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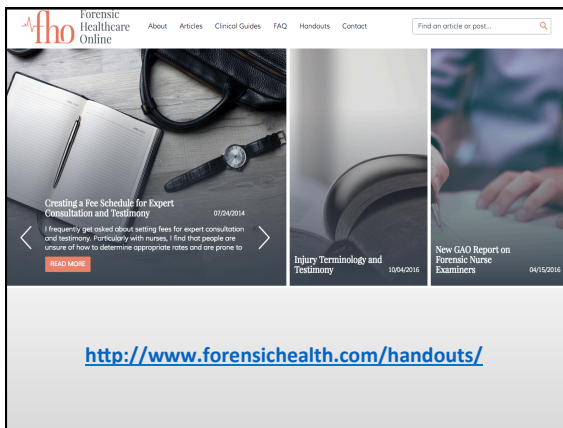
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## Why this session?

Testimony is often the most dreaded part of a forensic nurse's practice, primarily because of the unknown of cross-examination.

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## Adversarial System

- Foreign concept to nurses
- People tend to see defense experts as testifying *against* them

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## Defense Counsel

In many cases, a savvy defense counsel will hire an expert to advise, assist with strategy, and/or provide testimony that may contradict (in part or all) of the treating clinician's anticipated testimony.

- Runs gamut from reasonable (wants to identify any weaknesses that exist in the case) to ethically questionable (wants \*anything\* that will torpedo the testimony of the treating clinician to include character and other personal attacks).

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## Defense Experts

Also can run the gamut from reasonable to unethical (including inventing or misrepresenting science).

- Defense expert doesn't need to be seen as the enemy, even though the role is adversarial.
- Defense experts do an important job, including policing the profession, and helping to ensure that both sides have access to current science and professional standards.

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## Evaluating the Treating Clinician

1. Did they do a good job?
2. What are their weaknesses (bias, knowledge of science and standards, qualifications)?
3. What are the weaknesses of their organization?
4. Is there any wiggle room (attacking the science or the diagnosis)?

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## Did They Do A Good Job?

- Completeness of documentation
- Comprehensiveness of exam
- Adherence to recognized standards
- Adherence to agency policies and procedures
- Accuracy of documentation

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## Did They Do A Good Job?

- Here's where you discover just how important it is to have:
  - QA/Peer Review/QI process
  - Medical director who has a role that is more than figurehead
  - Programmatic/personal commitment to continuing education
  - Knowledge of foundational elements
  - Regularly reviewed policies and procedures

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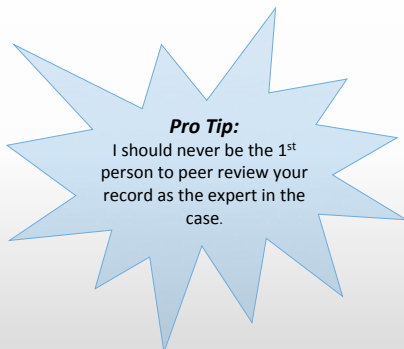
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## Clinician Weaknesses?

- Education (formal, certificates, continuing)
- Certification
- Experience (not just years of forensic practice)
- Obvious biases (language, testimony, social media)
- Deviation from general accepted practice standards (e.g. documentation)
- Knowledge base

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## Clinician Weaknesses

- Here's where you discover just how important it is to have:
  - Proper CV
  - Knowledge of practice standards
  - Self-awareness (limitations, view of yourself a *complete* nursing professional)
  - Understanding of appropriate social media use
  - Regular evaluation

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 Forensic Healthcare Online

**Pro Tip:**  
The answers to the questions: "What is a forensic nurse/SANE?" and "What is your role?" are everything.

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 Forensic Healthcare Online

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### Organizational Weaknesses

- Organizational philosophy
- Co-location
- Policies and procedures
- Eligible patients
- Mission statements and other written info

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## Organizational Weaknesses

- Here's where you discover just how important it is to have:
  - Regularly reviewed policies and procedures that support practice and are consistent with standards
  - A practice philosophy that reflects nursing practice
  - An articulated connection to other healthcare services with which the patient may interact
  - Control over publicity materials

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"The Sexual Assault Nurse Examiner program has trained, certified nurses to collect forensic evidence for the police."

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**Pro Tip:**

Google your program, review written materials, and make sure they don't create the wrong impression.

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## Wiggle Room?

- Interpretation of findings
- Explanation of science
- Diagnosis

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## Wiggle Room?

- Here's where you discover just how important it is to have:
  - Good grasp of the science (including gaps)
  - Differential diagnosis

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**Pro Tip:**  
If you are not confident in your knowledge of the science let the prosecutor know during prep.

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## The Ethical Defense Expert

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How many people have ever received formal education on being an effective and ethical defense expert consultant and witness?

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“Expert ethical behavior should be judged by the standards of the discipline of the expert.”

Joseph Sanders, Expert Witness Ethics, 76 Fordham L. Rev. 1539 (2007).

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## IAFN Vision of Ethical Practice

### Obligation to Science:

- “Forensic nurses should seek to advance nursing and forensic science, understand the limits of their knowledge, and respect the truth. Forensic nurses should ensure that their research and scientific contributions are thorough, accurate and unbiased in design and presentation.”
- “Scientific misconduct, such as fabrication, falsification, slander, libel, and plagiarism are incompatible with this Vision of Ethical Practice.”

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## IAFN Vision of Ethical Practice

### Dedication to Colleagues:

- “Forensic nurses should treat colleagues with respect, share ideas honestly, and give credit for their contributions.”

<http://www.forensicnurses.org/?page=VisionEthicalPract>

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## Takeaways

- An adversarial system doesn't have to be hostile system
- Cross exam doesn't need to be as much of a mystery as you think and prep is possible (and should be happening)
- You can be an effective defense expert and not be a complete \_\_\_\_\_

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www.forensichealth.com





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