

Recovery & Resolution

A LEGAL NEWSLETTER FOR
HEALTH CARE PROFESSIONALS



Graham Lundberg & Peschel *Founded 1979*

Attending Physician Keeps Independent Medical Examinations More Objective

How one doctor found that attending independent medical examinations of his patients keeps the examining doctor more honest in his evaluation and the insurance companies continuing to pay for his patient's treatment.

Sometimes, seminar speakers learn more from the attendees of seminars than they expect. It came about during one of Graham, Lundberg & Peschel's seminars given to health care providers on the AMA's *Guides to the Evaluation of Permanent Impairment* that one of the attendees, Lee Corley, D.C., of Corley Chiropractic Clinic, shared his experience on how he found a way to keep independent medical examiners of his patients more honest and objective. He found that if he attended the Independent Medical Examination (IME) his patient would have a much greater chance of receiving continuing chiropractic and other adjunctive therapies paid for by his patient's PIP insurer.

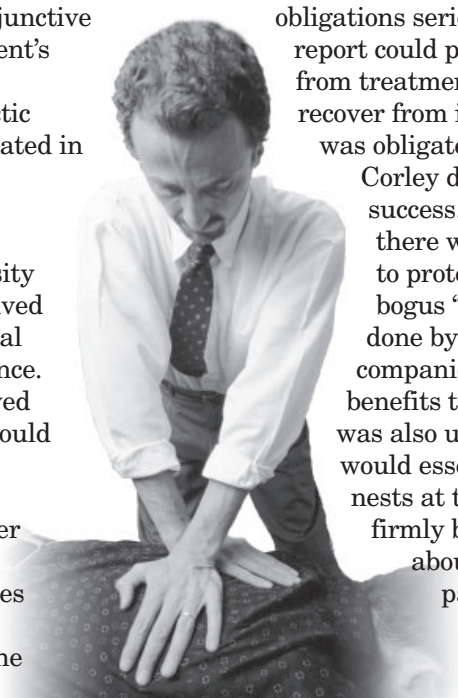
Lee Corley has a chiropractic practice in Everett. He graduated in 1990 from Life Chiropractic College West in San Lorenzo, California after attending Western Washington University in Bellingham where he received his Bachelor of Arts in Political Science, with a minor in Science. Dr. Corley consistently involved himself in careers where he could help people.

Dr. Corley is a certified independent medical examiner for the Department of Labor and Industries, a duty he takes seriously. However, he found early on that not everything he read in Independent Medical

Examination reports was real. He vividly recalls one afternoon when he sat down with one of his patients to go over the report he had just received from a PIP insurer. When he was asking the patient about his responses to testing, it soon became apparent that much of the testing that was allegedly done in the examination by a PIP appointed independent medical examiner was in fact not done. In fact, it was the patient's comments that "...the doctor didn't even do half the tests that you do when I come to see you..." that alerted Dr. Corley that PIP insurers were employing examiners who were not taking either their obligations seriously or the fact that their report could prevent one of his patients from treatment that would assist them to recover from injuries that the PIP insurer was obligated to pay. In that case, Dr.

Corley did do a rebuttal, with some success. However, he wondered if there was something else he could do to protect his patients from clearly bogus "independent" examinations done by doctors hired by insurance companies to limit or deny PIP benefits to injured persons. Dr. Corley was also upset that certain doctors would essentially feather their own nests at the expense of his patients. He firmly believes—and makes no bones about the fact that—it is the patient's welfare that everyone involved should be concerned about.

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Dr. Corley, continued...

Then, it came to Dr. Corley that after reading the Washington Administrative Codes and Civil Rule 35, which provides for the examination of parties who are involved in litigation, that every patient or litigant had a right to have a witness at the examination performed by a doctor hired by the PIP insurer or the Defendant's insurer. So Dr. Corley told the next patient who was requested to attend an Independent Medical Examination" to stop by his office to pick him up because he was going to accompany him.

Dr. Corley and his patient were in for a surprise. When he walked in with his patient, the examining doctor asked who he was? Dr. Corley unhesitatingly said "his doctor," referring to his patient. The examining doctor became openly hostile and essentially said that the examination was not going to take place if Dr. Corley observed and made an audio recording, which was Dr. Corley's intention. Dr. Corley then called the attorney for his patient and despite some phone calls back and forth the doctor adamantly refused to do the examination with Dr. Corley in attendance.

Eventually, Dr. Corley's patient resolved his case successfully. Since then, Dr. Corley has made it a practice to advise his patients that he will make himself available to attend any examinations that are set up for them, whether by a PIP carrier or if the case is in litigation, a CR 35 exam. The only thing he asks for his attendance at the examination is to have it take place on his day off, usually a Thursday.

Since he has taken to attending his patient's examinations, Dr. Corley has noticed a distinct difference in the tone and tenor of the reports. And even more favorable to his patients, it is not unusual for a PIP carrier to call him up and admit that when the examining doctor finds out he is planning to attend, which he

always informs the PIP carrier in advance, it is not unusual for the independent medical examination to be cancelled and never rescheduled. Thus, Dr. Corley's patients continue to get the treatment they need, they often don't have to attend a bogus Independent Medical Examination, and they don't end up with a bad report in their file that would hurt them should they go to litigation.

When asked why he made those decisions to attend Independent Medical Examinations, and do them for free, Dr. Corley repeated his mantra that it is all about the patients, not just about money. Unfortunately, he said, both lawyers and doctors have forgotten the bottom line: it is about the injured party. So he walks his talk and his patients are very much better off because of it.

But, Dr. Corley says, there is a price to be paid. He has to spend the time with the patient before the Independent Medical Examination going over a list of do's and don'ts. For example, he is adamant that his patients are completely honest and withhold nothing. He instructs them to answer all questions directly and to tell the examining doctor if something actually hurts when it does and if it doesn't, to not embellish or exaggerate. After the exam takes place, Dr. Corley will then take the time to review the report, which he says is most important, and to write a thorough, detailed rebuttal, if he disagrees with the examiners recommendations. He has actually found a report, before he started attending exams, with at least 28 fabrications, which he determined by interviewing his patient who had just been examined.

However, Dr. Corley isn't just concerned about the widespread and increasing use of independent and non-objective IME reports to limit or deny PIP benefits. He is also concerned with examples, in too many cases, of patients being over-treated by their own physicians, thus creating a landscape of distrust and

suspicion on the part of PIP insurers who often see treatment continue long after the guidelines that Dr. Corley follows as espoused in the Croft book, *The Cervical Syndrome*.

As Dr. Corley put it, "as doctors, we all have a responsibility to treat effectively and efficiently, and use the resources available to us- such as second opinion doctors whom we trust and respect as well as providers in other disciplines, such as orthopedic or neurological medical doctors, if clients are not progressing as rapidly as expected towards maximum medical improvement."

Dr. Corley again pointed his philosophy - "it's all about the patient. I got into this practice because I wanted to help people achieve wellness without the use of stupefying medications that do nothing more than mask the symptoms, and do not help the patient recover." Just like when he was 16, and after presenting to medical doctors with only medication prescriptions to show for it and continuing to suffer pain and stiffness, he met his first chiropractor, who cured him with only a few adjustments.

Dr. Corley believes in rendering the best care available to help the patient heal rather than using the patient's injury as an excuse to charge too much or to treat too often, or an item on an agenda for a PIP insurer to try to deny or limit claims in general. Thus, Dr. Corley keeps insurance companies honest while helping his patients achieve recovery by going that extra mile. By his actions, he ensures that the care his patients receive is reasonable and still sufficient to treat the injuries they incur as a result of the trauma they sustained, and often despite the fact that his patient was injured in a motor vehicle accident with coverage by a PIP insurer who would like nothing better than to collect premiums, yet pay out only limited amounts of money under PIP benefits by using "Independent Medical Examinations" to limit or deny their insured's benefits.



Steps That Can Be Taken To Minimize Adverse Consequences Of An Independent Medical Exam

A treating physician that has a patient who is scheduled for an Independent (*Insurance*) Medical Examination can take many steps to minimize any potential adverse consequences to the patient's care and legal claims. We have found that the following steps can be advantageous.

1. To the extent possible, the treating physician should perform his or her own re-examination of the patient within close proximity to the IME. We found that if the re-exam occurs within 24 hours of the IME; or ideally right after it, any differences in objective findings and diagnoses will be construed in favor of the patient and treating physician.

2. Prior to the patient attending the IME, the treating physician can deliver a copy of the clients' complete file and status report to the IME doctor. It is not unheard of to have the treating physician call the IME doctor to provide an oral summary and briefing on the patient.

3. Schedule a second examination for the patient by a reputable physician that you help set up. This is very similar to having the

patient get a second or third opinion prior to proceeding to a surgery. This examination and its findings will also be most effective if it occurs within close proximity to the IME.

4. Encourage your patient to appear for the IME on time and dressed appropriately. Making a good first impression never hurts.

5. Encourage your patient to discuss their situation with a knowledgeable plaintiff's personal injury law firm to see whether there are any steps that can be taken to reschedule or strike the requested IME. Many times the insurance carrier will agree to delay or avoid an IME if it has current re-examination findings, status reports, or recent opinions and reports from non-primary treating physicians.



Top Ten IME Red Flags

There are many reasons that a personal injury protection insurance carrier may request an independent medical examination. The following are the top ten "red flags," that often trigger a demand for an IME:

1. When a medical provider does not submit records and bills regularly and instead holds them and submits several months worth of treatment at the same time.
2. When there are gaps in a patient's treatment.
3. When the patient changes doctors without a referral.
4. When a doctor's treatment is unusually expensive compared to other similar medical providers in the community.
5. When a doctor uses unusual forms of treatment modalities or equipment that may be considered experimental.
6. When a patient receives multiple treatment modalities on the same day (for example, physical therapy and chiropractic treatment).
7. When a medical provider does not provide an adequate treatment plan or prognosis for continued treatment.
8. When the PIP adjuster cannot read the chart notes in a medical provider's records.
9. When improper billing codes are used.
10. When the medical provider does not communicate with the PIP adjuster and respond to requests for information in a timely fashion.





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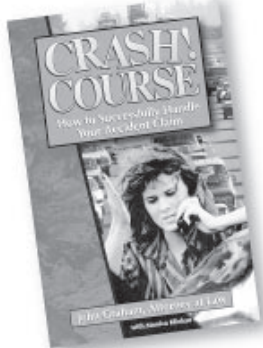
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