

The Scheme

While other medical device makers have not had any success in getting their PDD spine products coded for insurance reimbursements, Arthrocare has been sailing along. Could it be that Arthrocare's distributor Discocare is providing it to doctors on a risk free basis and getting it paid for by insurance companies on "letters or protection" (a lien on an insurance claim)?

Citron believes that Arthrocare would never tell the investing public just who is getting their PDD surgery.

The Scheme

Every few years, corrupt doctors and attorneys seem to collude in finding a formula to grind Personal Injury victims through a formulaic medical treatment that allows them to extract huge fees from the insurance system. It seems now that with Arthrocare's explicit help, its PDD product has taken the place of IDET, thermography, TMJ surgery, and spinal cord stimulators as the "magic bullet" for back pain following accidents. Eventually, the insurance companies catch on and rules are changed.

Here's how it works:

In a typical fender-bender, an insurance company will typically argue against the likelihood of permanent injury. With a system of Independent Medical Evaluations, they would usually prevail. An injured person will typically settle for \$5,000 to \$15,000, get some chiropractic or physical therapy treatments, possibly wear a neck brace, and in most cases, heal fully.

However, if the injured can be talked into a surgical procedure, the stakes go way up. Now there is a powerful predicate for a "permanent impairment" designation, and simply having had the surgery, the question of permanency is no longer open to legal question.

The contingency system of legal compensation creates a powerful incentive to drive this scheme. In the State of Florida, if settlements are low, the first \$10,000 is covered without dispute or the need for attorneys. But permanent impairment takes the settlement horizon to \$200,000 or higher, leaving \$70,000 to \$80,000 for the attorney, \$70,000 to \$80,000 for the medical facility, and \$40,000 for the patient.

The Intake

The key is a referral system that sweeps accident victims (from chiropractors, personal injury lawyers, and physical therapists) into a system that promises them a big cash settlement. They are treated en-masse to a "minimally invasive" outpatient

surgical procedure that has no clinical proof of efficacy – but creates an intimidating condition for an insurance adjuster that is difficult to defend before a jury.

The Setup

The simplicity of the Arthrocare procedure means the doctor can learn it in 30 minutes. The courses have been offered to doctors in the context of cruise ship vacations sponsored by Arthrocare/DiscoCare.

The Procedure

The procedure, although largely ineffective, carries low risk to the surgeon in terms of time, complications, and compensation. But it is coded and billed as spine surgery nonetheless. The more bad results, the more pain and suffering, the higher the impairment rating, and the more the insurance company is obligated to pay.

At the end of the day, the patient does get a cash windfall, but they also have a permanent impairment. This explains why the preponderance of patients receiving this treatment are the economically vulnerable – minorities, non-English speaking and others in the lowest rungs of the socioeconomic ladder.