



Polaris Medical Legal Consulting Inc.

Legal Nurse Consulting – Ethics and Conduct

Did you know that Legal Nurse Consultants are held to a code of conduct specifically for the LNC, in addition to the conduct of a Registered Nurse?

Although the ABA views legal nurse consultants in the same capacity as a paralegal, the American Association of Legal Nurse Consultants in consultation with the American Nurses Association, have concluded that legal nurse consulting is clearly a specialty of nursing practice.

As a nursing specialty, the AALNC has determined that a legal nurse consultant must maintain an active professional license as a Registered Nurse.

A legal nurse consultant is expected to adhere to the *Scope and Standards of Practice for Legal Nurse Consultants* and the *Code of Ethics and Conduct* of the American Association of Legal Nurse Consultants.

For more information, see also the [ANA Code of Ethics for Nurses](#) with Interpretive statements to learn how ethics impact the role of the Registered Nurse.

As a company providing professional consulting services, Polaris Medical Legal Consulting believes in upholding the ethical standards of the nursing and legal professions.

AALNC Position Statement on the Role of the Legal Nurse Consultant as Distinct from the Role of the Paralegal and Legal Assistant

The American Association of Legal Nurse Consultants (AALNC) has defined legal nurse consulting as a specialty practice of the nursing profession. AALNC does not recognize legal nurse consultants (LNCs) as a special category of paralegals.

Attorneys and others in the legal arena consult with psychologists and engineers, for example, because of their expertise in their respective professions; similarly, they consult with LNCs because of their expertise in nursing and healthcare. Many LNCs have bachelors and advanced degrees in nursing and other health-related fields. Some LNCs practice as independent consultants; others are employed by law firms, insurance companies, and other institutions in a wide variety of roles.

While many legal nurse consultants have acquired knowledge of the legal system through such experience as consulting with attorneys and attending seminars, legal education is not prerequisite to the practice of legal nurse consulting. (In contrast, legal education is frequently a requirement for paralegals.) Professional nursing education and healthcare experience make LNCs unique and valuable partners in legal processes.

The AALNC *Code of Ethics and Conduct*¹, *Scope of Practice for the Legal Nurse Consultant*², and *Standards of Legal Nurse Consulting Practice and Professional Performance*³ describe the specialty of legal nurse consulting. 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.

The following list of activities helps to distinguish the practice of legal nurse consulting:

- Facilitating communications and thus strategizing with the legal professional for successful resolutions between parties involved in healthcare-related litigation or other medical-legal or healthcare-legal matters.
- Educating attorneys and/or others involved in the legal process regarding the healthcare facts and issues of a case or a claim.
- Researching and integrating healthcare and nursing literature, guidelines, standards, and regulations as related to the healthcare facts and issues of a case or 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 with 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.
- Testifying at depositions, hearings, arbitrations, or trials as expert health care witnesses.
- Contacting and conferring with vendors to develop demonstrative evidence or to collect costs of healthcare services, supplies, or equipment.

Confusion about roles arises because in some settings LNCs do some of the same work that legal assistants and paralegals do, particularly in small law offices where they are the only staff available to assist the attorneys.

Legal education programs offered for nurses by legal assistant or paralegal education programs also cause confusion about roles. To the extent that legal education is provided to nurses by legal assistant or paralegal education programs, it should be considered separate from the education of paralegals and legal assistants because of the differences in their practice in the legal arena.

In March 1998, the Standing Committee on Legal Assistants of the American Bar Association (ABA) decided that "... legal nurses and legal nurse consultants fall squarely within the ABA definition of 'paralegal/ legal assistant' ..." ⁴ In contrast, AALNC recognizes a clear distinction between the roles of the legal nurse consultant and the paralegal.

The ABA also determined that "... the educational programs designed to train [legal nurses and legal nurse consultants] are paralegal programs or program options ..." and as such are required to meet ABA guidelines and to be approved by the ABA if offered by an institution with an approved program. ⁵ AALNC does not support required ABA approval of legal nurse consulting education programs.

AALNC has defined legal nurse consulting as a specialty practice of nursing. AALNC's position, therefore, is that legal nurse consulting education should be developed and presented as specialty nursing curricula by nurse educators in partnership with legal educators.

¹American Association of Legal Nurse Consultants. (1992) *Code of Ethics and Conduct of the American Association of Legal Nurse Consultant*. Glenview, IL: Author.

²American Association of Legal Nurse Consultants. (1995) *AALNC Scope of Practice for the Legal Nurse Consultant*. Glenview, IL: Author.

³American Association of Legal Nurse Consultants. (1995) *Standards of Legal Nurse Consulting Practice and Professional Performance*. Glenview, IL: Author.

⁴American Bar Association Standing Committee on Legal Assistants. (Winter 1999) "More on Legal Nurse Programs," SCOLA Update. Chicago, IL: Author.

⁵Ibid.

The Specialty Practice of Legal Nurse Consulting

Summary

The purpose of this position statement is to define the specialty of Legal Nurse Consulting as a Registered Nurse Practice and reinforce that Legal Nurse Consultants therefore must maintain an active registered nurse license.

Introduction

This position statement is the outcome of extensive discussions and public dialogue about the scope of practice and many roles of Legal Nurse Consultants when providing for direct and indirect patient care, as well as consultation and education.

Background

In 2003 the American Nurses Association's *Nursing's Social Policy Statement* introduced an updated, contemporary definition of nursing:

"Nursing is the protection, promotion, and optimization of health and abilities, prevention of illness and injury, alleviation of suffering through the diagnosis and treatment of human response, and advocacy in the care of individuals, families, communities, and populations."

The *Nursing Scope and Standards of Practice* (2004) and *Code of Ethics for Nurses with Interpretive Statements* (2001) of the American Nurses Association provide additional details and further description of nursing and the associated standards of practice. These foundational references provide a framework for the definition of specialty nursing practice, including Legal Nurse Consulting.

Legal Nurse Consulting

The American Association of Legal Nurse Consultants (AALNC), the professional nursing specialty organization for Legal Nurse Consultants, defines legal nurse consulting as the evaluation and analysis of facts and the rendering of informed opinions related to the delivery of nursing and healthcare services and outcomes. The legal nurse consultant is a licensed registered nurse who performs a critical analysis of clinical and administrative nursing practice, healthcare facts and issues and their outcomes for the legal profession, healthcare professions, consumers of healthcare and legal services, and others as appropriate.

As knowledge based professionals, Legal Nurse Consultants use information learned in the research and development of a case to improve future health care for patients, to advocate for remedies for patients who have received inadequate care, and to provide education to clients, patients, health care providers, and the public as appropriate. Legal Nurse Consultants seek adequate protection of patients and the public and promote accepted standards of care that will serve to prevent injury and alleviate suffering.

Similar to other registered nurses working in research settings, informatics, administrative positions, and other role settings, Legal Nurse Consultants engage in specialty nursing practice that covers many roles, some including direct patient care and others influencing patient care indirectly.

For example, the nurse Case Manager or Life Care Planner directly influence patient outcome by assessing patient needs and making appropriate recommendations. The expert witness Legal Nurse Consultant educates the public when testifying before a jury.

As knowledge based professionals, Legal Nurse Consultants use information learned in the research and development of a case to improve future health care for patients. For example, researching and explaining medical issues in malpractice cases may lead to revised nursing policies and procedures; help identify those with legitimate injuries, evaluate the impact of injuries on level of function and advocate for remedies when these result from receiving inadequate care.

Legal Nurse Consultants provide education to clients, patients, health care providers and the public, when attending and explaining an independent medical exam or injuries sustained in an accident. By virtue of nursing knowledge, training and experience (including Legal Nurse Consulting training and experience), all of these roles are implemented by nurses who are considered to be practicing nurses and whose contributions further the nursing profession itself as well as promote effective patient care.

In many jurisdictions, the state nurse practice act and associated regulatory language have conveyed title protection for the term "nurse". When the word "nurse" is used in the professional title, that user must be actively licensed as a registered nurse. Nursing is a knowledge based profession and when using that knowledge base, the legal nurse consultant is indeed practicing the profession of nursing.

Conclusion

Legal Nurse Consulting is an expanding nursing specialty practice. Legal Nurse Consultants must maintain an active Registered Nurse license as an integral requirement of the practice discipline.

Resources

American Nurses Association. (2001). *Code of Ethics for Nurses with Interpretive Statements*. Washington, D.C.

American Nurses Association. (2003). *Nursing's Social Policy Statement*, 2nd edition. Washington, D.C.

American Nurses Association. (2004). *Nursing: Scope and Standards of Practice*, Washington, D.C.

American Association of Legal Nurse Consultants (AALNC). (Iyer, P., Ed.) (2003). *Legal Nurse Consulting: Principles and Practice*. (2nd ed.). Boca Raton, FL: CRC Press.

Approved by the American Association of Legal Nurse Consultants Board of Directors, September 2005.

Legal Nurse Consulting: Scope and Standards of Practice

Definition of Legal Nurse Consulting

Legal Nurse Consulting is the evaluation and analysis of facts and the rendering of informed opinions related to the delivery of nursing and healthcare services and outcomes. The Legal Nurse Consultant is a licensed registered nurse who performs a critical analysis of clinical and administrative nursing practice, healthcare facts and issues, and their outcomes for the legal profession, healthcare professions, consumers of health care and legal services, and others as appropriate. With a strong educational and experiential foundation, the legal nurse consultant is qualified to assess adherence to standards and guidelines of nursing practice.

Practice Environment and Settings

The legal nurse consultant practices in a variety of settings, including law firms, government offices, insurance companies, hospital risk management departments, forensic environments, and private practice as a self-employed consultant. The legal nurse consultant serves as a liaison between the legal and healthcare communities. Legal Nurse Consultants provide consultation and education to legal or healthcare professionals and others in litigation related to illness or injury, including areas such as personal injury, product liability, medical malpractice, worker's 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 healthcare and resulting outcomes. While the practice of each legal nurse consultant varies with practice opportunities and experience levels, certain commonalities prevail. This nursing specialty practice may include but is not limited to:

- Facilitating communications with legal professionals strategies for successful resolutions between parties involved in healthcare-related litigation and legal matters;
- Educating attorneys and others involved the legal process regarding the healthcare facts and issues of a case or a claim;
- Researching and integrating applicable literature and other evidence as it relates to the healthcare facts and issues of a case or a claim;
- Reviewing, summarizing, and analyzing pertinent healthcare and legal documents and comparing and correlating them to the allegations;

- Assessing issues of damages and causation relative to healthcare issues in the legal process;
- Identifying, locating, evaluating, and conferring with expert witnesses;
- Interviewing witnesses and parties pertinent to the healthcare issues;
- Participating in the drafting of healthcare related documents for use in the legal setting, in collaboration with an attorney;
- Developing collaborative case strategies with those practicing within the legal system;
- Providing support during discovery, depositions, trial, and other legal proceedings;
- Evaluating the healthcare practitioner's and facility's duty to provide services and the possible breach of this duty.

Standards Of Practice For Legal Nurse Consulting

The six Standards of Practice describe a competent level of legal nurse consulting as demonstrated by the critical thinking model known as the nursing process. The nursing process includes the components of assessment, diagnosis*, outcomes identification, planning, implementation and evaluation. The nursing process encompasses all significant actions taken by registered nurses, and forms the foundation of the nurse's decision-making. Each standard of practice and performance standard has identified measurement criteria which can be found in the Legal Nurse Consulting Scope & Standards of Practice. This book is available for purchase online at <http://www.aalnc.org>.

(*In legal nurse consulting, Standard 2 addresses issue or problem identification instead of diagnosis.)

Standard 1. Assessment

The legal nurse consultant collects comprehensive data pertinent to the health case or claim.

Standard 2. Issue or Problem Identification (Diagnosis)

The legal nurse consultant analyzes the assessment data to determine the issues in the health case or claim.

Standard 3. Outcome Identifications

The legal nurse consultant identifies expected outcomes for the individualized plan for a given health case or claim.

Standard 4. Planning

The legal nurse consultant develops a plan that prescribes strategies and alternatives to attain expected outcomes.

Standard 5. Implementation

The legal nurse consultant implements the identified plan.

Standard 5A: Coordination of Services

The legal nurse consultant coordinates services related to the health case or claim.

Standard 5B: Health Teaching And Health Promotion

The legal nurse consultant employs strategies to promote a better understanding of health and safety related to a health case or claim.

Standard 5C: Consultation

The legal nurse consultant provides consultation regarding a health case or claim to influence the identified plan, enhance and support the contribution of others, and effect change.

Standard 6: Evaluation

The legal nurse consultant evaluates progress towards attainment of outcomes.

SECTION II: STANDARD OF PROFESSIONAL PERFORMANCE**Standard 7: Quality of Practice**

The legal nurse consultant systematically enhances the quality and effectiveness of nursing practice.

Standard 8: Education

The legal nurse consultant attains knowledge and competency that reflect current nursing practice.

Standard 9: Professional Practice Evaluation

The legal nurse consultant evaluates one's own nursing practice in relation to professional practice standards and guidelines, relevant statutes, rules, and regulations.

Standard 10. Collegiality

The legal nurse consultant interacts with and contributes to the professional development of peers and colleagues.

Standard 11. Collaboration

The legal nurse consultant collaborates with clients and others in the conduct of legal nurse consulting practice.

Standard 12. Ethics

The legal nurse consultant integrates ethical provisions in all areas of practice.

Standard 13. Research

The legal nurse consultant integrates research findings into practice.

Standard 14. Resource Utilization

The legal nurse consultant considers factors related to safety, effectiveness, cost, and impact on practice in the planning and evaluation of the health case or claim.

Standard 15: Leadership

The legal nurse consultant provides leadership in the professional practice setting and the profession.

Source: American Nurses Association and American Association for Legal Nurse Consultants (2006), Legal Nurse Consulting Scope and Standards of Practice. Silver Spring, MD; Nursebooks.org.

AALNC Code of Ethics and Conduct

Preamble

The Code of Ethics and Conduct of the American Association of Legal Nurse Consultants is based on beliefs about the nature of individuals and society. The code of professional and ethical conduct provides guidelines to its members for professional performance and behavior. The success of any professional organization results from the competence and integrity of its members. Our goal to those we serve is that they be assured of our accountability.

We recognize a responsibility to other professional organizations with which we are aligned, in particular, the American Nurses Association and the American Bar Association. We accept and abide by the principles of their code of ethics and conduct. By our support of the Code of Ethics and Conduct of the American Association of Legal Nurse Consultants, we affirm that the rights and trust placed in us will not be violated.

Code of Ethics

- 1. The legal nurse consultant does not discriminate against any person based on race, creed, color, age, sex, national origin, social status, or disability and does not let personal attitudes interfere with professional performance.** Individual differences do not influence professional performance and practice. These factors are understood, considered, and respected when performing activities.
- 2. The legal nurse consultant performs as a consultant or an expert with the highest degree of integrity.** Integrity refers to uprightness, honesty, and sincerity. The legal nurse consultant directs those attributes to the requirements of the profession. Integrity is a personal and sacred trust and the standard against which the legal nurse consultant must ultimately test all decisions. Honest errors and differences of opinion may occur, but deceit, poor judgment, or lack of principles must not be tolerated.
- 3. The legal nurse consultant uses informed judgment, objectivity, and individual competence as criteria when accepting assignments.** The legal nurse consultant does not purport to be competent in matters in which he or she has limited knowledge or experience. Only services that meet high personal and professional standards are offered or performed.
- 4. The legal nurse consultant maintains standards of personal conduct that reflect honorably upon the profession.** The legal nurse consultant abides by all federal and state laws. The legal nurse consultant who knowingly becomes involved in unethical or illegal activities negates professional responsibility for personal interest or personal gain. Such activities jeopardize the public confidence and trust in the nursing profession.

5. **The legal nurse consultant provides professional services with objectivity.** The legal nurse consultant provides services free of personal prejudice and conflict of interest. The legal nurse consultant reflects on all current assignments and commitments before accepting assignments, making decisions, rendering opinions, or providing recommendations. Personal prejudices and conflicts of interest must be recognized, as they may interfere with objectivity and adversely affect performance.
6. **The legal nurse consultant protects client privacy and confidentiality.** The legal nurse consultant uses confidential materials with discretion. The legal nurse consultant respects and protects the privacy of the client. The legal nurse consultant does not use any client information for personal gain.
7. **The legal nurse consultant is accountable for responsibilities accepted and actions performed.**