

How to get better medical reports

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This article is not about finding more sympathetic doctors, rather it will try to explain how to get more cooperation from the doctors you are lumbered with, in order to obtain medico-legal reports and treatment for your client. In all this, it is important to remember one fact: you may not be able to turn your consultant doctor on, but please try not to turn him or her off.

Part I: Avoiding the turn-off

a) The medico-legal referee

Referring letters and information on the client are important, however, "what no to do" is perhaps best explained by a couple of true examples.

Case 1: *I was presented with a two-page referring letter which told me one fact, the patient's name. Fortunately the patient remembered the date of the injury (which they usually don't) and I took a careful detailed history of the twisted knee at work, spent time carefully examining him, and shuffled through a large number of x-rays. As he was leaving the room he looked rather puzzled and said "but that case was settled last year, I'm really here about my car accident." Sinking feeling, count to 10, start again from the beginning.*

Case 2: *The file is an inch thick. A brief preview of the first few pages indicates a hand-in-machine injury. The referring letter is so detailed it quotes half page extracts from six different reports and lengthy explanations of Case Law. The patient spent time in hospital because of a tendon graft to a finger with an excellent result. Examination revealed minimal disability, I spent an hour reading nursing notes of bowel actions and sleep patterns. Infuriatingly the junior secretary had stood at the photocopier dreaming of her last tryst or her next tryst and therefore I received four copies of a blank temperature chart and one illegible dark copy of the operation report.*

There is no surer way to delay a reply than to send a huge file with a long list of questions. It goes straight to the bottom of the pile. Many solicitors, very conscientiously and in a spirit of utmost cooperation, send a copy of the whole file to the

consultant. Although the spirit of this is appreciated, the size of the file is somewhat daunting.

While recognising that it may be more time-efficient for a solicitor to simply send the whole file to the doctor, it would be less discouraging if a quick selection could be made so as to send only helpful and relevant documents.

b) The treating doctor

For the busy clinician (especially surgeons) dictating reports is irritating. Even brief letters to the referring GP's are often done as a necessity rather than a pleasure. This is a totally opposite point of view from lawyers whose work is largely represented by words on paper. Understanding this, the lawyer will realise that he will have to inveigle his medico into feeling relaxed about wrestling with the unfamiliar or the unpalatable (see Part II).

Remember too that lawyers charge by the minute but doctors don't. Thus, sitting down for an hour with a large file may be grist to the legal mill but will be pebbles in the doctor's shoes.

Part II: The turn-on

Obviously to turn someone on you must first avoid turning them off:

"I refer to the above matter and represent the above-named in an action resulting from blah blah blah.... In order to further my client's claim it is necessary to obtain a full and detailed medical report..." and so on.

If the doctor has proceeded further than the letterhead, this type of opening gambit is just that - a losing move, not a turn-on at all. The doctor will feel demotivated.

Why not try seduction, something like this: *"Your patient has asked me to represent him and in order to hasten the payment of medical accounts and other fees it would be helpful if you would forward a report..."*

Hints when qualifying a medico-legal consultant:

- Ensure your referring letter is clear and succinct

- Minimise legalistic terms - you are not writing to a lawyer
- Include (as well as the patient's name) the date of the injury - mostly they cannot remember the exact date
- the injury (see Part I Case 1)
- whether it is workers' compensation or motor vehicle accident or fall in shop, etc
- a simple list of requirements: diagnosis, restrictions, prognosis, treatment, percentage (if required) and whether you want this in a separate report
- all X-ray reports and operation reports
- an offer of other reports if available, eg, neurologist reports or EMG etc.

It is advisable not to include:

- pages of legal communication between lawyers which have no medical meaning no matter how exciting they may be for the legal mind
- particulars of negligence, ie, client did not control the vehicle, etc, timetable for motor accident list, affidavits of service, and similar weighty documents
- out-of-pocket expenses unless you want a special comment on these. Sometimes they are a real eye-opener but they don't influence the diagnosis and opinion of the consultant doctor
- letter from the hospital saying they agree to reply to your letter, etc.

If I, for my own reasons, have to write to a lawyer, I bear in mind that he will be reading it from a legal point of view, thus I will not expect him to wrestle with irrelevant trivia which will have no bearing on the legal situation. In the same way, when you write to a treating doctor requesting a report, try to write as though you are communicating with a non-legal person (sometimes even an "anti-legal" person).

Unfortunately, it is you, the lawyer, who must accept a fact of life: from the moment the consultant doctor sees your letterhead, you are starting from behind scratch.

"One man's Mede is another man's Persian". ■

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