



SAFETY FIRST BLOG

Three things you need to do to keep your nursing license safe: An interview with Lorie Brown, RN, MN, JD.

August 16, 2017 July 11, 2018 Kristi Miller

This is episode 10, an interview with Lorie Brown, an attorney and nurse who helps nurses with license protection and empowerment.

I found out about Lorie from a friend of mine who is an expert witness (shout out to Melissa Gelineau!) when I was doing the podcast on getting fired – she would have been a big help to be when I went before the board of nursing, so I wanted to talk to her about how she supports nurses, and to get tips for keeping your nursing license safe. She also coaches people interested in entrepreneurial ventures...

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THE INTERVIEW:

LB: I say I empower nurses from the bedside to business

SFN: That's some good stuff! I'm not sure I'm going to be able to get all my questions in...(due to the multiple talents of this one tiny woman)

Lorie graduated as a nurse from IU in 1982 and has worked in gynecology, urology, neurosurgery, ortho, general surgery, home health and med-surg nursing. She has also been a camp nurse.

LB: when the nursing shortage [happened], I floated and did PRN work and even did organ transplant, I did pediatric ventilator, subacute care, everything – you name it I did it.

SFN: you were the nurse where they run in with the cooler?

LB: Oh it was after

SFN: you helped them deal with accepting the organs and with immune suppression. And how about dealing with psychology?

LB: I think by the time they accepted the organ they were ready

SFN: They just wanted to feel better

LB: yes.

SFN: You graduated from IU law school in 1990 with J.D. (doctor of jurisprudence) you also have a double master's degree as a clinical nurse specialist and nursing administration from UCLA.

Which do like better, Indiana or California?

LB: (smiles)

SFN: yep, I guessed it, California. But you are here to be near family.

GIVING NURSES A SOFT PLACE TO LAND

SFN: one of the things you have said is that you want to give nurses a forum to exchange ideas and change the practice of nursing for the better.

LB: Nurses have no soft place to land, nobody understands nurses like other nurses, yet we don't have the support we need. I would love to have a community where nurses can say, "well at our hospital we do this, have you thought about that?" and we can share best practices with each other. Sometimes nursing units aren't the healthiest, and we aren't always supportive of each other. If we band together from all over, we can solve the problems of nursing.

SFN: I agree, I was just teaching a seminar to 6 nurses today, and I was talking about medication errors and said, "and we've all made errors" and they all froze. It's ok to talk about some parts of nursing, but other topics are off limits – they are still very taboo to talk about.

LB: and then they want us to report it, and then when we report it we get in trouble, and it's like "we're human"

SFN: nurses are supposed to be superhuman

I am really interested in what motivated you to become a lawyer?

LB: I wish I had a better story, but I don't. I had a really good divorce attorney and realized I could do it. It has been the best thing.

SFN: Did the attorney encourage you? Or was it the way they handled the case?

LB: I knew I wanted to continue my education, but I didn't want to teach or do research (boo!), but I was a unit manager of our county hospital and my co-manager said, why don't you go to law school? And I thought that made sense – that was in April. I took the LSAT in May, got the results in June, got accepted and applied in July and started in August!

SFN: that's incredible, that is such a great story, it inspires me. I keep hoping to find a nurse who will get a computer science degree and design a better documentation platform – one that actually works.

LB: Now they have tracking systems that are ipads outside the rooms and you can just tap them and enter the important information and move on.

SFN: At the National Patient Safety Foundation conference I went to, they have sensors in badges now that sense when you are near a hand sanitizer and keep track of how often and how long you use it, and how often and how long you are at the sink [I did NOT say this as well in the actual interview, FYI]. Knowing nurses, they probably find a work-around for that, because that's what we do.

[Laughter]

THE BOWEL MOVEMENT IN THE MORGUE

SFN: if you can, tell me a story about someone you have helped, and I realize that you are a lawyer and a nurse so there are two levels of privacy there.

LB: I have worked with over 400 nurses so it is hard to pick just one.

[we paused for a while and Lorie talked to her amazing assistants who could literally name every case she has ever had, or so it seemed, until she decided on a good one to talk about – I wish I could tell you about all of the ones they mentioned – some good stuff!]

SFN: Ok we are back with what Lorie is calling a "Perry Mason" moment [for those of you who are too young to know, Perry Mason was the original lawyer show, before Matlock, before Night Court, before Law and Order]

LB: This came before the nursing board, so this is public and I can share it. A client was accused of patient abuse, of sending a patient to the morgue with a BM (bowel movement). I was interviewing the nurse who had turned her in and asked her, "well which way did you turn the patient?" and she said "I don't remember". My client said that the patient had been turned to face her, would you disagree with that? She said no, and then I said, so you were the first person to see if he had a BM or not, and you didn't clean it up and you didn't say anything. So you are just as guilty as my client of patient abuse. She said, "I am not answering that, I'm not on trial here", but her attorney advised her she did have to answer, and she agreed that this was the case. I am not in favor of throwing people under the bus, but they wanted to suspend this nurse and I was able to save her license.

SFN: wow, the case of the bowel movement in the morgue

LB: and the thing is that anyone can say anything about you and it is really difficult. Because of my nursing knowledge, I knew how they clean up a patient and turn them from side to side. Because I am a nurse and have that knowledge, I was able to defend her.

SFN: I agree, I feel safer just knowing you exist!

Are there a lot of other people out there like you?

LB: Yes we have an organization – it's The American Association of Nurse Attornies (TAANA.org). We have about 300 members and practice in all different areas. Some of us practice in health care law, some of us teach because they need someone with a terminal degree to teach (and JD is a terminal degree). Other people do risk management others do medical malpractice, but there are a number of us who do license defense.

SFN: Could a nurse who was having trouble, and who got reported to the board regardless of the state, contact you for help?

LB: Yes, I am only licensed in Indiana and Illinois but I co-counsel with nurses in other states as well

SFN: so they wouldn't need to go to TAANA.org on their own, they could reach out to you

LB: yes, my website is Yournurseattorney.com

SFN: It is a great website, I admire it and appreciate it.

ADVICE FOR GOING BEFORE THE BOARD OF NURSING

What is the most important advice you can give nurses who are reported to the board?

LB: Of course this is self-serving, but don't do it alone. When you get a complaint or investigation, they specifically say you have the right to obtain an attorney at your own cost. The state has an attorney, the board has an attorney, why do it by yourself.

SFN: I think some of us are intimidated by the words "at your own cost"

LB: but again, it's your license and your livelihood and it depends on how much you value it.

SFN: You make a good point. You said you get about how many calls a day from nurses?

LB: I have no idea, I am just grateful to be able to help and do what I can. I just think that...I was just talking to a client today – why are nurses treated so differently from other professions? I do all health professions, not just nurses. When you go to the board for pharmacy and medical boards, for the same things, and they say "just don't do that again".

SFN: we had that conversation today [in the seminar I taught on root cause analysis and safe medication administration]

Do nurses get fired often?

LB: They do, all the time. And unfortunately we are employment at will they can get fired for any reason, they don't have to have a reason. If you see the writing on the wall, resign first. If you don't you are going to have to put that you were terminated on every employment application [don't I know it]. We do this thing called graceful exit, which helps nurses to resign. We ask that they don't contest unemployment, and that they provide a neutral reference. Things that we think of that can protect the nurse. We help them get out of bad situations. If they suspend you [you will likely get terminated]. I have only had one case [in which the nurse who was suspended did not get fired], the nurse was accused of diversion, but they found the person who was actually diverting the medications, but that is the only case. If you are suspended, chances are in my experience you will get terminated, so make sure you resign yourself, make a graceful exit. Make sure they accept your resignation – they don't have to accept your resignation.

SFN: Yeah, I was never given that chance – I went straight from getting written up to getting terminated. I made someone really mad! [laughter]

Is there anything you can do in that employment at will environment.

LB: not really – I always say you can get another job, but you can't get another license. If you see you are short staffed, go get another job! This is a great environment now, they need nurses – there is a better place out there for you.

SPEAKING OF SAFETY...

SFN: Switching gears a little bit, as you know my focus is safety – I'm mad about safety, I'm obsessed.

How do you define safety? You can answer as an attorney, a nurse or a human being.

LB: I guess just protect a persons health and well being and that is what I would say

SFN: Is there anything you do in your own life to promote your own safety and the safety of those around you?

LB: I am very pro-active. I give my nurses (clients) homework. I tell them to make a laundry list of all the good things they have done. The board isn't expecting them to do this. I want them to walk in with a list of all the good things they have done. When they go before the board they always pick out all the bad things they have done. All the good is forgotten.

SFN: I have a question about that. When I went before the board I got a phone interview, which I was grateful for. The board had all my records, and they had a record of all the patient complaints I had received – there were like three – and I couldn't recall most of them. What is the difference between getting written up and...it surprised me there were things in my file I didn't know about.

LB: I hear that all the time. When you have a complaint, we always get the investigation file, and we go through it with our clients and they say things like "I didn't know about this" and "this isn't what I was told". I don't know what you can do with it. If you are presented with a write-up, put your side of the story on it, don't just sign it. Make sure you have your record in the file.

SFN: I was just surprised because I thought that to put something in your file, you had to sign it. But apparently any time someone calls they pull your file and jot it down.

LB: They write down everything.

SFN: It seems like they write down all the bad things, but none of the good things, they don't write down all the times the patient said something nice about you.

LB: That's true.

SFN: we have to do that! That's what it sounds like you are saying – we need to keep track of all the good stuff.

LB: Speaking of which, unfortunately before the board, [legal definition alert!!!!] *Here-say is an out of court statement offered to prove the truth of the matter asserted*. We hear on TV "that's here-say – you can't use that" but unfortunately, there is an exception called the business records exception, even though it's all here-say, they can be used against you.

SFN: That is fascinating – even though it is your word against theirs, they can say whatever they like, but it's a business record.

LB: But a business record is NOT considered here-say, so they consider that reliable and authentic evidence.

SFN: While you are an employee, can you request to look at your file?

LB: no, it's not yours, it's the employers.

SFN: It almost makes you want to go out and start your own business! [laughter]

LB: It's true, nurses are getting fed up. I always joke that we are the McDonald's of medicine – whoever can do it quicker and cheaper and get 'em out faster [makes the most money] and it's not like the way it used to be where care was designed for communities to take care of our own, and for religious organizations to take care of our own. Who would have ever thought they would make money off of sick people?

SFN: It's just awful.

What is the most unsafe experience you have ever had?

LB: I can't say that it was unsafe, but I am very big about nurses being able to speak their mind, when I was a nurse manager, they hooked up a colostomy backwards, and so the distal end was hooked up to the ostomy, and the proximal end was sewn shut, and we were told not to say anything to the patient and that really bothered me that we were asked to be quiet when the patient has a right to know about their own medical care.

SFN: I have studied a lot of safety culture and it always surprises me that we don't require disclosure, that we are afraid to disclose and that we don't have better laws. I always tell patients to find out if their hospital has a disclosure policy, because you have the right to know.

LB: Actually some hospitals now have a full disclosure policy, where they will bring in the patient and family and tell them everything with trained people and settle their case quickly, which may or may not be a good idea because they might be able to get more money if attorneys are involved.

SFN: A lot of the patient harm case studies I have read say that the most important thing to the patient and family is to get an apology, and the need for a big pile of money diminishes. Sometimes it makes a patient feel so much better just to hear the doctor say "I am sorry". I don't think hospitals realize the value of that.

LB: Unfortunately, our society we can't make things better – the only thing we can do is pay money. I have had lots of clients say "I want to sue the doctor, but not the nurse" because nurses have that special relationship with the hospital.

THREE THINGS YOU CAN DO TO PROTECT YOUR LICENSE

SFN: I think I already asked this – what is the most important thing a nurse can do to protect her license, besides get to know you really well?

LB: There are actually several things.

1. Keep your address current with the board. I am surprised at how many nurses forget to tell the board they have moved. The first thing that will happen in an investigation is that you will get a letter from the board. And you will have an opportunity to respond to the letter and meet with an investigator. If they don't have your current address, they can take action without you, saying you haven't responded and do whatever they want.
2. The second thing would be to be honest on your job applications. If you were terminated, you have to say you were terminated. Even if you were only there a few months, when you sign the application it says that you affirm under penalty of perjury that you have given all the information and that it is true and correct. Just because you only worked at someplace a short time you can't omit it. But when they ask for the reason, you can put "will discuss in interview" and that's fine because the reason why whatever you say, it is considered fraudulent material and misrepresentation
3. Be honest on license renewal application. If you don't understand the question, ask. Where nurses get into trouble in my state in particular is they ask if you have been arrested or pled guilty or no-contest to a criminal matter. If you have had a DUI and you are on diversion for a year and it goes away, you have still been arrested and have to answer yes even if it is dismissed. Ask someone who practices before the nursing board if your interpretation is correct. Don't call the board of nursing. The clerks who answer the phone don't necessarily understand the process or know the answer and cannot give legal advice. Answer honestly on your license application. Many nurses in our state get in trouble for fraud and material misrepresentation in obtaining a license, they don't put a criminal matter, they don't put they were terminated or written up. You can always deal with presenting it in a light most favorable to you, but don't try to cover it up.

SFN: And I have heard that not all boards are created equal

LB: Yes I have had my share

SPEAK YOUR MIND, STAND IN YOUR POWER, BE A CHANGE AGENT

SFN: What is next for you? What is in the cooker?

LB: I always have something going on. I am getting ready to launch an empowered nurses challenge. It is a 3 part, free video series. If you want to know more, it will direct you to an empowered nurses boot camp where you can get continuing education [credit] where you can create a mindset for success, create an environment where you can learn to love to go to work, I know that sounds shocking to some, but it can be done. And also to develop leadership skills, speak your mind, stand in your power, be a change agent to improve patient care, protect your license and prevent medical malpractice. All of that is in a four-part continuing education program "The Empowered Nurses Bootcamp"

Go to my website www.empowerednurses.org (<http://www.empowerednurses.org>) and sign up for my newsletter "Thrive in your nursing practice", which we will be changing to "Empowered nurses challenge" shortly. We currently send out a weekly newsletter that gives tips on protecting your license or being empowered as a nurse. Last week I wrote about complaining.

SFN: I saw that one!

LB: You are at work the majority of your life, why work in an environment that is complaining and how do you change that? And this week – I am working on it right now, once a nursing board matter is done, it becomes part of the public record and it stays on your record forever. I would love to have those type of things expunged. If it was an isolated event years ago, why does it need to stay on your permanent record.

SFN: here here, tell me how I can help with that. I was lucky I didn't have disciplinary action, but was terrified I might and I went and looked at the list of folks and I saw things dating back to the 90's, it's like the wall of shame – it is so sad.

LB: It is – I always say don't let this one thing define you. That is not who you are and shouldn't negate all that you have done as a nurse.

SFN: I 100% agree, and it is so nice to hear someone else say that.

If we want more information on the video you are talking about

LB: just sign up for the newsletter and whatever the free thing is on empowerednurses.org, you will get information about it.

SFN: I just want to make sure I don't miss that

What do you do for fun? The theme of the ANA this year is self-care, so I am trying to ask everyone about that.

LB: I travel! I am going to Bali, Indonesia next week for The Hidden Healers retreat

SFN: that sounds wonderful

I was actually just in Bloomington [Indiana] yesterday, my mom lives there and you said you have a child who goes to Indiana University?

LB: One went today and one is going tomorrow

SFN: And one still to go?

LB: yes

SFN: so that is a big accomplishment, raising kids who go to college

So what is your main source for up-to-date nursing information

LB: I like Up-to-date, for nursing I am on the board of the Indiana State Nurses Association, and I get a lot of information from my clients

SFN: I bet! I am a member of the American Association for Professionals in Patient Safety and they put out the top 20 patient safety articles every month in a e-newsletter, I love that because I don't have to worry I am missing the next big thing in patient safety. As a patient safety specialist, I don't want to miss something big – like suddenly we figure out how to prevent error, and I missed it.

Is there anything I didn't ask you that you would like to talk about?

LB: I guess I would just say that if you are in a situation that you don't like, leave. We need to stick together in our profession. We are the largest number of healthcare providers comprising 80% of the workforce and we have 0% of the power, if we stand together, think of what we can do to change the profession, improve it and improve patient care. I believe nurses have the answers to all the problems in healthcare, but we don't speak up. But we have the answers, we just need to speak up, stand together and get them implemented

SFN: I always suggest that nurses join the American Nurses Association, they have great political action PAC, do you have any other ways?

LB: Be involved, I remember when I was in nursing I wasn't involved, I wasn't and I think I would have enjoyed it. I ask my clients what nursing associations they are involved in and it is surprising with the Indiana State Nurses Association, membership is less than 1% of the licensed nurses in the state. I know sometimes nurses are upset that the ANA endorses a particular candidate, but you know that's part of it, that's how it works, and they ask the members which candidate should they endorse and it may not be your candidate, but it's the majority. The ANA is fighting for safe staffing and fighting for nurses and are the only politically active organization for all nurses, not just specialized nurses. I would also like to see nurse practitioners get full practice authority in every state. It's about time, and to call them midlevel providers is just an insult. Anything that demeans our profession, we need to put a stop to that.

SFN: I agree, and thank you so much

LB: My soap box

SFN: I am right up there with you, make room!

Thank you so much I really appreciate it.

WRAPPING IT UP...

Something I didn't mention in the podcast – Lorie sells these really cool intention cards. It's this beautiful deck of cards (see pic) that can help you get clarity on an issue. I have a few friends who have similar decks and I have been wanting one for a while. Before I left her office, after the interview, Lorie gave me some tips on developing my pitch/business plan, which I am so grateful for! The first thing she did was hand me a deck of these cards and ask me to pick one. It was "VALUE YOURSELF" pretty sweet –made me tear up and felt really good. I bought a deck, and you can too – go to her website www.empowerednurses.org (<http://www.empowerednurses.org>) for more details. She also had me do a cool exercise: draw a square and divide it into 4 parts. Fill the upper left part with things you are good at and love to do. The upper right box gets filled with things you are good at but don't like doing. The bottom left is things you don't like to do and aren't good at, and the bottom right is things you would like to learn how to do – you love them but aren't good at them (yet). It's a pretty enlightening exercise. I really enjoyed it! Lorie is an incredible person, and I encourage you to contact her for legal and empowerment support. I am really looking forward to the free videos.

A few more notes – I did this interview Tuesday, August 13 at Lorie's office in the Broad Ripple neighborhood of Indianapolis Indiana – but I am having a hard time remembering what day it is! I got trained over the weekend to teach a human sexuality workshop called Our Whole Lives. The curriculum was created by the Unitarian Universalist Church as well at the United Church of Christ and it is amazing. I then flew to Indianapolis and got to hang out with my mom and my sister – we went for an incredible hike, and had a few beers. I then taught a seminar for Vyne education in Indi on Root Cause Analysis to 5 nurses and an OT (sounds like the beginning of a bad joke...no we did not walk into a bar). Then I got to have two Indiana traditions with my favorite Auntie – I had a fried pork tenderloin sandwich (don't ask, it gives you indigestion 100% of the time) and today I ate a Royal Feast at Pizza King where I had one of my very first jobs. It tasted the same, and was divine, and also gave me indigestion. I will teach the seminar again tomorrow and fly home to kiss and hug my family a ridiculous amount. I hope to hear from you, please comment on the show notes, on the podcast, and reach out to me with suggestions for topics.

Bonswa!

Kristi

Resources

[YourNurseAttorney.com \(http://yournurseattorney.com/\)](http://yournurseattorney.com/)

[EmpoweredNurses.org \(http://www.empowerednurses.org/\)](http://www.empowerednurses.org/)

[Should I Go to Law School? Medscape article \(http://www.medscape.com/viewarticle/851701\)](http://www.medscape.com/viewarticle/851701)

[How to become a Nurse Attorney \(https://www.discovernursing.com/specialty/nurse-attorney#.WZT7eHeGP_Q\)](https://www.discovernursing.com/specialty/nurse-attorney#.WZT7eHeGP_Q)

[The American Association of Nurse Attorneys \(http://www.taana.org/\)](http://www.taana.org/)

[The American Nurses Association \(http://www.nursingworld.org/\)](http://www.nursingworld.org/)

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