

AALNC

AMERICAN ASSOCIATION OF
LEGAL NURSE CONSULTANTS

Getting Started in Legal Nurse Consulting

An Introduction to the Specialty

Second Edition

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I. Description of a Legal Nurse Consultant

A. Role

The primary role of a legal nurse consultant (LNC) is to evaluate, analyze, and render informed opinions on the delivery of health care and its outcomes. For nearly 20 years, legal nurse consultants have acted as collaborators, strategists, and educators by offering support in medically related litigation and other medical-legal matters in the following areas:

- personal injury
- product liability
- medical malpractice
- toxic torts
- workers' compensation
- risk management
- healthcare licensure investigation
- other applicable cases

An LNC is a registered nurse, unlike a paralegal or a legal assistant, and is a unique and valuable member of the litigation team. LNCs bring their health science education and clinical expertise to healthcare-related issues in the litigation process. The practice of legal nurse consulting is performed in collaboration with attorneys and others involved in the legal process. The LNC's scope of practice does not include the independent practice of law.

Legal nurse consulting is a specialty of nursing. Nursing education and experience set the LNC apart from other members of the legal team.

The nursing process, the backbone of nursing practice, is the same problem-solving approach used in the practice of legal nurse consulting. Adapting the nursing process for use in legal nurse consulting provides us with the following operational guidelines:

- assessment
- analysis and issue identification
- outcome identification
- planning
- implementation
- evaluation

These six areas of legal nurse consulting become the basis for the Standards of Practice for Legal Nurse Consultants. For more information, see the "Scope of Practice for the Legal Nurse Consultants" and the "Standards of Legal Nurse Consulting Practice" in the appendix.

B. Educational Background and Licensing

1. Basic educational programs for registered nurses include associate (2 years), diploma (hospital-based 3-year program), and bachelor of science (4 years of college) degree programs. Registered nurses must pass a state board licensing exam to obtain an initial license and must renew this license periodically. Many states also require continuing education credit.
2. Nurses with advanced degrees have earned either a master's degree or a doctorate in nursing or a related field. Others may have completed specialty nursing education in a specific field and attained certification from specialty professional organizations.
3. Most LNCs have no legal background when they begin the transition from clinical nursing to the legal field. Some choose to attend a formal legal nurse consulting program, a paralegal program, or other legal seminars and programs. Others learn through on-the-job training in law firms or by self-study and working with attorneys. The American Association of Legal Nurse Consultants (AALNC) text, *Legal Nurse Consulting: Principles and Practice*, provides a comprehensive guide to the specialty.

C. Clinical Experience

1. LNCs come from all areas of nursing; most LNCs have a broad background in medical-surgical nursing, often in the critical care area. Many have experience in specialty nursing practice such as obstetrics, oncology, cardiology, or neurology. A broad background in medical-surgical nursing provides a familiarity with subject matter that enable LNCs to review and critically analyze a wide variety of legal cases.
2. Nurses have been practicing in the legal field since the late 1970s. They organized as a specialty in 1989 by establishing the American Association of Legal Nurse Consultants. There are a number of LNCs across the country with nearly 20 years of experience. Any person who consults with or employs a legal nurse consultant is encouraged to scrutinize carefully the specific skills and experience of the individual LNC. LNCs must be careful to accept only those cases that are appropriate for their health care expertise and legal experience and knowledge.

D. Certification

Certification in a specialty provides a standard that recognizes expertise and commitment to quality practice. A national certification program provides evidence that peers validate a certificant's background, qualifications, knowledge, and practice. A commitment of performance evaluation by peers is one measure of a professional. Professionals often obtain credentials to continue educating themselves and to show peers, clients, employers, and consumers that they practice

at a standard level defined by the specialty. Certification is not a prerequisite for LNC practice.

In many nursing specialties, certification is offered through an autonomous certification board affiliated with the professional membership organization for the specialty. In most cases, certification is available to nurses who have met certain eligibility requirements, such as experience in the specialty. When AALNC decided to develop a certification program, it followed the model used by other nursing specialties.

Certification for legal nurse consultants is available through the American Legal Nurse Consultant Certification Board (ALNCCB), a functionally autonomous board established in 1997 by AALNC.

The LNCC credential is awarded to individuals who meet specific eligibility criteria including licensure, education, and experience, and who achieve a passing score on a multiple-choice examination.

The LNCC credential is carefully designed to follow standards set by the testing and measurement community. The LNCC program has been designed to meet the requirements of the American Board of Nursing Specialties (ABNS), an accrediting organization for nursing certification boards.

It should be noted that the LNCC program is not at the entry level; it is designed to recognize the knowledge and expertise of nurses who have practiced in the specialty for a minimum of 2 years. LNCs are encouraged to seek the LNCC credential when they meet the eligibility criteria.

For detailed information on the LNCC program and specific eligibility criteria, visit the AALNC Web site at www.aalnc.org, or call 877/402-2562 for an application packet.

Private organizations also offer educational, certificate, and certification programs. There is no entity charged with monitoring and designating inadequate or inappropriate certification programs. The warning, caveat emptor (i.e., let the buyer beware), applies to certification programs just as it does to many other arenas in our free market system. If you decide certification is something you want to pursue, consider the following questions as you decide which certification program you will choose.

Who offers the program? Is the sponsoring body a not-for-profit or a for-profit enterprise? How long has the sponsoring body been in existence? What is the source of the sponsor's credibility to offer certification to LNCs? What is the stated purpose of the existence of the sponsor?

Does the program meet standards established by recognized accrediting bodies? There is no requirement that certification programs be licensed, certified, or accredited by any single agency or government institution. Taking these steps is totally voluntary. The American Board of Nursing Specialties (ABNS) accredits nursing certification programs that meet its rigorous standards.

What are the eligibility requirements for taking the exam and maintaining the credential? Does the exam reflect entry-level, intermediate, or advanced practice? Are there practice and educational requirements? How stringent are they?

How was the certification examination developed? Is the content for the exam based on a formal study or analysis of practice? How is the test administered and scored? What considerations go into determining passing standards? Is there an appeals process?

How will those who use my services view the credential? If I had to describe what I had to do to achieve and maintain the credential, would my clients or employer think it was a worthwhile accomplishment? Would I be proud to educate others about the source and meaning of my credential?

E. Duties and Activities

In the course of their work, LNCs may engage in any of the following activities:

- organizing and analyzing medical records and related litigation materials
- preparing chronologies of healthcare events and comparing and correlating them to allegations
- conducting client interviews
- identifying standards of care, causation, and damage issues
- conducting literature research and summarizing medical literature
- helping to determine the merits or defensibility of a case
- providing education regarding healthcare facts and issues relevant to a case
- identifying and determining damages and related costs of services, including consulting with economists when preparing a cost analysis for damages
- assisting with depositions and trial, including developing and preparing exhibits
- assisting attorneys to develop case management and trial strategy
- locating and preparing demonstrative evidence
- collaborating with attorneys in preparing or analyzing complaints, answers, and motions for summary judgment; interrogatories, and deposition and trial outlines; witness lists and other pleadings; queries for direct and cross-examination; and document production request, trial briefs, demand letters, and status reports
- identifying, screening, retaining, and consulting with expert witnesses
- acting as a liaison among attorney, healthcare providers, clients, and experts
- attending independent medical examinations (IMEs)

F. The Value of the LNC to the Legal Process

Because of the LNC's expertise in healthcare-related issues, he or she can bring the following benefits to the litigation team:

Cost-effectiveness: The LNC critically analyzes the healthcare facts of a case and helps the attorney select and manage cases. Many cases can be either rejected or settled quickly by using the resources and knowledge of an LNC.

Resourcefulness: The LNC has access to a national network of healthcare and professional resources and contacts. The LNC is well versed in the use of medical libraries, medical equipment, and other resources.

Knowledge: The LNC has a thorough understanding of healthcare issues and trends related to the entire litigation process. The LNC "speaks the language" of physicians, healthcare providers, and patients.

Experience: The LNC has a background of clinical experience, which includes the ability to interpret medical records, documents, and health science literature.

G. Characteristics of a Successful LNC

An LNC should bring the following characteristics to the litigation team:

Experience: strong, broad-based clinical experience and a background in legal nurse consulting

Education: nursing education and other medical-legal continuing education

Professionalism: basic business knowledge, strong oral and written communication skills, and unquestionable ethics

Involvement: a demonstrated commitment to the LNC field and other nursing specialties through involvement in local and national professional organizations

Special Knowledge: proficiency in computer skills and expertise in conducting research (including on the Internet)

II. Practice Settings

LNCs practice in areas of civil and criminal litigation in which injuries and/or medical treatment are factors. The practice areas for LNCs are as diverse as the clinical practice areas for nurses. Most LNCs practice in general professional negligence litigation, but some specialize in a specific area, such as toxic tort litigation or risk management. Many LNCs are independent practitioners and own their own businesses. These LNCs offer consulting services to attorneys, insurance companies, and others who require their expertise. Other LNCs are employees of law firms, insurance companies, government agencies, or hospitals and are often referred to as in-house LNCs.

A. Independent Practice

Many LNCs begin an independent practice on a part-time basis while continuing a full-time clinical practice. As their business grows, they may reduce their clinical hours.

Independent practice may appeal to a nurse who is self-motivated, works well independently, is self-confident and assertive, and has the time, financial resources, and business skills to develop and maintain a successful business. Nurses in independent practices generally work with more than one firm and bill by the hour for their time.

Although the hourly rate charged by independent LNCs to attorney for services can be higher than the hourly rate for nurses in clinical settings or law firms, LNCs in private practice spend considerable time in nonbillable business management activities such as marketing, building a library, bookkeeping, invoicing and collection, and supervising other employees. Initially, an independent LNC spends far more time on these activities than on those that are billable.

LNCs in independent practice must also pay for all overhead associated with running a small business and provide their own benefits, such as health and liability insurance, vacation, sick leave, and retirement plans.

B. Law Firms

Many LNCs are hired by law firms to provide assistance to attorneys in cases involving healthcare issues such as a medical malpractice, personal injury, toxic tort, and product liability. The primary activities of the in-house LNC include summarizing medical records, conducting medical literature research, locating and communicating with expert witnesses, acting as the liaison for healthcare provider defendants, developing demonstrative evidence, and preparing written materials pertaining to the healthcare issues to be used in legal documents such as affidavits, complaints, deposition and interrogatory questions, offers of settlement, and mediation brochures. They may also attend depositions, arbitrations, mediations,

and trials. Some LNCs screen calls to determine the merit or defensibility of a potential case.

An LNC's level of autonomy, participation as a member of the litigation team, and interaction with a firm's clients will vary depending on the law firm.

Nurses employed by a law firm or other organization are usually paid a salary with benefits similar to those offered to other employees of the firm. Work hours are usually Monday through Friday during standard business hours. However, depending on the caseload, overtime and weekend work might be necessary. Some law firms pay for overtime; others do not.

C. Insurance Companies

The duties of an LNC in an insurance company are often very different from those of an LNC who works for a law firm. Many times, LNCs in insurance companies act as case managers and adjusters and may hire or consult with attorneys to litigate cases. Others act as educators of the adjusters or as risk-management consultants. Insurance companies often require that LNCs have advanced education and specialty certification.

D. Healthcare Systems

Many large health maintenance organizations are self-insured entities and have their own in-house claims departments, which function like insurance companies. LNCs in this type of organization might perform in roles very similar to those of LNCs in insurance companies.

E. Hospital, Ambulatory Care Centers, and Clinics

Many of the healthcare risk management programs in hospitals, ambulatory care centers, and clinics employ LNCs as the primary investigators of potential and filed claims involving patients who were injured during the course of medical treatment. The LNC is usually a full-time employee in a risk-management or quality assurance department. The work hours and salary are similar to those of other nurses working in non-clinical administrative departments. LNCs in this setting review medical records, conduct patient and employee interviews, prepare reports pertaining to adverse patient outcomes, participate in meetings regarding the facility's liability, and make recommendations regarding the resolution of claims. Some LNCs in risk management become part of the facility's litigation team and facilitate the litigation process by preparing employees for trial, recommending experts, and obtaining medical evidence.

F. Governmental Agencies

LNCs practice in a variety of governmental agencies, such as state attorneys general offices, as investigators for state licensing boards. In this role, an LNC might assist in the defense of state agencies such as medical schools, college infirmaries, and prison healthcare systems. They might also write healthcare policy or administrative rules based on statutes. In addition, they might work in federal government offices as administrators of compensation programs for injured citizens.

G. Business and Industry

Legal nurse consultants work with attorney and corporate healthcare associates on workers' compensation treatment, costs, and litigation issues. LNCs may also work for manufacturers of drugs, medical devices, or medical equipment in the area of product liability. In either setting, the LNC can function as an independent consultant or as an employee of the company.

III. Legal Practice Areas

LNCs work in a wide array of legal specialties in civil and criminal litigation. The general scope of personal injury law includes any case in which an individual has sustained a physical or emotional injury. Although medical or nursing malpractice (also known as professional negligence) is often referred to as a separate legal specialty, it is actually a type of personal injury. State or federal agencies generally prosecute criminal cases, but a personal injury claim may also be filed by a crime victim in civil court.

Some LNCs specialize in only one or two legal practice areas, such as medical malpractice, drugs and devices, personal injury, or criminal defense, while others may work on many types of cases.

A. Professional Negligence

Professional negligence involves claims against healthcare providers, such as physicians, nurses, chiropractors, and physical therapists, who allegedly provided care that deviated from acceptable standards. These healthcare providers can include ancillary medical/nursing staff. The ability to screen cases of professional negligence is one of the most valuable and marketable skills of the LNC. There are four elements of malpractice: duty, breach of duty, causation, and damages. For a plaintiff to prevail in such a claim, he or she must prove that the defendant had a professional duty, that the defendant breached that duty by deviating from the standard of care, and that this deviation or negligence caused damages or injury to the plaintiff. Many nonmeritorious claims are rejected on the basis of screening by LNCs because of LNCs' extensive knowledge and experience in healthcare issues. This is cost-effective not only for individual attorneys but also for the entire civil

justice system. On the other hand, because nurses interact and coordinate with many disciplines, they are able to identify defendants and additional damages as well as formulate anticipated defenses.

LNCs must develop research skills and familiarity with the medical library, professional organizations, and other resources to locate established standards of care. In litigation, the standard, except in cases of extreme, gross negligence, must also be defined by expert testimony. The ability to locate credentialed and credible medical experts through professional contacts and research is a much-sought-after service that LNCs perform. LNCs not only screen for negligence, identify standards of care, and locate experts, but also may follow the case from intake to trial and provide consultation on strategy throughout the process. Changes in tort law and the increasingly complex managed healthcare arena have made nurses more valuable than ever in educating attorneys in this complex area of law.

B. Personal Injury

Most LNCs refer to personal injury claims as those involving injuries not related to medical malpractice, such as auto accidents or slips and falls. In general, any injury caused by another person, a vehicle, or an unsafe condition falls into this category.

The beginning LNC may quickly discover that there are many more attorneys who specialize in personal injury than in medical malpractice. An LNC with a strong clinical background in emergency, medical/surgical, orthopedic, neurology, or rehabilitation nursing can provide many essential services to personal injury attorneys.

The first service is the ability to organize and summarize the medical records, which may be voluminous. The LNC must be able to analyze the records not only to determine whether the negligence caused an injury, but also whether there are preexisting medical conditions that the attorney must know about. The LNC must be able to interpret for the attorney paramedic, police, and emergency room records that may be scanty and difficult to decipher.

In many states, the injured party can recover damages for pain and suffering. LNCs can help define and interpret those issues in the medical record and educate not only the attorney but also the judge and jury as well as an expert fact witness. Injured plaintiffs are asked to attend independent medical examinations (IME). The LNC may attend these examinations to act as a patient advocate and provide an accurate record of the examination. Knowledge of research is also essential because attorneys may require the latest documentation on hard-to-prove disorders such as mild traumatic brain injury and cervical strain.

C. Product Liability

Product liability involves injuries and illnesses caused by an alleged defect in a product, device, or drug. These suits are targeted at the manufacturer of the specific product (e.g., breast implants), pharmaceuticals (e.g., diethylstilbestrol or DES), or mechanical equipment (e.g., automobile safety belts, airbags). These cases may be brought by an individual or by a large group of claimants who have been injured by the same product. The cases brought by large groups are often referred to as mass tort or class action suits.

D. Toxic Torts

Cases involving injury resulting from exposure to hazardous chemicals or substance are referred to as toxic torts. Examples include asbestos, radiation, or pesticide exposure. Toxic torts are usually complex cases with multiple claimants. The primary issue usually revolves around causation of the various injuries claimed by a plaintiff.

E. Workers' Compensation

Workers' compensation cases involve injuries acquired by a person while on the job. An LNC reviews medical records, prepares claims for hearings, or acts as the medical case manager to coordinate the medical care provided to injured workers.

A medical case manager usually works for the employer's insurance carrier or self-insured third party administrator and coordinates the medical care while assessing that care for appropriateness and cost-effectiveness. When working for a plaintiff's attorney, the duties of an LNC are similar to those listed under Personal Injury on pages 11-12 and may involve attending IMEs and summarizing and analyzing medical records.

Workers' compensation is a state-specific system, and the degree of medical case manager involvement may depend on state laws. Medical case managers in the workers' compensation arena are the cogs in the wheel of communication among claimant, employer, physician, therapist, and attorneys from both sides. Many case managers have the Certified Case Manager (CCM) certification, and most have strong clinical backgrounds in orthopedics, rehabilitation, occupational medicine, or home health care.

F. Medical Case Management

Medical case management is a field of legal nurse consulting that can exist outside of the workers' compensation arena. Insurance carriers may hire case managers as employees or as outside consultants to manage cases of auto injury and long-term disability. An understanding of the various lines of insurance and the extent of their benefits is key to effectively managing these cases. A Certified Case

Manager (CCM) or Certified Rehabilitation Registered Nurse (CRRN) credential is useful, as are strong business skills and a clinical background.

Medical case managers can also work independently for the injured party to help insure continuity of care and the utilization of available resources. They are especially needed in cases of catastrophic injury such as spinal cord injury, traumatic brain injury, or neonatal/pediatric brain damage.

G. Criminal

LNCs provide expertise to criminal defense or prosecuting attorney by reviewing and analyzing medically related evidence, assisting with crime scene investigations, and interviewing and communicating with medical experts.

H. Forensic Nursing

Many LNCs who work in forensic nursing have expertise in providing nursing care and counseling to victims of sexual assault and other crimes producing bodily injury. Clinical forensic nursing is defined as the application of forensic aspects of healthcare education by a registered nurse in the scientific investigation of trauma and /or death-related medical-legal issues.

Clients who may require such investigation include all victims of assault, suicide, motor vehicle accidents, child abuse, occupational injuries, and alcohol-related injuries. The LNC examines victims, collects forensic specimens, counsels and supports victims, and testifies on their behalf. Other LNCs perform these same duties for coroners' offices or law enforcement agencies.

I. Expert Witnesses

Nurses currently working in clinical settings may choose to serve as expert witnesses in cases involving alleged deviations in the standard of nursing care.

Testifying nurse expert witnesses generally have an advanced degree, specialty certification, and many years of clinical experience in the area about which they testify. Nurse experts review and analyze the medical records and other pertinent documents to advise, opine, and testify about the adherence to or deviation from the established standards of care. These nurses may write opinion reports and/or testify in depositions and trials regarding the quality of nursing care provided in a case.

J. Life Care Planning

A case management or rehabilitation specialist may consult with attorneys to prepare a plan of future care for a client with a permanent disability that resulted from a personal injury or professional negligence. The life care plan usually takes into consideration the social, environmental, healthcare, and physical needs of the

patient through his or her estimated life span. This specialty area of legal nurse consulting is expanding as life care plans are now being used not only in litigation but also by insurance carriers to set reserves in cases of catastrophic illness such as multiple sclerosis and cancer. To enter this specialty area, an LNC should have a strong clinical background and an understanding of various disabilities as well as a thorough knowledge of community resources. Certifications that may be helpful for life care planners include Certified Rehabilitation Registered Nurse (CRRN), Certified Case Manager (CCM), Certified Disability Management Specialist (CDMS), Certified Rehabilitation Counselor (CRC), and Certified Life Care Planner (CLCP).

Expert testimony may be justified when explaining, justifying, or defending elements of the life care plan.

IV. Getting Started

The paths leading to a career in legal nurse consulting are varied. Successful LNCs discover what employers or clients value and obtain the experience and advanced training needed to meet those needs.

There are essentially two major types of employment for LNCs. The LNC can be self-employed in independent practice or can work for an employer such as a law firm, an insurance company, a healthcare system, or another business/industry.

A. Independent Practice

The independent practice of legal nurse consulting can be interesting, flexible, and rewarding, but there are many issues to consider before choosing this option. Important issues that should be considered before launching an independent practice include the following:

- area of expertise based on the qualifications outlined in this publication
- the demands of owning and running a business
- the ability to meet these demands
- how to obtain information or training in areas such as accounting, marketing, and business law
- a plan of action or business plan
- available financing

“My career in legal nurse consulting officially began in January 1992. For the previous 6 years, my nursing career took the nontraditional path of utilization management and case management. I was always intrigued by the law, and a former colleague had been reviewing records for attorney for several years. Another colleague had attended a seminar and suggested we offer our expertise to attorneys. We began researching applicable state, federal, and local laws and spent a great deal of time locating resources such as medical libraries and

databases. Two months later we began a letter-writing and marketing campaign. We attended a local seminar for trial lawyers to market our services and received our first case. The rest is history.”

B. Insurance Company

Legal nurse consultants can work for insurance companies analyzing professional liability cases as claims managers and risk managers. They may work for malpractice insurance carriers as well as workers’ compensation and auto insurance carriers. LNCs may also work for health maintenance organizations (HMOs) as quality assurance nurses auditing physicians’ records for compliance with National Committee for Quality Assurance (NCQA) standards.

Qualifications for these positions include a strong and varied clinical background, experience in utilization review and case management, a minimum of a bachelor’s degree, and professional certification (such as Certified Case Manager [CCM]).

“I work in an area concerning the professional liability of physicians. For a claims manager, most insurance companies want someone with a background in law, such as a nurse with experience working in a law firm.”

C. Government

Legal nurse consultants are employed by the federal government to investigate Medicare fraud and abuse. Medical case managers have become a mandatory part of the Federal Workers’ Compensation system now that injured workers have to accept their intervention to continue to receive benefits. Local and state governments may also employ LNCs in the investigation of insurance fraud. Interest LNCs can contact the appropriate state or federal government agencies to find out more about job opportunities in this area,

“I do investigations of residential care facilities. My background is in home health care and life care planning. I was eligible to bid on this state contract by registering as a minority small business owner. I recently won the contract for the entire state and have had to hire other nurses to help with the investigations.”

“After completing the University of California at San Diego Legal Nurse Consulting Certificate Program, I did an internship at the insurance fraud division of the San Diego District Attorney’s Office. I made the comment that I did not know how they did the job without an LNC. I was offered a permanent job and have been there for 2 years.”

D. Risk Management

Risk managers may have a number of different degrees, such as BA, BS, MHA, or JD, and the job of risk management itself can take many forms. The risk

manager may be asked to address issues such as staff risk management, compliance, credentialing, workers' compensation, and infection control.

It is helpful to have many years of clinical experience as well as knowledge of professional negligence, personal injury, and product liability law. A familiarity with state and federal healthcare regulations is recommended. Managerial experience and an understanding of corporate culture in healthcare organizations are essential for effectiveness. Risk managers may interact with attorneys, insurance representatives, government agencies, vendors, manufacturers, and clients of healthcare facilities.

Responding to employment ads for risk management positions is one way to get started in this area. A risk management department may employ several people and have entry-level positions. An LNC working for a healthcare law defense firm may be well positioned to hear about and land a job in risk management.

Another way to get started is by attending federal, state, and local programs on laws affecting the healthcare industry or seminars on professional negligence, medical device litigation, and healthcare defense law. Volunteering to serve on a hospital committee related to risk management, such as latex allergy, products review, falls assessment, surgery function review, or pathway development, can also be useful.

The American Society of Health Care Risk Management (ASHRM) is developing a certification program for risk managers.

“Most nurses need a utilization review or case management background to work in an insurance company. I work in an area concerning professional liability for physicians. However, the qualifications for the job depend on the specific job. For a claims manager, an insurance company usually wants someone with a background in law, such as acquired in a law firm. For risk management, the company would typically want a nurse with a formal education, such as a master's degree in health law or a law degree.”

E. Law Firm

Legal nurse consultants working in law firms are often referred to as in-house LNCs. Though an LNC does not need to have a legal degree to work for a law firm, having some type of legal background has its advantage, and it is sometimes required in order to gain access to this work setting. The LNC who strives to work for a law firm might benefit from taking courses in local legal assistant programs. Learning about legal writing in addition to having general knowledge of jurisprudence is essential to the in-house LNC. Instruction through continuing education courses and seminars in medical record documentation, expert review, and independent medical examinations is also beneficial.

In addition to membership and participation in AALNC and its local chapters, involvement in state and local bar associations is a good way to keep apprised of health-related law trends and changes. Participation in legal assistant organizations may also be helpful for networking and for learning research and communication skills used in the law firm setting.

There are no specific certifications that are required for in-house LNCs. However, certain credentials, such as Legal Nurse Consultant Certified (LNCC), may lend credibility to the LNC, and the firm may ask the LNC to take on new responsibilities such as attending depositions and trials.

“I got started in legal nurse consulting when an attorney friend informally sought my input on a medical malpractice case. When her firm decided to hire a nurse in-house full time, she called to suggest I interview for the job. I was hired by the firm and have worked there for the past 5 years.”

“I knew that I did not want to remain in clinical nursing. I had heard that the legal field was a new opportunity for nurses. Therefore, I obtained a business (legal assistant) degree to go along with my nursing degree and have been working at a law firm ever since.”

Tips for Securing a Position in a Law Firm

- Use an updated professional resume (i.e., curriculum vitae) that includes summaries of professional and educational backgrounds and other pertinent information, such as career objectives, certifications, special abilities, memberships in professional organizations, and attendance at LNC seminars and legal courses. This tool is very important; a well-developed resume can open doors for job interviews and opportunities.
- Network at every available opportunity and get in touch with past legal contacts, including acquaintances from conferences, seminars, and meetings.
- Check the classifieds sections of the local legal newspaper and bar association journals; they list job openings and contain good information about which law firms specialize in various types of law.
- Research local county court records to identify recent malpractice cases and the firms representing the parties involved in the cases.
- Research the firm and interviewer in advance once an interview is granted. The names of potential attorney contacts can be found in the Martindale-Hubbell Law Directory. Or, to learn more about the firm, visit the Martindale-Hubbell lawyer Locator Web site at http://www.martindale.com/xp/Martindale/Lawyer_Locator/Search_Lawyer_Locator/lawyer_search.xml. It is important to know whether the firm is plaintiff or defense oriented to determine the comfort level of representing that party.
- Note areas to highlight or exemplify during the upcoming interview, such as communications skills, critical thinking skills, and emotional maturity.

- Take active steps during the interview to indicate the reasons for interest in the position and the firm; give the attorney the “bottom line.” Stress achievements and educate the attorney about legal nurse consulting and specific tasks performed by LNC. Demonstrate confidence by maintaining eye contact while speaking.
- Obtain a business card from the interviewer and follow up with a thank-you note reiterating interest in the job.
- Be patient and persistent; securing a position in a law firm may take a good deal of research and follow-through. Perseverance may be an LNC’s best attribute when trying to find that perfect job.

V. Special Considerations

A. Working at Home

With the proper access to resources, the right tools, and a professional approach, a legal nurse consultant can establish a home-based practice. The advantages and pitfalls of doing this are outlined in several books on the subject. One such book is *The Home Office Solution: How to Balance Your Professional and Personal Lives While Working at Home*, by Alice Bredin and Kristin Lagatree, published by John Wiley & Sons, 1998.

While the advantages of working at home are many, speaking to an attorney with a baby crying or a dog barking in the background should be avoided if the LNC hopes to achieve a level of respect within the legal community.

1. Equipment and Materials

The following equipment and materials are indispensable to a home-based practice:

- computer
- printer
- computer modem
- fax machine
- copy machine (or very convenient access to one)
- business phone line
- computer scanner
- business cards
- business stationery (letterhead and envelopes)
- marketing brochure that explains services offered

2. Organizations

The following organizations offer entrepreneurial training and counseling, as well as discounts on medical insurance, printing, shipping, telecommunications, advertising, and car rentals.

- Small Business Administration (SBA) 800/827-5722

- National Association for Home-Based Business 410/363-3698
- American Woman's Economic Development Corporation 917/368-6100
- National Nurses in Business Association (NNBA) 877/353-8888
- Women Incorporated (WI)—WI offers discounts on insurance, photocopying, shipping, and many other services. Despite this organization's name, men are welcome to join this group as well. 800/930-3993, 213/680-3375
- Home Office Association of America (HOAA) 800/809-4622

B. Marketing

There are many ways an LNC can market services to attorneys. Personal contact, telemarketing, direct mail, advertising, public relations, and word-of-mouth are some of the more common marketing methods. Many nurses entering the specialty of legal nurse consulting choose to make personal contacts in order to learn more about what services attorneys are looking for. Some ways to establish these personal contacts include the following:

- Attend legal seminars on medical malpractice, personal injury, or product liability issues. LNCs can meet attorneys during breaks or lunch, for example.
- Exhibit at legal seminars, local bar associations, or American Trial Lawyers Association (ATLA) meetings. LNCs often take business cards to hand out to prospective clients.
- Ask friends and neighbors for referrals to attorneys they know.
- Get involved in a local legal nurse consultants' group, such as a chapter of the American Association of Legal Nurse Consultants, and network with other LNCs.
- Develop a letter of introduction or a marketing brochure based on conversations with potential clients. LNCs send these to attorneys they've met as well as to other professionals in their area. They follow up with a phone call inquiring whether the attorney has received the material, then request an appointment to speak with the attorney in person and use that meeting to build trust and rapport.

Detailed information about choosing a marketing and sales approach can be found in chapter 30 of *Legal Nurse Consulting: Principles and Practice, Second Edition*.

VI. AALNC Educational Programs

The American Association of Legal Nurse Consultants offers a comprehensive 3-day annual educational conference every spring. Continuing education credit is offered to attending sessions at each conference.

AALNC has produced a comprehensive textbook for LNCs, titled *Legal Nurse Consulting: Principles and Practice, Second Edition*.

Many AALNC chapters offer educational opportunities at their chapter meetings and seminars. Some chapters have a speaker at every meeting, while others plan extended seminars featuring several speakers.

VII. Selecting an Educational Program

The following are things to consider when selecting an educational program as preparation for legal nurse consulting:

- Investigate whether the program is focused on training legal nurse consultants or paralegals. A paralegal program can provide a good understanding of the legal system, but may also include topics such as bankruptcy, real estate, wills, and estate planning that are not directly applicable to the practice of legal nurse consulting. There are also programs marketed as “paralegal nurse consultant programs” that may simply be paralegal-based programs with legal nurse consulting-related topics added.
- Inquire about the credentials and background of the course or program faculty. The faculty should include a practicing legal nurse consultant who is also a member of the advisory committee for the program.
- Determine whether the course schedule and timetable are suitable.
- Request a list of references from people who have already taken the course, especially if the program requires a substantial investment of time and money.

VIII. Books

Anatomy of a Business Plan by L. Pinson & J. Jinnett, Upstart Publishing, USA, 1996

The Anatomy of Persuasion by N. Aubuchon, Amacom, New York, 1997

The Expert Witness Handbook by D. Poynter, Addison-Wesley, California, 1997

Guerilla Web Strategies: How to Promote and Market Your Web Site by Vince Gelarmine, 1996

How to Survive a Deposition by Stuart B. Shapiro, John Wiley & Sons, Inc., New York, NY, 1994

Interpreting the Medical Literature by S. Gehlbach, McGraw Hill, Inc., USA, 1993

Legal, Ethical and Political Issues in Nursing by Tonia Dandry Aiken with Joseph T. Catalano, F.A. Davis Co., Philadelphia, PA, 1994

Legal Nurse Consulting: Principles and Practice, Second Edition by the American Association of Legal Nurse Consultants, Julie Bogart, MSN RN (Ed.), American Association of Legal Nurse Consultants, Chicago, IL, 2003

Medical Malpractice by David Harney, A. Smith Co., Indianapolis, IN

Medical Malpractice Claims Investigation by Nancy Acerbo-Avalone and Katherine Kremer, Aspen Publishing, Gaithersburg, MD

The Nurse Consultant's Handbook by Belinda Puetz and Linda J. Shinn, Springer Publishing Co., New York, NY, 1996

Nurses as Consultants: Essential Concepts and Processes by S. Norwood, John Wiley & Sons, New York, 1998

Nurse's Legal Handbook, 3rd ed., Springhouse Corporation, 1996
Nursing Malpractice by Pat Iyer, Lawyers and Judges Publishing Co., Tucson, AZ
Risk Management and Insurance Audit Techniques by D.L. Levick, Standard
Publishing Co., Boston, MA

IX. Articles

The following articles contain information that may be helpful to the beginning legal nurse consultant:

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X. Online Resources

The following Internet Web sites have been recommended by many legal nurse consultants as useful resources for LNCs.

American Association of Legal Nurse Consultants (AALNC)

<http://www.aalnc.org>

CINAHL (Cumulative Index of Allied Health and Nursing)

<http://www.cinahl.com>

National Library of Medicine – Medline

<http://www.nlm.nih.gov>

MedScape (medical information site for health professionals)

<http://www.medscape.com>

MedMatrix (comprehensive site that includes a variety of clinical topics)

<http://www.medmatrix.org>

MD Consult (subscription service for health professionals with medical texts and full text Medline)

<http://www.mdconsult.com>

Agency of Health Care Research and Quality

<http://www.ahrq.gov>

Centers for Disease Control and Prevention (CDC)

<http://www.cdc.gov>

National Committee for Quality Assurance (NCQA)

<http://www.ncqa.org>

Occupational Safety and Health Administration (OSHA)

<http://www.osha.gov>

Electric Law Library

<http://www.lectlaw.com>

Lexis/Nexis (subscription legal research site)

<http://www.lexis.com>

Martindale-Hubbell (publishers of legal directories)

<http://www.martindale.com>

Expert Network (expert witness directory)

<http://www.witness.net>

Verdicts (jury verdicts listed by state)

<http://www.morelaw.com>

Appendix

Scope of Practice for the Legal Nurse Consultant

Introduction

The legal nurse consultant is a licensed registered nurse who performs a critical analysis of healthcare facts and issues and their outcomes for the legal profession, healthcare profession, and others, as appropriate. With a strong educational and experiential background, the legal nurse consultant is qualified to assess adherence to standards of healthcare practice as it applies to the nursing and healthcare professions.

This Scope of Practice for the Legal Nurse Consultant has been developed from data gathered by the American Association of Legal Nurse Consultants. The results reflect the diversity of practice settings of and services performed by legal nurse consultants nationwide. The American Association of Legal Nurse Consultants acknowledges the *American Association of Legal Nurse Consultants Code of Ethics* for legal nurse consultants, which provides the guidelines for professional performance and conduct for practice and affirms the values and practices of the American Nurses Association and the American Bar Association.

Practice Environment

The legal nurse consultant practices the art and science of his or her nursing specialty in a variety of settings, including law firms, government offices, insurance companies, hospital risk management departments, and as self-employed practitioners. The legal nurse consultant is a liaison between the legal and healthcare communities and provides consultation and education to legal, healthcare, and appropriate other professionals in areas such as personal injury, product liability, medical malpractice, workers' compensation, toxic torts, risk management, medical professional licensure investigation, and criminal law.

Role of the Legal Nurse Consultant

The primary role of the legal nurse consultant is to evaluate, analyze, and render informed opinions on the delivery of health care and the resulting outcomes. While the practice of each legal nurse consultant varies with respective practice opportunities and experience levels, certain commonalities prevail. Parameters of the practice may include, but are not limited to,

- Facilitating communications and thus strategizing with the legal professional for successful resolutions between parties involved in health care-related litigation or other medical-legal or health care-legal matters;
- Educating attorneys and/or others involved in the legal process regarding the healthcare facts and issues of a case or claim;
- Researching and integrating healthcare and nursing literature as it relates to the healthcare facts and issues of a case or a claim;
- Reviewing, summarizing, and analyzing medical records and other pertinent healthcare and legal documents and comparing and correlating them to the allegations;

- Assessing issues of damages and causation relative to liability within the legal process;
- Identifying, locating, evaluating, and conferring with expert witnesses;
- Interviewing witnesses and parties pertinent to the healthcare issues in collaboration with legal professionals;
- Drafting legal documents in medically related cases under the supervision of an attorney;
- Developing collaborative case strategies with those practicing within the legal system;
- Providing support during discovery, depositions, trial, and other legal proceedings; and
- Supporting the process of adjudication of legal claims.

Summary

This document identifies the legal nurse consultant as a specialist unique in the profession of nursing and as someone whose practice is of value in the legal field. The intent of this document is to conceptualize the legal nurse consultant's practice as it exists today; it is limited only by the depth and breadth to which the nursing specialty has currently developed. It is anticipated the future studies will indicate expanded roles and practice environments for the legal nurse consultant.

Adopted by the American Association of Legal Nurse Consultants, January 1994; amended April 1195.

Standards of Legal Nurse Consulting Practice

Section I: Standards of Practice

The legal nurse consultant has the knowledge and capability sufficient to conduct his or her practice in accordance with each of the standards set forth below.

Standard 1. Assessment

The legal nurse consultant collects data to support the systematic assessment of healthcare issues related to a case or claim.

Standard 2. Analysis and Issue Identification

The legal nurse consultant analyzes collected data to identify the healthcare issues related to a case or claim.

Standard 3. Outcome Identification

The legal nurse consultant identifies the desired outcome of his or her work product as related to the healthcare issues of a case or claim.

Standard 4. Planning

The legal nurse consultant formulates a plan of action to achieve the desired outcome.

Standard 5. Implementation

The legal nurse consultant implements the plan of action.

Standard 6. Evaluation

The legal nurse consultant evaluates the effectiveness of the plan of action in achieving the desired outcome.

Section II: Standards of Professional Performance

Standard 1. Quality of Practice

The legal nurse consultant evaluates the quality and effectiveness of his or her practice.

Key Indicators

1. The LNC participates in quality of practice activities as appropriate to the individual's role, education, and practice environment.
2. The LNC uses the results of quality of practice activities to initiate changes in practice.

Standard 2. Performance Appraisal

The legal nurse consultant evaluates his or her own practice in relation to professional practice standards and relevant statutes and regulations.

Key Indicators

1. The LNC engages in performance appraisal, identifying areas of strength as well as areas for professional practice development.
2. The LNC seeks constructive feedback regarding his or her own practice.
3. The LNC takes action to achieve goals identified during performance appraisal.
4. The LNC participates in peer review, as appropriate.

Standard 3. Education

The legal nurse consultant acquires and maintains current knowledge in nursing and healthcare issues.

Key Indicators

1. The LNC participates in ongoing educational activities pertaining to the health sciences and the law relevant to his or her practice areas.
2. The LNC seeks experiences necessary to maintain current licensure as a professional registered nurse.
3. The LNC seeks the knowledge and the skills that are appropriate to the LNC's practice setting.

Standard 4. Collegiality

The legal nurse consultant contributes to the professional development of peers, colleagues, and others.

Key Indicators

1. The LNC shares knowledge and skills with colleagues and others.
2. The LNC provides peers with constructive feedback regarding their practice.
3. The LNC contributes to an environment that is conducive to the education of nurses entering the field of legal nurse consulting.
4. The LNC contributes to an environment that is conducive to the health science education of legal team members, as appropriate.
5. The LNC contributes to an environment that is conducive to the education of healthcare professionals regarding legal issues applicable to the health sciences.

Standard 5. Ethics

The legal nurse consultant's decisions and actions are determined in an ethical manner.

Key Indicators

1. The LNC's practice is guided by the ANA's *Code for Nurses with Interpretive Statements* (1985) and the AALNC Code of Ethics.
2. The LNC's practice affirms the values, standards, and practices of the profession of nursing.
3. The LNC maintains confidentiality commensurate with the attorney-client privilege.
4. The LNC practices in a nonjudgmental and nondiscriminatory manner.
5. The LNC evaluates all cases and clients for potential conflicts of interest and declines when conflicts are evident.

6. The LNC seeks available resources to help formulate ethical decisions.
7. The LNC who testifies as an expert witness confines testimony to his or her area of expertise.

Standard 6. Collaboration

The legal nurse consultant may collaborate with legal professionals, healthcare professionals, and others involved in the legal process.

Key Indicators

1. The LNC consults with legal professionals, healthcare professionals, and others, as appropriate.
2. The LNC makes referrals as needed.

Standard 7. Research

The legal nurse consultant recognizes research as a methodology to further the legal nurse consultant's practice.

Key Indicators

1. The LNC takes action substantiated by research as appropriate to his or her role, education, and practice environment.
2. The LNC participates in research activities as appropriate to his or her role, education, and practice environment.

Standard 8. Resource Management

The legal nurse consultant considers factors related to ethics, effectiveness, and cost in planning and delivering client service.

Key Indicators

1. The LNC selects expert assistance based on the needs of the case or the claim.
2. The LNC assigns tasks based on the knowledge and skill of the selected provider.
3. The LNC assists legal professionals and others in identifying and securing appropriate services available to address issues pertaining to the case or the claim.

Glossary

Analysis. Judgment following investigation and study of healthcare issues related to a case or a claim in the legal process that results in identification of relevant issues.

Assessment. A systematic, dynamic process by which the legal nurse consultant through interaction with legal professionals, healthcare professionals, and appropriate others collects and interprets data about the healthcare issues of a case or claim.

Attorney-client privilege. An evidentiary rule that confidential communications in the course of professional employment between an attorney or the attorney's representative and the client may not be divulged by the attorney or his representative without the consent of the client.

Case. A general term for an action, cause, or suit at law or equity; a question contested before a court of justice.

Claim. A demand for compensation or retribution.

Client. One who employs, uses, or contracts the services of the legal nurse consultant and may be, for example, an attorney, claims manager, or a company, agency, or institution involved in the investigation or processing of a case or claim.

Confidentiality. State or quality of being confidential; reliance on another to keep secrets, relation of trust.

Evaluation. Process of determining the progress of legal professionals, healthcare professionals, and appropriate others toward the attainment of desired outcomes and the effectiveness of practices.

Healthcare issue. A matter that pertains to one or more of the following: a professional's, institution's, or organization's responsibility to provide for another's physical and psychological well-being; adherence to standards, guidelines, or policies, and the provision of reasonable health care; disputes that arise from the relationship between adherence to established standards, accepted guidelines, or validated scientific or technological knowledge and the claimant's outcomes; and the evaluation and assessment of a claimant's damages.

Healthcare providers. Individuals with special expertise who provide healthcare services or assistance to clients. They may include nurses, physicians, psychologists, social workers, nutritionists or dietitians, and various therapists. Providers also may include service organizations and vendors.

Implementation. May include any or all of these activities; intervening, delegating, and coordinating. Legal professionals, healthcare professionals, and others, as appropriate, may be designated to implement the steps, components, and interventions identified in the plan of action.

Key Indicator. A measure, gauge, or sign that there is compliance with and achievement of a standard.

Plan. Comprehensive outline of actions to attain the expected or desired outcome.

Standard. Authoritative statement enunciated and promulgated by the profession by which the quality of practice, conduct, and education can be judged.

Standards of practice. Authoritative statements that describe a competent level of legal nurse consulting demonstrated through assessment, analysis and issue identification, outcome identification, planning, implementation, and evaluation.

Standards of professional performance. Authoritative statements that describe a competent level of behavior in the professional role, including activities related to quality of practice, performance appraisal, education, collegiality, ethics, collaboration, and resource management.

Work product. The expression of opinions, conclusions, and materials developed at the request of the client that will assist the client in carrying the case or claim to completion.

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