Personal Injury Made Easy

Potential "FOULS" by Some Attorneys

The following are just some of the more frequent game "fouls" by some personal injury attorneys for a medical provider to spot, stop or otherwise address proactively.

- **Hiding Insurance Coverage** (not providing early on, or at all)
- **Hiding Police Reports** (not providing early on, or at all)
- **MedPay Mistakes** (prohibiting provider from submitting; not disclosing received; attorney receiving and holding to end of case; taking attorney fees)
- **PIP Mistakes** (not ensuring patient timely pursues; holding; taking fees)
- **Directing Medical Care** (not staying in their lane)
- **Communicating False Expectations** (if we don't win, you owe nothing – doctor bills included)
- **Not Communicating** (dropped patient; subbed out)
- **Asking only <u>after</u> Settlement** (is it a real issue or game play?)
    - Treatment or bill issues being raised for first time
    - To submit to Health Insurance (already decided "on Lien"; co-pays & visit limit issues)
    - For lien reductions (in non-policy limits or non-trial verdict situations)
- **Hands Off in Pre-Lit** (non-attorney staff running case progress/resolution)
- **Passive with Insurers** (lazy/fearful/just not aggressive)
- **Turn & Burns** (i.e., settling cases generally less than at least 2x meds)
- **Inexperienced** (e.g., not trying to open low policy limits where situations might allow)
- **Hiding from Patients (their Clients) before settling:**
    - Higher potential personal financial exposure (unresolved liens)
    - Patient owes 100% of bill *<u>regardless of case outcome</u>* <u>(most states) (s</u>o doesn't matter if case dropped, lost at trial, or bad settlement)
- **Hiding from Providers:**
    - Settlement Specifics (amount settled for; if additional possible recovery (UIM, Med Pay)
    - Disbursement Specifics (who is being paid what $ amt, including attorney & patient)
    - That some disbursements are not proper liens (e.g., patient loans by attorney or parent)
    - Patient driver without minimum insurance coverage may be precluded from any pain and suffering PI recovery (states like CA [Prop 213] yet many attorneys still seek to pay it out to the patient)
    - Preferred Arrangements (e.g., patients guaranteed 57% of recovery, personal relationship vendor priority)

  - Phantom Attorney "Costs" (e.g., Admin fee, file set up fees and the like when attorney on contingency, so not to bill separately for time)
  - Miscalculating Attorney Fees (i.e., taking attorney fees before first deducting costs, which means getting cost plus % of costs back as attorney fees improperly)
- **Misstating or Misleading on Applicable Law:**
  - **NO:** 1/3rd (attorney), 1/3rd (patient), 1/3rd pro rata (most states)
  - **NO:** Limitation of medical provider to only one quarter or one third of settlement (common fund/made whole states exception)
  - **NO:** "Pro Rata" (i.e., each provider gets same % of bill paid) (most states)
  - **NO:** Only entitled to lowest fee rates (e.g., Medicare rates)
- **Potential illegal Kick Back-Fee Splitting**
  - Pre-treatment reduction agreements between attorney & provider, yet present full bill
  - Engaging with third party middlemen who direct patient flow to medical providers in exchange for pre-set provider bill reductions
- **Failure to Understand the Inequity of *"Pro Rata"***
  - Seeking to pay all providers an equal percentage of the bill, yet failing to recognize disproportionate profit margins (e.g., chiropractic, acupuncture, PT vs. MRI, pain physician, surgical)
- **Self-Interest Based Hypocrisy:**
  - Forcing steep reductions yet taking 33%-45% attorney fees (adding attorney costs increases the take, even more)
  - Settlement "Confidential" and taking full fees yet asking provider to reduce/slash bill.
- **Interpleader** (protects only attorney (potentially); not "full and final" on provider's bill generally, yet attorney asserts it is; misuse, nonuse)
- **No Surprises Act** (asserting when not applying or no longer eligible and other misapplications)

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COACHING & TOOLS