



PHYSICIAN LEGAL CONSULTANTS OF NEBRASKA LLC

Physicians Helping Attorneys Helping People

(402) 617-6103

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NEWSLETTER

What Kind of Case is Appropriate for Early Medical Consultation?

Physician Legal Consultants Response:

We are often asked the same question: “When will early medical consultation really make a difference in my case and how much does it really cost?” We understand that many of you have extensive experience in either personal injury or medical malpractice cases. We have also come to learn that the more traditional way of using medical consultants is to get physicians involved when a problem arises in the case. We also know consideration must be given to the expense involved versus financial advantage in using medical consultation in the early stages of a case. Medical consultation can be quite expensive and not always a good value for the money spent. In fact, we have gotten feedback that some doctors are charging fees in excess of \$4000 for answers to some rather simple questions, but on a limits case it may be necessary to pay their fees.

We want to present two that will help answer this month’s question. We thought you might find it interesting for us to give some examples regarding early consultation adding significant value and real help for you and your clients.

Case 1

In a complicated personal injury case involving an automobile accident a man died on scene in the collision. This man was the husband in the front passenger seat in a car driven by his wife. The other driver was clearly at fault and the process was moving along to recover damages. The wife of the deceased man suffered serious chronic physical injuries – but also suffered emotional/mental injuries including a very severe Post Traumatic Stress Disorder. Interestingly, she decided to settle a portion of her case (the wrongful death portion) without her attorney. Because of the severity of the client's symptoms and poor response to the psychiatric/psychological treatment, one of our consultants was brought on board. It was through a review of the medical file, a search of the current medical literature, along with a face-to-face interview with the client, that it was quickly evident to the consultant this client's behavior (settling a case without her attorney, reducing the frequency of her psychotherapy sessions, etc.) was diagnostic not only for severe PTSD, but also deep seated psychological issues that had a significant bearing on case value for pain and suffering and anticipated future medical costs. This fact had not been previously considered by the treating doctors and has given a fresh face to the case. The treating psychotherapist was open to accepting another theory of the case and a suggested course of psychiatric treatment. It is likely that the findings will lead to significantly more monetary compensation to the client. This is a case of finding less than obvious facts, easily overlooked if not for the expert, that has had major implications for settlement and the client's prognosis for a better recovery.

Case 2

In a personal injury case, the auto accident occurred at a low speed impact; however, the client, a young woman, sustained a debilitating nerve injury. She was a restrained passenger in a rear end collision – with the assaulting vehicle being a full sized semi-truck. Her symptoms were initially a “sore” shoulder and neck. Over time her clinical picture progressed into a devastating case of Thoracic Outlet Syndrome.

As one would expect, the defense team opined that the impact occurred at a velocity too low to cause serious injury. Our consultant was able to find a plethora of medical literature from well-known authorities to unequivocally show causation. Articles included a landmark study showing that carnival “bumper cars” have enough velocity to, in some situations, elicit serious injury. Another

article in the medical literature demonstrated the cascade effect that occurs in these types of injuries. Clearly a minor injury in people with a genetic predisposition leads to devastating sequelae, negating the common defense argument that the genetic deformity is the cause of a person's pain – not the semi-truck that rear ended them. Finally, an article from the medical literature demonstrated that the diagnosis of this malady is not simply a diagnosis made by EMG (Electromyography) or any other test (as is claimed by some) – but rather a clinical diagnosis best made by a physician with vast experience with these kinds of problems, considering the history, physical exam and finally radiological or neurological testing. This aggressive literature search deflated the defense position that the patient did not truly have TOS (Thoracic Outlet Syndrome) because “the EMG was abnormal, but not enough so to cause symptoms as severe as those exhibited by this patient.” By being able, with the use of a thorough review of the medical literature, to counter defense theories considerable value was added to the settlement.

These cases are just two examples of cases where good “detective” work by medical consultants was able to make a significant difference in the overall value of the case as well as a better long-term outcome for the client.

Let Us Know How We Can Help You

We Offer:

- * Medical Summary Report: comprehensive medical review of client's injuries with medical opinions regarding mechanism of injury and causation
- * Review of case validity and value
- * Determination of future medical care and costs
- * Independent Medical Exam observation and rebuttal
- * Evaluating/developing medical theories
- * Answer Standard of Care questions
- * Answer specific medical questions
- * Medical research
- * Develop deposition and trial questions for experts
- * Attendance at deposition and trial if needed
- * Finding expert witnesses
- * Attorney liaison to treating physicians and family members
- * **We do not provide expert testimony**
- * Fee: \$270/hr. payable upon work completion

As you know, **we have purposefully kept our fees exceptionally low**, allowing you the opportunity to have us review your cases early in your representation while controlling your expenses.

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