

ATTORNEYS' GUIDE TO MEDICAL RECORDS

Review by Mark Mandell

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The Attorneys' Guide to Medical Records is well written, comprehensive and discusses many very interesting issues relating to medical records. Beginning trial attorneys will find it a valuable tool as its information is presented as a basic nuts and bolts level in a detailed and orderly compendium.

On the credit side, the book is well written, easy to read and fairly well organized. The topics covered are comprehensive and very stimulating by subject matter. The basic how-tos provide an introductory education for beginning trial lawyers.

On the debit side, the book provides very little in-depth analysis. Although it touches on many different issues, too many are addressed only cursorily.

Presentation of the material ranges in quality as well as quantity. On the one hand, many very interesting topics are covered, i.e., what to look for in progress notes, physicians' orders and nurses' notes. On the other hand, the analysis which does exist is too often inadequate (i.e., the analysis concerning "the role of the expert" is only one page long, at pp.3-57).

Chapter 1 on "obtaining client records" uses very helpful forms from initial interview to request for records forms. A number of relevant issues

are addressed, i.e., who actually owns the records (§121), costs of obtaining records (§120), obtaining records from the potential defendant (§130) and from third-party health care providers. The discussion on ex parte communication with treating physicians is relevant and concise.

Chapter 2 on "The Hospital Record" is the most helpful and informative chapter in the book. Section 200 provides a good listing of the various parts which make up a medical chart. Reference by the writer to the standards of the Joint Commission on the Accreditation of Hospitals shows knowledge gained through experience.

Section 201, on the philosophies of documentation is thought-provoking and informative. The discussion in §203 of consent documents and apparent agency is too brief and rather weak. Section 204.1 provides a helpful analysis of the physicians' obligation to review prior records.

In Chapter 2 the author once again provides excellent forms. An example is the sample "History and Physical" in §204. As previously mentioned, the sections on what to look for in progress notes (§206.4), physicians' orders (§207.1), and nurses' notes (§208.4) provide valuable insight, especially for a novice in reading medical records.

Chapter 2 also provides a very helpful listing and definition of many important parts of hospital records; i.e., intake and output sheets, radiology records and EKG records. Section 266 deals with the novel area of the evidentiary admissibility of videotaped operations. The clear analysis of how to review pre-anesthesia and anesthesia records is done very skillfully. The sections on obstetrics and emergency room records are too brief, and provide, therefore, very little useful information.

Chapter 3 is noteworthy, especially for its discussion of "Time-Sequence Flow Sheets" (§310). The example provided is good, although very basic. A very good sample settlement brochure is provided (§323).

Chapter 4 addresses a number of esoteric, yet very interesting subjects. The Freedom of Information Act, The Federal Privacy Act, The Privacy Protection Commission and other federal legislation is discussed clearly and informatively. Many interesting subjects concerning patient confidentiality, i.e., "Foreseeable Threats to Third Parties", are covered although too few are covered in any depth at all.

Chapter 5 deals with the critically important area of "Lost, Shredded or Doctored Records". This chapter unfortunately merely points out the areas of concern by name. Whatever analysis is offered is sparse and of little help (i.e., §550 on remedies for destruction of records offers only three case cites). The one bright spot in this Chapter is §543 on "suspicious records".

Chapter 6 provides adequate forms of interrogatories and requests for production. There is a very interesting section on incident reports (§650).

Chapter 7 on using medical records at trial is not noteworthy. Appendix B -- "Common Laboratory Tests: Ranges and Values" is very helpful and a valuable tool.

CONCLUSION

This is a highly technical yet easily understandable volume. All in all, it is informative and covers some intriguing subjects. This book would be an excellent basic resource for newer trial attorneys.