

# Medical Meets Legal: Teaching Medical Providers to Write Legally Sufficient Opinions

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# Disclosures

## **Chadi Tannoury MD:**

\*Depuy Synthes: Consultant – Royalties

\*4Web Medical: Stocks

\*Wolters-Kluwer Publisher: Royalties

## **The Rest of Us:**

\*No disclosures

# The Occupational Health Nurse Practitioner's Perspective

Mary Taschner, DNP, ANP-BC

# MEDICAL MEETS LEGAL

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Rob is a 40-year-old biotechnology manufacturing technician.

In November 2024, Rob reports experiencing severe back pain after lifting a “heavy” canister by himself in the suite. Being unfamiliar with the process for reporting work-related injuries, he did not tell his employer that he had hurt himself at work. Instead, he simply took PTO and nursed his sore back at home.

After missing one week of work, Rob had an appointment with his PCP, who provided documentation of Rob’s injury as follows: “Diagnosis: low back pain after injury at work. Plan: out of work for two weeks. Follow up as needed.”

During his second week out of work, Rob complained of increasing low back pain with new onset of pain, numbness, and tingling down his left leg to his foot. He describes the pain as similar to what he had experienced several years ago following a motorcycle crash.

Rob remains out of work because he feels his symptoms prevent him from doing his job. What are the next steps needed to help Rob and get him back to work successfully?

# The (Un)Educated Doctor's Perspective:

## Dr. SHODDY TANKINI, MD

Chadi Tannoury, MD, FAOA, FAAOS

Associate Professor of Orthopedic Surgery

Medical Director, Orthopedic Ambulatory Clinics

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# Dr. Shoddy's Report

Rob is a 40-year-old healthy Male with back pain

**Precipitating factor:** Sometimes in 2024 or 2025, reports a possible injury – Details of injury: Irrelevant

**Subjective:** Currently reports LBP and some leg symptoms

**Prior History:** Similar pain a while ago following a motorcycle crash

**Objective:** on Physical Examination

- Muscular built, looks like a NFL quarterback
- Ambulates with a limp: most likely “feigned”
- Neuro Exam: He looks fit, so the exam is deferred at this time

**Assessment /Plan:**

Healthy 40 y-M with some BP

Prior MCC with similar self resolved LBP: I expect similar and fast recovery this time as well

He looks fit, so No need for PT

**Further Diagnostics:** none indicated – patient looks fit, and some of his complaints are most likely being faked

**Causation:** unrelated - Rob never reported his injury, his current pain must have been either mild-minimal, or a preexisting condition related to his previous MCC

**RTW:** immediately without restriction

**F/up:** As needed



# The Injured Worker's Attorney's Perspective

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# Discussion of Rob's Case

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- Should have reported injury ASAP
- When Rob was unable to work, he should have sought medical treatment/note ASAP
- 1<sup>st</sup> Doctor's note needs to state HOW (mechanism) the injury happened at work, details surrounding the event; due to > after; SOAP note a minimum
- Notes : + causation + diagnosis + prognosis + work capacity at every visit, if possible
- OOW note inadequate – Dr needs to say, “cannot work presently due to work-related injury...”
- When pain “changed” seek medical treatment and be clear if during ADL or what activity
- AND have provider opine if the “new” symptoms are also related to work injury and WHY/HOW
- Rob will most likely be denied on these facts, may need legal help. If Dr had been clearer and aware of WC requirements, Rob may not need to hire a lawyer or be without income



# Communication and Collaboration

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- When medical records are WRONG (pre-existing history, details, dates, body parts, repeated)
- When providers do not mention this happened at WORK, lack of history/facts, mechanism
- OOW notes that do not mention work injury (Generically: “IW not able to work this week.”)
- Providers offices do not provide records, or do not provide *all* records
- Medical records not available timely
- Causation – preponderance: “more likely than not” standard; 51% or greater, not 100% certain, but “possible” not enough
- Requests for treatment and **no** medical support provided
- Lack of knowledge of Pre-auth procedure, let us help you
- Role of Health Insurance in denied WC claims, misunderstood by billing departments

# Legal/Medical Terms


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- Recurrence
- Aggravation
- Acceleration
- Apportionment
- Causation (VT: 51% or greater, all that is needed) (MA: “major cause” standard)
- Underlying asymptomatic condition, can be compensable
- “Medical End Result” or “Maximum Medical Improvement” does *not* mean no more related treatment
- Palliative care can be compensable
- Provider should always include BASIS for opinion, the WHY is the key
- PROVIDER’S opinion is required, not just subjective history (ex. Patient says this happened at work)

# The Defense Attorney's Perspective

Martin “Buzz” Schneider, Esq.

# Defense Perspective

- Late report of a work injury of a period of weeks is unlikely issue determinative
  - Late report – Insurer must establish “prejudice”
  - Causation opinion should include all relevant records, pre-existing motorcycle accident and work injury
  - Insurer Expert Report (IME) must reflect correct standard of causation
  - Accurate medical history must be discussed by expert
  - Sec. 1-7A causation should discuss combination injury and if work injury is “a major” cause of disability and medical care
  - Disability opinion should not be overlooked
  - Good Faith job offers or Labor Market Surveys used to support defense
  - Provide Insurer’s Expert with background of case, overview of legal-medical issues
  - Ask IME Expert specific questions to be addressed in report
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# The Judge's Perspective

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- It's a problem – the medical report closest in time to the injury often provides the most accurate description of when, where, and how the accident occurred . . . Except when it doesn't.
- Blanket statements – “This injury is related to work” or “The patient cannot work for now” – add nothing to the judge's analysis.
  - Describe how the mechanism of injury supports the diagnosis
  - Set functional parameters and time estimates for RTW
  - “This was an aggravation of a recurrent injury.”



2025  
WORK RELATED  
Injuries Workshop

Thank you!

