



FOR THE RECORDS

Isolating and Evaluating Medical Issues Since 1992

Evidence In Negligence Cases

10th edition

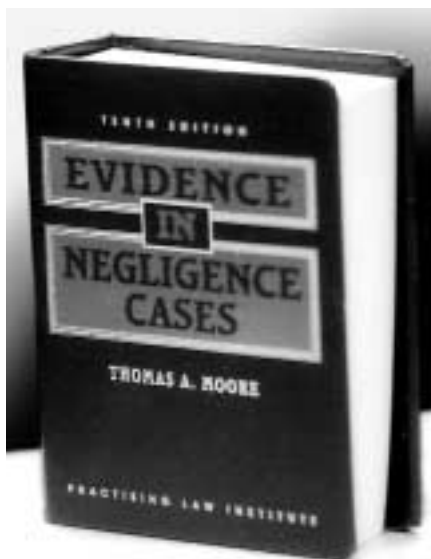
Medical Records Review Service, Inc. (MRRS, Inc.), has again been included in the most recent release (#3) of Thomas A. Moore's book, "Evidence in Negligence Cases - Tenth Edition" published in December 2000 by the Practising Law Institute. Mr. Moore practices law in New York City at the law firm of Kramer, Dillof, Livingston and Moore. The February 7, 2000, issue of *Lawyers Weekly USA* stated, "His trial victories are built on a trinity of strengths, according to colleagues: Passion, preparation, and case selection."

"We are very excited about the use of our work product in Mr. Moore's book. This is a well-respected publication familiar to most attorneys who practice in the areas of medical malpractice and personal injury. Inclusion of our forms and the mention of our work is high praise coming from this author and we are thrilled to be a part of such a well-respected text," says Theresa Thoman, President of Medical Records Review Service, Inc.

"Evidence in Negligence Cases - Tenth Edition" is a legal textbook used by attorneys throughout the country as a guide to preparing personal injury and medical malpractice cases for trial. Mr. Moore cites MRRS, Inc. in Chapter 1, The Preliminary Investigation; Chapter 7, Recoverable Damages and Complicated Judgments; and in Chapter 15, Cross-Examination.

The forms and sample work products provided in Chapter 1 outline part of the process of obtaining the essential medical documents, organizing the records, preparing a chronology of the documented medical events, and securing a medical expert. Obtaining comprehensive medical records stands as a critical piece of the evidence. Mr. Moore recognized MRRS, Inc.'s system of acquiring comprehensive records, followed by organization and pagination of the documents, as one of the first steps in preparing the case for analysis. The forms and examples include, in part, the Medical History Questionnaire, The Components of Comprehensive Medical Records, the Work Products list, and the Work Products Request.

The author also included the Educational Briefing Book (EBB) table of contents. The EBB contains basic reference material for a case of a female who presented to an emergency room with a myocardial infarction (MI). (The EBB was profiled in the last edition of this newsletter.) As the case progressed, the initial reference material was supplemented with increasingly specific journal articles. The EBB allows the attorney to become familiar with the pathophysiology of the MI, the standard of care, standard diagnostic tests and treatment modalities.



Four other examples included in Chapter 1 are the Comprehensive Chronology, Proposed Questions for the Deposition, Abstract of the Deposition of a physician, and the Integrated Abstract of Depositions. The Comprehensive Chronology of Significant Medical Events, annotated with authoritative reference material, allows the attorney to understand how the medical events unfolded, to identify potential defendants and to begin to recognize the primary issues. (See page 3 for a more detailed description of the Comprehensive Chronological Report.)

The Proposed Questions for the Deposition illustrates how medical questions can be formatted and annotated to assist the attorney in his or her preparation for a physician's deposition. After the depositions, the testimony is compiled by topic to assist the attorney in consolidating hundreds of pages of testimony into a form for quick reference.

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Evidence In Negligence Cases (Continued)

In Chapter 7, the author included the table of chest pain, provided by MRRS, Inc, which illuminates the documented occasions on which the plaintiff suffered pain. This chart, as one of several tactics described in the book, assists the attorney in convincing the jury of the plaintiff's pain and suffering.

In Chapter 15, Cross-Examination, the author chose two other sample work products to illustrate the various means to prepare for cross-examination. The first example shows the results of an on-line search and is one way to identify and obtain authoritative medical journal articles. The exponential growth of the Internet now allows the attorney time saving access to authoritative textbooks as well as journals. The second example, Compilation of Citation from the Authoritative Literature, compiles authoritative literature by topic, allowing the attorney a quick reference guide during cross-examination.

Some large firms like Kramer Dillof, Livingston and Moore have the resources to hire medical professionals in-house to perform the tasks described above. However, for many firms it is cost effective to retain outside consulting experts, such as MRRS, Inc., for the detailed work required to prepare the medical aspects of a case.

"Evidence in Negligence Cases" is available through the publisher, Practising Law Institute Press, 810 Seventh Avenue, New York, NY 10019, and by telephone (800) 260-4754, fax (800) 321-0093 or their web site www.pli.edu.

If you would like additional information regarding the services mentioned in "Evidence in Negligence Cases", please contact us at (515) 244-6777 or (800) 984-6777.

THE BLACK BAG

Profiles of Support Services - Peter Neubeck

Legal video settlement and Day-In-The-Life programs are used to increase settlements and awards in catastrophic injury and death cases. These multi-million dollar cases often require professional video support to leverage settlements. The programs enable attorneys to document and convey the real impact of injuries. Physical, mental, and emotional damages, as well as financial costs, become apparent and are reflected in higher settlements.

Peter Neubeck, a nationally recognized legal video producer in Minneapolis, recently worked with Steve Eckley from the Duncan, Green, Brown, Langeness & Eckley, PC law firm and Medical Records Review Service, Inc., in a difficult medical malpractice case involving a child with mental and physical challenges resulting from birthing problems. The damages were not readily apparent by just looking at the child. Neubeck's video settlement program followed the child's activities at school and at home. He showed the boy doing activities next to a normal child to compare performance. The problems and life consequences were compactly documented with video of the child, comments from his parents and teachers with explanations related to testing, academic achievement, and social and emotional maturity.

Successful legal videos require a knowledgeable producer who understands rules of evidence and who can also make the victims comfortable enough to open up verbally and visually. These video programs are powerful tools used by attorneys to leverage higher settlements.

To obtain additional information about how a Day-in-the-Life video might help your case, call Peter Neubeck at (763) 377-6027 or e-mail Peter@PNVideo.com.

UPCOMING EVENTS

Lorna Morelli-Loftin, RN, LNCC and Theresa Thoman will be speaking in **New York City** on **May 5, 2001** at the 2001 Bridge-the-Gap CLE Weekend sponsored by the **Marino Institute for Continuing Legal Education (MICLE)**. Their topic will be **Medical Malpractice: Analyzing the Medical Records**.

Theresa Thoman with Jackie Armstrong from the law firm of Brown, Kinsey & Funkhouser, PC will speak at the **Advisory Committee's Workers' Compensation Annual Symposium** on **June 14, 2001**, at the **Hotel Fort Des Moines, Des Moines, IA**. Their topic has been titled "**Medical Records: Can You Get It? What Should You Get? How to Get It?**"

Medical Records Review Service, Inc. will be exhibiting at the **Iowa State Bar Association's Annual Meeting** on **June 20 - 22, 2001** at the Downtown Marriott in Des Moines, IA.

COMPREHENSIVE CHRONOLOGICAL REPORT

On your desk sits a case with over 3000 pages of medical documentation from a 35-day hospitalization in the intensive care unit. Another is a case of a 35-year-old male smoker with a history of five previous back surgeries and hypertension. Yet another case involves a 56-year-old female who experienced a poor outcome following reconstructive surgery and who has gone to every doctor, clinic and hospital in the tri-state area. How will you identify the important information? How can you organize the documentation to make sense of what really transpired?

MRRS, Inc.'s Comprehensive Chronological Report preparation begins with organization and pagination of the records. This report provides the attorney with an in-depth review of the records and identifies the important issues in the case. Registered nurses complete a comprehensive visual review of the records and prepare a chronological reconstruction of the significant medical events including the appropriate page number with each entry. Cases with voluminous records or with multiple providers will begin to come together to reveal the story of what transpired.

After the documented facts have been dictated and sorted chronologically, the nurse reviewer will add inset

boxes highlighting the medical literature that describes the procedure, disease or treatment process. Key tests, omissions, missing records, referrals and possible contributory negligence by the plaintiff are described. The format and detail of this report provides easy reference for focusing on the critical events while preparing for deposition and trial.

*How
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important information? How
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tion to make sense of what
really transpired?*

In a medical malpractice case, the insets will also include potential deviations from the standard of care and reveal potential defendants.

Since it is not enough to say there has been a deviation from the standard of care, reference to the appropriate source for the standard as well as a discussion of what happened or what should have happened is included. The Comprehensive Chronological Report clarifies the key medical issues through description of the documented events integrated with the inset boxes of the nurse reviewer's analysis. Therefore, patterns or chains of events that were unclear when looking at individual records become easily identifiable with this report format.

To discuss how a Comprehensive Chronological Report can benefit you, please contact MRRS, Inc., 208 South Main Street, Grimes, Iowa, 50111-7735. Phone: (515) 244-6777 or (800) 984-6777. Fax: (515) 986-0677. E-mail: mrrsinc@netins.net.

THE FIFTH VITAL SIGN: Pain Translates Into Numbers

On January 1, 2001, the Joint Commission for the Accreditation of Healthcare Organizations (JCAHO) released its revised pain management standards for all patients in health care institutions. Pain is to be measured with the same regularity as the other vital signs of blood pressure, pulse, temperature and respiration. Healthcare organizations are now required to document pain assessment information by date and time, location of the pain, quality (such as aching, burning, shooting, etc), intensity, and method of relief (such as medication, relaxation, heat, massage, etc). They must also record what, if any, relief was obtained as well as how long it took for relief, the amount of relief obtained, and any side effects.

How will this assist the trial lawyer? The records generated by the new standards will enable the trial lawyer to objectively describe an intangible injury. The documented assessments will translate the patient's pain into numbers, resulting in an abundance of information useful to the jury in evaluating and quantifying the plaintiff's conscious pain and suffering.

Look for details regarding this topic in the next issue of **FOR THE RECORDS.**



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Featured Client: Stephen R. Eckley, with Duncan, Green, Brown, Langeness and Eckley, PC, a law firm in Des Moines, Iowa, is a valued client. Over the past three years, MRRS, Inc. has been privileged to assist Steve with a complex birth injury case. Lorna congratulates Steve on his recent successful settlement of this case.

WHAT DO YOU KNOW?

You have just received medical records concerning the delivery of an 11 lb 2 oz infant. During delivery a shoulder dystocia was encountered. Can you identify these common abbreviations that may be found in the medical records?

1. LGA
2. GD
3. GTT
4. FH
5. EFW
6. BPP

ANSWERS to What Do You Know? 1. Large for gestational age; 2. Gestational diabetes; 3. Glucose tolerance test; 4. Fundal height; 5. Estimated fetal weight; 6. Biophysical profile. Source: *Stedman's Abbreviations, Acronyms & Symbols, 2nd Ed., 1999*