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Art of Persuasion: Lessons from an Author Who Shaped Presidential Policy

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The art of persuasion: Lessons from an author who shaped presidential policy

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By Douglas E. Abrams *

In October of 1962, the world stood on the brink of war as the United States demanded dismantling of offensive medium-range nuclear missile sites that the Soviet Union was constructing in Cuba, potentially within striking range of American cities. From behind-the-scenes accounts, we know that a new book by historian Barbara W. Tuchman, a private citizen who held no government position, contributed directly to the negotiated outcome of the Cuban Missile Crisis as the world watched and waited. After chronicling Tuchman's contribution, this article discusses her later public commentary about what she called the "art of writing,"[1] commentary that holds valuable lessons for lawyers who write for clients and causes.

The Missiles of October

In the last week of January 1962, Barbara W. Tuchman was a little-known historian whose three books had not won much popular attention. Then she published "The Guns of August," a military history of the antecedents and first month of World War I. The book presented a penetrating, carefully researched and eminently readable account of the chain reactions that led European powers to stumble into the four-year conflict in the summer of 1914, after an obscure 19-year-old Bosnian Serb assassinated the obscure Austrian Archduke Franz Ferdinand and his wife during a motorcade in Sarajevo.

Few European leaders wanted the war, some thought it would last only a few weeks, but none could overcome the miscalculations, national resentments and interlocking alliances that abruptly ended years of peace.[2] When the guns finally fell silent more than four Augusts later, 30 nations had suffered a total of 20 million military and civilian deaths, plus 21 million more wounded.[3]

The "The Guns of August" sold more than 260,000 copies in its first eight months, remained on the New York Times best seller list for nearly a year, and won Tuchman the first of her two Pulitzer Prizes. The war's origins continue to intrigue historians today,[4] but the Modern Library ranks "The Guns of August" as number 16 on its list of the 100 best nonfiction books of all time.[5]

One of the book's earliest and most avid readers was President John F. Kennedy, who requested his aides to read it, had copies distributed to U.S. military bases throughout the world,[6] and reportedly gave copies as gifts to visiting dignitaries who visited the White House.[7] In a world overheated by Cold War tensions, the president was particularly struck by Tuchman's account of a late 1914 conversation between the former German chancellor and his successor about the blunders that sparked the outbreak of war.

"How did it all happen?," asked the first. "Ah, if only one knew," answered the other, without even trying to make sense of things.[8]

During the tense faceoff with the Soviet Union, President Kennedy explained the price of miscalculation to aides who had not yet read "The Guns of August". "If this planet is ever ravaged by nuclear war – and if the survivors of that devastation can then endure the fire, poison, chaos and catastrophe – I do not want one of those survivors to ask another, 'How did it all happen?' and to receive the incredible reply: 'Ah, if only one knew.'"[9]

Nearly all of Kennedy's advisers urged him to bomb the Cuban missile sites that American reconnaissance flights had photographed. The Joint Chiefs of Staff urged a full-scale invasion of the island, but the President resisted escalation that might have slid the United States and the Soviet Union into World War III.

"The Guns of August" directly influenced Kennedy's thinking. "I am not going to follow a course which will allow anyone to write a comparable book about this time, 'The Missiles of October,' " he told his brother, Attorney General Robert F. Kennedy. "If anyone is around to write after this, they are going to understand that we made every effort to find peace and every effort to give our adversary room to move."[10]

A 'What If' of History

When "The Guns of August" appeared late in January of 1962, President Kennedy was a busy man beginning the second year of the New Frontier, with little time outside the Oval Office for extracurricular reading. Tuchman's book was more than 450 pages long, and any White House aide dispatched to the Library of Congress could easily have returned with other books to satisfy the President's appetite for written history.[11]

What if President Kennedy found "The Guns of August" opaque, stodgy or inartful and put it aside after a few pages, without drawing lessons that helped stiffen his resolve to avoid the sort of impetuous missteps that led Europe into total war nearly 50 years earlier?[12]

Instead Tuchman delivered prose that observers have called "erudite and highly readable,"[13] "elegant,"[14] "illuminating,"[15] lucid and graceful,[16] and "transparently clear, intelligent, controlled and witty."[17] Historiography held real-world consequences during the tense superpower standoff, and her best-seller sent a powerful message with powerful writing that kept legions of readers (including the president of the United States) turning the pages.

"The Art of Writing"

Tuchman said that "the art of writing interests me as much as the art of history."[18] In 1981, she wrote "Practicing History," a slim volume of essays drawn from her earlier articles and speeches. The book opened with observations about what she called "that magnificent instrument that lies at the command of all of us – the English language."[19]

Historians' writing can yield helpful, though not necessarily perfect, analogies for lawyers' writing. These analogies remain readily adaptable by lawyers because there are only two types of writing – good writing and

bad writing. Good historical writing is good writing about history, and good legal writing is good writing about law.[20] Tuchman's major observations about good writing appear in italics below.

Personal and Professional Commitment

"[B]eing in love with your subject . . . is indispensable for writing good history — or good *anything, for that matter."*[21]

For practicing lawyers, "being in love" may often be an inapt phrase. "Being committed" may better describe the impulse that should sustain legal writers, even ones not moved by "love" of subject in the general sense of the word. In private practice and the public sector alike, lawyers sometimes write for clients or superiors whom we find difficult or may not know very well, and we sometimes argue forcefully for positions that would draw our ambivalence, distaste or even rejection if we were writing for ourselves and not as representatives.

As an advocate, the lawyer "zealously asserts the client's position under the rules of the adversary system."[22] Zealous representation advanced by the Model Rules of Professional Conduct does not always afford lawyers the personal autonomy to choose among topics that pique our interest, and then to pursue research wherever it leads.

> *When fueled by commitment to client and cause, the lawyer's research and writing can show life and vitality. But when research and writing remain unstimulated by that commitment, the final product inevitably sags.*

Personal and professional commitment, however, does matter to lawyers. When fueled by commitment to client or cause, the lawyer's research and writing can show life and vitality. But when research and writing remain unstimulated by that commitment, the final product inevitably sags. Perceptive readers can distinguish between legal writing that (in the words of former U.S. District Judge Charles E. Wyzanski, Jr.) "shines with the sparkling facets of a diamond,"[23] and legal writing that appears dry and listless.

"[C]oupled with compulsion to write must go desire to be read. No writing comes alive unless the writer sees across his desk a reader, and searches constantly for the word or phrase which will carry the image he wants the reader to see and arouse the emotion he wants him to feel. . . . [T]he reader is the essential other half of the writer. Between them is an indissoluble connection."[24]

Lawyers summon personal and professional commitment most effectively when we recognize that just because we write something does not necessarily guarantee that anyone will read it, wholly or even in large part. This frank recognition, drawn from humility and not entitlement, led Catherine Drinker Bowen to keep a simple sign posted above her desk as she wrote her well-crafted biographies: "Will the reader turn the page?"[25]

This remains a good question for lawyers too. "The writer's object is — or should be — to hold the reader's attention. I want the reader to turn the page and keep on turning to the end," Tuchman said.[26] Achievement of this desire does not normally follow from taking readers for granted.

Before a lawyer ever puts words on paper, the effort to spark a dialog with prospective readers begins with a threshold inquiry: "Who is likely to read this?" The answer is usually well within the lawyer's grasp because most legal writing targets a discrete audience readily identifiable in advance. Before ever hitting the keyboard, the lawyer may even know the prospective readers personally or by name or reputation.

Lawyers know, for example, that briefs, motion papers and contracts target the parties and the court but hardly anyone else. An opinion letter is usually for the client's eyes only. A judicial opinion speaks first to the parties and then to future courts and litigants, academic researchers and (this invites spirited debate) perhaps lay readers when the decision touches on matters of social concern.[27]

Once the legal writer identifies the intended audience, the writer can tailor style, tone and content in ways that help engage readers. This rhetorical empathy is particularly important to quality writing in today's frenetic legal practice. Federal and state judicial dockets have increased faster than population growth for most of the past generation or so, leaving judges with limited patience for submissions that remain bloated, sloppy or off the point.[28] Judges may sense when they have read enough of a brief, just as counsel researching precedents may grow bored with an overwritten judicial opinion. Counsel may have no choice but to plod through an opponent's unwieldy brief or motion papers, or through unnecessarily verbose legislation or administrative regulations, but even here the writer risks obscuring important points amid the fog.

"I never feel my writing is born or has an independent existence," said Tuchman, "until it is read."[29] In the legal arena and elsewhere, the sinews of her "indissoluble connection" with readers depend on writers who recognize, as stage and screen actress Shirley Booth said soon after winning an Academy Award in 1952, that "the audience is 50 percent of the performance."[30]

Writing without readers is not writing, and writers without readers are not writers.

Research and Expression

"The most important thing about research is to know when to stop. . . . One must stop before *one has finished; otherwise, one will never stop and never finish. . . . I . . . feel compelled to follow every lead and learn everything about a subject, but fortunately I have even more overwhelming compulsion to see my work in print."*[31]

Tuchman was right that "[r]esearch is endlessly seductive."[32] Legal research, however, serves a mission different from the mission served by research that provides historians with raw material for engaging narratives. Lawyers' writing sometimes tells a story, but usually only for a greater purpose.

This greater purpose is to establish or maintain someone's status, rights and obligations under the law. This "someone" is usually the client or the public agency that engages the lawyer. Legal research may involve a maze of binding and persuasive judicial decisions, statutes, administrative rules and decisions, court rules, and such unofficial sources as treatises, restatements, and law review articles. In legal matters worth writing about and disputes worth taking to formal resolution, these sources may point in different directions without initial harmony.

Lawyers too must "know when to stop," but different missions call for different conclusions about when that time comes. Court deadlines and other filing obligations directly or indirectly constrain lawyers who, for the client's sake, must "see their work

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in print." The lawyer exercising professional judgment must sense when to turn primary attention from efficient, thorough research of fact and law to the process of writing. At some point, the lawyer determines that the salient arguments or advice can be delivered thoroughly and effectively, and that further research might diminish opportunity for translating research into effective writing.

Quality legal research does not necessarily showcase the lawyer's ability to plumb every nook and cranny. Legal writing usually fulfills its mission best when readers remember the message, though not necessarily the messenger. "People," said Tuchman, "are always saying to me in awed tones, 'Think of all the research you must have done!' as if this were the hard part. It is not; writing, being a creative process, is much harder and takes twice as long."[33]

"The writer . . . must do the preliminary work for the reader, assemble the information, make sense of it, select the essential, discard the irrelevant . . . . What it requires is simply the courage and self-confidence to make choices and, above all, to leave things out."[34]

In addition to time constraints imposed by court deadlines and other filing obligations, lawyers commonly encounter space constraints. The latter may be direct (when imposed by page and font restrictions in court rules, for example), or indirect (when imposed by the likely attention spans of busy readers). Taken together, constraints of time and space summon the cardinal rule of writing: The writer should finish before the readers do.

"Structure is chiefly a problem of selection," Tuchman said, "an agonizing business because there is always more material than one can use."[35] Lawyers without the courage, wisdom and self-confidence to "make choices" can easily clutter the final product with string citations, distracting footnotes, extraneous commentary and similar underbrush that disorient readers without illuminating the status, rights and obligations that underlie the writing itself.

Words are seductive and dangerous material, to be used with caution. . . . "[C]areless use of words can leave a false impression one had not intended."[36]

Lawyers know what Tuchman was talking about. When a person reads personal messages or newspaper columns by writers friendly to our point of view, the reader sometimes recasts inartful words or sentences to help cure imprecision. "I know what they really meant to say," the reader thinks silently, even if the words on the page do not quite say it.

Readers normally do not throw lawyers such lifelines. Legal writers typically face a "hostile audience" that "will do its best to find the weaknesses in the prose, even perhaps to find ways of turning the words against their intended meaning."[37] Judges and law clerks dissect briefs to test arguments, but only after opponents have tried to make the arguments mean something the writers did not intend. Advocates strain to distinguish language that complicates an appeal or creates a troublesome precedent. Parties seeking to evade contractual obligations seek loopholes left by a paragraph, a clause or even a single word.[38]

Guy de Maupassant, France's greatest short-story writer, was no lawyer, but his advice can help guide lawyers who seek precision in their writing. "Whatever you want to say," he asserted, "there is only one word to express it, only one verb to give it movement, only one adjective to qualify it. You must search for that word, that verb, that adjective, and never be content with an approximation, never resort to tricks, even clever ones, and never have recourse to verbal sleight-of-hand to avoid a difficulty."[39]

Maupassant sets the bar high, indeed perhaps too high because some imprecision is inescapable in language. Justice Felix Frankfurter, a prolific writer as a Harvard law professor before joining the Supreme Court, was right that "[a]nything that is written may present a problem of meaning" because words "seldom attain[] more than approximate precision."[40]

Imprecise tools though words may sometimes be, they remain tools nonetheless because (as Professor David Mellinkoff put it) "[t]he law is a profession of words."[41] Tuchman stated a universal truism when she flagged seduction, danger and caution; achieving the greatest possible precision the first time remains a legal writer's goal.

"[S]hort words are always preferable to long ones; the fewer syllables the better, and monosyllables, beautiful and pure . . ., are the best of all."[42]

Novelists William Faulkner and Ernest Hemingway went back and forth about the virtues of simplicity in writing. Faulkner once criticized Hemingway, who he said "had no courage, never been known to use a word that might send the reader to the dictionary." "Poor Faulkner," Hemingway responded, "Does he really think big emotions come from big words? He thinks I don't know the ten-dollar words. I know them all right. But there are older and simpler and better words, and those are the ones I use."[43]

Humorist Will Rogers wrote more than 4,000 nationally syndicated newspaper columns, and his wisdom about language resembled Hemingway's.[44] "[T]here is always a short word for it," Rogers said. "'I love words but I don't like strange ones. You don't understand them, and they don't understand you. Old words is like old friends — you know 'em the minute you see 'em."[45]

In a letter to a 12-year-old boy, Mark Twain praised his young correspondent for "us[ing] plain, simple language, short words and brief sentences. That is the way to write English — it is the modern way and the best way. Stick to it; don't let fluff and flowers and verbosity creep in."[46]

"Use the smallest word that does the job," advised essayist and journalist E. B. White.[47] "One of the really bad things you can do to your writing," novelist Stephen King said, "is to dress up the vocabulary, looking for long words because you're maybe a little bit ashamed of your short ones."[48]

"Broadly speaking, the short words are the best, and the old words when short are best of all," attested former British Prime Minister Winston Churchill, who also knew a thing or two about writing.[49]

"[I]t is a pleasure to achieve, if one can, a clear running prose . . . . This does not just happen. It requires skill, hard work. . . . It is laborious, slow, often painful, sometimes agony. It means rearrangement, revision, adding, cutting, rewriting."[50]

From years at the bench and bar, Justice Louis D. Brandeis instructed lawyers that "there is no such thing as good writing. There is only good rewriting."[51] Literary giants often make writing look easy, but they have said the same thing about what needs to happen behind the scenes before their work ever reaches readers.

"I'm not a very good writer, but I'm an excellent rewriter," reported James A. Michener, who could not "recall anything of mine that's ever been printed in less than three drafts."[52] To be a writer," attested Pulitzer Prize winner John Hersey, "is to throw away a great deal, not to be satisfied, to type again, and then again and once more, and over and over."[53] Hemingway believed that "easy writing makes hard reading,"[54] and he made no secret that he rewrote the last page of "A Farewell to Arms" 39 times before he signed off on the novel.[55] "The wastepaper basket," said Isaac Bashevis Singer, "is a writer's best friend."[56]

Conclusion

Dean William L. Prosser called law "one of the principal literary professions," and he estimated that "the average lawyer in the course of a lifetime does more writing than a novelist."[57] More perhaps than many historians too, but Barbara W. Tuchman was one of the 20th century's best. Her advice about the art of writing can help guide lawyers who remain committed to excellence in their everyday practices.

**** Douglas E. Abrams, a University of Missouri law professor, has written or co-authored five books. Four U.S. Supreme Court decisions have cited his law review articles.***

ENDNOTES

1 Barbara W. Tuchman, Practicing History: Selected Essays 38 (1981).
2 Margaret MacMillan, The War That Ended Peace: The Road to 1914 (2013).
3 Christopher Clark, The Sleepwalkers: How Europe Went to War in 1914, Introduction (2013).
4 *E.g., id.;* Paul Ham, 1914: The Year the World Ended (2013); Sean McMeekin, 1914: Countdown to War (2013); MacMillan, *supra* note 2.
5 Modern Library, *100 Best Nonfiction*, http://www.modernlibrary.com/top-100/100-best-nonfiction/.
6 Jordan Michael Smith, *What JFK Didn't Know*, Boston Globe, Oct. 21, 2012.
7 Richard Pearson, *Pulitzer-Winning Historian Barbara Tuchman Dies at 77*, Wash. Post, Feb. 7, 1989, at B6 (obituary).
8 Robert Dallek. An Unfinished Life: John F. Kennedy 1917-1963, at 505 (2003).
9 *Id.; see also, e.g.*, Theodore C. Sorensen, Kennedy 513 (1965); Richard Aldous, *How Did It All Happen?*, N.Y. Times, Oct. 25, 2013 (reviewing MacMillan, *supra* note 2).
10 Robert F. Kennedy, Thirteen Days: A Memoir of the Cuban Missile Crisis 127 (1969); *see also, e.g.*, Arthur M. Schlesinger, Jr., A Thousand Days: John F. Kennedy in the White House 692-93 (1965); Meredith Hindley, *The Dramatist: Barbara Tuchman Saw History as a Grand Tragedy*, 33 Humanities (Sept./Oct. 2012).
11 JFK Presidential Library & Museum, *John F. Kennedy Fast Facts: President's Favorite Books*, http://www.jfklibrary.org/Research/Research-Aids/Ready-Reference/JFK-Fast-Facts/Favorite-Books.aspx.
12 Clark, *supra* note 3.
13 Hank H. Cox, *Blood Royal: True Tale of Crime and Detection in Medieval Paris*, Wash. Post, May 18, 2014, at B7 (book review)
14 Charlotte Gray, *IFOA Author of the Day*, Toronto Star, Oct. 29, 2010, at E12 (quoting Gray).
15 *The Tuchman Touch*, L.A. Times, Feb. 8, 1989, at 6.
16 Malcolm Jones & Lucas Wittmann, *Read All About It*, Newsweek, Apr. 2, 2012.
17 Robert K. Massie, *Foreword*, in Barbara W. Tuchman, Practicing History: Selected Essays viii (1981).
18 Tuchman, *supra* note 1, at 38.
19 *Id.* at 17.
20 Jay Wishingrad & Douglas E. Abrams, *The Lawyer's Bookshelf*, N.Y.L.J., Dec. 12, 1980, at 2 (reviewing Richard C. Wydick, Plain English For Lawyers (1st ed. 1979)).
21 Tuchman, *supra* note 1, at 14.
22 ABA Model Code of Professional Conduct, Preamble [1] (2014).
23 Hon. Charles E. Wyzanski, Jr., *Judge Learned Hand's Contributions to Public Law*, 60 Harv. L. Rev. 348, 348 (1947).
24 Tuchman, *supra* note 1, at 58, 81.
25 Ruggero J. Aldisert et al., *Opinion Writing and Opinion Readers*, 31 Cardozo L. Rev. 1, 39 n.87 (2009).
26 Hindley, *supra* note 10 (quoting Tuchman).
27 *Compare* Alexander Meiklejohn, Free Speech and Its Relation to Self-Government 58 (1948) ("The Supreme Court . . . is and must be one of our most effective teachers."), *with* William H. Rehnquist, *Act Well Your Part: Therein All Honor Lies*, 7 Pepperdine L. Rev. 227, 227-28 (1980) ("[T]he Supreme Court does not 'teach' in the normal sense of that word at all. In many cases we hand down decisions which we believe are required by some Act of Congress or some provision of the Constitution for which we, as citizens, might have very little sympathy and would not choose to make a rule of law if it were left solely to us.").
28 *See, e.g.*, Judicial Conf. of the U.S., *Long Range Plan For the Federal Courts* 9-12 (1995); ABA Comm'n on the 21st Century Judiciary, *Justice in Jeopardy* 39 (2003) (state courts).
29 Tuchman, *supra* note 1, at 81.
30 Shirley Booth, *News Summaries*, Dec. 13, 1954 (winner for Best Actress in *Come Back, Little Sheba*).
31 Tuchman, *supra* note 1, at 21.
32 *Id.*
33 *Id.* at 69.
34 *Id.* at 17, 62.
35 *Id.* at 49.
36 *Id.* at 38, 39.
37 George D. Gopen, Writing From a Legal Perspective 1 (1981).
38 Jay Wishingrad & Douglas E. Abrams, *Book Review*, 1981 Duke L.J. 1061,1063 (reviewing Gopen, *id.*).
39 Guy de Maupassant, *Selected Short Stories* 10-11 (Roger Colet ed., 1971) (Maupassant quoting French writer Gustave Flaubert).
40 Felix Frankfurter, *Some Reflections On the Reading of Statutes*, 47 Colum. L. Rev. 527, 528 (1947), *reprinting* Felix Frankfurter, *Sixth Annual Benjamin N. Cardozo Lecture*, 2 Rec. Bar Ass'n City of N.Y. (No. 6, 1947).
41 David Mellinkoff, The Language of the Law vii (1963).
42 Tuchman, *supra* note 1, at 16-17.
43 A.E. Hotchner, Papa Hemingway 69-70 (1966) (quoting Hemingway).
44 Mark Schlachtenhaufen, *Centennial Snapshot: Will Rogers' Grandson Carries On Tradition of Family Service*, Okla. Publishing Today, May 31, 2007.
45 Betty Rogers, Will Rogers 294 (1941; new ed. 1979) (quoting Rogers).
46 Robert Hartwell Fiske, The Dictionary of Concise Writing: 10,000 Alternatives to Wordy Phrases 11 (2002) (quoting Twain).
47 Max Messmer, *It's Best to be Straightforward On Your Cover Letter, Resume*, Pittsburgh Post-Gazette, Nov. 29, 2009, at H1 (quoting White).
48 Stephen King, On Writing: A Memoir of the Craft 110 (2000).
49 Susan Wagner, *Making Your Appeals More Appealing: Appellate Judges Talk About Appellate Practice*, 59 Ala. Law. 321, 325 (1998) (quoting Churchill).
50 Tuchman, *supra* note 1, at 48, 21.
51 Eugene C. Gerhart, Quote It II: A Dictionary of Memorable Legal Quotations 462 (1988) (quoting Justice Brandeis).
52 Camille Lamar Campbell, *How to Use a Tube Top and a Dress Code to Demystify the Predictive Writing Process and Build a Framework of Hope During the First Weeks of Class*, 48 Duq. L. Rev. 273, 310 (2010) (quoting Michener); Bill Knott, The Craft of Fiction 159 (1977) (same); Kathryn Ann Lindskoog, Creative Writing for People Who Can't Not Write 62 (1989) (same).
53 Donald Murray, The Craft of Revision (1991) (quoting Hersey).
54 Carlos Baker, Hemingway, the Writer as Artist 71 (4th ed. 1972) (quoting Hemingway).
55 George Plimpton, Writers At Work 124 (1963); Ernest Hemingway, *The Art of Fiction, The Paris Review Interview* (1956).
56 Michael D'Antonio, *Sneer When You Say 'Journalist'*, L.A. Times Mag., Aug. 24, 2003, at 20 (quoting Singer)
57 William L. Prosser, *English As She Is Wrote*, 7 J. Legal Educ. 155, 156 (1954).

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Frequently Asked Questions page about personal representatives and minors on the U.S. Department of Health & Human Services website (found at http://www.hhs.gov/ocr/privacy/hipaa/faq/personal_representatives_and_minors/index.html) is a good first step.

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Endnotes

1 The HIPAA Privacy Rule applies to "covered entities", which include: "(1) health plans, (2) healthcare clearinghouses, and (3) health care providers who transmit any health information in electronic form in connection with a transaction covered by this subchapter." 45 CFR §§ 160.102 & 160.103
2 45 CFR § 164.502(g)(3)(i)
3 45 CFR § 164.502(g)(3)(i)(A)
4 45 CFR § 164.502(g)(3)(i)(B)
5 45 CFR § 164.502(g)(3)(i)(C)
6 45 CFR § 164.502(g)(5)(i)(A)
7 45 CFR § 164.502(g)(5)(i)(B)
8 45 CFR § 164.502(g)(5)(ii)
9 45 CFR § 164.502(g)(3)(ii)(B)
10 45 CFR § 164.502(g)(3)(ii)(A)
11 45 CFR § 164.502(g)(3)(ii)(C)
12 42 CFR §2.14
13 42 CFR §2.14(b)
14 42 CFR §2.14(c)(1)
15 MCA §53-21-112
16 MCA §41-1-402
17 MCA §50-20-5 et. seq.
18 MCA §53-21-112