



PERSONAL INJURY / LEGAL

The Lies We Tell

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Attorneys don't enjoy the best reputation as a profession. Like auto mechanics, insurance salesman and money managers, attorneys provide a vital service, but because of the mystery surrounding what they do and how they do it, there exists plenty of room for bad apples to take advantage of people, leading to a general mistrust of the entire profession.

While I maintain that there are many more good attorneys than bad ones, I endeavor today to dispel three of the most common lies bad attorneys tell chiropractors in an effort to screw them out of their hard-earned money in personal-injury cases. Armed with these facts, you will be able to confidently respond to unscrupulous attorneys (and then quickly add them to a blacklist of attorneys you will never work with again).

One Third, One Third, One Third

This is a terribly old myth that is *not* based in law. As the myth goes, health care providers are obligated to a pro-rata split of one third of the settlement funds after the attorney has taken one third and the client has taken one third. Obviously, this leads to a highly disparate result for chiropractors, who often have a very small lien relative to other providers.



In reality, even if an attorney tells you this is "common practice," "the way it is always done" or "what the law requires," know that the one-third split has no basis in law whatsoever. Clients are, of course, free to sign retainer agreements with attorneys specifying that they will pay the attorney one third of a settlement agreement; and some shady attorneys will even attempt to promise clients one third of the settlement from the outset. However, the attorney and the client *cannot* enter into an agreement wherein they agree to pay all of the providers a pro-rata share of one third of the settlement amount. They simply do not have standing to contract around your lien, which should unambiguously state that you are to be paid in full.

Only Attorneys Can Collect MedPay

Not only is this an outright lie; it is fraud. I have also heard chiropractors tell me they commonly will allow an attorney to collect the MedPay as a way of "saying thank you" for a PI case referral to their office. This is insurance fraud on top of a kickback scheme!

As I have discussed in a [past article](#) (October 2020 issue: "Are Lawyers Who Collect Your MedPay Committing Fraud?"), per your patient's insurance contract, MedPay can only be paid out for qualifying medical treatment or funeral expenses. Since legal services are neither of those things, and since if the attorney were to be honest with the insurance company about where the MedPay money is really going, it wouldn't be paid out, you can be assured it is dishonest at best and fraudulent at worst.

If an attorney receives a MedPay check (which happens sometimes through no nefarious means), that attorney has an obligation to send it *all* to the health care provider(s) whose billing justified the payment of the funds. To not do so subjects both the attorney and the provider(s) to potential criminal prosecution ... as well as discipline from the state bar and state chiropractic board, respectively. In short, your MedPay belongs to you alone.

"The Client Told Me Not to Pay You"

Your patient doesn't have the right to unilaterally decide whether you get paid. If/when they tell their attorney not to pay a medical bill (or to not pay it in full), it creates an ethical problem for the attorney.

On the one hand, the attorney has a fiduciary duty to their client to do as they say with their settlement money. On the other hand, the attorney has a fiduciary duty to the chiropractor to pay his or her bill after the attorney signs the chiropractor's lien.

Fortunately for all parties, the law created a method for dealing with this exact problem: *interpleader*. This is an action wherein the attorney puts the disputed funds in trust with the court and then files a special lawsuit naming both their own client and the provider as defendants. A judge will then decide an equitable allocation of the funds.

If an attorney ever tells you their client told them not to pay you, simply tell them to interplead the funds. While this isn't pleasant for anyone involved, it will resolve the dispute (and often will lead to an out-of-court settlement, rather than an investment of everyone's time and money).

Knowledge Is Power

While this is by no means an exhaustive list of the many, many lies attorneys tell chiropractors in their seemingly never-ending quest to extract free or discounted work from hardworking doctors, it hopefully helps to address the most common of them. Just remember: If you are told something that sounds patently unfair (like "You can't talk to your patient about paying your bill after the case resolves" or "You can't have an accounting of the settlement funds because it would violate HIPAA"), know that it is very likely a scam, con, hustle, hoodwink, gambit, flimflam, stratagem, bamboozle, or outright lie - and consider asking an attorney (one of the good ones) for some help.

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