I thought I would take this first column to introduce myself to you. I was born in Fort Wayne the first of my parent’s eight children. My mom was from Fort Wayne and my Dad was from Kokomo. I grew up in Fort Wayne and Downers Grove, IL. After graduating from High School I attended Murray State University and Majored in Health, Physical Education and Recreation. When I came home, my parents had been transferred to NJ. There I met and married, my husband Paul and we had two children. Paul worked at Turtle Back Zoo, a place where dreams are made and the playground for my children. I also attended County College of Morris when the kids were in school and became a RN. Both of my kids will tell you that the three of us went to school together because they thought I would never finish school. I continued my education at Seton Hall University where I received a BSN and a MSN. My daughter later told me, if she didn’t learn anything else from me she learned to get her education before she had kids.

My nursing career has been very varied which I have always felt made me perfect for my current position. In 2000, I was living in Elkhart, Kansas, working as the Assistant Hospital Administrator for Patient Care Services when I was recruited by the Ohio Nurses Association to be their CEO, a job I have held for the past thirteen years. This additional skill was needed in order to assure consistency in this process. At this point in time, any woman could move to a community, put on a uniform, call herself a trained nurse, and never by questioned by physicians or the public. This practice could put the public at risk for unsafe nursing care.

The registration would establish fixed professional standards for nurses, impose order and uniformity to the profession, and provide necessary protection for the public. In order to increase public knowledge and garner support for state registration, nurses were invited to an informational meeting at Hope Hospital in Fort Wayne in 1903. As the information at the meeting was presented, Elizabeth Johnson, an Indianapolis delegate, responded to points of concern, and the Indiana State Nurses Association (ISNA) was formed and a constitution and by-laws were adopted. In November 1903, sixty-five charter ISNA member nurses were enrolled and E. Gertrude Fournier, the delegate to the national association was elected as the first ISNA president. A motto was selected which was “Memos,” Latin for “mindful.” ISNA divided the state into thirteen districts to assure distribution throughout the state, with semiannual meetings at alternating locations throughout the state.

ISNA became incorporated in March of 1904 with the purpose of advancement of the educational and literary standard of nursing. Nursing was identified as maintaining honor and character of the profession, furthering the efficient and scientific care of the sick, aiding medicine and surgery practice, and furthering respectful and collaborative relationships among Indiana, national, and international nurses.
In 1914, ISNA developed a Code of Ethics detailing loyalty, responsibilities and duties of nurses to patients, the hospital, the public and to physicians. Nursing work hours were decreased to twelve hour work days instead of the usual 20 hours. As the advocacy work of ISNA continues, we advance our public agenda with our public policy platform, our grassroots legislative work, and our inclusion of appropriate stakeholders in the work of the organization.

As our work to advance nursing in Indiana escalates, we see our collaborative work with organizations throughout the state (including all nursing stakeholders through the Indiana Action Coalition which is housed in the Indiana Center for Nursing as well as other critical organizations---the Indiana Professional Licensing Agency, the Indiana Organization of Nurse Executives, the Indiana Hospital Association, Indiana Dunes and Directors and Indiana Nursing Specialty Organizations (to name a few organizations) to advance nursing practice. We see life-long learning, regardless of the where nurses begin their careers. In this work, we are mindful of the international and national work so that best practices can be identified and enhanced to assure that Indiana nurses are provided the best resources to inform their practice.

ISNA has been alive and well for greater than 100 years, protecting nurses, patients and advocating for you! How can you not be a member of this prestigious organization founded to protect those whose skilled hands, caring hearts, and brilliant minds provide excellent nursing care in Indiana? We welcome you to join us as we assist in the collaborative movement of Indiana Nurses as we continue to aspire to advance excellence in nursing!
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Nursing to use some money from the impaired creating a surplus. HB 1518 allows the Board of more revenue than it costs to administer ISNAP, duties, but has been unsuccessful in securing increase staff to assist with this and its other members. The Board of Nursing would like to to the already-heavy workload of the Board's students for initial licensure as either a Registered Licensing Agency, the Board of Nursing is other boards under the Indiana Professional Nursing with more financial flexibility. Unlike at bmiley@indiananurses.org. affecting nursing. If you have any follow-up information on all introduced bills potentially the Legislative Updates. ISNA members receive overview of bills passed by the General Assembly We make being involved easier, so you can help knowing what's going on. ISNA helps members with medically underserved communities in Indiana. The 118th General Assembly has all but wrapped up the 2013 session. What follows is an overview of bills passed by the General Assembly affecting nurses. As we go to press, most of these bills are on the way to the Governor's office to be signed or vetoed. Legislators will return in late May for technical corrections and to consider bills vetoed by the Governor, if any. The items below do not include all bills introduced this session with a potential impact on nurses, but may return next year, have been discussed in the Legislative Updates. ISNA members receive implementing the Affordable Care Act were introduced during this session of the General Assembly. While the Affordable Care Act did not make its way through the legislative process. A bill to regulate navigators and assisters in the federal exchange serving Indiana passed the House, but did not make it through committee in the Senate. According to the Governor Mike Pence would like to expand coverage, but under the framework of the HIP exchange. Expansion under the HIP framework requires federal approval. FSSA has taken the position that the executive branch is free to negotiate without any additional authorization from the legislature. The General Assembly introduced bills to set parameters for what FSSA might seek in the negotiations, including giving Indiana’s AHec Receives more Funding and licensure provides practice protection. Financial Aid. The program provided need-based education, only to use the title. Therefore nurses may continue to educate their patients on diabetes education, only to use the title of "licensed diabetes educator" or to possess the title of "certified nurse educator." A license is not required to use the title. Nurses who have completed the form, to be legally enforceable, the POST form must be executed by a physician.

Physician Order for Scope of Treatment (POST) forms aim to improve the portability and transportability of patient care decisions across state lines. The goal of this legislation is to establish a universal form that will be tied to the patient and allowing the Indiana Governor to sign or veto. The Governor can also require changes or additions to the form, in consultation with the ISNA and other healthcare advocates pushed for a different approach to the regulation. The bill was amended, again, this time restructuring the approach of expanding authority of certain nurse practitioners. The law authorizes APRN’s to use prescriptive authority, as opposed to the one-time fee to complete the form. Alternatives to the state's undergraduate nursing programs are critical to the funding increase. The state budget includes a line item that expands that program, which is aimed at increasing access to nursing, not only to the title of "certified nurse-midwife" but to the title of "certified nurse-midwife." Certified Nurse Midwives (CNM) may soon be able to practice legally in Indiana. As HB 1135 moved through the legislature, ISNA helped the definition of "advanced practice nurse" would have to be revised to prevent APRN's from owning such facilities. An amendment expanded the scope of Title 25 established the framework for prescriptive authority. Substances, which would have prohibited APRN’s who prescribe controlled substances from owning their own prescriptive authority. APRN's with prescriptive authority and other healthcare advocates pushed for a different approach to the regulation. The bill was amended, again, this time restructuring the approach of expanding prescriptive authority. The law authorizes APRN’s to use prescriptive authority, as opposed to the one-time fee to complete the form. APN’s: More Scope, More Competition 1135 moved through the legislature, ISNA helped the Department of Education to oversee the profession and its scope of practice. It establishes the framework for prescriptive authority. The term “advanced practice nurse” in Indiana law was changed to add the statutory language allowing the Board to increase expenditures, improving services to nursing, while protecting the integrity of ISNAF. Prescriber Oversight Could Have Legislated Some APRN’s Out of Business Statutory language allowing the Board to increase expenditures, improving services to nursing, while protecting the integrity of ISNAF. The scope of practice for physical therapists is extended from bone and joint to include the delivery of direct care to their patients without a referral, the bill also adds to the list of healthcare regulation for physical therapists to a physical therapist. Nurse practitioners and physician assistants are being added.
organization shall report its findings to the budget committee and health finance commission by November 1, 2014.

Hospitals Can Form Police
SB 382 authorizes most hospitals to establish hospital police departments. Officers would have most of the same powers as a sheriff. The hospital board of governors will have oversight of training requirements and scope of authority.

More Medicaid Reimbursement for Telehealth/Medicine Services

The technology to provide telehealth and telemedicine services is a thing of the present, not of the future. They help extend healthcare into rural and medically under-served communities. However, just having the capability doesn’t accomplish implementation. To promote the spread of telehealth and telemedicine services, the Indiana General Assembly is mandating Medicaid reimbursement for them in certain circumstances. If you’re wondering what the difference is between telehealth and telemedicine, here’s how the Assembly lays it out. The pending legislation defines telehealth services as “the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, and use of health data; and the efficiency of collecting, maintaining, and sharing health records electronically.” This mandate will generate a report on the issue that could serve as the foundation for proposed legislation on the subject matter in the 2014 legislative session.

Studying Electronic Health Records
Converting to electronic health records is a reality in some hospitals and a pipe dream in others. Before the General Assembly derailed their legislative toes in these waters, they would like to study the issue. They passed a law calling for the health finance commission to study the coordination of collecting, maintaining, sharing, and use of health data and the efficiency of collecting, maintaining, and sharing health records electronically. This mandate will generate a report on the issue that could serve as the foundation for proposed legislation on the subject matter in the 2014 legislative session.

Studying Trauma Center Expansion
The northwest Indiana regional development authority assists with economic development projects. This session, the organization has been tasked with studying whether the statistical profile of injuries annually sustained by the population of northwestern Indiana justifies the placement of one or more trauma centers in northwestern Indiana and, if so, what the appropriate levels of the trauma centers should be to care for injuries, in terms of the trauma center rating system of the American College of Surgeons. The organization is also instructed to study the feasibility of developing an academic medical center in northwestern Indiana. The proposal calls for reimbursement to home health agencies for telehealth services and to federally qualified health centers, rural health clinics, community mental health centers, and critical access hospitals for telemedicine services.

Studying Electronic Health Records

2013 Legislative Overview continued from page 4

Thus if a profession is certified, people without the certification cannot hold themselves out as professionals in title. Practice protection goes one step further and prohibits unlicensed individuals from engaging in the practice of the profession. There are exceptions to this dichotomy (see above paragraph on diabetes educators). The language of the provisions regarding dietetics explicitly state the bill does not limit the scope of practice for licensed healthcare professionals, including nurses.

Nurses never stop being extraordinary. Even when they’re off duty.

During the height of Hurricane Sandy, Stephen Markley, RN was at a friend’s when he learned that the medical center where he worked was being evacuated. Stephen literally ran to the hospital to help his fellow nurses carry ICU patients down 15 flights of stairs, including two infants suffering from cardiac issues.

As part of National Nurses Week, we’d like to commend our very own Chamberlain Nurse, while saluting our true heroes of healthcare – all the extraordinary nurses who care to make a difference every day.
The three ISNA Legislative Conferences provided 455 nurses and nursing students with a public policy infusion to the brain. To better serve Indiana’s nurses, we continue to offer three conferences and two different programs. On February 13th & March 6th, we conducted Public Policy 101. On March 13th, we conducted Advanced Public Policy. This diversification allows us to ensure we have offerings every year for those thinking about taking their first steps in advocacy, as well as experienced public policy gurus.

All three conferences were opened by ISNA President Jeni Embree, who spoke about the importance of being involved. Attendees of the February 13th session of Public Policy 101 were guided on their journey by retired ISNA Executive Director and public policy aficionado Ernest Klein. After being welcomed by Ms. Embree, attendees watched a live hearing of the Senate Health & Provider Services Committee. The webcast format allowed for participants to engage in a discussion about what they were seeing and hearing commentary on the proceedings from ISNA lobbyists. This public policy version of Pop-Up Video or Mystery Science Theater provided an interactive learning environment for the attendees. At the February 13th conference, attendees were able to watch ISNA lobbyist Glenna Shelby testify before the committee, and then join the conference a short time later to explain the context of her testimony and answer questions from the group. All three conferences also included an update on pending legislation to ensure the group had the latest information on bills affecting nursing.

Public Policy 101 provided an introduction to the advocacy arena. ISNA lobbyists reviewed how a bill becomes a law, providing an Indiana-specific, less-musical version of Schoolhouse Rock. This covered the legislative process, key figures in Indiana government, and executive agencies that affect nursing. Once this foundation was laid, attendees learned the basic tenets of advocacy: why to be involved and how to be involved.

Those able to traverse the winter weather for Public Policy 101 on March 6th were privileged to get a question and answer session with Representative Ron Bacon, who was gracious enough to come speak to the group about the importance of being involved. Earlier in the legislative session, Rep. Bacon reached out to ISNA with input on one of the bills he authored. This illustrates the value the nursing community can provide in the policy-making process, but we have to speak up! The fact that Rep. Bacon made time to attend shows that Indiana’s legislators want to hear from you.

Attendees of both Public Policy 101 conferences received a primer on advocacy: why to be involved and how to be involved. The interactive nature of this program and the quality of guest speakers will continue to make it a valuable resource for repeat attendance year after year. Look for these programs again next year! ISNA welcomes any suggestions or feedback,

Attendees of Advanced Public Policy left with additional arrows in their quivers of advocacy. The interactive nature of this program and the quality of guest speakers will continue to make it a valuable resource for repeat attendance year after year. Look for these programs again next year! ISNA welcomes any suggestions or feedback, so that we can continue to provide beneficial content to Indiana’s nurses.
If you haven’t heard this question yet, you probably will if you talk about pursuing certification. “What’s important about certification? After all, it’s ‘just passing a test’!”

Actually, certification is a lot more than ‘just passing a test’. That is only the beginning. You make a decision to pursue certification. It’s not required, as a licensing exam, to practice nursing. You have to meet the practice requirements to even become eligible for the examination. Usually, you must work in the specialty for at least two years to meet these practice hour requirements and gain the clinical expertise to attain your goal. The test reflects national standards for your clinical specialty and the competencies needed to maintain a standard of excellence in that clinical setting.

Passing the test is only the first step on an incredible journey. As a certified nurse, your colleagues expect excellence in your clinical practice. You also need to pursue continuing nursing education to meet re-accreditation requirements. It is essential to maintain and even enhance your expertise. Lifelong learning becomes an expectation you have for yourself. This pursuit of knowledge benefits you, your colleagues, and most of all, your patients. That’s pretty good payback for ‘just passing a test’!

Do you have a certification story to share? I’d love to hear from you! Please contact me at SueJohn126@comcast.com to share your experiences!

Indiana Nurses GPS

Help ISNA help you! ISNA has launched an informational portal at www.IndianaNursesGPS.org. This website gives you a chance to tell us about yourself and the issues that matter to you. Help us plan our journey by sharing your areas of expertise and organizational affiliations. Indiana Nurses GPS will allow us to better utilize the collective knowledge of Indiana nurses. This portal is open to all nurses and nursing students, so please help spread the word!

Indiana Nurses GPS allows you to identify your areas of expertise, organizational affiliations, and the issues of nursing policy that matter most to you. You do not have to be an ISNA member to participate. We will use this information to help guide us in developing content and services for you.

Please take a few minutes to strengthen the nursing community!

Indiana Education Centers
- Post-licensure (RNBSN)
- MSN in Primary Care Nurse (Family Nurse Practitioner)

IWU campus in Marion, Indiana
- BSN Degree – traditional 4-year program
- BSN Degree – Transition to Nursing
- Doctor of Nursing Practice (DNP)

IUW campus in Marion, Indiana
- Bachelor of Science in Nursing or Master's degree will make you an even better nurse.

As a Registered Nurse, you understand the importance of education. Your skills and knowledge are put to use on every shift. You also understand earning your Bachelor of Science in Nursing or Master's degree will make you an even better nurse.

A degree from Indiana Wesleyan University says you value the education, not just the degree. It says you want to treat the whole person, not just the patient. And it says you want to make a difference in your life and the lives of others.
Inside Advocacy: Committee Testimony

Being involved in public policy is accessible to everyone! You don’t have to take an exam or pay a fee to qualify to be an advocate. All you have to do to get involved is speak up! Some may feel that the legislature is the domain of lobbyists and politicians, but this is not the case. Your legislators represent you. They want to hear from their constituents to know how the bills they are considering will affect Hoosiers.

When a legislator introduces a bill in the Indiana General Assembly, the bill is assigned to a topical committee. The committee chair then determines which bills receive a hearing. The hearings are an opportunity for the public to provide input on pending legislation and answer questions from legislators. Testifying at a committee hearing is open to the public; all you have to do is show up and sign up! This is one of the many ways you can be involved in public policy.

To help illuminate this process, I asked nurses who have provided testimony before a General Assembly committee during this legislative session to share their experiences. I hope you will be encouraged to advocate by reading why they got involved, what testifying before a committee was like, and what they would recommend to others who want to be involved! Below are excerpts from their narratives about testifying:

Caroline Sims, RN, PhD, testified before the House Public Health Committee on HB 1591, dealing with the implementation of the Affordable Care Act in Indiana.

“I was contacted by Doug Leonard, President of IHA, who knew my experience and background. He asked if I would testify on behalf of Indiana hospitals and our patients. Part of my current role includes work with our clinical case managers who daily deal with the issues of indigent and working poor who are unable to pay for services they need to maintain or return to their optimal level of health and well being. In my mind it was the right thing to do as an advocate for these individuals. It was actually much more comfortable than I had anticipated. The staff at IHA were very supportive and as I listened to others testify, the questioning was deeper understanding rather than being adversarial. Since I was speaking to the needs of patients I hear about every day it seemed pretty comfortable. It initially feels nerve-wracking but can actually be a really good experience professionally. Stay focused on why it is important and who will benefit. That takes the focus off of you and puts it where it needs to be - on the people we as nurses serve.”

David K. Miller, RN, MS Ed, CDE, testified before the House Public Health Committee on HB 1242, which would establish licensure for diabetes educators.

“I decided to participate in the legislative hearing because it is a topic that I fully believe in. The topic was licensure for the diabetes educator. I believe that licensure will provide security and professionalization as well as our patients…When I testified I expected the legislators to know more about diabetes than they did. Some did not know who I was. The majority of the legislators were engaged and interested in the bill. My advice for would-be advocates to be involved in public policy is to get involved. Visit the State House just to become familiar with the legislators, lobbyist, and process. It is very eye opening to see what actually happens in the political process and really personal to you. Start with a grass roots campaign. Start by writing letters to your legislators, visit them and let your voice be heard. Only approximately 2% of people will take advantage of this process. Take that first step!”

Penny Lane, MSN, CNM, IBCLC, testified before the House Public Health Committee on HB 1135, which would establish licensure for certified professional midwives.

“Advocacy was the motivating factor for me in becoming a nurse and throughout my career I have sought to increase standards of care, no matter the environment in which I was working… A few years ago, I attended this same bill being presented and was disturbed by the fact that both representatives and constituents who provided testimony offered only opinion, and even authors of the bill admitted to not having investigated the evidence regarding midwifery and homebirth practice… I will admit that I was disheartened by my experience in testifying in front of the house. The argument that midwives and homebirth practitioners are not doing what is best for women and their families.”

“Midwifery or homebirth practice is disturbing to the fact that both representatives and constituents who provided testimony offered only opinion, and even authors of the bill admitted to not having investigated the evidence regarding midwifery and homebirth practice… I will admit that I was disheartened by my experience in testifying in front of the house. The argument that midwives and homebirth practitioners are not doing what is best for women and their families.”

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Carolyn A. Snyder, MS, RN, testified before the House Public Health Committee on HB 1245, specifically regarding an amendment expanding use of the Children and Hoosier Immunization Registry Program.

“I became the part time Executive Director of the Indiana Association of School Nurses in 2006. I had been a school nurse for 34 years. I loved my career and worked hard for better health care for school nurses. I was disturbed by the fact that both representatives and constituents who provided testimony offered only opinion, and even authors of the bill admitted to not having investigated the evidence regarding midwifery and homebirth practice… I will admit that I was disheartened by my experience in testifying in front of the house. The argument that midwives and homebirth practitioners are not doing what is best for women and their families.”

“I felt that I needed to take action. We submitted SB 268 to try and remove some restrictions to CRNA practice so that hiring CRNAs would not be as difficult, and also to organize groups… I expected a terrifying experience. I had visions of Oliver North and Hillary Clinton getting grilled by law makers during the hearing. The actual experience was much better. I read my prepared statement and then answered their questions to the best of my ability. The law makers were friendly and showed a real good experience overall. My advice would be to get involved any way that you can. Every nurse should know who their legislators are. When you email or call your legislator, THEY LISTEN! You may think that someone else, like a lobbyist, is better at voicing your concern but the fact remains that you have that most powerful voice that your legislator will listen to.”

You’ll notice a running theme is the importance of nurses being involved in public policy. Advocating for your profession and your patients is mandated by the Code of Ethics for Nurses: Nurses of Indiana, and would advise nurses strongly to join their professional organizations so they do not feel isolated thinking about our profession. It is rather humbling to realize that our representatives are not even aware of advance practice nurses and the great care they provide Indiana constituents.”

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Fulfilling this responsibility is an opportunity, not a burden. ISNA is here to assist you in being an advocate. From our Legislative Liaison Network, to our Political Action Committee, to keeping you informed of pending legislation, we are your resource for nursing advocacy! Help shape your world!
So You Want to Be An Expert Witness? Having served as a testifying expert for 20+ years, I can say that being an expert witness can be both rewarding and exhilarating at the same time. Many nurses are curious about serving as an expert witness. Sometimes nurses are asked by attorney acquaintances to review records for them. Or perhaps the nurse is asked for an opinion from an attorney acquaintance. There are a number of courses nurses may take and eventually become a “certified legal nurse consultant” if desired. Here is what nurses need to do, consider before the nurse makes such an investment, the nurse might like to explore the types of things expert witnesses do. That is the purpose of this independent study: to explore the various roles of a nurse expert witness. The reader may also want to complete the Ohio Nurses Association independent study: to explore the various roles of each of these experts. This Primer. That particular independent study offers definitions of malpractice and legal terms that the budding expert witness will find helpful to know.

Types of Experts: There are several types of experts and you will want to understand the role of each of these experts. It is also imperative to clarify with a hiring attorney just what role you are being asked to fulfill. In some instances you may need to fill more than one role. The types of roles are:

The Consulting Expert: Consulting experts are just that—they consult only. Consulting experts do not provide expert testimony at deposition or trial. Consulting experts work behind the scenes or off the record. Nurses do not want to be considered “work product” of the hiring attorney and is therefore not necessarily disclosed to the opposing attorney. We will discuss the role of a consulting expert in further detail in a later section of this independent study.

The Factual Expert: A factual expert or fact witness as they are sometimes called, will give deposition and/or trial testimony. However, factual experts do not provide expert testimony. A factual expert testimony serves to educate the judge and/or jury as to the facts of the case. Nurses, doctors, and others who were present at the scene of the accident, medical terminology and equipment utilized in rendering care to a patient. Often, a testifying expert will also serve as a factual witness and will educate the judge, and jury. Nurses, doctors, and others, who were not present at the scene of the accident, are reviewing a fall case. You would want to see into use in one’s own practice. Often in reading a good and very worthwhile to complete, as they have a good solid base of knowledge to the world of medical malpractice. However, becoming a certified legal nurse consultant is not a necessary requirement to work as a nursing expert. Your professional license and years of experience are the only things you need to qualify as an expert. Something to consider before undertaking a legal nurse consultant program is to think about what role you hope to fulfill as an expert. If you choose to work as a consulting expert, you may want to become a certified legal nurse consultant. Some law firms actually hire nurses to work as a consulting expert only, they handle. Having a certification as a legal nurse consultant may give one an advantage in being hired by a law firm. Or having a certification may even give one the opportunity to become a consulting expert to various attorneys. However, if one is planning to serve as a testifying expert, having a certification as a legal nurse consultant may actually serve as a hindrance.

I have had attorneys tell me they will not hire testifying experts who are certified as legal nurse consultants as they do not want their experts to appear to be “hired guns.” The opposing attorney may have a field day with the fact the testifying expert is a certified legal nurse consultant and may actually use it to discredit the expert as being nothing more than a hired gun or someone who is hired by the attorneys. The expert should consider the financial investment or investment of effort, give consideration as to whether or not one needs a certification as a legal nurse consultant.

Why serve as an Expert? As mentioned in the opening sentence of this independent study, becoming an expert witness is both exhilarating and rewarding. Attorneys need nurses to help them decipher medical records and make determinations as to whether medical malpractice occurred or not. Attorneys need, and in the case of plaintiff’s attorneys, they are required to present expert witness testimony regarding evidence or testimony. However, becoming an expert witness provides a learning experience for the nurse expert. In any case I have reviewed over 20+ years, I have always learned something. Looking at the care and charting that a nurse managed to provide, and often that is the question. In recent years I can say that being an expert witness can be a valuable tool toward becoming an expert. There are many professionals serving as experts, but not all of these individuals are effective, especially if they do not have the qualifications in terms that a judge or jury can understand. To be or not to be a Certified Legal Nurse Consultant, that is the question. This Primer, that is the question. In recent years, I can say that being an expert witness can be a valuable tool toward becoming an expert.
of diet is this patient receiving? Is the patient actually consuming the foods? Just in this brief paragraph, look at the various arenas we considered. We took into consideration everything from medical diagnoses and medications, to vital signs, lab results, nutrition, patient compliance and many more. I had to figure out how this patient happened to fall.

As you review the records, you can be creative. Depending on the case, you may find it helpful to form a chronology of events, having gathered the information from a variety of sources in deposition transcripts. If vital signs are an issue, one may devise a flow sheet to show changes in vital signs as they relate to various treatment modes rendered to the patient. The day will probably come when deposition transcripts may arrive with the medical records, or they may arrive at a later date after the depositions have been taken. You may choose to have page numbers added to each page of the records and shuffled them like a deck of cards. No wonder he couldn’t decipher the records. Having a large space such as a living room floor to organize and re-filing the records would be helpful. If this is not possible, once the records were organized, it became very clear much of the pertinent medical records were actually doing a lot of work for you, especially if you were hiring about the medical records on staff at a law firm, or working as an independent consultant, you may be asked to provide your opinions, you will need to be organized and reviewed. Be sure to ask the attorney if there is a deadline for completing the review. Some attorneys are up against filing deadlines and you will need to know this, as you may not be able to meet the deadline and be rewarded for all the work you have already done. Even though medical records have been converted to an electronic medium, when copies of the records will be requested, they will come in a paper form. The day will probably come when copies of the records could be electronically transmitted, but we aren’t there yet. Some records arrive in a very organized manner, others not so.

In my practice as an expert, I have spent hours organizing records, just so I know what I had and could show the attorney clients as to the amount of research paid for your professional opinions, you will need to charge for your professional time spent reviewing records or rendering expert testimony. Generally, experts may charge between $100 to $100 per hour for record review, compilation of opinions and report preparation.

The Role of the Consulting Expert

Remember a purely consulting expert does not provide testimony. Some experts provide both opinion and opinion for the research. You don’t want to find yourself being paid $30 or $35 per hour, the attorney may most likely limit the discovery of the information from a consulting expert to the information presented in the deposition testimony of nurses and doctors. How many of us have had to struggle with making notes or use a “Post-it” note to flag pertinent information from the records. Some attorneys may ask to see all the records, focusing on pertinent portions of the records as they apply to the case at hand. Be judicious with your time. By this I mean, if the records are well organized, it would not be prudent to spend hours reviewing physical therapy notes or reams of laboratory results, unless you have to. As an independent consultant, you will probably spend more time reviewing the physician orders; medication administration records and follow up care after the medication error was documented.

As you review the records, you can be creative. Depending on the case, you may find it helpful to form a chronology of events, having gathered the information from a variety of sources in deposition transcripts. If vital signs are an issue, one may devise a flow sheet to show changes in vital signs as they relate to various treatment modes rendered to the patient. The day will probably come when deposition transcripts may arrive with the medical records, or they may arrive at a later date after the depositions have been taken. You may choose to have page numbers added to each page of the records and shuffled them like a deck of cards. No wonder he couldn’t decipher the records. Having a large space such as a living room floor to organize and re-filing the records would be helpful. If this is not possible, once the records were organized, it became very clear much of the pertinent medical records were actually doing a lot of work for you, especially if you were hiring about the medical records on staff at a law firm, or working as an independent consultant, you may be asked to provide your opinions, you will need to be organized and reviewed. Be sure to ask the attorney if there is a deadline for completing the review. Some attorneys are up against filing deadlines and you will need to know this, as you may not be able to meet the deadline and be rewarded for all the work you have already done. Even though medical records have been converted to an electronic medium, when copies of the records will be requested, they will come in a paper form. The day will probably come when copies of the records could be electronically transmitted, but we aren’t there yet. Some records arrive in a very organized manner, others not so.

In my practice as an expert, I have spent hours organizing records, just so I know what I had and could show the attorney clients as to the amount of research paid for your professional opinions, you will need to charge for your professional time spent reviewing records or rendering expert testimony. Generally, experts may charge between $100 to $100 per hour for record review, compilation of opinions and report preparation. There are special medical tab dividers that 3 hole punched and placed in loose-leaf binders. Some attorneys like to have page numbers added to each page of the records and they will come to you already labeled as they come to you. I have reviewed records that were a foot high and 3 times thicker than the original medical records. This method is low cost and low tech and will save you the time it would take to order prong clips that may be used to organize records, all varying in costs as well.

In further organizing records, some attorneys like to have page numbers added to each page of the records. One may write the page numbers on the records with a brown felt tip pen. The consulting expert may want to make notes or use a “Post-it” type note to flag pertinent information from the records. Some attorneys may ask to see all the records, focusing on pertinent portions of the records as they apply to the case at hand. Be judicious with your time. By this I mean, if the records are well organized, it would not be prudent to spend hours reviewing physical therapy notes or reams of laboratory results, unless you have to. As an independent consultant, you will probably spend more time reviewing the physician orders; medication administration records and follow up care after the medication error was documented.

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May, June, July 2013 ISNA Bulletin  •  Page 11

Independent Study continued from page 10

• The nurses failed to inform the physician of the persistent vomiting.
• The Narcotics Flow sheets show the following:
  5/14: Full liquid diet
  5/15: Soft diet
  5/15: Regular diet

The Nurse’s Notes reveal the following:
5/14, 8 AM: Pt. had large emesis of liquid
10 AM: Nurse reported Pt had emesis of approximately 50 mL, clear liquid
3 PM: Pt had emesis of 200 mL

5/15, 9 AM: Pt had emesis of approximately 300 mL, semi liquid
12:20 PM: Emerg. assess. 200 mL
6:30 PM: Vomited dinner after consuming it

5/16, 9:25 AM: Large emesis, undigested food, approx. 400 mL
1 PM: Large emesis, semi-liquid, approx. 350 mL
4 PM: Patient had experienced a large emesis. Stopped breast feeding Codine 10 mg/mL was suctioned out of her throat for intubation. NG inserted, obtained 1500 mL.
Discussion with attorney: Patients should not be vomiting postoperatively for 3 days. A common postoperative complication, of which nurses are aware, is paralytic ileus. Paralytic ileus can cause persistent vomiting postoperatively. The persistent vomiting needed to be brought to the attention of the physician, who would then remember that it is a nurses order read “Advance diet as tolerated.” This patient was not tolerating the diet, as she persisted in vomiting. Therefore, the diet should not have been advanced. Rather, the patient should have been made NPO (given nothing by mouth) and the physician needed to be consulted. The patient was being fed due to the paralytic ileus was contributing factor to the aspiration of gastric contents, subsequent respiratory failure and resultant arrest. The occluded airway and respiratory arrest caused this patient to sustain a hypoxic brain injury.

You want to avoid scathing remarks such as “Oh my gosh, I’ve never seen such sloppy nursing care. These people don’t know what they are doing!” Keep your remarks to the point, professional and substantiated with information from the records and depositions with attorney. You need to have a clear mind as to what a standard of care is the minimum that is required. For example let’s look at this example: A nurse fell asleep on duty while a physician to give antibiotics for a patient’s condition. The patient was having some breathing problems. You may have placed more emphasis on the patient’s condition if it were you making that call to the physician. Your opinion is that the nurse should have been more “emphatic” in describing the patient’s condition. In discussing a case with an attorney client, he thought he needed a urologist to look at the case. When questioned about what types of urologist the patient didn’t have any problems with the ureters, bladder or urethra, but had kidney disease. Thus a nephrologist was needed. I was able to recommend a nephrologist that I knew who also worked as a testing expert. In reviewing a case, think about what types of physicians saw the patient, or other healthcare professionals. What is the attorney requesting a copy of your flow sheet, you may then provide it and invoice for it. But provide only what the attorney requests.

The Nurses Notes reveal:
4 PM: Patient had received TYLENOL gr. X at 3 PM. Pain was not relieved. Patient was given Demerol 50 mg and Vistaril 25 mg IM.
5 PM: Patient still complains of pain. Physician was notified. Order for DILAUDID 2 mg obtained. DILAUDID 2 mg given IM.
6 PM: Patient is still complaining of pain. Physician was notified. No orders received. Nursing supervisor was updated regarding patient’s condition.
7 PM: Patient continues to complain of pain. Physician notified and given update as to medications administered to patient and complaints of pain. No orders received. Nurse’s report as above. Physician was notified. Contacted the Emergency Department physician.
7:15 PM: DR. ER in to see patient. Ordered abdominal CT scan. Patient found to have intra- abdominal bleed. DR. ER consulted with patient’s physician. Patient was taken to surgery.

Discussion with attorney: While the counts allege the nurses failed to inform the physician of the patient’s persistent pain, there are 3 concerns that should be made with the patient’s physician by the nursing staff (at 4, 5 and 6 PM). Therefore the nurses did not inform the physician of the patients persistent pain.

Furthermore, when the patient’s physicians did not give any additional orders at 6 PM and again at 7 PM, the nurse properly notified the nursing supervisor. Ultimately the nursing staff contacted the ER physician at 7 PM in order to procure a physician for this patient. Therefore, it is my opinion, the nurses acted properly in this case.

In formulating opinions, one may find the following list of questions helpful. As one reviews a case, keep these questions in mind:
• What should have occurred with this patient versus what actually happened?
• How did the patient’s course of admission differ from other similar patients with whom you have had experience?
• What was the patient like prior to the incident?
• Did the healthcare professionals act appropriately prior to the incident?
• Did the healthcare professionals do everything they could to prevent the incident?
• What did the healthcare professionals do to meet standards of care?
• What should the healthcare professionals have done to meet standards of care?
• What aspects of care were not within the standards of care?
• What standards of care are missing? (What should have happened for this patient?)
• Did healthcare professionals respond appropriately to the incident when it occurred?
• Did healthcare professionals respond appropriately after the incident occurred?
• Who was involved or should have been involved in the patient’s care?
• Are there any portions of the medical records that are missing? Do you need additional information? (If so, you will need to request the hiring attorney supply/procure additional records).
• Are there any portions of the medical records that were altered or falsified? (You will want to bring that to the attention of the hiring attorney).

In concluding your opinions, you need to also bring to the attorney’s attention any other details you have found. For example, you might be questioning what a physician did or did not do. You may couch your comment in terms of what you have customarily seen physician’s do. You might say something like: “When I’ve encountered patients with breathing difficulties, I have seen physicians order pulse oximetry, a chest x-ray and breathing treatments. In this case the physician did not do this. You may want to bring this to your physician’s attention on this.” As a non-testifying expert, this is one of the roles the hiring attorney expects of you. As a testifying expert representing the attorney, you can pass along your insights during consultation with the hiring attorney.

Written reports: Prior to writing any reports, I again stress the importance of discussing with the hiring attorney what if anything does he or she need from you. If the attorney sends you a 40 or 50 page report to go through, spending hours writing a very detailed report that the attorney did not request. You may find yourself in the position of having to write a report that the attorney wants but was not necessarily the attorney’s expectation. As a non-testifying expert, this is one of the roles the hiring attorney expects of you. As a testifying expert representing the attorney, you can pass along your insights during consultation with the hiring attorney.

Independent Study continued on page 12
a "friend by the name of Joe" who visited every day at dinnertime. Joe's name was obtained from the nurse who was on duty during the time Joe was taken. In his deposition Joe revealed that he knew the patient was a drug addict and he "didn't want him to go through any withdrawal." Joe then simply took it home with him, leaving no visible evidence in the room of having done this. Upon learning of this, the attorney wanted to retrieve the record of Joe's donation and nurses was dismissed. So give consideration to all persons who had or might have had contact with the patient, how would you know just what one of those individuals may reveal?

Help attorneys prepare for and conduct depositions and/or trials:

You may be asked to help in the preparation of questions prior to depositions being taken. Sometimes the testifying expert is asked to be present at the trial, may take a highlighter and highlight the trial. You would not want to show the jury pages to a minimum so as to not "bore" the jury. For example, you are preparing for a medication error trial situation. Often cases settle out of court, based on the truth, the whole truth and nothing but the truth. But the attorney may give the testifying expert some ground rules for giving answers. Deposition questions include the following:

- All answers must be verbal, nods of the head cannot be recorded
- Avoid uh-huhs and uh-uhhs, as those may be confused
- If you do not understand a question, say so, it can be rephrased
- Answer only when the attorney has finished asking the question
- Speak only when others are not speaking
- Speak in a slow, deliberate, clear manner.

The opposing attorney will then review your curriculum vita (CV) and may question you about your education and experience. Feel free to refer to your CV to answer questions, but do not read it aloud. The attorney may ask you to raise your right hand and swear to tell the truth, the whole truth and nothing but the truth. If you need to take depositions or testify, you will need to review your anticipated testimony. Also, the attorney may ask you to raise your right hand and swear to tell the truth, the whole truth and nothing but the truth. The attorney may then ask if you understand a question, say so, it can be rephrased. The attorney may then ask you to give testimony and render opinions at depositions and trials. Testifying experts are in great demand as attorneys often have difficulty finding experts who have the knowledge and expertise to render opinions at trial or depositions. Some attorneys find testifying experts, but then they are less than pleased with the testifying expert or the testifying expert did not present well at a deposition or trial. Some experts might come across as braggarts or loose cannons," making them unreliable. The opposing attorney, then, will ask the testifying expert to state if they would use either the sharps container available in the medical record that had not been a planned exhibit, or if they would use their own equipment, or equipment and how it is used. There may be other roles the consulting nurse expert will be asked to fulfill. Each case is different and the opposing attorney may give the testifying expert some ground rules for giving answers.

The Role of the Testifying Expert

Remember the role of the testifying expert is to give testimony and render opinions at depositions and trials. Testifying experts are in great demand as attorneys often have difficulty finding experts who have the knowledge and expertise to render opinions at trial or depositions. Some attorneys find testifying experts, but then they are less than pleased with the testifying expert or the testifying expert did not present well at a deposition or trial. Some experts might come across as braggarts or loose cannons," making them unreliable. The opposing attorney, then, will ask the testifying expert to state if they would use either the sharps container available in the medical record that had not been a planned exhibit, or if they would use their own equipment, or equipment and how it is used.

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Silence: Be comfortable with silence. This is often a tactic used to get a person to say more than he or she should say. Finish your answer and wait for the next question.

Interrupting you: If you have not finished your answer and the attorney interrupts you, you should state you were not done with your answer, and finish your answer before proceeding on to the next question.

Attempts to rattle you: This may include seeing the attorney roll his or her eyes or respond in an incredulous manner such as saying “Oh really, are you sure about that?” The attorney may try to invade your personal space by leaning forward, raising his or her voice, and/or show great disbelief in your answers. Recognize these tactics for what they are and remain as calm as possible. Calmly continue to answer questions, eventually the attorney will give up on these tactics. However, don’t be lulled into thinking he or she has calmed down, the attorney may try to use these same tactics later on in the deposition.

Repeating questions: Another tactic attorneys like to use is to ask the same question repeatedly. Sometimes they will rephrase the question, but it will still require the same answer. Be sure to give the same answer repeatedly. You can begin your repeated response by saying something like “As I’ve previously stated…” and repeat your answer.

Hypothetical questions can be tricky, but if you recognize them for what they are, answering becomes very easy. In a hypothetical question the attorney will pose another scenario that may be similar to the situation at hand. Listen to the scenario the attorney is posing. If the scenario of the question is not exactly the same as the case in question, say so. You might answer: “While the example you have given is not the same as what happened in this case…” and answer the question. Just be sure to let the attorney know the scenario he or she has posed is not the same as what happened in the case.

Misquoting you: Some attorneys may paraphrase one of your previous answers in formulating another question for you. Be sure the restatement or paraphrased information is correct and accurate to what you previously stated. If it is not correct, correct it. Do not agree to a statement you did not make or that is purposely misquoted.

Each deposition is a learning experience. Upon the conclusion of the deposition, it is advisable to request a copy of the deposition for review and correction. Some states require testifying experts to review, correct and sign depositions.

Besides having an opportunity to correct any misstatements, you will be sure to receive a copy of your deposition. Re-read the deposition. You will learn a lot about how you handled questions. After the deposition, it is also a good idea to talk to the court reporter if he or she needs the spellings of any words. It assures accuracy in your deposition. If it seems appropriate, you may restate your answer to the hiring attorney after the deposition. It is always good to ask him or her for feedback. If there were any particularly perplexing questions, take the time to discuss those with the hiring attorney. You can pick up many good tips for handling tricky questions. It is also good to hear in what areas you excelled!

Giving trial testimony: The only difference between giving deposition testimony and trial testimony is that you will be in a court room. You will again want to dress professionally and behave in a professional manner. Wearing bold, bright colors can be a turn off to jurors. Stick with gray, navy blue or black suits with a tasteful blouse or shirt and tie for men. There is much psychology in the court room. Some attorneys hire consultants to address the colors witnesses wear. For example the color red is often interpreted as “anger.” Red can give the witness the appearance of being angry, or may cause the jurors to become angry. Bold bright colors such as hot pink or neon green may be very distracting. Jewellery should be kept to a minimum and be tasteful. It would not be advisable to wear a bracelet that makes a lot of noise and rattles every time you move your arm. You will generally have an expert to be a source of distraction to a jury. You want the jury to look at you and listen to your answers. You do not want them distracted by loud clothing or noisy jewellery. Take your time. Try to think before you respond. Testimony is given long as a deposition. Many attorneys say they do not like to have a witness on the stand for more than 20 to 30 minutes. After 30 minutes or so, the jury will lose interest in the witness. Many of the same things that occur in a deposition will occur at trial. There will be a court reporter present and everything said will be reported. bailiff or judge will swear you in. The hiring attorney will ask questions of you first. Be sure to make use of any trial exhibits you need. You will have had the opportunity prior to the trial to discuss any exhibits you want to use at trial. You may have had the opportunity prior to the trial to discuss any exhibits you want to use at trial. The judge as “your honor.” The judge may give you some instructions. It is good to acknowledge that you heard the instructions and follow them. There is a great deal of decorum in the court room that is not present within a deposition.

During trials, attorneys remain very focused on the case at hand. Don’t be surprised if you do not hear about the outcome of the trial right away. Trials usually last no more than a week, but some may last longer. Then once back in the office, the attorney has all his or her other cases to get caught up, so you may want to wait a week or two before contacting the attorney regarding the outcome of the trial. Some attorneys send letters to testifying experts informing them of the trial outcome and thanking them. If you haven’t heard anything, you can always call and ask to speak with the legal secretary or paralegal. They will often be able to tell you about the thing of it. It is always nice to touch base with the attorney regarding any feedback about your testimony.

It is hoped this independent study has given you the basic facts about the role of nursing experts. Being a legal nurse consultant or testifying expert is a great learning experience – plus, it is a nice way of capitalizing on your education and experience.

References


Scott, Walter L. MEDICOLEGAL GLOSSARY, Medical Economics Books, Oradell, NJ, 1990**

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Written and prepared by: Barbara Walton, MS, RN, NurseNotes, Inc.

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I believe one single act of compassion can have a large impact.
**INDEPENDENT STUDY**

**Being an Expert Witness**

**Indiana State Nurses Association**

This independent study has been developed for nurses to explore various roles of a nurse expert witness.

0.92 contacts hour will be awarded for successful completion of this independent study.

The Ohio Nurses Association (ORN-001-94) is accredited as a provider of continuing nursing education by the American Nurses Credentialing Center's Commission on Accreditation. Expires: 1/2014

**DIRECTIONS**

1. Please read carefully the enclosed article “Being an Expert Witness.”
2. Complete the post-test, evaluation form and the registration form.
3. When you have completed all of the information, return the following to the Indiana State Nurses Association, 2915 N. High School Rd., Indianapolis, IN 46224 or email to ce@indiananurses.org.

**OBJECTIVES**

Upon completion of this independent study, the learner will be able to:

1. Define the role of consulting, factual and testifying nursing experts.
2. List the rewards of serving as an expert witness.

This independent study was developed by: Barbara Walton, MS, RN, NurseNotes, Inc. The author and planning committee members have declared no conflict of interest.

There is no commercial support or sponsorship for this independent study.

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**Being an Expert Witness Post Test and Evaluation Form**

**DIRECTIONS:** Please complete the post-test and evaluation form. There is only one answer per question. The evaluation questions must be completed and returned with the post-test to receive a certificate.

Name:
Date:  Final Score: ___________

**Please circle one answer.**

**True or False**

1. It doesn’t matter to the hiring attorney whether you are serving as a consulting versus testifying expert witness.
   a. True  b. False

2. Consulting experts provide deposition testimony.
   a. True  b. False

3. Factual witnesses do not render opinions.
   a. True  b. False

4. Testifying experts render opinions as to whether or not proper care was provided in deposition and/or trials.
   a. True  b. False

5. Defense attorneys must present expert testimony in medical malpractice cases.
   a. True  b. False

6. All expert witnesses are required to hold advanced degrees and specialty certifications.
   a. True  b. False

7. Some state statutes stipulate that testifying experts have current practice experience.
   a. True  b. False

8. Clear communication skills are imperative to be an effective expert witness.
   a. True  b. False

9. A jury may view a certified legal nurse consultant as a “hired gun.”
   a. True  b. False

10. Learning, improved documentation skills, a more global view of healthcare, defining nursing practice, educating the public about nursing and financial rewards are benefits of serving as an expert witness.
    a. True  b. False

11. It is appropriate for an expert witness to be paid based on the outcome of a case.
    a. True  b. False

12. Some experts provide both consulting and testifying services.
    a. True  b. False

13. Always be sure the hiring attorney knows what role(s) you are willing to fulfill as an expert witness before beginning any work.
    a. True  b. False

14. The expert witness needs to keep track of time and expenses for billing purposes.
    a. True  b. False

15. It is a good idea to know if the hiring attorney has any deadlines to be met, before beginning any work.
    a. True  b. False

16. The expert witness will want to substantiate opinions with supporting information obtained from the medical records.
    a. True  b. False

17. Standard of care is the maximum that is required for patient care.
    a. True  b. False

18. Use of the complaint may be helpful in organizing opinions for a defense attorney.
    a. True  b. False

19. Silence, repeating questions and misquoting you are examples of tactics attorneys may use in obtaining testimony.
    a. True  b. False

20. Bold colors and dangling earrings will hold the jury’s attention on your testimony.
    a. True  b. False

21. Trial testimony usually lasts as long as deposition testimony.
    a. True  b. False

22. It is important to look at the jury and engage them when rendering testimony.
    a. True  b. False

23. Attorneys always ask for written reports from testifying experts.
    a. True  b. False

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**Registration Form**

Name: ________________________________
Address: ________________________________________
Email address:  ___________________________________
City/State/Zip: ________________________________

Fee: __________ ISNA Member $15
     __________ Non-ISNA Member $20

Please email my certificate to: ce@indiananurses.org. Payment may be made online at www.indiananurses.org.

**Evaluation**

1. Were you able to achieve the following objectives?  Yes No
   a. Define the role of consulting, factual and testifying nursing experts.
   b. List the rewards of serving as an expert witness.
   c. Was this independent study an effective method of learning?

2. How long did it take you to complete the study, the post-test, and the evaluation form?

3. What other topics would you like to see addressed in an independent study?

**Registration Form**

Name: ________________________________
Address: ________________________________________
Email address:  ___________________________________
City/State/Zip: ________________________________

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3. What other topics would you like to see addressed in an independent study?
Milk is nutrient-rich, with nine essential nutrients. It is the #1 food source of three of the four nutrients the 2010 Dietary Guidelines for Americans (DGA) identify as falling short in the diets of both children and adults – calcium, potassium and vitamin D.

Motivate parents to be role models. Parents are important influencers on children’s behaviors, including eating right and being physically active. So encourage them to be good role models with words and actions.

The DGA recommends two to three glasses of milk and milk products daily:

- 2 glasses for children under age 2
- 2 1/2 glasses for 2–3 year olds
- 2 cups for 4–8 year olds
- 3 cups for 9 years or older

By the age of 4 children do not consume the recommended number of servings from the Dairy Group.

Motivate parents to be role models. Parents are important influences on children’s behaviors, including eating right and being physically active. So encourage them to eat fruits and vegetables and drink milk. Their actions speak louder than words.

The DGA recommends low-fat or fat-free milk and milk products daily:

- 3 cups for 9 years or older
- 2 1/2 cups for 4–8 year olds
- 2 cups for 2–3 year olds

By the age of 4 children do not consume the recommended number of servings from the Dairy Group.

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