

ELLIOTT BERNARD OPPENHEIM, MD/JD/ LL.M. HEALTH LAW
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ELLIOTT BERNARD OPPENHEIM, MD/JD/ LL.M. HEALTH LAW

Former Physician in *Family Practice**/ Emergency Medicine*

Formerly **Board Certified in Family Practice by the AMERICAN BOARD OF FAMILY PRACTICE
ELLIOTT B. OPPENHEIM, MD/JD/LL.M. HEALTH LAW DOES NOT PRACTICE LAW OR MEDICINE

• **Education**

1965 **Pennsbury High School**, Yardley, Pennsylvania
1969 **B.A. Occidental College**, Los Angeles, California 9/65-6/69
1973 **M.D. University of California, Irvine, School of Medicine**
Irvine, California 9/69-6/73 [with Clinical Clerkships at Oxford University (thoracic surgery) Harvard University (general surgery), Stanford University (cardiovascular surgery)]
1973-1974 **University of Washington** affiliated hospital -
7/73-6/74 **Providence Hospital**, Seattle, WA Surgical Internship (PGY-1)
1974-1975 **University of British Columbia**, Vancouver, BC, Canada
7/74-2/75 Vancouver General Hospital Surgical Residency - (6 months)
1995 **J.D. Michigan State University College of Law; E. Lansing, MI**
8/92-6/95 [formerly Detroit College of Law, Detroit, MI]
Recipient: Jurisprudence Prize in Constitutional Law
1993-summer **University of Washington, School of Law**
school Seattle, Washington
1995-summer **Wayne State University, School of Law-**
school Detroit, Michigan
1996 **LL.M. HEALTH LAW Loyola University School of Law,**
Beazley Institute for Health Law
Chicago, Illinois

- *Thesis: BEFORE AND AFTER: Spoliation of Evidence in Medical Negligence Litigation*
- **Supervising Editor- Journal of the National Association of Administrative Law Judges**
- Note, *Calvin v. Chater: The Right to Subpoena the Physician in SSA Cases; Conflict in the Circuits over the Interpretation of 20 C.F.R. 404.950(d)(1)*, 15 J. NAT. ASSOC. ADMIN. L. JUDGES 143 (1996).

• **CURRENT**

CEO/President- coMEDco, Inc. - a *national* corporation specializing in *medical-legal analysis*, expert referral, medical and legal litigation related research including evidentiary problems, research support, discovery, and trial consultation in advocacy techniques and strategy.

• **MEDICINE**

Family Practice and Emergency Medicine- 18 years active practice (1974-1992); *formerly* BOARD CERTIFIED **American Board of Family Practice**, Diplomate No. 18445; ACLS, APLS, ATLS Certifications; Former Member ACEP, AAFP, AMA. Formerly licensed in California and Washington.

Publications and other materials upon request

SIGNIFICANT MEDICAL-LEGAL CONSULTATION PROJECTS

1. *State v. Johnson*, No. 97-1-01564-9 SEA, SUP. CT. WA. (King Co., WA) (1997) - criminal defense of plastic surgeon charged with multiple felony counts of inappropriate conduct with patients. Convicted on only one misdemeanor count. (in consultation with Ms. Julie Spector, Attorney at Law of Seattle, WA).
2. *Glickman v. Dunn*, South Park Medical Center, (6-30-1997) Dallas, TX; \$10,755,000. In consultation with Ms. Linda Turley, Attorney at Law. Labor and delivery death; negligent credentialing claim.
3. *Cherukuri v. Shalala*, 175 F.3d 446, (6th Cir. 1999)- achieved dismissal of charges in defense of physician accused of violation of EMTALA. The doctor was fined \$100,000! (in consultation with Mr. Chad Perry, Attorney at Law, Paintsville, KY) before the Departmental Appeals Board, Washington, DC - wrote both EMTALA appeal before DAB and the brief for United States Court of Appeals for the Sixth Circuit). ("We respectfully suggest that the Board should review cases like this one closely and should not simply pass them on to a federal appellate court without providing a reasoned disposition of the objections raised by the parties." 175 F.3d 446, 455).
4. *Annon. v. Annon.*, Dallas, TX (confidentiality agreement) (1999): \$3.85 million recovered in medical negligence case concerning brain injury. Permissible details upon request. (in consultation with Ms. Alicia Slaughter, Attorney at Law, Dallas, TX).
5. *State v. Hudson*, Sedgewick Co. Dist. Ct. No. 00CR1399 (Wichita, KS) (2001) – criminal defense of man charged with child abuse / first-degree murder- acquittal on all charges. (in consultation with Mr. L.J. Leatherman, Topeka, KS).
6. *State v. Ocaño*, Pima Co., Tucson, AZ (Tucson, AZ) (2003)- defendant accused of CSC with 3 year old- acquittal. (in consultation with Mr. Jeff Buchella, Tucson, AZ).
7. *Tornaquindici v. Keggi*, 94 Conn. App. 828, --- A.2d ----, 2006 WL 941959 Conn.App. 2006, (April 18, 2006). (Complex litigation docket. Orthopedic surgeon required to pay plaintiff \$557,000. Upheld on appeal. Mr. Paul Levin, Attorney at Law of Hartford, Connecticut).
8. *Annon. v. Annon.*, (confidentiality agreement) (Connecticut 2007)- pseudotumor cerebri case- settled: \$2.35 million recovered for plaintiff. (Mr. Paul Levin, Attorney at Law of Hartford, Connecticut).
9. *State v. Avila*, Court No. CM0721375, Benton Co. (2008). (Acquittal on 17 counts involving sexual conduct. In consultation with Mr. John Rich, Corvallis, OR). Cross-examination of SANE nurse based upon lack of scientific method and foundation.

Recent Medical or Law Publications

- *Lessons Learned; The Offensive Use of Medical Evidence in Criminal Defense Cases* 19 ANN H LAW 1 167 (2010) (appearing in the 25th Anniversary Edition of the Beazley Institute for Health Law and Policy).
- *New JCAHO Standards to Create Affirmative Duty to Disclose Hospital Error*, 4 TRAUMA 79 (December 2004).
- *May the Police Practice Medicine?*, 8(1&2) J. MED. & LAW 35 (Fall 2003-Spring 2004).
- *Nursing Home Litigation: A Primer for Trial Lawyers*, 6(2) J.MED.L. 81 (2002).
- *Idaho Locality Rule in Medical Negligence Litigation: Grover v. Smith*, 31(2) IDAHO TRIAL LAWYERS ASSOC. J. 33, (2002).
- *New Standards Require Doctors to Admit Mistakes in Care*, NEW MEXICAN, July 2, 2001, B-1.
- *The Law and Ethics of Web Prescribing*, HIPPOCRATES, 44 (September 2000).
- *The Weighted Analysis of Medical Malpractice Cases*, 46(3) MED. TRIAL TECH. Q. 263 (2000).
- *New Rules on Electronic Records: HIPAA's Proposed Patient -Privacy Standards Focus on Principles*, HIPPOCRATES 22 (January 2000).

- *Staying out of Court: Cost-Free ways to Risk-Proof your Practice*, HIPPOCRATES 26 (December 1999).
- *The Law of Evidence and the Medical Record*, 2(2) J.MED.L. 167 (1999).
- *Released Against Advice*, HIPPOCRATES 20 (September 1998).
- *The Medical Record: A New Mexico Lawyer's Litigation Guide*, 4(2) BAR J. (NM) 15 (Summer 1998)
- *When Doctors Doctor the Doctor's Record: Spoliation of Evidence*, 26 N.M. TRIAL LAWYER 1 (1998).
- *A Doctor's Perspective on what the Law Should be for End-Of Life Issues*, 2(1) J.MED.L. 11 (1997).
- *EMTALA: Its First Decade; A Retrospective Analysis of 42 U.S.C. § 1395dd*, 43(4) MED. TRIAL TECH. Q. 77 (1997). Listed: <http://www.uplaw.net/articles.htm>.
- *Scoping Out the Medical Record: The Key to Understanding Medical Care*, 51 WA. ST. B.J. 22 (1997)
- *A Review of the Emergency Medical Treatment and Active Labor Act*, 85 ILL.BAR J. 212 (1997).
- *The Baseline: Detecting the Doctored Medical Record*, 14(1) Medical Malpractice Law & Strategy 1 (November 1996).
- *A Trial Lawyer's Guide to the Medical Record*, 84 ILL. BAR J. 637 (1996).
- *The Risks of Doctoring Records*, HIPPOCRATES 34 (September 1996).
- Note, *Calvin v. Chater: The Right to Subpoena the Physician in SSA Cases; Conflict in the Circuits over the Interpretation of 20 C.F.R. 404.950(d)(1)*, 15 J. NAT. ASSOC. ADMIN. L. JUDGES 143 (1996).
- Honorable Mention- National Writing Contest of International Association of Defense Counsel (1995) for *Physicians Against Their own Patients: What Happened to the Privilege?* 63(2) DEF. COUNSEL J. 254 (1996).
- *The Trial Lawyer's EMTALA Manual*, 11(4) PROF. NEG. L.REP. 73 (1996).
- *EXAMINING MEDICAL RECORDS: How to Know What is Said When you Read What the Doctor Wrote*, 82 ABA J. 88 (1996).
- *Keeping it on the Record*, 28(2) EMERGENCY MEDICINE 87 (1996)
- *Components of a Hospital Medical Record- A Checklist*, 10 PROF. NEG. L. REP. 196 (1995).
- *The Medical Record Explained*, 6(3) OHIO TRIAL 7-12 (1995).

QUOTED:

- Brad Burg, *Fined \$100,000 for Dumping Patients he Couldn't Treat*, MEDICAL ECONOMICS 112 (November 22, 1999) (reporting the *Cherukuri* case).
- Tanya Albert, *Take care with patient e-mail policies: Electronic communication can enhance doctor-patient relationships, but already familiar legal traps lurk in the new revolution: privacy, malpractice and accuracy of information*, AMA NEWS (Jan. 22, 2001) at http://www.ama-assn.org/sci-pubs/amnews/pick_01/prsc0122.htm.
- Internet Pharmacy: Medicine's Third Rail; reviewed; http://www.natmedlaw.com/July%202000/internet_pharmacy.htm

PRESENTATIONS / TALKS:

- Brain Fingerprinting: Is it *Daubert*-Proof? 02 May 2001 – Harvard Medical School, Department of Psychiatry, Forensic Research Group; Cambridge, MA.
- Prescribing Psychologists Registry, Psychopharmacology- Los Angeles, CA - 14 hours; 2-3 March 2003.
- The Law of Prescribing Medicines, New Mexico Psychologists- Las Cruces, NM, 10 November 2002.

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- New Mexico Public Defender Association Annual Meeting: The Offensive Use of Medical Record in Criminal Defense; Albuquerque, NM, 21 October 2005.

PERIODIC COLUMNS:

- Lexis Law Publishing: R_x Law & Medicine Report, Quarterly (1998-2002).
- Leader Publishing / New York Law Journal Publishing: Medical Malpractice Law & Strategy, Monthly (1997- present).

***coMEDco, Inc.[™] Briefly Stated MONOGRAPHS**

***EMTALA: Its First Decade - A Retrospective Analysis of 42 U.S.C. § 1395dd** © (Terra Firma, Santa Fe, NM 1996) (ISBN# 1-930263-00-7) 65 pages, 250 footnotes.

***BEFORE AND AFTER: Spoliation Of Evidence In Medical Negligence Litigation** © (Terra Firma, Santa Fe, NM 1996) (ISBN# 1-930263-03-1) 175 pages; 600+ footnotes

***The Law of Evidence and the Medical Record** © (Terra Firma, Santa Fe, NM 1997) (ISBN# 1-930263-01-5) 115+ pages; 325+ footnotes

*** SCIENTIFIC EVIDENCE IN PERSONAL INJURY LITIGATION: DAUBERT'S GHOST** © (ISBN# 1-930263-04-X) 240 pages; 900+ footnotes.

***Books/ Treatises / Chapters**

THE MEDICAL RECORD AS EVIDENCE, 900 pages, (Lexis Law Pub. Co., Charlottesville, VA 1998) (2003 supplement) (ISBN# 1-55834-889-1) *The definitive and ONLY work in the field of medical evidence.* To order direct from Lexis Law Publishing: 800-562-1197; item # 66063 This book has been admitted as learned treatise in many courts and is a course book in advanced evidence courses in many law schools worldwide. (<https://store.kobobooks.com/en-US/ebook/the-medical-record-as-evidence>)

MASTERING VEHICLE INJURY CASES: 750 pp+ (ISBN: 978-0-314-92804-7) (Thomson-West 2007). Order: 800-328-4880 Mat # 40576344 This is a "how to" manual for trial lawyers on how to analyze cases and how to develop them through the damage side. This provides the inside view to the medical evidence. (<http://www.amazon.ca/Mastering-Vehicle-Injury-Elliott-Oppenheim/dp/031498092X>)

VEHICLE INJURY LITIGATION: DEPOSITION & TRIAL QUESTIONS (Thomson-West - Litigation One 2008) (300 pp.) (ISBN: 978-0-314-92842-9) To order: 800-747-3161 xt 2; web: <http://www.litigationone.com> This is a manual with actual questions for each part of the body, every system. (<http://www.amazon.ca/Deposition-Trial-Questions-Litigation-Examination/dp/0314974954>)

LAWRENCE NORDHOFF & ELLIOTT B. OPPENHEIM, VEHICLE INJURY: DEPOSITION AND TRIAL QUESTIONS (Litigation One 2003). (422 pp.) To order: Litigation One 888-577-3771; <http://www.litigationone.com>.

in David W. Louisell & Harold Williams, *Evidence and Spoliation in Medical Records*, ch. 36, MEDICAL MALPRACTICE (Matthew Bender 2003) ISBN: 0820513709; 100 pages.

NOVELS:

KALEIDOSCOPE: Sunstone Press (2013) (ISBN: 978-0-86534-942-1); movie rights under negotiations
[Kaleidoscopethenovel.com](http://www.amazon.com/dp/0865349428/ref=rdr_ext_tmb)
http://www.amazon.com/dp/0865349428/ref=rdr_ext_tmb

MEDICINE MAN- in progress

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