

Nurses Qualify to Testify about Causation

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In [Frausto v. Yakima HMA, LLC](#), 393 P.3d 776 (Wash. 2017) the court held that an Advanced Registered Nurse Practitioner (ARNP) could qualify to provide causation testimony in a pressure ulcer case. The court based its holding, at least in part, on the Washington state statute empowering ARNPs to diagnose illnesses. The court noted that a majority of jurisdictions (Idaho, Kansas, Nevada, New York, North Carolina, Ohio, Oklahoma, and Pennsylvania) allow nurses to provide causation testimony in medical malpractice cases. While the District of Columbia and Maryland were not mentioned in the Frausto opinion, Virginia was described as a jurisdiction where the law arguably allows such testimony (citing [Bush v. Thoratec Corp.](#), 13 F.Supp.3d 554, 557 (E.D. La. 2014) (federal court interpreting Virginia law).

The [District of Columbia Nurse Practitioner Act](#), D.C. Code § 3-1202.02, defines the ARNP scope of practice to include making diagnoses. Further, even a Registered Nurse is empowered to synthesize diagnoses and make nursing diagnoses. If the Frausto court's rationale applies here, ARNPs and possibly even RNs in the District could qualify to give causation opinion testimony.

One of our more recent appellate cases also focuses on the importance of experience making diagnoses in determining whether to admit an expert's proffered opinion. In [Dickerson v. District of Columbia](#), 182 A.3d 721, 728, (D.C. 2018), the court noted that while a physician need not be a specialist in the field about which s/he is testifying, it is also not true that *anyone* familiar with basic anatomy can render admissible medical opinions. The Dickerson court held that an expert, who never *diagnosed* a pinched nerve, was properly prevented from testifying about it even though the expert was familiar with the treatments for the condition.

In sum, medical malpractice litigants might be able to have a nurse witness cover both the standard of care and causation bases. In D.C., the admissibility of causation testimony from a nurse has not, to this writer's knowledge, been explicitly addressed one way or the other. Until such a case exists, this defense lawyer will continue to have a physician to address causation, just in case.

TAGGED: [Frausto v. Yakima HMA LLC](#), [Advanced Registered Nurse Practitioner](#), [Bush v. Thoratec Corp](#), [District of Columbia Nurse Practitioner Act](#), [Dickerson v. District of Columbia](#)