

Pain and suffering. The assessment of pain and suffering sustained as a result of negligence is important in initially evaluating a potential new claim and for presenting these damages to a jury. Medical records generated before and after the injury are used to establish whether an individual had a level of awareness of pain or suffering.

Standards of nursing practice state: “The registered nurse analyzes the assessment data to determine the diagnoses or issues.” (ANA, 2010) Pain is a nursing diagnosis and is commonly defined in nursing texts as “the state in which an individual experiences and reports the presence of severe discomfort or an uncomfortable sensation”.

If the patient was conscious following the injury he can provide much of the information when asked by his attorney: “What do you remember after the accident?” The patient can clearly communicate his pain. His testimony along with nursing documentation of the severity of pain (scale of 0 – 10) and the response of pain to treatments for his pain can be used to establish pain and suffering.

However, if the patient is unconscious can pain and suffering be established? After all, the defense attorneys will likely use terms such as unconscious and vegetative state. A more appropriate term is: “altered state of consciousness”, the standard term used by nurses in making a diagnosis.

Unconscious patients must communicate their pain in non-verbal responses such as grimaces, groaning, or withdrawal to painful stimuli. Determining the level of altered state of consciousness using the Glasgow Coma Scale is commonly used by nurses to establish the level of

consciousness/awareness of the patient. Nurses are trained to make the assumption that those with altered consciousness can feel pain, discomfort, and mental anguish and can comprehend what is being said within earshot.

The legal nurse consultant can help the attorney present pain and suffering of his client in several ways. First, by describing how and why an injury, illness or medical condition causes pain and suffering. Does a sedated patient on a ventilator experience pain and suffering? Yes. The legal nurse consultant will look for documentation related to gagging, coughing or noxious withdrawal during suctioning. She can communicate these findings in terms understood by layman as well as professionals.

Another way is the use of graphs and tables. These are good tools to use demonstrating the severity of the pain rating, the frequency, type, and amount of pain medication required for relief, and the level of relief experienced by the patient.

A narrative summary of pain and suffering can be helpful when there are multiple injuries at the same time or develop over a period of time. A description of how the pain is related to the initial injury and then how the nature of the pain changes as the patient enters the treatment and rehabilitation phases.

Lastly, the LNC can serve as a fact witness summarizing voluminous medical records regarding the causes of pain, level of pain and evidence of awareness by the patient during the treatment of his pain and suffering.

How may I assist you in determining pain and suffering?