



AMERICAN ASSOCIATION OF  
LEGAL NURSE CONSULTANTS

**Position Statement  
Providing Expert Nursing Testimony  
Regarding Nursing Negligence**

**Introduction:**

Nurses are uniquely prepared to perform a critical review and analysis of clinical nursing care and administrative nursing practice to provide the foundation for testifying on nursing negligence issues.

**Background and Discussion:**

Nursing has evolved into a profession with a distinct body of knowledge, methodology, university-based education, specialized practice, standards of practice, board certifications, a societal contract and an ethical code. The practice of nursing requires decision-making and skill based upon principles of the biological, physical, behavioral and social sciences as well as evidence-based research related to functions such as identifying risk factors, providing specific interventions, and evaluating outcomes of care. Each state has a Board of Nursing that is the authorized state entity with the legal authority to regulate nursing practice. State legislature has set forth licensing and regulations for the nursing profession in their respective Nurse Practice Acts and Advanced Practice Nursing Acts. It is evident that, under these nursing acts, only a nurse would meet the qualifications for sitting for nursing licensure examination and, as such, be eligible for licensure and practice as a registered nurse.

It appears straightforward that, generally, the most qualified expert to render expert opinion testimony regarding standards of care would be a member of the same profession who practices in a substantially similar clinical specialty as the potential defendant in the case. The courts are now generally acknowledging that nurses possess specialized knowledge that physicians do not have unless they have been trained and practice as a nurse.

The Supreme Court of Illinois held that a board certified internal medicine physician was not competent to testify as to the standard of care of a nurse. Citing the Amicus Brief submitted by The American Association of Nurse Attorneys, *the court noted:*

“A physician who is not a nurse is no more qualified to offer expert opinion testimony as to the standard of care for nurses than a nurse would be to offer an opinion as to the physician standard of care. Certainly, nurses are not permitted to offer expert testimony against a physician based on their observances of physicians or their familiarity with the procedures involved. An operating room nurse, who stands shoulder to shoulder with surgeons every day, would not be permitted to testify as to the standard of care of a surgeon. An endoscopy nurse would not be permitted to testify as to the standard of care of a gastroenterologist performing a colonoscopy. A labor and delivery nurse would not be permitted to

offer expert testimony as to the standard of care for an obstetrician or even a midwife. Such testimony would be, essentially, expert testimony as to the standard of medical care.” (Sullivan v. Edward Hospital., 806 N.E. 2d 645 (Ill. 2004).

AALNC supports nursing expert opinions with regard to all aspects of nursing negligence.

### **Conclusion:**

Nursing has the knowledge, experience, and responsibility to define its standards of practice and indeed has published these standards of care. Therefore, licensed registered nurses are the only competent professionals to address these standards of nursing practice in the litigation arena.

It is the position of the American Association of Legal Nurse Consultants that, when registered nursing standards need to be established through expert testimony, the expert shall be a licensed, registered nurse.

### **Additional References:**

American Association of Legal Nurse Consultants (AALNC). (Peterson & Kopishke, Eds.) (2010). *Legal Nurse Consulting: Principles and Practice*. (3rd Ed.). Boca Raton, FL: CRC Press.

Albee, T. (2007) The Legal Nurse Consultant as a Board of Nursing Expert Witness. *Journal of Legal Nurse Consulting* 18 (1): 11-14.

American Association of Legal Nurse Consultants. (2006) *Position Statement: Providing expert nurse witness testimony*. Retrieved from [www.aalnc.org/images/EXPWit.pdf](http://www.aalnc.org/images/EXPWit.pdf). =

Amom, E. (2007) Expert Witness testimony. *Clinics in Perinatology* 34: 473-478.

Cohen, M. Rosen, L. Barbacci, M. Past, Present and Future: The evolution of the nurse expert witness. *Journal of Legal Nurse Consulting* (2008); 19 (4): 3-8.

Lynch, V., Duval, J. *Forensic Nursing Science*. 2<sup>nd</sup> Ed. St. Louis, MO. Elsevier Mosby, 2011

Sullivan v. Edward Hosp., No. 95409, 2004 WL 228956 (Ill. Feb 5, 2004)  
Amicus brief submitted to Illinois Supreme Court – Karen Butler, Esq American Association of Nurse Attorneys

**Approved by the American Association of Legal Nurse Consultants Board of Directors,  
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