

Why PI Liens Work

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The PI lien is one of the more misunderstood tools of personal injury practice. Not only do many doctors misunderstand the importance of the lien but so do most attorneys.

The standard PI lien, which is a form that is available in most offices, speaks of a three-party contract. The doctor is the beneficiary of an agreement between the patient and the attorney. The agreement simply means that when the case is settled, no matter what, the doctor may get paid in full. Most attorneys who sign this contract actually do not understand its implications.

Take a look at the typical modified PI lien. When the patient signs the lien, the patient actually agrees to two contracts.

Promissory Note

The patient makes an agreement that no matter how the case turns out, whether or not there is settlement, whether there was good luck or bad luck, the ultimate responsibility from the bill falls directly to the patient. So, if the case turns out to be bust, or the jury returns an unfavorable verdict, the patient still owes money. That is the promissory note part of the agreement.

Lien on Any Settlement or Judgment

The next part of the contract involves a personal injury lien. This agreement encourages the doctor to take on the case, without demanding immediate payment. Essentially stated, doctors will not demand immediate payment for services rendered as long as they have a guarantee that the bill will be paid when the case ultimately is settled or goes to judgment. Most doctors who do this, do not even charge interest.

It is doubly insulting and extremely irritating when attorneys pay only what they feel like paying at the end of the case.

Bad Things Attorney Do

Based upon actual cases, three typical examples represent most of the complains that many law firms hear about:

1. Cut Your Fee, Not Mine

Some attorneys believe that if the client wants more money or they obtained a relatively poor settlement, it is only the chiropractic doctor that needs to cut his bill. If the doctor suggests the attorney share in the fee reduction in order to "help the patient," the attorney starts yelling about the time and effort put into the case. In reality, by merely settling and not litigating the case, the attorney may have written a few letters, made a few phone calls, and maybe saw the client once or twice.

The doctor on the other hand was continually involved and committed a great many resources

toward bringing the patient to a pre-accident status. Many times, over 50 percent of the bill that the doctor generates merely covers the doctor's overhead. Then, if the settlement does not go well, the attorney wants to cut the doctor's bill, sometimes by more than 50 percent. Those same attorneys will frequently not consider cutting their fee by one-third or 40 percent. Those attorneys do not understand how liens work and they must be educated, accordingly.

2. Take It or Leave It Approach

Certain personal injury attorneys are systematically involved in a campaign to rip-off the chiropractor. For no rhyme or reason, and without justification, they will send you a check that represents anywhere between 50 percent to 80 percent of payment of your bill. Some attorneys state that this fee cut is designed to cover their "advertising costs or marketing needs." This, simply, is an illegal act. Some dishonest attorneys will try to get the doctor to pay a "kickback" fee for the case. This is unacceptable and an illegal act.

3. No Payment at All

These attorneys are the worst of all. They ignore your calls and letters and they refuse to pay the bill. Surprisingly, millions of dollars are generated each year by this illegal activity, by these unethical PI attorneys. Unfortunately, too many doctors fail to enforce their lien rights.

How to Get Paid on Your Lien

Many law firms use the following philosophy: Use the same kind of language and tools that attorneys use. Think like an attorney for a few minutes and you will see that this is the best way to get an unethical attorney to behave correctly.

Step No. 1 -- One Phone Call

Too often, CA's are desperately trying to reach the attorney to get him to pay what he owes. Most of the time, bad attorneys ignore phone calls. The best approach is for the CA to make one call to remind the attorney that the case has been settled and that payment has not been received. Then, the CA should ask the doctor to send someone over to pick up the check.

Step No. 2 -- Send a 72-hour Demand Letter

Attorneys live in a world of deadlines and statutes of limitation. Take advantage of it. Give an attorney a deadline, and more likely, he is going to believe that you mean business. Therefore, you should write a strong, short letter to the attorney, mentioning the following points:

1. That you know the case is settled.
2. That you have not been paid.
3. That you have a lien.
4. That you demand payment within 72 hours.
5. That the "Rules of Professional Conduct," which every lawyer is bound to obey, prohibits illegal holding of funds in an attorney's trust account.
6. That you may find it necessary to file suit against the attorney if he does not pay you within 72 hours.

Naturally, you send the letter certified mail, with a copy to the patient.

Step No. 3 -- Report the Attorney to the Bar

Throughout the United States, bar associations are taking attorney discipline more seriously than ever. In California, over 43 million dollars were spent on attorney discipline in the year 1990 alone. One of the major reasons that attorneys lose their rights to practice and get severely penalized, is the games that they play with their trust accounts. Precisely because the lien involves a trust account, attorneys are on very sensitive ground. Next, file a complaint to the local state bar. Among the items that you mention:

1. That the attorney signed the lien agreement, promising to pay from his trust account when the case settled.
2. That you provided the service, the case settled, and the attorney has violated the contract.
3. That you demand that the state bar investigate the attorney and arrange for your bill to be honored.

Attach to your letter, a copy of the letter you sent to the attorney, a copy of your medical bill and report, plus a copy of the signed lien agreement. Be sure you send a copy to the attorney. A shady attorney is always the one who is most nervous about hearing from the state bar. This is an effective strategy: A high percentage of the doctors' bills are paid immediately when an attorney gets a copy of this letter.

Step No. 4 -- You Can Sue the Attorney in Small Claims Court

The small claims courts in California allow you to sue up to \$5000 twice a year, and thereafter up to \$2500 for each claim. Many other states have different monetary levels for small claim suits. Small claims court is noted for its ease and speed. An attorney will look very guilty as a defendant. He will have a hard time explaining to the judge why he "ripped you off." It is usually very inconvenient for the attorney to appear in small claims court, especially if the small claims court is not near his office. Always file a lawsuit in the small claims court nearest your clinic (where the contract was created).

In many cases, doctors that have taken attorneys to small claims court win well over 90 percent of the time. In fact, most attorneys gladly pay the bills so they do not have to go to court.

These simple steps are direct and will give your office staff great confidence in pursuing your right to get paid. Attorneys are now beginning to recognize chiropractic as a powerful force not only in the healing arts, but as a peer in the profession, as well.

When chiropractors begin to recognize that their services are worth what they charge, attorneys have less reason not to honor liens. By using these simple and effective tools, you will find your clinic is the one which gets paid. More attorneys will learn to respect your work and services.

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