

# Role of the Scientific Literature Review in Medical Malpractice Lawsuits at an Era of Mass Information

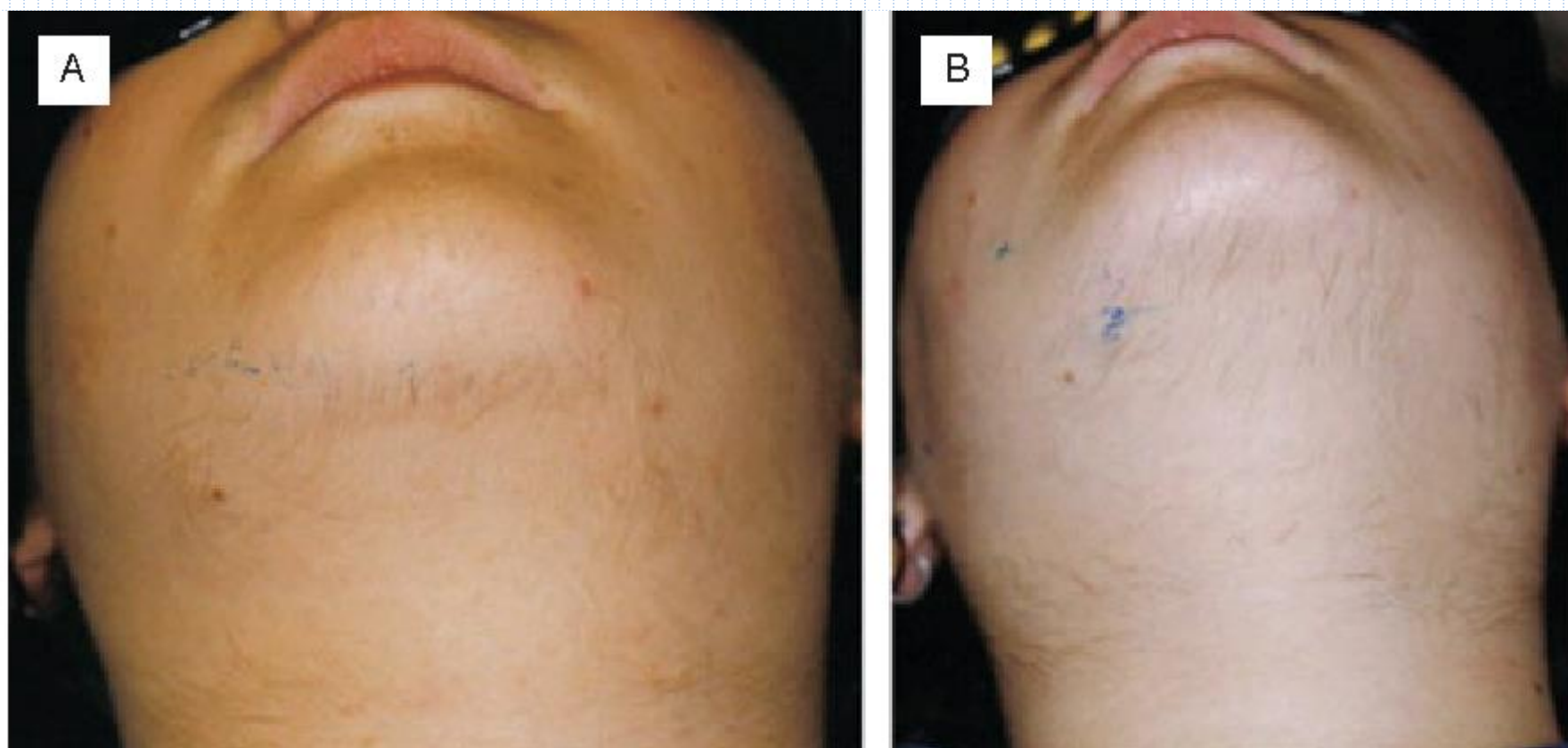
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## Background

One of the most complex issues in Medical Malpractice (MM) lawsuits is Causation. Factual Causation, specifically, is usually tested based on the opinions of expert medical witnesses. In our days of the Information Highway, research about different causes of illness is conducted all over the world simultaneously and yields rich information about options and probabilities. In court, interrogations and counter-interrogations may refer to minute details. Even the most specialized doctors struggle to stay updated with the scientific advances in their fields. They do not always have the time to read all the literature. Another challenge is, not all doctors are skilled at interpreting quantitative data.

## Examples



*Paradoxical hypertrichosis (illustratory picture). (A) Before treatment with LASER (B) After treatment. (It's not a mistake, it's a paradox)*

1. Woman had LASER removal of facial hair. Followingly, to her dismay, her "beard" hair grew thicker rather than thinner. She claimed malpractice. Her lawyer referred her to me. A brief SLR revealed overgrowth of hair to be considered a **rare side effect** of the procedure, called "paradoxical hypertrichosis". Its incidence was estimated between 0.6-10%. Causes were yet unknown<sup>a</sup>
2. Man filed a MM lawsuit for a **delay of 6 months in diagnosis** of cancer, which by then proved uncurable. An exhaustive SLR demonstrated that within such time, survival rates in this illness drop by 70-80%, rather than by 40-50% as estimated by the expert. This had significant implications on the damage fees.

## When can a Scientific Literature Review (SLR) prove useful for MM lawsuits?



1. Case "review" stage - Go/No-Go decision, when the case is unprecedented.
2. Supporting an alleged causal relation and refuting alternative ones.
3. The "but for" test - Research papers present control groups.
4. Cross examination of the expert witness - Challenging the expert's knowledge.



## Conclusion

SLR offers information crucial for some MM claims. On the Information Highway, there might be a need for a new specialization -- SLR writer/ researcher.

## Acknowledgment

I would like to thank Oren Asman LLD for challenging me with this poster.

## Reference

<sup>a</sup> *Dermatologic Surgery* 2010; 36: 293-298.

## Picture credits

<https://www.semanticscholar.org/paper/Laser-hair-removal.-Dibernardo-Perez/95b55614898b172b58087d63f0d52bee463948a0/figure/5>  
images provided courtesy of Andrea Willey, MD and Nerea Landa, MD  
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