

## CD Consulting

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- LNC Services
- Expert Witness
  - Medical Record Organization, Review and Analysis
  - Identification of Standards of Care
  - Medical Chronology
  - Medical Literature Research

### ■ The LNC's role

Pain medication errors are common because of the complex nature of drug administration, and because assessing pain is a subjective business. Rely on an experienced legal nurse consultant to make sense of it all.

Nancy Dion,  
RN, LNHA, CLNC

### ■ Be yourself

*"He who joyfully marches to music in rank and file has already earned my contempt. He has been given a large brain by mistake, since for him the spinal cord would suffice."*

— Albert Einstein

*"For most men life is a search for the proper manila envelope in which to get themselves filed."*

— Clifton Fadiman

*"Ten people who speak make more noise than ten thousand who are silent."*

— Napoleon

*"Never let the urgent crowd out the important."*

— Kelly Catlin Walker

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2003

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*Serving the medical litigation concerns of the legal community*

## DECIPHERING PAIN MANAGEMENT FOR DISCOVERY

### Right drug, wrong drug — know the difference

*Management of chronic pain is a complicated process, and one often fraught with errors*

By **Margaret Wacker, RN, PhD, CLNC**  
Wacker and Associates

■ Attorneys frequently have clients experiencing significant pain long after a medical event or accident. Many are labeled by their health care providers as maintaining pain symptoms purely for secondary gain.

■ In my experience the frequency of secondary gain involves a very small percentage of cases. If pain is managed appropriately at the outset, deceptive symptom maintenance is rarely an issue, and patients return to their usual pre-event level of functioning quickly and are more realistic about their legal outcomes. When pain persists beyond what is usually expected, a comprehensive review of the record and reassessment of the patient is essential to the case issues.

■ One problematic area is the failure of physicians to refer patients early to pain specialists when they are unable to manage their pain. Unusual pain syndromes such as Complex Regional Pain Syndrome are often missed. A delay in diagnosis can have a very negative effect on outcome. By the time the diagnosis is made, significant impairment of function may have occurred.

■ Failure to prescribe an appropriate pharmacologic agent is another problem. For example, prescribing regular doses of second-line agents such as meperidine for any patient, and especially those with renal failure, is inexcusable. The neurotoxic effect of the drug produces irritability and convulsions. In one case, a patient convulsed due to his postoperative pain management with meperidine. Because he lived in a location where patients with convulsive disorders have driving restrictions, he filed a suit against the surgeon and the hospital since he is unable to drive to work.

■ It is a good idea to assess medical records where a patient appears to be a drug-seeking addict. Most of today's common narcotics turn on mu receptors, which produce the analgesia. In one case, a patient had a compound fracture of his leg and was complaining of severe pain. The physician had given him an inadequate dose of percocet, so the patient continued to complain. The physician wrote in the chart that he was convinced

the patient was an addict since he had added tramadol to his percocet. He reported that the patient complained that the tramadol did not help and now he felt like he was getting no pain relief. In this case the patient was correct. Tramadol is never to be given to anyone receiving a narcotic since it removes all narcotic from the mu receptors.

■ Some of the more serious life-threatening incidents have occurred when fentanyl was improperly prescribed in a patch formulation. Fentanyl is about 75 times more powerful than morphine. The patch is available in various doses. It is not like a nicotine or estrogen patch. The special delivery system requires about 8-10 hours to etch a storage depot into the subcutaneous skin. Failure to know how this system works and the length of time over which the narcotic is released into the body has been responsible for many respiratory arrests.

■ It is estimated that 50 million people in the U.S. live with significant chronic pain. Despite the wide array of treatments and number of drugs available, their pain is often undertreated. Inadequate treatment of pain contributes to a wide range of negative outcomes.

■ In reviewing charts, legal nurse consultants are especially alert to notations in records about pain. The patient may report having experienced a great deal of pain, but the notes make little reference to it. Often times the prescribed medicine may not have been appropriate. The selection of a drug requires careful review of a patient's history, laboratory results, kind of pain, allergy history and medical condition. Without an appropriate review, it is unlikely that faulty drug selection will be detected. The legal nurse consultant will let the attorney know what areas to target during the discovery process.

■ Appropriate interrogatories and analysis of answers will help to locate any serious deficits that can have a devastating effect on case issues. With proper guidance this can be more fully explored before and during deposition.

*Margaret Wacker is a pain consultant with more than 30 years of experience. She is a published author and speaks nationally.*



### ■ What we offer

Our firm and associates have extensive experience with medical malpractice cases and medication issues. Reach us at (239) 434-0941.

## MEDICAL/LEGAL ISSUE QUICK FACTS

■ Viagra should never be taken with nitrate drugs (the kind for heart problems). Fatal interactions are possible.  
— Cornell University

■ Induced labor is more risky than labor that naturally occurs.  
— Northwestern Medical School

■ In a recent incident, the New York Supreme Court ruled that a nurse had no right to sue a hospital coworker after she became infected with HIV from a needle stick. The court said that such an incident is part of the risk of the job and therefore covered under worker's compensation.  
— Legal Eagle Eye Newsletter

■ A nursing home recently was held liable when an employee sexually assaulted a resident. The deviant behavior had been well documented prior to hiring.  
— Legal Eagle Eye Newsletter

■ Doctors are overprescribing broad-spectrum "super bug" antibiotics, leading to fear that many infectious diseases soon will be immune to treatment.  
— University of California at San Francisco

■ The new contraceptive rings, which are not supposed to be flushed down toilets, contain enough hormones in each ring to seriously taint millions of gallons of water.  
— Göteborg University, Sweden

■ In a recent study, 116 "modern" chemical pollutants were found in the bloodstreams of 2,500 test subjects.  
— Mount Sinai School of Medicine

■ The safety of BPA, a chemical found in a lot of plastic food packaging, is being questioned. It has been linked to miscarriages and mental retardation.  
— Case Western Reserve University

■ A hospital patient released on a Friday will have a higher incidence of future problems. Errors made by a hurried staff were cited as reasons.  
— University of Ottawa

■ Airline water tanks often contain high levels of bacteria such as salmonella.  
— The Wall Street Journal

■ Doctors who pad their qualifications, or misrepresent their skills in some ways, may open themselves to litigation.  
— Medical Malpractice Law & Strategy

■ The number of senior citizens in the United States is expected to double by 2030. Currently,

seniors total 35 million but the number will rise to 71 million in 2030 — 20 percent of the population.  
— CDC

■ About one fifth of prescribed drug dosages are too high for their patients.  
— Robert Wood Johnson Medical School

■ A malpractice case recently was dismissed because the expert witness called to testify did not

closely match the area of speciality in question.  
— Legal Eagle Eye Newsletter

■ There are very few rules governing the safety of farm equipment.  
— The Advocate

■ Roughly 41 million people in the U.S. lack health insurance. About 80 percent of these people are in working families. About five million children are uninsured.  
— Reuters, AOL

■ For the last two decades, malpractice jury awards and settlements have risen at the same rate as inflation.  
— Medical Malpractice Law & Strategy

■ Generic drugs match their brand-name counterparts in effect, but different inactive ingredients may alter their performance in patients.  
— Medical Malpractice Law & Strategy

■ The FDA does not regulate, in advance, drug ads on TV.  
— University of California, Davis

■ Most playground equipment has been treated with chromated copper arsenate, a carcinogen linked to various cancers.  
— Consumer Product Safety Commission

■ The Atkins diet, and other high-protein ones, pose a threat to people with weakened kidneys.  
— Brigham and Women's Hospital in Boston

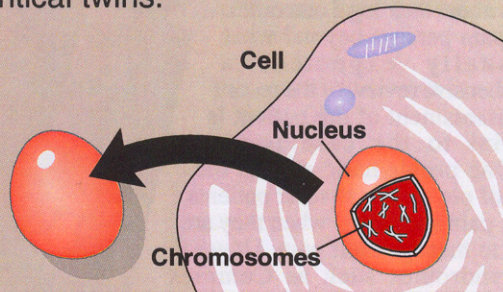
■ The birth control pill appears to increase cervical cancer risk.  
— International Agency for Research on Cancer

## MEDICAL DISCOVERY

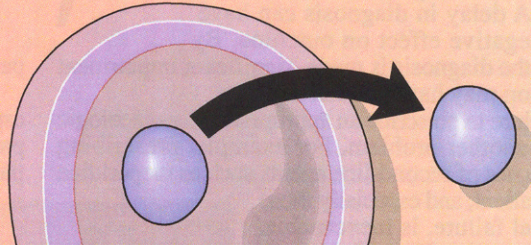
### What is cloning?

Cloning is creating an organism that is genetically identical to another, similar to identical twins.

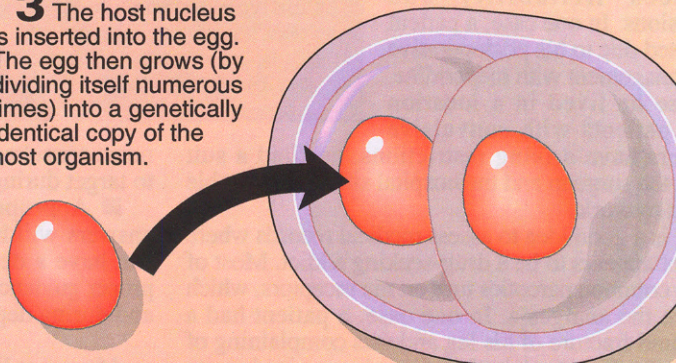
**1** The nucleus from the cell of a host organism is extracted. The nucleus contains the genetic material (DNA) of the host.



**2** The nucleus from a fertilized egg is removed.



**3** The host nucleus is inserted into the egg. The egg then grows (by dividing itself numerous times) into a genetically identical copy of the host organism.



SOURCE: AMA Encyclopedia of Medicine

Copley News Service/Dan Clifford

### And a bit less serious...

■ Male perspiration has a positive effect on women's moods, reducing stress and affecting the menstrual cycle.  
— University of Pennsylvania

■ Sex makes you look younger, according to a study of 3,500 people. Possible reasons: Good hormones are derived from sexual activity, and sexually active people keep themselves in better shape.  
— Royal Edinburgh Hospital