

Locating Qualified Experts

As legal nurse consultants, we are often asked to locate qualified medical experts to testify in medical malpractice cases. In performing this service for our attorneys, we must keep in mind the American Medical Association's guidelines for minimum requirements for qualification as an expert, which are: 1) "that the witness be required to have a comparable education, training, and occupational experience in the same field as the defendant; 2) that the occupational experience include active medical practice or teaching experience in the same field as the defendant; and 3) the experience must have been within five years of the date of occurrence giving rise to the claim". When locating experts for your cases, it is wise to look for these minimum qualifications, because the attorney for the other side may be critiquing your expert in an attempt to disqualify them from testifying or discredit them in the eyes of the jury.

Should physicians testify against a nurse?

Along these same lines, have you ever had a case where a physician was offering testimony on the standard of care for a nurse? In a recent Illinois case, *Sullivan v. Edward Hospital*, 806 N.E. 634 (Ill. 2004), the court cited the Amicus Brief submitted by TAANA in their opinion. In this brief TAANA cited that physicians are no more qualified to address the standard of care for a nurse, than a nurse is to give expert testimony on the standard of care of a physician. Even though nurses may observe physician practice or be familiar with the medical procedures they perform, this does not qualify them to testify on the standard of care of a physician. An operating room scrub nurse who assists surgeons for years, cannot testify to the standard of care for a surgeon. Or a labor and delivery nurse would not be

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permitted to testify as to the standard of care of an obstetrician or midwife. Nursing and medicine are two different disciplines. The Illinois court stated, "Physicians usually have no first hand knowledge of nursing practice, except for observations made in patient care settings. The physician rarely, if ever, teaches in a nursing program nor is a physician responsible for content in nursing texts. Therefore, a physician's opinions would not be admissible in jurisdictions which hold the expert must be familiar with the standard of care in order to testify as an expert."

All nurses are required to complete an accredited nursing program and pass a national licensing exam prior to practicing as a nurse. Each state has a Nurse Practice Act which further defines the practice of nursing. Under this act, a person with a medical degree, who is licensed to practice medicine, would not meet the qualifications for licensure as a registered nurse, nor would they be competent to sit for the licensing exam, unless they have completed an accredited nursing program.

Perhaps these arguments will assist you the next time opposing counsel is offering physician testimony against a nurse. ★

Source: *Journal of Legal Nurse Consulting*, Vol. 15, No. 4

Nurses Top Survey

For the second year in a row nurses have been voted as the most honest and ethical profession in Gallup's annual survey. Nurses were followed by other medical professionals like physicians, veterinarians, pharmacists and dentists. Car salesmen, HMO managers, insurance salesmen and advertising practitioners were rated as the least ethical. Source: www.gallup.com ★

Evaluating Web Sites

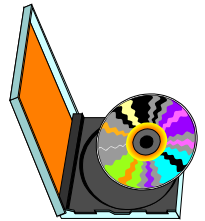
Some degree of research is necessary for nearly every case that comes across your desk. With the evolution of the Internet, most research can now be done without ever leaving your desk. Whether the purpose is to educate yourself about a topic or perform medical research to be used in the case, you must be able to critically evaluate what you find on the Internet. The following criteria should assist you with this task.

- ◆ Who is responsible for writing the contents of the page? The domain name may give you a clue or check the "About us" page.
- ◆ Is the writer or originator of the page an organization, association, society, military or government site (.org/.gov/.mil)?
- ◆ Is the sponsor an educational institution (.edu) or is it someone's personal page hosted on an educational site (.edu/~)?
- ◆ Is it a personal web page (often a .net or .com)?
- ◆ Is it a commercial site where someone is selling something (.com or .biz)?
- ◆ Does the site provide any way of contacting the site author- postal address, phone number, email address?
- ◆ Are the sources for any information presented on the page listed so that you can verify them?
- ◆ Are charts, diagrams and statistical information clearly labeled as to where the information came from?
- ◆ How much, if any, advertising is there on the page? Is the advertising content clearly separate from the informational content?

- ◆ Does the page author of the page state any bias or agenda, such as advocacy for a particular point of view or program?
- ◆ Is there any indication as to how often the content is updated? Can you tell when the web page was last updated?

Source: *The Internet Medical & Health Searching & Sources Guidebook, 6th ed., 2004.* ★

RESOURCE FOR YOUR MEDICAL RESEARCH



The Internet Medical & Health Searching & Sources Guidebook, 6th ed., is an indispensable resource to research your medical cases. This guide has undergone yearly updates to make sure it remains current. The 6th edition has been co-authored by 30 legal nurse consultants and a medical librarian, all experienced in performing medical research and evaluating medical web sites. There are thousands of categorized and validated web sites in this edition. You can purchase either the CD only for \$60 or the CD and hard copy for \$100. On the CD the web sites and reference books under each medical topic are hyperlinked so that all you need to do is click on the name of the web site or web address and be taken directly to the web site. To order your copy today give us a call or visit www.med-legal.net. Ordering this Guidebook will also entitle you to download 3 quarterly updates after your purchase. **[FYI-This legal nurse consultant was one of the co-authors that helped to research and validate the web sites.]** ★

Please be advised that there is a new medical legal consulting business called Scott & Associates in Albuquerque. We have been in business since 1993 and are in no way affiliated with them.



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