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Lawyers' Medical Cyclopedia of Personal Injuries and Allied Specialties, edited by Charles J. Frankel, J. W. Holloway, Jr., Paul E. McMaster, Kenneth R. Redden

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LAWYERS' MEDICAL CYCLOPEDIA OF PERSONAL INJURIES AND ALLIED SPECIALTIES. Editors: Charles J. Frankel, M.D., L.L.B.; J. W. Holloway, Jr., L.L.B.; Paul E. McMaster, M.D.; Kenneth R. Redden, L.L.B. Indianapolis: Allen Smith Co., 1958. Six volumes: Pp. xiv, 662; xxi, 771; xxv, 727; volumes four-six remain to be published. \$24.50 per volume.

Because of the increasing emphasis which is currently being placed upon medical issues in the trial of the vast majority of litigated personal injury cases, the proper utilization of medical evidence assumes a most important role. The experienced advocate, charged with the responsibility of effectively presenting either side of the controversy, recognizes at once the importance of adequate medical research in his investigation and marshalling of medical evidence. Medical writers have provided a wealth of material in the medical-legal field, but for the busy practitioner whose time is forever at a premium, the laborious task of delving into this mass of literature in the search for scientific truth assumes astronomical proportions.

The need for an inter-professional conduit between the medical and legal professions has long been recognized, through which correct information could be obtained and in turn made known to the triers of the facts. One of the barriers to an intelligent understanding of the medical facts in the trial of personal injury litigation arises from a lack of understanding by counsel of the subject matter involved and the inability to translate the technical information supplied by the medical witness into understandable language for the judge and jury.

The editors and authors of this comprehensive work have, in the opinion of the writer, contributed immeasurably to the field of medical-legal jurisprudence and have provided a working tool which should prove invaluable to those who will avail themselves thereof. Practitioners utilizing this work will be aided in understanding the true nature of the injury involved, the possible implications of the treatment and proper evaluation of the injury. As stated by the authors in their preface: "In sim-

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plified and explained language, the text attempts to lead the attorney to full understanding of the medical issues involved and prepare him for proper questioning of the expert and for the translation of the medical reports and testimony into language that can be understood easily by the court and jurors."¹

The first volume is divided into nine chapters, the first of which deals with the evaluation of the medical expert. The factors requisite to an evaluation of an expert witness are concisely set forth to assist the reader in formulating an accurate estimate of the professional status of the witness. Parts 1 to 4 in this chapter relate in detail to the background of medical doctors, both as to the type of training and experience required and as to the length of time necessarily spent in pursuit of their profession. The licensing requirements and important medical societies are considered. The fifth part of this chapter deals with other practitioners in a more limited manner.

Chapter 2 contains an excellent summary of the law of patient and physician, the legal responsibilities of hospitals and suggested forms for consent to various procedures and treatments for the protection of the physician or hospital. The authors have presented adequate annotations with the material in this chapter.

Hospital and medical records are the subject of the third chapter with an illustrative set of thirteen standard forms prescribed by the American Hospital Association. A general summary is provided with respect to the use of hospital and medical records as evidence. The grounds of admissibility and proper methods for the introduction of such records in evidence are discussed. A glossary of abbreviations, symbols and signs as they usually appear on hospital records, and a list of prescription abbreviations employed by physicians appear in the fifth division of this chapter. Chapter 4 deals with the anatomy of the musculoskeletal system with illustrative plates.

The role of rehabilitation is the subject matter of Chapter 5, the purpose of which, according to the author, is to give the practicing lawyer a better understanding concerning the amount of compensable damage, if any, in terms of an adequate award.

A most important topic is found in Chapter 6 dealing with fractures and dislocations in general. This chapter serves as an introduction to the general subject and Volume 2 of the *Cyclopedia* contains several chapters treating fractures of specific parts of the body in detail. Considerable emphasis is placed upon the diagnosis of fractures and dislocations and

1. 1 *LAWYER'S MEDICAL CYCLOPEDIA OF PERSONAL INJURIES AND ALLIED SPECIALTIES* iii (1958).

their treatment. Those of the legal profession who are engaged in the handling of malpractice claims will find of particular interest, parts V and VIII of this chapter dealing, respectively, with the technique of fracture treatment and the complications of fractures and dislocations.

The intervertebral disc is the subject of Chapter 7, which is followed by a comprehensive discussion in Chapter 8 of whiplash injuries of the neck. In each chapter the authors include samples of the direct examination and cross examination of expert witnesses. The chapter on whiplash injuries presents an interesting set of figures on the number of rear-end accidents and neck injuries and as stated by the authors, "out of this type of accident a distinctive personal injury has evolved, and with it difficult problems of analysis and proof for doctors and lawyers alike."² The authors then proceed to discuss in detail the orthopedic approach to the problem and the neuro-surgical approach, supplemented by a very interesting discussion of Scottish experiments. One of the most valuable sections of this chapter has to do with trial techniques in the handling of a whiplash case. Of particular interest to defense counsel is the section dealing with compensation neurosis, with specific reference to the article of Dr. Nicholas Gotten, appearing in the Journal of the American Medical Association of October, 1956, and entitled "Survey of One Hundred Cases of Whiplash Injury After Settlement of Litigation."

The authors of this chapter by way of summary conclude that the advent of the automobile age has spawned the automobile whiplash injury which is termed a medical-legal phenomenon in the truest sense. They point out that the whiplash injury is susceptible of being faked by litigation minded plaintiffs but that there is an increasing volume of medical literature tending to support the validity of many whiplash injury claims. The battle lines between the plaintiff and defendant have become oriented around the question of whether the plaintiff has suffered a hidden injury to his nervous system or whether he is faking symptoms or is afflicted with litigation neurosis.

The final chapter of Volume 1 deals with athletic injuries. Because of the sparse treatment of the subject in the literature, the text is of great value to the attorney who is faced with a problem involving an athletic injury.

Volume 2 consists of six chapters, the first of which deals with fractures and dislocations of the rib cage and upper extremity injuries. The lower extremity injuries are the subject of Chapter 11. Chapter 12 deals with compound fractures with an excellent sample transcript of

2. *Id.* at 441-42.

testimony from an actual case involving leg injuries. Chapter 13 is devoted to the preparation and presentation of medical evidence, the author of which is James A. Dooley of the Chicago bar. A sample transcript of an actual case involving leg injuries is included, following which copious references to treatises, periodicals and case law are found.

Traumatic dislocations, traumatic arthritis and injuries to the joints, back and neck are the subjects of Chapters 14, 15 and 16, respectively. The relationship of trauma to arthritis is admittedly an important subject in the evaluation of injuries and is of special interest to the legal profession. A very thorough discussion of the types of arthritis and an explanation of the anatomical changes which occur serves as a basis for a complete understanding of the effect on an injured joint. Again there are ample references to text and medical periodicals, legal periodicals and case law.

The chapter on injuries to the back and neck is of particular value to the legal profession since backache and neck pains are involved in a large portion of personal injury litigation. The section devoted to litigation pointers in this chapter is quite revealing and emphasizes the need of cooperation between medicine and law if justice is to be done in the field of personal injury litigation. What is defined as the most complete bibliography ever published is appended to this chapter followed by references to legal periodicals and case law.

The third volume is devoted to psychiatry in the law; accident proneness; stress and psychosomatic diseases; traumatic neurosis; psychological testing; electroencephalography; the medical witness in personal injury cases; laboratory tests—how to make and interpret them; anesthesiology; aggravation of pre-existing bone conditions; disability evaluation and physical therapy. Under the chapter devoted to psychiatry and the law, the authors discuss the types of mental disorders from both a medical and legal viewpoint, the diagnostic and treatment procedures, and finally, judicial proceedings and the psychiatrist. The author concludes that there has been considerable misunderstanding between lawyers and the psychiatrist, particularly with reference to the psychiatrist as an expert witness. It is his recommendation there be a greater use of court clinics, the use of court appointed experts and extension of the Briggs law (automatic examination by neutral experts of all persons accused of capital crimes and of certain other persons indicted for serious offenses) and the new modification of the New Hampshire rule known as the Durham decision, by which an accused is not held criminally responsible if his unlawful act was the product of mental disease or mental defect. It is further recommended by the author that courses in psychiatry be a

compulsory part of the education of law students and, similarly, that compulsory law courses in medical schools should be provided.

The chapter dealing with stress and psychosomatic diseases is most interesting and demonstrates the medical conflict arising in this field. The chapter on traumatic neurosis is devoted to the problems of recognizing and handling a traumatic neurosis case and a study of neurosis following head injuries. Also included is a discussion of new developments in the law of recovery for mental anguish, closely related to traumatic neurosis.

The chapter devoted to psychological testing is designed to provide an orientation which will enable the interested attorney to form some basis for understanding the uses, advantages and limitations of psychological tests and testing. By way of summary, the author recommends that proper consultation and examination by a properly qualified psychologist have much to offer in the complete evaluation of patients with illnesses or injuries who are seeking compensation or damages. This is particularly true in cases involving head injury, possible prolonged anoxia or other sources of central nervous system damage, where there has been a possibility of severe psycho-trauma or prolonged psychological stress, and finally in those cases where there is reason to suspect malingering. Chapter 22 dealing with the subject of electroencephalography introduces the uninitiated in simple terms to some of the principles upon which this science is based. The chapter deals at length with the medical value of EEG studies, particularly in epilepsy and traumatic injuries.

The chapter dealing with the medical witness covers pre-trial discovery, preparation for the examination of the medical witness, presentation of medical evidence both for the plaintiff and the defendant, with a sample transcript, and contains a host of valuable suggestions in the preparation of a civil action for settlement or trial. This chapter provides the busy lawyer with a valuable checklist.

Probably one of the most important chapters of Volume 3 is found under the heading of "Disability Evaluation" and should prove extremely valuable to the personal injury litigation attorney. With reference to impairment of the extremities and back, this chapter includes material from a guide published by the American Medical Association Committee on medical rating of physical impairment.

By way of summary, the first three volumes of *Cyclopedia of Personal Injuries and Allied Specialties* demonstrate a thoroughness rarely found in a work of this character. The text is presented in language which is understandable to the lay reader and is written in a strictly objective fashion. Legal and medical annotations are inserted at the end

of each chapter which provide leads to further research, and each volume is indexed separately for the material contained therein. Throughout the text explanations of medical terminology are repeatedly made, and at the end of each volume there appears a glossary containing pronunciation guides for all technical terms employed.

The primary authors of this work are composed of an outstanding group of contributors from the fields of medicine, surgery and allied sciences. If the remaining volumes yet to be published maintain the same standards in style and treatment of subject matter as demonstrated by the first three volumes, the legal profession will be indeed fortunate in having such a valuable tool at its disposal. Last but not least, the *Cyclopedia* should be a medium of better understanding between the legal and medical professions, with the result that the interests of justice can be better served.

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