

AAPALM's Newsletter ©

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Medico-forensis Consilium



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"AAPALM's BODs/Editor New Year's Resolutions"

As another year has come to a close & a new one is about to begin, I am sure that we all have taken some time to reflect on a myriad of personal & professional issues that for some reason or another we may have not excelled as we planned or had hoped for.

Seeking to excel in this new year. Then you need a predetermined firmness of purpose or a "New Year's resolution" as many commonly refer to. Basically, you need a predetermined personal mindset. Or a mapped out course of action, set to bring forth a much desired anticipated outcome. One of enhanced continued commitment, & one of preserved legacy & ultimately one of refined personal empowerment.

So, if you are seeking to empower yourself, or continue your commitment,

add to the medico-legal PA community legacy by volunteering your talents to AAPALM.

As your "New Year's resolution" you could run for office, you could speak at a conference, you could submit an article or even an editorial to this forum, among a few for that matter.

As already discussed & outlined earlier, AAPALM, is attempting to rebuild the foundation. Also to shape our future.

Along these lines, on page 4, I close with a quote that speaks to me & one that in my opinion, should embody our "firmness of purpose". Despite its simplicity, it helps us continue reaffirming ourselves throughout the year. Whether is our personal or professional endeavors, either way it should be a good mantra to live by. Hence, the key secret of fulfilling that New Year's resolution @ year's end!!

AAPALM's Newsletter Mission Statements

The purpose of our newsletter is seven-fold:

✍ to express the interests, concerns & expertise of our membership.

✍ to inspire, motivate, & inform our membership of professional trends in the medico-legal field.

✍ to further dialog among all members while supporting the purpose, goals & advantages and benefits of belonging to this specialty interest group.

Specifically our newsletter will strive to:

✍ publish articles on issues, practices, related to effective medico-legal consulting.

✍ enhance the theoretical knowledge as well as applied skills of our members in their (our) consulting roles.

✍ disseminate the latest news & or information about the latest relevant technologies.

✍ disseminate information about new emerging theories of liabilities impacting the daily clinical practice of fellow PAs & consultants as well.

Word of the day

- ◆ Discovery(n): the pretrial process by which a party obtains facts & information from an opponent in preparation for a trial.

AAPALM BODs in the Spotlight



psst...have you checked out our

NEW

Column?

*Get to know your
BODs members now!*

“I look back now on my early opinions, & can see how much I have learned & how much better I am now, able to analyze the case situations @ hand more confidently. Plus, how much better of a clinician I have become as a result of this type of work.”

With this installment of our newsletter, we are introducing a new column entitled; “In the spotlight”. Here we will get a closer look @ our BODs members on a one-to-one basis. These closed & open-ended questions will give us a glimpse of our leaders. In this column, we will attempt to capture their professional & personal views, on the same issues we as consultants have faced or will face in our careers.

The following questions were posed to James Cary, PA-C (our current treasurer).

1.MFC: How did you get started in medico-legal Consulting? “Basically I was introduced by responding to an add in the FL Board of Medicine newsletter to volunteer & serve as a PA peer reviewer in return for CME credits. Once past the screening & selection process, I became a ‘voluntary PA medical expert’ for which several months rolled by before getting my first case.”

As a newly minted reviewer, Mr. Cary quickly pointed out that initially he followed a template requiring him to provide a narrative summary of the alleged case in question by answering a series of questions. A final close-ended summation question required his opinion & observations opining on any departures from the standard(s) of care derived from his meticulous case reviews. A process that became second nature to him as he became more involved & familiar with the process.

2.MFC: What has motivated you to continue working in this field? “My motivation stems from the fact that as a PA I could make a difference: ‘a service for my profession while doing the right thing for our patients’. Plus, improving medical care keeps my morale high.”

Another assertion, he made, was that as a medico-legal consultant for his peers not only assists him on keeping himself current on his practice of medicine, but his own way of practicing medicine is ultimately improved as a result of this.

3.MFC:What do you like best of being a medico-legal consultant? “What I like best about this experience, is that, after one learns how to review records and give opinions as an expert in a particular field, you get a feeling of ‘confidence’ & ‘self-worth’. Again, it underscores that feeling of making a difference for our patients, while enhancing they way we provide our care-giving services to them.”

4. MFC:What do you like least of being a medico-legal consultant? “ As consulting clinicians the flow of assignments may be sporadic. In other words, there may be times when I may find myself without any cases. Similarly, there have been times when you are deluged with requests. That’s the part that I like the least when you can not plan out when you will be consulted!”

Yet, Mr. Cary quickly reminds us of our moral obligation as consultants not to over commit, a point alluded in our piece *“The 7 deadliest Consulting Traits”* in our inaugural issue (MFC Vol I, Issue I). We could not agree more, your consulting availability should be reasonable and balanced. If not, the quality of your consultancy may be affected negatively.

5.MFC: Are there any websites, texts or training courses, even workshops that you would recommend to other PAs? “At this time there are a few actual training courses or resources that will introduce a PA to the medico-legal consulting that I can think of. For instance, www.SEAK.com is on of those”.

“Also, at this time, in addition to myself, Roy M. Cary, PA-C, & James Hull, PA-C have been putting together a series of lectures that will be soon on our AAPA website. These will familiarize & give extensive information on doing medico-legal consulting work to any interested PA.”

Easy to see how he remains motivated. “We are also considering a ‘training program’ in our long-term plans. For now, I would recommend knowing the administrative rules and statutes of your state. The Risk Management literature is another—helpful--available resource.”

Depositions 101 (part II)



In part 1, of this 2-part series you learned about the “dos” to engage when being deposed.

Conversely, in this issue, you will learn the “must-not-do” when facing opposing counsel’s tactics. Here they are:

- ➡ never guess nor speculate.
- ➡ never argue nor become defensive even if provoked indirectly.
- ➡ never volunteer information—it can be damaging to your defense.
- ➡ avoid appearing uncaring.
- ➡ never admit guilt or wrongdoing.
- ➡ refrain from acting like you know-it-all or are the best.
- ➡ don’t discuss the case outside your defense team— comments, or observations can be used against you by opposing counsel.
- ➡ never disparage other caregivers’ treatments openly or sarcastically.
- ➡ refrain as much as possible to respond to unclear questions if you are unsure or don’t know the answer; ask counsel to rephrase or better yet, state you do not know. That’s permissible.
- ➡ never allow a finished deposition transcript go uncorrected.
- ➡ never bring “cheat notes” unless cleared in advance by your counsel.

Implement these techniques, & you stand a better chance to excel during your deposition.

Author: By Marcos A. Vargas, MSA, PA-C



AAPALM BODs in the Spotlight



6.MFC: Do you have any consulting case type preferences (plaintiff vs defense)? If so, why? Mr. Cary states his personal policy is a simple one; basically he provides his services to his attorney-clients irrespective of their type while acknowledging that ultimately he (like many others) strives for a balanced mix of 50% plaintiff & 50% defense.

“Our role as experts, is to decide objectively if the care provide met the standards of care based on the facts of that particular case in which we may find ourselves being consulted for.”

“Personally, this is the only way to maintain the integrity of the expert opinion process.” Based on his philosophical & ethical stance, it becomes evident, that Mr. Cary partakes of this calling very seriously, unlike some other consultants whom can be perceived as “hired guns”, or “rubber stamping experts” as is commonly known in the industry. These consultants are known to “align” their opinions with their respective hiring attorney-clients or higher ‘bidders’. Ultimately, tarnishing the integrity of the legal process in my view as well as many others.”

7.MFC: Has anyone in particular been helpful to you in your growth or professional development in this field? With out hesitation, he quickly & gratefully acknowledges the visionary insightfulness of the mentorship of our specialty interest group founding members: Roy Monty Cary, M.Ed., PA-C.

“Monty was ahead of his time, yet we are all learning from him and his visionary views. ‘We definitely need to continue the vision, the momentum & legacy by trying to find other fellow colleagues who can carry & preserve our interests responsibly in the legal arena’.”

In closing, we wanted to now how he felt about a controversial topic. So I pose the question.

8.MFC:Where do you think the liability spectrum regarding PAs or the so called “Tort Reform Initiative” is headed in the future? He feels that while the industry is heading in the right direction, much is yet to be achieved by & for the ultimate benefit of all stakeholders (patients, providers ,& payers alike).

“Unfortunately the practice of *defensive medicine* is very real & damaging to the practice of medicine. Given the huge payouts for non-economic damages & the sky-rocketing associated litigation costs, ‘one can see some states successfully implementing some cape rates for malpractice payouts’. Consequently, lessening somewhat this crisis.”

“Without a doubt, the practice of medicine and many fellow PAs have been harmed by these high-priced insurance policies. And yes, while we have a long way to go, we have made some progress, but, by all means, we as a profession must keep this issue high on our professional agenda. Especially for those of us who have an interest in legal medicine, & a calling to work toward effecting change.”

Brief recognition

We would like to gratefully acknowledge our past president, Mr. Roy Cary,PA-C & current AAPALM treasurer Mr. James Cary, PA-C for their contribution to this column given their very busy schedule during this past **Holidaze** (holidays) season.



...an exhausted Santa after a hectic holiday season!!



More AAPALM BODs in the Spotlight



REQUEST FOR ARTICLES

The AAPALM newsletter is a great communication tool to reach out our membership. I/we are seeking a variety of brief informational articles. They should be relevant & conversational to Health Law or medico-legal issues. So I/we would like to broaden the scope of this newsletter by obtaining articles from any AAPALM members.

If all you have is an “original outline” or a “draft” by all means, dust it off & submit it for consideration. I/we will try to preserve your voice and ideas. Most likely publication will occur after being “tweaked” (revised) with your final consent to the editor @ maravarpac@hotmail.com

Marcos A. Vargas, MSA, PA-C

“Continuous effort--not strength nor intelligence--is the key of unlocking our potential.”
Sir Winston Churchill

In this 2nd interview, we were grateful to have interviewed Mr. Roy Cary, PA-C one of AAPALM's co-founders and past AAPALM's president. We will follow the same Q-A format as in the 1st interview with Mr. James Cary, PA-C our current treasurer.

1.MFC: How did you get started in medico-legal Consulting? “It all started @ my kitchen table, where I did my first case review. I just accepted a simple request from an attorney acquaintance I knew at the time, to be his ‘case reviewer’.”

2.MFC: Describe your most memorable case. Mr. Roy (Monty) Cary recalls vividly a pediatric catastrophic case where the plaintiff's injury was compounded by the care received by the PA defendants. He stated that the attorney felt his deposition and role were pivotal for the outcome. “It was difficult to realize how much pain & suffering this child would had to go through. Knowing that the jury awarded more compensation than we expected, made it rewarding, since the child was going to require long-term care. Plus, there were some unresolved parental squabbles & psychosocial issues as well.”

3.MFC: What was the biggest challenge you faced back then? “The biggest challenge for me was knowing what & what not to do in a deposition. Depositions are difficult. Especially with the already mentioned case of the child, where the defense attorneys were playing “good cop/bad cop” back and forth during that deposition.”

He asserts that was an interesting & eye opening experience, unlike any other he had experienced in his early consulting career. Despite the high intense emotional drama associated with some aspects of that case, justice prevailed for the injured child which he felt all along was the bottom line.

4.MFC: What has motivated you to continue working in this field? “First, it has made me a better PA. A better history taker, a better physical examiner, not to mention a better documenter.” “Secondly, there is a real need for PAs to be educated in these very real practice issues involving malpractice allegations & Clinical Risk Management techniques.”

5.MFC: What do you like best about medico-legal consulting? “The wealth of knowledge acquired from the mistake of others.”

Yet solemnly, Monty clarifies this statement by saying he does not relish in the clinical mishaps of others, but rather learns and becomes more cognizant of these clinical perils. Thus, indirectly helping him to derive the most benefit from past & current medico-legal reviews throughout his career.

By the same token, in his view, this negative reality and risk of being a clinician in a litigious society should be more than a catalyst force or a “justification” to prompt integrating Risk Management education into PA Curricula across the country as he strongly points out.

6.MFC: What do you like least about medico-legal consulting work? Emphatically, he responds with the fact that too many people are making mistakes. Monty quickly adds to this point by stating that he was appalled during a deposition a PA did not know the definition of a very basic medical term.

7.MFC: Do you have any consulting case type preferences (plaintiff vs defense)? If so why? “Personally, I like defense better, but is best to do both, otherwise you can be labeled a ‘hired gun’ if you do more of one than the other.”

8.MFC: Where do you think the liability spectrum regarding PAs or the so called “Tort Reform Initiative” is headed in the future? “Tort reform may be a thing of the past. We are seeing a new movement starting to emerge based on the *Error Disclosure Movement* in the way of ‘saying I am sorry’. This forthcoming apologetic approach started back in 1987 by the VAH in Lexington, Kentucky. A movement that has been gaining acceptance rather quickly in various sectors of the industry ”

9.MFC: Where do you hope to be in your career when is time to retire? “I tried retiring once & it did not work --it was too stressful doing nothing. I see myself cutting back to do more writing, to do more consulting & speaking engagements...but, I don't see myself retiring any time soon!”