Pat: Hi, this is Pat Iyer with Legal Nurse Podcast, and today we're going to be speaking about the role of the legal nurse consultant in helping with toxicology cases, which is an often overlooked area for legal nurse consultants to be able to assist attorneys using our medical knowledge. I brought on the show, Kim Alvis, whom I met at the American Association of Legal Nurse Consultants Conference that we hold every year. She's a certified occupational health nurse through the American Association of Occupational Health Nurses. She's worked on many emergency responses, such as hurricane disasters, floods, and chemical plant fires.

And she also works as an LNC and is working towards her certification as a legal nurse consultant. She works for the Center for Toxicology and Environmental Health, not for attorneys but for this organization. And as we talk with her today, we'll find out more about her job in this particularly unique area of legal nurse consulting.

Welcome, Kim, I'm glad that you could be on the show.

Kim: Thank you, Pat. I'm excited to be here.

Pat: Tell me, how did you get into this area of legal nurse consulting?

Kim: Well, it's a long story, but I'll tell you that many years ago, I worked as a paralegal for a criminal defense attorney here in Little Rock, Arkansas. And I had never worked for an attorney before but was very interested in the law. And so, toward the end of my career with him, I decided that I either needed to go to law school and become a lawyer or I needed to do something to help the public. I really felt a strong need to do that, so I decided on nursing. I thought what better way to help people than to become a nurse/ So, I've put myself through nursing school. I got my degree and worked in a hospital for five years, learning everything I could about every single department in the hospital. And I started missing the law firm, so I thought then,
"How could I do both? How could I be a nurse and use my law experience?"

I started researching and I found CTEH. It was a local company. I was very interested in what they did. And I researched their website and sent in a resume and asked for an interview with our occupational health department. At the time they had two full-time nurses who were occupational health nurses and did legal nurse consultant work. I was interested in both. After about six months or so of asking for an interview, I finally got that chance and was hired on as…

Pat: Nice work.

Kim: Thank you. I was hired on as a contract nurse. So, I worked as a contract nurse, LNC work only, for about a year and then was offered a full-time position. And I have been here 16 years now and enjoy every minute of it.

Pat: Excellent. Tell me, what is it that you enjoy so much about your job?

Kim: I enjoy the fact that at any moment, any day that I come to work, I can be sent on an emergency response. And when I go on an emergency response, it's usually a very large one and we're there to triage the people who may be affected. We provide first aid. We may take biological samples, depending on the chemical involved. We're very well versed in examinations for all the OSHA mandated chemicals, such as asbestos and lead, and methylene chloride, hexavalent chrome. So, we can provide a lot of assistance on an emergency response.

We do a respirator fit testing. Whatever the need is, we're there to support those workers and the people who are involved. A lot of times on the responses we go to, the residents in the area may be evacuated. And we help with getting them placed into another area, so they can be away from their home for a short time while they're doing air monitoring and making sure it's safe for them to return to their home. And so, I really enjoy that. I enjoy that every day. It could be something different and it's exciting, and I get to learn a lot. I get to meet a lot of people. It's just been the best job ever.

Now on the LNC side, we have a litigation department and I review medical records for toxic tort litigation cases. I don't work for a law
firm, I don't work for attorneys, but I do prepare these medical summaries for Dr. Michael Holland, who is a medical toxicologist here at CTEH. And, we have a full staff of PhD toxicologists who are testifying experts. So, they will provide me with the medical records to review and I will work up a chronological work product looking for confounders. And I look at the pleadings. I'll look at the medical history, the smoking history. I'm looking for disease, causation of the disease, and I help that expert with the medical side of it to understand what is going on with that patient.

Did he smoke for 30 years, two packs a day, and now he's got lung cancer that he claims is from exposure to something at work, or are there other causes that could be potential exposures such as his previous job? Maybe he worked with some chemical that was a carcinogenic, and he was not provided a respirator, or he failed to wear the respirator and the personal protective equipment to protect him from this chemical?

There are so many confounders that could be other causes for their disease and not just one chemical exposure. So, I help the expert with the disease cause in identifying other sources that it could be.

**Pat:** And could you, for the people who are listening who are not familiar with the term confounders, could you define that for us?

**Kim:** Yes ma'am. Confounders would be, an example of that would be, we look at the number of… let's say the number, the pack number of years smoked. So, in deposition a patient may, or worker may say, "I smoked four cigarettes a day for you know 20 years." So, we look at the medical records and we find 20 years ago he told his treating physician that he smoked two packs of cigarettes a day for 20 years. That's a confounder. A lot of times I find that, you know in deposition, they don't want to say they smoked two packs a day. So, they make it sound a little bit better and say, "I only smoked four packs… four cigarettes a day" when they didn't, and now they have lung cancer. So, that is a confounder, anything that is conflicting in the record as opposed to what they testified to in the deposition.

**Pat:** Okay, I understand.
Kim: We want to know the number of packs/cigarettes a year. And the way I figure that out, it's calculated by the number of cigarettes smoked per day by the number of years the person has smoked. So, like one pack a year is equal to smoking 20 cigarettes a day for one year, or you could say 40 cigarettes a day for half a year. That's how you base that.

But there are other confounders; there are household chemical exposures. Some people have asthma. You know they are under the treatment for asthma, they already have compromised respiratory issues, and so now they're working in asbestos. That's just going to compound the risk for disease, so. And a lot of times I must look at the PPE. I need to know that they were provided the correct PPE for that disease. That they were trained properly how to don and dock a respirator, and documentation that they were trained. And that they knew what to do and when to wear it.

So, I look at those training records. I'll look at their occupational physical exams, their baseline when they were hired, their exit physicals, their annual physicals, and they should be annually trained to as well. There should be training records that identify that training was done and done properly. We don't review these medical records for what normal LNCs do. They look at the standard of care. That's not what we look at. We're not looking to say the doctor did or did not treat this patient correctly. We're looking for other reasons of exposure, what the exposure claim is, and other causes that the exposure could be as well.

Pat: You know as you're talking about the personal protective equipment, it's making me think of a friend of mine whose daughter is employed spraying weeds around gas drilling sites and gas pads and oil pads. And she is issued a mask to wear, but she's working in a 100°-105° to 110° weather with a company that has shortcuts, plays games with providing equipment or enforcing the use of the equipment. And she has been sprayed and she's been inhaling this Roundup chemical, which kills the weeds but is not good for people to be getting into their system. She's been in situations where the tubing has pulled apart and sprayed her from head to toe with a chemical, which means she's got to take a shower immediately and change clothes.

So, I'm curious about your thoughts about the compliance versus the company's obligation to provide the equipment. And I don't know if
this is something that you focus on or you are aware of workers who are given the equipment, but it's inconvenient. It's hot, it's uncomfortable, and they choose not to use it, but then they get exposed to the chemical.

**Kim:** Yes ma'am, that happens a lot. We see that a lot in our emergency response work. Not only do I service clients, outside clients, for occupational health training and examinations, but I also do that for our own employees. CTEH employees. They must have hazmat physicals every year and respirator fit testing every year. And we make sure that we do that training and that they understand the importance of making sure that respirator fits.

OSHA says they cannot have facial hair that comes in contact with the seal on the respirator because one little hair can allow gas or vapors or anything else to come through that respirator and then you're not protected. So, I really hope that there are companies out there that really push the training and the safety of wearing the protective equipment because it's lifesaving. Who knows in 10, 20, 30 years from now that that person doesn't have some sort of terrible disease because they didn't wear the respirator properly?

Chemicals can harm you if you inhale them. Chemicals can harm your skin if it gets on you dermally. There are all different ways of encountering chemicals. It's not just inhalation. You can ingest it accidentally. I've had cases where hydraulic fluid has been injected accidentally in someone's hand. Those are all very important emergencies that need medical care right away. We go on hydrofluoric acid emergency responses. We have a Decon kit that automatically goes with our team if they come in contact with that chemical. It's that important that they are protected. And I just hope that other companies are as safe as we are and care about the training as much as we do because you can save a life.

**Pat:** That's certainly true. You made me think about a man who fell into a vat of acid when he was working. He suffered significant burns. He survived. And I did the pain and suffering analysis that described his experience from the moment that he fell into the acid to the point that he was finally discharged from the hospital and went through therapy. There are so many situations on work sites where people can be injured and exposed to chemicals or other hazards.
I had a woman I knew many years ago who worked for a florist, and I don't know if you remember the chemical dioxin which was used as a pesticide. It was removed from the market. She developed leukemia and died because she had a bag of this that she was moving, and it fell and burst. And it covered her with this dust and enough to the point that it was a toxic, fatal exposure.

**Kim:** Think about the Navy guys back in the day many, many years ago when they were on the ships for you know months at a time and everything on that ship was made with asbestos. We didn't know at the time how dangerous asbestos was, but I have learned that their blankets, some of their wool blankets, were made with asbestos. A lot of their equipment had asbestos in it, you know it was everywhere on those Navy ships. And you can read about how those people have passed away, you know. Some of them have been 80 and 90 years old, but they pass away from horrible diseases from the exposure of asbestosis on the Navy ships. And they give a lot of history. It's very interesting.

Sometimes doing these medical summaries for me is like writing a book or reading a book, you know. You start from the beginning whenever their birth records, sometimes.

You go through all their medical history through the years, their social history, you know when they were raising their children. Usually, the wife worked at home, and sometimes the husband would come home covered in asbestos dust. And so, now we're seeing that the spouse is getting very ill and claiming that they were exposed through the husband's clothing and doing the laundry. So, we're starting to see that as well.

It's just very interesting. It's interesting work and I recommend it for any nurse who has that kind of inquisitive mind who really wants to learn. It's just a great career to have.

**Pat:** I can also think about a couple of cases that I worked on to summarize medical records involving two women who developed lung cancer. They were living in an area that was around a pharmaceutical plant and it was spewing out into the air for 25 years these chemicals, which then led to increased incidence of disease. I'm curious about how you differentiate between an occasion of getting a disease from some other
source versus exposure from worksite chemicals. You know, what goes into that analysis because one of the women was a smoker and developed lung cancer. The other woman was not a smoker, but they were in the bellwether plaintiff group, the best cases that the plaintiff attorney put before this chemical company, a pharmaceutical company, which ultimately the pharmaceutical company did settle the cases. But you know, give us some insight about the role of the LNC in that type of situation.

Before I continue, let me circle back to the idea I’ve mentioned, which is the role of the LNC in summarizing medical records to detail pain and suffering. Are you curious about this role and wonder if it is right for you? I have free training for you that answers that question: *The Role of the Expert Fact Witness: How You and Your Client Can Benefit.* In my new webinar, I will share with you:

- What this role is – and what it is not
- What kind of cases benefit from expert fact witness testimony
- How to explain the expert fact witness role to attorneys

Click the button in the show notes of podcast.legalnursebusiness.com to watch this free training. Here is a short link for you: [http://LNC.tips/efwrole](http://LNC.tips/efwrole). If you are reading this transcript, the link is here. And if you want to receive our transcripts, you may request them at this link: [http://LNC.tips/transcripts](http://LNC.tips/transcripts).

**Kim:** Okay, so when we gather the information from the past treating physicians, we want to look at all their employment records. We go way back and look at all the pleadings. We don't determine causation, but we help the toxicologist determine causation. A lot of times the LNCs here do not know the outcome of these cases. Sometimes the
toxicologist is the testifying expert. He may tell us if it was settled or won or whatever, but we don't generally know that end of it. We do our best to identify all kinds of reasons why that this person has this disease, or you know sometimes medication can be an issue. It can be certain chemotherapies can cause different you know diseases, aftereffects.

We look at all those reasons, maybe household chemicals. Maybe they are a wood-maker, you know, wood dust could be an issue. We look at their hobbies. They could be hunters. They could be firemen. A lot of times the fire smoke can be an issue. What about railroad workers? They're exposed to a lot of different chemicals on a railroad. And so, their occupation and their job duties, job responsibilities, for that employer are looked at by the LNCs. That tells us a lot. Usually, we have a job description that will tell us are they pipefitters. You know have they worked with a certain chemical for 20 years and that's all they did. Most of their eight-hour day was spent doing this one function that caused them to be exposed to this chemical. How many hours a day were they exposed of the permissible limit?

So, we must research. We know these chemicals. We've done it long enough that we are familiar with the body systems that these chemicals can affect and each one may be a little different. We check the OSHA regs to make sure the company followed the correct policy and procedures, just like some LNCs do for a hospital and a physician. We do that for the company and the worker. We believe in total worker health and safety, and that's what we promote here at CTEH.

Is that helpful to know that that's what we look at?

**Pat:** It is. It makes me think about all the hazardous jobs that we take for granted.

**Kim:** We take it for granted, we sure do. And those who don't really work in this type of nursing field, some of them are clueless. They have no idea that this whole field of nursing is out here and that all those plant workers who are making our makeup or our clothe, or you know whatever, our washing machines, our dryers, the exposures, potential exposures, that they go through or can be affected by. And so, I just encourage nurses to branch out and know that nursing doesn't mean you have to just be a staff nurse in a hospital.
There are so many other things that you can do to help people like these workers. Sometimes they're not looked at by anyone. Some of these larger plants don't have a nurse, an occupational health nurse in their company. And so, I think if they would take the time to look into an OC health nurse or a legal nurse consultant, let her come in and consult them on the best way to make sure their workers are safe, I think they would be a lot happier with the outcome and the workers would be a lot safer. We have such a vast knowledge of medical and potential things that could happen to these employees, and I think we would be a lot of help for them.

**Pat:** You know I put myself in the position of the worker who recognizes that something is unsafe and wants to complain and is fearful of being labeled a troublemaker and being fired. As I was describing to you, my friend’s daughter has been taking pictures and trying to figure out how she can report these hazards without the whole world coming down onto her head. And I don't know what the answer is, I don't know…

**Kim:** OSHA has the answer. They have a number, a hotline that you can call. It's confidential if that's the route you want to take, but the number one thing for your friend's daughter is that she needs to wear her respirator. And you know that's our fear, is that someone will get in a hot zone and get claustrophobic. Before we ever medically clear a person to wear a respirator, we look at claustrophobia big time.

"Have they ever had a history of claustrophobia?"

If they say yes, then we want to know the specifics on that. We have them complete that OSHA Respirator Questionnaire that is online under OSHA Guidelines. And we do a medical exam. They tell us do they have diabetes. We know if you're diabetic, you know that you're at risk for lots of other things. If you get overheated, if you haven't checked your blood glucose that day, you're a little dizzy. You're liable to be in a hot zone and pull that respirator off and there you are you know in the middle of this vaper cloud of whatever, and it's very dangerous. So, we must be very careful, and I hope other companies do this too with their workers that they pay attention to the answers on the OSHA questionnaire and really investigate that. Ask questions, do a review, that you don't let anything slip by.
ADD meds, ADHD meds, they increase your heart rate. So, if we have an employee who takes those medications, we've got to do a little extra work to make sure that they're not going to be taking this medication, going into a hot zone and get overheated, and pass out. You know, lots of things can happen like that. They can get overheated. They can become dehydrated. They can have heart palpitations with those types of meds. So, all of that is looked at before… when considered for a medical clearance and a respirator fit test.

Pat: I think that's knowledge that many workers and many legal nurse consultants don't have of just what you brought up about medications that increase your heart rate. I never would've thought of that as being a hazard when you're working in an environment like that.

Kim: Yes, it is. It's very dangerous and people with chronic back problems, or we've had people who have had severe heart issues. They've had a heart attack, or they've got congestive heart failure. Do you feel good about putting someone in a full-face respirator with congestive heart failure or COPD or asthma? You know sometimes you can be severely asthmatic. Well, they may not be cleared. It depends on the severity. We may ask for their past treating physician, their cardiologist, their pulmonologist to give us a letter that says, "I'm treating this patient. I feel that they are cleared to wear this respirator." Because we can't just look at them one day and say, "Yeah, you're okay to wear that" when you've got COPD. That's not the way to do it.

It just takes a little extra work, but we don't want to keep the worker from working either. You know if there's a way that he can safely work and maybe tie-back coveralls, fire-retardant coveralls and a full-face respirator, then that's what we'll do. But it's got to be safe for the worker.

Pat: Yes, I think you're pointing out the fact that these types of decisions affect employability and maybe that worker is not trained to do anything other than what he's been doing all his life.

Kim: Right, that's right.

Pat: Yeah. Well, I think your talk this morning with me, Kim, has brought up a lot of aspects of occupational health nursing and legal nurse
consulting that we haven't really thought about and offers opportunities for legal nurse consultants who are interested in working with a toxicologist or with attorneys who are handling toxic tort cases. And I appreciate you sharing that experience with us.

Kim: Yes ma'am, I enjoyed it.

Pat: If anyone is interested in getting in touch with you, what would be the best way for them to find out more about what you offer?

Kim: They could go to our website, which is www.cteh.com and they can click on "Legal Nurse Consulting" or "Occupational Health" and you'll find my name there. My email address is K, the letter K, Alvis, A-L-V as in victory I-S @cteh.com (kalvis@cteh.com) and our phone number is (501) 801-8500. I'll be glad to talk to you.

Pat: Perfect. Thank you, Kim, for being a part of this show.

Kim: Thank you.

Pat: And thank you to you who's listening to this show or watching this on our YouTube channel. We bring you interviews like this every Monday to talk about some of the nuances of legal nurse consulting, some of the ways that you can develop your business more effectively, more efficiently, and make your clients happier. Be sure to come back next week for our new interview.

Check out our training on the role of the expert fact witness by going to the show notes of this podcast. You’ll get valuable tips on how to help your plaintiff attorney clients maximize their recovery for their clients.

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