

# The Value of Legal Nurse Consultants in Medical Malpractice Claims

By [Patricia Pagels](#), RN, BSN, LNC

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For more than 30 years, registered nurses have been recognized as consultants to attorneys on nursing and healthcare issues.

The most common duties for nurses in the legal arena have been to serve as expert witnesses who review cases, offer opinions and testify about the standard of care in nursing malpractice cases.

As medical malpractice litigation expanded, nurses became more interested in and educated about legal issues surrounding healthcare. In the 1980s, attorneys searched for resources to help them understand medical records, medical literature, hospital policies and procedures, and client and expert medical testimony. Attorneys and the judiciary system began to value nurse consultant expertise in these specialized areas.

## **What is a Legal Nurse Consultant?**

“Legal Nurse Consultant” (LNC) became a recognized title in 1989, when the American Association of Legal Nurse Consultants was founded.

This organization was created primarily to address distinctions between the specialty practice of legal nurse consulting and the practice of the paralegal and legal assistant. Legal nurse consultants are now recognized within the nursing profession, not as a special category of paralegals.

By definition, paralegals and legal assistants are qualified professionals with education, training, and work experience required to perform specifically delegated legal work for which a lawyer is responsible. Legal education is frequently a requirement for paralegals.

Many LNCs have acquired knowledge of the legal system consulting with attorneys and attending seminars. Formal legal education is not a prerequisite for legal nurse consultants. It is their professional nursing education and healthcare experience that make LNCs unique and valuable partners in legal processes.

The LNC is a licensed registered nurse who performs critical analysis of clinical and administrative nursing practice and healthcare facts and issues. With an extensive educational foundation and clinical experience, legal nurse consultants are qualified to assess adherence to standards and practice guidelines applied in the nursing profession.

LNCs bring all the expertise of the professional nurse to this specialty practice. An entry-level position requires completion of a basic nursing program leading to licensure as a registered nurse and five years of

clinical practice experience. The complexity of practice dictates a working knowledge of pertinent legal issues. Knowledge of legal terminology, medical research and technical writing, coupled with a fundamental understanding of the law, become key competencies for LNCs.

### **Legal Nurse Consultants Working for You**

In the defense of medical malpractice cases, the primary role of the legal nurse consultant is to evaluate, analyze and render informed opinions on the facts related to the delivery of healthcare and the resulting outcomes.

LNCs may be utilized to facilitate communications and strategies with the attorney to obtain successful resolutions between parties involved in healthcare related litigation. They educate attorneys regarding healthcare facts and issues involved in medical malpractice claims. They research and integrate applicable literature as it relates to the healthcare facts and specific case issues.

The most time consuming and valuable services that LNC provide to attorneys are the organization of medical records, as well as their review, summary and analysis. Medical records, when received from various copy services or clients, are often unorganized and confusing. Multiple sources of medical records are often requested in the development of a medical malpractice claim. Records are received from treating physicians prior to, at the time of and subsequent to the alleged malpractice. Records are also received from multiple treating hospitals, extended care facilities, rehabilitation facilities and other various sources.

The LNC is uniquely qualified to organize and sort these records into useful chronological documents. The records can then be provided to defense experts, making their review of the applicable medical records less time consuming and more focused. An organized set of medical records also increases a defense attorney's efficiency and productivity.

During review and summary of medical records, the LNC looks for deviations from the standard of care. Their knowledge of medical records makes them qualified to ascertain if critical documents are missing from a set of medical records. For example, while reviewing a set of records from a hospital, the LNC may notice that a doctor's progress note mentions the results of an echocardiogram. Further review of the physician's orders shows that the test was ordered. Documentation in the nurses' notes indicates that the patient was off the unit for a period of time for the echocardiogram, yet the actual report of the echocardiogram does not appear in the records. The LNC can then request/subpoena from the hospital specific documents needed to complete the set of medical records.

Once individual analysis of medical records is completed, all of the summaries can be combined into a timeline, giving the defense attorney a chronological summary of medical treatment provided by multiple healthcare providers. This is probably the single most important document prepared by the LNC and utilized by the attorney in the defense of a medical malpractice case.

This timeline will be used by the attorney throughout the development of the case. It will be used to formulate questions for the plaintiff's depositions, plaintiff's experts, defendants, defense experts and various witnesses. It can be provided to retained defense experts so they have a comprehensive chronology of events occurring prior to, at the time of and after the alleged malpractice.

LNCs employed by law firms cannot provide expert testimony. However, they may assist the attorney in locating qualified experts and may perform duties related to healthcare issues in a variety of legal practice areas. LNCs may also practice outside the law firm setting in specialized roles as nurse experts, forensic consultants, case managers, risk managers and insurance industry consultants.

The legal nurse consultant is an invaluable member of the medical malpractice defense team. They are highly specialized individuals, uniquely qualified to address healthcare issues in the development of medical malpractice cases. They provide a unique service for defense attorneys and their clients. Their experience in the healthcare field, coupled with their knowledge of legal issues, allows them to identify and evaluate the strengths and weaknesses of medical malpractice claims. These qualities are utilized by medical malpractice defense attorneys to provide the best legal services to their clients.

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