

Volume 26

Number 1

Spring 2015

THE JOURNAL OF
Legal Nurse
Consulting



AALNC

AMERICAN ASSOCIATION OF
LEGAL NURSE CONSULTANTS



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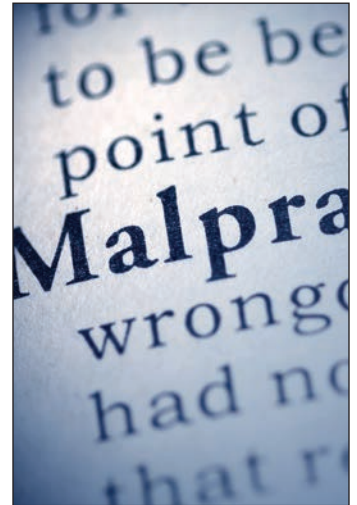


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PURPOSE

The purpose of The Journal is to promote legal nurse consulting within the medicallegal community; to provide novice and experienced legal nurse consultants (LNCs) with a quality professional publication; and to teach and inform LNCs about clinical practice, current legal issues, and professional development.

MANUSCRIPT SUBMISSION

The Journal accepts original articles, case studies, letters, and research. Query letters are welcomed but not required. Material must be original and never published before. A manuscript should be submitted with the understanding that it is not being sent to any other journal simultaneously. Manuscripts should be addressed to JLNC@aalnc.org. Please see the next page for Information for Authors before submitting.

MANUSCRIPT REVIEW PROCESS

We send all submissions blinded to peer reviewers and return their blinded suggestions to the author. The final version may have minor editing for form and authors will have final approval before publication. Acceptance is based on the quality of the material and its importance to the audience.

The *Journal of Legal Nurse Consulting* is the official publication of the American Association of Legal Nurse Consultants (AALNC) and is a refereed journal. Journal articles express the authors' views only and are not necessarily the official policy of AALNC or the editors of the journal. The association reserves the right to accept, reject or alter all editorial and advertising material submitted for publication.

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Journal of Legal Nurse Consulting (ISSN 1080-3297) is published digitally by the American Association of Legal Nurse Consultants, 330 North Wabash Ave., Suite 2000, Chicago, IL 60611, 877/402-2562. Members of the American Association of Legal Nurse Consultants receive a subscription to *Journal of Legal Nurse Consulting* as a benefit of membership. Subscriptions are available to non-members for \$165 per year. Back issues are available for free download for members at the Association website and \$40 per copy for non-members subject to availability; prices are subject to change without notice. Back issues more than a year old can be obtained through the Cumulative Index to Nursing & Allied Health Literature (CINAHL). CINAHL's customer service number is 818/409-8005. Address all subscriptions correspondence to Circulation Department, *Journal of Legal Nurse Consulting*, 330 North Wabash Ave., Suite 2000, Chicago, IL 60611. Include the old and new address on change requests and allow 6 weeks for the change.

ARTICLE SUBMISSION

The Journal of Legal Nurse Consulting (JLNC), a refereed publication, is the official journal of the American Association of Legal Nurse Consultants (AALNC). We invite interested nurses and allied professionals to submit article queries or manuscripts that educate and inform our readership about current practice methods, professional development, and the promotion of legal nurse consulting within the medical-legal community. Manuscript submissions are peer-reviewed by professional LNCs with diverse professional backgrounds. The JLNC follows the ethical guidelines of COPE, the Committee on Publication Ethics, which may be reviewed at: <http://publicationethics.org/resources/code-conduct>.

We particularly encourage first-time authors to submit manuscripts. The editor will provide writing and conceptual assistance as needed. Please follow this checklist for articles submitted for consideration.

INSTRUCTIONS FOR TEXT

- Manuscript length: 1500 – 4000 words
- Use Word® format only (.doc or .docx)
- Submit only original manuscript not under consideration by other publications
- Put title and page number in a header on each page (using the Header feature in Word)
- Place author name, contact information, and article title on a separate title page, so author name can be blinded for peer review
- Text: Use APA style (Publication Manual of the American Psychological Association, 6th edition) (<https://owl.english.purdue.edu/owl/resource/560/01/>)
- Legal citations: Use The Bluebook: A Uniform System of Citation (15th ed.), Cambridge, MA: The Harvard Law Review Association
- Live links are encouraged. Please include the full URL for each. Be careful that any automatic formatting does not break links and that they are all fully functional.
- Note current retrieval date for all online references.
- Include a 100-word abstract and keywords on the first page
- Submit your article as an email attachment, with document title articlename.doc, e.g., wheelchairs.doc

INSTRUCTIONS FOR ART, FIGURES, TABLES, LINKS

- All photos, figures, and artwork should be in JPG or PDF format (JPG preferred for photos). Line art should have a minimum resolution of 1000 dpi, halftone art (photos) a minimum of 300 dpi, and combination art (line/tone) a minimum of 500 dpi.
- Each table, figure, photo, or art should be submitted as a separate file attachment, labeled to match its reference in text, with credits if needed (e.g., Table 1, Common nursing diagnoses in SCI; Figure 3, Time to endpoints by intervention, American Cancer Society, 2003)

INSTRUCTIONS FOR PERMISSIONS

The author must accompany the submission with written release from:

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- Any copyright holder, for copyrighted materials including illustrations, photographs, tables, etc.
- All authors must disclose any relationship with facilities, institutions, organizations, or companies mentioned

GENERAL INFORMATION

Acceptance will be based on the importance of the material for the audience and the quality of the material, and cannot be guaranteed. All accepted manuscripts are subject to editing, which may involve only minor changes of grammar, punctuation, paragraphing, etc. However, some editing may involve condensing or restructuring the narrative. Authors will be notified of extensive editing. Authors will approve the final revision for submission.

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Julie Dickinson
MBA, BSN, RN, LNCC

President, AALNC

A Message from the President

The winter and spring months have been bustling with activity! The AALNC and ALNC-CB Boards, committees, taskforces, and staff have continued work on various initiatives and projects designed to benefit AALNC members through fulfilling our association's charter: to promote the professional advancement of registered nurses consulting within the legal arena by providing a forum for education, research and exchange of information.

Over the past months, AALNC has done the following in furtherance of its strategic plan goals:

1. Positioned AALNC as industry leader:

- ✦ Returned the *Journal of Legal Nurse Consulting (JLNC)* to quarterly publication!
- ✦ Opened access to the *JLNC*. This decision was not taken lightly, and member input via survey was greatly appreciated and weighed. With the *JLNC* Editor's and Editorial Board's involvement and support, the AALNC Board are confident that open access and resultant greater circulation will benefit our members by increasing diversity of quality submissions/authors thereby providing a greater breadth and depth of education, improving visibility to both legal and clinical nursing communities which can lead to more networking and job opportunities, and yielding greater influence resulting in increased access via indexing services and in greater circulation, which starts the cyclical benefit chain over again.
- ✦ Launched the first seven modules of the new online course!
- ✦ Completed drafts of the next round of modules for the new online course!
- ✦ Prepared for the annual forum, being held next month in Indianapolis!
- ✦ Offered the first of four free member-benefit webinars of 2015
- ✦ Finalized the redesign of AALNC's website to improve ease of use and be mobile-friendly. Launch is anticipated later this year!
- ✦ Initiated new Social Media Committee
- ✦ Completed the expanded LNCC® Review Course, which now covers all practice areas covered on the LNCC® exam
- ✦ Continued member offering for health and disability insurance through AmWins
- ✦ Grown the members-only "Ask an LNC" question and answer column on website
- ✦ Revised AALNC's Position Statement "*The Specialty Practice of Legal Nurse Consulting*"
- ✦ Began development of position statement on overseas outsourcing
- ✦ Initiated steps towards revising **Legal Nurse Consulting: Principles and Practice, 4th Edition**
- ✦ Published article in the March 2015 issue of *Journal of Radiology Nursing*, which highlights many AALNC resources for expert witnesses
- ✦ Continued quarterly leadership calls with AALNC Chapter Boards of Directors
- ✦ Continued many other quality educational programs and initiatives

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JLNC Now Available for Free Download

I can't tell you how pleased I am to report that the AALNC Board has declared the *JLNC* now open for free access. All past issues will be available for download on the website soon. Requests for PDFs are already appearing on my desk.

Some of you know that the AANLCP underwent a similar process a few year ago. Some members were adamant that the journal was a membership benefit and therefore ... well, what, exactly? It would make it less valuable if it were freely available to anyone? That they'd leave the Association over this? Neither made much sense to me.

The reasons for improving accessibility to any association's flagship publication are many, including:

- Exposing present practitioners to new resources and roles
- Educating nurses considering entering the field
- Informing potential clients and colleagues
- Attracting potential full and associate members

All of these happy consequences followed the appearance of AANLCP's new and improved *JLNC* online; there have been no downsides at all. Annual readership surveys consistently indicate that about 85% of all readers share articles or entire issues with clients, colleagues, and others, expanding nurse life care planners' visibility and potential client base.

Last fall, our AALNC Executive Board put out a survey to gauge membership attitudes to making the *JLNC* openly available for free on the Association website. There was that old fuzzy worry: the *JLNC* was such a significant benefit that without some sense of exclusivity ... However, the results were clear: While there was a nearly even split on respondents' feelings about whether the *JLNC* should be open access (51% for, 49% against), only 8% indicated that they would leave the Association if the Journal were freely available.

Appropriately for a professional group that deals with data dispassionately, the Board saw past emotions and decided based on fact: Access to the *JLNC* didn't need be limited for fear of membership loss.

There are a few other factors you might be interested to know.

Costs: You wouldn't believe how expensive it is to print and mail a good-quality journal like this. I understand that people like to have a copy to take along. Fortunately, it's easy to download the PDF to your tablet or e-reader- just email it to yourself. Or you can download it to a thumb drive and take it to an office store to print out. The only downside to paper is that the live links won't be live, but we do provide complete URLs so you can use them when you are online.

Indexing Services: Although the *JLNC* is, indeed, indexed by CINAHL/EBSCO, access to it through them is very limited. I'm unable to access it at all via my university alumni association EBSCO membership for one reason: Limited accessibility results in a low "influence rating," so it's not a priority for an indexing service to bundle it to make it widely available. Greater circulation =



Wendie Howland
MN, RN-BC, CRRN,
CNLCP, LNCC

Editor, JLNC

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A Message from the President

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2. Improved visibility to the legal community:

- Ran ads for the LNC Locator® in DRI's MedLaw Update and expert witness database webpage
- Published LNC Locator® ad in the March/April 2015 issue of *Facts and Findings*, a publication of the National Association of Legal Assistants
- Continued ongoing positions on and promoted LNC speakers to:
 - ABA's Health Law Section's Nursing and Allied Healthcare Professionals Taskforce
 - DRI's Nursing Home / Assisted Living Facility Litigation Seminar Steering Committee

- DRI's Medical Liability and Health Care Law Seminar Steering Committee

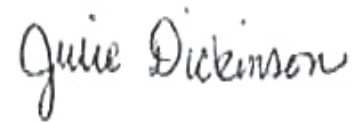
3. Develop a sound business model:

- Maintained fiscal discipline and responsibility to ensure continued stability of the association
- Continued identifying, exploring, and negotiating discounts for products and services to help members succeed in their practice
- Continued "Treasurer's Corner" report in periodic Member Updates to provide overview of AALNC's financials

At the Indianapolis Forum next month, AALNC will transition to its 2015-

2016 Board of Directors, and Varsha Desai, BSN, RN, CNLCP, LNCC will assume leadership of the association. I am deeply appreciative and humbled to have had the opportunity to serve you, and it has been a true honor to work with our many amazing volunteers who donate countless hours to make AALNC the voice of legal nurse consulting.

With gratitude,



Julie Dickinson MBA, BSN, RN, LNCC
President, AALNC

JLNC Now Available for Free Download

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greater visibility = greater influence = increased access via indexing services = greater circulation = greater visibility ...

Submissions: At a recent JLNC committee meeting, we discussed members' expressed difficulty in recruiting authors. Quite a few experts were initially receptive to a request to submit. Then they learned that our journal restricted access to members only, thus rating a small — no, minuscule — influence level, and they vanished away, never to be heard from again. Since we want to widen the scope of submissions to improve our quality and influence, this was a significant barrier to continued improvement. Open access is very attractive to potential authors. Advertisers like the idea of live links to their websites and videos, too.

Recruitment: At a recent nurse association meeting I brought the latest JLNC along on my iPad. It was all I could do to get it back from most readers. Comments like, "I used to get that but I never read it," were replaced by, "Wow, this is really cool. I didn't know about this ...," going on to say that they didn't know legal nursing involved such interesting work. "Can I submit an article?" Easy access = exposure. This attitude has a directly positive effect on the AALNC's image with good potential members.

Our Journal is such a great resource that we should be getting it in front of as many eyeballs as possible, with links to the JLNC on the front page of the website and in other communications. Now we can. Lord Baden-Powell famously said you won't catch fish if you

don't use the right bait. The JLNC is attractive bait.

Finally, while it was gratifying to see that 96% of respondents were aware of the Journal and found value in having it, I was interested in the 14% who said they didn't read it. If you're out there, I'd like you to take a look. I'd like to hear from you. Now you know where to find us!

Finally, while it was gratifying to see that 96% of respondents were aware of the Journal and found value in having it, I was interested in the 14% who said they didn't read it. If you're out there, I'd like you to take a look. I'd like to hear from you. Now you know where to find us!



Wendie A. Howland
whowland@howlandhealthconsulting.com



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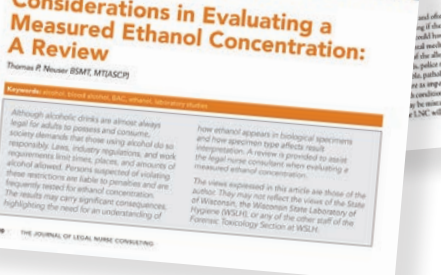
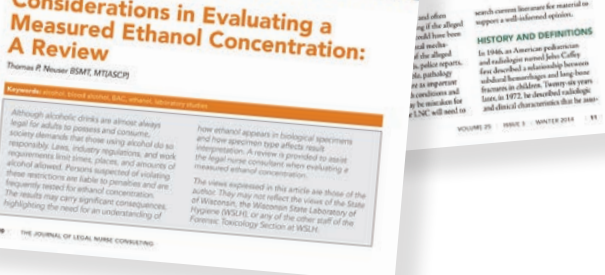
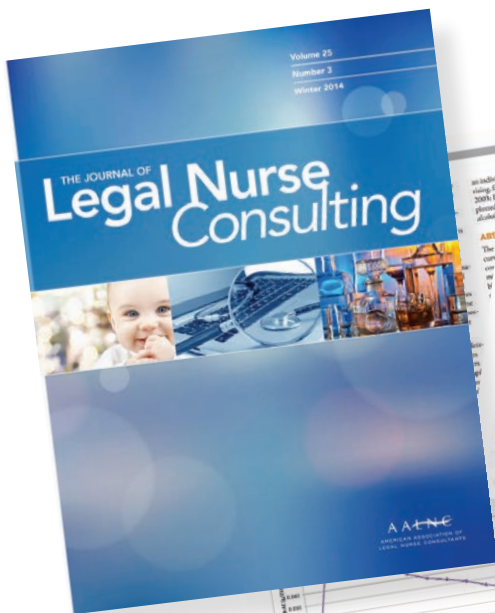
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WE RECEIVED CONSIDERABLE FEEDBACK ON THE NEW FORMAT. THESE ARE REPRESENTATIVE:

Impressive! The new cover and style is fabulous! You should be so proud!
Victoria Powell, RN, CCM, LNCC, CNLCP, MSCC, CEAS, CBIS
 Benton AR

LOVE the new format!
Ann M. Peterson EdD, MSN, RN, FNP-BC, LNCC
 Medford MA

Just wanted to drop a quick note to let you know that I was initially just interested in the BAL article and ended up reading ALL of the articles in this issue. This is the best this journal has ever been in my opinion. I look forward to future issues and like what you have planned.

Deborah D. D'Andrea, RN
 Chicago, Illinois

WE HAD SEVERAL REQUESTS TO SEE THE ARTICLE ON BLOOD ALCOHOL LEVEL IN THE NOVEMBER 2014 ISSUE:

I teach nursing and am always interested in content that will affect my students' rotation through the ED.
Susan Priest, MSN, RN, CNS
 Houston, TX

Always an area of interest as I have tried a number of cases involving BAL.
Attorney Jim Moyles
 Pittsburgh, PA

I'm an independent expert and practicing ER RN. Thanks!
Tom Frundle, RN

I just read this article and it is fascinating and very informative. I downloaded it for future reference. Thanks!
Pam Steinacher, RN, LNC, MSCC, CHRM
 Jerseyville, IL

"The American Nurse"

A Film Review

John Grassman, BSN, RN | JohnGrassmanRN@kc.rr.com

Last night along with about 350 other nurses and their families, I saw a film titled "The American Nurse." Let's cut to the chase: I give it two thumbs up, 5 stars, 10 bags of popcorn. Director Carolyn Jones' "The American Nurse" is one of the finest documentary films ever.

I say that not because it is about a subject that I care dearly about. There are many documentaries about many things I care about that cannot hold a candle to "The American Nurse." From start to finish, this film is a superior achievement, an homage to caring and humanity.

The film opens with one of those crazy quilt montages that clever filmmakers love to use that tells why the film was made. And though it is clever, it does not come across as slick or self-conscious; rather it is a harbinger of depth and sensitivity to come. Equally importantly, scenes that could be cloying or overly sentimentalized are handled with a matter-of-factness that is simple and real.

"The American Nurse" is unflinching, as any nurse would expect. The irrigation and digital exploration of an ostomy are shown clearly and I daresay not one nurse in that theater even blinked. I smiled as it called to my mind the conversations over meals our non-nursing friends are so horrified by, until they realize that those conversations are part and parcel of friendship with nurses. We are different.

The five nurses who are the subjects of the film do not have typical—if there

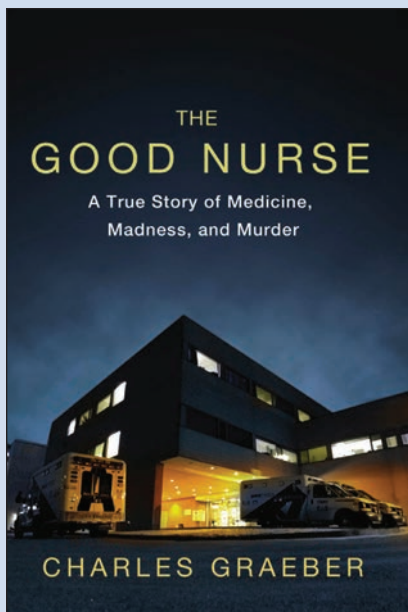
is such a thing—nursing jobs, nor do they typify the demographic: three are women, two are men and one of the five is a nun. None of that matters.

"The American Nurse" is not about mainstream American nursing. Rather it is about five nurses who embody the values and passions we all share. The desire to help, the passion to do what is right, the need to be of service to others, all these values and more, are on the screen in the stories of these five nurses. The film makes no real attempt to explain the "why" of nursing, and yet, to me, a nurse, the explanation seems clear. We all have our own individual stories why we went to nursing school, and why we stay despite the conditions. However, this is the fact: regardless of whatever route we took to become licensed registered nurses, we were not just born to be nurses, it was not simply our destiny.

We were born nurses. 🧑‍⚕️

The American Nurse Project includes an award-winning book, this feature-length documentary film (<http://american-nurseproject.com/film-trailer/>), and an ongoing series of interviews. NYU College of Nursing has developed a study guide to accompany the movie. More information on "The American Nurse" and The American Nurse Project is available at <http://americannurseproject.com/>.





The Good Nurse
by Charles Graeber

(2013) Hachette Book Group,
New York NY

Legal Nursing in the Arts: Book Review

Kathleen Ashton, PhD, RN, ACNS-BC

Annual Gallup polling consistently rates nursing higher for honesty and ethics than all other professions. We have been voted number one for the past eleven years, ahead of clergy and other respected professions. How then can we count among us one who might be America's most prolific serial killer? Charles Cullen RN is behind bars for the murder and attempted murder of as many as three hundred patients entrusted to his care. The many paradoxes in both his personal and professional life would be an interesting study. However, we must leverage that interest to make the profession safer for everyone.

Author Charles Graeber carefully researched nursing and the events that led to Cullen's identification and conviction. He describes nursing's established policies and standards and challenges us to find ways to improve them to be sure Cullen's story is never repeated.

Charles Cullen was born in New Jersey into a family with eight older siblings, left fatherless a short time after his birth. When his doting mother was killed in an auto accident during Charlie's senior year of high school, he was left bereft and furious at the hospital that "stole" her body. He attempted suicide, failed, then joined the Navy and failed at that as well. As the only male in his nursing school class, at the same hospital where his mother died, this intelligent, handsome young man made his mark as an excellent student and class president. Nursing suited

How could a nurse have become America's most prolific serial killer?

him well, as did the white uniform and high responsibility.

The book chronicles Charlie's stellar career in critical care, respiratory, burn, and cardiac nursing at nine different hospitals across New Jersey and Pennsylvania. An administrator's dream, he was always willing to work any shift, especially nights, and his attendance was exemplary. In contrast, though, this seemingly ideal employee also accumulated dozens of performance-related complaints, disciplinary citations, and four police investigations. However, despite his image plastered on recruitment brochures from one institution, Charles Cullen was not the ideal hire he seemed to be. In reality, he was a complicated young man who wore a pristine white uniform and had a compulsion to kill.

Along the way he attempted suicide twenty times. Hospitals that terminated him or asked him to resign simply kept quiet, abiding by labor laws seemingly enacted without regard for patient welfare. Neither of his state nursing licenses was ever revoked, and neither state board disciplined him despite reports from several nurse coworkers.

This engrossing read is simultaneously thrilling and terrifying. Graeber met Nurse Cullen when he granted an interview upon attempting to donate a kidney from prison. The facts and events are true, corroborated by eye-witnesses and interviews with Cullen himself. Names have been changed, but the voiceless victims are real. It is impossible to imagine how many others would have been killed if it were not for the relentless work of the two detectives who brought Cullen to justice. A nurse colleague, who risked everything dear to her to finally stop him, is a true professional who demonstrated remarkable courage in helping the authorities to bring him down.

As a legal nurse consultant I was involved with several of the plaintiff cases before they were combined into one civil action. Knowing what several of the families endured, it is especially disheartening to look back on the stance of the hospitals and other institutions involved. Out of concern for the bottom line and reputation, the administrations tried various tactics to keep the problem under wraps and not get the police involved.

When law enforcement came on the scene, the bigger issue became apparent and their hands were forced.

As a result of this case, New Jersey enacted legislation, the *Cullen Law*, requiring institutions to disclose work histories and performance details of employees when receiving inquiries from other potential employers. This law protects the institution and prevents the nondisclosure that enabled Cullen to continue his killing spree across institutions and states.

The legal nurse consultant is afforded an extraordinary opportunity to reflect on nursing care and to impact that care from many perspectives. Thankfully, most nurses demonstrate honesty and integrity in our practice, and nurses do deserve the trust the public places in us. When called upon to play a role in bringing matters to justice, it is crucial to keep

an open mind and read the facts carefully while looking for patterns. While it is quite rewarding to be a part of this noble profession, it is still necessary to beware of some with sinister motives. The author dedicates the book to the unfortunate victims and to “the good nurses everywhere who spend their lives caring for ours.” 🙏



Kathleen Ashton, PhD, RN, ACNS-BC is a Professor of Nursing in the Jefferson School of Nursing at Thomas Jefferson University in Philadelphia, Pennsylvania. Her research interest is in the area of women and heart disease. She has conducted many funded research studies and written numerous grant applications to support her program of research. As a legal nurse consultant, she has served as an expert witness reviewing legal cases for plaintiff and defense firms for over eighteen years. Currently, she serves as a reviewer for three nursing journals and as a board member for several community and professional organizations. She has published in leading professional journals and is a co-editor of the 4th edition of *Nursing Malpractice*.





Creating a Strong Fee Schedule and Contract

Patricia Iyer, MSN, RN, LNCC

Keywords: legal nurse consulting, fee agreements, setting fees, creating LNC contracts, retainers, collections, LNC fees

Creating a strong fee schedule and contract sets a professional tone for the legal nurse consultant's business. It prevents misunderstandings and anticipates some of the commonly encountered problems in invoicing and collecting for legal nurse consulting services. This article, written by a veteran LNC, provides practical guidance for the methods of setting fees and the important provisions in an LNC contract.

The attorney on the other end of the phone says, "I came across your website. I am looking for a legal nurse consultant to help me with a personal injury case. I need a medical record summary. What do you charge?" You'd better know how to answer this question.

"How do I set my fees?" and "How do I know if I am being competitive in my fees?" are questions LNCs may ask. There are several ways to set fees.

BASED ON YOUR COSTS

A cost-based approach involves looking at your expenses to calculate your fees. Consider the operating costs of your business: insurance, rent, equipment, and software, support staff, utilities, and legal and accounting advisors, and so on. Determine how much of your time needs to be set aside for business generation/marketing, invoicing and collections. When you take into consideration all of these costs, you can

determine how much it costs per hour to run your business.

BASED ON YOUR LOCATION

One of the ways to set fees is to determine how much clinical nurses are paid in your area. There used to be a principle that a legal nurse consultant should charge three to four times the hourly rate for staff nurses in his or her state. With rising salaries, multiplying by a factor of two is more

appropriate. Obtain salary information by looking at online bulletin boards, classified ads, or the results of polls such as the one published in August 2013 by Nursing Advance. <http://nursing.advanceweb.com/Archives/Article-Archives/2013-Northeast-Salary-Survey-Results.aspx> (retrieved 11/8/14)

BASED ON THE NATURE OF YOUR BUSINESS

How do you want to position yourself – as a boutique practice with billing rates at the top of the range, or as a bargain basement business with low prices? When you are trading hours for dollars (working on the basis of billable hours), you should not price your services at the low end of the range. The attorney may equate your low fee with low quality services.

What is your value proposition? What skill do you have that warrants charging the fees you do? Is it a unique area of clinical expertise? Is it proximity to the client base? Is it your experience as a nurse or as an LNC? Is it your publications? You will maximize your income when you successfully create the perception that you are someone with whom the attorney should do business. An attorney once said to me, “I can’t believe you charge that hourly rate. I could pay nurses \$50 an hour to work on cases on their kitchen tables and they’d be happy to get the work. They’d rather work for me than be splashed with blood.” After I explained more about the value of the services we could offer, and showed him what we could do for his cases, he became a steady customer who pays our fees without further references to blood.

Notice that I have not listed “based on your competition” as one of the choices when setting your fees. It may be extremely difficult to find out what your competitors charge. The minute new LNCs begin asking on social media sites or discussion lists what they

should charge, more experienced people respond, “We can’t discuss fees here,” citing antitrust rules. It is unethical to call up or email a competitor posing as an attorney to ask about fees. I’ve spotted those individuals who try this deception. Our legal nurse consulting firm will supply a fee agreement to people that we know are attorneys, but not people who are trying to use dishonest means to try to get that information from us.

FEE INTEGRITY

Fee integrity means being consistent in what you charge attorneys. Charge plaintiff and defense attorneys the same amount. It’s not appropriate to give one side a wholesale discount whereas you are charging a separate and higher fee to the other side. Maintaining fee integrity is one of the practices that create an ethical business climate.

“If I give you a volume of cases, will you reduce your hourly rate?” This is one of the most difficult questions an attorney could ask you. When you are hungry for work, this is a tempting question. Here is what you should ask the attorney:

- + “What volume are you talking about?”
- + “What kind of cases are you discussing?”
- + “What hourly rate are you suggesting?”

Here’s what you should ask yourself before you agree to this arrangement:

- + “How many billable hours do I reasonably have in a week?”
- + “What other clients and billable work do I have?”
- + “If I work on a discounted basis for this attorney, am I going to be able to take full fee work from other attorneys?”
- + “Am I at risk for being dependent on this attorney to pay my bills? If so, what happens if he changes his practice/gets sick/dies?”

An attorney who heard our hourly rate asked, “Can you do better?” My immediate response was to think, “Sure, I can

charge you more per hour.” But he was approaching this conversation as if he could negotiate and reduce the hourly rate. Be resistant to this strategy; do not give in to just for the sake of getting business.

The perils of lowballing your rates are being perceived as not having experience and being desperate for work. This sends a signal to an attorney that he or she can cut your prices further. And most importantly if you set a low hourly rate in the beginning when you start your business you will find it extraordinarily difficult to raise that rate as time goes on. As you can see, there are some significant risks to discounting fees.

HOURLY, FLAT, AND RUSH FEES

How do you create a contract that spells out your fees and terms? First, determine your hourly rate, flat rates, if any, and rush fees. Here is an example of how you may phrase it:

Fees:

All work on the file, including but not limited to records organization, travel, and a one time, one hour fee for the file opening, closing, scanning and record shredding. This rate does NOT apply to the provision of expert witness services, consulting services, obtaining medical records, and attending IMEs \$XXX/hr

Some people bill in six-minute increments. Some people bill in ten-minute increments; some people bill in fifteen-minute increments. Specify how you calculate billable time. This is potential wording for your fee agreement:

All time that is billed on an hourly basis is invoiced in quarter hour increments. This time is rounded up to the next quarter hour. The consultant cannot predict or guarantee total fees. Billing will depend on the amount of time spent on the case and other expenses.

Determine how you are going to charge for travel time. Some people charge travel time at half their hourly rate; others charge for travel time at their full hourly rate. The premise behind charging at your full hourly rate is the fact that if you were not sitting in your car you could be working on a case for an attorney.

What happens when you want to raise your hourly rate? What do you do with those cases that you started before you raised your rates? At this point you have a choice. Do you keep the rate the same for the cases that you brought in at the lower hourly rate? Do you charge for new work at the new rate?

You raised your rates because you've gotten more experience or the cost of living has gone up. Cases go through the litigation process for three to five years. It can be very confusing to charge different rates based on when the case came in. I recommend to start advising your clients a month ahead of time that you are raising your rates on a specific date, and then begin charging at the new rate for any work performed after that date.

Hourly fees are subject to change. Charges are based upon the prevailing fee schedule when the work is performed. YOUR COMPANY NAME does not routinely advise clients of the total number of hours spent on a file until the time of the invoice/statement.

Some LNCs have flat rates for specific services. This is a common model for charging for locating expert witnesses. In the beginning when you do not have a database of people willing to serve as expert witnesses, you may put in many hours searching for the right person. Some experts are going to be hard to find, even when you have a good size database. I have seen many LNCs establish a flat rate that undercharges for this service. Consider the value of your knowledge in knowing where to look for experts and how to present

the details of the case in medical terms the potential expert understands. Set your flat rate accordingly. Flat rates for half and full days testifying in court are also common.

"If you are going to charge me an extra fee because I need expedited service I understand." When you hear this from an attorney, it is an invitation to charge more. Rush or expedited fees reward you for rapidly acting on an attorney's request for services. The "rush fee" is calculated in a number of different ways. Some people charge an extra \$50 an hour. Some people charge an extra \$100 an hour. Some people double their hourly rate.

It is important to define the time frame of a rush case. For example, in our business a rush rate applies when the initial work on the file has to be completed within three weeks. We calculate the three weeks based on when we have all the components: the records, the retainer, and the signed fee agreement. If the records come in four week ahead but the retainer is not in our hands until two weeks before the case is due, the case is billed at a rush rate. You may also want to define what is a rush rate when you are asked to do more work on an existing file. For example, the attorney suddenly gives you a deadline of needing a report within a few days. That could be considered a rush request.

A rush fee will apply to

- 1) *the initial work on the file when it must be completed within 3 weeks. Timing of a rush fee is calculated based on receipt of records, retainer, and signed fee agreement in our office.....\$XXX/hr*
- 2) *the work done when an expert or consultant is contacted to provide work or services within 5 business days..... \$XXX/hr*

RETAINERS

If there is one most important message in this article, it is to **get a retainer**. This

means that you have a check in your hand before you start working on a case. Put the case aside until you have money. In our eagerness to help an attorney, it is tempting to ignore this rule. This is one of those lessons LNCs learn the hard way. The LNC gets a case; the attorney needs help right away, and the LNC provides the services without getting a retainer. Then the LNC has difficulty collecting on the invoice.

The retainer protects you. It makes sure that before you commit your resources to work on a case that you have received the money from the attorney. If you work with plaintiff attorneys, avoid accepting checks from a plaintiff. The attorney is your client, not the plaintiff. You do not want to get involved in trying to collect money from plaintiffs. The only exceptions to this rule may be a very good client with no history of any collection problems or a defense attorney backed by an insurance company that will not pay a retainer. The advantage in working with the defense attorney is that you know the insurance company has the resources to pay your bill. Although you know you'll get paid, the disadvantage is that insurance companies have a harder time getting a check generated in advance of work being done and they are often slow to pay bills. Not all insurance companies refuse to supply retainers. Don't assume they won't. Ask.

RESPONSIBLE PARTY

The fee agreement should specify that the attorney is responsible for paying the invoices. This is an important concept to keep in mind, particularly when you're working for plaintiff attorneys. You should not accept payment from the plaintiff. If the plaintiff is paying your bills, that would put you in the position of having to pursue collections with the plaintiff to collect money if you don't have enough retainer to cover a bill. The attorney might be getting paid by the plaintiff but your client is the

attorney, so the person responsible for paying you is the attorney.

Please note the following:

- We require receipt of the retainer before work on the file begins.
- We accept payment by check, wire transfer or credit card.
- All payments must be from the account of either the law firm or insurance company.

REPLENISHING RETAINERS

The concept of the “replenishing retainer” is based on the idea that you ask for another retainer before the first one is used up. Let’s say the initial retainer is for ten hours, and you end up spending twelve hours on the case. You can take the ten hours from your retainer and pay yourself for the work that has been accomplished, but you have to invoice the attorney for the other two hours. When you have a large volume of cases going through your business, you can spend a lot of time trying to collect money that you are owed for work that you have done.

A replenishing retainer is one of the secrets of cash flow that will make a dramatic difference in your business. It gives you leverage. You have the option of holding up work if you don’t get the additional retainer. The attorney needs the report. The attorney needs the expert. The attorney needs the case screened. You want the retainer. When the initial retainer is just about used up, ask for another retainer.

A \$X,XXX refundable retainer fee or a \$X,XXX refundable rush retainer fee, and a signed fee agreement and/or a retaining letter, are required. Our receipt of the retainer constitutes acceptance of the terms of this agreement.

Billing will be charged against the retainer. YOUR COMPANY NAME may require second and subsequent retainers from its clients for any anticipated or

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requested work beyond the work covered by the initial retainer fee. YOUR COMPANY NAME reserves the right to modify the amount of the retainer or withhold submission of a report pending receipt of a requested retainer. Please make checks payable to YOUR COMPANY NAME and forward them directly to our office. Our tax identification number is xx-xxxxx.

THE PROVISION OF DOCUMENTS

The attorney is expected to go out and collect the material that you need. In the contract, include the recommendation that the client not send you the only copy of the medical records. Not only is there a risk of documents getting lost in transit, but it can become difficult for the attorney to work on the case without medical records in hand. Providing everything electronically eliminates that risk.

Provision of Documents:

The retaining attorney is expected to furnish all relevant documents and materials as they are obtained and to provide all requested documents and materials as discovery rules permit. Please do not forward your only copy of the documents. Please send additional records or materials to YOUR COMPANY NAME. We will send the records to the expert in a well-organized manner in order to improve the expert’s efficiency in his/her review. The expert will retain the records until the conclusion of the case.

EXPENSES

Define what you consider to be reimbursable expenses. LNCs who charge for mileage should be aware that every year the IRS establishes a current rate per mile. Meals, tolls, parking charges and other smaller out of pocket expense are typically billed as incurred. Law firms should pay for airfare, hotels, and rental cars.

I don’t recommend that you bill for things like letterhead, postage and phone calls. These charges look petty. They’re difficult to keep track of; you don’t want to have to go through your phone bill at the end of the month and highlight \$1.32 for a phone call. However, if you are printing out large volumes of medical records it’s perfectly reasonable to charge for the paper and the time that it takes to print records.

Expenses: Including, but not limited to:

- *Travel: Automobile expenses are billed at the current IRS rate per mile plus tolls and parking charges. Airfare, train fare, lodging, etc. are to be paid by the law firm in advance. The consultant shall bear no responsibility to reimburse the law firm for nonrefundable expenses, such as airline tickets, in the event that a meeting is cancelled.*
- *Meals are billed as incurred.*
- *Document Reproduction and Delivery Costs (Federal Express, courier and other expenses): As incurred.*

If there is one most important message in this article, it is to get a retainer. This means that you have a check in your hand before you start working on a case.

PAYMENT TERMS

Your contract should include when you expect to be paid. The invoice may be payable upon receipt or within 7 days. You may choose to include an interest rate of 1½% per month until the invoice is paid; that is also standard. The fact that you have the option to charge interest acts as an incentive so that the attorney is more likely to pay your bill faster.

Invoices will be sent periodically to clients, and are due immediately upon receipt. Failure to make payment of invoices shall constitute a default of our agreement. Any questions pertaining to the billing must be put in writing and postmarked no more than 10 business days after the date of such billing, after which time the billing will be considered correct and payable as billed. Out-standing balances over 30 days are subject to an interest charge of 1.5% per month each month until paid.

The consultant, without liability, may withhold delivery of reports, and may suspend performance of our obligation to a client pending full payment of all charges. Failure to include a billable item in an invoice shall not constitute a waiver of the right to add the charge to a subsequent billing.

The responsibility for the payment is not contingent upon the conclusions reached, which means that if you are supplying an expert to an attorney and the expert does not find liability for a plaintiff attorney, it doesn't mean that the attorney can escape paying for the service. Your services are not contingent on the findings and the conclusions of the case.

Billing is not contingent upon the findings and/or conclusions reached. Responsibility for payment is that of the client (law firm/insurance company) engaging the consultant's services and is not contingent upon client's contractual agreement(s) with plaintiff/defendant third parties and/or case status. The law firm is responsible for the payment of all fees.

The law firm is responsible to pay you even if there's an insurance carrier. The insurance company is the entity that is ultimately responsible for paying defense bills, but your client is the defense attorney, who is responsible for helping to make sure you get paid.

If a third party, such as an insurance carrier, is designated to pay fees directly to YOUR COMPANY NAME, the third party shall be identified by name, address, and telephone.

Name: _____

Address: _____

Phone: _____

COLLECTIONS

If you have a replenishing retainer agreement, the cases that you would need to refer to a collection agency should be very small in number. The bill should be of sufficient size to warrant turning it over to a collection agency. If the collection agency is not successful in obtaining money through its initial efforts, it may turn the file over to an attorney to file suit. This costs several hundred dollars, in the form of a retainer that you must supply to the law

firm. In the event of a collection agency becoming involved you can add a 30% surcharge to the invoice because the collection agency will take at least 25% out of what you're owed for their own fee. Sometimes the attorney will not pay the 30% surcharge but just the threat of a 30% surcharge in your contract may be enough to move the attorney to pay the bill.

In the event that it becomes necessary for YOUR COMPANY NAME to retain an attorney or collection agency for collecting outstanding fees or any other breach of this agreement, the client agrees to pay YOUR COMPANY NAME's reasonable attorney fees and costs incurred in enforcing its rights under this agreement. A 30% surcharge will be added to the outstanding balance if a collection agency becomes involved in the collections process.

Signature: _____

RIGHT TO TERMINATE SERVICES

There's typically language in a contract that you have the right to terminate services for the attorney for nonpayment of your fees or other causes. It's very unusual that you would have to terminate an agreement, but it is important to have that language. It gives you an out so that you can stop work on a case if you have to.

YOUR COMPANY NAME reserves the right to terminate this agreement in the event of non-payment of our fees and expenses, or other causes. All outstanding fees shall be paid at termination.

TESTIFYING FEES

LNCs who serve as expert witnesses or supply and bill for experts should include terms that address prepayment for the deposition or trial, cancellation fees, and that all invoices need to be paid prior to testimony taking place. Prepayment is usually calculated based on the preparation time, pre-deposition or pre-

trial meeting with the client, travel time and expected length of the testimony. It is better to overestimate the hours than underestimate.

Counsel is responsible for notifying YOUR COMPANY NAME of the deposition date at least 2 weeks in advance and arranging for a room and court reporter. A retainer shall be calculated upon notification of the deposition and shall be paid no later than 7 days prior to the deposition. The fee for the deposition (preparation time, portal to portal travel expenses, waiting for deposition to begin, deposition and post deposition meeting) will be subtracted from the retainer. Counsel who retained the expert is expected to obtain reimbursement from opposing attorneys. Any balance owed will be billed following the deposition. An invoice for deposition expenses (such as mileage, parking and meals) or hours if not covered by the retainer, will be sent following the appearance at the deposition. The deposition fee will be refunded in full if the deposition date is cancelled more than 72 hours in advance.

Counsel is responsible for making any necessary travel arrangements for court appearances. These arrangements include air travel, hotel accommodations, car rental, etc.

Cancellation terms should specify the number of days of notice that are required to cancel an appearance before a cancellation fee is imposed (such as three business days) and the amount of the cancellation fee (such as four hours). The cancellation fee is based on the premise that the expert is going to lose pay or benefit time after arranging to be off work for testifying.

Since our experts often use vacation or personal days to be available for a deposition or trial, last minute cancellations are problematic. There will be a 4 hour cancellation fee if the deposition or trial date is adjourned less than 72 hours prior to the scheduled date.

Having a statement that any outstanding bills need to be paid prior to testimony uses your leverage. It protects you in a situation in which the expert does not do well during testimony, and the attorney takes the position that he or she does not have to pay the expert's fees. Payment should not be contingent on performance.

To safeguard against any assertion or allegation that our work may in some way be influenced or be contingent upon the analysis of our expert, we require that all outstanding invoices and the testifying retainer be paid, in full, prior to our expert furnishing testimony.

CLOSURE OF A CASE

Your client is responsible for notifying you that a case has been resolved. There is often a brief period, such as a week, for the experts and consultants to get any remaining bills to the attorney before final disbursements.

The client is responsible for paying the fees even if the outcome of the case is not favorable. Responsibility for the notification to YOUR COMPANY NAME and its expert of settlement of a matter is that of the engaging client. All charges incurred to the time of notification will be billed. Lack of notification will not obviate charges incurred even when disbursements related to this matter have been made. Any unused retainer will be refunded upon receipt of our Disposal of Records form.

SIGNATURE ON CONTRACT

The agreement should have a space for a person to sign who has authority to bind the law firm to the terms of the agreement. Keep a copy of the signed contract so that if there's any question about payment you have that important documentation.

Contracts prevent misunderstandings and define the terms of your relationship with the client. Once you have formed your policies and drafted your

contract, the last step is to have a business attorney review it and insert any legal language that is applicable in your state.

Modifications to the Agreement:

All modifications must be agreed to and confirmed in writing. I have read the Professional Services and Fee Agreement. I understand and agree to the terms contained therein. I understand that YOUR COMPANY NAME consultant will not begin work on this case until a signed copy of this fee agreement and the retainer has been received by YOUR COMPANY NAME.

Signed: _____

Attorney or firm representative as individual and on behalf of firm (signatory shall have the power to bind the law firm with regard to this agreement)

Firm: _____

Case Name: _____

Date: _____

Please sign this page and return the original agreement to YOUR COMPANY NAME accompanied by the retainer after copying for your files.

A contract is a work in progress. Refine it as new situations come up, and recognize that it gives you peace of mind. It establishes the professional tone of your relationship with your client. 🍷



Patricia Iyer, MSN, RN, LNCC shares her expertise through lessons learned from being involved with thousands of cases since 1987. As an independent legal nurse consultant, Pat founded Med League Support Services, Inc. which she owned for 28 years. She currently provides legal nurse consulting and small business coaching services. Pat is past president of AALNC. Contact her at patriciaiyer@gmail.com or through her website, www.patiyer.com.



The Science of Searching Databases: Boolean Algebra as a Tool to Find Medical, Legal and Other Information Effectively

David Dillard, BA, MLS

Reprinted with permission from the *Journal of Nurse Life Care Planning*, Fall 2013, XII.3

Users of search tools on the internet have different ways, methods and styles of searching. Alas, some methods used by search tool users do not effectively mine the topic for which they are digging.

When one searches in tools like Google, Google Scholar and Google Books for a single phrase or a single word, one is simply searching for a term or phrase that is of importance to the more complex topic one is seeking to learn about. Such simple searches can result in the consumption of large amounts of time as so much may be written about

the word or phrase searched that one will have a hard time finding sources that focus on exactly what the searcher wants to know about that term, because other aspects of the topic are ignored in the search. The searcher hopes to spot sources devoted to the complete topic amongst the sources found searching the one word or phrase. Consider the phrase life care planning.

To search this as a phrase, most databases, like Google Books and Google Scholar, require that the phrase be surrounded by quotation marks to make the search tool recognize these words as a phrase.

Google Scholar finds 1,600 sources for a search of this phrase, thus: <http://tinyurl.com/k8udk9c>

Life care planning is discussed in these articles in many contexts: decision making, closed head injury, treatment preferences of cancer patients, end of life care, and more. We know that most professionals indicate that the effective use of time is very important to them. Searching through hundreds or thousands of publication citations to find topically on target publications is a very poor use of a large amount of time. It will also result in good sources being

missed as fatigue sets in. How to be more efficient?

FORTUNATELY, THERE IS A BETTER WAY.

Google, Google Scholar, Google Books, Summon, and Scirus facilitate combining topics so that a search looks not only for various aspects of the topic simultaneously, but also allows the searcher to use synonyms for each major concept. The user can add these synonyms into their search, up to the limit of space allowed by the search tool. To use these techniques of complex searching, one must understand some basic Boolean algebraic methods of search strategy design.

Boolean algebra, also known as symbolic logic, is a discipline taught in mathematics and philosophy as a part of the study of logic. When I was in college, I learned that a math course was required for graduation. Since mathematics causes me terror, high blood pressure, palpitations, and insomnia, I elected to take the much more comforting option of a philosophy course in Boolean algebra rather than a math course in symbolic logic. I did not know then that these were basically the same academic discipline.¹

"AND," "OR," AND "NOT"

In the academic versions of Boolean algebra, unlike its applications to database searching, we learned about the operators "AND," "OR," and "NOT" in the context of if/then statements and proof of conclusions that logically result from premises that are assumed to be true.

For example:

- George W. Bush was a president of the United States.
- George W. Bush is a son of a president of the United States.
- Therefore, there is someone who was both a president of the United States and a son of a president of the United States.

Source: Internet Encyclopedia of Philosophy

Propositional Logic: References and further reading at <http://www.iep.utm.edu/prop-log/>

I passed the course with a B, thanked each and every star in the firmament and went on to wonder who in the real world would ever use this nonsense.

Around ten years later, I decided to learn to use bibliographic databases to help people find information on topics they needed to learn about. I opened system manuals and guides to searching to find Boolean algebra including Euler's Circles and Venn Diagrams come back to haunt me. I now was very glad I had had a solid course in this field to serve as a basis for understanding searching logic and research strategies.

Euler's Circles show in a diagram how the Boolean operators "AND" and "OR" and "NOT" function not only for logical problems but also in finding information in a search of a database for a research topic. (Here's a Euler's Circle diagram of the British Isles to give you an idea. Ed.)

Boolean algebra works in database searches like parentheses do in arithmetic. Parentheses change

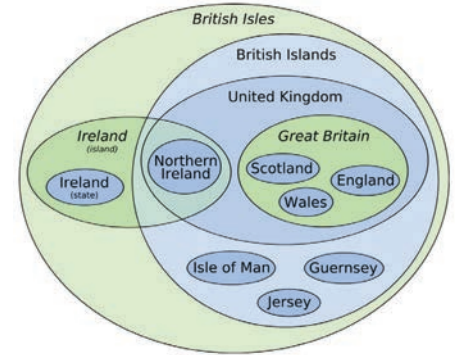


Figure 1. Euler's Diagram

the order of operations in a problem involving a string of numbers separated by operations, addition, subtraction, multiplication and division. Old calculator manuals often showed problems in which the numbers were all the same and in the same order and the operators between them were all the same. All that changed was the position of the parenthesis and all four answers were different. For example, here are two ways to use the same numbers and operations in order, with different results:

Choice 1: $4 + 2 \times 3$
 $(4 + 2) \times 3 = 6 \times 3 = 18$

Choice 2: $4 + 2 \times 3$
 $4 + (2 \times 3) = 4 + 6 = 10$

In database searching, generally speaking, the use of parentheses in searching separates synonyms or words intended to have the same effect on an overall topic (and are combined with the Boolean "OR" operator) from the several groups of synonyms that are combined with the Boolean operator "AND."

Therefore, searching life care planning, a database can find one or more terms

1. I also did not know that the philosophy professor had gotten his doctorate at the University of Chicago while studying under the guru of logical positivism, Rudolf Carnap. Dr. Carnap wrote such books for light reading as these:

- The Logical Structure of the World: And, Pseudoproblems in Philosophy
- The Continuum of Inductive Methods
- The Logical Syntax of Language
- Introduction to Semantics and Formalization of Logic
- Studies in Inductive Logic and Probability
- Meaning and Necessity: A Study in Semantics and Modal Logic

Any one of these titles would be perfect for a nice day under the beach umbrella, as I am sure you will agree.

from each of the groups of synonyms in any publication listing shown.

Here is a simple example of this kind of search and some of the results found with it. Always remember to capitalize “AND” and “OR” when used in a search as Boolean operators.

(“life care planning” OR “life care planner” OR “life care planners”) AND (“terminal illness” OR “hospice care” OR “end of life”) AND (effectiveness OR success OR outcomes OR benefits OR failure OR failures)

Clearly this search is much more specific than a search of just life care planning. It results in 688 sources in Google Scholar. See them at: <http://tinyurl.com/mvfx93w>

The search results for this search include articles like these:

- + Development of a peer education programme for advance end-of-life care planning
- + Recognising and managing key transitions in end of life care
- + Evaluating a peer education programme for advance end-of-life care planning for older adults: The peer educators’ perspective
- + Effectiveness of end-of-life education among community-dwelling older adults
- + Attitudes and preferences of Korean-American older adults and caregivers on end-of-life care
- + Two and a half weeks: Time enough for end-of-life care planning?
- + Physicians’ attitudes and practices regarding advanced end-of-life care planning for terminally ill patients at Chiang Mai University Hospital, Thailand
- + The supportive care plan: a tool to improve communication in end of life care
- + Editorial: End of life care in dementia. Research needed urgently to

determine the acceptability and effectiveness of innovative approaches

- + Drifting in a shrinking future: living with advanced heart failure
- + Do personality traits moderate the impact of care receipt on end-of-life care planning?
- + “I don’t want to talk about it.” Raising public awareness of end-of-life care planning in your locality
- + Use of the stages of change transtheoretical model in end-of-life planning conversations
- + Life-sustaining medical devices at the end of life
- + Voices of African American, Caucasian, and Hispanic surrogates on the burdens of end-of-life decision making

Granted these titles cover a variety of topics, but they are closer together in general themes than the search results were for a search of just the phrase *life care planning*. Indeed, you might encounter sources covering important aspects of this complex topic that you didn’t consider in your original notion of the kind of article you expected to find.

However, when results vary widely from the topic(s) needed, it is a good idea to look at each group of synonyms used in a search to see what can be changed to make a search more effective. *The key to effective searches is a foundation of well- and carefully-selected terminology.* If you put wrong numbers in your tax return, your estimated tax return will be wrong. If your choice of words in a search is not careful, you may see many or mostly inappropriate sources in the search results. Databases are not mind readers.

APPLYING BOOLEAN LOGIC TO YOUR SEARCH TOPIC

Now, let’s see how you can effectively apply Boolean logic to a medical science research topic, *the effectiveness of treat-*

ments for chronic regional pain syndrome.

In searching the phrase in Google we discover this phrase quickly as well: *complex regional pain syndrome.*

We also find this: *reflex sympathetic dystrophy.*

Therefore our first group of synonyms can be made up of these terms. Remember, phrases are always searched within quotation marks.

(“chronic regional pain syndrome” OR “complex regional pain syndrome” OR “reflex sympathetic dystrophy”)

These terms come to mind when thinking of both pain and treatment for the treatment aspect of this search.

- + treatment
- + therapy
- + counseling
- + drugs
- + prescription medicine
- + physical exercise
- + yoga
- + acupuncture
- + alternative medicine

These then would be put this way:

(*treatment* OR *therapy* OR *counseling* OR *drugs* OR “*prescription medicine*” OR “*physical exercise*” OR *yoga* OR *acupuncture* OR “*alternative medicine*”)

Finally we look at terms that suggest outcomes or effectiveness of treatment

- + “evidence based practice” OR
- + “standards of care” OR
- + “standard of care” OR
- + outcomes OR
- + longitudinal OR
- + effective OR effectiveness OR
- + “best practices” OR
- + results OR
- + benefits OR
- + “qualitative research”

These would then be put this way:

("evidence based practice" OR "standards of care" OR "standard of care" OR outcomes OR longitudinal OR effective OR effectiveness OR "best practices" OR results OR benefits OR "qualitative research")

The whole search would be put together this way:

("chronic regional pain syndrome" OR "complex regional pain syndrome" OR "reflex sympathetic dystrophy") AND (treatment OR therapy OR counseling OR drugs OR "prescription medicine" OR "physical exercise" OR yoga OR acupuncture OR "alternative medicine") AND ("evidence based practice" OR "standards of care" OR "standard of care" OR outcomes OR longitudinal OR effective OR effectiveness OR "best practices" OR results OR benefits OR "qualitative research") But wait! Unfortunately, this exceeds the number of characters allowed in a search of Google Scholar and other such tools, so we'll have to eliminate some terms while keeping what we think are the best. Leaving the terms for the medical condition untouched, we can remove, from the second group, these terms:

- + counseling
- + "prescription medicine"
- + "physical exercise"
- + yoga
- + acupuncture

From the third group I will remove:

- + "standard of care"
- + effectiveness
- + results
- + benefits
- + longitudinal
- + effective
- + "qualitative research"

So, finally, the search is written as this:

("chronic regional pain syndrome" OR "complex regional pain syndrome" OR "reflex sympathetic dystrophy") AND (treatment OR therapy OR drugs OR "alternative medicine") AND ("evidence based practice" OR "standards of care" OR outcomes OR "best practices")

This search in Google Scholar lists 9,750 results and can be viewed at this web address: <http://tinyurl.com/me9ghgz>

This search leads to source titles like these:

- + Short-and long-term outcomes of children with complex regional pain syndrome type I treated with exercise therapy
- + Economic evaluation of spinal cord stimulation for chronic reflex sympathetic dystrophy
- + Physical therapy and cognitive-behavioral treatment for complex regional pain syndromes
- + Pain and reduced mobility in complex regional pain syndrome I: outcome of a prospective randomised controlled clinical trial of adjuvant physical therapy versus occupational therapy
- + Adjuvant physical therapy versus occupational therapy in patients with reflex sympathetic dystrophy/complex regional pain syndrome type I
- + Does evidence support physiotherapy management of adult Complex Regional Pain Syndrome Type One? A systematic review
- + Long-term outcomes during treatment of chronic pain with intrathecal clonidine or clonidine/opioid combinations
- + Defining the therapeutic role of local anesthetic sympathetic blockade in complex regional pain syndrome: a narrative and systematic review
- + Long-term outcomes of spinal cord stimulation with paddle leads in the treatment of complex regional pain syndrome and failed back surgery syndrome

- + Psychological and behavioral aspects of complex regional pain syndrome management

Want more? The following links give the results for the same search in three other databases:

Google Books

<http://tinyurl.com/n4whngt>

SCIRUS

<http://tinyurl.com/n7lrt4y>

Temple Summon Search

<http://tinyurl.com/ktnmfap>

SUMMARY

The more you learn to think clearly and precisely in organizing your searches and applying Boolean concepts to them, the more effective and on target your search results will become. The computer has taken researchers away from the print index restriction of looking under one subject heading at a time. You will find that Boolean operators will help you make a computerized database search tool an effective, efficient instrument for finding needed information on precise topics. Below are links to some web sources that explain the use of Boolean operators for searching databases and more information on Euler's circles.

MIT Libraries

Database Search Tips:

Boolean Operators

<http://libguides.mit.edu/content.php?pid=36863&sid=271373>

(All the tabs on this guide could help you learn to be a better searcher!!!)

Basic Database Searching Techniques

Indiana University Libraries

Bloomington

<http://www.libraries.iub.edu/?page-id=1002224>

Video

<https://www.youtube.com/watch?v=lHznshgcVDk>

(Describes how to build a search using a

multistep tool, an EBSCOHost Database)

Searching Databases: Boolean Basics
San Diego State University Library & Information Access
<http://library.sdsu.edu/reference/news/searching-databases-boolean-basics>

Introduction to Boolean Logic
PubMed Tutorial
http://www.nlm.nih.gov/bsd/disted/pubmedtutorial/020_340.html

Advanced Database Searching
Crowder College
<http://crowder.libguides.com/content.php?pid=163246&sid=1378633>

Database Searching and Boolean Operators
<http://tinyurl.com/mwh79wp>

More Database Searching and Boolean Operators
<http://tinyurl.com/kuz4uhp>

Euler's Circles

- Applied Logic: How, What and Why: Logical Approaches to Natural Language
- Volume 247 of Synthese Library, ISSN 0166-6991
- Volume 247 of Synthese library : studies in epistemology, logic, methodology, and philosophy of science
- Editors: László Pólos, M. Masuch
- Publisher: Springer, 1995
- ISBN 0792334329, 9780792334323
- 392 pages
- Logic as a Foundation for a Cognitive Theory of Modality Assignment, on page 321

- View the illustration on page 338 to see examples of the use of Euler's Circles.
<http://tinyurl.com/mmgpdom>



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A New LNC's Experience: Finding a Missing Link

Jenni L. Hoffman, DNP, FNP-C, CLNC

Keywords: Hunter's syndrome, mucopolysaccharidosis type II, new LNC, medical malpractice

Medical-legal nurse consultants have memorable cases throughout their careers, some of which may be early on and/or involve rare conditions. Hunter syndrome (mucopolysaccharidosis type II, MPS II), a rare genetic disorder that primarily affects males, has symptoms that include but are not limited to: skeletal deformities, sleep apnea, joint stiffness, decreased range of motion and mobility, developmental delays, mental retardation, seizures, and frequent respiratory tract infections. This article describes a notable case early in Dr. Hoffman's medical-legal consulting career as she assisted her attorney client with a case involving Hunter's syndrome.

Many of us remember learning that new medical-legal nurse consultants shouldn't start out with consulting on medical malpractice cases. Rather, they may be better off opting for workers compensation or product liability cases, as these tend to

be less intimidating. That was my plan. However, plans seldom work out the way we think. I was eager to get started in my new venture and never thought my very first consult would be for a medical malpractice case, let alone that I would be called upon by one of the

most reputable medical malpractice and birth injury attorneys in the state.

Shortly after I established my medical-legal nurse consulting business, I received a phone call from a colleague and friend, a nurse practitioner and

Little did I know that one of my first cases for a new client would be a turning point for my practice, and one of my most memorable.

certified legal nurse consultant. She wanted to let me know that she had referred one of her former prosecuting attorney clients to me because I had relevant experience for a case of a child with Erb's palsy. Because this attorney was a new referral and I wanted to grow my consulting business, I offered him a complimentary case review. He was so impressed that he soon contacted me to do two more cases for him. Little did I know that one of them would be a turning point for my practice, and one of my most memorable cases. This is an overview of that case.

M.P. was a 40-year-old man with a history of mental retardation, developmental delay, seizures, skeletal deformities, decreased range of motion, severe sleep apnea, worsening vision, and brain tumor. He was hospitalized for excision of the brain tumor and cervical spinal fusion to correct skeletal deformities and the sleep apnea that was exacerbated by the skeletal deformities. Postoperatively, he developed flash pulmonary edema and respiratory failure requiring intubation, resulting in respiratory infection.

M.P. recovered from the acute complications and was admitted to a rehabilitation facility to continue recovery to his baseline. However, his guardians alleged he had further decreased range of motion and decreased communication as a result of care he received while hospitalized. I was asked to review M.P.'s complete medical record to help the attorney decide if the case was meritorious.

When I review a case, I make note of events and/or conditions that stand out and those that need to be researched further. I discovered a brief mention of a previously-diagnosed condition that warranted further research: Hunter syndrome. I found information about many of M.P.'s symptoms and conditions that first appeared separate. This served to be the most important missing piece of the puzzle for this case, the "Aha! moment" on which much of this case hinged.

Hunter syndrome (mucopolysaccharidosis type II, MPS II), a rare genetic disorder that primarily affects males, has symptoms including but not limited to:

- Skeletal deformities
- Sleep apnea
- Joint stiffness
- Decreased range of motion and mobility
- Developmental delays
- Mental retardation
- Seizures
- Frequent respiratory tract infections

Life expectancy for a person born with MPS II is usually 20-30 years. It is considered to be severe, progressive, and fatal, with death usually due to obstructive airway disease and/or cardiac failure (Braverman, 2013). Surgical care can be challenging, as problems can occur with airway management including postobstructive pulmonary edema and reactive airway disease (Wraith et al., 2008; Spinello et al., 2013). Respiratory tract changes and neurological

difficulties are especially challenging for anesthesia professionals as patients with this disease present complex airway management issues that become increasingly challenging with progression of the disease with aging (Nading & Iwaszewski, 2008; Spinello et al., 2013). In addition, I also found that the associated brain tumors can cause many symptoms including but not limited to changes in ability to talk, hear, or see, and problems with balance and/or walking (MedlinePlus, 2014).

M.P.'s guardians claimed that the worsening of his condition was a result of unnecessary complications and inadequate care he had received while hospitalized. However, I told my attorney client that six months before he was admitted to the hospital, M.P. had been experiencing worsening Hunter syndrome symptoms and a brain tumor, and at age 40 years he had already exceeded life expectancy. Furthermore, his complications were common in Hunter syndrome, he received appropriate care from his medical/surgical professionals, and he recovered to his prehospitalization baseline. Finally, I noted that M.P. experienced worsening vision and decreased range of motion before his hospitalization, and neither changed during his admission.

My attorney client agreed that in light of my research findings, the case was not meritorious. I knew he was pleased with and confident of my work and appreciative of my services. He requested further assistance in writing a letter of declination to M.P.'s guardians, gave me multiple handshakes and "thank yous" ... and handed me an additional case as I was leaving his office.

This was a pivotal case for my practice. It was one in which I felt I made a significant difference. It gave me confidence in my consulting services, in part from the experience this challenging case provided and from the pride I felt from my work on it. I was pleased with my



performance for the following reasons: I felt as though I helped to prevent an unnecessary lawsuit, freed up my attorney client's time to work on other cases, and helped protect the healthcare providers who had practiced safe and responsible medicine.

If I were just starting the case today, I can honestly say that I would not do anything differently. Overall, I was very pleased with how I approached this case and my overall work product; my attorney client's responses to the work affirmed this overall feeling of reward.

When you are asked to review a case, it is very important to make note of events and/or conditions that need to be further researched, not just obvious ones. Doing so just might help you pinpoint one of those missing puzzle pieces. Your findings might just lead to the successful outcome of a case. It's satisfying experiences like this that make me very glad I decided to pursue medical-legal nurse consulting.

My attorney client agreed that in light of my research, the case was not meritorious ... and handed me an additional case.

REFERENCES

Braverman, N.E. (2013). *Genetics of mucopolysaccharidosis type II*. Retrieved from <http://emedicine.medscape.com/article/944723-overview>

MedlinePlus, U.S. National Library of Medicine, National Institutes of Health. (2014). *Brain cancer*. Retrieved from <http://www.nlm.nih.gov/medlineplus/braincancer.html>

Nading, L., & Iwaszewski, M. (2008). *Airway management challenge: Hunter's disease*. Copy in possession of the California Association of Nurse Anesthetists.

Spinello, C. M., Novello, L.M., Pitino, S., Raiti, C., Murabito, P., Stimoli, F., Astuto, M. (2013). Anesthetic management in mucopolysaccharidoses. *ISRN Anesthesiology*, 2013(791983). doi:10.1155/2013/791983

Wraith, J.E., Scarpa, M., Beck, M., Bodamer, O.A., DeMeirleir, L., Guffon, N., Zeman, J.

(2008). Mucopolysaccharidosis type II (Hunter syndrome): A clinical review and recommendations for treatment in the era of enzyme replacement therapy. *European Journal of Pediatrics*, 167(3), 267-277. 📖



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Malpractice

In-House Law Firm Legal Nurse Role: 30 Year Perspective

Elizabeth Zorn, RN, BSN, LNCC

Keywords: LNC, legal nursing, in-house, plaintiff, defense

Our success as individuals and as a specialty nursing practice depends upon the quality of our services. This article reviews the general role of the in-house LNC and important skills, knowledge, and attributes, and answers some common questions about in-house LNC work.

INTRODUCTION

The term *in-house LNC* refers to an LNC who is a law firm employee, in contrast to a self-employed LNC consultant. How law firms use in-house LNCs varies widely by geographical location, urban vs. rural setting, volume of med-legal claims, and their awareness of the contributions skilled LNCs bring to high-quality legal work.

Firms managing medical legal claims in Rochester NY have used in-house LNC services for over 30 years. As one of the first in-house LNCs in our area, I see more LNCs hired, and have seen their assignments evolve from fairly perfunctory tasks to those requiring critical analysis. The more LNCs have demonstrated their value to attorneys over the years, the more firms see the advantage to hiring them.

Our success as individuals and as a specialty nursing practice depends upon the quality of our services. This article reviews the general role of the in-house LNC and important skills, knowledge, and attributes. I also answer some common questions about in-house LNC work.

LNC ROLE: MEDICAL MALPRACTICE CASES

In **plaintiff firms**, LNCs are integrally involved in screening and investigating potential medical malpractice claims in collaboration with attorneys. If a case is likely meritorious and economically viable, the plaintiff LNC participates in the initial client interview to obtain the client's medical history and version of the facts, and prepares a list of all relevant medical records to obtain.

Pre-suit Investigation

The LNC organizes and reviews the records and pertinent medical literature. The LNC then prepares a memo

regarding case strengths and weaknesses, including recommendations whether to obtain an expert review. The memo includes the basis for conclusions and support from the medical literature. LNCs also provide attorneys with relevant anatomical drawings and procedure descriptions to help them understand the medical issues.

Expert Review

If the plaintiff attorney wishes to proceed to expert review, the LNC identifies and vets potential clinical experts from a variety of sources: personal medical and legal contacts, individuals and services that find experts for a fee, expert directories, and cold calls to physicians published in a relevant specialty or practicing at academic medical centers. LNCs often develop and maintain a database of potential expert witnesses.

The LNC prepares a package of materials for the retained expert with an organized copy of the medical records. The package may also include a summary of the facts, a list of questions for the expert to consider or the LNC's chronology. However, this is always at the attorney's discretion, because anything sent to an expert is potentially discoverable by opposing counsel.

After the expert has completed the review, the LNC participates in the discussion with the expert to review the expert's analysis of the case merits. If the conference is recorded, the LNC proofreads the transcript for accuracy. If a case is declined following expert review, the LNC may draft or edit the rejection letter. Cases the attorney deems meritorious based upon discussion with the expert(s) are put into suit by filing a Complaint along with some type of Affidavit of Merit. The LNC assists the plaintiff attorney to identify the named defendants.

Litigation

Defense firms receive their medical malpractice cases from malpractice liability insurance carriers. The defense firm files an Answer to the Complaint and serves the plaintiff firm with discovery demands. Defense LNCs may assist with preparing these legal documents. Plaintiff's counsel must provide the defense with a list of hospitalizations and medical providers and either copies of the records or authorizations so the defense firm can obtain their own copies.

At this point, plaintiff's counsel must submit either interrogatory answers or bills of particulars, in which the claimed allegations of negligence and resulting harm are set forth in detail. The plaintiff LNC may assist the attorney to draft the medical portions of this document; the defense LNC reviews plaintiff's completed document, reporting back to the defense attorney whether the alleged claims and injuries are consistent with medical documentation. The defense LNC also assists the attorney to respond to plaintiff's requests for production of documents, such as defendant's complete medical record for the plaintiff.

The defense LNC is integrally involved in getting expert reviews, using the same process described above for the plaintiff LNC. Both plaintiff and defense LNCs conduct background and other searches pertaining to the parties and experts. They also prepare summaries or chronologies, incorporating relevant medical records excerpts.

Next Step: Depositions

Both plaintiff and defense LNCs assist attorneys to prepare for depositions of plaintiffs, defendants, and typically some non-party witnesses¹, attending depositions as requested. In states with expert witness discovery, the LNC assists the attorney to prepare for depositions of

1. A witness who is not a party to the lawsuit.

their own and opposing experts. At some firms, the LNC prepares a list of relevant deposition questions. The LNC ensures the attorney has all relevant medical records before depositions and understands the medical issues.

Discovery: Ongoing

Plaintiff LNCs keep abreast of the client's medical status, periodically updating the client's medical records. Defense LNCs make note of any

Both plaintiff and defense LNCs review these, analyzing them in the context of the case issues.

After depositions, both plaintiff and defense LNCs may coordinate further work with experts based upon additional information revealed during depositions, forwarding experts copies of the relevant transcripts and arranging phone conferences or meetings to discuss their opinions.

The more LNCs have demonstrated their value to attorneys over the years, the more firms see the advantage to hiring them.

additional providers found in medical records or mentioned by the plaintiff at deposition. Both sides usually obtain records from the plaintiff's primary care physician going back at least 10-15 years before the alleged malpractice to get a sense for the client's baseline health, especially pre-existing conditions. It is also important to know whether there is anything in the records which might affect the client's credibility or lead to a defense that the plaintiff is partially responsible for any adverse event or complication, such as failure to undergo a recommended course of treatment.

After depositions, LNCs conduct a more in-depth medical literature search as the issues become more focused. For standard of care research, this includes peer-reviewed journal articles, excerpts from authoritative medical textbooks and clinical guidelines from professional organizations. If the defendant is a hospital, plaintiff's counsel serves a formal discovery demand for its relevant policies and procedures based on the LNC's work to identify them.

If defense counsel requests an IME (independent medical exam) of the plaintiff, the plaintiff LNC may attend this exam, providing the attorney with a written summary of what occurred at the exam: examiner's questions and client's answers, description of the physical exam, and the time involved in each. Some LNCs are asked to do audio or video recordings of IMEs (if permitted by state law) and summarize the significant findings and events for the attorney.

Both plaintiff and defense LNCs assist their attorneys to evaluate deposition testimony and reports of the opposing side's experts. In states in which the identity of experts is not revealed before trial (and thus there are no depositions of experts), LNCs for both sides review and analyze opposing sides' Expert Witness Disclosures that set forth the general qualifications of the experts and the basis for their opinions, but do not reveal their identities.

LNCs participate in regular meetings with firm attorneys to review the status

of all pending medical malpractice cases. Also, some defense attorneys and their LNCs meet regularly with certain clients, for example, representatives of the insurance company, to review the status of all cases they are handling for that client. Defense LNCs also may draft or edit periodic written case status reports for their clients.

Plaintiff LNCs may draft a demand letter summarizing liability, causation, and damages. The defense LNC reviews plaintiff's demand letter to provide an analysis of the case strengths and weaknesses, and the defendants' likely exposure if they proceed to trial.

Case Resolution

LNCs assist their attorneys to prepare for trial, mediation, or arbitration. Depending on the needs of the attorney, this may involve selecting demonstrative evidence or making charts and timelines. In addition, the LNC may be asked to attend key parts of trial, such as the testimony of the opposing medical experts.

Before trial, LNCs may assist the attorney with a focus group, a mock trial in which participants from the community are paid to listen to a shortened version of the case and then deliberate as a group about the merits of the claim. This gives attorneys insight into issues they may not have even considered, allowing them to better prepare for trial.

LNC Role: Other Personal Injury Cases

With some exceptions, LNCs are rarely concerned with the liability aspects of auto, slip and fall, drug and medical device, labor law, or toxic tort cases. However, they will summarize injuries resulting from the alleged negligence, including whether there was aggravation of a pre-existing condition or whether any of the alleged injuries are likely solely related to a pre-existing condition and not the result of the negligence at issue.

They will use the same process as in the medical malpractice cases: identification, organization, review and summary of the relevant medical records; drafting medical portions of certain legal documents; analyzing injuries and keeping up with the plaintiff's current medical condition and treatment; attending IMEs; and assisting the attorney to prepare for depositions and trial.

For mass tort claims, the LNC might assist with the medical portions of any required court documents, such as the Plaintiff Profile Form² or interrogatories. Also, the LNC may conduct medical literature searches related to the drug, device or toxic substance involved in products liability cases and toxic tort claims.

In-House LNC Skills and Knowledge

Aspiring in-house LNCs must develop the following:

- *Good analytical skills*, including the ability to set forth opinions logically and coherently.
- *Excellent reading and writing skills*. LNCs spend a good portion of time reading and writing. You must be able to prepare succinct medical records summaries, informative medical literature summaries, properly constructed correspondence, medical portions of legal documents, and persuasive case analysis summaries. Documents must contain proper spelling, grammar and good sentence structure. If writing is not your strength, take a legal or other writing course.
- *Good organizational skills and ability to prioritize*. The LNC in a litigation firm must keep track of tremendous amounts of information for many open cases, each with large volumes of medical records and numerous

pending projects. You must maintain frequent contact with the managing attorneys regarding the procedural status of each case, maintain a list of "to do" projects, and prioritize projects based upon impending deadlines (i.e., depositions, responsive legal pleadings, or trial).

- *Effective communication and teaching skills*. Once you have completed your research or analysis, you need to communicate your findings to the attorney verbally and in writing. You may have to develop other teaching aids related to the medical issues in a case (e.g., anatomical drawings, an acronym or definition list, or step-by-step description of a surgical procedure). You will have to tailor your teaching to the learner, with new associates typically needing more basic information than a partner. Never assume that even the most experienced attorney knows everything; check for feedback as you progress.
- *Strong computer skills* including proficiency in the firm's word processing program, software for chronologies and time lines (such as Case Map), and legal case management programs such as Needles or Prolaw. LNCs need familiarity with Adobe Acrobat and managing digital medical records and imaging. If you are not familiar with these, take classes to learn the basics.
- *Effective Internet search skills* for medical literature searches, obtaining hard copies of journal articles and medical textbooks, locating current contact information for medical providers, and doing background checks of defendant physicians and experts. Searching medical literature is an art – the more time you spend doing it, the more proficient you will become.

- *General working knowledge of state statutes, rules, and regulations* about medical malpractice, product liability, and other personal injury cases. This includes knowledge of the applicable statutes of limitations (SOL) for different types of cases, the serious injury threshold in some states related to auto injuries, and what is compensable in a wrongful death matter.
- *Knowledge of applicable ethical standards* in the state version of ABA's Model Rules of Professional Conduct, especially about confidentiality, a lawyer's responsibility to prevent the unauthorized practice of law, and an attorney's delegation of tasks to non-attorneys, including in-house LNCs. Legally, in-house LNCs practice under the supervision of attorneys and the firm is vicariously liable for the acts of its in-house LNCs, other employees, and its contract LNCs.

In-House LNC Attributes

Important attributes for successful in-house practice include:

- *Ability to work independently with minimal supervision and direction*. However, never hesitate to ask questions or seek guidance when uncertain.
- *Good interpersonal, problem-solving, and conflict-resolution skills*. In-house LNCs work with a range of personalities (some difficult), sometimes under tight deadlines and pressure from attorneys with their own pressures to meet deadlines and achieve a favorable resolution for their clients.
- *Intellectual curiosity about legal standards and case strategy*. This knowledge is acquired over time working on actual medical legal cases.

2. The Plaintiff Profile Form (also known as the Plaintiff Fact Sheet) is a Court-approved form completed by plaintiff's counsel setting forth detailed information about the plaintiff. It is commonly used in mass tort drug, medical device, and toxic tort claims.

- *Strong work ethic* and willingness to accept responsibility for seeing projects through to their conclusion.
- *Willingness to solicit regular constructive feedback* from the firm's attorneys regarding the quality of your LNC services.
- *Dedication to the mission* of the work being done at the firm.

EDUCATIONAL AND CLINICAL BACKGROUND

Although each firm sets its own criteria for the desired LNC qualifications and credentials, a minimum of a bachelor's degree in nursing is often preferred with at least five years prior clinical experience. The LNC must assist with all types of medical legal cases the firm handles, so broad-based experience in clinical specialties with working knowledge about many body systems and pathologic conditions is necessary to meet the demands of in-house LNC work. These are most often ICU, trauma, emergency, medical surgical, and obstetric nursing. If the firm has more than one LNC, they will often hire LNCs with different clinical backgrounds.

LNC VS. PARALEGAL ROLE

Job titles, roles and responsibilities of firm employees vary from firm to firm and ultimately, are decided by the partnership of each firm. Nurses employed by law firms may be called legal nurse consultants, nurse consultants, nurse paralegals, nurse legal assistants, medical legal consultants, nurse investigators or just plain paralegal, among others. In addition, a nurse called a "nurse paralegal" at one firm may have exactly the same responsibilities as a nurse whose title is "legal nurse consultant" at another firm. Thus, a job title alone doesn't infer anything about a given in-house LNC role.

Some paralegals take paralegal or general litigation classes before applying

for their first paralegal job. Paralegals handle many of the non-medical-related tasks, but may manage the medical records in those cases involving less complex injuries, especially if there are not enough nurse hours to assign an LNC to every case.

Nurses often command salaries higher than paralegals due to their background and knowledge; and, LNCs generally have different roles and responsibilities. LNCs typically get involved in projects that are medically-complex and require medical knowledge. In addition, more experienced LNCs get involved in higher level tasks such preparing a case analysis document, discussing case strategy with the attorney or conducting extensive medical literature searches.

COMMON QUESTIONS ABOUT IN-HOUSE LNC JOBS

What should an LNC do to become invaluable as an in-house LNC?

- Most important, take initiative to learn the skills necessary to give good advice and produce high quality work products. Strong writing and analytical skills are especially important because the fewer revisions an attorney must make to a written document you draft, the more valuable you are to him or her.
- Tailor work products to the attorney's legal experience and medical knowledge.
- Tailor work products to the particular medical and legal issues in a case, avoiding boilerplate work products.
- Strive to think of new ways to assist the attorney.
- Demonstrate flexibility.
- Anticipate what needs to be done in a case before the attorney even approaches you about doing a project.
- Be open and honest in your opinions, even if you think the attorney will disagree with you. Law is an adversarial profession and you must be

comfortable debating issues. Sometimes an LNC is most valuable to the attorney when playing devil's advocate or articulating case weaknesses so the attorney can formulate the best approach. This is a higher level skill that is acquired over time with experience, especially as the LNC becomes more familiar with analyzing medical issues in the context of the applicable legal standards.

- Remember you have a unique body of knowledge very valuable to the attorney's delivery of legal services.
- If you don't know the answer to something offhand, convey that you will do the research and get back to the attorney.

What are typical salary and benefits packages of in-house LNCs?

Most full time in-house jobs are salaried, exempt, meaning no overtime pay. Base salaries vary with the clinical and legal experience of the LNC, the economics of the firm, how much the firm values LNC contributions, and to some extent, the job category of the position (LNC vs. paralegal). In my area, where the legal community has been using in-house LNCs for over 30 years, the average base salary for a full time, experienced in-house LNC is about \$70,000. Bonuses, if any, are typically merit based and may also depend upon firm profitability in a particular year.

LNC benefits packages may include:

- Health insurance premiums (in full or in part)
- Group life insurance premiums
- Disability insurance
- Parking
- Laptop computer
- Private office
- Online data bases for medical literature searches

- Payment of professional dues, licenses & certifications
- 401K programs
- Profit-sharing
- Educational expenses
- Sick, vacation and personal time (paid time off)

For more detailed information regarding LNC compensation see AALNC's 2011 Salary Survey Report.

Is it possible to work clinically and work part time in a law firm?

Yes, but nurses who work in plaintiff firms must avoid potential conflicts of interest related to cases against their employer. Conflicts of interest affect attorneys and their ability to continue

representing a client should opposing counsel move to preclude representation based upon a conflict of interest. Any potential concerns about this should be discussed with the attorneys at your firm.

Do full time in-house LNCs typically work 40 hours per week?

Most full-time salaried LNCs work an average of 40-45 hours per week, unless cases go to trial, at which time all members of the litigation team typically work extra hours. LNCs who consistently work over 45 hours per week are usually rewarded for this by firms with a bonus system.

I know an in-house LNC who lost her full time job when an attorney who did a lot of medical

malpractice cases left the firm. How can an LNC assure job security?

Job security as an in-house LNC is related to the competence of the LNC and the ability of the firm to maintain enough medical legal cases to justify the cost of an employee. Your friend's situation was probably out of her control. However, this outcome can be mitigated by working with multiple attorneys in the firm. Also, if one leaves and takes cases to another firm, you could explore the possibility of moving with that attorney.

Do in-house LNCs need their own liability insurance?

No. The firm is liable for the acts of its employees acting within the scope

Presidential Pearls

INTERVIEWING FOR AN IN-HOUSE POSITION

- Learn about the firm ahead of time via an Internet search and the Martindale Hubbell web site.
- Come with lots of questions for the attorney or other personnel who will be interviewing you. This allows you to have some control over the interview.
- Your approach will vary with whether the firm is hiring an LNC for the first time or has used LNCs in the past.
 - If the firm has used LNCs in the past, ask what their expectations are regarding the role and responsibilities. Does the LNC have secretarial support? Is there a written job description for the LNC? Are there ways the role could be expanded to help attorneys more? Is there a team philosophy? Is there a firm document outlining team member responsibility? Are there firm protocols for managing different types of cases?
 - If the firm has never used LNCs in the past, ask how the LNC will be used. Be prepared to offer your own thoughts about how an LNC can assist the firm in their delivery of legal services.
- Actively indicate the reasons for your interest in the position at the firm. Highlight your strengths (critical thinking, reading and writing, interpersonal) and prior personal achievements. Bring samples of your medical legal case work, especially those that highlight your analytical ability. If you have never worked on a legal case before, bring another writing sample, such as a research paper for a course.
- Ask for a business card from the interviewer and follow up with a thank you note reiterating your interest in the job.
- Finally, be patient and persistent. Getting a position in a law firm may take a good deal of research and follow-through. Perseverance may be your best attribute in this process. In some cases, it's just a matter of being in the right place at the right time.



Elizabeth Zorn, Past President, AALNCP

of their employment. Law firms have professional liability insurance in the event they are sued for legal malpractice arising out of the conduct of a partner or employee.

How does an in-house LNC manage the competing demands of multiple attorneys?

The key is to stay well organized. Keep a priority list of pending projects for all attorneys that includes deadlines. At the end of each week, have a plan for what you hope to accomplish the next week. At our firm, the nurses meet with each attorney once a month to review the status of all their cases, including ongoing task delegation. If you get last-minute requests that will be difficult to complete, or should two attorneys need work done at the same time, get the attorneys (or the managing partner) involved to help sort out priorities.

What are some typical job responsibilities of the in-house LNC that might differ from an independent LNC?

The biggest difference is that in-house LNCs typically are involved in every aspect of a case, from its inception to conclusion, whereas contract LNCs are hired to work on specific projects for a case. Also, in-house LNCs have more frequent contact with attorneys and their clients, and more responsibility for assisting attorneys to move their cases forward procedurally. Many in-house LNCs have a greater depth of understanding regarding the applicable legal standards and are more likely to engage in debate with the attorneys about case strategy.

What are the benefits of working in-house?

The primary benefit of working in-house is a reliable income and associated benefits, which can be significant. In addition, working in-house is by far the best and fastest way of learning the whole range of behind-the-scenes LNC

work, including more complex tasks like case analysis. Daily mentoring with attorneys and other LNCs allows you to learn how to analyze medical issues more effectively in the context of the applicable legal standards. Working in-house also gives you a chance to be involved in a case from beginning to end, making the work challenging and intellectually stimulating. In-house LNCs often have regular contact with the attorneys' clients, affording rewarding opportunities to teach and serve as a liaison between the attorney and the client. Finally, LNC work requires fostering trust in your abilities as an LNC and providing work products and advice adapted to the skills, knowledge, needs, and preferences of the attorney. This is easier when working with the same group of in-house attorneys, as opposed to the necessity of continually working with new attorney clients as an independent LNC.

What are the drawbacks of working in-house?

The most commonly cited reasons for choosing to work independently are the ability to work at home and maintain a flexible work schedule. Most in-house LNCs must work at the firm during their scheduled work hours, with some firms allowing their LNCs to work at home occasionally. Although working in-house lends itself to more scheduling flexibility than in the clinical setting, most in-house LNCs work regularly scheduled work hours, Monday through Friday. However, evening and weekend work may be necessary when cases go to trial.

Full time in-house LNCs juggle numerous work projects for many cases. They also frequently have multiple attorneys competing for their time. This can be overwhelming unless the LNC finds an effective means of prioritizing projects. In-house LNCs may occasionally have to work with attorneys or support staff with difficult personalities or problematic work habits. This can be especially

challenging if this interferes with the LNC's productivity.

SUMMARY

In-house LNCs are integral to the provision of high-quality legal services. In-house LNC work is directed by the firms' attorneys under established firm protocols for legal case management. Each firm sets its own criteria for its LNCs' desired educational, clinical and legal backgrounds. LNC responsibilities in a law firm vary with type of case, the skills and experience of the LNC, the manner in which the firm utilizes LNC support and whether the firm does primarily plaintiff or defense work. In-house LNC work is deeply fulfilling and requires a specific set of skills and personal attributes, and knowledge to effectively analyze medical issues in the context of the applicable legal standards.

REFERENCES

American Association of Legal Nurse Consultants. (2011). Salary Survey Report.

Zorn, E.K., & Lanz, M. (2010). Legal nurse consultant practice within a law firm. In A.M. Peterson & L. Kopishke, editors, *Legal Nurse Consulting Practices*, 3rd Ed (pp. 67-93), American Association of Legal Nurse Consultants, Chicago IL. 📖



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Forensic Nursing: Focus on SANE

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Keywords: forensics, nursing, sexual assault, evidence

The nursing subspecialty of forensics is of interest to the justice system. Forensics Nursing includes four distinct focuses of practice: interpersonal violence, non-medical deputy medical examiners, correctional nursing and sexual assault nurse examiner (SANE). This article briefly describes the first three and gives a more in-depth picture of the SANE. Awareness of the role, responsibilities and practice guidelines of the SANE will inform the legal nurse consultant in review of sexual assault cases.

INTRODUCTION

When people choose to become nurses, I imagine most see themselves working in a hospital, a medical office, a clinic, or perhaps a school system. I would guess few would expect to work closely with the criminal justice system; working in the Prosecutor's Office or Coroner's Office probably doesn't seem likely. With

changes in health care reform and the advent of high nursing education levels, nurses are uniquely positioned to be intrinsic components of the evolving field of forensics. (Agency for Health Resources and Service Administration [AHRQ], 2010; Health Resources and Services Administration [HRSA], 2012; Institute of Medicine [IOM], 2011).

Forensic nurses practice in settings as diverse as the clients for whom they care (HRSA, 2010). Nursing theorists postulate that a person is a holistic adaptive system in constant interaction with the internal and external environment (Roy, 2009). The role of every nurse, in every setting, is to give holistic care and foster this adaptation. Since a part of every

nursing assessment includes an assessment for abuse, nurses are already in tune with abuse's signs and symptoms. This awareness leads to the next step toward forensic nursing.

The important professional qualities in forensics nursing include ability to work autonomously with minimal supervision. Forensic nurses often have a background in emergency/trauma or women's health and work as on-call consultants with managers a phone call away.

Forensic nursing includes four distinct practice areas: interpersonal violence, non-medical deputy medical examiners, correctional nursing, and sexual assault nurse examiner.

Forensic nurses are registered nurses with specialized education in medico-legal examination (IAFN, 2014). These nurses are trained to conduct examinations on patients from "cradle to grave." This includes four distinct practice areas: interpersonal violence, non-medical deputy medical examiners, correctional nursing, and sexual assault nurse examiner (SANE) (Lynch, 1998, Shives, 2007, IAFN, 2014). This article gives a very brief overview of three forensic nursing roles, followed by a more extensive description based on my experience with SANE practice.

OVERVIEW OF FORENSIC NURSING ROLES

Interpersonal Violence

Forensic nurses use their unique training and skill to develop a holistic care plan addressing physical and psychosocial needs of the victim. For example, forensic nurses screen and assess for

abuse using specialized training in interpersonal violence. Medical forensic evaluation includes a physical examination and interview. If the nurse identifies or suspects abuse, the next step is developing and implementing a plan to mitigate the risk of violence for the client. This plan would include education, outreach to social service providers, and work with a multidisciplinary team. For instance, using the nursing process, the forensic nurse assesses a potential abuse

situation and evaluates the victim's risk of harm at home. If further violence seems likely, the Forensic Nurse leads a team including social services, law enforcement and others to begin the mitigation process to find an alternate living situation. Education of health care providers, community members and public officials are also components of the nurse's role. (IAFN, 2014)

Non-medical Deputy Medical Examiners

In communities where a forensically trained physician may not be available, forensic nurses can take the lead in the forensic examination. Since each death is a medical event, forensic nurses are qualified to conduct the examination. They can conduct the physical examination, collect evidence if necessary, and interview survivors for the medical and social history of the decedent. They can conduct crime scene investigations, collecting evidence and generating a report

for law enforcement. Certifications are offered by the American Board of Medico-legal Death Investigators. (ABMDI, 2014, IAFN, 2014)

Correctional Nursing

Forensic nurses may care for incarcerated individuals. Duties in this role are not unlike those in other long term residence settings, since these individuals may have acute and chronic medical conditions requiring assessment and management. The difference here is that the care is administered in facilities built for safety rather than healthcare. Because of this, the nurse needs to be acutely aware of both personal safety issues and confinement issues for the incarcerated client.

Chronic conditions need management despite incarceration, and acute illnesses must be treated within the restrictions of the penal system. When care outside of the facility is indicated, it's necessary to consider not only the patient's physical welfare, but the safety of the attending staff and the secure containment of the patient to prevent elopement. When a prisoner is transferred to a hospital, for instance, it is not uncommon for restraints to be used. Handcuffs securing a patient to a bed may be a barrier to nursing care. he experienced correctional nurse can give education support to nurses outside of the prison system that is critical for their safety.

Besides chronic and acute medical issues, drug and alcohol withdrawal and the incidence of communicable disease transmission in close quarters can be critical concerns. Upon arrival at the prison, the detainee has a thorough intake assessment, important for proper care and placement, because isolation or medical referrals may be in order.

Correctional nurses are not always certified forensic nurses, but the additional training of a forensic nurse is beneficial. Additional certifications are available for corrections nurses through the National Commission on Correctional Health

Care (NCCHC) and American Correctional Association. (ACA, IAFN, 2014)

Sexual Assault Nurse Examiner (SANE)

The fourth practice area for a forensic nurse is SANE (IAFN, 2014). This role requires RN licensure. The SANE carries the credentials of Forensic Nurse – Certified in Sexual Assault (FN-CSA) after the RN in her signature. The training required to become a SANE is determined by the local board of nursing and varies by state. The training generally follows the national protocol that covers interviewing, the medicolegal exam, treatment, social support, and access to resources. Generally, modules would include the following:

- Female anatomy and physiology
- Trauma assessment
- Psychosocial assessment
- Treatment
- Interviewing skills
- Evidence collection
- Law enforcement issues
- Testifying

Originally written and sponsored by Senator Joe Biden in 1994, the Violence Against Women Act (VAWA) supports SANE activities. The VAWA has been renewed three times since its original passage, the last in 2013. The act has been credited with raising awareness of the incidence of sexual assault within communities and with law enforcement. (Whitehouse, 2014) VAWA appropriations make funding available for training volunteer advocates who support the victim through the clinical examination and subsequent legal events, and also for law enforcement training. (USDofJ, 2014)

The SANE calls in law enforcement when the victim is ready to report the case for prosecution. If the victim is not ready to report the case, the Sexual Assault Forensic Examination (SAFE) kit is stored. When the report to law

enforcement occurs, the prosecutor's office will decide the components of the kit to be tested for DNA of the person being charged with the assault (the actor). Often, just the fact that a SAFE was done is sufficient to make the actor try for a plea bargain. While a SAFE kit may be collected by individuals with differing levels of expertise, training and experience in evidence collection, forensics, and chain of custody improve the quality of the evidence.

According to a government report (White House, 2014), after years of increasing frequency, rape and sexual assault rates involving women have plateaued. The VAWA Factsheet posted by the US Government (Washington, 2014) states that VAWA has improved the criminal justice response to violence against women by:

- Strengthening federal penalties for repeat sex offenders and creating a federal "rape shield law," intended to prevent offenders from using victims' past sexual conduct against them during a rape trial
- Mandating that victims are not forced to bear the expense of their own SAFE or for service of a protection order
- Keeping victims safe through recognition and enforcement of a victim's protection order everywhere in the US
- Increasing rates of prosecution, conviction, and sentencing of offenders through dedicated law enforcement and prosecution units
- Training over 500,000 law enforcement officers, prosecutors, victim advocates and judges annually
- Providing additional tools for protecting women in Native American reservations

VAWA has ensured that victims and their families have access to the services they need to achieve safety and rebuild their lives by:

- Establishing the National Domestic Violence Hotline, answering over 22,000 calls every month
- Improving safety and reducing recidivism through coordinated community responses
- Focusing attention on the needs of underserved communities

Since VAWA was passed:

- Between 1993 to 2010, the rate of intimate partner violence declined 67%
- Between 1993 to 2007, the rate of intimate partner homicides of females decreased 35% and the rate of intimate partner homicides of males decreased 46%
- More victims are reporting domestic and sexual violence to police, and reports to police are resulting in more arrests
- States have reformed their laws to take violence against women more seriously:
 - All states have reformed laws that previously treated date or spousal rape as a lesser crime than stranger rape
 - All states have passed laws making stalking a crime
 - All states have authorized warrantless arrests in misdemeanor domestic violence cases where the responding officer determines that probable cause exists
 - All states provide for criminal sanctions for the violation of a civil protection order
 - Many states have passed laws prohibiting polygraphing of rape victims
 - Over 35 states, the District of Columbia, and the U.S. Virgin Islands have adopted laws addressing domestic and sexual violence, and stalking in the workplace (Whitehouse.gov, accessed July 2014)

Women's advocacy groups called the report proof that the VAWA and

heightened awareness of the problem by police has had a positive effect (Hammer, 2006). The law provides over \$659 million a year over five years for programs that support the criminal justice system's response to crimes against women and some men. Reduction of sexual assault on college campuses is one of the focuses in the 2013 renewal.

The SART/SANE Process

Victims of sexual assault often present at a hospital emergency room, law enforcement agency, community clinic, or campus health center. These victims are offered the services of the Sexual Assault Response Team (SART): the SANE, a volunteer advocate, and law enforcement. The victim can choose any combination of the three disciplines. For instance, if the victim does not want to report the crime to law enforcement, the nurse and the advocate can still be available for the examination. There is no charge for any services or supplies for the SAFE. Once everyone is ready, the victim signs a consent form and, in the case of a female of reproductive age,

may have been administered to the victim. If the victim presents 5 days after the assault, some services are still available, but evidence may not be collected.

The SANE uses the nursing process of assessment (observation, measurement, and intuition), planning, implementation and evaluation with a patient-centered approach for the interview and examination. Only those the victim chooses are present for the interview and examination; this could include family, friends, or significant others. This sometimes means the nurse has to perform crowd control. The advocate, if activated, may be in the room with the victim or in the waiting area with the victim's family or friends.

The SAFE kit forms include very detailed and intimate questions about the assault, and drawings which note any visible injuries. Photographs require a separate consent from the victim. The chain of custody of the photographs is very restricted and the photos are rarely printed if that can be avoided. When

including obtaining specimens related to drug-facilitated sexual assault DFSA if indicated.

The physical examination looks not only at medical issues, but at areas where bruising or specimen collection occur, e.g., if a victim states the actor ejaculated on her leg, a swab of the leg would be taken even if no leg injury is noted.

The SANE may use special equipment, such as a colposcope, a tool which illuminates and magnifies vaginal and cervical tissue for closer examination (Medterms, 2014). Alternate light sources help reveal semen or saliva, or show where bruising is beginning to occur under the skin.

Throughout the process, the SANE continues to reassess the victim's emotional status and readiness to make decisions on the process.

The complete SAFE Protocol for adult and adolescent victim of sexual assault is available for free download at the National Criminal Justice Reference Service website at <https://www.ncjrs.gov/pdffiles1/ovw/241903.pdf>.

The SANE is responsible for initiating and maintaining the chain of custody of the evidence. When law enforcement collects any specimens, the officer must sign and date the SAFE kit and assume custody until it is stored in the evidence vault. The evidence caretaker would then sign the SAFE kit as well, assuming custody. This maintains and documents the chain of custody.

Once the interview and examination is completed, the victim may be treated prophylactically for sexually transmitted diseases with antibiotics and antifungals. Emergency contraception that suppresses ovulation can be given. "Morning after pills" that prevent implantation are not part of the treatment.

The multidisciplinary team assists with the living situation if the victim can't return home, gives support during the trial

The SANE uses the nursing process of assessment (observation, measurement, and intuition), planning, implementation and evaluation with a patient-centered approach for the interview and examination.

has a pregnancy test. The patient is triaged for physical injury; SAFE is delayed until after the victim receives any necessary emergent treatment.

The process must begin within 5 days of the assault to maximize the possibility of collecting viable evidence. In a drug-facilitated sexual assault (DFSA), time is of the essence to collect evidence of drugs that

injuries are noted and a photograph is appropriate, several shots are taken using a ruler and following the training specific to forensic examinations. Both drawings and photographs are necessary because there are instances when the drawings may be preferred in the courtroom. The examination also includes written and photographed documentation of the examination and evidence collection,

if there is one, and provides counseling if needed. Law enforcement, attorneys and others involved in the investigation of the assault may access the SAFE report and specimens. If the case goes to trial, these materials will be important parts of trial preparation and evidence.

The SANE may testify regarding the specimen collection process without rendering a judgment on whether a sexual assault was committed. It is important to note that consensual intercourse can also result in bruising (Anderson, et al., 2006). Consequently it would be conjecture to make a statement regarding the event and would be inappropriate.

Finally, scheduled times for team members to discuss these cases in formal, closed meetings is important for quality assurance purposes and to enable the team to debrief personally or professionally upsetting events.

SUMMARY

Consistency in SANE practice is critical for those who may review the SANE's documentation and evidence collection. Training to assure each case is handled in the same manner allows reviewers to have confidence that the process was followed within defined guidelines, with comprehensive and credible written documentation, photographs, and forensic evidence.

Forensic nurses may work in the prosecutor's office, community clinic, or on a college campus. They are a resource to law enforcement, first responders, mental health care providers, emergency/trauma department staff, and the community. Their work has contributed to the conviction of many sexual offenders while lending psychosocial support and excellent medical and nursing care to the victim.

REFERENCES

Agency for Healthcare Research and Quality (AHRQ) (2012, December 1). The Changing Role of Nurses: Research Activities. Retrieved July 1,

With changes in health care reform and the advent of high nursing education levels, nurses are uniquely positioned to be intrinsic components of the evolving field of forensics.

2014, from <http://www.ahrq.gov/news/newsletters/research-activities/12dec/1212RA1.html>

American Board of Medicolegal Death Investigators (ABMDI) www.abmdi.org

American Correctional Association (ACA) www.aca.org

Anderson, S., McClain, N., & Riviello, R. (2006). Genital findings of women after consensual and nonconsensual intercourse. *Journal of Forensic Nursing*, Summer, 2(2), 59-65.

Hammer, R., Moynihan, B., & Pagliaro, E. (2006). Chapters 1, 10, 18, 21. In *Forensic Nursing: A Handbook for Practice*. Jones and Bartlett.

Health Resources and Services Administration (HRSA) (2010). The registered nurse population: findings from the 2008 National Sample Survey of Registered Nurses. Retrieved July, 2014 from: <http://bhpr.hrsa.gov/healthworkforce/rnsurveys/rnsurveyinitial2008.pdf>

International Association of Forensics Nursing (IAFN) Areas of Practice. Retrieved July, 2014 from: <http://www.forensicnurses.org/?page=AreasFNPractice>

Institute of Medicine. (IOM) (2011). *The Future of Nursing: Leading Change, Advancing Health*. Washington, DC: The National Academies Press

Lynch VA. (1998) Forensic nursing. In: Burgess AW, ed. *Advanced Practice in Psychiatric Mental Health Nursing*. Stamford, Conn: Appleton-Lange

Medicinenet.com Definition of Colposcope. (2014, July 1). Retrieved July 1, 2014, from www.medicinenet.com

National Commission on Correctional Health Care (NCCHC) www.ncchc.org

National Criminal Justice Reference Service (2013). A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents, 2nd edition. Retrieved September 16, 2014 from <https://www.ncjrs.gov/pdffiles1/ovw/241903.pdf>

Roy, Sr. C. (2009). Chapter 3. In *The Roy Adaptation Model* (3rd ed.). Upper Saddle River, NJ: Pearson.

Shives LR. (2007) *Basic Concepts of Psychiatric-Mental Health Nursing*. (7th ed.). Philadelphia, Pa: Lippincott Williams & Wilkins

United States Department of Justice (2014) Grant Programs Retrieved September, 2014 from: <http://www.justice.gov/ovw/grant-programs>

White House, (2014) Factsheet, The Violence Against Women Act Retrieved July 1, 2014, from: www.whitehouse.gov/sites/default/files/docs/vawa_factsheet.pdf

White House (2014) Rape and Sexual Assault: A Renewed Call to Action – The White House Council on Women and Girls. Retrieved September, 2014 from: http://www.whitehouse.gov/sites/default/files/docs/sexual_assault_report_1-21-14.pdf



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