Fraud Red Flags Checklist
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Definitions - Black’s Law Dictionary

**Fraud:** intentional deception resulting in *injury* to another.

Elements of fraud are: a false and material misrepresentation made by one who either knows it is falsity or is ignorant of its truth; the maker’s intent that the representation be relied on by the person and in a manner reasonably contemplated; the person’s ignorance of the falsity of the representation; the person’s rightful or justified reliance; and proximate injury to the person.

It usually consists of a misrepresentation, concealment of nondisclosure of material fact, or at least misleading conduct, devices, or contrivance.

It embraces all the *multifarious* means which human ingenuity can devise to get an advantage over another. It includes all surprise, trick, cunning, dissembling and unfair ways by which another is cheated. At *law*, fraud must be proved, in *equity* it suffices to show facts and circumstances from which it may be presumed.

**Malinger:** To feign sickness or any physical disablement or mental lapse or derangement, especially for the purpose of escaping the performance task, duty, or work, or for purpose of continuing to receive disability payments. Person who consciously feigns or simulates mental or physical illness for gain.

**Claimant Attorney Red Flags**

- Attorney referred claimant to physician.
- Claimant met with, or spoke to the attorney, before even seeing doctor
- Claimant’s attorney has unsavory reputation
- Claimant attorney represents a group of same-accident who supposedly do not know each other.
- Claimant’s attorney not disclosing adjustments or assignments of bills
- Claimant’s attorney culling of medicals
- Claimant attorney is financing or paying for the medical expense.
- Claimant attorney’s controlling supposedly impartial witnesses
- Claimant attorney non-disclosure of other claims attorney knows of
- Claimant attorney refusal to disclose other claims information
- Claimant attorney refusal to give index or other personal data, usually with an indication that it violates constitutional rights
An attorney’s withdrawl of representation – especially if during the negotiation process

**Injury Red Flags**

- Injury Claimed Inconsistent with Normal Healing Process
- Injury inconsistent with the dynamics of accident
  - Headaches claimed when no head trauma alleged in hospital
  - Whiplash claimed when blow came from the side
- light impact, severe damages
- Discrepancies between injuries to parts of the body different than reported to HCP provider.
- Leads from co-workers that subject is active in sports, other work, etc.
- Rehab report shows claimant appears to be healthy.
- Any medicals which show no present organic basis for disability.
- Over-treatment.
- Failure to seek early treatment.
- Overcharging of medical treatments, charges higher than prevailing rates.
- excessive diagnostic charges, duplication of x-rays,
- Physician owned labs
- Boilerplate Medical Reports
- Use of Plaintiff Physician Mills
- Use of HCP brought up on ethics charges
- "Dueling Doctors," one says claimant is disabled, the other says the opposite.
- Failure to Disclose other HCP’s to treating physicians.
- Failure to follow the prescribed treatment plans.
- Failure to disclose previous medical histories to treating physicians
- Claimant’s poor memory of what the treating physicians have diagnosed or their treatment plan or the diagnostic tests.
- Claimant alleges loss of consortium before seeking advice of counsel.
- Claimant’s alleging pain or ailments are due to the accident when claimant’s fitness, weight, priors, etc. appear to be the true cause of the ailments.
- No one claims injury at scene, but within a day a group of claimants are all treating - especially with the same doctor, even though they do not live nor work near the physician’s office.
- HCP providers willing to defer payment for too long a period of time.
- HCP’s friends and relatives of claimants
- “Proximate Cause Problem” injuries – those which have hotly contested causation or “Feignable injuries:
  - TMJ
  - Carpal tunnel and other repetitive stress syndromes
  - Spinal curvature
  - Psychosomatic and psychological injuries
  - Soft tissue with no objective findings
• Headaches
• Sleep disorders, etc.

Accident / Scene Indicators

• Person allegedly slips and falls and claims injured, yet stays in spot until someone takes a picture.
• Person allegedly injured but alert enough to stop people to get their information for witness purposes.
• The claimant’s poor memory of important details surrounding the loss, treatment or expense items.
• Refusal to provide answers to routine questions related to loss facts.
• Trip and falls with less than a ½ inch clearance.
• Blind Accidents

Claimant Identity Red Flags

• different unexplained aliases
• unexplained differences in address
• Person gives different address than actually resides
• Hard to locate employers or places of business
• frequency of address changes
• New residence, yet cannot state who owns, or can describe it
• Any indication of identity snatching
• special name and aliases surrounding unusual names
• Claimant receives mail at a post office box and will not divulge real address.
• Claimant is never home to answer the phone or is "sleeping."
• Claimant has moved out of state or country.

Claimant Criminal, Civil and Claims History Red Flags

• Previous or ongoing history of convictions or arrests, especially fraud convictions and:
  • intent to defraud
  • welfare fraud, or intent to defraud
  • auto fraud
  • Stock manipulation fraud
  • A history of malingering by the same claimant.
• Excessive insurance claims frequency
• Especially SIU unit from other carriers involved in other claims with this claimant
• Excessive civil history –suits, especially for compensation
• Refusal to provide personal data
• Claimant’s poor memory about prior loss, suits, accidents or claims
• Claimant is one of the parties involved in any “Labyrinth” case
Claimant’s Financial Background Red Flags

- Claimant’s lifestyle incommensurate with alleged income.
- It is no surprise that motivation for fraud is money….it therefore follows that the presence of the following financial difficulties are indicators of motivation to commit fraud:
  - The claimant and spouse have recently split up or are in the process of getting a divorce.
  - Claimant experiencing personal or business-related financial problems
  - Accident coincides with layoffs or plant closing.
  - Subject in line for "early retirement"
  - Taxes owed
  - Repossession threats and failure to keep up with rent and/or mortgage payments
  - History of addictions or drug convictions – with its indications of powerful motivation for drug money- is strongly suggestive of possible motivation for fraud

Claimant’s Attitude, Demeanor and Tactics Red Flags

- Claimant has in-depth knowledge of claims procedures
- “Soviet Negotiator” tactics (Unreasonable, outrageous, excessive demands and emotional outbursts)
- Claimant’s Questioning his own first party or collateral source Agent about coverage just prior to loss
- Reluctance to use mail system (USC Title 18 Mail Fraud- Postmaster General)
- Reluctance to send FAX information (Wire Fraud)
- Reluctance to meet for interviews or give statements
- Refusal to sign Information Releases or medical authorizations
- Becomes excessively nervous or agitated when told an investigation will be conducted
- Story sounds "rehearsed"
- Memory selective
- Details change when similar questions are asked
- Claimant’s demeanor in answering questions, for example:
  - Claimant's answers delayed, with long periods of silence, as he thinks of what to say.
  - Occasionally claimant may argue with you about why all this information is needed
  - Claimant may fumble along, sometimes incorrectly describing locus, doctor, treatment, special damages features that were never included in the brand name or model claimed.
  - In brief, appears to making up all the answers as he goes along.
**Witness Red Flags**

- "out of the blue" witness which mysteriously appears
- word for word recounting, in step with claimant’s version, no discrepancies
- excessive discrepancies in details between significant aspects of facts surrounding loss
- impartial witnesses are same cultural background (disregard if an ethnic neighborhood)
  - ethnic fraud rings

**Lost Wages Indicators**

- lost wages red flags are very important – our experience is that 40% of all suspected fraud claims have some defect in the lost wage allegations
- excessive length of time off of work, incommensurate with size of injury
- family owned businesses
- claimant is self employed or part owner, officer, partner or of high rank in the employer’s company
- employer too eager, or forceful, in certifying the accident as being the cause of the absence
- tax records inconsistent with lost income
- tips and other “out of the tax books” compensation being sought
- lost wages certification being provided by organizations, departments or people other than employer’s accounting or payroll department
  - such as union
  - signature by foreman, supervisor or another undisclosed individual

**Documentation Indicators**

- The "perfect claim"-the unrepresented claimant provides receipts for all or many of the special items claimed provides a settlement package.. all medicals neatly lined up with photos, contracts, receipts..
- Copies of checks that appear to have been altered or that have no bank stamp showing the checks were canceled (paid).
- Questionable Medical records, receipts or other proofs of purchase of expense or PD items, such as-
  - Handwritten or typed letterheads or receipts with no letterhead.
  - Photocopies of receipts which appear to have been marked over, corrected, or altered in any manner.
  - Photocopies of receipts that have different shades of writing or dissimilar styles of handwriting.
  - Receipts or invoices that do not show paid, received, or shipped notations.
  - Claimant has discarded damaged or destroyed clothes or other property damage before the adjuster can inspect the remnants.
- Multiple receipts from the same retailer that are in like new condition and which may-
  - have similar handwriting.
  - have a numerical order inconsistent with the dates purchased- such as for purchases occurring over several months with numbers too close together…or are in inverse numerical order… or are numerically mixed for purchases occurring over several months.
  - have no computer-generated cash register printout from a retailer that uses such a system, such as Sears, Wards, and other major retailers.
  - have the wrong amount for tax or a price for the item that is much more than the regular selling price.