



Legal Nurse Consulting: A Nursing Specialty

Fourth Edition

A Publication of the American Association of Legal Nurse Consultants

Originally edited by:
Elizabeth Zorn, RN BSN LNCC

The following people have contributed to the development of this booklet:

Julie Bogart, MN RN
Kathie Condon, RN MSN LNCC
Karen Fox, BSN RN LNCC
Susan Glover, RN LNCC
Amy Heydlauff, RN LNCC
Pamela Hollsten, BSN RN LNCC
Karen Huff, BSN RN LNCC
Sarah Kaminski, RN BSN LNC
Lynda Kopishke, MSN RN LNCC
Cynthia Lacker, RN MS LNCC
Barbara Loecker, MEd RN
Lisa Mancuso, RN BSN PCCN CCRN CLCP LNCC
Jane Mihalich, BSN RN LNCC
Valerie Parisi, RN
Lisa Pyle-Rodenbaugh, MBA RN
Joan Magnusson, BSN RN LNCC
Yolanda Smith, MSN RN
May Watt Pollack, MS RN
Dianne Volinchak, RN
Annette Weisgarber, BSN RN LNCC

Copyright © 2018 by the American Association of Legal Nurse Consultants. No part of this publication may be reproduced, photocopied, entered into a computer, copied in handwritten format, or republished in any form, in whole or in part, without written permission of the American Association of Legal Nurse Consultants. Violators are subject to prosecution under federal copyright laws.

American Association of Legal Nurse Consultants
330 N. Wabash Ave
Chicago, IL 60611
(877) 402-2562 • Fax: (312) 673-6655
<http://www.aalnc.org> • Email: info@aalnc.org

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 about the medical issues, delivery of health care and/or the health outcomes as they relate to cases or issues within the medical-legal arena. Some examples include:

- In a medical malpractice case –evaluating the delivery of healthcare and health outcomes is related to whether or not the Standard of Care (SOC) was met
- In a personal injury (PI) case – evaluating health outcomes is related to defining/evaluating the conditions and injuries of the plaintiff resulting from the alleged negligence
- In a life care plan (LCP) – evaluating health outcomes is related to identifying future medical costs to care for a plaintiff with specific medical conditions and level of function

For nearly 30 years, legal nurse consultants have acted as collaborators, strategists, and educators by offering support in medical legal litigation. As the specialty evolves, so too, will the practice areas where legal nurse consultants can apply their skills. Outlined here is a comprehensive, but not necessarily absolute, listing of practice areas:

- Medical malpractice
- Other personal injury (auto, slip & fall, work injury)
- Product liability
- Toxic torts
- Workers' compensation
- Risk management
- Healthcare licensure investigation
- Social Security Administration disability
- Life Care planning
- Case management
- Corporate and Regulatory Compliance
- Billing fraud

An LNC is a registered nurse who is a unique and valuable member of the litigation team. LNCs bring their health science education and clinical expertise to healthcare and medically related issues in the litigation process. The practice of legal nurse consulting is performed in collaboration with attorneys (who are admitted to practice law) and others involved in the legal process. The LNC's scope of practice does not include the practice of law, paralegal functions, or those of the legal assistant. However, depending on the particular LNC role, it may include a general working knowledge of the relevant substantive and procedural law and regulatory guidelines impacting the LNC's cases/work. This is especially important for LNCs working medical legal tort claims.

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:

- Needs Assessment
- Issue identification
- Case Outcome identification
- Case 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 Consultant” and the “Standards of Legal Nurse Consulting Practice” in the appendix.

B. Educational Background and Licensing

1. Basic educational programs for registered nurses include Diploma (hospital-based 3-year program), Associate (2 years), 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’ *Legal Nurse Consulting: Principles and Practice* textbook and the LNC Professional modules provide 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 or critical care/trauma nursing provides a familiarity with subject matter that enable LNCs to review and critically analyze a wide variety of medical legal cases. A minimum of 5 year's prior clinical experience is recommended prior to entering the LNC profession.

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 more than 25 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. Independent 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 nursing specialty provides evidence to the public that a candidate has achieved a standard beyond licensure, i.e. that the “certified” nurse possesses specialized knowledge and experience, and has passed a national exam. Many nurses seek certification to validate their expertise. It is important to realize that certification is typically not achieved at entry into practice. Similar to physician board certification, experience is required before sitting for the exam. This applies to certification in legal nurse consulting or clinical nursing.

In legal nurse consulting, the only certification recognized by AALNC and accredited by ABNS (aka ABSNC)¹ is the Legal Nurse Consultant Certified (LNCC) credential. For this reason, many view the LNCC as the gold standard in the industry. To achieve accreditation, the LNCC must meet the same rigorous standards as clinical nursing certification programs. The LNCC was initially accredited in 1999, and has successfully completed the reaccreditation process as required by ABNS every 5 years since that time.

The LNCC exam is administered by the American Legal Nurse Consultant Certification Board (ALNCCB), a functionally autonomous board established by AALNC in 1997 to develop the exam. Evidence of autonomy, or separation of the certification board from the board of directors that serves the membership, is one of the many requirements for accreditation by ABNS/ABSNC.

The LNCC is the only certification in legal nurse consulting developed by a not-for-profit organization. There are also many private and for-profit companies that offer educational, certificate, and course-based certification programs in legal nurse

¹ The American Board of Nursing Specialties (ABNS) has 2 boards: an accreditation council and a membership board. In 2009, the ABNS Accreditation Council changed their name to the Accreditation Board for Specialty Nursing Certification (ABSNC). The ABNS membership board continues to use the name ABNS

consulting. To help educate nurses about the differences between a certification program and certification in the specialty, ALNCCB prepared the chart below as a resource to nurses entering the field.

Certification vs. Certificate

Certification	Certificate
Results from an assessment process that recognizes an individual's knowledge, skills and competency in a particular specialty	Results from an educational process
Typically requires professional experience	For newcomers and experienced professionals
Awarded by a third-party, standard-setting organization, typically not for profit	Awarded by educational programs or institutions often for-profit
Indicates mastery/competency as measured against a defensible set of standards, usually by application or exam	Indicates completion of a course or series of courses with a specific focus (different than a degree granting program)
Standards set through a defensible, industry-wide process (job analysis/role delineation) that results in an outline of required knowledge and skills	Course content determined by the specific provider or institution, not standardized
Typically results in credentials to be listed after one's name (LNCC, ONC, CCRN)	Usually listed on a resume detailing education
Has on-going requirements in order to maintain; holder must demonstrate he/she continues to meet requirements	Demonstrates knowledge of course content at the end of a set period in time

Eligibility Requirements for the LNCC Exam

To be eligible to take the examination, candidates must have the following **at the time of application**:

- Current licensure as a registered nurse in the United States or its territories, with a full and unrestricted license
- A minimum of five years of experience practicing as a registered nurse
- Evidence of 2000 hours of legal nurse consulting experience within the past three years.

Those who meet the eligibility criteria and successfully complete the examination will earn the Legal Nurse Consultant Certified (LNCC) credential.

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

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/correlating them to allegations (in med mal cases)
- Conducting client interviews
- Identifying standards of care (in med mal cases), causation, and damage issues
- Conducting literature searches and summarizing medical literature
- Helping to determine the merits or defensibility of a case
- Providing education regarding medical issues relevant to a case
- Identifying future medical needs and associated costs related to the injuries/medical conditions at issue in the lawsuit
- 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, deposition and trial outlines; witness lists and other pleadings; queries for direct and cross-examination; and document production requests, trial briefs, demand letters, and status reports
- Identifying, screening, retaining, and consulting with expert witnesses
- Acting as a liaison among attorneys, 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 medical issues, he or she can bring the following benefits to the litigation team:

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

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

Knowledge: The LNC has a thorough understanding of medical issues and trends involved in the entire litigation process. The LNC "speaks the language" of physicians, other 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: strong work ethic and willingness to accept responsibility for seeing projects through to their conclusion; ability to work independently with minimal supervision and direction; and unquestionable ethics.

Skills: good analytical skills; ability to express opinions logically and coherently; good reading and writing skills; good communication, teaching and interpersonal skills; good organizational skills and ability to prioritize pending work projects; strong problem-solving skills.

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

Special Knowledge: general working knowledge of the laws and rules applicable to medical malpractice, products liability and other personal injury cases; proficiency in computerized medical literature searches; proficiency in computer programs such as Excel, Word and Adobe Acrobat, and in use of the internet to conduct background searches on defendant health care providers and opposing side's experts.

II. Practice Settings

LNCs practice in areas of civil and criminal litigation involving injuries and/or medical treatment. LNC practice areas are as diverse as clinical nursing practice areas. Most LNCs practice in general professional negligence (i.e. medical malpractice) or other personal injury litigation (such as auto and slip and fall cases). Some LNCs practice in other related medical legal fields such as toxic tort, products liability, risk management, life-care planning, Medicare Set-Asides, Workers Compensation or case management.

Many LNCs are independent practitioners and own their own businesses. These LNCs offer consulting services to attorneys and insurance companies. 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, and may eventually stop working clinically all together. LNCs maintaining a clinical practice must be aware that they may not be able to consult in cases involving their employer, as this may represent a conflict of interest. A conflict of interest could potentially impact a plaintiff attorney's continued representation of his or her client.

Independent practice may appeal to a nurse who is self-motivated, works well independently, is self-confident, assertive, and has the time, financial resources, and business skills to develop and maintain a successful business.

Working in an independent practice allows the LNC to have a flexible schedule. Nurses in independent practices typically work with more than one attorney-client or firm, and bill by the hour for their consulting or expert services. Hourly rates charged by independent LNCs vary with the LNC's clinical and legal experience, as well as the extent to which lawyers in a particular legal community have used and value LNCs (e.g. what the market will bear). LNCs in private practice spend considerable time engaged in non-billable business management activities such as marketing, building a library, bookkeeping, invoicing and collection, and in some cases, 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 pay for overhead expenses associated with running a small business, as well as their own health and liability insurance and retirement savings. Sick or vacation time, or any time away from work is not compensated. The independent LNC will also be responsible for appropriate accounting procedures and tax filings.

B. Law Firms

Many LNCs are hired by law firms to provide assistance to attorneys in cases involving healthcare and other medical issues such as medical malpractice, personal injury, toxic tort, and product liability. The primary activities of the in-house LNC include:

- Summarizing medical records
- Conducting medical literature searches
- Locating and communicating with expert witnesses
- Acting as the liaison for healthcare provider defendants
- Developing demonstrative evidence, and preparing written materials pertaining to the medical issues to be used in legal documents such as affidavits, complaints, deposition and interrogatory questions/answers, offers of settlement, and mediation submissions.

LNCs may also attend depositions, arbitrations, mediations, and trials. LNCs in plaintiff firms are often involved in screening potential medical malpractice cases as they come in.

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 and the skills and experience of the LNC.

Nurses employed by a law firm or other organization are usually paid a salary with benefits similar to those offered to other professional employees of the firm. Work hours are usually Monday through Friday during standard business hours.

However, depending on the caseload and proceedings in a particular case, work outside of normal business hours may be necessary at times.

C. Insurance Companies

The duties of the LNC working in the insurance industry are often very different from those LNCs working for a law firm or in an independent practice. Accident, life, and health insurance companies employ LNCs to serve as case managers, utilization review specialists, medical bill auditors, policy development coordinators and claims adjusters. The focus for the LNC working in the insurance industry is to ensure that the health care services payable according to the benefits of the insurance policy are provided in the most cost-efficient means possible.

D. Healthcare Systems

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

E. Hospital, Ambulatory Care Centers, and Clinics

Many of the health care 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 improvement 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 exposure, provide in-service education for staff nurses 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, obtaining medical evidence, and working with outside counsel. LNCs in this setting may also interface with the state health department regarding reportable events. LNCs working in risk management should have an understanding of the insurance industry.

LNCs employed by a health care facility may also work in the area of corporate compliance, ensuring the facility complies with various state and federal standards for information management, health care privacy issues and identification/prevention of criminal or unethical activity within the organization.

F. Governmental Agencies

LNCs may practice in a variety of governmental agencies, such as state attorneys general offices, the Department of Justice, state health professions licensing boards, or the Food and Drug Administration. In this role, a LNC might assist in the defense of state agencies such as medical schools, college infirmaries, and prison healthcare systems. They might also write health care policy or administrative rules based on statutes, and work in federal government offices as administrators of compensation programs for injured citizens. LNCs may also assist in analysis and investigation of cases involving compensation for injuries or government funded health care fraud cases.

G. Federal or State Patient Safety Organizations

Federal regulations have adopted a model of Patient Safety Organizations (PSOs) that are allowed to receive and analyze "Patient Safety Work Product" sent to them by member facilities, which can be hospitals or individual healthcare providers. Some states have adopted mandatory reporting of Serious Events and Incidents that result in patient harm. LNCs may work with these patient safety organizations to analyze individual patient safety reports, and to aggregate data from statewide facilities in order to identify trends in patient safety events. Analysis of the data culminates in the development of educational material in an effort to decrease

recurrence of events that result in patient harm. LNCs are uniquely qualified for this type of work through their clinical training, awareness of risk management and quality improvement principles, and knowledge of patient safety regulatory requirements, both at the state and federal levels.

H. Business and Industry

Legal nurse consultants work with attorneys and corporate health care 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 adverse event reporting, auditing, and product liability cases. LNCs may also assist in developing policies and administering programs involving employee health issues, toxic exposures and loss prevention. In the insurance industry, the LNC may function as a medical policy coordinator or provides information to support coverage decisions. 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, but most often, 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 as a result of negligence. 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 prosecute criminal cases, including those resulting in physical harm. Civil claims for personal injury (including injuries that result from criminal activity) are filed in either state or federal 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. LNCs who work in-house typically work on every type of medical legal case handled by his or her firm.

A. Professional Negligence

Professional medical 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 may include ancillary medical/nursing staff. The ability to screen cases involving professional medical negligence is one of the LNC's most valuable and marketable skills. 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 injury to the plaintiff. Many non-meritorious claims are rejected on the basis of LNC screening (in consultation with an attorney) because of the LNC's 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 with many disciplines in the health care system, plaintiff LNCs are able to identify defendants and injuries as well as formulate anticipated defenses.

LNCs must develop medical literature search skills and familiarity with the medical library, professional organizations, and other resources to locate evidence of the applicable standards of care. In litigation, the standard of care is ultimately defined by expert testimony, except in “res ipsa” cases in which the deviation is so obvious (e.g. leaving in place an instrument at surgery) that expert testimony regarding negligence is not required. 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 (or the firm’s receipt of the case in defense firms) 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 (non-medical malpractice)

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

The novice 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 critical care, emergency, medical/surgical, orthopedic, neurology, or rehabilitation nursing can provide many essential services to personal injury attorneys.

The first service an LNC provides is the ability to identify, 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, including whether there was likely aggravation of a pre-existing condition. The LNC must be able to interpret a wide variety of medical records from multiple sources, some of which may be difficult to decipher if they are handwritten. The LNC must also determine whether the attorney has all the relevant records.

In many states, the injured party can recover damages for pain and suffering resulting from negligence. LNCs working for plaintiff’s counsel can help define and summarize pain and suffering issues via review of the medical records documentation as well as interviews with the client. In some cases, LNCs serve as

“fact witnesses,” defining and interpreting medical issues for the judge and jury. Injured plaintiffs may be asked to attend defense/independent medical examinations (DME/IME). The plaintiff LNC may attend these examinations to act as a client advocate but primarily, to provide an accurate record of the examination for the attorney. Medical literature search skills are essential because attorneys may require the latest documentation on hard-to-prove disorders such as mild traumatic brain injury and soft tissue issues such as cervical strain or complex regional pain syndrome.

C. Product Liability

Product liability cases involve injuries and illnesses caused by an alleged defect in a product, device, or drug and in some cases, a “failure to warn” about the alleged defects. These suits typically target the manufacturer of the specific product (e.g., breast implants), pharmaceutical (e.g., Vioxx), device (e.g. heart valve) 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 substances 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 or group of plaintiffs in class action litigation.

E. Workers’ Compensation

Workers’ Compensation cases involve injuries suffered by a person during the course of employment. An LNC in this setting reviews medical records, prepares claims for hearings, or acts as the medical case manager to coordinate the medical care provided to injured workers.

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 for both sides. Many case managers have the Certified Case Manager (CCM) certification, and most have strong clinical backgrounds in orthopedics, rehabilitation, occupational nursing, or home health care.

F. Medical Case Management

LNCs who serve as medical case managers are often employed by Worker's Compensation companies, health insurance companies, accident insurance companies or privately-owned companies that contract to provide case management services. Case managers have an understanding of insurance regulations, the nature and extent of a claimant's insurance benefits and knowledge of community resources. The goal is to provide the highest quality health care needed by the client in the most cost-effective means.

Medical case managers assist clients with long-term disability or catastrophic illnesses or injuries such as spinal cord injury, traumatic brain injury, high risk pregnancy or psychiatric illnesses to ensure coordination of appropriate health care services among all providers. The Certified Case Manager (CCM) or Certified Rehabilitation Registered Nurse (CCRN) credential, in addition to a strong clinical background in orthopedics, rehabilitation, occupation nursing or home health care are useful for those seeking employment as a medical case manager.

G. Criminal

LNCs provide expertise to criminal defense or prosecuting attorneys by reviewing and analyzing medical evidence, assisting with crime scene investigations, and interviewing and communicating with medical experts. LNCs may testify at trial as fact witnesses regarding medical issues, assist attorneys in preparing witnesses, and provide medical literature to support sentencing options.

Some LNCs may decide to offer services as a mitigation specialist, developing mitigating evidence for defendants in the penalty phases of capital cases. LNCs working in the area of criminal law will need to be familiar with the criminal code of the state or federal jurisdiction in which they work. LNCs interested in mitigation specialist roles will need to obtain additional education (e.g. forensic training) in this specialty practice within the criminal law area.

H. Forensic Nursing

Many LNCs who work in forensic nursing have expertise in providing nursing care and counseling to victims of sexual assault (Sexual Assault Nurse Examiner or SANE nurse) 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 services 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

Registered Nurses with pertinent clinical experience may choose to serve as expert witnesses in cases involving alleged deviations in the standard of nursing care in their nursing specialty. Testifying nurse expert witnesses generally have an advanced degree or 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 opine and testify about the adherence to or deviation from established standards of care. Nurse experts may write opinion reports and/or testify at depositions and trials regarding the quality of nursing care provided in a case. The skill set required for the testifying expert includes an ability to clearly communicate medical jargon in layman's terms, the ability to utilize evidence based standards to educate attorneys, judges and jurors, and excellent writing and public speaking skills.

J. Life Care Planning

LNCs with case management or rehabilitation nursing experience may consult with attorneys to prepare a life care plan of future medical care needs for a client with a permanent disability resulting from a personal injury or professional negligence. The life care plan usually takes into consideration the future medical, psychosocial, educational and vocational needs of the injured party throughout their estimated life span.

This specialty area of legal nurse consulting is expanding rapidly. Life care plans are utilized in a variety of settings, including medical-legal litigation, insurance reserve setting, trust administration, long term care management, and financial planning. To enter this specialty area, an LNC should have specialized training in developing life care plans, a strong clinical background in rehabilitation and disability management, 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).

Life Care Planners involved in litigation are expected to testify at deposition or trial, if the case does not settle. Testimony would include identifying the foundation and cost justification for each recommendation in the life care plan. At trial the testimony would include educating the jury about the injured individual's disability and the services needed to meet long-term care needs.

IV. Getting Started

The paths leading to a career in legal nurse consulting are varied. However, success depends upon the ability to produce high quality work products and good advice, skills that are only learned over time by working on actual medical legal or other cases/matters, in the LNC's chosen practice area.

LNCs working on tort claims who start out by working in-house get the best training available which is "on the job" through mentoring with attorneys and in some cases, other LNCs at the firm. New independent LNCs typically take an introductory LNC course and then build on this knowledge with each successive case. 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 a LNC needs to decide whether (s)he has the ability, personality, and resilience to meet the many demands of building and sustaining an independent practice. Critical skills include marketing and getting case work, producing a stellar work product, and maintaining trusting professional relationships with attorneys. The following important issues should be considered before opting to launch an independent practice:

- Area of expertise based on the qualifications outlined in this publication
- Ability to work independently, yet consult daily with attorneys, LNCs and healthcare personnel
- The demands of owning and running a business and the ability to meet these demands
- Identifying resources for obtaining information or training in areas such as accounting, marketing, and business law
- Developing a business plan, which should include a detailed marketing plan
- Awareness of available financing for office equipment, computer software, marketing materials, and appropriate office space
- Availability of work space, and the option of working in a home office vs. acquiring office space (this issue is discussed in section V.)

"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 attorneys 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 may work for insurance companies that provide healthcare, auto, life, Workers’ Compensation or professional malpractice insurance. Qualifications for these positions include a strong and varied clinical background in addition to computer, communication, writing, organizational and analytical skills. Positions held by legal nurse consultants working in the insurance industry include utilization review, case management, hospital or physician bill auditors, medical policy development, and claims managers.

Most insurance companies require at least five years of clinical experience, a minimum of a bachelor’s degree and some positions may require other certification such as Certified Case Manager (CCM). Insurance companies have extensive training programs for new hires which include training in the interpretation of insurance policy benefits, benefit payment guidelines, utilization review policy and procedures, knowledge of CPT (Current Procedural Terminology) and ICD – 9 (International Classification of Diseases) and compliance standards required by the insurance industry.

Job openings in the insurance industry are often found in professional journals, state nursing board publications, and newspapers, as well as the internet and job fairs.

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, in state departments of public health investigating consumer complaints of substandard care at licensed facilities, and at state nursing and medical licensing boards investigating consumer complaints involving licensed practitioners. Interested 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 commented 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.”

“I work at the Massachusetts Board of Registration in Medicine reviewing mandated reports of significant adverse patient events, providing analysis, guidance, and oversight of hospital Patient Safety and Quality Improvement programs. I found the job through an LNC colleague who works at the state agency overseeing consumer complaints involving Emergency Medical Services.”

Federal legislation has encouraged the development of Patient Safety Organizations. These organizations collect confidential patient safety data from their members. Additionally, many states have mandatory reporting requirements related to Serious Events and/or Incidents. LNCs employed by PSOs or state agencies analyze data looking for identifiable trends in patient safety events. When trends are identified, LNCs research medical literature and recommend best practices to member facilities.

“After working for more than 10 years as an Independent LNC, I accepted a position as a Patient Safety Analyst with a state agency that monitors mandatory reporting. My analytical skills and LNC background qualified me for this competitive position. I use all of my skills and experience as an LNC to analyze data, review medical literature, write evidence-based articles and work as an internal Consultant on a wide-variety of patient safety related topics such as wrong site surgery initiatives, laboratory mislabeling collaboratives and other state-wide projects.”

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, risk assessments, corporate compliance, medical staff credentialing, Workers’ Compensation, loss prevention, claims management and staff education.

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 health care organizations are essential skills. Risk managers may interact with attorneys, insurance representatives, state board officials, government agencies, vendors, manufacturers,

and clients of health care facilities. Risk managers may be employees of the health care entity, or work as independent consultants.

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. A LNC working for a health care law defense firm may be well positioned to learn about opportunities for employment in risk management positions.

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 reviews, falls assessment, surgery function review, or pathway development, can also be useful.

Risk management certification is available through insurance carriers and professional organizations such as The American Society of Health Care Risk Management (ASHRM). Members who have completed the eligibility requirements may acquire certification as a Certified Professional in Health Care Risk Management (CPHRM).

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 legal training to work for a law firm, having some type of legal background is helpful and it is sometimes required in order to gain access to this work setting. Learning about legal writing in addition to having general knowledge of jurisprudence, both skills that are obtained over time, are essential to the in-house LNC. Instruction through continuing medical-legal education courses is very beneficial.

In addition to membership and participation in AALNC and its local chapters, involvement in state and local bar associations are good ways to keep apprised of medical legal trends and changes in state law.

The roles and responsibilities of in-house LNCs vary from firm to firm and are often dependent upon the extent to which the firm has used LNCs in the past and values the contributions of the LNC. Typically, the more experienced in-house LNCs have greater levels of responsibility as the attorneys gain confidence in the LNC's skills. Responsibilities vary from lower level tasks such as organizing medical records to mid-level tasks such as preparing medical records summaries, to higher level analytical tasks such as participating in case strategy discussions and preparing an analysis of the liability, causation and damages issues in a medical malpractice case.

There are no specific certifications required for in-house LNCs. However, the Legal Nurse Consultant Certified (LNCC) credential is evidence of prior experience and competence in the LNC field and can be presented as an asset to prospective employers. It is the only not-for-profit experienced based LNC certification and the only LNC certification recognized by AALNC and accredited by ABSNC (formerly known as ABNS).

“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.”

“In 1985, I was the first nurse hired by a large defense firm in our city. A year later, we hired a second nurse and several more over the years. I remained at this defense firm for 10 years after which I accepted a position at a plaintiff firm, where I have been since 1995 and where four nurses primarily support six attorneys who specialize in medical malpractice and other personal injury matters. The nurses at my firm are highly valued and respected.”

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 background 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 other opportunities
- Network at every available opportunity and get in touch with past/current 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
- Obtain a list of the firms in town that do medical legal work (both plaintiff and defense). This list can be obtained from the local or state bar association

- Make calls to these firms to identify which firms already have in-house LNCs, which are a great source of information about the local legal community. Network with these local in-house LNCs
- If an interview is granted, research the firm and interviewer in advance of the interview. The names of potential attorney contacts can be found in the Martindale-Hubbell Law Directory. To learn more about the firm, visit the Martindale-Hubbell lawyer Locator Web site at <http://www.martindale.com>. It is important to know whether the firm does primarily plaintiff or defense work and then determine your comfort level representing that side
- Note areas to highlight or exemplify during the interview, such as communications skills, critical thinking skills, interpersonal skills and personal achievements. Demonstrate confidence by maintaining eye contact while speaking.
- Take active steps during the interview to indicate the reasons for interest in the position and the firm. If the attorney has never worked with LNCs before, educate the attorney about legal nurse consulting and specific tasks performed by LNCs
- Attend the interview prepared with questions for the attorney related to the firm's work, and the mission and core values of the firm. If the firm currently has LNCs, it is important to get a sense for the role of the LNC at that firm. If not, it is important to glean information from the attorney related to his or her perception of the role an LNC would play at the firm. In addition, it is important to get a sense for the culture of the firm. The best source of information about this is current or past LNCs from the firm
- 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 or in a Rented or Purchased Office

With proper access to resources, the right tools, and a professional approach, a legal nurse consultant can establish an independent practice, which may be home-based or office-based. 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.

The LNC with a home-based office must have office space dedicated specifically for work. 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.

Some of the advantages of having a home-based office include less time and money spent on professional clothing, no time spent on getting to the office for work, less monthly financial obligation, and certain tax advantages.

Advantages to working in office space away from home include:

- Increased work productivity due to fewer distractions
- Option of being located in close proximity to attorney offices for the sake of ease in marketing and meeting with attorneys
- Space for LNC sub-contractors or office staff to work professional environment
- Space for storage of records

1. Equipment and Materials

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

- Computer (desktop and/or laptop)
- Medical spell check software
- Printer, copy machine, scanner
- High speed internet access
- Business phone line
- Shredder
- Locked file storage system/HIPAA compliant file sharing
- 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)
- National Association for Home-Based Business
- American Woman's Economic Development Corporation
- National Nurses in Business Association (NNBA)
- 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.
- Home Office Association of America (HOAA)

B. Marketing

There are many ways an LNC can market services to attorneys. Personal contact, telemarketing, direct mail, e-mail, advertising in professional publications, public relations, and word-of-mouth are some of the more common marketing methods. Most nurses are not trained in business management or marketing. Therefore, it is most helpful for the LNC to obtain resources to guide them through this new and exciting challenge. There are many seminars and programs available which offer marketing training specific to the needs of the LNC.

Many nurses entering the specialty of legal nurse consulting choose to make personal contacts, ultimately the most effective form of marketing. Some ways to establish these personal contacts include:

- Attend legal seminars on medical malpractice, personal injury, or product liability cases. LNCs can meet attorneys during breaks or lunch, for example
- Exhibit at legal seminars or meetings for local or state bar associations, the American Association for Justice (AAJ) or the Defense Research Institute (DRI). 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 consultant 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 have met as well as to other professionals in their area. 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. If granted, use that meeting to build rapport

Consider marketing to the experienced LNC with a thriving independent practice. These LNCs often hire other LNCs to review cases for them, a practice known as subcontracting, and an excellent way for the new LNC to obtain experience and mentor with an experienced LNC. New LNCs can meet and market to experienced LNCs at local AALNC chapter meetings.

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 those LNCs attending sessions at each conference.

In 2007, AALNC announced the launch of its *Legal Nurse Consulting Professional Course*. This course provides an interactive learning experience for individuals interested in the unique field of legal nurse consulting. Students may purchase the modules in a package or individually.

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

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

Following are considerations when selecting a legal nurse consulting educational program:

- 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
- Inquire whether the course offers assistance with LNC internships or has a mentoring program for students once they complete the course
- Determine whether the course schedule, cost 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. Resource

AALNC is committed to providing educational resources to legal nurse consultants and AALNC members. The association offers a growing library of books and online resources. We have products designed for the registered nurse who is just getting into the legal nurse consulting field, for the professional who is progressing into more advanced LNC work, for the individual who is opening an independent consulting firm and even for the experienced LNC who is preparing for the LNCC® certification exam. To purchase any of these important resources, please visit AALNC's online store.

Beginner Resources

- Legal Nurse Consulting Professional Course

Core Products

- Legal Nurse Consulting: Principles & Practice
- Legal Nurse Consulting: Scope & Standards of Practice
- The Nurse Expert Witness: Guidelines for Practice
- AALNC On-Demand Webinars
- AALNC Reference Cards
- AALNC Annual Forum (live event)

Business Resources

- Growing Your Practice: Online Resources, Sample Reports, and Tools for the LNC

Certification Resources

- LNCC Review Course
- LNCC Review Course and Practice Test

As a benefit to all members, AALNC also maintains recommendations for additional practice resources for legal nurse consultants. As a result of a thorough review process, the AALNC Education Committee has published a listing of publications in several practice categories that will enhance members' knowledge and practice as legal nurse consultants. Resources are based on the following categories:

- Introduction to Legal Nurse Consulting Resources
- Advanced Legal Nurse Consulting and LNCC Exam Preparation Resources
- General References

IX. Articles

AALNC's official journal, the *Journal of Legal Nurse Consulting* (JLNC), promotes legal nurse consulting within the medical-legal community and provides both the novice and the experienced legal nurse consultant with a high-quality professional publication. Published quarterly, the JLNC features:

- Up-to-date information on a broad spectrum of medical-legal topics
- Timely articles on subjects such as medical and products liability issues, managed care, life care planning, use of experts, and forensics
- Valuable business advice and networking tips
- Nursing contact hours

Subscriptions to the JLNC are included as a benefit of AALNC membership and are also available to non-members and institutions. For more information about the JLNC, including an article index, please visit www.aalnc.org.

Appendix

Scope of Practice for the Legal Nurse Consultant

Summary

The American Association of Legal Nurse Consultants (AALNC) developed the first legal nurse consultant standards of practice in 1995. Subsequently, the AALNC has recognized the need to periodically review and update its scope and standards of practice to reflect the evolving and contemporary practice of the legal nurse consultant (LNC).

In 2004, the AALNC sought recognition of legal nurse consulting by the ANA as a nursing specialty. AALNC collaborated with the ANA to develop standards of practice using the framework of the *ANA Nursing: Scope and Standards of Practice* (ANA, 2004). The draft document was presented to AALNC members, specialty nursing organizations, ANA's constituent member associations, and other stakeholders, who all submitted comments and suggestions for consideration by the workgroup. Final revisions were reviewed and approved by the ANA Congress on Nursing Practice and Economics and the Committee on Nursing Practice Standards and Guidelines. This culminated in the recognition of legal nurse consulting as a specialty practice of nursing and the publication of *Legal Nurse Consulting: Scope and Standards of Practice* in 2006 (AALNC, ANA, 2006).

In 2010, the AALNC determined the need for an in-depth review of the 2006 *Legal Nurse Consulting: Scope and Standards of Practice* to evaluate if it accurately represented current legal nurse consulting practice. In 2012 AALNC conducted a new LNC Practice Analysis, giving the Scope & Standards committee additional data to incorporate into this 2016-2017 edition (Webb, Crowell, 2013).

Although many legal nurse consultants have no direct patient contact in their work, the scope and standards clarify precisely how LNC practice fits within the nursing role. Legal nurse consultants use the information gathered in the research and development of cases to improve care for current as well as future patients, to advocate for patients who have received inadequate care, and to provide education to attorneys, patients, health care providers, and the public. Because legal nurse consultants are actively practicing registered nurses, they must maintain active RN licensure in their locale.

Standards of Legal Nurse Consulting Practice

This is a brief summary of the sixteen Standards for legal nurse consultant practice and professional performance, excerpted from the Legal Nurse Consulting Scope & Standards of Practice created by AALNC in 2017 and available at <http://www.aalnc.org>. The complete document expands each Standard and contains additional information regarding the Scope of legal nurse consulting practice including its evolution, practice characteristics, skills, practice environments and settings, practice roles, specialization, educational preparation, certification, ethics, trends and issues applicable to legal nurse consulting. All legal nurse consultants should familiarize themselves with the expectations for professional practice as an LNC, and with the additional information contained in this document.

Standard 1: Assessment

The LNC identifies and collects comprehensive data pertinent to the assessment of a medical-legal case or claim.

Standard 2: Issue Identification

The LNC analyzes the collected data to determine the issues in a medical-legal case or claim.

Standard 3: Case Outcome Identification

The LNC participates in the identification of the optimal outcome for the medical-legal case or claim.

Standard 4: Case Planning

The LNC develops a work plan that contributes to optimal case outcome.

Standard 5: Implementation

The LNC implements the plan, participating in the legal process pertinent to resolution of medical-legal case or claim.

Standard 6: Evaluation

The LNC evaluates progress toward attainment of optimal case outcome.

Standard 7: Ethics

The LNC practices ethically.

Standard 8: Education

The LNC attains knowledge and competence reflecting current specialty practice.

Standard 9: Practice and Research

The LNC integrates evidence and research into practice.

Standard 10: Quality of Practice

The LNC participates in providing quality services.

Standard 11: Communication

The LNC communicates effectively in a variety of formats in all areas of practice.

Standard 12: Leadership

The LNC demonstrates leadership in the practice setting and the profession.

Standard 13: Collaboration

The LNC collaborates with legal professionals and others in the conduct of the practice.

Standard 14: Professional Practice Evaluation

The LNC evaluates one's own practice in relation to professional practice standards and applicable rules and regulations.

Standard 15: Resource Utilization

The LNC utilizes appropriate resources to provide effective and financially-responsible services.

Standard 16: Environmental Health

The LNC practices in an environmentally-responsible manner.