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Legal Perspectives: The Significance of Charting in Litigation Involving Pressure Sores

Posted August 1st, 2012 by [Jonathan Rosenfeld](#)



Keywords: [Jonathan Rosenfeld](#), [Legal Issues](#), [Medicare](#), [Pressure Ulcers](#), [Ulcers](#)

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Even as an injury lawyer who sometimes feels he has seen it all, I am surprised by the tricks that I have seen used by some nursing homes in order to avoid responsibility for their actions. It is unbelievable how poorly kept the patients' charts generally are in a large number of nursing facilities to begin with, but if a facility feels that there is impending litigation in its future, they may stoop so low as to alter those records in order to cover up its actions. This type of behavior is both unethical and illegal and I am both saddened by the tactic and happy to see punitive damages awarded in cases involving such nursing homes.

Pressure Sores with no Known Date of Origin or Cause

Either due to poor initial charting or tampering, many nursing homes in cases of litigation are unable to provide accurate accounts of how a patient diagnosed with [stage III or IV pressure ulcers](#) first developed the sores or how they were treated. Whenever it appears that an advanced bedsore just appeared miraculously, I know that the chart has either been poorly maintained or tampered with. There are federal regulations in place that require nursing facilities to keep and maintain accurate records and to provide those records to the family members of patients, but in my experience, many nursing homes completely disregard these rules.

Missing Data or Duplicated Content

Some of the records that I review have missing data or doctors' orders that are important to the patient's care. Others are merely duplicated from the previous day because the person who updated the chart didn't include new information either due to irresponsibility or an attempt to obscure a known issue. Because it is rather hard to miss an open and infected wound on a patient's body, some of the records that I have seen which have no account of a bedsore developing at all are the result of fraudulent misreporting or omissions. If a nursing home repeatedly provides inaccurate records, it may lose its right to Medicare or Medicaid funding, but these inaccuracies are not discovered in many cases until a patient has issues due to neglect such as pressure sores.

Poor Charting Can Carry Heavy Financial Consequences

As if it isn't enough of a tragedy to [neglect the elderly](#) so long that they develop painful sores that can lead to [infections](#) and other complications, the act of covering it up is especially heinous. Juries often award punitive damages when facilities attempt to cover their tracks because of the willful acts of negligence as opposed to a simple failure to act. In one case in New Mexico last year, a victim's family was awarded \$10.3 million because a hospital not only failed to treat a patient's medical condition, but also failed to provide accurate charts that documented the lack of care that led to the bedsores he developed. While I am disappointed to see reports of nursing home abuse, it always pleases me to see these verdicts because it is my hope that they will deter other facilities from committing the same acts.

While I hope that nursing homes are more mindful of the records that they keep for their patients, I am also slow to accept the information that I read in a patient's chart without doing some more investigation. If the chart shows inconsistencies, then I always suspect some form of patient record mismanagement and dig deeper until I get to the root of the problem. These discoveries are often what lead to a larger scale investigation of a nursing home found guilty of tampering with records—an offense that can be used to deny nursing homes funding from Medicare and Medicaid and one that can add millions of dollars onto the cost of an injury claim.

About the Author

[Jonathan Rosenfeld JD](#), is an attorney concentrating in representing individuals and families in nursing home negligence and medical malpractice cases. Jonathan is also the editor of a number of informational patient advocacy websites.

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