The RN Consultant

Expert Witness Readiness Checklist

20 things to have in place before you accept your first expert witness case. By Brandy Seyller, BSN, RN, CAVRN, CLNC.

Credentials and qualifications

- [ ] **1. Active, unrestricted RN license in every state you list**
  Know each license's expiration date. List states only on your CV, never license numbers.
- [ ] **2. Certifications current, with dates**
  Issuing organization, month and year earned, and expiration. Never list a lapsed certification as current.
- [ ] **3. You meet the expert qualification rules where the case is filed**
  Many states require recent practice in the same specialty. South Carolina, for example, looks for active practice or teaching in the area for at least 3 of the last 5 years (S.C. Code 15-36-100).
- [ ] **4. Your experience matches the case**
  Same setting, patient population and era as the event. The standard of care is judged as of the date of the care.

Your documents

- [ ] **5. An expert-witness CV, not a job-hunting resume**
  Exact month and year for every position, unit, hospital size, trauma level, certifications with dates, memberships, presentations and publications.
- [ ] **6. A fee schedule**
  Retainer, record review, report writing, deposition, trial, travel, expenses, cancellation and payment terms.
- [ ] **7. A written retainer agreement**
  Scope, fees, who pays, confidentiality and records return. Have your own attorney review your template.
- [ ] **8. A 4-year testimony list**
  Every case where you testified at deposition or trial in the previous 4 years. Federal expert reports require it (Fed. R. Civ. P. 26(a)(2)(B)(v)).

- [ ] **9. A 10-year publications list**
  Federal expert reports must list all publications from the previous 10 years (Rule 26(a)(2)(B)(iv)).
- [ ] **10. W-9, invoicing and time tracking**
  Keep detailed, contemporaneous time records. Your compensation can be asked about and disclosed.

Process and ethics

- [ ] **11. A conflict check before you accept**
  Parties, facilities, providers, insurers and law firms. Decline or disclose any connection.
- [ ] **12. Know your plaintiff and defense split**
  You will likely be asked. Answer honestly and keep a record.
- [ ] **13. Secure records handling**
  Encrypted storage and transfer, no patient information in texts or personal email, and return or destroy records as agreed. HIPAA rules govern how covered entities disclose records in legal proceedings (45 CFR 164.512(e)).
- [ ] **14. Professional liability coverage checked**
  Ask whether your current policy covers consulting and expert work, or what coverage you need.
- [ ] **15. Employer policy checked**
  Some employers limit outside expert work or testifying about their own facility.

Credibility and testimony

- [ ] **16. A social media and online audit**
  LinkedIn, posts, reviews and bios should match your CV and must not contradict your opinions.
- [ ] **17. Consistency with prior statements**
  Your CV, reports and prior testimony can be compared. Prior inconsistent statements can be used to impeach a witness (Fed. R. Evid. 613).
- [ ] **18. Report writing basics**
  Opinions with their bases and reasons, the facts and data considered, and exhibits (Rule 26(a)(2)(B)(i) to (iii)).
- [ ] **19. Deposition preparation**
  Review the records, your report and your CV the week before. Practice with a mock deposition if you can.
- [ ] **20. The literature and policies in force at the time**
  Guidelines, professional standards and facility policies that applied on the date of the event.

Next steps

Build an accurate expert-witness CV and fee schedule: thernconsultant.com/cv-builder
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Sources: Federal Rule of Civil Procedure 26 (https://www.law.cornell.edu/rules/frcp/rule_26); Federal Rule of Evidence 613 (https://www.law.cornell.edu/rules/fre/rule_613); S.C. Code Title 15, Chapter 36 (15-36-100) (https://www.scstatehouse.gov/code/t15c036.php); 45 CFR 164.512(e), HHS (https://www.hhs.gov/hipaa/for-professionals/faq/judicial-and-administrative-proceedings/index.html); AALNC FAQs (https://aalnc.org/faqs/). Educational information only, not legal advice. Rules vary by state and court. Results are not guaranteed.