with medical care, with as many as one in 10 patients experiencing an adverse event while receiving hospital care in highincome countries. 19 For this reason, it is important that nurses are aware that there are risks in delivering health care, and that adhering to ethical codes of conduct does not necessarily mean that the care they are providing is safe and free from harm.

There are undoubtedly other factors to consider in terms of the physiological specificities and divergences for Transgender patients beyond those mentioned here. Being aware of the physiological distinctions in any specific patient group is key in ensuring evidence-based and person-centred care. There is therefore an ethical obligation on nurses to ascertain the best evidence, specific to the physiological needs of their individual patient. It is important to be aware of these specific physiological considerations to ensure we do no harm to patients, and that the care provided is evidence based and personcentred.

6 | DISCRIMINATION IN CARE, NON-MALEFICENCE AND CHALLENGING TRANSPHOBIA

An ongoing concern for health care providers is ensuring that the care they give does not inadvertently cause harm to their patient. While there is harm associated with inadvertently disclosing Kellie's Trans identity, or alternatively potentially performing medical care without full knowledge of Kellie's biological sex (assigned at birth) or ongoing treatment highlighted as in the previous sections; this section will deal specifically with harms related to discrimination in care and transphobia.

A significant and growing body of research internationally demonstrates that Trans people experience disadvantage and discrimination across a wide range of social measures, including their experience of health care. In a study of UK health care professionals, 20% of respondents had heard colleagues making disparaging remarks about Trans people and 24% stated they would not feel comfortable caring for a Trans person.²⁰ This links to training deficits as the same survey found around a quarter of health care professionals had no equalities training and only 11% had training in the care of Trans people.²⁰

In Kellie's case, a small number of staff in the ICU have made negative remarks about her and used inappropriate and offensive terminology when discussing her care and her case. This is a serious issue of misconduct and breaches professional standards set out by professional regulatory bodies related to non-discriminatory and respectful care.² As expressed explicitly in the International Council of Nursing Code of Ethics³ nurses, their managers and leaders must "provide people focused, culturally appropriate, care that respects human rights and is sensitive to the values, customs and beliefs of people without prejudice or unjust discrimination."(p. 8) Even if these comments are not made directly to Kellie, they may have a wider impact on others within the health care team, who themselves may be Trans or have Trans family members or friends.

Challenging discrimination from colleagues is not only a professional requirement, but also a moral one, and furthermore is one of the most significant gestures individuals can perform to demonstrate allyship with Trans people.⁵ It is important that nurses are aware of the procedures in place to challenge discriminatory behaviour in their organization or environment. Colleagues may, in the first instance challenge those using discriminatory language directly in an effort to

educate; however, if this behaviour persists, it is important that formal procedures are followed which might include disciplinary processes and/or referral to professional regulators.

The experience of discrimination in health care not only impacts on the experience of health care by Trans people, but is linked to poorer health outcomes for Trans people more generally. The phenomenon of minority stress, where wider socio-political and cultural stressors as well as experiences of direct and indirect discrimination has been proven to have a significant impact on both psychological and physical health of Trans communities.²¹ Challenging discrimination, therefore, also directly links to promoting positive health outcomes, and is a key area where nurses can demonstrate allyship to their Trans patients and colleagues.⁵

7 | PROMOTING JUSTICE THROUGH SYSTEMS CHANGE

A key ethical consideration for ICU nurses is in how they promote an environment of justice for all within the ICU, and prioritizing social justice will help to uphold principles of diversity, equity and inclusion within their care. While each individual nurse can work to improve their own approach to care, systems change can have a most significant impact on promoting justice for Transgender patients in the ICU. It is the collective response to drive change in practice that results in systems change in health care, and for this reason, nurses as the largest group of health care workers have an important role to play in health care reform.

7.1 | Electronic health records in the ICU

Many ICUs have transitioned to electronic records from paper records. However, one limitation with some electronic health records (EHR) is the inability to record important information such as preferred name and pronouns, which acts as a barrier to patient-centred care and poses a risk of misgendering. ¹⁴ Furthermore, some EHRs will not allow health care providers to order certain tests if they are considered to be "sex-specific". By way of example, ordering pregnancy tests on male patients is often not permitted or cancelled. ²³ Nurses can act as a strong advocate for IT system reform by asking for alternations to the systems within their own ICUs.

7.2 | Education reform

A key factor to improving the care experienced by Transgender patients in ICU is ensuring that ICU nurses are educated in issues related to caring for Trans people. In a previous article, a model of 'Usualising and Specifising' is put forward, ensuring that Transgender patients are visible in general clinical education as well as specifically teaching health care professional students about issues related to Transgender health care. It is imperative that issues are incorporated

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across the curriculum, and opportunities are given not only for theoretical instruction, but also in simulated practice as well as in direct care in practice placements. 24

Studies have shown that simulation is effective in teaching nursing students to deliver culturally sensitive care to Transgender patients.²⁵ The WHO (2021) make the argument that education of undergraduate and postgraduate health care professionals is focused on evidence-based care which is important; however the human factors element is missing which impacts the delivery of safe patient care.¹⁹

7.3 | Research priorities

There is a need to ensure Transgender patients are afforded with the same opportunities in terms of equal health care, but also in terms of recruitment to clinical trials and research studies. Health inequalities cannot be addressed for Trans people if we are not aware of what they are—If you are not counted, you don't count!²⁶ Most research to date including Transgender patients is in the area of HIV care. However, research reporting other health outcomes in Transgender patients is limited. ICU trialists should endeavour to ensure Transgender patients are afforded with an equal opportunity to participate in research and to avail of novel treatment interventions. One further point to highlight is that many medication risks for Transgender patients are extrapolated from data in Cisgender populations receiving similar therapies or based on smaller observational studies or case series of Transgender patients. ¹⁴ Further research in this area among Transgender patients is urgently needed to ascertain these risks and guide practice recommendations on cessation or weaning of hormone therapies in the acute setting. Research into this area is being conducted currently by the Trans Gap Project (https://transgapproject. wordpress.com/).

8 | CONCLUSION

Most nurses across all care settings strive to provide high quality, evidence-based care to their patients. However, providing high standard, equitable, and ethical health care can be challenging when caring for Transgender patients when there is a lack of understanding in terms of the lived experience of Trans people coupled with the anatomical and physiological changes that medical transitioning brings.

Within our article, we have presented some of the ethical considerations which should take when caring for a Trans patient such as Kellie in the ICU. While we are learning more about the health care and health needs of Trans people, we should be mindful to respect their right autonomy and confidentiality; and balancing this with a commitment that the care we give promotes health wellbeing and avoids inadvertent harm. This is a challenge as we have highlighted, given the dearth in specific research on Trans people in ICU, or the impact on Trans specific medical and surgical interventions on critical illness or intensive care treatments. These challenges are amplified by

a climate of public and political discourse that in many jurisdictions is openly challenging the established rights of transgender people and their role in society.

This article hopes to address some of the ethical and practical considerations related to providing appropriate care for a Transgender woman who is in the ICU. While there is still much work to be done in this field, ICU nurses can commit to engaging in ongoing education in this area, advocating for systems change, and most importantly challenging discrimination. We hope the article encourages reflection and conversation so that practice can be developed and systems improved to enhance the experience of Transgender patients in the ICU.

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DATA AVAILABILITY STATEMENT

Data sharing not applicable to this article as no datasets were generated or analysed during the current study.

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