

Nine Rules and Procedures to Prevent Insurance Fraud

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A doctor decides to help his cash patients by doing physical therapy at no charge. A doctor decides to give a new patient without insurance a reduced fee for an examination. A doctor decides to forgive the deductible and/or reduce the co-payments for certain patients. A doctor has a patient who initially hurt himself at home but aggravated it at work; the doctor bills this through Workers' Compensation.

Any of the above examples could constitute insurance fraud.

There is a nationwide attempt to reduce health care costs. Some of the more common techniques employed by the insurance industry are:

1. Sending investigators acting as patients
2. Creating computer profiles of average office visit fees and average case costs, and then identifying doctors who significantly exceed these averages
3. Pressing civil and criminal charges against doctors who engage in abusive practices
4. Publicizing civil and criminal charges of insurance fraud
5. Pursuing the enactment of new laws reducing chiropractic coverage
6. Forcing doctors to compromise personal injury liens

To Prevent This from Happening to You, Follow These Rules:

Rule 1: Create Patient Protocol Based on Diagnosis Or Extent of Injury -- Not Cash Versus Insurance Patients.

Despite how this might upset some doctors philosophically, the moment a doctor agrees to accept income from insurance, he has entered into a system based on the medical model of health care. Diagnosis and the degree of injury alone should determine the type of care and number of visits. Thus, the following example would not be legal:

A person with a flexion/extension injury as the result of an auto accident comes to the doctor with insurance coverage. The doctor takes six x-rays and does a comprehensive examination charged at \$85. The same doctor sees another patient who hit his head in the pool. This patient also has a flexion/extension injury but has no insurance. The doctor takes only two x-rays and does a brief examination for \$25.

The problem with this approach is two-fold. First, the doctor has represented that his fee for a flexion/extension injury examination is \$85. If this is the "customary charge," then the doctor should charge the same fee and perform the same service for the cash patient. When a doctor

accepts a lower fee from a cash patient for a similar service as that given an insurance patient at a higher fee, that is two-tier billing and that is illegal.

If the doctor wishes to offer a service such as a comprehensive examination to a cash patient and the patient wishes to decline that service, the doctor must make careful note of this in his records. A patient has the right to decline any treatment or diagnostic service. What is important is that the doctor offers the same service regardless of insurance.

The second problem is the difference in the diagnostic approach between the two patients in regard to x-rays. The above example would imply the doctor treated the patient's insurance policy rather than the patient. Malpractice exposure is also created if a doctor takes only two x-rays on a flexion/extension injury when his normal procedure would be to take five. Once again, the doctor should have recommended five views and given the patient an option to refuse. If the patient refused, this would need careful notation in the patient's records.

Rule 2: If a Patient Is in Financial Need, Have Him Put This in Writing Before Offering a Discounted Fee.

If a patient tells you that he truly cannot afford to receive care, you may wish to treat this patient at a reduced fee. If this is done without the patient putting something in writing, the variation in fees could be questioned long after the patient has gone or moved. A doctor's statement that he was just helping a patient does not avoid the charge of insurance fraud.

Additionally, many doctors mistake the ability to offer a reduced fee to the truly needy as authorization to classify all of their cash patients as "needy." When a doctor offers discounts to substantially all of his cash patients based on "need," the same discount must be given to insurance patients.

Rule 3: Have Patients Sign in For Each Visit and Keep These Records For at Least Seven Years.

A disgruntled patient may claim that the doctor billed him for treatment that never occurred. The only proof the doctor has is his records. A patient's own signature showing he was in the office is the best proof. This will also help the doctor to defend himself in a malpractice action. In fact, if the doctor is treating children, these records must be maintained for seven years after the child becomes an adult.

Rule 4: If You Find You Have Made An Error in Billing, Notify the Insurance Carrier.

A doctor discovers his new insurance staff has billed all patients as having had therapy each visit when they did not. The staff did this in error. The doctor should correct his staff's mistakes and immediately notify the insurance company of the error and its cause. Not only will this make it unlikely that the insurance company will take any further action against him, but it also undercuts the ability of the insurance company to accuse the doctor of fraud. Intent to defraud is a required element of any fraud claim, so if the doctor voluntarily alerts the insurance company of a mistake made, it looks much more like what it was -- an innocent mistake.

Rule 5: If You Receive Overpayment, Return It.

A doctor receives two payments for the same service from one insurance carrier, or receives two payments from two carriers for the same service. The doctor must return one of the checks to the insurance company. The only exception would be if the patient carried two private pay insurances that allowed double billing; then one payment goes to the patient.

Rule 6: Family Plans Are Illegal Unless the Same Procedure Is Afforded to Both Insured and Cash Patients.

If a doctor gives cash patients one fee for the first patient and a lower fee for the other family members, then that doctor would have to give another family who were all in an auto accident the same low fee. As discussed previously, two-tiered billing is not legal. A safe family plan would be all children under the age of ten are seen once per month at no charge. Thus cash or insured children are not charged when they come but once per month.

Rule 7: Maintenance Care Cannot Be a Lower Fee Unless Given to Insurance Patients on the Same Frequency.

As discussed above, two-tiered billing is simply not legal whether it is justified on cash/insurance grounds or on maintenance/treatment grounds. Once again, special hardships are permissible. However, if all cash patients appear to be under hardship, the spirit of the law has been violated and the doctor's customary fee could be interpreted as the lower fee. Thus all higher billings to the insurance company could be construed as overbilling.

Rule 8: Advertising No-Out-Of-Pocket Expense (Insurance Accepted As Full Payment) Is Illegal in Various States.

In many states, the insurance companies take the approach that if your normal fee is only 80% of what you bill, they will pay only against 80%. Thus, they pay 80% of 80%, i.e., 64%. In some states, the chiropractic boards are now requiring their licentiates to disclose to the insurance company each time a deductible or co-payment is forgiven.

Rule 9: Working with a Medical Doctor May Violate State and Federal Laws.

A chiropractic doctor and a medical doctor can work together; however, proper legal planning is essential. A chiropractor cannot accept any form of kickback for a referral to such an MD In the case of Medicare, this could be considered Mail Fraud. Anyone wishing to create an integrated chiropractic and medical facility should get sound legal advice in writing before proceeding.

In conclusion, a doctor must know the rules of the game. Failure to know the law does not exempt you from it. There is a legal way to accomplish your desire to serve and help people. Be sure to balance you desire to help with proper legal procedures.

We wish you success and a trouble-free practice, and hope that these rules will serve as a good guideline.

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