

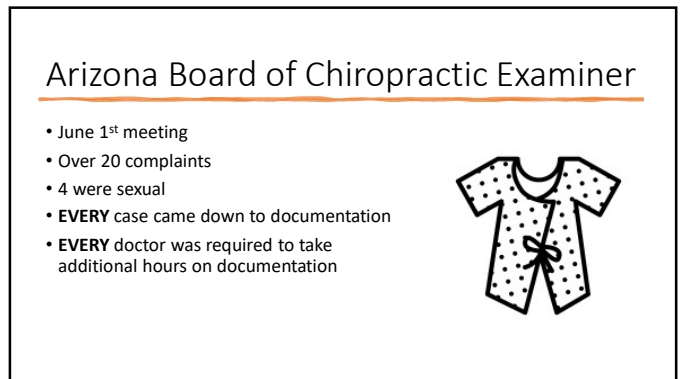
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4

THE MOST IMPORTANT THING YOU NEED TO LEARN TODAY



If it is not written down, it did not happen


5

If it can't be read, then it is not written down

Date	Service	C	T	L	S	Bill Code	Charge	Paid	Balance
5/1/18	Chiropractic					97000	150.00	150.00	0.00
5/1/18	Chiropractic					97000	150.00	150.00	0.00
5/1/18	Chiropractic					97000	150.00	150.00	0.00
5/1/18	Chiropractic					97000	150.00	150.00	0.00
5/1/18	Chiropractic					97000	150.00	150.00	0.00
5/1/18	Chiropractic					97000	150.00	150.00	0.00
5/1/18	Chiropractic					97000	150.00	150.00	0.00
5/1/18	Chiropractic					97000	150.00	150.00	0.00
5/1/18	Chiropractic					97000	150.00	150.00	0.00
5/1/18	Chiropractic					97000	150.00	150.00	0.00

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THE SECOND MOST IMPORTANT THING YOU NEED TO LEARN TODAY



On a PI case your file may not be read for a year or two

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THE THIRD MOST IMPORTANT THING YOU NEED TO LEARN TODAY



The person reading your file does not have your education
A lawyer is well educated but did not go to chiropractic college
 Minimum education requirement for mid-level adjuster is a GED

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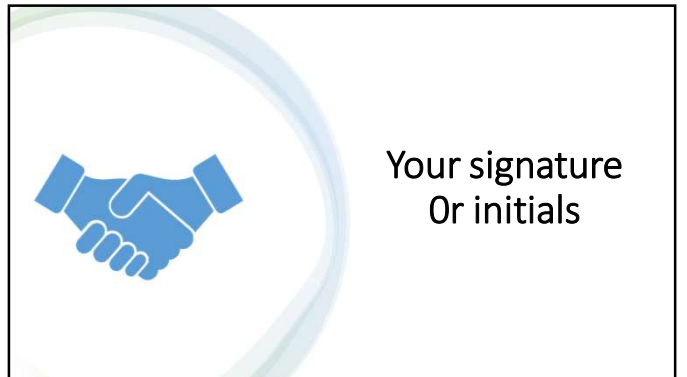
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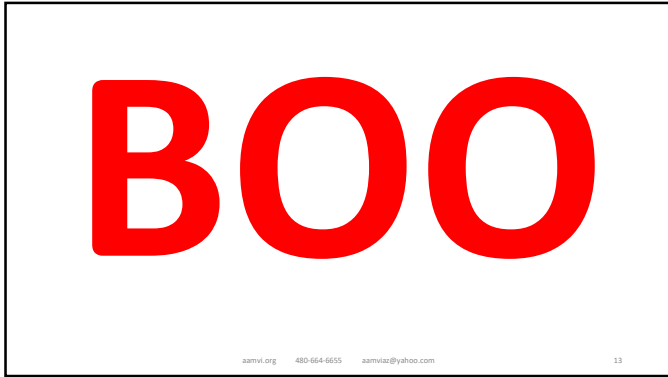
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No Surprises Act

- Requires Good Faith Estimates: Providers must give uninsured or self-pay patients a good faith estimate of costs for scheduled services.
- As of January 1, 2022

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Good Faith Estimate (Template) - Croft Grade III

Code	Service	Estimated Units	Unit Cost	Total Cost Estimate
99204	Initial Exam	1	\$467.00	\$467.00
99214	Follow-up Exam	3	\$357.00	\$1,071.00
98942	Chiropractic manipulative treatment, spinal, 5 regions	3	\$131.00	\$393.00
98941	Chiropractic manipulative treatment, spinal, 3-4 regions	20	\$101.00	\$2,020.00
98940	Chiropractic manipulative treatment, spinal, 1-2 regions	10	\$71.00	\$710.00
97140	Manual therapy techniques	12	\$79.00	\$948.00
97010	Hot or cold packs	6	\$18.00	\$108.00
97014	Electrical stimulation	6	\$34.00	\$204.00
97110	Physio Therapy, attended	12	\$77.00	\$924.00
97150	Physio Therapy, attended, group	8	\$48.00	\$384.00
97750	Physical performance test	3	\$89.00	\$267.00
97535	Self-care/home management training	2	\$86.00	\$172.00
97760	Orthotics fitting and training	1	\$122.00	\$122.00
Total				\$7,790.00

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State Farm Insurance

87.5% of soft tissue injury cases saw a chiropractor

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The Mathis Formula

Deny, delay, defend

1. Discredit the chiropractors
2. What is the diagnosis?
3. What test validates the diagnosis?
4. Do the records support the treatment?

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Whiplash is not a diagnosis

- Whiplash is a mechanism of injury
- Croft addressed CAD: Cervical Acceleration/Deceleration
- We do not treat whiplash
- We treat the effects of whiplash

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If you think you are treating whiplash, then your patient is in trouble

You may want to check your malpractice coverage

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Check your malpractice coverage

- Plaintiff attorney who requested copies of patient files cited Arizona law
- If your file screws up my case . . .
- Then I can sue you for malpractice

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From plaintiff's attorney

"If you fail to provide CPT codes and the information we have requested, we will have no alternative but to file a formal complaint with the Arizona Medical Board and the American Medical Association and legal action may be taken against you for damages caused to our client"

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LAST THINGS FIRST

ΩA

22

Whole Person Permanent Impairment Rating

Most injured in a motor vehicle collision will have long term symptoms

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What is the value of impairment rating?

•UP TO 80%

- Lack of a whole person impairment rating effectively tells the insurance company that there is no permanence and therefore all problems have resolved


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NJ Categories of Compensable Injuries

1. Death
2. Dismemberment (loss of one or more body parts)
3. Significant disfigurement or scarring (from the point of view of an observer)
4. Loss of a fetus
5. Displaced fractures (not just simple fractures)
6. **Permanent injury (MMI)**



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Maximum Medical Improvement

- All problems have resolved
- or-
- a condition has stailized and is unlikely to change (improve or worsen) substantially in the next year, with or without treatment
- **No change between two visits space at least 30 days apart**

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Rating values

- Colossus assumes 2%
- Colossus gives 0% if it is not in the demand letter package
- Non-specific cervical pain = 1% - 3% (non-verifiable subjective complaints)
- Loss of sense of smell 1-5%
- Cervical radiculopathy with fusion = 4 - 8%
- Heart attack = 11 - 23%
- AOMSI - Ligament laxity; M24.28 = up to 30%
- **Compression fractures = up to 30% (MAY HAVE RADICULOPATHY)**

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What you must do

- Diagnose all the injuries
- Document all findings & changes
- Manage, including tests & referrals
- Establish Radiculopathies

5109 909 007 Ray name

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W/U Status: confirmed
M47.812 Spondylosis without myelopathy or radiculopathy, cervical region
W/U Status: confirmed
M54.12 Radiculopathy, cervical region
W/U Status: confirmed
M54.2 Cervicalgia
W/U Status: confirmed

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Failure to Diagnose or to Refer

- Automobile Insurance experts diagnose a strain injury that should have resolved in 6 to 8 weeks. (no research to support this)
- If you are treating 8 weeks post trauma **YOU HAVE MISSED A MORE SERIOUS DIAGNOSIS**
- If your patient is not improving, you need to do additional testing or refer to find the missing diagnosis
- Clarity Injury Care can help with all of that

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While under oath

- Q. Do you agree with the expert's diagnosis?
- A. No, obviously, he is wrong
- Q. How can he be wrong?
- A. For him to be correct, the patient would have been better within eight weeks. We are two years out, and they are still in pain.

• Two days later, from the attorney. "Doc, thanks for your testimony. We did very well on this case."

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You cannot have a cervical strain that lasts 2 years!

- It must be something else!
- How do you diagnose this?
- How can you document this?

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Strain for More than 6 wks. What is it?

- If a ligament pulls off a bone, there is excessive motion around a joint. This causes facet syndrome & AOMSI
- 33 • Facet syndrome causes muscle **GUARDING**, because the muscles now have to do the work of ligaments to hold the bones together. = AOMSI
- When a disc is damaged, and there is a loss of disc space height, then there is less tension on the ligaments that hold vertebrae together, and there is excessive motion at that vertebral segment. = AOMSI
- Decreased disc height causes more stress on facets = Facet Syndrome

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Diagnose

- **Do the testing that documents the diagnosis**
- Spinal injuries
 - Fracture
 - Disc
 - Ligament
- Soft Tissue
 - Contusion
 - Laceration
 - Abrasion
- Concussion: actually do a **CRANIAL NERVE EXAM**
- AAMVI has 75 of 150 hours on exam and diagnosis

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2019 Arizona Revised Statutes § 32-1401.

35
 “**Adequate records**” means legible medical records, produced by hand or electronically, containing, at a minimum, sufficient information to identify the patient, support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another practitioner to assume continuity of the patient's care at any point in the course of treatment.

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legible records containing, at a minimum

- sufficient information to identify the patient,
- support the diagnosis,
- justify the treatment,
- accurately document the results,
- indicate advice and cautionary warnings provided to the patient
- provide sufficient information for another practitioner to assume continuity of the patient's care at any point in the course of treatment.
- **DATE OF SERVICE**

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Prior Records

- 5 – 10 years
- Pre-existing condition
- Aggravation
- Exacerbation
- Clarity Injury Care can help with this

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Prior Records

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2019 Arizona Revised Statutes Title 32. Professions and Occupations § 32-1401-27(rr) Failing to make patient medical records in the physician's possession promptly available to a physician assistant, a nurse practitioner, a person licensed pursuant to this chapter or a podiatrist, chiropractor, naturopathic physician, osteopathic physician or homeopathic physician licensed under chapter 7, 8, 14, 17 or 29 of this title receipt of proper authorization to do so from the patient, a minor patient's parent, the patient's legal guardian or the patient's authorized representative or failing to comply with title 12, chapter 13, article 7.1.

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Prior Records

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2019 Arizona Revised Statutes Title 32. Professions and Occupations § 32-1401-27(rr) Failing to make patient medical records in the physician's possession promptly available to a physician assistant, a nurse practitioner, a person licensed pursuant to this chapter or a podiatrist, chiropractor, naturopathic physician, osteopathic physician or homeopathic physician licensed under chapter 7, 8, 14, 17 or 29 of this title receipt of proper authorization to do so from the patient, a minor patient's parent, the patient's legal guardian or the patient's authorized representative or failing to comply with title 12, chapter 13, article 7.1.

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THE PATIENT'S
AUTHORIZED
REPRESENTATIVE

40

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Deep pockets

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- A good attorney will find who else has insurance to go after
- In Arizona a group of Urgent Care centers did not have X-rays
- One attorney sued two of them for failure to diagnose
- Those Urgent Care centers now have X-rays

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2019 Arizona Revised Statutes § 12-351

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- \$0.25 per page
- \$25 per hour
- Must pay all reasonable costs including postage
- 997 pages = sigh
- 4,048 = \$1,000+

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If you don't know how to drive

You should be in the passenger seat



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And another thing

- **Communicate**
- With your patient
- With their attorney
- With the specialists

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Personal Injury
is not healthcare
IT IS INJURY CARE

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Grades of Severity of Injury

- **Grade I Minimal;** No limitation of motion; No ligamentous injury; No neurological findings
- **Grade II Slight;** Limitation of motion; No ligamentous injury; No neurological findings
- **Grade III Moderate;** Limitation of motion; Some ligamentous injury; Neurological findings *may be present*
- **Grade IV Moderate to Severe;** Limitation of motion; Ligamentous instability; Neurological findings present; Fracture or disc derangement
- **Grade V Severe;** Requires surgical management/stabilization

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Adjustment schedule

Guidelines for Frequency and Duration of Care in CAD Trauma							
	Daily	3x/wk	2x/wk	1x/wk	1x/mo	T ₀ ²	T _N ²
Grade I	1 wk	1-2 wk	2-3 wk	<4 wk ³	<11 wk	<21
Grade II	1 wk	<4 wk	<4 wk	<4 wk	<4 mo	<29 wk	<33
Grade III	1-2 wk	<10 wk	<10 wk	<10 wk	<6 mo	<56 wk	<76
Grade IV	2-3 wk	<16 wk	<12 wk	<20 wk ⁴ ⁴ ⁴
Grade V	Surgical stabilization necessary--chiropractic care is post-surgical						

³ Possible follow-up at 1 month.
⁴ May require permanent monthly or p.r.n. treatment.
 ~ Croft AC. Treatment paradigm for cervical acceleration/deceleration injuries (whiplash). Am Chiro Assoc J Chiro 30(1): 41-45, 1993

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Mark your calendar

- 10 days/PIP
- Two weeks
- 90 days
- 91 days
- 2 years
- Most spinal inflammation will be gone between 2 and 14 days

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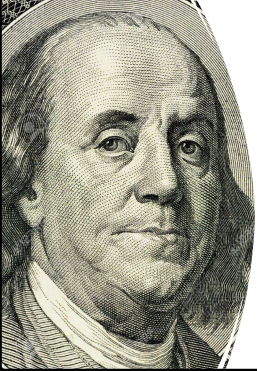
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SOAP

- **Subjective:**
- what the patient complains about
- **Objective:**
- what you find on examination
- **Assessment:**
- what you learn from patient complaints and exam findings; **DIAGNOSES**
- **Plan:**
- what are you going to do and what do you expect to happen

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P = Treatment Plan

"If You Fail to Plan, You Are Planning to Fail."
~ Benjamin Franklin.

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P: Plan includes goals

- EHR systems will have buttons for:
 - Reduce swelling/inflammation
 - Increase mobility/function
 - Decrease pain
- For personal injury your goal is in line with what the insurance company is responsible for
- **Get the patient back to their pre-injury condition**

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HIPPIRONE

- History**
- Inspection
- Palpation
- Percussion
- Instrumentation
- Range Of Motion
- Ortho
- Neuro
- Extras

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OPQRST

- Onset**
- Palliative/Provocative
- Quality
- Region/Radiation
- Severity
- Timing

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Spine Research Institute San Diego

Chief Complaint:

O:

P:

Q:

R:

S:

T:


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T: Timing

- Occasional: 0-25% of awake time
- Intermittent: 26-50% of awake time
- Frequent: 51-75% of awake time
- Constant: 76-100% of awake time

- Morning
- With work/exercise
- Night



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January 1, 2021

99201, 99202, 99203, 99204, 99205, 99206, 99207, 99208, 99209,
99210, 99211, 99212, 99213, 99214, 99215

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Primary objectives of the CPT revisions

- To decrease administrative burden of documentation and coding
- To decrease the need for audits, through the addition and expansion of key definitions and guidelines
- To decrease unnecessary documentation in the medical record that is not needed for patient care
- To ensure that payment for E/M is resource-based and that there is no direct goal for payment redistribution between specialties

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- **Eliminate history and physical as elements for code selection**
- The workgroup revised the code descriptors to state providers should perform a “medically appropriate history and/or examination”
- **Allow physicians to choose whether their documentation is based on Medical Decision Making (MDM) or Total Time**
- **Modifications to the criteria for MDM**
- **Deletion of CPT code 99201**
- **Creation of a shorter prolonged services code:** only be reported with 99205 and 99215 and be used when time was the primary basis for code selection.

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**Causation
=
Liability**

Without a causation statement the injuries will be pre-existing or subsequent

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ONSET

- Causation
- You must establish the trauma is the cause of the symptoms
- You must establish your diagnosis based on the tests that correlate with the symptoms
- You must have more than a simple statement of causation

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Texas Supreme Court

- “We have held, however, that an expert’s bare opinion will not suffice...The substance of the testimony must be considered.”
- “This is true even if the expert uses the “magic language” that the opinion is based on “reasonable medical probability.”
- **“If the expert’s scientific testimony is not reliable, it is not evidence.”**

Merrell Dow Pharmaceuticals, Inc. v. Havner, 953 S.W.2d 706 (Tex. 1997)

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Insufficient Medical Opinion Regarding Causation

Plaintiff must meet the burden of proof on the issue of causation

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- "It is not sufficient in an action for damages that plaintiff show a certain injury **might** have been caused by the negligence of defendant. It is **necessary to establish that the injuries have been so caused.**"

~ Butler v. Wong, 117 Ariz. 395, 396, 573 P.2d 86, 87 (Ariz.App. 1977) (citing W. Truck Lines, Ltd. v. Berry, 53 Ariz. 216, 87 P.2d 484 (Ariz. 1939))

- "[t]o establish the causal connection between an accident and injury, a sine qua non of liability, medical testimony as to the possibility of such causal connection, without more, is insufficient."

~ Coca-Cola Bottling Co. of Tucson v. Fitzgerald, 3 Ariz. App. 303, 306, 413 P.2d 869, 872 (Ariz. 1966).

- *RFK Jr. confuses causation with association*

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Michael Freeman on causation

"A Practicable and Systematic Approach to Medicolegal Causation"

1. Plausibility
2. Temporality
3. Lack of a better alternative

~ Freeman MD, A Practicable and Systematic Approach to Medicolegal Causation. Orthopedics. 2018 Mar 1;41(2):70-72. doi: 10.3928/01477447-20180227-02. PMID: 29566252.

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OATs

- Does a history for you
- Documents injuries
- Documents improvement
- Documents the need for care
- Can add to an impairment rating

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DUD/LOE

Activities of Daily Living

- Activities of Daily Living
- Duties Under Duress
- Loss of Enjoyment
- Without an Impairment Rating this will not be considered in settling

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Test Until You Know

- In house testing
- Radiology
- EMG/NCV
- DynaROM
- Audiology
- Justify the need for the test in the file
- Document how the findings change your treatment plan

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Radiology

- Radiologist who specialize in motor vehicle injuries
- Plain film
- Flexion/extension studies
- DMX: Digital Motion Xrays
- MRI: 1.5 vs 3.0
- Recumbent v. upright
- Brain Scan
- DTI

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Refer

- PI Radiologist
- Psychologist
- Ortho/Neuro
- Specialists
- Attorney
- CMVI doctor

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Loss of Consciousness

- > 1 hour
- > 30 minutes
- < 30 minutes
- Loss of consciousness does not require being comatose
- A lack of awareness is a loss of consciousness

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CDC concussion symptoms

Physical	Cognitive	Emotional	Sleep
Headache	Feeling mentally foggy	Irritable	Drowsiness
Nausea	Feeling slowed down	Sadness	Sleeping less
Balance problems	Difficulty concentrating	More emotional	Sleeping more
Vomiting	Difficulty remembering	Nervousness/anxiety	Trouble falling asleep
Dizziness	Short term memory problem	Loss of initiative	Fatigue
Visual problems	Confusion on recent events	Depression	
Gait imbalance	Answers slowly		
Sensitivity to light	Repeats questions		
Sensitivity to noise	Disoriented		
Dazed or stunned			
Numbness/tingling			

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Concussion Screening Introduction

- Glasgow Coma Scale
- Rivermead Post-Concussion Symptoms Questionnaire
- PCL-5
- ACE: Acute Concussion Evaluation
- SCAT-3: Sport Concussion Assessment Tool – 3rd edition (SCAT-3)

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Concussion Screening Introduction

- Glasgow Coma Scale
- Rivermead Post-Concussion Questionnaire
- PCL-5
- ACE: Acute concussion Evaluation
- ~~SCAT-3: Sport Concussion Assessment Tool – 3rd edition (SCAT-3)~~
- ~~SCAT-4: Sport Concussion Assessment Tool – 4th edition (SCAT-4)~~
- ~~SCAT-5: Sport Concussion Assessment Tool – 5th edition (SCAT-5)~~
- SCAT-6: **Sport** Concussion Assessment Tool – 6th edition (SCAT-6)

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Future Medical Expenses



Plaintiff must meet the burden of proof on the issue of future medical expenses

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- “Arizona courts have consistently followed the rule that in order for a trial court to properly submit the question of future medical expenses to the jury, the need for **future care must be reasonably probable** and there must be some **evidence** of the probable nature of the future treatment.” *Saide v. Stanton*, 135 Ariz. 76, 77, 659 P.2d 35, 36 (Ariz. 1983)
- Furthermore, Arizona “is committed to the proposition that the **jury cannot be allowed to speculate or guess** in making allowance for future medical expenses; **there must be some data furnished** to the jury upon which it might reasonably estimate the amount to be allowed for this item.” *Henderson v. Breesman*, 77 Ariz. 256, 259, 269 P.2d 1059, 1061-62 (Ariz. 1954).
- Finally, “[t]he mere **fact that a condition is permanent...does not constitute a sufficient basis for the award of future medical expenses.**” *Saide*, 135 Ariz. at 78, 659 P.2d at 37; see also *Valley Nat’l Bank v. Haney*, 27 Ariz. App. 692, 694, 558 P.2d 720, 722 (Ariz. 1976)

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Gaps In Care



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Gaps in Care

- If your patient is scheduled to see you 3x per week but only sees you three times in three weeks – a gap in care is occurring.
- Gaps in care give the impression your patient is not injured as severely as claimed
- You must be able to explain any gaps and insure patient compliance
- “If people don’t want to come, nothing will stop them.” ~ Yogi Berra

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Delay in Hands-on Care

- Not taking the ambulance to the hospital, not being seen at a hospital, seeing your MD and then simply taking pain pills and anti-inflammatories, all amount to no "hands-on" treatment
- The sooner "hands-on" treatment begins, not only the better off your patient will be, but the stronger their PI case will be
- You must be able to explain any delays in care
- Active care v. passive care
- By law in Florida, if you have not seen a doctor who diagnoses an Emergency Medical Condition within 14 days you cannot sue for damages

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What a PI Attorney Can and Cannot Do

- Can advocate for your patient
- Cannot walk on water
- A good PI attorney will know more about the case than you do
- A good PI attorney is not a high price billing agency
- An attorney who does not fully understand IS a high priced billing agency and likely is not worth the price

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What a PI Attorney Needs

- Visit notes they can understand
- All testing and referral notes
- Provable diagnoses
- Permanent Impairment Rating
- Prognosis by an MD

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Bottom line

- Keep records that can be read and understood two years down the road
- Give the attorney everything they need to make you look good
- Otherwise, you will be sending them into a gunfight with a pocketknife

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Document everything

- Document all positive findings
- Document all negative finding
- Document all improvements/changes
- Document any failure to improve
- Document plan changes with new study findings
- Document the weather
- Sign everything

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Perfect Example

- Surgery report

Worst Example

- Chief complaint: Lungs since airbags deployed

"In a deep meditation, my guides directed me to inspect your lungs."

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About the AAMVI

- 150 hr. Certificate in Motor Vehicle Injuries
- Half the hours are on diagnosis and examination
- Half the hours are on documentation
- <https://aamvi.myclick4course.com/>

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Join the AAC

- This is the one organization that protects your practice
- We are your colleagues who want to see you succeed

"We must indeed all hang together or most assuredly, we shall all hang separately." ~ Ben Franklin

A blue network diagram consisting of six stylized human figures connected by lines, arranged in a circular pattern. The diagram is set against a background of concentric, overlapping circles in shades of light blue and green.

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