

# AAPALM's Newsletter ©

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## Medico-forensis Consilium



### Contents

Introduction/invitation	1
Editor's Message...	1
7 Deadliest Consulting traits	2
Depositions 101 (part 1)	3
Spotlight -- a closer look	3
Word Search	3
Records Questionable...	3
Dysfunctional consultancy	4
Survey Reminder	4

Welcome to "Medico-Forensis Consilium" (the Medico-Legal Consultant) AAPALM's official quarterly newsletter.

The purpose of this newsletter is to provide you --the medico-legal consulting PA--timely & specialized information about industry-related news pertinent to your consulting practice to insurance carriers, attorney-clients and other medical care reviewing entities.

Each issue will be featuring short trade magazine type articles. They will be highlighting the best in consulting practices, techniques, tips, etc. Our goal is a simple one, to improve the bottom line--your consultancy.

Also, this medium will present an opportunity for you to share with your colleagues anything that you think would be helpful. Whether it may be your opinion, industry observations, or marketing tips that you developed, would not only be sought, but also encouraged.

Currently, I/we are approaching this venture as an open forum. In other words, writers submission guidelines, as well as contents and column features of this newsletter will be developed and refined based on your feedback and participatory input.

Again, welcome to our premier issue & join us for some upcoming new & upcoming exciting developments, that we are planning for you!!

Your AAPALM's BODs & your Editor:

\_\_\_\_\_  
Newsletter Editor & Publisher

### Editor's Message...A New Beginning

I am truly honored to be appointed the Editor of your/our newsletter by the BODs. I must confess, that I feel somewhat nervous in undertaking such task. Yet, exhilarated to embark on this personal and professional journey along with a selfless & dedicated group of my peers.

My heartfelt thanks for their vote of confidence & support for my self requested petition of spearheading this task/project earlier this year.

Thus, it is my hope, that with my /your talent(s), expertise & desire we can

expand our base knowledge, and provide a timely network of informational resources to each and one of you.

As you can see, we have set the bar high.

In keeping with our heritage and PA tradition, you are invited to share our vision in making this, your premier specialty newsletter.

Again, we welcome your participation. Plus, I extend my appreciation & look forward in serving & sharing each issue with you.

### Word of the day

- ◆ **Docket(n):** chronological order of steps taken in a case--papers filed, trial days held, etc.

## Seven Deadliest Consulting Traits



*Which of the 7 deadliest consulting traits have sabotaged your own consulting reputation—do you know?*

*“Coming across as a...Knows it all, has done it all, or is always right is more likely to hinder than to help your cause when being considered for a consulting assignment.”*

We all have committed interview blunders. From being a few minutes late, to mispronouncing someone’s last name, just to name a few.

But as a consultant, nothing will make you look more amateurish or destroy your chances of winning a consulting assignment offer faster if you exhibit or commit any of these 7 common deadliest mistakes when being “scouted” by prospective clients.

The following mistakes will virtually guarantee no callbacks.

**1. Chatter box:** We all know of people who are ramblers or talk anyone’s ears off sort-of-speak and how negatively they can be perceived. You must remind yourself of not to engage in a 1 person conversation particularly if you diverge or have a tendency to repeat yourself over & over. To guard against this, offer 30 second explanations, comments, etc. Pause & provide an opportunity for the other party to comment or query if need to, thus assuring a 2-way conversation between parties.

**2. Arrogance:** Refrain from being boastful. You deserve to be proud of your achievements & accomplishments, but reserve these for your resume. The client is mainly interested in one thing and thing only: can you provide a value-added service to his/her pressing needs. Facilitate a client’s hiring decision with the facts, not your biography. For example, where does your expertise, & industry knowledge best meet your clients needs. There’s a fine line between between ego & confidence—keep the former in check.

**3. Bussier than Thou:** Many consultants may send mixed messages when they do not respond promptly to inquiring clients. They may fail to realize that they may be perceived as arrogant or disinterested in the eyes of would-be clients. Some contractors erroneously fall into this trap, thinking that it may make them more “desirable”. That air of “unavailability” that some seek to create could spell the loss of an offer & possibly future referrals.

**4. Choosey:** Often times, novice consultants limit themselves by performing one type of service or selecting specific cases. While nothing wrong with being selective in some instances, having a “broader consulting perspective” would not only enhance your client base but make you more versatile. Versatility gives your background & credentials an aura of balance. Remember consulting myopia does not bode well for consulting longevity. If you only review plaintiff cases, then what message are you sending?

**5. Overcommitting:** As clinicians we all work long &/or irregular hours. Plus, we may have many other competing demands in our personal lives. In business *time is money*. If you overextend yourself & fail to meet your professional & personal responsibilities, deadlines etc. you would stand to lose everything. Therefore, it is imperative you keep your consulting schedule reasonable and balanced. Disgruntled customers or clients is not a reputation you want to be known for.

**6. Fallacious:** You must always exercise & provide independent & uninfluenced expert opinions. You may also want to be clear @ all times regarding how, when and why and for what were you being reimbursed or paid for your consultative services. Submit a proposal, a fee schedule or an invoice. Always advise & notify your clients well in advance if you anticipate any fee changes regarding your services. Avoid changing fees during or after completing an assignment. Anything less, may make you deceitful in the eyes of would-be clients.

**7. Pestering:** Have you ever felt harassed by telephone marketers? Or better yet, annoyed by the littering of your mailbox by unsolicited credit card or magazine subscription offers, etc.

Likewise, some starting consultants may inadvertently emulate this behavior. So beware of overstepping your marketing efforts with unsolicited phone calls or mailings to new or established clients.

## Depositions 101



## AAPALM WORD SEARCH Legal Terminology



Worried about being a deponent?

Unsure what to say or handle these?

If so, here are a few tips & pointers to optimize your performance:

- 👉 Know the alleged disputed facts & standard of care beforehand.

- 👉 Know opposing counsel's deposition techniques (scare or psychological tactics/ploys).

- 👉 Avoid equivocal phrases: "I guess", "suppose", "possibly", etc.

- 👉 Avoid caffeinated beverages, be well rested, etc.

- 👉 Do quote authoritative references or sources if needed.

- 👉 Avoid equivocal phrases: "I guess", "suppose", "possibly", etc.

- 👉 know basic legal terminology.

- 👉 If unsure of question asked, request opposing counsel to repeat or rephrase question(s)—don't answer unknowingly. Particularly on those "2-part questions"; state you do not know. Is always best to pause and reflect if possible on your answers, before blurting a response.

- 👉 If possible try to reconcile the chart's discrepant notes or entries, prior to the deposition.

Follow any or all of these basic deposition rules, and you will be on your way on becoming a confident deponent.

The 2<sup>nd</sup> part of the series will cover the "don'ts" of depositions.

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H D X J L Y M P S Y N J O E L  
 W P G E W S R D H P R U L O V  
 Y W V X G O R A O C P R E D B  
 D A Z B V A Q C I P A Y X T T  
 G O K I D V N M L C Z E J L N  
 R W D N T R I A L A I Y R V E  
 L E A L G L I L D J C D F B G  
 R T A Z N N S P N X L E U E I  
 S W P Q T Z Y R R N Y P E F L  
 F R I I S E G A M A D O G I G  
 U T F D X R C C J L J N D Z E  
 R F C A U S A T I O N E U A N  
 F S B V L T P I Y K X N J O G  
 I Z C O T X Y C A Y P T R Y S  
 T N A D N E F E D Y Z J R M L

Breach  
 Causation  
 Damages  
 Defendant  
 Deponent  
 Duty  
 Fiduciary  
 Gavel  
 Judge  
 Jury  
 Law  
 Malpractice  
 Negligent  
 Plaintiff  
 Provider  
 Standards  
 Trial

### Questionable Medical Charting: Beware

We have all heard @ some point or another the old saying, "If it was not documented, then it was not done". Many experts—including plaintiff attorneys—have thrown around this statement knowing very well that this is not based on any legal doctrine. In fact, many defense counsels will quickly attempt to discredit the opposition's argument if they see their opponent heavily base their case on this premise hoping to dissuade the jury to feel more sympathetic to their client.

So how does the defense counsel could counteract? Basically, they may have several ways to reverse the tables sort-of-speak.

First, they can claim, but must be reasonably proven that the undocumented technique, procedure in that particular instance or allegation it is something "customarily" performed and practiced by their client, in spite of the untoward effect. In other words, it is something that is ALWAYS carried out the same way day in and day out without any departures.

Another way to prove something occurred even though may have not been charted is by having a factual witness attest to the disputed incident or allegation for their client.

With these two counterarguments (or defense tactics) one can see how the defense can refute the plaintiff's assertion that if it wasn't charted that it wasn't done. Thus, avoid presumptively the notion that no competent or skillful care was given to a patient if not charted in the medical record. However, if you are able to reasonably prove that there were no witnesses or that the departure was not consistent with the habitual or customary practice of the tortfeasor, then you can claim that it was not done since it was not recorded in the chart as required under the provision of medical care@ the alleged time of the incident. Keeping these causative conditions in mind will definitely assist you in proving *Errors of Omission* to your client or any trier of facts.

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# AAPALM Survey Return Date Extended



## Newsletter Questions or Comments?

If you have any of these regarding the contents of this publication or would like to submit tips, cases and or suggestions for articles related to medico-legal consulting, please contact the editor @ [maravarpac@hotmail.com](mailto:maravarpac@hotmail.com)  
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*“Even when laws have been written down, they not always to remain unaltered.”*  
Aristotle ( 384 BC-322 BC )

Thank you to those AAPALM Members who responded to our 1<sup>st</sup> survey. Sadly enough, we did not receive as many as we would have liked. In fact, we received less than 1/10<sup>th</sup> of our total membership.

While the return date is long overdue, we have decided to extend the initial return date for those members who have not yet filled out the survey. To date, we have received only 8 responses, if any relevant data is to be derived, we must receive @ least 5x that initial response.

## Dysfunctional Consultancy: Better Listen up!!!

Is your consultancy practice growing? Or evolving? If not, you may be providing an *imbalanced service* to your clients. In other words, your services may be great in some respects, but lacking in others. For example, timely & quality advisory services may distinguish you; yet you don't deliver what your clients need or expect.

Why? Because, often times, all due to poor listening skills—believe it or not.

Remember, this information will be an invaluable tool to **all of us** - watch for results to be released in our next edition.

Again, your survey responses are still much needed & sought. If you haven't participated, do so...not only we can capture new data, but more importantly your opinions and feedback about things that are important to you & peers!!

Failing to listen (“recognize”) your clients needs is a sure way to alienate them. But more likely, to loose their trust in you and consequently repeat customers.

So gain their confidence by asking open-ended questions like, “*how can I best serve you*” instead of close-ended questions. By using this approach, and listening intently not only will you uncover their specific pressing needs you will be on your way to building close client relationships & lasting credibility.

**AAPALM**

**RECIPIENT NAME  
STREET ADDRESS  
ADDRESS 2  
CITY, ST ZIP CODE**

