

# **EFFECTIVE INTERNET TACTICS FOR MEDICAL MALPRACTICE CLAIMS**

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**National Business Institute**

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## EFFECTIVE INTERNET TACTICS FOR MEDICAL MALPRACTICE CLAIMS

### I. OVERVIEW

The internet provides a very useful tool for litigators in medical malpractice or in really any type of litigation. The use of internet resources can help you learn more about your opponents, prepare inexpensive exhibits for trial and other presentations.

#### A. Internet Research

The internet can be a useful tool to research issues surrounding your case. Popular internet search engines, like Google and Yahoo, provide a good starting place for learning about the issues in your case. A good place to start is with medical journals that are on line. One example is *The New England Journal of Medicine* which is widely recognized as a reputable journal located at <http://content.nejm.org>. This and other cites like it provide jumping off points for your investigation.

Most cites typically contain an internal search engine that can be used to look up specific types of medical issues and recent articles and editorials on those issues. These articles can often provide you with background about the medical theories involved in the case along with giving you a source for expert witnesses and descriptions of the standards of care and causation issues that you might encounter.

When there are drug issues involved, a good place to go is the U.S. Food and Drug Administration website at [www.fda.gov](http://www.fda.gov). It contains a wealth of consumer information about drugs, medical devices and vaccines. The historical data on the site often can be searched to look for things like *Physician Desk Reference* entries about particular drugs, testing and evaluation documents about the effectiveness of those drugs and can be used to establish when it became the standard of care to use certain types of drugs.

Once you have narrowed down the issues of what you are looking for, more support sites like <http://medline.cos.com> can provide you with access to a wealth of written documentation about almost any medical subject. While not authoritative, [www.wikipedia.com](http://www.wikipedia.com) often contains helpful information from a layman's perspective and then links to more specific or more authoritative cites. Wikipedia is also a good source for looking for graphics, medical illustrations and animations that might help illustrate the issues involved in your case.

If the case involves drugs, another good source is to look at the actual manufacturers' websites. Many contain very specific and extensive information about the drugs they produce. For example, at [www.gene.com](http://www.gene.com), the website for Genentech, I was able to look up information about a drug involved in a recent case called Herceptin. The website contained

a graphic development timeline for the drug which was a ready-made trial exhibit showing its development over the years and certain milestones in its use. Not everything in the website was pertinent to my case, but it provided a very strong background to build exhibits and draft questions for witnesses in the case.

When you know the defendant involved, it is worth running the healthcare provider in the basic search engines to see what comes up. You never know what you might find. For example, a recent case I had dealt with a doctor that claimed to have no assets. However, a search of his name through Google revealed a number of articles on him describing his expensive home and state of the art outside kitchen and other luxuries. These documents were very helpful during the deposition of the doctor to help refute his claims of poverty.

When preparing to depose a doctor, I always review this type of information to see if he or she has drafted anything on the issues involved. I also look to see how the doctor advertises his services and what claims he makes about the area of his expertise. In a recent case I found a doctor in an internal medicine case that advertised his services as part of his clinic to include microdermabrasion and Botox injections. When this was brought up at deposition, it embarrassed the doctor and cast him in the light of having less of a focused expertise than he was originally claiming.

It is always worth running your doctor on the appropriate state regulating board. In Texas the site to go to is [www.tmb.state.tx.us](http://www.tmb.state.tx.us), which is the home of the Texas Medical Board. This site is very helpful in getting background information on any doctor practicing in the state. At the main page, go to “Services for Consumers” and look up “Find your Physician.” After selecting that and approving the usage terms, you will find a search form that you can use to look up any doctor practicing in the State of Texas. You can do this with just the last name and the engine will return all the doctors with that name in the state. Once you find the doctor, it will give you the information about his or her registration status, areas of practice, medical education, hospital privileges, certifications, and any restriction. This is most useful when there are actions taken against a doctor. If there are, typically the site will contain a scanned copy or a reference to whatever document bringing the action against the doctor that is on file with the Board. This includes sometimes Board testimony, affidavits, formal complaints, and sanction forms. I recommend doing this for every defendant doctor, as well as any expert witness, including your own, to make sure you are not surprised and to also give you very valuable information to use for cross-examination.

Similar information is available for nurses. In Texas you can look up information about nurses at the Texas Board of Nurse Examiners site at [www.bne.state.tx.us](http://www.bne.state.tx.us). From the main page go to “Verify a License Online” and you will be presented with a search engine that can look up registered nurses, licensed vocational nurses, nurse permits, and temporary licenses. Just like with the doctors’ search engine, this will give you information about whether the nurse is currently licensed and if there has been any disciplinary action. Notice

that this Board has recently changed the access that the public had to getting information about reprimands. What used to be online is now only available by writing to the Board. When you need to do this, file a Freedom of Information Act request and cite to the board action or the board date and you should be able to get the information you need. The address for the Board of Nurse Examiners in Texas is 333 Guadalupe, No.3-460, Austin, Texas 78701, phone no. 512/305-7400.

Websites like this are useful for confirming information but normally do not give you everything you really want. For example, the Texas Medical Board does not report settlements by the doctor, only jury awards. Therefore, it is a little misleading when you look to see if there has been any other actions against the doctor.

Do not overlook the power of also running your doctor's names and other healthcare provider names on search engines like Lexis and Westlaw. I frequently run the names of expert witnesses and defendant doctors in Westlaw just to see if their names have come up in any kind of reported opinions. You will be surprised at what you may find.

## **B. Miscellaneous Uses of the Internet**

The internet's broad scope can be used to your advantage in many different ways. What follows is a list of other potential sites that you may find helpful depending on your situation. Google.com has a search engine for addresses that includes satellite views. Google is not the only site that provides this that can, by example, give you a satellite picture of almost anyplace in the world with frequently pretty good resolution. I have used this site to create exhibits to show exactly how close a facility was to another facility to illustrate the time involved in the delay of the treatment of a patient. I have also used these maps to help win arguments regarding jurisdictional battles and also to find information about a healthcare provider's assets.

Another site I have used on several occasions is the Dallas Area Central Appraisal District website. [www.Dallascad.org](http://www.Dallascad.org) is an interactive site which will allow you to search the property tax records for any piece of property or for any individual that is listed. Similar sites exist in other counties. Dallas' site allows you to place the last name of an individual and find any property owned by that individual. This site is very helpful and often contains a picture of the actual property, its estimated value, its size, and the materials used in it to make it.

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**ABOUT NEJM**

**CURRENT ISSUE:** August 6, 2007

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**PERSPECTIVE**  
**The Rosiglitazone Story — Lessons from an FDA Advisory Committee Meeting**

On July 30, the Endocrinologic and Metabolic Drugs Advisory Committee and the Drug Safety and Risk Management Advisory Committee of the FDA concluded that the use of rosiglitazone for the treatment of type 2 diabetes was associated with a greater risk of myocardial ischemic events than placebo, metformin, or sulfonylureas. Dr. Clifford Rosen reports.

**ONLINE FIRST** August 6, 2007 (DOI: 10.1056/NEJMp078167). In Print August 30, 2007

**IMAGE OF THE WEEK**



**Asymptomatic Hematuria**

In this healthy 25-year-old driver, hematuria was incidentally noted. Abdominal radiography showed large bladder stones.

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- [FDA Approves Novel Antiretroviral Drug](#)
- [FDA Warns of Potential Botulism Risk from Canned French Cut Green Beans](#)
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*The FDA Consumer Health Information E-newsletter*



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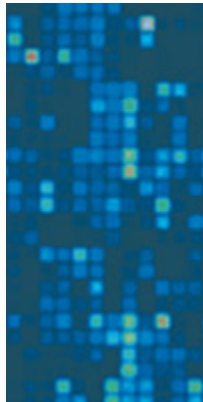
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**TOP PHILANTHROPIST**

In July 2007, the SF Business Times ranked Genentech number 9 on its list of Top Bay Area Corporate Philanthropists.

**TANOX ACQUISITION**

Genentech announces that the FTC waiting period has ended and it has completed the acquisition of Tanox.



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## Welcome to the Texas Medical Board Home Page

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Dallas Central Appraisal District (DCAD) is responsible for appraising property for the purpose of ad valorem property tax assessment on behalf of the 51 local governing bodies in Dallas County and parts of the six surrounding counties. The appraisal district is a political subdivision of the State of Texas. Our duties include establishing and maintaining accurate property values for all real and business personal property. The Texas Property Tax Code is the primary source of law and guidance for the Texas property tax system.

This website is for informational purposes only. Title research should be performed at the appropriate County Clerk's office. This is not deemed a legal document.

*Web Pages Updated: 7/25/2007*

*Appraisal Data Updated: 8/6/2007*

## RECENT HEADLINES

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# **ACTUAL CASE-RELATED INTERNET SITES**