

Preface

It is with pleasure that I provide to you the second edition of this well-received text. Work on the second edition of this text began in 2004, as the need to expand the text was recognized. Authors were recruited to provide chapters to discuss areas not covered by the first edition. This edition includes the work of new contributors. We welcome new attorney authors. David Brinton assisted Steve Levin in expanding the chapter on screening the nursing home case, Sean Doolan and Monica Agosta added a chapter on the new area of assisted living litigation, and Julie Braun, both an attorney and a physician, provided a comprehensive perspective on pain (mis) management litigation and greatly expanded the Inside the Nursing Home chapter.

Physician authors who lent their expertise to this edition include Steve Castle, a prolific writer who worked with Kelly Jaszarowski to discuss skin trauma, including pressure sores. Ann Riggs and Fred Feinsod collaborated to offer a medical perspective on aging.

Nurses new to this edition included Erane Allen, who updated the Inside the Nursing Home chapter, and Michelle Hammer who assisted Elizabeth Capezuti and her husband, Bill Lawson, to revise the Falls and Restraints chapter. Jill Thomas, Gloria Blackmon, and I teamed up to update and expand the Foundations of Nursing Home Practice chapter. Jacqueline Vance offered new information in the chapter on infections in the nursing home. Kelly Jaszarowski, who contributed two chapters to my Medical Legal Aspects of Pain and Suffering text, focused on skin trauma in the elderly for this text. Mardy Chizek added her expertise to the topic of wandering and elopement. Jaclyn Adler, along with her brother, Steve, focused on the claim's adjuster's perspective on nursing home litigation.

The chapters of the first edition were reorganized and new chapters were added to focus this edition on four sections: legal strategies, liability aspects of settings and providers, common liability allegations, and defense perspectives.

The legal strategies section begins with an introduction that includes updated information on the scope of nursing home litigation. This section continues with chapters to assist the attorney to identify the important considerations in selecting a case, from the plaintiff's attorney perspective, and offers suggestions for preparing nursing home and assisted living cases. The new chapter on assisted living litigation helps the reader understand the differences between nursing home and assisted living cases. The chapter on the role of the legal nurse consultant, a vital member of the team, has been extensively updated with new examples of reports.

The text next takes the reader into a nursing home and exhaustively discusses the framework for the delivery of care. The Foundations of Nursing Practice chapter includes new material that adds to the understanding of medical record documentation. A newly expanded chapter on nursing home liability and its consequences discusses common allegations and the impact of damages on the resident. Research on the outcomes of litigation is included to help the reader understand who is winning these cases. Liability issues associated with physicians and administrators are discussed next.

New chapters added to the section on allegations include Skin Trauma, Infections, Wandering and Elopement, Pain (Mis)management Litigation and Tampering with Medical Records. The Skin Trauma chapter discusses common mechanisms of injury

within the nursing home and offers medical information that will help make medical records more understandable. The Infections chapter expands our understanding of this medical complication, which often results in treatment within the nursing home or transfer to a hospital. Wandering and elopement can result in death. This chapter points out the complexities of caring for an at-risk population, and the multiple opportunities for becoming injured while wandering or eloping. Increasingly standards of regulatory and accreditation agencies are focusing on the rights of the nursing home resident to adequate pain control. Pain management and mismanagement are extensively discussed in a new chapter. The last chapter in this section dissects the implications, types, and examples of altering medical records. Billing fraud and its impact on nursing home cases is presented by two experts in the field. The impact of chemical restraints on the elderly is covered by the Pharmacology and the Elderly chapter.

The text concludes with two new chapters that offer defense views of nursing home litigation. The first of the two new chapters explains how the aging process impacts on liability issues. The second new chapter assists in understanding how the claims adjuster views nursing home cases. These new chapters join the updated material on the defense attorney's perspective.

This text is intended to be a companion to Ruben Kriszta's book, *Nursing Home Litigation: Pretrial Practice and Trials*, second edition, and Dr. Jeffrey Levine's text, *Medical Legal Aspects of Long Term Care*. Both were published by Lawyers and Judges Publishing Company.

I thank the authors, who patiently worked through the revisions of the chapters, answered my questions, and shared their expertise. The text represents untold hours of work, plans put on hold, and free time consumed by the need to complete the chapter. I thank my secretary, Susan Dubrowski, who assisted me in the editorial process. Most of all, I thank the many attorneys who have said to me, "I read your first edition cover to cover and it was very helpful." This work is intended to illuminate this specific area of litigation, both alike and different from medical malpractice cases. It is a pleasure to deliver it into your hands.

Patricia Iyer MSN RN LNCC