

Plain English Helps Explain Medical Issues Clearly

A Case Study

By Dr. Oscar Linares, David Daly, and Gertrude Daly

It takes skill to explain a complex issue in simple terms. This article shows how we helped a doctor explain a medical decision in plain English to help prepare a defense against three criminal charges of healthcare fraud. The opinion shows why the doctor acted in good faith in the usual course of medical practice. (The opinion follows the article.)

In this case, the U.S. Drug Enforcement Agency raided the doctor's medical practice. The DEA charged him with wrongfully prescribing pain medicine and with healthcare fraud for ordering needless tests. As a result, he had to close the practice and declare bankruptcy.

The doctor was shocked and dismayed at the charges, and claimed to have done nothing wrong. The Michigan Board of Medicine and the Michigan Attorney General's Office reviewed the case and found no wrongful intent on the doctor's part. Despite this finding, the DEA obtained a grand-jury indictment and proceeded against him.

"Tell us why you were acting like a doctor"

A doctor is a highly respected professional. But when the government accuses a doctor of a crime, the public assumes that

he or she must have done something wrong. In theory, the prosecution must carry a high burden of proof. In practice, though, a doctor who is arrested, shamed by criminal charges, and forced into bankruptcy faces an uphill battle to defend his or her professional reputation. Defending against charges like these requires the doctor and the defense lawyers to be able to explain the doctor's decision-making process clearly.

In this case, the criminal-defense lawyers asked the doctor to explain his side of the story in writing. Since the central issue was intent, they said, "Tell us why you were acting like a doctor."

This request involved a complex writing challenge. Showing that a doctor acted in good faith involves bringing together ideas from several sources. A patient's medical chart contains hundreds or thousands of facts recorded as cryptic notations. It takes medical training to interpret the findings in the chart and analyze them. Medical standards involve rules and guidelines from many state and federal organizations. Doctors learn to talk and think in medical jargon. But explaining medical thinking to a layman requires plain English.

For most of us, specialized medical talk is hard to understand. Traditional medical writing tends to overuse long sentences, passive voice, and complex technical jargon. It sounds formal and abstract. Even doctors themselves can find it hard to grasp the technical talk of doctors in other fields.

What did it take to write in plain English?

To start with, we asked the doctor to keep in mind the mixed audience of experts and nonexperts who might read the opinion. The experts might include medical expert witnesses on both sides of the case. The nonexperts might include lawyers, judges, and jurors. Writing clearly for this mixed audience would mean writing in plain English without oversimplifying the medical science.

Plain-English medical writing involves at least three main concepts: reading ease, vivid language, and clear logic. We worked with the doctor to improve each of these areas.

Take charge of your reading-ease score

A reading-ease test tries to roughly estimate a reader's difficulty in understanding a written text.¹ These tests, such as the Flesch reading-ease score, use formulas based on average sentence length and word length.² Traditional medical writing tends to score low, often less than 20 on a scale from 0 to 100. A good reading-ease score doesn't ensure that a text is clear, but it's usually a good start.

This medical opinion has a good score. It is written at a ninth-grade level and has a Flesch reading-ease score of 54 on a scale from 0 to 100. Part of why it achieves this score is that it uses normal-length sentences.

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Plain-English medical writing involves at least three main concepts: reading ease, vivid language, and clear logic.

Traditional medical writing often sounds abstract and impersonal. We think a doctor should strive to sound professional but also human.

Another reason the opinion is easy to read is that it minimizes long words. For example, we replaced some Latin medical terms with their plain-English equivalents. Thus, *hypertension* became *high blood pressure*. *Tachycardia* became *rapid heart rate*. *Cardiovascular test* became *heart and blood flow test*. *Congestive heart failure* became *a weak heart*. Since some readers would know the special terms, we added notes to avoid confusion.

What long words did we keep? We kept the essential scientific terms that help explain the doctor's medical thinking. A word qualifies as an essential scientific term if it has no plain-English equivalent and can't be paraphrased in a few shorter words. Some examples: *sciatica*, *bipolar disorder*, and *attention deficit disorder*. We used *Stedman's Medical Dictionary*³ to help us decide whether a term qualifies as an essential scientific term.

Write vividly

Another challenge of medical writing is to write vividly. Traditional medical writing often sounds abstract and impersonal. We think a doctor should strive to sound professional but also human.

We tried several things to make this opinion sound less abstract. For one, we worked with the doctor to use concrete terms. We asked him to prefer active voice to help make clear who did what. We also tried to write in the singular. This helps keep the focus on one doctor, treating one patient, at one office visit. These ideas for writing vividly help humanize the doctor, the patient, and the medical support staff.

Present logical reasoning clearly

The logical flow of medical writing can also confuse a lay reader. When doctors talk to one another about medical practice, they often leave out steps of reasoning

that seem obvious to doctors. When writing for a lawyer, judge, or juror, a doctor needs to take extra care to spell out each step of reasoning.

For this opinion, we helped the doctor forge a strong chain of logical reasoning in several respects.

Organizing the narrative

Like a judicial opinion, a medical opinion states the facts, the rules, and the conclusions. This opinion summarizes the patient's history and physical exam, shows how the doctor complied with medical standards, and explains his medical reasoning. Section headings help the reader see each step of reasoning.

Michigan medical standards

The opinion shows how the doctor followed state medical standards. These include several state and federal rules and guidelines, such as:

- The Michigan Public Health Code,⁴ which authorizes a doctor to delegate tasks to trained medical staff, including elements of the physical exam.
- The *Michigan Guidelines for the Use of Controlled Substances for the Treatment of Pain*.⁵ These guidelines say that prescribing controlled substances for pain is for a legitimate medical purpose if based on accepted scientific knowledge about treating pain or if based on sound clinical grounds. They also set out best practices for treating a patient in pain.
- The FDA package insert for the medicine prescribed,⁶ which tells the doctor:
 - the conditions that the medicine is used to treat,
 - medical indications for prescribing it,
 - the FDA-approved dose, and
 - associated risks.

- The *DEA Practitioner's Manual*,⁷ which tells, among other things, how many days' worth of pills a doctor may prescribe.

Medical reasoning

The opinion uses a table to show each test, the medical indication, the purpose, and the result.

Opinion

The opinion states that each test was medically indicated to promptly assess the patient's pain and design a treatment plan. The decision to order the tests was based on accepted scientific knowledge of the treatment of pain and sound clinical grounds. And the tests helped prevent drugs from being diverted for unlawful purposes.

Case resolution

The counts covered by this opinion were dropped as part of a favorable plea bargain. Telling the doctor's side of the story in plain English played an important role in that result. ■

Dr. Oscar Linares, David Daly, and Gertrude Daly are the authors of Plain English for Doctors and Other Medical Scientists (Oxford University Press, 2017), available for preorder at www.pe4d.com. E-mail: Info@pe4d.com.

ENDNOTES

1. Wikipedia, *Readability* <<https://en.wikipedia.org/wiki/Readability>>. All websites cited in this article were accessed December 10, 2016.
2. Wikipedia, *Flesch-Kincaid readability tests* <https://en.wikipedia.org/wiki/Flesch%E2%80%93Kincaid_readability_tests>.
3. *Stedman's Medical Dictionary* (28th ed).
4. MCL 333.1101 *et seq.*
5. Michigan Department of Community Health, *Michigan Guidelines for the Use of Controlled Substances for the Treatment of Pain* <https://www.michigan.gov/documents/mdch_MI_guidelines_91795_7.pdf>.
6. OxyContin package insert, August 2015 <<http://app.purduepharma.com/xmlpublishing/pi.aspx?id=o>>.
7. US Department of Justice Drug Enforcement Administration, *Practitioner's Manual: An Informational Outline of the Controlled Substances Act* (2006 ed) <http://www.deadiversion.usdoj.gov/pubs/manuals/pract/pract_manual012508.pdf>.

Medical Opinion

Subject

[Patient Name]—xx/xx/2010 Tests:

- Count 14: Sensory nerve conduction test—lower back
- Count 16: Heart ultrasound
- Count 17: Neck/head ultrasound

Patient

Name [Patient Name]
 DOB xx/xx/54
 Sex Male
 Ethnicity African American
 Occupation [Job Title] (disabled)

Documents reviewed

[Patient Name] patient chart as of xx/xx/2010 visit—Tab 3 (page numbers refer to the chart)

Prescription

Pain medicine OxyContin Extended Release (p. 53)
 Dose 80 mg
 Frequency 1 tablet 2 times daily
 Supply 30 days/#60 tablets
 Refills 0
 Rx signed by [Doctor's Name] (p. 52)

Comprehensive pain evaluation

[Assistant's Name], Certified Medical Assistant

The form was filled out and signed by the patient. The medical assistant reviewed it with the patient to check for completeness. Then the medical assistant signed/initialed it. (p. 50)

Patient seen by

[Doctor's Name] (p. 52)

Chart reviewed and signed by

[Doctor's Name] (p. 52)

Indication for controlled substance

Nature of pain

[Patient Name] reported “unbearable” back pain. “The pain shoots down my left leg, only a little bit of pain on right leg upper thigh.” (p. 51) He also reported “constant dull back pain escalating to throbbing pain that shoots down my legs.” The pain was associated with “throbbing,” “spasms,” “dull, aching pain,” “shooting pain” and “numbness.” The pain is relieved by bed rest. (pp. 36, 38)

Intensity of pain (scale of 1–10) (pp. 37, 49)

Now	8
Best	3
Worst	10
Average	7

Current and past pain treatments

1988	[Patient Name] fractured his right ankle, which required surgery with pins and screws to set the fracture (pp. 32, 50).
1989	He had surgery again in the right ankle. He reports that these surgeries helped (p. 49).

Current and past pain treatments (continued)

1997	He had neck pain, back pain, and sciatica and started treatment for these conditions. He also had X-rays and an MRI (p. 34).
2002	Social Security Disability (SSD) certified [Patient Name] as disabled, which entitled him to Medicare. (p. 47) SSD certification involves having physical exams by multiple doctors; the results of these exams are then reviewed by a panel. Tab 5.
2006	[Patient Name]'s back troubles were aggravated by a car accident (p. 36).
2007–2008	[Patient Name] had X-rays (p. 34).

We requested copies of [Patient Name]'s previous medical records. (pp. 63–64)

Underlying or co-existing diseases or conditions

- In addition to the past pain treatments mentioned above, [Patient Name] also reported he suffered from attention deficit disorder, schizoid- and bipolar disorder, and was under psychiatric care for these conditions. (pp. 31, 45)
- He did not report he had a primary care doctor (p. 63).

Effect of pain on physical or psychological function

- [Patient Name] was disabled. (pp. 35, 47) He reported significantly impaired physical function consistent with his complaint of lower back pain. (p. 50) He said, “I don't do much of anything physical.” (p. 35)
- His Patient Eligibility Summary, which our office sought and obtained from Medicare, verified his 2002 Social Security Disability (SSD) certification. (p. 47)

Substance-abuse history

1. None reported by [Patient Name] (p. 35)
2. Cage-Aid questionnaire—0/4 indicates lowest risk of abuse (p. 39)
3. Opioid Risk Tool (ORT) Questionnaire—2/25 indicates low risk (p. 45)

Physical exam

	xx/xx/10					
Height	6'1"					
Weight	208					
BP	112/76					
Pulse	81					
Urine test	Neg.					

(pp. 49, 51, 54)

Physical exam (continued)

Interpretation:

• Height/weight

[Patient Name]’s self-reported weight of 190 lbs. varied significantly from his measured weight of 208 lbs. This apparent 18-pound “weight gain” seemed consistent with persistent pain and lack of exercise. (pp. 49, 51)

• Blood pressure and pulse

[Patient name]’s blood pressure and pulse rate seemed inconsistent with his report of “unbearable pain” at a level of 7–10. Because of this, I ordered the following diagnostic tests to:

1. verify his pain complaint,
2. check for drug abuse, and
3. check for a heart or circulation problem that might make it dangerous to treat [Patient Name]’s pain with narcotics. (p. 55)

Test	Medical Indication	Purpose	Result
Sensory nerve conduction—lumbar spine (pp. 59–61)	Low BP and pulse don’t usually go along with “unbearable pain.”	To verify [Patient Name]’s pain complaint	Positive, which indicates irritation and decreased nerve function. This tends to confirm his pain complaint.
Urine drug screen (p. 54)	Low BP and pulse don’t usually go along with “unbearable pain.”	To check for drug abuse	Negative for 17 common drugs of abuse.
Heart ultrasound (p. 57)	Low BP and 4 significant risk factors for heart disease. ¹ He was: African American, male, a smoker (p. 35), and had a family history of heart disease (mother) (p. 38).	To check for a weak heart (congestive heart failure), which would make it dangerous to take pain medicine.	Showed normal heart function (no congestive heart failure). Ejection fraction = 65% (i.e., 65% of blood in left heart chamber is pumped out with each beat; normal > 50%).
Head and neck ultrasound (p. 58)	Risk factor: smoking. Also low BP and pulse.	To check for blocked carotid artery that restricts blood flow to the brain.	Showed no blockage.

Treatment plan

Having considered the patient’s complaint of “unbearable pain” and the diagnostic tests, the treatment plan included pain control to improve function as shown in the patient’s *Pain Management and Medical History/Progress Note* in chart. (pp. 49–50)

Informed consent and agreement for treatment

- [Patient Name] signed the [Medical Center Name]’s standard Opioid Treatment Contract and Informed Consent xx/xx/2010. (pp. 40–42)
- Safe use of oxycodone instructions given. (pp. 51–52)

Opinion

In my opinion, the tests I ordered for [Patient Name] on xx/xx/2010 were medically indicated to promptly assess his pain and design a treatment plan for him. They were based upon accepted scientific knowledge of the treatment of pain and sound scientific grounds. They also helped me to diligently prevent the diversion of drugs for illegitimate purposes.

1. Patient complaint

[Patient Name] came to the office complaining of “unbearable” pain at level of 8 on a 0–10 scale. He reported he was disabled and did not do “much of anything physical.” He also reported impaired physical function consistent with his pain complaint. His complaint of “numbness” suggested nerve damage resulting from severe chronic pain.

2. Physical exam

[Patient Name]’s physical function had already been extensively evaluated by other doctors in connection with his accidents, surgeries, and Social Security Disability (SSD) certification. The [Medical Center Name] physical exam focused on the pain that resulted from his physical conditions.

[Patient Name]’s blood pressure and pulse rate seemed inconsistent with his report of “unbearable pain.”

	Measured	Reference Value
Blood pressure (mmHg)	112/76	> 130/90
Pulse rate (bpm)	81	> 88

He did not show rapid heart rate² or high blood pressure,³ which are signs of the “fight-or-flight response”⁴ characteristic of pain. However, research shows this sometimes occurs in African Americans experiencing pain. Tab 6.

Because of this, I ordered tests to: (1) verify [Patient Name]’s pain complaint, (2) check for drug abuse, and (3) check for a heart or circulation problem that might make treating his pain with narcotics dangerous.

3. Choice of medicine/dose

As indicated above. This medicine, this dose, and this use (for treating pain) are all approved by the FDA. Tab 7. The number of days’ supply (30 days) falls within the requirements of the DEA Practitioner’s Manual. Tab 8.

4. Treatment plan

The treatment plan included controlling pain and improving function as shown in the patient’s *Pain Management and Medical History/Progress Note* in chart.

5. Legitimate medical purpose

The diagnostic tests and prescribing decision were based on accepted scientific knowledge of the treatment of pain and on sound clinical grounds. Tab 4.

6. Documentation

I and other members of the [Medical Center Name] staff documented the diagnostic and prescribing decisions according to state and federal law.

[Doctor’s Name, MD]

Date: _____

¹ These are the risk factors doctors use to decide whether to order heart and blood flow (cardiovascular) tests.

² Tachycardia. ³ Hypertension. ⁴ Sympathochromaffin system discharge.