



From emergency nurse to legal nurse consultant and independent practitioner: Legal nurse consulting? What is that?

By Brenda Robson

I was watching television in the fall of 2007, one of those police investigative shows, and I found myself totally captivated by the testimony being provided by an intelligent, well-spoken, well-dressed witness under interrogation in a court room. It was one of those “aha!” moments for me, when the judge said, “Thank you nurse Smith, you can step down now.” I sat up and said to myself, “That was a nurse, I can do that!” I immediately headed to my computer and researched “legal nurse” and over the next four hours I found a wealth of information... and a new career path!

I worked as an emergency nurse for 25 years, most of the time at the bedside. Experience in a few different roles had given me some insight, experience and the confidence to try something new. My roles as staff nurse, patient care coordinator, and clinical leader in emergency services for a health authority with 35 emergency departments provided a variety of opportunities, all of which included promotion of standards of care, risk management issues and policy/procedure development. I have always enjoyed the “sleuthing” that we do as emergency nurses and as nurse leaders or educators. When I read about legal nurse consulting I realized that this role is a perfect combination of utilizing clinical knowledge and expertise, research, analytical skills, report writing, communication, speaking to one’s topic of expertise and promoting standards of care.

What is legal nurse consulting?

According to the American Association of Legal Nurse Consultants (www.aalnc.org), 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. 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
- health care licensure investigation
- other applicable cases

The main role of a legal nurse consultant is to evaluate, analyze and provide informed opinions on the delivery of health care and its related outcomes. Legal nurse consultants practise in either the plaintiff or defence capacity for law firms, insurance companies, government agencies and risk management departments. There are many different areas in which LNCs can offer their support. In addition to medical malpractice cases, nurses work in personal injury claims, product liability, workers’ compensation, toxic tort (personal injury caused by exposure to toxic chemicals from pharmaceuticals, consumer products or the environment), risk management, health care licensure, and other areas.

Much of our work involves being the educator: to the attorney, to the judge and members of the jury. We translate the medical jargon into everyday language. We explain different disease processes and conditions, tests, and lab values. We then explain why they were important to the case. In a medical malpractice case, the legal nurse consultant assists the attorney in reviewing the health record with a “triage” lens, helping to determine if the case has merit or not and identifying strengths and weaknesses of the case, as well as identifying important parties.

Once the attorney has decided that a case is going ahead and the services of the legal nurse are retained, the LNC utilizes his/her knowledge of the health care system and completes an in-depth, comprehensive case analysis. In this process, the nurse identifies if there are missing or altered medical records (who knows better than a nurse what is missing or not?), correlates all of the physician and nursing notes, lab reports, and procedures and provides a chronological timeline of every pertinent event. The LNC then researches the expected standard of care by looking at best practices, institutional policy/procedures, national specialty organization position statements and published standards of care.

A comparison between the care that was provided against the expected standard of care is completed. A written report is provided outlining the timeline of events and care that was provided, the standards of care and the nurse’s opinion on whether the care provided met or fell below the minimum standard of care. The LNC may be required to defend the opinion in court. (www.aalnc.org)

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 health care 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 health care 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, health care providers, clients, and experts
- attending independent medical examinations (IMEs).

Getting started!

The first thing I did was sign up for some education in legal nurse consulting. There are different educational opportunities available and a bit of on-line research will lead you to these opportunities.

After I completed the education, I experienced quite a learning curve over the following year. I had to learn about starting my own business and independent nursing practice. Once I had committed to this new career path it was easy to invest in myself. I took a course, attended conferences, purchased learning materials and, most importantly, sought out mentors in both the nursing and business worlds. I then pumped them for information. I decided to start my own business, I developed marketing material and began to market myself.

By the summer of 2008, I was ready and I accepted my first job, a medical malpractice case. My first case arrived in the mail. Wow! I was so excited to get started. I read through the entire package of documents to familiarize myself with the case and the issues, then sat down to do a chronology. I found myself documenting and making notes as I went through the case and soon realized that the learning curve is not around nursing. It is around how to market and run a business and develop good report-writing skills. The attorney is the expert on legal issues.

The legal nurse consultant is the expert on nursing, the health care system and its inner workings. The importance of medical records with complete documentation was reinforced.

An example of one case involved a post-operative patient who had bled at home and came to the emergency department, a common scenario in an emergency department. The patient was admitted for observation overnight to monitor for ongoing bleeding. Once the medical record was reviewed and a chronology completed, it was evident that the patient's vital signs showed a tachycardia/hypotensive episode at the scene (home), normalization of vital signs and no further bleeding noted with the triage assessment and with the initial emergency physician and emergency nurse assessment (compensatory mechanisms for shock initiated). Documentation then noted an abnormal and continued steady rise in the heart rate throughout the four-hour emergency department stay and on the inpatient unit (signs of progressive shock). While the nursing documentation indicated abnormal signs and other signs of poor tissue perfusion along with evidence of possible continued bleeding, there was no evidence that any interventions were completed to address the assessment findings.

Nursing care is compared to the expected standard of care and the legal nurse consultant provides opinion on whether the nursing care met the expected standard of care or fell below it. In this case it would be expected that there would be a normalization of vital signs, as well as improvement in other indicators of early shock prior to a patient being sent from a critical care area to a general ward (fluid resuscitation). The admission orders were written within 10 minutes of the patient's arrival, with assignment to another physician as the most responsible physician. There was no evidence of notification of the most responsible physician of the sustained abnormal vital signs prior to the patient being sent to the general ward. As you can surmise, this patient went on to have a poor outcome, which is why the legal nurse consultant was involved in this case.

Since that time, I have worked in the area of medical malpractice and personal injury and have testified out of province as an "expert witness". I have also developed and delivered workshops for nurses on the topic of legalities of charting and documentation. I have provided presentations on this topic at our local hospital and at our provincial emergency nurse association education days. There are many aspects to legal nurse consulting and many different paths a legal nurse consultant can take. Legal nurse consulting is one aspect of a broader category of forensic nursing.

What is forensic nursing?

International Association of Forensic Nurses (www.iafn.com)


Forensic nursing is the application of nursing science to public or legal proceedings; the application of the forensic aspects of health care combined with the bio-psycho-social education of the registered nurse in the scientific investigation and treatment of trauma and/or death of victims and perpetrators of abuse, violence, criminal activity and traumatic accidents.

The forensic nurse provides direct services to individual clients, consultation services to nursing, medical and law-related agencies, and expert court testimony in areas dealing with trauma and/or questioned death investigative processes, adequacy of services delivery, and specialized diagnoses of specific conditions as related to nursing.

Forensic nursing involves the areas of interpersonal violence, forensic mental health, correctional nursing, legal nurse consulting, emergency/trauma services, patient care facility issues, public health and safety, and death investigations. The Forensic Nurses' Society of Canada (FNCS) is a uniquely Canadian organization for forensic nurses and was approved as an emerging special interest group of the Canadian Nurses Association in July 2007.

In the United States, there is an Association of Legal Nurse Consultants (AALNC) and a certification process. Legal nurse consulting is recognized as a nursing specialty. In Canada, legal nurse consulting is a growing field. There is the newly formed Legal Nurse Consulting Association of Canada (LNCAC). The first annual general meeting was held in May 2009. "The LNCAC was formed to provide support, resources, and a

connection to all legal nurse consultants (LNCs) across Canada as we further develop this exciting profession across the country" (www.lncac.ca).

The shift to independent nursing practice has been very rewarding. The autonomy and use of acquired knowledge and expertise along with a flexible schedule is exactly what I was ready for. There is a network of mentors available and a growing field of expertise in forensic nursing including legal nurse consulting in Canada. 

Resources

American Association of Legal Nurse consultants (AALNC)
www.aalnc.com

Forensic Nurses Society of Canada (FNCS)
www.forensicnurse.ca

International Association of Forensic Nurses (IAFN)
www.iafn.com

Legal Nurse Consultants Association of Canada (LNCAC)
www.lncac.ca

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outlook
Kids' Play

Sucrose... Pediatric pain management


By Laura Ebenspanger, RN, BN

When children enter the emergency department, the likelihood of receiving invasive treatment such as a venipuncture or a heel lance is high. In order to assess, diagnose and treat the patient, certain procedures must be completed, many of which cause a painful stimuli for the child and the family. According to a research article conducted by Ali, Curtis, Jou, Klassen and Vandermeer (2007), steps can be taken to decrease the amount of pain to which many children are susceptible. The article "A randomized controlled trial of sucrose and/or pacifier as analgesia for infants receiving venipuncture in a pediatric emergency department" is a study conducted to test the effects of sucrose and the use of a pacifier as an analgesic.

An emergency department has a fast-paced environment, requiring quick and competent skills. "The ideal analgesic for procedural pain in the emergency

department should have quick onset, be effective and have no side effects" (Curtis et al., 2007). Sucrose is thought to be a taste-induced analgesia lasting approximately five minutes (2007). The article delivers evidence to prove that sucrose is an effective form of pain management for infants under the age of three months, stating that crying time is reduced (2007). The effects of sucrose are then increased when used simultaneously with a pacifier (2007). Administering 2 ml of 44% sucrose two minutes prior to the procedure produced a therapeutic effect in the study. The study concludes that pacifiers and sucrose are inexpensive, easy to use, and have no serious side effects. Therefore, this form of analgesia should be used in a pediatric emergency setting.

If emergency departments can limit the amount of pain, it will decrease the stress on the patient, as well as the family. Applying the use of sucrose to children's emergency departments requires

promotion and recognition of the effects of sucrose. This article brings to the attention that painful procedures are inevitable. However, if there is a way of minimizing the amount of pain, then why not do so? This form of analgesic may, in fact, improve the rates of venipuncture due to the decrease in crying time. It may also increase family comfort in being present in the room when procedures are performed. The protocol for administering sucrose came into effect during the past year at Children's Hospital in Winnipeg. With education and time, hopefully many nurses will recognize the positive effects of this form of analgesia, and using it will become second nature. 

References

Ali, S., Curtis, S.J., Jou, H., Klassen, T., & Vandermeer, B. (2007). A randomized controlled trial of sucrose and/or pacifier as analgesia for infants receiving venipuncture in a pediatric emergency department. *BMC Pediatrics*, 7(27).