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Gallagher Sharp Shop Talk: Workers' Compensation

Question: Can a treating physician be required to provide the scientific methodology underlying his medical opinion?

Treating physicians are often used by claimants to offer opinions to support their claims. Unlike most independent medical experts, these opinions sometimes are not supported by scientific methodology or evidence. In a recent decision, the Third District Court of Appeals considered whether a treating physician had properly supported his opinion that the employee's injury was caused by his employment.

Schnipke v. Safe-Turf Installation Group, LLC (2010), 190 Ohio App.3d 89, concerned a 20-year-old factory worker who tore the right medial meniscus at work on February 12, 2008, while operating a machine that required him to fill and carry bags of pellets. The claimant was not carrying any product or loading anything at the time of the injury, but was turning and rotating to take another bag off the machine when his knee "popped." The claimant was unable to continue working that day and was later examined by orthopaedic surgeon, Dr. Nieman, who ordered an MRI, diagnosed a torn meniscus, and later performed surgery to repair the knee. A workers' compensation claim was filed and eventually allowed, prompting Safe-Turf to file an appeal into the common pleas court. At trial, Safe-Turf claimed that the claimant's injury was a result of his morbid obesity and that his injury could have happened anywhere. The jury unanimously found in favor of the claimant, prompting an appeal to the Third District.

The Third District Court of Appeals affirmed, finding that the treating physician's testimony would be sufficient to establish a causal relationship. At trial, Dr. Nieman testified that based on Schnipke's description of the incident, medical records, his own examination and treatment, the injury arose in the course and scope of employment. While admittedly qualified as an expert, Safe-Turf challenged Dr. Nieman's causation opinion on the basis that it was "unscientific and unreliable," because Dr. Nieman failed to provide the scientific methodology underlying his opinion. The Court disagreed, and found that if courts considered the examination, review of medical records, and a taking of the patient's history to be an unreliable methodology, the bulk of medical testimony would be inadmissible. Further, the court stated that orthopaedics was not the kind of "junk science" that the rules of evidence were drafted to exclude.

Schnipke illustrates that in most cases, notwithstanding the Rules of Evidence, a treating physician will be given the benefit of doubt, and an outcome that already exists in administrative proceedings. If you have any specific questions, or would like to discuss this or any other workers' compensation issue, you can contact me or Adam Sadowski from our Toledo office.

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