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Doctor arrested for Medicare fraud. Can I cross-examine him about that at trial?

You've decided to bring a medical malpractice case against your doctor for violating the basic standards of medical care. I learned during the course of your lawsuit that the doctor you have sued was brought up on Medicaid and Medicare fraud charges. At the time of trial, can I use those fraud charges against the doctor to cross-examine him at trial? You want to know the answer? Come join me as I share with you some terrific information. I am Gerry Oginski. I'm a New York Medical Malpractice and Personal Injury Attorney practicing law in the state of New York. The answer is no, I can't.

You want to know why not? Because those are simply charges. Those are allegations that the doctor was fraudulent that he submitted fraudulent bills and now, it hasn't been proven. The doctor hasn't had a hearing. He hasn't been convicted. He hasn't gotten to jail. None of those things have taken place. Instead, what we have are charges of fraud against the doctor. It's simply the beginning phase of the criminal prosecution in this fraud matter.

If it has not reached the conclusion, if the doctor hasn't pleaded guilty, if he hasn't been convicted and found guilty, then the answer is at the time of trial, I cannot use those charges of fraud against the doctor when I cross-examine him as my very first witness. I'm not permitted to do that. Only if he was convicted, only if he plead guilty, then I am able to use that information to cross-examine the doctor and you should know also I can use that information during the course of his pre-trial testimony because during the course of your lawsuit, I will have had an opportunity to question the doctor in the question and answer session known as a deposition. That's pretrial testimony given in the attorney's office and it carries the same exact weight in validity as if you were testifying a trial.

The only difference is that it's happening in his attorney's office. Now during the course of a doctor's pretrial testimony, I will ask him whether he's ever been convicted of any particular crime and if he says no, now, if he contra-

dicts what he's already gone through and already been convicted, now, I can use that to show to the jury later on at trial that the doctor is a liar, that he's lied about something so simple about being convicted of Medicare fraud. It all depends. If he hasn't been convicted and he says, "No, I haven't been convicted," that's fine. I can't use that at the time of trial.

If at the time of your trial of your case, the doctor still, his criminal proceeding has not completed, then again, I won't be able to use that information to show to the jury that this guy may be a fraud. Why do I share this terrific information with you? I share it with you just to give you an insight than an understanding into what can go on during a medical malpractice case or an accident case or even a wrongful death case here in New York.

I realized you're watching this video because you have questions or concerns about your own particular matter. If your matter didn't happen here in New York and you're thinking about bringing a lawsuit but you have questions that need answers, what I encourage you to do is pick up the phone and call me. I can answer your legal questions. It's something I do every single day and I'd love to talk to you. You can reach me at 516-487-8207 or by email at gerry@oginski-law.com. That's it for today's video. I'm Gerry Oginski. Have a fantastic day.