

## **Excerpt 13: Insurance Law - - Powerful Ammo**

[Previous Excerpt 12 "Treatment Choices -- Focus on Your Objective"](#)

You don't have to turn yourself into a lawyer, in order to win your appeal. I just want you to be aware of insurance laws, statutes, and regulations.

Why am I asking you to delve into the mysterious world of insurance law?

1. Insurance laws are there to protect you. If you don't know about them, they won't do you any good.
2. If you use the name and number of one insurance regulation in your appeal, Acme Insurance will think that you are a dangerous genius.
3. If you catch your insurer violating an insurance rule or regulation, you have just won your appeal.

People are always asking me, "Can my health insurer do that?" Examples:

"My insurer won't give me a copy of my benefits booklet. Can they do that?"

"My insurer says that I can't have an expedited appeal. Can they do that?"

"The insurer won't let me bring my friend to the hearing. Can they do that?"

Don't sit around wondering. And don't ask me. The answers to all questions about your insurance rights are to be found in your state's insurance statutes and regulations.

Let me tell you how this sample appeal section came to be. I had read the insurer's denial letter, and noticed that their "expert reviewer" was totally unqualified to give an opinion on the treatment in question.

I have seen cases for brain surgery reviewed by OB/GYNs, colon cancer treatments reviewed by breast cancer surgeons. I find this outrageous, and I began to wonder if it was also illegal.

I thought, "I wonder if there is anything in Colorado insurance law that specifies what kind of qualifications a reviewer has to have?"

### **ACME VIOLATES COLORADO REVISED STATUTE 10-16-113**

#### **The Law**

Colorado Revised Statute 10-16-113 sets forth the "Procedures for denial of benefits." In paragraph (3) (a) V, they explain the required qualifications of the individual who evaluates the first-level denial case:

"The first-level appeal shall be evaluated by a physician who shall consult with an appropriate clinical peer or peers, unless the reviewing physician is a clinical peer."

#### **The Violation**

## **Excerpt 13: Insurance Law - - Powerful Ammo**

Published on The Carcinoid Cancer Foundation (<http://www.carcinoid.org>)

---

The treatment that I am requesting is a combined treatment modality for disseminated abdominal cancers. This treatment includes a surgery that is equal in magnitude and complexity to separating conjoined twins, plus perioperative heated intraperitoneal chemotherapy delivered by open perfusion.

Dr. Sugarbaker is a surgical oncologist, specializing in abdominal cancers, and performing a combined treatment for cancers with peritoneal dissemination. He has specialized in this treatment, and performed over 1500 of them, over the past twenty-eight years.

1. A clinical peer for D. Sugarbaker is a surgical oncologist, specializing in abdominal cancers.
2. The appropriate expertise would mean direct clinical experience performing the treatment which I am requesting—cytoreductive surgery combined with heated intraperitoneal chemotherapy.

The reviewer in Acme's "Level I Appeal Decision," Dr. Miles Miller, identifies himself as "a board-certified specialist in family medicine." The "expert" that Dr. Miller enlists to assist him—Dr. Steven Samuelson—is a hematologist/medical oncologist. A medical oncologist has no clinical experience of cytoreductive surgery or HIPEC.

The reviewer who evaluated my first-appeal is woefully unqualified to render an opinion on this treatment.

Perhaps Acme is not aware of the Colorado legal requirements for expert review of denied treatments. I am certain that this obvious misstep will be corrected as Acme considers my appeal.

### **Where to start**

Most of my appeals don't contain any references to insurance law. State insurance statutes don't find their way into an appeal unless I happen to uncover a reason to discuss them. Don't feel bad if you can't find any rules or regulations with which to clobber your insurer—it's not always possible, and they don't always exist.

I am setting the bar pretty high by entering into a discussion of insurance law. I don't expect you to need it, but I want you to know that it exists.

From the day that you receive your denial from Acme Insurance, I would like you to think in terms of insurance law. The denial letter is key to your appeal; every word matters. Study the insurance denial letter as though your life depending on it— which it does.

Remember: Treatments are denied with words, and treatments are approved with words. Pay attention to every word in your denial letter, and you will write the right appeal.

If you find yourself thinking, as you read the denial letter, "Can they do that?" or "That just seems wrong"—dive boldly into your state's body of insurance law, and see if there is some legal ammo there.

By understanding just a little bit about the law, you distinguish yourself from 99.9% of other patients who appeal insurance companies.

Disclaimer: If you have a self-funded plan, state insurance law doesn't apply to you, and the insurance commissioner cannot help you in any way. Pull yourself together, go straight to the Department of Labor, go to the ERISA section, and start studying federal law.

### **Where to find insurance law**

#### **The Insurance Commissioner's office**

## **Excerpt 13: Insurance Law - - Powerful Ammo**

Published on The Carcinoid Cancer Foundation (<http://www.carcinoid.org>)

---

When it comes to insurance law, each state is a different country. The law in your state is entirely different from the law in mine. Start at your state's insurance commissioner's website. It should be a wealth of legal information.

This is where I get to answer that age-old question: "What are insurance commissioners good for?"

The insurance commissioner will not fight your appeal for you. If you are looking for a protector, a defender, or a knight in shining armor—you won't find him at the insurance commissioner's office.

Do not copy the insurance commissioner on your appeal. The insurance commissioner is not intimidating to an insurance company. As a matter of fact, if you copy the insurance commissioner on your appeal, Acme Insurance will think that you just fell off the turnip truck.

The best the insurance commissioner can do is to allow you to file a complaint against your insurer. The insurance commissioner's office will spend a few months processing your complaint, and will send you a message stating that they looked into it.

Complaining to the insurance commissioner will not bring you one step closer to getting your lifesaving treatment, or winning your appeal.

The insurance commissioner's office is good for one very important purpose: They are the keepers of state insurance law.

If you can't or don't want to wander through your state's insurance statutes online, you can call the insurance commissioner's office, give a brief description of what you are looking for, and they should be able to quote you chapter-and-verse of the laws that applies.

For example, I called a meeting with my HMO in 2005, to take the chief radiologist to task for totally misreading my CT scans, and missing a bellyful of tumor. I wanted to point this out to him, and see if I could persuade him to chat with my expert surgeon, and learn something about reading scans for appendix cancer.

I brought along a friend for moral support, and the HMO informed me by phone that she wouldn't be allowed to attend the meeting. I thought, "That's just not right."

So, I called the insurance commissioner's office. They told me that there is a Washington state insurance regulation for just this situation. It states that, when there is any type of meeting or hearing between patient and insurer, the patient has the right to have a representative of their choice present. They told me the name and number of the regulation, and exactly where to find it on their website.

When I arrived at the meeting, and they barred the door to my friend, I very sweetly said, "Gee, what about Washington Administrative Code #284-43-620?"

All of a sudden, they were tripping all over themselves, fetching my friend to join us in the conference room.

State insurance laws are my sword and my shield.

### **The Insurance Commissioner's website**

If you are an intrepid researcher, the entire body of insurance rules and regulations is available on most insurance commissioners' websites.

The laws pertaining to health insurance are usually not more than ten pages long. When I embarked on my own battle with my insurance company, I skimmed through all ten pages—just to see if there was any ammo there that I could use.

As you are exploring around the insurance commissioner's website, see if you can find a "Patient's

## **Excerpt 13: Insurance Law - - Powerful Ammo**

Published on The Carcinoid Cancer Foundation (<http://www.carcinoid.org>)

---

Bill of Rights." Some of your basic rights as an insured person are listed there. If Acme Insurance is stepping on or ignoring any of those rights ...

PUT IT IN YOUR APPEAL.

[Next Excerpt 14 "Bad Medical Story -- Shock and Awe"](#)

[Return to main Insurance Warrior page.](#)

To purchase Laurie's book and CD, click here: <http://theinsurancewarrior.com/thebookandthecd.html>

The insurance information presented on The Carcinoid Cancer Foundation website is a collaboration between the Foundation and Laurie Todd.

Direct linking to this information and/or unauthorized use and/or duplication of this material without express and written permission from The Carcinoid Cancer Foundation is strictly prohibited. See also Disclaimer.

Copyright 2010, The Carcinoid Cancer Foundation and Laurie Todd.

**Source URL:** <http://www.carcinoid.org/content/excerpt-13-insurance-law-powerful-ammo>