

IV Hydration Therapy – Legal Strategies

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By Michael H. Cohen

In today's video, we discussed some of the legal perils involving IV hydration therapy and potential legal strategies and solutions. Hi, I'm Michael H. Cohen. I'm founding attorney of Cohen Healthcare Law Group. We help healthcare industry clients, just like you, navigate the complicated regulatory terrain of health and wellness, with all of its many issues and challenges, as you continue to scale or simply launch a new health and wellness product.

Now, imagine that you're a healthcare serial entrepreneur and your friend Doris is a licensed MD who worked part time at a medical spa. You ask Doris if you can hire her as a 1099 to do mobile IV hydration therapy clinic. She loves the idea and she says, *"Sure. Are there any legal risks?"* What should you do or not do? What do you tell her? Well, this is a very typical scenario that we've seen so many variations on a theme from our healthcare clients, many from our startups and they want it to provide mobile IV hydration therapies and other therapies.

IV services are very popular also in the era of COVID-19. Some IV therapies have immune boosting properties. Mind you, I'm not selling these therapies. I'm not promoting them. I'm simply responding to some of the legal issues that our clients are raising, who do want to provide IV hydration therapy. I'm not an academic, I'm just in the civilian space. I'm talking to you about the healthcare of entrepreneurial space and the legal issues that you might be battling.

I'm also talking to you about how to anticipate some of the regulatory perils or the plaintiff's lawyers who come to you after the fact. Now, there are in fact multiple legal and regulatory challenges. First of all, one question is, are you prescribing the IV or is the clinician prescribing, or is it simply an order, and does it make a difference? Remember, prescription is a legal term. Order, furnish, administer, these are all different terms. There's questions as to whether your clinician needs to be in that state or can be licensed elsewhere.

Second, who's the clinician? Could it be a nurse? Could it be a paramedic or an EMT? What would they do? Would they have to be supervised? How would they be supervised by Dr. Doris? What about corporate practices of medicine concerns? What about supervision lines?

Third, what's the right structure? Would it be a corporation, an LLC, or maybe a professional corporation for the clinical staff? Who's where under which structural house and how do you get this right?

Fourth, could Dr. Doris get paid a percentage of production in terms of the number of IV units delivered, or would this itself create a kickback, fee splitting, or even Stark Law concerns?

Fifth, does it matter what goes in the IV cocktail? What goes in there? Does the cocktail have to be FDA approved? Who can transport it? Some state licensing agency can get involved. Where do you find these rules?

We do get very deep in the weeds into these issues and many more. Some of them we cover in various blog posts on our website. We have one called Independent Contractor, Physician Kickback or Compensation. Just one example how deep we go on our blog into corporate practice of medicine, FDA regulation of IVs, regulation of other substances, good business structures. When to you use the professional corporation or PLLC versus, for example, a general company that serves as an MSO.

By the way, let's talk about marketing. How do you market the services?

Thanks for watching. If you still have questions, click on the link below, cohenhealthcarelaw.com/contact to send us a message or book an appointment. Here's to the success of your healthcare venture. We look forward to speaking with you soon.

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