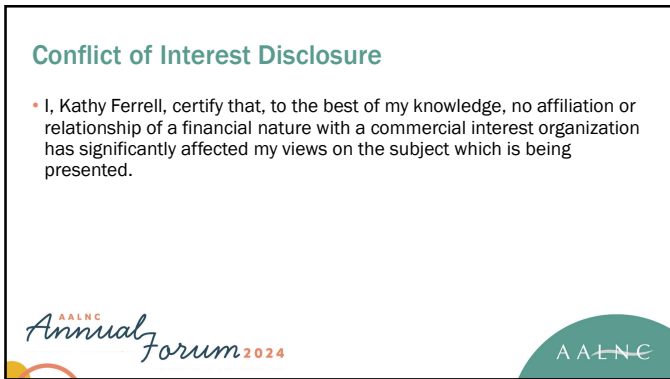




1



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3

Learner Outcomes/Objectives

- Discuss the role of the nurse expert witness in preparation for and at trial.
- Discuss the role of the behind the scenes legal nurse consultant in the preparation and at trial.
- Assess how these roles and the evidence come together at trial

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The Allegation

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“ The nurse let my Daddy’s IV get infected.”

...

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Investigate or Turn Down?








7

The Complaint

- Filed by plaintiff against defendant
- Defendant's actions committed against the plaintiff
- Plaintiff's demand for relief





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IN THE CIRCUIT COURT OF ALLEGHENY COUNTY, PENNSYLVANIA

MINDE JONES, ADMINISTRATRIX OF THE
ESTATE OF BOBBY JONES, DECEASED,
PLAINTIFF,



VS.

HOMETOWN HOSPITAL,
DEFENDANT.

CASE NO. 18 CV 1234
COMPLAINT FOR MEDICAL
PROFESSIONAL NEGLIGENCE

This case is brought under the Medical Professional Liability Act. The physicians involved in Bobby Jones' treatment for the relevant time period have settled their claims with the Estate and have been released. Plaintiff here brings claims against Hometown Hospital for vicarious liability arising from the professional negligence of its nurses, as outlined hereafter:

1. Bobby Jones died on or about October 13, 2017. His daughter, Minde Jones, was appointed administratrix of his Estate.

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Who Can Testify ?

Federal Rule of Evidence 702

10

Federal Rules of Evidence – Rule 702

- Specialized knowledge
- Sufficient facts or data
- Product of reliable principles and methods
- Application of the principles and methods to the facts of case

11

Sullivan v. Edward Hospital

X Physician cannot testify regarding Nursing SOC

X Nurses cannot testify regarding Physician SOC and causation

12



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How the Expert's Opinion is Formed

Request missing documents

Identify important facts and how they relate to SOC

Formulate your opinion based on SOC




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Locating Standards of Care

- Federal and State - Nurse Practice Act
- Regulation from the State BON
- Standards from Nursing Specialty Organizations
- Accreditation Agencies – Joint Commission
- Peer reviewed literature
- Institution policies and procedures







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The Nurse Expert's Report

Verbal or Written?

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The Expert Report



DISCOVERABLE

The Expert Report is discoverable.

Never prepare a written report unless instructed by your attorney.




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Expert's Report Contents

- Documents reviewed
- Case events framed by the Nursing Process
- Definition of the SOC
- Your expert opinion
- Basis for your expert opinion – facts and examples from the case
- References




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The Nurse Expert's Testimony

Deposition and Trial

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Notice of Deposition


IN THE CIRCUIT COURT FOR MAURY COUNTY, TENNESSEE

Plaintiff, _____ v. _____ Defendants.		Docket No. 16108
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NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that on Friday, September 13, 2019, beginning at 10:00 a.m., counsel for the Defendants shall take the deposition of Nurse, Kathy Ferrell, pursuant to the Tennessee Rules of Civil Procedure and for all purposes allowed under those rules. The deposition will be conducted at the office of _____ 629 Main Street, Hendersonville, Tennessee 37225, before a court reporter who is authorized to administer oaths and who will reduce the testimony to verbatim transcript.

Respectfully submitted,



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Video Recorded


- Ignore the camera
- Look at your opposing counsel
- Don't fidget
- Maintain a neutral expression








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Best Practices





- Be honest and consistent
- Be believable
- Use lay language to explain complex issues
- Know that communication will be direct, powerful, and sometimes adversarial
- Maintain a professional decorum

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Confidence Builders

- Be adequately prepared
- Be credible and likeable.
- Maintain a competent, profession and confident decorum
- Dress for your success






25



Feedback from attorney, J.J.



- “ I never worried about her brain, but as you know, depositions are a different animal. Presentation, not smarts, wins the day”

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- She conceded what she needed to.
- She stood her ground on the critical stuff.
- Gave helpful examples.
- Kept a cool head.
- She was clearly her authentic self. Truly.

What will your attorney say?

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References

Cosby, M.F. & West, T (2020) The legal nurse consultant as expert witness. In J. Dickinson & A. Meyer, (Eds.) Legal nurse consulting principles and practices (4th ed., pp.737-773). New York, NY: Routledge.

Reboy, D (2020) Trial preparation and the trial process. In In J. Dickinson & A. Meyer, (Eds.) Legal nurse consulting principles and practices (4th ed., pp.919-946). New York, NY: Routledge.



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THANK YOU!

Kathy G. Ferrell, BS, RN, LNCC
3060 Americus Drive
Thompson's Station, TN 37179
205 - 566 - 5406
Email: kathyferrell@gmail.com
• www.ferrellconsulting.com



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