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## The Nurse of Yesterday and Today: The Evolution that has led to the Development of New Knowledge

Elvana Fortuzi

Forensic legal nurse, Via Papa Luciani 24/1 33082 Azzano Decimo (PN), Italia

### ABSTRACT

More and more over the years, the statement “to know, to know how to do, to know how to be” that many Nursing theorists have underlined in their writings become the pivotal point that distinguishes a nurse. This process leads to more freedom of decision making and greater assumption of responsibility: as Jean-Paul Sartre (French writer and philosopher) said: “It is true that you are not responsible for who you are, but you are responsible for what you do with who you are. This study aims to highlight the evolution that led to the birth of the figure, of an infirm attentive to the legal profiles of his profession. The legal and forensic nurse is a very recent specialty in Italy compared to other States and its function has the purpose of contributing to the identification of problems in the field of health and litigation for both the persons assisted, but also addressed to the sick-men themselves. The forensic nurse in Italy still has a long way to go, especially because the general care nurses-science has found only in recent years radical changes.

**Objective:** The general objective is to highlight the evolution that has led to the birth of the figure of a nurse attentive to the legal profiles of his profession. Specific objectives are to provide information on the working environment, self-assessed skills and practical experiences of forensic nurses after completing their training.

**Methods:** Review of the nurse's path in Italy from birth to the present day. In June 2019 a questionnaire was developed and distributed among the 47 Italian forensic nurses who had completed their training.

**Results:** The forensic nurse in Italy still has a long way to go, especially since the general nursing care has faced only in recent years radical changes

### \*Corresponding author

Elvana Fortuzi, Forensic Legal Nurse, Via Papa Luciani 24/1 33082 Azzano Decimo (PN), Italia.

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### Introduction

The nursing profession has evolved considerably in recent years. This progress in nursing, both theoretical and practical, has led to an increase in the assumption of responsibility as decision-making autonomy has increased. The nurse has changed from an auxiliary with specific tasks directed solely and exclusively from the medical figure, to a health professional, responsible for his work based on “nursing science and conscience”.

All this has led to the birth of the figure of a nurse who is more aware of the legal profile of his profession and of legal nursing in law.

This new branch of nursing has a very specific purpose, which is to contribute to the identification of problems in the health-legal for both the persons assisted and for those who assist them.

### Historical Notes: The Nurse in Time

In the early 1900s the nursing figure did not exist because there was only the figure of the doctor flanked by nuns who played a role more than anything else spiritual and comfort to the sick.

This role was guaranteed by the approval of Pope Pius IX, and the latter in 1905 gave the green light for the establishment of vocational schools for nurses aimed only at the nuns. Until the advent of Fascism, the nursing function and attendance of these schools remained in Italy the prerogative of religious personnel.

During the fascist period, in order to face the terrifying health situation and at the same time follow the European evolution, the hospitals established the first nursing schools open also to lay people, exclusively women: they had to be educated up to the third middle class, to be of good family and of pleasant aspect. These schools lasted two years and were boarding schools run by nuns. Implicit was the fact that the work of the nurses and the management of general nursing care was strictly subordinate to the figure of the doctor, for this reason the nurses were considered auxiliary health figures.

In 1955, the IP.AS.VI College (acronym for professional nurses/health care assistants/children's supervisors) was created by means of a Government Decree in 1954 with the aim of identifying the different professional figures, albeit auxiliary, therefore without a clear professional profile that would establish their autonomy. From then on, there were countless milestones that marked the

growing professional and decision-making autonomy of nurses. The first fundamental step was the establishment of the professional register by the College, to safeguard the professionalism of these figures, and secondly to give a guarantee of professionalism to the citizen. The establishment of the professional register took place in 1965 during the first National Congress in Rome. This conference is also remembered because after it, a few years later, exactly in 1971 there was the possibility for children to attend school (men were only allowed, without any qualification, to work in psychiatric hospitals as general nurses to compensate for the aggressiveness of patients). This sanctioned a grandiose evolution in that this type of work was exclusively for women because it had always been considered a “vocational” work. With the admission of men the boarding schools were closed because the presence of boys was not admissible for the nuns, and in 1973 with the Strasbourg Agreement on the education and training of professional nurses the fundamental points for a correct revision of the teaching programs were indicated, the entry into force of the practical training with modification of the teaching programs. Finally, the Italian nurse also had the same characteristics as his European colleagues (and this allowed him to work in other states that were signatories to the Strasbourg agreement).

Nursing activities and competences were indicated by the “job description” that came into force on March 14, 1974, D.P.R. no. 225; a list of activities that the nurse could or could not do. The job description was very detested by the nursing staff because it did not allow professional autonomy, even if it “protected” from responsibilities. The job description was applicable in hospitals, public health services and drew important attention to the areas of prevention, treatment, rehabilitation and health care. Around 1978, the nurse was given the opportunity to play a didactic role (previously reserved for doctors and for the nursing-scientific part of the nuns) and to establish a relationship of trust with the patient and his family that went beyond the subordination of the medical figure. The teaching role of the nurse towards other operators and students was also recognized. For these reasons, the nurse was no longer considered “auxiliary health personnel”, but “health personnel”.

A period of stagnation followed, until Law no. 341 of 19 November 1990 introduced the possibility of activating a degree course; with Legislative Decree no. 502 of 30 December 1992, Art. 6, paragraph 3, the Italian regions were required - by 1 January 1996 - to enter into agreements with universities in Italy for the implementation of degree courses provided for by Law no. 341/1990. The decree also established the obligation to obtain a five-year baccalaureate for admission to the courses for the attainment of the university diploma, as well as in order to overcome the regime of schools it was stated that, on a transitional basis, the diplomas and certificates obtained under the previous system (nursing schools prior to the decree), were equivalent to the university diploma.

Another fundamental stage, besides the training one, was the working stage in 1994, with the creation of the professional profile of the nurse, the milestone in the evolution of the nurse. Ministerial Decree no. 739 of 1994 states that the nurse is responsible for general nursing care and specifies his interventions, operational fields, working methods and the relationship that the other health figure [1].

Law no. 42 of 26 February 1999 abrogates the job description and establishes the nurse’s Code of Ethics (revised in 2009 and 2019) with the integration of the 1996 nurse/citizen pact.

Art. 1 Com1 of this law states that: The name “auxiliary healthcare profession” in the consolidated text of the healthcare laws, approved by Royal Decree no. 1265 of 27 July 1934, and subsequent amendments, as well as in any other legal provision, is replaced by the name “healthcare profession”. The field of activity and responsibility of the health professions referred to in Article 6(3) of Legislative Decree No 502 of 30 December 1992, as subsequently amended and supplemented, is determined by the content of the ministerial decrees establishing the relevant professional profiles and the teaching systems of the respective university diploma courses and post-basic training as well as the specific codes of conduct, without prejudice to the powers provided for the medical professions and for the other professions of the health role for access to which the possession of the degree is required, in mutual respect of the specific professional skills”.

Not for nothing, the abolition of the job description has been compared by many, metaphorically speaking, to the demolition of the Berlin Wall.

Given the importance that these words have, the fundamental question is whether there is a convergence, as well as formal, even substantial, on the concepts that these words express.

**The Three Words are: Responsibility, Activity and Competence**  
“Before the professional profile we spoke of assistance as a response to a request from the person assisted or on activation of other professions, assistance in series through the performance of tasks, executive assistance based mainly on medical prescription also for assistance interventions, assistance for tasks focused on the nurse. After the issuing of the professional profile we speak of assistance based on a project, a plan, a program or a clinical path, individualized assistance that takes into account the real needs expressed and / or hidden and provides for the involvement of the person and the family, assistance designed and planned in collaboration with other health professionals, with the logic of multi and inter-professional intervention, care for objectives focused on the patient [2].

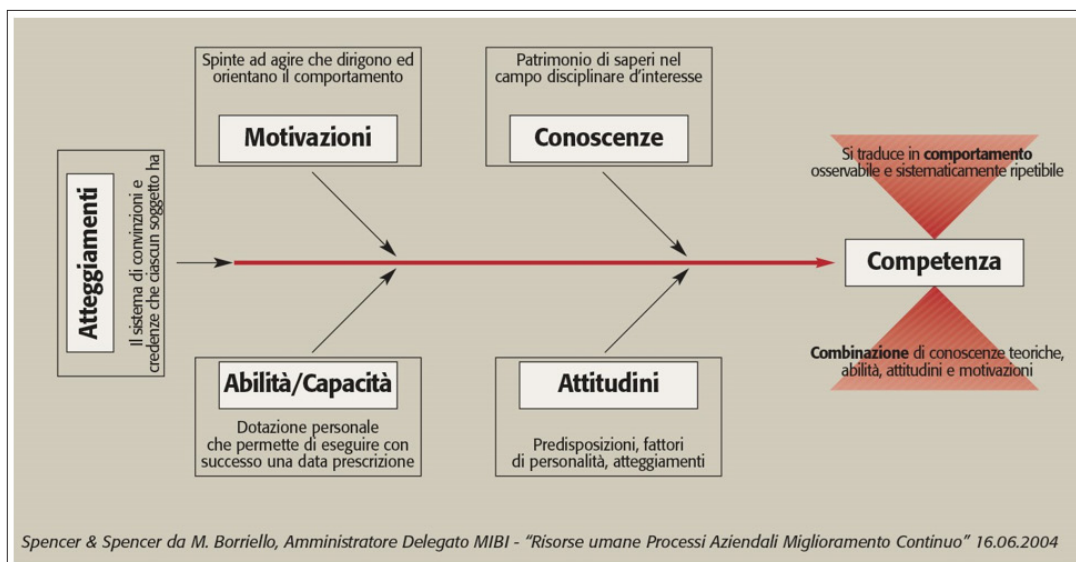


Figure 1: The various Areas of Expertise

Competence in terms of knowledge, skills/skills and behaviour is the added value of the professional, who is implemented in a given context to achieve a given purpose.(Figure 1) The mapping of skills leads to changes in the system in which the professional is placed because it implies “the analysis of different coordinates:

- Enhancement of experience
- Centrality of the subject
- Centrality of learning to learn
- Training as a continuous process [3].

**There are Different Types of Responsibilities with Regard to the Nursing Profession**

1. Criminal liability - resulting from the commission of a crime
2. Civil liability - resulting from the commission of conduct that causes unfair damage
3. Disciplinary responsibility - derives from the commission of a violence of a disciplinary regulation. Adopted by the employer.

**For this Reason, Nurses must refer in the Exercise of their Profession to**

1. Professional Profile
2. Basic and, where appropriate, post-basic training, as well as continuous training through ECM and FAD courses
3. Code of Conduct [4].

Compared to the Italian context, the experience in the Anglo-Saxon countries is very developed and can help to better delineate the profile of a nurse with this level of training; however, the definition of the specialist/advanced competence remains unclear [5].

So today the nurse is a health professional, has a professional profile and a Code of Conduct, based on autonomy and responsibility. “Autonomy” is a word of Greek etymology: from autōs (himself) and nōmos (law).

Autonomy is the condition of those who dictate the law to themselves, make their own laws, are free and independent, and govern themselves with their own rules. For autonomy to be possible and to be achieved, a high degree of self-sufficiency, of autarky is necessary: “autárcheia” as the word itself says “enough for oneself”. Today we have various tools that allow us to implement an autonomous welfare path.

The starting point is the development of our professionalism, which is identified in three fundamental elements:

- Knowledge: that is, from the set of knowledge, notions, information, etc., both general and specialist, which are acquired through studies and which must be continuously updated.
- Know how to do: that is, the ability to apply, to use, to put into practice the Knowledge already acquired through conceptual and/or manual skills for the performance of a specific task and/or task;
- To know how to be: that is, from those personal, psychological, character and socio-cultural characteristics that allow effective and efficient performance, ability to choose, to decide, to take responsibility, to act, to risk, to know how to organize and orient;

And let’s not forget “knowing how to do” (coordinate) and “knowing how to know” (correct training) [6].

Another fundamental step was the law n. 251 of 2000 “Discipline of nursing, technical, rehabilitation, prevention and obstetric professions” for which the nursing discipline became a three-year degree with access by means of a selection test with a limited number and allows nurses in possession of the qualification issued with the previous orders to apply for the equalization of the title and to be able to access the Specialized Degree in Nursing. The most important aspect of Law 251 concerns above all the recognition of the title also in applications for management functions. But it was only in the 2004-2005 academic year that the two-year Specialist Degree was realised in practice, making the nurse even more specialised and involved in the profound health changes. Article 1 of this law (Nursing and midwifery health professions) states that, in compliance with the three key ‘institutes’, “The health care professionals in the area of nursing and midwifery health professions shall carry out with professional autonomy activities aimed at the prevention, treatment and protection of individual and collective health, carrying out the functions identified by the rules establishing the relevant professional profiles as well as by the specific codes of conduct and using planning methodologies for health care objectives” [7].

The significant transformations that, in the last decade, have affected the evolution of the Italian nursing profession have led to

continuous and in-depth reflections on the new and more complex skills that the nurse is called upon to ensure in the practice of the profession, in order to improve care for users. Among the most recent innovations in terms of new academic specialisations, there is the figure of the legal nurse, for whom some Italian universities have activated a specific post-basic training course, following the path of the first level university Master's degree. The figure of the legal nurse translates into a professional specialized in the evaluation of every legal and jurisprudential aspect concerning the exercise of nursing care. It is, therefore, the birth and development of a new branch of our discipline - forensic nursing law - which aims to study the conceptual, methodological and practical aspects of the legal and legal dimension of nursing care, in order to promote its concrete application in a number of potential areas of employment development, such as: drafting protocols, in the evaluation of Risk Management.etc [8].

With the renewal of training, the expansion of skills and the acquired awareness of the profession, the concepts of responsibility and autonomy have become more effective [9].

The law n.43 of 2006, has underlined that for the exercise of the nursing profession there is also an obligation for professionals working in the private sector to the professional register (before it was implicit that all nurses did so because specified by Law n. 739 of 1994, but not mandatory). it is therefore clear that the nurse from simple performer and auxiliary has become active professional in the performance of his work, promoting teamwork (as reiterated by the code of ethics), and be responsible in various areas such as legal, health or territorial [10].

Law 23 December 2014, n. 190 paragraph 566 the so-called Stability Law represents an important step for the evolution of the profession, thanks to the approval of areas for the development of specialist skills "Without prejudice to the skills of graduates in medicine and surgery in the field of complex and specialized acts of prevention, diagnosis, treatment and therapy, with agreement between the Government and the regions, after consultation with the scientific, professional and trade union representatives of the health profiles concerned, the roles, competences, professional relations and individual and team responsibilities are defined for the tasks, functions and objectives of the nursing, midwifery, rehabilitation and prevention professions, including through complementary training courses. The implementation of this paragraph shall not give rise to new or greater burdens on public finance. Roles, professional.

Skills and individual and team responsibilities on tasks are called into question [11,12]. The origins of the forensic legal nurse.

The origin of the figure of the forensic nurse is to be found in the United States. In 1983 Faye Battiste Otto founded the first association of American forensic nurses, the American Forensic Nurses (AFN), which currently continues to train its members.

From the same group, in 1993 the International Association of Forensic Nursing was born, which today has about 3300 members and has relations with at least 22 countries in the world.

The official definition of forensic nurse, presented in 1998, is that of the IAFN itself: the profession of forensic nurse consists in the application of nursing knowledge to public or judicial procedures; it also consists in the application of procedures proper to forensic medicine, in combination with a bio-psycho-social preparation

of the qualified nurse, in the field of scientific investigation of the treatment of cases of injury and/or death of victims of abuse, violence, delinquency and traumatic accidents.

In Italy it is necessary to wait until the 2000s before the figure of the forensic nurse is recognized (he is still the first country outside the U.S. to define it), which happens with the establishment of the first university masters, between 2005 and 2006 [13].

### **The legal and Forensic Nurse in Italy**

#### **Definitions**

**Legal:** Di, of the law; which concerns the law: question, legal matter. Which complies with the law, which is permitted or established by law: powers, legal means; act legally [14].

**Forensic:** Which concerns the photon, that is, the judicial activity and all the people who carry it out. It is the space within which certain issues are regulated [15].

The university master's courses are organized according to the provisions of DM n°270 of 22 October 2004 and include first level training courses (following the Bachelor's Degree in Nursing) and second level (accessible only after obtaining a Master's Degree in Nursing and Obstetric Sciences).

It is, therefore, the birth and development of a new branch of our discipline - forensic nursing - which aims to study the conceptual, methodological and practical aspects of the legal and legal dimension of nursing care, in order to promote its concrete application in a number of potential areas [16].

The forensic nurse in Italy still has a long way to go, considering that general nursing care has changed profoundly only in recent years. In Italy, the forensic legal nurse remains in all respects a nurse, but he is invested with an overview of legal and forensic work and not only with the daily clinical vision. The forensic nurse must be able to express an objective assessment of the work and conduct of other nurses, as well as supporting health care professionals, and thus be able to establish criminally liable facts arising from nursing or care procedures and techniques, implemented with imprudence, inexperience or non-compliance with laws and regulations. The forensic nurse may find his field of action:

- **In the legal field:**

In the sectorial rooms, in collaboration with the pathologist anatomico physician. -for specific expertise with the function of supporting the medical examiner.

- **In the health field:**

In the health assessment of Risk Management at the health department, having adequate training to analyse critical care issues and prevent/reduce the incidence of nursing errors.

- **In the drafting of work protocols:**

In emergency departments for the assistance and management of victims of rape of physical abuse, psychological abuse, pathology of the provision of care and sexual violence.

In the territorial area (education and health information, with particular reference to the world of school and the prevention of drug abuse) [17].

### **The Revolution of Professional Responsibility**

Law 24 of 2017 (Gelli Law) The Gelli Law issued in March 2017 consists of eighteen articles dealing with various health issues, some already covered by Law 189/2012 (Balduzzi Law). The Gelli Law was created to give answers to those problems that wear out

our S.S.N. ruling on different arguments:

- It provides on the civil, criminal and administrative liability of health professionals involved in cases of professional negligence
- It regulates the procedure of elaboration, formalization and publication of the lines
- Ensuring the safety of care
- Obligation to insure health care institutions or self-insurance, creation of a guarantee fund for insurance cover.
- The law was born with excellent intentions and certainly the nursing class will play a key role in its implementation. The nursing profession will play a fundamental role in the implementation of the same for several reasons: the first because it is the predominant professional figure in the S.S.N and then because the safety of care is perhaps an intrinsic quality of the nursing profession.[18,19].

It is clear that the legislator wanted to make health professionals responsible in a civic sense, even before the legal one, by extending the semantic field of the term responsibility beyond the technical meaning of the legal lexicon.

It should be pointed out that Article 15 of the Gelli 24/17 law has established a special regime for technical ex officio advice and expert opinions for legal proceedings concerning health responsibility.

In civil and criminal proceedings, the performance of technical advice and expertise by the judicial authority - and only by the judicial authority - must be entrusted to a doctor specialising in forensic medicine and to one or more specialists in the discipline who "have specific and practical knowledge of the procedure" and who must be chosen from among the members of the registers.

Furthermore, it is established that during the revision of the registers - of these specific district registers and not of the registers of orders to be understood - they must be included "in addition to the medical-legal register", "an appropriate and adequate representation of experts in the specialist disciplines, referring to all health professions".

The substantial innovations are different: the obligation for judges and prosecutors to draw on the register, the obligation to form a college, to draw on specific skills of the health professions - other than medical - for procedures in which the professions themselves are involved.

Taking a step back, it was already expressed in Article 61 of Legislative Decree 196/2003, later amended by Legislative Decree 101/2018, that the professional association may "at the request of the person concerned, the professional association or college may also provide third parties with news or information relating, in particular, to special professional qualifications not mentioned in the register, or the willingness to take up positions or receive information material of a scientific nature also relating to conferences or seminars [18].

Note, however, that throughout Italy, not all courts have a specific register for legal nurses, but the latter are grouped in the category "Various": it is only in a few provinces such as Pordenone, Bologna, Caserta, Potenza, Rovigo, Sondrio that these professionals are present in a specific register.

The legal/forensic nurse in Italy can be consulted on illegal facts of nature:

- Criminal, for cases that constitute a crime.
- Civil cases, which require compensation for damages.
- Disciplinary, in cases of alleged violation of professional rules (employer).
- Ordinary/Disciplinary, which highlight violations of professional rules (college of origin).
- The forensic legal nurse should therefore be:
- qualified to assess any legal and jurisprudential aspect concerning the exercise of nursing care, competence in the relevant disciplinary area, collaborating on request and/or indication of the Judicial Authority, also as Technical Consultant Office (C.T.U.).
- Specialized in providing advice in the event of litigation, provide contractual / trade union advice, carry out training activities, advice and research in the specific field of nursing.

The involvement of forensic legal nurses is indispensable, who know the subject (the nursing profession), the means (the real circumstances in which the nurse operates) and the purpose of the action (any performances/acts under examination and the scientific rationale underlying them). Otherwise, acting solely on the judgments of the criminal court, without a critical and systematic reading of them, could emphasize the negative perspective of responsibility, a perspective in which the professional comparison between consultants remains the basis of the resolution. Although not everyone has a vision of responsibility in line with the Code of Ethics of the nursing profession, which guides and encourages the nurse "in the development and ethically responsible behavior, indicating that nursing care is at the service of "the person and the community".

## Results

There is little scientific evidence about how this figure is used in our working environment. The reading suggests that the best way to better understand the situation is a survey of legal professionals throughout Italy.

A survey of 48 legal practitioners was carried out using the Survey Monkey website as a free online survey tool and samples were identified through forensic nursing associations such as APSILEF (Associazione Professione Sa-nitario e Italiano Legale Forense) without conflicts of interest and was carried out free of charge. Participants responded to the questionnaire on a sample of 147, a low response rate even though the number of legal professionals is much higher (Master's degree started in 2005). The result of the survey shows from this survey shows that the professionalists who have undertaken this training (62,50%) are with more than 15 years of experience; 16,67% from 12 to 15 years of experience; instead, professionals between 8 and 11 years are only 12,50%; regarding the years of work from 4 to 7 years only 6,25% of professionals; only 2,08% has less than 3 years of work. It turns out that 58,33% of professionals have a degree course a considerable percentage towards the 29,17% of professionals who performed the Regional Course. The post-basic training course attended by 57,45% of the respondents who followed the Online Master to the residential Master 42,55%, the Master was very useful in the workplace for 53,19% of professionals to 25,53% of those who have never used in the workplace. One of the weak points of the survey is that this acquired competence is not recognized in the workplace according to 43,75% of professionals, compared to 22,92% of respondents who have a positive view of their work as forensic nurses and are recognized for responsibility, but 20,83% are appreciated only by a small working group. The law Gelli 24/17 "the law of stability" is known for the 50% of the interviewees that shows a partial deepening of the laws, but only the 65,96% of the interviewees

know the existence of a specific register for the health profession, in comparison with the 21,28% that has no idea of which category the health professions are part of and the 12,77% that has included the register in the category “ Various”.

### Conclusion

According to the sample collected in Italy, health professionals are qualified, having acquired skills during their career and training, but are unable to put into practice the skills acquired and do not feel valued while learning to achieve a level of excellence, The Laws have been approved to demonstrate that in our country the figure of the nurse is important and valued recognizing the responsibilities that fall to it, only that in the workplace, application and legislation is still little known, therefore little demanded by health care organizations as always managed by other professional figures such as the doctor who manages the Clinical Risk.

The path of the nurse in Italy differs from that of other countries, but the current regulations have given the opportunity to an important professional growth from all points of view responsibility, autonomy, skills, this is also because the nurses themselves feel the need to operate safely and offer accurate care.

### Considerations

The role of the forensic nurse in Italy should be developed as a clinical nurse or as a professional nurse and the most important should be used precisely for the specific skills in different areas.

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