

Medicolegal Glossary

Walter L. Scott

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edited by

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**Medical Economics Books
Oradell, New Jersey 07649**

Library of Congress Cataloging-in-Publication Data

Medicolegal glossary.

1. Medical laws and legislation—United States—
Terms and phrases. 2. Medical jurisprudence—United
States—Terms and phrases. 3. Law—United States—
Terms and phrases. I. Scott, Walter L. [DNLM: 1. Foren-
sic Medicine—nomenclature. 2. Jurisprudence—nomen-
clature. W 615 M489]

KF3821.A68M43 1989

344.73'041'03

88-27265

ISBN 0-87489-495-6

347.3044103

This book was written by Walter L. Scott in his private capacity. No official support or endorsement by the U.S. Public Health Service is intended or should be inferred.

ISBN 0-87489-495-6

Medical Economics Company Inc.
Oradell, New Jersey 07649

Printed in the United States of America

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Preface

For several years, I taught a graduate course in healthcare administration. A recurring problem was the language barrier between the healthcare and legal professionals, not only where liability for malpractice was concerned, but for terminology associated with contract and business issues, credentialing, education, and health-related legislation. This book was written over a period of several years during which time terms and phrases were collected and defined specifically for the purpose of making legal jargon more understandable and usable for the healthcare professional. The special section on health-related legislation was included only because it was so difficult to locate and is relevant to the medicolegal aspects of such a reference text for healthcare professionals.

I would like to acknowledge Thomas E. Baynes, U.S. Bankruptcy Judge, and friend, who provided much of the early inspiration for this undertaking.

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A

abandon, abandonment: desertion of a patient by a health professional while still under contract or while still having a professional duty to care for that patient.

abate: put an end to; demolish; do away with, nullify, make void.

abdicate: to relinquish, or renounce, a position of recognition, or a function.

abduct: to lead away by force or threat.

abduction: the unlawful leading away, or carrying away, of a person for ulterior or criminal motives.

abiosis: without life; absence of life.

abiotic: not viable; incompatible with life.

abortifacient: a substance which is used to induce abortion or used in attempting to induce abortion.

abortion: the expulsion of a fetus from the uterus before it is viable; a pathophysiologic event not necessarily illegal.

abortionist: one who performs abortion.

abrade: to chafe or roughen by friction.

abrasion: the mechanical scraping away of the skin, the teeth, or a mucous membrane.

abuse of process: a civil action wherein damages are sought where it is alleged that the legal process has been used in a

manner for which it was not intended, such as may be used by a health care professional attempting to countersue a patient, or by a psychiatric patient claiming wrongful confinement.

accident: an unintentional event occurring by chance, or from unknown causes; an unexpected, untoward happening, not necessarily arising from fault or negligence on the part of the injured party, but for which he may be entitled to legal relief.

accomplice: one who knowingly and voluntarily unites or conspires with the principal offender to commit a crime. As applied specifically to witnesses for the state, includes persons connected with the unlawful commission or omission either before, at the time of, or after the unlawful act.

accreditation: a voluntary peer process whereby a private, nongovernmental agency or association grants public recognition to an institution or specialized program of study that meets or exceeds certain established qualifications and educational standards, as determined through evaluation.

accuracy: the extent to which measurements approach the true value, or quantity, of that which is being analyzed.

accuse: to formally bring a charge against a person, implying that he is liable or guilty of a crime.

acquittal: to release, absolve, or set free from an obligation or engagement; in criminal law, a legal certification of innocence for one charged with a crime; finding of not guilty.

act of God: an accident occasioned exclusively by nature without human interference; an act, event, happening, or occurrence of natural causes not attributable to human agency.

action: as in "bringing legal action," a suit is brought in a court of law. The ordinary proceedings in a court of law wherein one party prosecutes another for the protection or enforcement of a right, prevention of a wrong, or punishment for a public offense.

actionable: that which provides grounds for bringing legal action.

active ingredient: in Food and Drug Law, any component that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the human body or other animals; the term includes those components that may undergo chemical change in the manufacture of the drug and be present in the finished drug product in a modified form intended to furnish the specified activity or effect.

actual yield: in Food and Drug Law, the quantity that is actually produced at any appropriate phase of manufacture, processing, or packing of a particular drug product.

actuarial: relating to statistical calculations or estimates, often used with life expectancy.

actuarial table: an organized form of statistical data indicating a person's life expectancy admissible as evidence through expert witness; used by insurance companies in determination of insurance premiums.

actuary: a person who calculates the risk of something occurring or not occurring.

ad hoc: *Latin*, for a specific purpose.

ad damnum clause: a plaintiff's statement in a complaint that specifies a dollar amount as compensation for damages. The stated amount effectively places the action into a particular court; whereas, a state small claims court may have an upper limit of \$500, while a federal district court has a base of \$10,001. Another consequence of the ad damnum clause is unfavorable and unfair publicity for the defendant.

addendum: a supplement to a book, letter, or other document.

adjourn: to suspend indefinitely or until a later time.

adjudication: the hearing and decision of a case resulting in a judgment, a pronouncement, or a decree.

adjudicate: to settle through judicial authority.

administrative agency: a department, administration, agency, or other arm of government that administers or carries out legislation (e.g., Environmental Protection Agency).

administrative hearing: an oral proceeding before an administrative agency that may include a trial.

administrative law: rules, regulations, and orders having the weight of law, created by administrative agencies.

Administrative Procedure Act: in Federal law, enacted in 1946 (60 Stat. 237, 5 U.S.C.A.) governs the proceedings before federal administrative agencies. Each state has enacted its own Administrative Procedures Act.

admissibility (of evidence): the worthiness of evidence in meeting the legal rules of evidence and whether the evidence will be allowed to go to the jury.

admission: conceding something, a confession or acknowledgment; as, the admission of guilt.

admitted insurance company: an insurance company that has been licensed by the state insurance licensing authority and is subject to the requirements affecting rates and forms.

adolescence: that period of human life immediately before, during, and immediately after puberty.

adoption: the taking into one's family the child of another and giving him the rights, privileges, and duties as their own child and heir. In the process, the adopted child's rights and duties toward his natural parents are terminated, being substituted by similar rights and duties towards the adoptive parents.

adulterate: to make impure that which is presented as pure; to prepare for sale by replacing the more valuable with the less valuable materials or ingredients; to label erroneously as to content or use; to hold for sale a material or item presumed to be in compliance with the necessary regulations and compliance requirements when in actuality it is not.

adulterated: in Food and Drug Law, such articles include products that are defective, unsafe, filthy, or produced under unsanitary conditions.

adultery: sexual intercourse between a married person and another person who is not the spouse.

adulthood: see “age of majority.”

adverse witness: see “hostile witness.”

affidavit: a written declaration or statement under oath before an authorized public officer.

affiliation agreement: an agreement between two or more parties or institutions that defines mutual responsibilities in the provision of a specific relationship, such as an educational, or training program.

affirmance: a determination by a higher court that a ruling or judgment by a lower court is correct.

affirmative action plan: a document required by government for those employers involved in government contracts stating the goals, timetables, and programs the employer plans to implement to move from current status toward parity with the sexual and minority ratios of the external labor market.

age of majority: age at which a person may enter into a contract on his own, vote, and execute a valid will; also called legal age, full age, majority, and adulthood; 18 years in most jurisdictions.

age of consent: the age at which a person may marry without parental approval; age at which a female is legally capable of agreeing to sexual intercourse; the age of the female, below which a male is said to have committed statutory rape, having had sexual intercourse with her.

agency: a person or thing through which control or power is exerted or a result is achieved; the relationship in which a person acts for or represents another person.

agent: one who acts for or in place of another through the authority given by that other.

aggravated assault: knowingly attempting or causing serious bodily injury to another; or doing so, recklessly, under circumstances manifesting extreme indifference to human life.

aid: to assist, cooperate, supplement, or help someone in the commission of a crime.

AIDS: acquired immunodeficiency syndrome.

AIDS-related terms:

AIDS virus	the retrovirus implicated as the causative agent of AIDS.
ARC	AIDS-related complex.
ARV	AIDS-associated retrovirus.
candidiasis	a fungal infection of the mouth and esophagus sometimes found in AIDS patients.
CDC	Centers for Disease Control.
CMV	cytomegalovirus; an opportunistic infection (OI) that can cause blindness and be fatal in AIDS patients.
ELISA or EIA	enzyme-linked immunosorbant assay; used to screen blood for HIV antibodies.
HIV	human immunodeficiency virus; previously called HTLV-III or LAV.
HIV-2	a second form of HIV. A few cases have been identified in Africa, Brazil, France, West Germany, Great Britain, and recently in the United States.
HTLV-III	human T-lymphotropic virus type III.
KS	Kaposi's sarcoma, a malignant tumor commonly found in AIDS patients.
LAS	lymphadenopathy syndrome; a frequent symptom complex seen in HIV-infected patients.

LAV	lymphadenopathy-associated virus.
MAI	Mycobacterium avium intracellulare; an avian type of tuberculosis, commonly producing disease in chickens or swine, but rarely in humans, except for AIDS patients.
MMWR	Morbidity and Mortality Weekly Report; a CDC publication that frequently contains information about HIV.
NIH	National Institutes of Health.
OI	opportunistic infection.
PCP	Pneumocystis carinii pneumonia; a common opportunistic infection seen in AIDS patients.
PHS	Public Health Service; the parent agency of CDC, NIH, and FDA (and other agencies); a component of the Department of Health and Human Services (DHHS).
SIV	Simian immunodeficiency virus; a virus related to HIV and seen in monkeys.
WB	Western blot; an additional, more specific blood test for HIV antibody; used to validate seropositive reactions to EIA.

Al-Anon: an organization patterned after Alcoholics Anonymous wherein adults having a significant relationship with an alcoholic provide help for each other.

Al-Ateen: an organization patterned after Alcoholics Anonymous wherein adolescents having a significant relationship with an alcoholic provide help for each other.

Alcoholics Anonymous: a worldwide self-help organization in which members aid each other in the recovery from alcoholism; a type of group therapy where using common experience is applied for mutual support.

alimony: a sum of money or allowance given to one spouse by another for support after a divorce, or a legal separation.

allegation: the assertion, declaration, claim, or statement that a person expects to be able to prove or support with evidence.

allied health professional (AHP): an individual who: (1) received a certificate or associate's, bachelor's, master's, or doctor's degree or postbaccalaureate training in health care-related studies; (2) shares in the responsibility for the delivery of health care services or related services including the identification, evolution, and prevention of diseases and disorders, diet and nutrition, health promotion, rehabilitation, or health systems management services; and (3) does not hold a degree in medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, chiropractic, health administration, or clinical psychology.

allotment: a portion or a share; apportionment or division; the distribution of shares in a corporation; the distribution of land.

ambulance chaser: a term applied to some lawyers who, on being informed of a personal injury caused by the negligence of another, seek out the injured person with the hope of securing authority to represent the injured party in bringing action because of the injury. Also applied to those who attempt to solicit negligence cases for an attorney.

amicus curiae: *Latin*, "a friend of the court;" an outsider (or outside group) who voluntarily appears to petition or file a brief as amicus curiae, offering information on a matter in regard to which the court is doubtful or mistaken.

animal feed: in Food and Drug Law, an article that is intended for food for animals other than man and that is intended for use as a substantial source of nutrients in the diet of the animal, and is not limited to a mixture intended to be the sole ration of the animal.

annotate: to make or provide critical comment or explanatory notation on a subject.

annulment: the legal dissolution of a marriage, from its beginning.

Antabuse: the drug, disulfiram, used in the treatment of alcoholism, causing an unpleasant reaction with alcohol use.

antenuptial contract: a before-marriage contract between prospective spouses.

anti-trust law: federal laws enacted to control monopoly and preserve competition in business and trade.

antiseptic: in Food and Drug Law, a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic, for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.

antisperm antibodies: antibodies detectable in approximately one-half of vasectomized males as well as up to 40 percent of males and females with unexplained infertility.

antitrust: relating to opposition to trusts or legislation to protect commerce and trade from unlawful restraint, unfair business practices and monopolies.

Apgar score: a system of scoring an infant's condition one minute after birth; the heart rate, respiration, muscle tone, color and response to stimuli are scored.

appeal: a petition to a superior court from an inferior one to review and correct or reverse an alleged error committed by the inferior court.

appellant: the person appealing a case from a lower to a higher court.

appellate: relating to appeals, having the authority to review the judgment of another tribunal or court.

appellate court: a court having jurisdiction of appeals and reviews; a court that reviews, not a "trial court."

appendices: see appendixes.

appendix: a supplement; materials added to an appellate brief; additional material usually added to the end of a report.

appendixes: the plural form of appendix (also appendices).

apportion: to distribute or divide something proportionally.

a priori: *Latin*, based on theory instead of experience; from a generalization to a particular.

aptitude: natural ability and skill in certain areas of endeavor.

arbitration: investigation and determination of an issue of difference between contending parties by one or more unofficial persons called arbitrators who are chosen by the contending parties; may be carried out by mutual consent or by statutory provision.

arbitration panel: in an effort to reduce the malpractice litigation load on the local legal system, eliminate bad faith claims, and to speed resolution of deserving claims, many states have established arbitration panels to review all malpractice cases prior to entering the court system.

argument: effort to establish belief by presenting a course of reasoning (presented by opposed counsel).

arraignment: the process of bringing a prisoner (in criminal law) before a court, reading the indictment to him, and requesting his answer to the charge.

arrest: as in "under arrest," to seize or hold a person in legal custody.

articles of impeachment: these are similar in purpose to a criminal indictment; that is, a formal written allegation of the charges for impeachment.

artificial insemination: introduction of viable sperm by artificial means into the vagina, cervical canal, or uterus.

artificial insemination donor (AID): the artificial insemination

of a woman (usually the wife) by the semen from an unrelated donor; heterologous insemination.

artificial insemination husband (AIH): the process by which the wife is artificially impregnated with semen of her husband; homologous insemination.

asexualization: causing a person to be incapable of reproduction; sterilization by oophorectomy, castration, or vasectomy.

as is: a term used in the sale of goods that negates the existence of expressed or implied warranties.

assault: an intentional act designed to make the victim fearful and which produces apprehension of harm.

assignment: the transfer of property, usually limited to rights in, action, or rights under a contract.

assumption of the risk: where a person knows or should have known the risks involved in performing or omitting a certain act but proceeds forward to his own detriment.

at bar: before a court of law.

attachment: a legal proceeding to take a defendant's property into seizure or custody to satisfy a plaintiff's legal demand, that is, to hold the property to abide the order of the court for the payment of a judgement in the event that a debt is established.

attending physician: the physician responsible for a specific patient.

authenticate: to prove authorship, by written signature, identifiable initials, symbol, or computer key. Rubber stamp signature is acceptable only when the one whose signature is duplicated is the only person using it and the only one having possession of the stamp and a signed statement has been expressed to the appropriate authorities that the user and possessor of the stamp is the sole user.

autopsy: the inspection and limited dissection of a deceased