

# The Physiatrist: Prescription For a Healthy Client and Case

Our clients embark on unsought tours of the world of medicine, pain, and suffering after a life-altering injury. Along their way to a hopeful recovery, they encounter various medical professionals. From catastrophic brain or spinal injury, to bone and joint injuries, the road to rehabilitation can be full of options and difficult therapeutic choices. Perhaps one of the most hopeful, helpful, and reliable vehicles towards returning to functionality is the physiatrist. At the same time, a helpful physiatrist can also play a pivotal role in developing and presenting the injured client's case to a jury.



By Timothy D. Lange

## What do Physiatrists do?

A physiatrist (pronounced “fizz-ee-at-’-trist”) is a medical doctor who specializes in physical medicine and rehabilitation.<sup>1</sup>

The goal in physiatry is to rehabilitate the injured patient to a maximum return to functioning. Patient outcomes are, of course, case specific. Complete rehabilitation to pre-injury functioning is often unobtainable. The physiatrist can, however, assist the patient to otherwise safely integrate necessary change into his or her life to best accommodate a limited physical recovery. In doing so, this physician frequently serves as a medical navigator, steering the patient's recovery through the coordination of multiple therapies and services.<sup>2</sup>

## The Physiatrist—Treating Physician

As we well know as trial lawyers, when someone suffers a significant physical injury, more than

their body is harmed. Physiatrists are acutely aware of the toll such injuries take on the injured person physically, emotionally, socially, and with respect to their livelihood. Assessing the totality of the injury on the patient's life, these practitioners can respond by coordinating care. Such a coordinated effort can involve assembling a team of representatives providing social services, psychological counseling, and myriad therapeutic tools that may incorporate physical therapy, occupational therapy, recreational therapy, rehabilitative nursing, prosthetics, and more.

As to when the physiatrist becomes involved in the patient's care, this professional generally encounters the patient once acute trauma has been stabilized. Referral to this specialist may generally be made by a primary-care physician, medical specialist (with trauma, often as ordered by an attending neurosurgeon or orthopaedist), social services, a vocational counselor, or an insurer. Upon referral, the patient/client will initially undergo a functional evaluation. This evaluation will lead to the establishment of therapeutic goals, with an attendant assessment of resources available. Both short-term and long-term considerations are made. The rehabilitation process then begins.

## The Physiatrist—Trial Witness

A physiatrist who appreciates the client's need to document and prove the magnitude of his or her injury at trial can truly enhance your case. If the client contacts counsel soon after his or her injury, the opportunity to chronicle the implementation of the care plan devised by the physiatrist may arise. Some physiatrists will permit videotaping of therapies—providing a means to show a continuum of therapy, and demonstrating to the jury the hard realities faced by the client during rehabilitation. Documentation of the recovery from a state of post-traumatic incapacity, through each phase of the recovery, can generate powerful evidence. In the case of the catastrophically injured client, documenting the rigors of recurring physical and other

Tim Lange, a Contributing Club member, is an attorney with Benson Byrne Risch Siemens & Lange, LLP in Louisville, Ky. He may be reached at (502) 583-8373 or [tlange@timlange.com](mailto:tlange@timlange.com).

therapies via a “day in the life” video will be possible, if not crucial.

In addition to permitting documentation of the client’s rehabilitation, a physiatrist can potentially provide a wonderful teaching deposition. These experts often will generally have models, equipment, or other materials making great demonstrative evidence. Patient depression and other psychological problems are also routinely encountered during rehabilitation. This expert can explain the normalcy of the patient’s psychological injuries resulting from a physical injury or accident. Should this expert have provided a referral for such counseling, his or her deposition will coordinate well with trial testimony from that therapist or counselor.

A physiatrist can also notably enhance a Life Care Plan, if he or she is willing to work directly with the Life Care Planner. It may be the case that the physiatrist will actually order the preparation of such a plan by a case manager engaged on the rehabilitative team. The physiatrist can then generally testify as to the reasonableness and necessity of the medical care and attendant bills of the client, as well as the future care included in the plan. This testimony can seamlessly tie together the extent, duration, and attendant cost of the care required. Particularly compelling testimony can be generated from this expert with exploration of the reasons why particular future therapies are prescribed. For example, you may be able to introduce exhibits showing “wasting” as a result of the lack of therapy, bed sores, or other moving demonstrative evidence. Such future realities may impress upon the jury the true necessity of adopting and awarding the Life Care Plan developed.

As always in your selection of the appropriate expert—in this instance perhaps only with regard to the

decision of whether to use the client’s physiatrist as a trial witness—be advised to seek references from fellow KATA members or other counsel having previously worked with this physician. Use KATA’s ListServ to network and discover helpful information about the expert. Request references and background information on any expert with whom you are interested in working. Confirm the pertinent schedule of fees and document terms concerning payment and billing before engagement. Clearly convey your case timetables with respect to discovery and trial. Leave ample time for the scheduling and preparation of this expert for his or her discovery and trial depositions. Remember, experts can make or break your case. Choose wisely!

1. *Credentialing in Physiatry:* A physiatrist is a medical doctor. The standard four-year doctorate in medicine is then followed by a post-doctoral residency in physiatry consisting of four additional years of study. The residency consists of a single year of clinical pursuits, and three years of training in the full breadth of the practice. This practice treats an extremely broad patient population, from sore elbows to traumatic brain or spinal injury. Once the residency is completed, additional specialization is available, including specialization through Fellowships in spinal cord injury,

**Have you moved,  
changed phone  
numbers,  
added an E-mail  
address?  
Let us know.**

Phone: 800/776-5282 or  
502/339-8890 (Louisville area)  
Fax: 502/339-1780  
E-mail: [kyata@kata.org](mailto:kyata@kata.org)

pediatrics, traumatic brain injury, musculoskeletal rehabilitation, and sports medicine. Board certification of the physiatrist is obtained through the American Board of Physical Medicine and Rehabilitation. Dual certifications in Physical Medicine and Rehabilitation can also be obtained with respect to neurology, internal medicine, and pediatrics.

2. *References:* Research for this submission was obtained from: (a) the Association of Academic Physiatrists, [www.physiatry.org](http://www.physiatry.org) and (b) The American Academy of Physical Medicine and Rehabilitation, [www.aapmr.org](http://www.aapmr.org). Each of these web sites provides a wealth of physiatry resources and information.



## Business Valuations

### Valuations of Businesses and Professional Practices For:

- Divorce Litigation
- Insurance Claims
- Family Limited Partnerships
- Estate and Gift Tax
- ESOPS
- Damages

Experienced in Providing  
Testimony as an Expert  
Witness

References Available

**John N. Craft**  
Certified Public Accountant  
Accredited Business  
Valuator  
Certified Valuation Analyst  
Post Office Box 827  
Richmond, KY 40476-0827  
(606) 623-4027



CRAFT, NOBLE & COMPANY, PLLC  
CERTIFIED PUBLIC ACCOUNTANTS