Attorney’s Guide to Health & Medical Research

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Spring Research Refreshers
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What We’ll Cover Today

- Some Context...
- Introductory and Current Awareness Resources
- Secondary Sources
- Primary Sources
- Practice-Oriented Materials

Some Context...

[Image courtesy of: http://www.cartoonstock.com/lowres/hsc0849l.jpg]
Areas Where Health/Medical Might Overlaps with Legal Practice

- Health Care Industry
  - Pharmaceutical companies, insurance companies, hospitals
- Torts
  - Medical malpractice, product liability
- Criminal Law
  - DNA, insanity defense
- Employment Law
  - Workers’ compensation
- Family Law
  - Domestic abuse, reproductive rights

Attorney’s Role re: Health/Medical Information

- As a Counselor
  - Discussing client’s condition
  - NEVER giving a client medical advice…only a medical professional can do this!
- As a Negotiator
  - Understanding opposition’s case
  - Calculating appropriate damages
- As a Litigator
  - Navigating evidence
  - Questioning expert witnesses

How Medical Schools are Incorporating Legal Aspects into Curriculum:

- Article by: [Author Name]
- Source: [Journal Title]
- DOI: [DOI]

Evaluating Health & Medical Resources

- Who sponsors the site?
- How is the information selected?
- When was the site last updated?
- Who is the intended audience?
- How does the site choose links to other sites?
Introductory and Current Awareness Sources

- Library Links and Research Guides
- Government Health Resources
- Professional Organizations
- Conferences, Newsletters, etc.
- Newspapers and Blogs

**Purpose:** Obtaining general background information; Finding definitions and other references; Keeping abreast of current issues and developments

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[Annotated list of health-related resources](http://www.law.duke.edu/lib/facultyservices/empirical/links/miscellaneous)

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[Georgetown Law Library](http://www.ll.georgetown.edu/guides/health.cfm)
Be aware that blogs may be biased/present information through a particular lens, so it is important to read critically.
Example

- Representing Client who has a violent criminal record including a conviction for murder – for which Client has served a prison sentence
- Client wishes to enter medical school and wants your legal opinion as to how much background information must be disclosed
- You could start doing case law research, but you're unsure about how to even get started – where might you look?
Secondary Sources

Dictionaries, Encyclopedias, & Treatises

Finding Materials in the Library Catalog

- Plug in a title, keyword, or subject search – Here I'm trying a Title Keyword search from a title I saw in the Georgetown Health Law Research Guide – dorland medical dictionary
Scroll through results – might find exact match, or something even better. Here is an entry for a medical-legal dictionary:

- **Title**: Medical jurisprudence
- **Type**: Dictionary
- **Subject**: Medical jurisprudence

One relevant result can lead you to others if you use the subject terms, or make a note of the call number and search in that area.
Same idea for treatises – I started with a treatise title from the Georgetown Health Law Research Guide, and can use the subjects from the catalog entry to find further materials.

Journals & Periodicals

- Medical Journals
- DUL Topical Databases – [http://find.library.duke.edu/?type=databases&mode=browse](http://find.library.duke.edu/?type=databases&mode=browse)
- Legal Journals on Health/Medical Topics
- Lexis and Westlaw Secondary Sources Databases

Client undergoes a laparoscopic hysterectomy and has a large uterine fibroid removed in the process. After client is discharged from the hospital her bladder ruptures – causing her to return to the hospital for emergency surgery and to suffer tremendous pain and suffering. Your expert says the doctor cut the bladder during surgery – the standard of care is to inspect bladder before closing up. Opposing expert says fibroid weakened the walls of the bladder and caused it to rupture on its own – is that defense even medically possible or is a cut during surgery a more likely explanation?

Could start with a search in MedlinePlus to get information about uterine fibroids.
Could link to a number of resources, including journal articles from here –
directs you to PubMed

Because DUL Databases can be handy for providing "Get it at Duke" links to
the Medline—Ovid databases (through the DUL Health and Medical Sci
Databases)
Client is a truck driver who was driving down the road at night, claims he falls asleep and loses control of the truck and there’s a big crash in which he’s injured.

He wants to claim workers’ compensation from his employer.

At the hospital they do a toxicology screen and they find cocaine metabolites.

Employer says he’s outside the scope of workers’ comp benefits because he was taking drugs.

He said he did snort cocaine a week earlier, but hadn’t touched anything at the time of the accident.

Case is in Illinois (state law question – workers’ comp).
This result is a case heard by the IL Workers Compensation Commission. Deals with toxicology screen report. Good insight into how a contradictory expert report might be read. How might we check out these witnesses’ credits?

Medical Litigator is rather limited – only has physician directory which doesn’t provide in-depth expert CVs/resumes.

Let’s try the All Expert Witness CV and Resume materials in the Litigation Database.