

Hey, We Don't Get No Respect -- Attorney Bias against Chiropractic

My attorney said that he wants me to be seen by an orthopedic surgeon. If you have very many patients with ongoing personal injury cases, you will probably have this come up. For many attorneys, there seems to be an anti-chiropractic bias when it comes to soft tissue injuries which often form the bulk of personal injury case injuries. Chiropractic physicians are the experts. Not only this, but in my experience, there is less of an anti-lawyer mindset to chiropractic doctors than is found in our allopathic counterparts. Let's look at some of the reasons for these problems and how they may be rectified.

The Jury Believes the MD More

Let's be honest. Attorneys, in general, do not look at us as "real doctors." I had a recent somewhat acrimonious correspondence with an attorney who tried to steal a patient of mine (who worked at his home and was injured on his premises) and send him to a chiropractor who worked with him. I mentioned that he had interfered with my doctor-patient relationship. In his reply, he asked what medical school I graduated from and whether I had an "MD" degree or not, thus insinuating that only MDs have a doctor-patient relationship with their patients.

Attorneys usually use the line that a jury will place more credibility in the testimony of an orthopedic surgeon than in a chiropractic doctor's testimony. I have often felt that the truth is that it is the attorney who has the real problem with not finding the DC credible.

Don't Bite the Hand that Feeds You

It is interesting to reflect on the source of their loyalty and credibility toward the orthopedic community. Motor vehicle accidents and resultant personal injury cases are the bread and butter of most attorneys. But in your plain vanilla car wreck, one usually doesn't have the fractured vertebrae or broken jaw requiring orthopedic intervention as much as you find soft tissue trauma. For years the association between patients, attorneys, and "chiropractors" (readers of my other articles are aware of my total disdain for this word and preference for more professional terms such as "doctor," "chiropractic physician," etc.) has become almost a stereotype. The reason is that many if not most orthopedic and neurosurgeons hold a great antipathy if not downright hatred for attorneys. Part of the reason for this is that these surgeons often are the brunt of malpractice suits in which attorneys head for their jugular like Dracula after a 30-day fast. Many orthopods these days refuse to even treat patients who are involved in ongoing personal injury cases.

I'll Gladly Pay You Tuesday, for a Hamburger Today

Most lawyers seem to want to handle personal injury cases by doing the least work possible and expending the least amount of money up front. The key to doing the latter is often by using a brief paper instrument called a "Letter of Protection." In effect, the letter of protection is the legal equivalent of Wimpie's famous verbal promissory arrangement: "I'll gladly pay you Tuesday for a hamburger today." Basically, a letter of protection is a legal document which promises that if a doctor, imaging facility, or other health care professional will defer collecting for their services

provided to an injured party, they will be paid in full (assuming a sufficient award is forthcoming for the patient) when a settlement or award is received.

As time goes on, even those imaging facilities and medical care providers who used to take letters of protection have gotten "burned" one too many times. This means that they did not get paid in full on more than one case, if at all. The one group of providers who has continued to work well with attorneys and who, for the most part still accept letters of protection, are the chiropractic doctors. In spite of this, it seems we are treated as the stepchild of the legal and health care communities. We can act in a solicitous, even obsequious manner to lawyers and orthopods, and still get no respect.

The Supplicant Cannot Demand Respect

Is the beggar in a position of power? Of course not. Most of us know chiropractic doctors who take lawyers out to lunch, who join every service organization in town, and will say anything and everything on a narrative to get attorneys to refer patients to them. The reason? Usually personal injury cases pay at 100 percent, as opposed to group health insurance plans. The check may be a long time coming, but it can be a really big boost in income when it comes in. But how do you think attorneys view DCs who act like mincing toadies? If you have little respect for your professional colleagues who prostitutes themselves to become a lackey of a shyster, what do you think the lawyer thinks of him, and by association, the rest of our profession? I think it is ironic that attorneys have such respect for our orthopedic counterparts as expert witnesses, when the same orthopods hold them in such contempt.

Are We Credible?

But before we castigate attorneys merciless for their attitudes toward us, what part in the blame must we shoulder? Are we credible? If a patient is at fault in an accident and taps another car at 2.5 miles per hour, do they get the same amount of "whiplash" (i.e. flexion/extension, acceleration-deceleration) injury as does a person who is impacted by someone with plenty of insurance who is at fault?

Which is Better, Ethics or Paychecks?

What if John Smith presents to your office (referred by a lawyer) reporting that yesterday he was in a car accident where a guy hit his car at 30 miles per hour. He tells you he had a bad wreck five years ago (his fault) and brings in the old x-rays which show loss of the cervical lordotic curve (i.e., military neck). You take x-rays and when you compare them, they could be carbon copies of the five-year old films. When you finally write up the narrative on the case, do you mention the previous injury or attribute the loss of the curve to the most recent. Or, if you are testifying in a deposition on the case, do you mention the earlier injury as being contributory?

These are medical, legal, and ethical issues, but they are financial issues as well if you consider the opposition attorney may try to tie all their injuries to the earlier injury and you may not get paid for all your care.

When you are called upon to do depositions or testify in court, do you come off as an "expert" witness? Are your records organized and complete? Are you articulate and convincing? Would you impress yourself if you were sitting in the jury box? Do you present yourself as being expert in the fields of neurology, orthopedics, anatomy, dynamics of injury, etc.?

The 100 Percent Solution

Like it or not, unethical or unprofessional conduct on the part of one member of a profession can taint public perception of the whole of the profession. There is a ranking which has been done which lists all classes of trades, occupations, and professions and how the public perceives them. It should come as no surprise that doctors are near the top and lawyers are at the bottom.

We must police our own profession and make it as ethical, as scientific, and as honorable as possible. The least competent chiropractic physician should be more competent than the average orthopod. I did not mean this statement as a slight to our orthopedic colleagues nor allopaths in general. Although allopaths do have some older general practitioners who are very biased against DCs, and who can be very backward in their treatment protocols of musculoskeletal problems. Most of the MDs I have met are very intelligent, but DCs have it over the lawyers and MDs in our humanity and in our caring. In general, we have become masters of doctor-patient interactive skills. Many orthopods and lawyers could care less about the feelings of their patients and clients (try to get a call returned by a lawyer).

When You Own the Well ...

I have a saying: "When you own the well, the thirsty will find you." As I said, we are becoming more and more important as providers of health care to the clients of lawyers. They need us.

That doesn't mean that we ought to be arrogant, but it doesn't mean we should grovel either. Certainly we need to upgrade the public's perception of chiropractic as much as possible until we are perceived as experts. The "20/20" fiasco with surrogate testing and treatment in a few seconds undermined the thousands of hours of DCs doing good work on hundreds of thousands of patients quietly and with professional expertise. We must not let these attacks on the profession go unanswered, because when we do we'll hear about it in the courtroom. Although we are there in the capacity of an expert witnesses, the attorney will try to put our profession on trial.

Res Ipse Loquitor

"The thing speaks for itself." I chose to end this article with a legal phrase from Latin, because it states a simple truth beyond the legal doctrine it represents. We will not ever get treated with respect by attorneys if we beg for referrals; are willing to say that someone needs three or four years of treatment from a 5 mph fender bender; put a child on its mother's back and doing surrogate testing; if there is no public perception that we are a scientifically-based, highly-valued and ethical profession.

We will be the poor stepchild that they may refer patients to, but are embarrassed to be seen with in court. They will never depend on winning a case on our testimony. We will stay the incidental narrative writer and never be the guest star in court drama, if we don't bring down the gavel on stupidity and incompetence.

John R. Baker, DC
Beaumont, Texas

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