Medical Records and Evidence: Solving the Jigsaw Puzzle

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First, a Funny

Charting Bloopers

- Patient behavior: “The patient refused an autopsy.”
- Signs & symptoms: “She is quite hard of hearing. In fact, she can't hear at all in the left eye.”
- From one fertility consultant to another: “Between you and me, we ought to be able to get this lady pregnant.”
Number 1 Rule

DO NOT PANIC!

Take a deep breath.
Make a plan.
Start with the key date of service, i.e.
THE ALLEGED INCIDENT

5 Tips for Paralegals

- Know laws re: obtaining and disclosure of medical records, as well as contact with medical providers.
- Keep medical record release forms for frequently contacted medical providers.
- Obtain an itemized billing statement from each medical provider.
- Have a working knowledge of basic medical abbreviations.
- Prepare a medical record summary for each client.

Obtaining Medical Records

- Paralegals play key role in the management of injury cases by obtaining, organizing and summarizing medical records.
- Know how to obtain records, when to disclose records, how to read and understand the records, and how to organize the records.
Ethical Considerations

- Know laws regarding who can obtain medical records and under what circumstances.
- Know HIPAA requirements when contacting medical providers.
- Patients can obtain own medical records or sign a HIPAA compliant medical authorization allowing other parties to obtain medical records and communicate with medical providers.
- In some cases, defendants may have access to records, i.e. medical malpractice or workers’ compensation.

The Health Insurance Portability & Accountability Act of 1996

Ways to Contact Medical Providers

- Correspondence via United States Postal Service with original release.
- Via facsimile with copy of HIPAA compliant medical release attached.
- E-mail (depends on provider)
- Online medical record retrieval companies.
- Picking up records personally from provider (with release).
REQUEST ELECTRONIC COPIES

- http://www.hhs.gov/hipaa/for-professionals/privacy/guidance/access/

Ways to Organize Medical Records

- Group by medical provider, then chronologically or in reverse chronological order.
- Chronologically, regardless of provider.
- By record type, such as diagnostic reports, operative notes and office notes.
- Index so records may be quickly located by anyone in the firm.

Organizing Records Electronically

- Faster, Less Expensive, Create Master Bookmarked PDF Set First
Verify Complete Set of Medical Records

“Lynne’s Law”: Every medical record should be matched to a date of service on an itemized billing statement from the medical provider, and every date of service on an itemized billing statement should be matched to a medical record, with a corresponding date of service.

Review & Summarize Medical Records

Simultaneously review and summarize injured workers’ medical records. A medical summary can be used to:

- Evaluate claims and defenses.
- Calculate statutes of limitations & avoid missing other actionable injury claims.
- Reference while talking to the clients and experts about medical issues.
- Review medical providers’ itemized billing statements
- Reference when drafting documents.
- Prepare for and reference during a mediation, deposition or hearing.
- Reviewing Medicare conditional payments

Medical Summary of Joe Smith
DOI: 01/24/2007

<table>
<thead>
<tr>
<th>Date</th>
<th>Provider</th>
<th>Doctor</th>
<th>S</th>
<th>O</th>
<th>A</th>
<th>P</th>
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<tr>
<td>01/24/07</td>
<td>USA Family Care</td>
<td>Smith, Joe</td>
<td>Injured low back moving Xmas tree</td>
<td>Tenderness to palpation L 4-5</td>
<td>Lumbar strain</td>
<td>Alternate heat/ice</td>
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# Medical Summary 2

<table>
<thead>
<tr>
<th>DATE</th>
<th>PROVIDER</th>
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<tr>
<td>09/01/16</td>
<td>Wake County EMS</td>
<td>Ambulance, Transport to UNC</td>
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<td></td>
<td></td>
<td>ADM: 09/01/16 – 09/07/16</td>
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<tr>
<td></td>
<td></td>
<td>UNC, Surgery: Colonostomy</td>
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<td>09/01/16</td>
<td>UNC</td>
<td>ADM – H&amp;P – Dr. John Smith – p.</td>
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<tr>
<td>09/02/16</td>
<td>UNC</td>
<td>Radiology – MRI – ordered by Dr. John Smith, read by Dr. Sarah Jones</td>
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<tr>
<td>09/03/16</td>
<td>UNC</td>
<td>Surgery – Colonostomy – Dr. John Smith</td>
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<tr>
<td>09/17/16</td>
<td>Wake GI Surgery</td>
<td>Office Visit – Dr. John Smith</td>
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<td></td>
<td>PT</td>
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## Key Issues in Medical Summaries
- What medical treatment has the injured worker received to date?
- What are the injured worker’s most recent restrictions?
- What medications were last prescribed for the injured worker?
- When is the last time the injured worker saw a doctor?
- What is the injured worker’s current treatment plan?
- Has the injured worker reached maximum medical improvement (MMI)?
- Has the doctor provided impairment ratings?

...and writing my medical records using the same secret code...
Use SOAP to Summarize Medical Records

- **S** = Subjective, patient’s self-reported complaints and history regarding the cause of injury.
- **O** = Objective, doctor’s clinical or physical exam findings, including diagnostic tests.
- **A** = Assessment, doctor’s diagnosis.
- **P** = Plan, doctor’s recommended course of treatment.

Medical Summaries Highlight Key Issues in Injury Cases:

- Causation of the injury or illness reported by the patient.
- Pre-existing issues/injuries/stressors
- Diagnosis.
- Treatment plan.
- Prognosis.
- Permanent impairment or ratings of body members.
- Maximum Medical Improvement ("MMI").
- Extent of Disability or Work Restrictions.
- Future medical needs.

Sources of Information for Medical Summaries

- Medical records
- **Medical bills and prescription printouts**
- Client history & updates
- Medical case manager updates
- Carrier/administrator claim files
- **Explanation of Benefit (EOB) statements**
- Personnel file
- Discovery responses
- Oddly, social media
**Prior/Unrelated Medical Treatment Used To:**
- Respond to interrogatories.
- Identify unrelated medical conditions.
- Determine other possible causes of the patient’s current condition.
- Complete Medicare questionnaires & review conditional payments.
- Prepare clients to testify at a hearing or deposition.
- Prepare to cross-examine patient at a hearing or deposition.
- Provide to medical experts.

**Have a Working Knowledge of Basic Medical Abbreviations**
Numerous online sources to look up:
- Medical abbreviations
- Medical definitions
- CPT “Current Procedural Technology” Codes
- ICD-9 “International Classification of Diseases” Codes

**Paralegals Perform Medical Research to:**
- Educate the firm about the nature of the injury and/or illness.
- Educate the firm about symptoms, treatment and prognosis of the injury and/or illness.
- Educate the firm regarding the general causes of the injury and/or illness.
- Obtain copies of medical and scholarly research articles.
- Locate experts in the subject medical specialty.
- Obtain basic illustrations and diagrams of standard injuries and/or conditions.
Contact Medical Providers
Under Supervision of Attorneys Because
Documents May Be Discoverable
- Request copies of medical records and/or the chart in its entirety.
- Request copies of disability statements.
- Request copies of prescriptions for medications and durable medical equipment.
- Request copies of correspondence.
- Request medical necessity letter.
- Request estimate of future medicals

Providing Documents to Doctors
Paralegals should not provide any medical records (or other documents) to a doctor unless requested to do so by a supervising attorney. These documents may be discoverable by or disclosed to the other parties. All documents submitted to a doctor for review should be selected carefully and reviewed by a supervising attorney prior to being sent to the doctor.

Unpaid Medical Expenses
- Request a complete itemized statement.
- Request a printout of medical expenses paid by the carrier (if any).
- Carefully review medical bills provided by clients.
- Prepare a summary of unpaid medical expenses – use Excel!
### Excel Spreadsheet Can Be Mini-Summary

<table>
<thead>
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<th>DATE</th>
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<th>SERVICE</th>
<th>CHARGE</th>
<th>BCBS</th>
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### Preparing for Medical Depositions

- Verify the firm has a complete set of medical records.
- Review the chart of the doctor to be deposed, which may include making an appointment to review the original chart if you have authorization/release.

### Complete Medical Charts May Include:

- Office/Triage/ER Notes
- Diagnostic Reports (Imaging & Lab)
- Consultation Reports
- Operative/Procedure Reports
- Registration/Intake Form
- Patient Questionnaires
- Nurses’ Notes
- Prescription Logs
- Correspondence to Other Providers
- Referral Sheets
- Disability or Work Notes