

Ethics & Law in Personal Injury

How to Do It Right

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Overlying Themes – Above All Else

- ▶ Everything I say is based on –
- ▶ Honesty
- ▶ Ethics – both chiropractic & morally
- ▶ Integrity
- ▶ Credibility to the Judge, Jury, & Claims Adjustor

The Doctor's Perspective

- ▶ Get Paid in Full
- ▶ Give the insurance company only enough information in order to get paid in full
- ▶ Do as little paperwork as possible

The Attorney's Perspective

- ▶ Get the highest possible recovery for the client, based on detailed complete records, including –
 - Mechanism of Injury
 - Listing ALL pertinent diagnoses on proper (HCFA-1500 or CMS-1500) billing form on as many billing sheets as needed)
 - Legible complete records
 - Interferences with activities of daily living
 - Loss of earnings
 - Recommendations, including for exercise
 - Prognoses – 1 Prognosis for each Diagnosis
 - A fair amount of the bill based on the injuries

Real Case – Insurance Fraud

- ▶ Undercover CA DOI investigator goes to a D.C.
- ▶ “valid” auto insurance policy with Med Pay
- ▶ Uses a false name and hidden tape recorder
- ▶ Claims NP soon after MVA
- ▶ Claims shoulder pain several days after MVA after playing basketball
- ▶ Did not complete initial paperwork
- ▶ Did not allow D.C. to complete the initial exam
- ▶ Came back for treatment 5 days later
- ▶ Billing service error with wrong procedure code
- ▶ Arrested for Insurance Fraud
- ▶ Lost practice, posted \$60,000 bond, spent over \$100,000 for criminal lawyer

Your Best Protector on the Physical Exam

- ▶ **Mankopf's test –**
 - Heart rate should increase by at least 10 beats per minute upon assertively pushing on an area of pain.

Investigators & Their Authority

- ▶ Ms. Investigator calls your office and talks to your Chiropractic Assistant and says she would like to inspect all files kept by Dr. X of the patient named Jane Doe.
- ▶ Your C.A. tells Ms. Investigator she doesn't have time for this and tells her to call back another time.
- ▶ What's the Problem? What's the solution?

Investigators & Their Authority

- ▶ The Board or its designees (agents) may inspect the physical premises of any chiropractic office during regular business hours.
- ▶ D.C.'s have given their consent to this by virtue of accepting the chiropractic license.

Responsibility for Conduct on Premises

- ▶ Chiropractic Rules & Regulations 316(a) –
- ▶ Every D.C. who works at a business premises is ultimately responsible for ALL conduct of everyone (employees, patients, and others)
- ▶ This is a catch-all theory of liability to hold D.C.'s accountable even if all other legal theories fail

Insurance Fraud

- ▶ 1) Intentional
- ▶ 2) Misrepresentation
- ▶ 3) of a Material Fact(s)
- ▶ 4) Justifiably Relied upon
- ▶ 5) to get the Property (i.e. money) of another (insurance company)

Written Disclosure is Your Friend

- ▶ Real case –
- ▶ D.C. is rear-ended by another person
- ▶ Calls his med-pay insurance adjustor, states he wants to have his C.A. do PT on him at his direction AND get paid
- ▶ Submits a bill, receives & deposits the check
- ▶ District attorney calls to investigate
- ▶ One year later, D.A. calls again

Solution: call & send a written disclosure, or
avoid the problem in the first place

A Real Perspective

- ▶ A good attorney will not turn a bad situation into a good case.

Competence

- ▶ Competence is having the
- ▶ 1) knowledge
- ▶ 2) skill
- ▶ 3) education (training)
- ▶ 4) thoroughness
- ▶ To perform in a manner that an objective, reasonable Doctor of Chiropractic would do
- ▶ Doctors are responsible for everything that occurs in or resulting from their offices – Chiro R&R 316(a)

Negligence

- ▶ Conduct that falls below the standard that an objective, reasonable Doctor of Chiropractic would use in order to minimize the chance of harm to others
- ▶ This is the basis of malpractice.
- ▶ Examples of negligence –
 - Exaggerating the severity of a condition
 - Not taking x-rays with a possibility of fracture
 - Not taking x-rays that would assist a patient's legal case
 - Misreading x-rays
 - Failure to properly document
 - Failure to refer for appropriate care
 - Using PT in a way that harms a patient

Scope of Practice – Yes or No

- ▶ Subluxation
- ▶ X-rays
- ▶ MRIs
- ▶ Physical therapy –
 most PT
 transcutaneous delivery of medications
- ▶ Dislocation
- ▶ Fracture
- ▶ Soft tissues around fractures
- ▶ Visceral (organs) adjusting
- ▶ Nutrition

Unprofessional Conduct

- ▶ Many (20+) ways to commit this, such as –
 - Gross Negligence
 - Repeated Negligence
 - Incompetence
 - Excessive diagnosis or treatment
 - Conduct endangering the public
 - Conviction of any law of moral turpitude, dishonesty, physical violence, or corruption
 - Conviction of any law of narcotics, dangerous drugs, or controlled substances
 - Failure to obtain Informed Consent

Unprofessional Conduct

- ▶ You buy a chiropractic practice, the other D.C. moves their business into your place of business, and you notice that the other D.C. isn't keeping chart notes on most of their patients. Later several of the other D.C.'s patients tell you that their attorney needs a copy of their chart to pursue their case.
- ▶ What are the Problems? What are the Solutions?

Unprofessional Conduct

- ▶ A D.C. routinely performs a computerized thermography exam on every new automobile accident patient, motivated in part by an attorney who tells him he is only going to work with doctors who aren't afraid to give their patients everything they need (in order to rack up a high bill).
- ▶ What are the Problems? What are the Solutions?

Informed Consent

- ▶ Required of ALL patients (existing and new)
- ▶ Must be discussed, in writing, and signed by the patient
- ▶ Must include the following –
 - Explanation of procedures used in the office (chiropractic, x-ray, physical therapy) and benefits
 - Consequences of NOT getting this care
 - Alternatives to chiropractic
 - Risks of procedures used in office

Name & Address Changes

- ▶ Congratulations to Susi Doe because she just got married. She takes the last name of her new husband and is now known as Susi Jones. She also moved her business to a new location.
- ▶ Susi Jones writes the board and in her letter states her old name and her new name, and also her new address.
- ▶ What's the problem? What's the solution?

Name & Address Changes

- ▶ D.C.'s who obtain a legal change in their name must reregister their name with the Executive Officer of the Board by submitting a written statement of their name change with evidence of legal documentation within 10 days of the name change.
- ▶ D.C.'s must file their current proper practice address with the CA State Board of Chiropractic Examiners (Board) for every office and every sub-(satellite) office.
- ▶ Changes of practice address must be made in writing to the Board within 30 days of the change, and include both the old and new addresses.

False Names

- ▶ The situation – a D.C. decides to name their business “River Chiropractic”
- ▶ What’s the Problem? What is the Solution?
- ▶ The Board may refuse to grant, or may suspend or revoke a D.C. license for practicing under a false or assumed name.

Avoiding Problems with Collecting

- ▶ Teach patients to get Med Pay with high limits.
- ▶ Doctor's Lien secured with all real and personal property owned in the present and in the future.
- ▶ Don't allow an attorney to pay less than the full amount owed on a lien UNLESS there are good reasons as shown by PROOF from the attorney.
- ▶ Have patients pay some money toward the full amount owed when there is no Med Pay or group health benefits.
- ▶ Verify whether the policy is an EXCESS policy – excess policies pay only after receiving EOBs of ALL other insurance benefits
- ▶ Have a power of attorney clause to sign checks

Avoiding Problems with Collecting

- ▶ Have the patient sue the defendants and/or their own insurance company when necessary –
 - low dollar (< \$2,000) damage to the patient's car
 - bad faith against their own insurance
 - defendants – when 3rd party insurance refuses to pay
 - the treating doctor will need to be a witness (twice)
- ▶ Have at least one diagnosis for each procedure billed for any given body area –
 - ex. 72100 not paid due to no lumbopelvic diagnosis code
- ▶ Include a copy of all pertinent chart notes for all dates of service billed
- ▶ Bill a reasonable amount for all of a) the given injuries, b) per day, and c) per entire case
- ▶ Not enough diagnoses listed

Avoiding Problems with Collecting

- ▶ Blue Shield of CA –
 - use only CMS-1500 billing sheets –
 - print itemized billing on white lines only in box 24
 - 97140-59 on separate (from all other procedure codes)
 - CMS-1500 billing sheets w/ Blue Shield of CA
- ▶ Medicare –
 - use only CMS-1500 billing sheets –
 - print itemized billing on white lines only in box 24
 - bill spinal adjustments only on the same billing sheets & check yes in box 27a when there is other insurance; bill all other procedures on different billing forms & check no in box 27b
 - when you are a Medicare provider, D.C.s must bill Medicare for adjustments, and can only accept a total of the limiting charge set by Medicare
 - sign all attached forms (other than billing forms) with a LEGIBLE (not necessarily your usual) signature

Avoiding Problems with Collecting Personal Injury Bills

- ▶ Make sure the patient signs the sign in sheet every day
- ▶ Make sure the patient completely, accurately, and truthfully completes the initial paperwork
- ▶ Teach chiropractic philosophy to your patients
- ▶ Patients need to know why they need chiropractic
- ▶ Emphasize the importance of regular, consistent chiropractic care
- ▶ Document legitimate reasons when there are gaps in treatment (e.g. patient returned from vacation)
- ▶ Tell your patients a PI lawyer would tell them they will diminish the money they receive if they don't comply with the doctor's recommendations

Avoiding Problems with Collecting Personal Injury Bills

- ▶ List ALL diagnoses on proper (HCFA-1500 or CMS-1500) billing forms - maximum of four diagnoses per billing sheet, use as many billing sheets as necessary
- ▶ Print itemized billing on only the lower white lines with CMS-1500 billing forms
- ▶ Only bill for treatment necessary for injury care –
 - 15 min. massage therapy for a whiplash pt. w/neck pain is legitimate
 - 1 hour full body massage for neck pain from whiplash is NOT legitimate
- ▶ Sign every billing sheet in box 31

Avoiding Problems with Collecting Personal Injury Bills

- ▶ Keep the amount of the bills REASONABLE as to the amount a) per day, b) for the case as a whole for the given circumstances
 - FEE FACTS establishes reasonableness – statistical analysis of the billed amount of every procedure code by a number of D.C.s in a given geographical area
- ▶ State in writing that all procedures performed on the patient were/are reasonably needed to diagnose or treat conditions caused by the accident; sign box 31
- ▶ Need for future care – At the end of accident care, state in writing the anticipated chiropractic care needed in the future to be needed to treat conditions caused by the accident, and its probable reasonable cost

Display of License

- ▶ Here's the situation: Due to some glitch in the system, you have not received your new chiropractic license even though it is after the month in which you were born.
- ▶ Your old license is still on the wall.
- ▶ What's the problem? What's the solution?

Display of License

D.C.'s must –

- ▶ A) display their current active chiropractic license in a conspicuous place in their principal office or primary place of practice.
- ▶ B) display a current satellite chiropractic office certificate in a conspicuous place at each satellite office for which the certificate was issued.
- ▶ C) not display any inactive or invalid license.

D.C. Title

- ▶ Dr. John Doe
- ▶ Dr. John Doe, Chiropractic Physician
- ▶ Dr. John Doe, Chiropractor
- ▶ Dr. John Doe, D.C.
- ▶ Are there any problems in the above examples?

D.C. Title

- ▶ Anyone who advertises or promotes (uses) the terms “Dr.” or “D.C.” or anything implying or indicating they are a chiropractor must have a valid, unrevoked, and unsurrendered license.
- ▶ Any chiropractor using the term “Dr.” or “Doctor” must put either “D.C.” or “Chiropractor” after their name.

Medicare Billing When There is Simultaneously Other Insurance

- ▶ 1) Doctor is **NOT enrolled** as a Medicare provider –
 - D.C.s must NOT form written contracts for spinal adjustments with Medicare beneficiaries – Soc. Sec. Act §1802(b), Medicare Benefit Pol. Man. Ch. 15 §§40.4, 40.7
 - D.C.s can –
 - treat Medicare beneficiaries
 - form written contracts for anything other than spinal adjustments
 - Form oral contracts for spinal adjustments
 - Doctor (nor their agents) is/are NOT allowed to bill Medicare
 - Doctor must renew non-enrollment status w/Medicare on their Medicare Opt-Out Affidavit form every 2 years (if choosing to remain non-enrolled)

Medicare Billing When There is Simultaneously Other Insurance

- ▶ 2) Doctor is enrolled as a Medicare provider AND Medicare is the primary insurance –
 - Doctor can only accept as much as Medicare sets as their limiting charge for spinal adjustments
 - (e.g. if Medicare's limiting charge for 98941 is \$36.07, the most a doctor can accept for 98941 is \$36.07 even though there is other insurance that would pay more than \$36.07)
 - Bill adjustments on the same given CMS-1500 billing form, checking the Yes box in box 27
 - Doctor can accept an unlimited amount from any insurance for non-spinal adjustment procedures (exams, x-rays, PT, etc.) IF CMS-1500 billing form box 27 is checked in the No box
 - Bill all other procedures on CMS-1500 billing forms different than adjustments; check the No box in box 27
 - Doctor must bill Medicare for ALL procedures performed
 - Accepting more than the limiting charge for adjustments is **INSURANCE FRAUD**

Medicare Billing When There is Simultaneously Other Insurance

- ▶ 3) Doctor is enrolled as a Medicare provider AND Medicare is the secondary insurance –
- ▶ Other (auto, group health) insurance must be billed first, with Medicare info in box 9
- ▶ Doctor can accept any amount paid by both/all insurance companies
- ▶ Doctor must send Medicare bills on original red ink CMS-1500 billing forms along with copies of other insurance EOBs
- ▶ Medicare will calculate how much to pay based on information from other insurance EOBs

Illegal Practice

- ▶ Late in the morning during a steady flow of patients that doesn't seem to stop, a D.C. tells their properly registered preceptorship student (chiropractor to be) they are going to step out for a few minutes to pick up lunch.
- ▶ What's the Problem? What's the Solution?

Illegal Practice

- ▶ Unlicensed individuals are NOT permitted to diagnose, analyze, or perform a chiropractic adjustment.
- ▶ Exception for student doctors in board approved preceptorship programs when under the immediate and direct supervision of a licensed D.C. on the premises
- ▶ Unlicensed persons violating this rule are prohibited from applying for a D.C. license

Ownership of a D.C. Practice

- ▶ A slick promotor tells you that for a “small” fee, he can help you save money (due to tax deductions) by forming a chiropractic general partnership with you and your non-D.C. spouse as owners.
- ▶ What are the Problems? What’s the Solution?

Ownership of a D.C. Practice

- ▶ Only licensed D.C.'s may own chiropractic practices, and may do so in any IRS tax form (sole proprietorship, partnership, corporation, etc.).
- ▶ Non-D.C.'s may own the facilities in which a practice is conducted, but cannot make or influence decisions pertaining to diagnosis or treatment of patient that require a D.C. license.

D.C.s as Mandatory Reporters

▶ **Child abuse –**

- Suspected child abuse must be reported within 36 hours to either the police, sheriff, or child protective services

▶ **Elder and dependant adult abuse –**

- Elder = age 65 or older
- Dependant adult = age 18–64 who is
- Required for any of physical abuse, abandonment, abduction, isolation, financial abuse, neglect, or other treatment resulting in physical harm or mental suffering
- Must be reported in writing within 2 days to either police/sheriff or adult protective services/county welfare

▶ **No liability for good faith reporting**

Why Your Patient Needs an Attorney Immediately

- ▶ Cuts off the insurance company from contacting your patient –
insurance cos record conversations and twist anything said against your patient
insurance cos interfere with the doctor/patient relationship trying to end care early
- ▶ Hit and run uninsured motorist accidents –
a complex legal statement needs to be made to the insurance company within 30 days of the accident
- ▶ Protect your patient's rights to collect for pain and suffering from the 3rd party insurance co. –
- ▶ Insurance cos take “glamour pictures” –
pictures minimizing the damage to the automobile

Why Your Patient Needs an Attorney Immediately

- MRI facilities –
 - will accept \$400 or \$450 via personal check
 - will bill \$1,800 – \$2,800+ per area when they know there is insurance available
 - don't let the MRI facility use up the Med Pay
- Emergency Rooms/Hospitals –
 - often charge more when they know insurance is available
 - can be negotiated down
- Men tend to minimize their complaints –
 - this results in less money for pain & suffering
 - attorney & doctor should both implore the patient/client to truthfully & fully state the severity of symptoms
- Improve compliance with the doctor's recommendations
- Attorney can help smooth out any problems

Insurance Company Myths

- ▶ Low speed impacts cannot cause injuries –
 - Reality: people can be hurt just as much if not more than with moderate and high speed impacts
 - Reality: Acceleration = velocity / time ($A = V/T$) – low speed impacts have a much shorter time element than moderate and high speed impacts, thus strongly increasing the acceleration, which translates to damage to the human body
- ▶ Change in velocity (ΔV) in the involved autos is the only important fact –
 - Reality: the velocity to an auto occupant's head and neck is about 1 ½ times more than the ΔV

When to Refer a Patient to an Attorney

- ▶ Right after the initial exam, provided –
 - The accident is the fault of the OTHER driver
 - There is structural (at least \$2,000) damage to the frame of the car occupied by your patient
 - There are at least 10–15 diagnoses for the patient –
complaints
signs
symptoms
 - Hard evidence –
legible chart notes
x-rays (ideal), especially with flexion/extension films
MRI (ideal when necessary) –
edema disappears after 30 days from injury
legitimate to assess for possible internal injury
legitimate to rule out possible causes of injury

How to Write a Diagnosis –

- A) Adjective for TIME –
(acute, subacute, or chronic; alternatively – asymptomatic, MMI)
- B) Adjective for SEVERITY –
(minimal, mild, moderate, advanced, severe, combinations of)
- C) Specific Diagnosis
- D) Statement about causation –
(ex. secondary to 8/5/11 motor vehicle accident;
alternatively – not related to motor vehicle accident)

Examples:

847.0 Acute traumatic moderate – severe cervical strain/sprain due to 8/5/11 MVA

847.0 Trau. mod. cervical strain/sprain due to 8/5/11 MVA – asymptomatic (don't say resolved UNLESS really resolved)

847.0 Chronic traumatic mild exacerbation of cervical strain/sprain due to 8/5/11 MVA – MMI

Situation #1 –

- ▶ A D.C.'s patient in their small car while completely stopped gets rear-ended by another small car at about 25 mph, resulting in whiplash to the patient giving her headaches and neck pain. There is \$3,800 damage to her car. She has lost five days of income due to being unable to work. She insured her car, but has no med pay, although she does have PPO group health benefits.
- ▶ The D.C. lists ICD-9 diagnosis codes of 739.1, 739.2, 739.3, and 728.85.

Situation #2 & 3 –

- ▶ Situation #2 –
- ▶ Same facts as Situation #1, but the D.C. lists diagnosis codes of 847.0, 847.1, 847.2, 846.0, 338.11, 839.08, 722.0, 723.1, 723.2, 729.1, 729.2, 784.3, 728.85, 723.5, 780.5, 300.4, 780.4.
- ▶ Situation #3 –
- ▶ Same facts as in Situations #1 and 2, but the D.C. clearly records periodical exercise recommendations, and clearly notes interferences in the patient's daily activities (such as difficulty concentrating, worry, depression, difficulty sleeping, etc.).

Situation #4 –

- ▶ Same facts as in situations 1, 2, & 3 plus the D.C. takes flexion and extension x-rays in addition to the AP, APOM, and lateral films. On the extension film, C4 is subluxated 3 mm. posterior to C5, and the lateral and flexion films show an even George's line. The D.C. then recommends that the patient get a cervical spine MRI, and when obtained it documents a C4 and C5 disc injury.

Responsibility for Conduct on Premises

- ▶ A D.C. rents space in their chiropractic office to a massage therapist as an independent contractor without performing a background check (because they have known this person well for years). Later a mutual patient/client claims that the massage therapist put their hands in a wrong place and alleges sexual misconduct.

What are the Problems? What are the Solutions?

Responsibility for Conduct on Premises

- ▶ D.C.'s are personally responsible for the conduct of employees and all other persons under their control to assure that their actions conform to law.
- ▶ No sexual acts or erotic behavior is allowed on a chiropractic premises, structure, or facility.

Responsibility for Conduct on Premises

- ▶ Any sexual act by a D.C. with a patient, client, customer, or employee is unprofessional conduct and cause for disciplinary action.
- ▶ This conduct is substantially related to the qualifications, functions, and duties of a D.C. license.
- ▶ This conduct does not apply between a D.C. and their spouse or registered domestic partner.

Relationships with a Patient

- ▶ The situation – You and a patient of yours are mutually attracted to each other and begin dating each other.
- ▶ Is there any problem at this point?

Relationships with a Patient

- ▶ The situation deepens – You and your patient decide the two of you have the “hots” for each other and want sex with each other.
- ▶ What is the solution?

Relationships with a Patient

- ▶ Get a signed, written statement to the effect of “I, Susi Doe, voluntarily am withdrawing as a patient of Dr. XYZ so as to enter into a romantic (including sexual) relationship with Dr. XYZ as of today (Feb. 14, 2011) at 10:37 p.m. I also certify that no sex has occurred between the two of us prior to now.”

- ▶ Sincerely,

- ▶ Susi Doe

Sexual Misconduct

- ▶ Don't do it !!!
- ▶ Don't even think about it !!!
- ▶ This is a large percentage of complaints to the Chiropractic Board
- ▶ Applies to patients, employees, EVERYONE
- ▶ Professionals must be totally professional
- ▶ A large percentage of the general population, especially women, have incurred sexual abuse in their lifetimes

Colossus

- ▶ Language (software) of the Insurance Company
- ▶ When in Rome, do like the Roman's do
- ▶ List all complaints –
 - Pre-existing complaints NOT worsened
 - Pre-existing complaints WORSENERD by the accident
 - New complaints since the accident
- ▶ Give Colossus all truthful, relevant diagnosis codes (ICD-9)
- ▶ State all interferences with activities of daily living
- ▶ State all duties under duress
- ▶ List accident prescribed (by other doctors) and OTC medications
- ▶ List all restrictions
- ▶ List all recommendations

Small or Trivial Injuries

- ▶ No more than 12 visits or one month of treatment is justified and paid
- ▶ Examples of small injuries with short term care –
 - Listing only one or two diagnosis codes
 - 724.5 – Vertebroprogenic pain syndrome
 - 724.2 – Lumbago
 - 723.1 – Cervicalgia

List ALL Pertinent Diagnoses

- ▶ Think of all possible relative diagnoses
- ▶ Example: Whiplash with neck pain, headaches, numbness in an arm, forearm, and thumb –
 - 847.0 723.2
 - 847.1 723.3
 - 338.11 353.0
 - 338.21 784.0
 - 839.08 784.3
 - 839.21 719.58
 - E812.0 728.85
 - 728.4
 - 720.1

How to List ICD-9 Diagnosis Codes

- ▶ All Trauma codes first, then
- ▶ All Nerve Symptoms second, then
- ▶ All Other Symptoms third, then
- ▶ All Underlying Conditions

- ▶ With appropriate adjectives –
 - Acute moderate – advanced traumatic
- ▶ With disc levels and muscle groups specified –
 - Cervical C5 and C7 degenerative disc disease
 - Muscle spasms/trigger points L & R med. trap. & lat. dorsi

- ▶ On proper (HCFA-1500 or CMS-1500), signed billing forms

Additional Diagnoses

PLEASE DO NOT STAPLE IN THIS AREA

ATTN: Actna
P.O. Box 14079
Lexington, KY 40512-4079
(888)-632-3862

APPROVED OMB-0936-0008

HEALTH INSURANCE CLAIM FORM

1. MEDICARE (Medicare #) MEDICAID (Medicaid #) CHAMPVA (Sponsor's SSN) CHAMPVA (VA File #) GROUP HEALTH PLAN (SSN or ID) FECA (BLK LUNG) (SSN) OTHER (ID)

2. PATIENT'S NAME (Last Name, First Name, Middle Initial)
LAST NAME, FIRST NAME

3. PATIENT'S BIRTH DATE
MM 12-05-91

4. INSURED'S NAME (Last Name, First Name, Middle Initial)
LAST NAME, FIRST NAME

5. PATIENT'S ADDRESS (No., Street)
STREET ADDRESS

6. PATIENT RELATIONSHIP TO INSURED
Self Spouse Child Other

7. INSURED'S ADDRESS (No., Street)
STREET ADDRESS

8. PATIENT STATUS
Single Married Other

9. OTHER INSURED'S NAME (Last Name, First Name, Middle Initial)

10. IS PATIENT'S CONDITION RELATED TO:
Employed Full-Time Student Part-Time Student

11. INSURED'S POLICY GROUP OR FECA NUMBER
GR#: 987654321

12. PATIENT'S OR AUTHORIZED PERSON'S SIGNATURE I authorize the release of any medical or other information necessary to process this claim. I also request payment of government benefits either to myself or to the party who accepts assignment below.
SIGNED X SIGNATURE ON FILE DATE 09-12-09

13. INSURED'S OR AUTHORIZED PERSON'S SIGNATURE I authorize payment of medical benefits to the undersigned physician or supplier for services described below.
SIGNED X BENEFITS ASSIGNED

14. DATE OF CURRENT ILLNESS (First symptom) OR INJURY (Accident) OR PREGNANCY (LMP)
08-01-09

15. IF PATIENT HAS HAD SAME OR SIMILAR ILLNESS, GIVE FIRST DATE
01-25-08

16. DATES PATIENT UNABLE TO WORK IN CURRENT OCCUPATION
FROM MM DD YY TO MM DD YY

17. NAME OF REFERRING PHYSICIAN OR OTHER SOURCE
NONE

18. HOSPITALIZATION DATES RELATED TO CURRENT SERVICES
FROM MM DD YY TO MM DD YY

19. RESERVED FOR LOCAL USE

20. OUTSIDE LAB? \$ CHARGES
YES NO

21. MEDICAID RESUBMISSION CODE ORIGINAL REF. NO.

22. PRIOR AUTHORIZATION NUMBER

23. INSTRUCTIONS OF ILLNESS OR INJURY. (RELATE ITEMS 14 AND 15)
338.11 ACUTE PAIN
1. DUE TO TRAUMA
728.4 LIGAMENT LAXITY
2. CERVICAL
780.50 INSOMNIA / SLEEP
4. DISTURBANCE UNSPECIFIED

From	Place	Type	PROCEDURES, SERVICES, OR SUPPLIES	CHARGES	DAYS OR UNITS	EMG	COB	RESERVED FOR LOCAL USE
MM DD YY	MM DD YY	Service	CPT/HCPCS / MODIFIER	CODE	\$			
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
17								
18								
19								
20								
21								
22								
23								
24								
25. FEDERAL TAX I.D. NUMBER	SSN EIN	26. PATIENT'S ACCOUNT NO.	27. ACCEPT ASSIGNMENT? (For govt. claims, see back)	28. TOTAL CHARGE	29. AMOUNT PAID	30. BALANCE DUE	33. PHYSICIAN'S, SUPPLIER'S BILLING NAME, ADDRESS, ZIP CODE & PHONE #	
12-3456789	<input checked="" type="checkbox"/> E	484	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	\$	\$	\$	Dr.'s Name, D.C. Dr.'s Street Address City, CA Zip Code DC000000 (707)-555-0000	
31. SIGNATURE OF PHYSICIAN OR SUPPLIER INCLUDING DEGREES OR CREDENTIALS (I certify that the statements on the reverse apply to this bill (are made) on thereof.) your Signature date		32. NAME AND ADDRESS OF FACILITY WHERE SERVICES WERE RENDERED (If other than home or office)		33. PHYSICIAN'S, SUPPLIER'S BILLING NAME, ADDRESS, ZIP CODE & PHONE #		34. SIGNATURE OF PHYSICIAN OR SUPPLIER		DATE

(APPROVED BY AMA COUNCIL ON MEDICAL SERVICE #88) PLEASE PRINT OR TYPE

FORM CMS-1500 (12-90), FORM RRB-1500, FORM CWCIP-1500 #1963 - #23423 - Medical Arts Press Use with Envelope #14145 (gummed) or #14146 (self-seal)

Trauma Codes

- ▶ 800 series codes (e.g. 847.0, 839.01, etc.)
- ▶ E codes (e.g. E812.0, E812.1, etc.)
- ▶ 338.11 – Acute Pain Due to Trauma for new pains
- ▶ 338.21 – Exacerbation of Chronic Pain Due to Trauma
ex. Fibromyalgia worsened from new trauma

Neck Pain

Acute or Persistent Neck Pain with Radiation

- ▶ 353.0 – Brachial Plexus lesions
- ▶ 353.2 – Cervical Root lesions not elsewhere classified
- ▶ 723.4 – Cervical Radiculitis, non-disc related
- ▶ 729.2 – Neuralgia, Neuritis

Neck Pain, continued

- ▶ 720.1 – Spinal Enthesopathy
- ▶ 723.1 – Cervicalgia
- ▶ 729.1 – Myalgia, Myositis, Fibromyalgia
- ▶ 784.3 – Edema
- ▶ 728.85 – Muscle spasms/Trigger Points
- ▶ **728.4 – Ligament Laxity** (specify region – e.g. cervical)

Neck Pain with Severe Stiffness

- ▶ 333.83 - Torticollis, spasmodic
- ▶ 719.58 - Stiffness of Joint
- ▶ 728.85 - Muscle spasms/Trigger points
- ▶ 723.5 - Torticollis, unspecified

Thoracic Pain

- ▶ With Radiation –
 - 353.0 Brachial Plexus lesions
 - 723.4 Brachial Neuritis or Radiculitis
- ▶ With tenderness of paraspinal muscles –
 - 720.1 – Spinal Enthesopathy
 - 724.1 – Pain in the Thoracic Spine
 - 729.1 – Myalgia

Thoracic Pain, continued

- ▶ With burning pain between the shoulders –
 - 720.9 – spondylitis
 - 721.2 – thoracic spondylosis without myelopathy
 - 722.11 – nerve compression
 - 728.85 – muscle spasm/trigger points

Low Back Pain

- ▶ 847.2 – Acute (degree – e.g. moderate) lumbar strain/sprain
- ▶ 355.0 – Sciatic nerve lesion
- ▶ 722.10 – Sciatica with disc involvement
- ▶ 724.3 – Sciatica
- ▶ 724.8 – Lumbar facet syndrome
- ▶ 728.85 – Muscle spasms/Trigger points
- ▶ 721.90 – Lumbar degenerative joint disease
- ▶ 756.12 – Spondylolisthesis
- ▶ 738.50 – lumbar instability

Headaches

- ▶ 339.2# – post-traumatic headaches –
- ▶ 339.0 – Cluster headaches
- ▶ 339.1# – Tension headaches
- ▶ 784.0 – Vascular headaches

- ▶ 5th digit (#) –
 - 0 –
 - 1 – acute
 - 2 – chronic

Occult/Latent/Hidden Injuries

- ▶ 300.4 – Anxiety, depression
- ▶ 780.50 – Insomnia with unspecified sleep disturbance
- ▶ 780.51 – Insomnia with sleep apnea
- ▶ 780.52 – Insomnia, unspecified (inability to maintain adequate sleep cycle)
- ▶ 780.4 – Dizziness
- ▶ 310.02 – Post-Concussion Syndrome
- ▶ 388.31 – Tinnitus
- ▶ 799.2 – Irritability
- ▶ 311 – Depressive Disorder
- ▶ 536.8 – Stomach disorder

Complicating Factors

- ▶ 721.0 – Cervical Spondylosis without myelopathy
- ▶ 722.4,5 – Cervical disc degeneration
- ▶ 722.91 – Loss of Intervertebral disc height
- ▶ 737.10 – Decreased or Reversed Lordotic curve
- ▶ 737.30 – Scoliosis
- ▶ 287.2 – Bruising
- ▶ 786.52 – Breathing difficulties

Value Drivers

- ▶ ALL pertinent ICD-9 diagnosis codes
- ▶ X-rays with flexion/extension films, MRI
- ▶ Patient Complaints
 - List ALL patient complaints on every visit w/descriptors
 - Make sure patients COMPLETE all paperwork IN FULL
 - Prescribed (by other doctors) and OTC medicines for accident
- ▶ Duties Under Duress –
 - List ALL activities performed while enduring pain, etc.
- ▶ Loss of Enjoyment of Life –
 - Activities TOTALLY unable to be performed (state for how long)
- ▶ Permanent Disability and Impairment –
 - Disability from work
 - Disability with quality of life –
 - List examples with time duration
 - Interferences with activities of daily living
 - Permanent impairment
- ▶ Prognosis (% Resolved and the likelihood of eventual recovery or lack of recovery) –
 - List each diagnosis and state the % resolved, etc.

Sample Narrative p. 1

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Sample Narrative Report

Patient: Jane Doe
DOI: 8/22/11, motor vehicle accident (MVA)

Mechanism of Injury -

The patient was the driver of a 2011 Honda Accord wearing her seat belt and shoulder harness, stopped due to traffic conditions. She leaned forward and looked to the right with both hands on the steering wheel and right foot on the brake pedal, when she was suddenly rear-ended. She immediately felt pain going from her neck through her entire spine and back to the left hip.

Complaints -

a) Preexisting complaints NOT worsened by this accident -

This patient had left knee and left foot pain prior to this accident that was not worsened by this accident.

b) Preexisting complaints WORSENERD by this accident -

Headaches were one time every 2 months occurring 3-6/10 sinus related with a stuffy nose prior to this MVA, then daily after this MVA 7-9/10 for 3 days, then 1x/week 5-7/10 from then and continuing at the present time correlated with neck pain and middle back pain.

Neck pain was 3-4/10 occurring 2 times every 2 months with a little neck stiffness 4/10 prior to this accident, now there is constant neck pain occurring every day 6-7/10 with neck stiffness 6-7/10 and decreased ROM all interfering with sleep (wakes the patient 1-3x/night for about 3 nights/week).

Low back pain was 4-5/10 occurring once per 1 1/2 weeks or so prior to this accident, since this accident it has been 6-8/10 occurring daily and worse with bending and moving, about 1-2 times per week wakes the patient at night.

Sleep interference possibly linked to pre-menopausal symptoms (sleeping fine for 2-3 months, then having restless sleep for about 3-4 weeks) prior to this accident. Since this accident, the patient is now awoken at least three times per week due to various physical pains.

Short term memory occurred prior to this accident only a little bit when not sleeping well, but is now worse after this accident in that the patient forgets where she puts things, can forget what she was going to say, and is getting progressively worse after this accident.

Difficult concentrating especially when headache occurred approximately once every two months, but since this accident now interferes with the patient's work daily.

c) New complaints resulting from this accident -

This patient has the following symptoms which only occurred after and as a result of this accident:

Sample Narrative p. 2

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Left arm and proximal 1/2 of forearm deep posterior and lateral pain 6/10
Middle back pain constant 5-6/10 occurring daily, worse with moving neck and middle back
Left and right hip P 5-7/10 daily, constant, worse at night, also stiff upon waking
pubic bone pain occurring 5-6 times per week lasting through the day
numbness 10/10 on bottom of both feet after standing for 20 minutes
difficulty reaching for things
difficult prolonged sitting for more than 30 minutes -
difficult driving, especially with decreased ROM
difficult prolonged standing for more than 2-3 minutes
fear when driving, especially when stopped at red lights
depression

Radiology -

Please see attached radiology report.

Diagnoses -

The following diagnoses pertain to this patient only as a result of this accident:

- 1) 847.0 Acute moderate to advanced traumatic cervical strain/sprain
- 2) 847.1 Acute moderate to advanced traumatic thoracic strain/sprain
- 3) 847.2 Acute moderate traumatic lumbar strain/sprain
- 4) 846.0 Acute moderate traumatic lumbosacral strain/sprain
- 5) 846.9 Acute moderate traumatic sacroiliac strain/sprain
- 6) 310.02 Traumatic brain injury/post-concussion syndrome
- 7) 839.08 Multiple traumatic cervical subluxations
- 8) 839.21 Traumatic thoracic subluxations
- 9) 839.20 Traumatic lumbar subluxations
- 10) 839.42 Traumatic sacral subluxations
- 11) 839.69 Traumatic pelvic subluxations
- 12) 338.11 Acute new pains due to trauma
- 13) 338.21 Exacerbation of chronic pains due to trauma
- 14) 339.21 Acute post-traumatic headaches
- 15) E812.0 Driver of a motor vehicle impacted by another motor vehicle
- 16) 728.4 Cervical C2/C3 and C5/C6 ligament laxity
- 18) 720.1 Spinal enthesopathy
- 19) 722.4 Cervical C5 and C7 intervertebral disc degeneration
- 20) 722.10 Lumbar L5 intervertebral disc degeneration without myelopathy
- 21) 784.3 Edema

- 22) 723.3 Cervicobrachial syndrome
- 23) 723.4 Brachial neuritis
- 24) 353.0 Brachial plexus lesion

- 25) 784.0 Headaches
- 26) 719.41 Left shoulder pain

Sample Narrative p. 3

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27) 719.42	Left arm and forearm pain
28) 719.45	Left and right hip pain
29) 723.1	Cervicalgia
30) 729.1	Myalgia
31) 728.85	Muscle spasms/trigger points
32) 300.4	Anxiety, depression
33) 780.50	Insomnia with sleep disturbance, unspecified
34) 729.1	Fibromyalgia
35) 737.30	Scoliosis
36) 756.12	Spondylolisthesis

Medications prescribed by physicians -

This patient has been prescribed naproxin 50 mg. b.i.d., flexoril 80 mg. t.i.d., and ibuprofen 200 mg. p.r.n. by their medical doctor for this accident.

Referrals made to other health care providers -

This patient has been referred to Dr. ABC, a neurologist for consultation concerning her traumatic brain injury with resultant neurological effects.

Duties Under Duress -

This patient has difficulty performing the following activities as a result of this accident:

She needs to hold onto something to bend down and pick things up.
She must carefully bend down to put shoes on or off, or sit down to do it.
Carrying anything over 10 lbs., such as groceries.
Daily chores are more difficult and painful (feels like being 80 years old) -
 cleaning floors and bathroom
 washing dishes
 vacuuming floors
Mowing the yard since 2 1/2 weeks post MVA for 8 weeks
Lifting her children since three weeks after this accident
Cutting toenails

Loss of Enjoyment of Life -

This patient could not or cannot do the following activities as a result of this accident:

Mowing their yard for 2 1/2 weeks following the accident
Lifting her children since three weeks after this accident until the present time and continuing.

Disability -

a) **Temporary** Disability -
no work for 3 weeks since this accident

Sample Narrative p. 4

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no lifting or carrying more than 10 lbs. from 8/22/11 through 9/27/11
no lifting or carrying more than 10 lbs. from 9/28/11 through 11/30/11
no lifting or carrying more than 25 lbs. from 11/31/11 and continuing

b) **Permanent** Disability -

Per the AMA Impairment Ratings Guidelines, 5th edition, as a result of this accident this patient is rated with a 5-8% neck and upper extremity impairment rating, and a 7-12% impairment rating.

Prognoses -

This patient's traumatic brain injury/post-concussion symptoms are approximately 80-90% improved but with residual symptoms of short term memory loss, difficulty with concentration, and headaches still occurring on a fairly regular basis, although to a mild but significant degree. It is likely that these symptoms will continue at least 6 months to one year, but with the distinct possibility of occurring indefinitely based on the persistent presence of these symptoms.

Diagnoses 1-5 and 7-14 listed above are approximately 70-80% resolved with residual headaches occurring approximately one to two times every two weeks lasting for 30-60 minutes per episode, neck stiffness with decreased range of motion occurring two to four times per week worse in the morning and better as the day progresses and in warmth lasting several hours per episode, and muscle spasms and trigger points occurring two to four times per week lasting for several hours per episode. These symptoms are likely to occur indefinitely due to the incomplete healing of torn ligaments, muscles, and tendons (perhaps only approximately 60% as strong as compared to this patient's pre-injury status) with the resultant greater proclivity for the occurrence of subluxations as compared to a typical person.

Diagnoses 16-21 listed above (including C5 and C7 disc degeneration, ligament laxity, spinal enthesopathy, etc.) are approximately 50-60% resolved based on recurrent subluxations, neck pain, and other related symptoms occurring two to three times per week lasting about 20 to 60 minutes per episode (and subluxations lasting until being adjusted). They are likely to occur for the remainder of this patient's life since discs do not generally improve. Furthermore, this patient can expect their disc related symptoms to last long and be present with more intensity over time as the discs worsen, which is a certainty.

Diagnoses 22-24 and 26-27 listed above are apparently nearly totally resolved on the basis of infrequent symptoms of shoulder, arm, and forearm pain and tingling only when this patient lifts anything over 50 lbs. The patient has been advised not to lift anything over 30 lbs. and to obtain help when necessary so as to avoid exacerbations of these diagnoses.

Diagnoses 25, 29-31, and 33 are approximately 85-95% resolved based on infrequent mild headaches and neck pain occurring together, lasting 30-60 minutes per episode and relieved with chiropractic adjustments. These symptoms are likely to occur for at least the next several

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years as a result of this accident due to incomplete healing of the soft tissues of the neck and head, which leaves this patient with a proclivity towards the occurrence of subluxations.

Diagnosis 28 (left and right hip pain) is approximately 70-80% resolved based on the occurrence of pain in both left and right hips when this patient exerts themselves beyond their now limited capabilities, such as exercise. The patient has been instructed to walk, swim, and perform light weight resistive muscle strengthening and range of motion exercise, but to carefully be aware of and not exceed their physical capabilities.

Diagnoses 32 and 33 are apparently completely resolved since approximately two months after this accident as the patient has not reported any anxiety, depression, or sleep disturbances since that point in time.

Diagnoses 34-36 are longstanding pre-existing conditions which are not likely to ever resolve, and are also likely to predispose this patient to exacerbations of their symptoms. Since this patient is an adult with scoliosis, this condition is not likely to change beyond a significant degree, however they have a radiological scoliosis study performed on them every six months for the next year to assess any decline in this condition as related to their pertinent automobile accident.

Disfigurement -

As a result of this accident, this patient suffered a 1 1/2" scar from being cut by a piece of glass on her forehead which required 5 months to heal, apparently becoming as good as it will get. There is a remaining visible scar in this location.

Past/Present Care -

As a result of this accident, this patient required chiropractic care for approximately five months at a cost of \$3,420.00, of which \$2,720.00 has been received, leaving a balanced owed of \$500.00.

I referred her to Dr. XYZ, a neurologist, for consultation and possible treatment for symptoms related to traumatic brain injury. Additionally, I referred her to Dr. RST, an orthopedic surgeon, for consultation and possible treatment for her cervical and lumbar disc injuries. She was also referred to a psychologist due to her fears when driving.

Future Care -

As a result of this accident, this patient is expected to need approximately 2-4 visits per month in order to keep her symptoms at a pre-injury level, plus approximately 6-10 visits per flare up of her symptoms. The cost of this treatment is \$120.00 per visit.

Since this patient is an adult with scoliosis, this condition is not likely to change beyond a significant degree, however standards of care require a radiological scoliosis study be performed

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every six months for the next year to assess any decline in this condition as related to their pertinent automobile accident. The cost of this treatment is \$200.00 per scoliosis study.

Susceptibility to Reinjury -

As a result of this accident, this patient's brain is significantly more susceptible to reinjury than a typical person because they have now suffered traumatic brain injury with lasting symptoms of memory loss, difficulty concentrating, and balance problems. Extensive research has shown that each subsequent traumatic brain injury is worse than those previously incurred, and that the effects of multiple traumatic brain injuries are cumulative and greater than the sum of the individual effects of separate such traumatic injuries.

Additionally, this patient is also significantly more susceptible to reinjury of their already injured C5, C7, and L5 discs as compared to a typical person, which have been shown to be symptomatic because a disc does not ever totally heal once injured, and is prone to worse injury once it is injured as compared to prior to a given injury, and eventually can reasonably be expected to require surgery when the benefits of surgery outweigh its risks in light of the significant interference with this patient's life.

Certification Statement -

All procedures performed on this patient and the bills incurred were reasonably necessary to diagnose and treat injuries sustained directly as a result of the automobile accident that occurred on Aug. 22, 2011, and they were performed by myself or at my direction of my staff.

Sincerely,

/s/

Dr. XYZ

Elements of an Excellent Prognosis –

- ▶ For each diagnosis, state –
 - % resolved or unresolved,
 - Persisting symptoms related to that diagnosis,
 - Frequency of occurrence, lasting for how long,
 - Likelihood of resolution and/or lack of resolution,
 - Reasons for any persistent symptoms

Prognosis – Example of

- ▶ 847.0 – This patient’s whiplash-caused cervical strain/sprain is approximately 80% resolved based on occasional headaches, neck pain, upper thoracic pain, muscle spasms, and trigger points occurring several times per week lasting for 30–90 minutes. These symptoms are likely to occur indefinitely over the course of the patient’s lifetime due to the incomplete healing of the tearing of their ligaments, muscles, and tendons.

Release from Auto Accident Care

- ▶ Done when the patient's symptoms have reached a plateau (as good as can be obtained).
- ▶ This patient's symptoms have currently been reduced to a consistent plateau level of neck pain, headaches, upper back pain, etc. with the occurrence of occasional symptoms as noted in the prognosis. They are now released from care related to their auto accident of 3/12/11, but subject to recall and further treatment for any flare ups of signs and symptoms related to this automobile accident.

Narrative Report Guidelines

- ▶ Certification Statement with all reports: The bills submitted represent reasonable charges for services actually rendered to this patient. The services performed on this patient were reasonably necessary to diagnose and treat the patient's injuries that were caused entirely (and/or exacerbated pre-existing injuries) from their 10/10/11 motor vehicle accident.

Narrative Report Guidelines

- ▶ Future Care statement: The injured person is reasonably certain to need chiropractic services (and supplies) of approximately x to y visits per year for exacerbations of symptoms related to this accident at a cost of \$ per year for z years.
- ▶ Susceptibility to Reinjury statement: This patient's (list body parts, organs) is(are) susceptible to reinjury beyond that of an ordinary person because

Narrative Report Guidelines

- ▶ Complaints (include intensity & whether still present)–
 - a) pre-existing (prior to this MVA) NOT worsened by this MVA
 - b) pre-existing (prior to this MVA) made worse from this MVA
 - c) NEW symptoms caused by this MVA
- ▶ Diagnoses (all of them, don't skimp) –
- ▶ Interferences with Life –
 - Duties Under Duress (activities done despite symptoms)
 - Loss of Enjoyment of Life (activities not able to do at all)
- ▶ Disfigurement (scars, lumps, change in appearance)–
- ▶ Permanent Disability and Impairment –
- ▶ Prognosis – one prognosis for every diagnosis –
- ▶ Susceptibility to Reinjury statement –
- ▶ Future Care statement –
- ▶ Certification statement –

Records

- ▶ **X-rays** – must be kept for 7 years from the date of discharge
- ▶ **Written records** – must be kept for 5 years following the last date of treatment.
- ▶ Statute of limitation for malpractice against D.C.s
3 years – keep records at least until age 21
- ▶ Records must include –
 - Patient's full name, birth date, social security #, gender, height, weight
 - History, complaint, diagnosis, & treatment must be signed by the D.C.
 - Signature of the patient
 - Date of every visit, x-rays (or their transfer), accurate bills

Unprofessional Conduct

- ▶ Breach of confidentiality – unauthorized disclosure of a patient’s information
- ▶ HIPPA federal rules – Do they apply to you?
 - Only applies to “covered entities.”
 - Covered entities are those doctors, facilities, or billing services that use any form of electronic billing (e.g. email, computerized fax).
 - How can you be NOT subject to HIPPA rules?
 - Don’t do any electronic billing.
 - Fax bills only with a conventional, telephone line fax

Unprofessional Conduct

- ▶ A person approaches you and tell you that for \$500 per new patient they can get you lots of auto accident cases.
- ▶ A D.C. tells an auto body shop owner that they will give them \$500 per every new auto accident patient they get that the owner sends to the D.C.
- ▶ What are the Problems?
- ▶ What is the Solution?

Unprofessional Conduct

- ▶ Use of cappers or steerers to obtain business.
- ▶ Offering, giving, receiving, or accepting anything as compensation for referring patients to any person
- ▶ Waiving, abrogating, or rebating insurance deductibles and/or co-pays when used as an advertising and/or marketing procedure, UNLESS the insurance is informed of each occurrence of this in writing.

Unprofessional Conduct

- ▶ A sympathetic D.C. is asked by their patient to write a Prop. 215 prescription for medical marijuana on the basis of their chronic back pain caused by a well documented (including x-rays and MRI) serious L5 disc injury. California Prop. 215 is now valid state law.
- ▶ What are the Problems? What is the Solution?

Free or Discounted Services

- ▶ Truthful advertising of free or discounted services is permissible.
- ▶ No charge for other services on the same day as free or discounted services UNLESS the patient has been informed of the cost and has consented to payment of them.