

Demands of the Medical/Legal Reporting System

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The composition of narrative medical/legal reporting (MLR) must follow certain guidelines whether it be for a personal injury case or for an on-the-job injury evaluation.

Dr. Arthur Croft presented an outline in his column in Dynamic Chiropractic, February 12, 1993, "The Redoubtable Report: Lost Opportunity," which touches some of the bases, but is incomplete for a PI report and totally misses for a workers' compensation evaluation report.

If we intend to be accurate in presenting a medical/legal report for a personal injury case, we must address those issues which the patient's attorney is concerned with, and upon which the case is to be settled, namely:

1. Pain
2. Suffering
3. Inconvenience
4. Alteration of lifestyle

The acronym "PI Reports" touches all of the other bases:

Pain

Inconvenience

Resulting Impairments

Embarrassment

Prognosis

Occupational Effects

Restriction on Lifestyle

Treatment Needs -- Future

Suffering

This acronym has been developed into a questionnaire which PI patients fill out when they have reached maximum medical improvement (MMI). The information is combined with the findings from the final exam for the conclusion assessments of the doctor for the personal injury MLR.

With regards to the inconsistency of Dr. Croft's outline for a California disability evaluation, his outline lacks the organization and consistency required by the Labor Code of the State of California and would likely make the report inadmissible in the WCAB court.¹

Dr. Croft states, "For workers' compensation cases you will need to include information on disability/impairment and other data depending in which state you practice."

Obviously, some states use impairment rating to evaluate injured workers; others, such as California,

use the Standard Rating Guidelines, including subjective and objective factors of disability and work preclusions.

In the past, evaluators were required to follow 10606 "Physicians' Reports as Evidence," which is part of Title 8 of the California Code of Regulations.

Currently, 10978 is the outline that should be followed, including:²

a) *Date of the examination*

b) *History of injury*

c) *Patient's complaints*

d) All information received from the parties, reviewed in preparation of the report or relied upon for the formulation of the physician's opinion.

e) Patient's medical history, including injuries and conditions, and residuals thereof, if any.

f) Findings on examination

g) Diagnosis

h) Opinion as to the extent of disability and work limitations, if any.

i) Cause of the disability

j) Medical treatment indicated

k) Opinion as to whether or not permanent disability has resulted from the injury and whether or not it is stationary. If stationary, a description of the disability with a complete evaluation.

l) Apportionment of disability, if any.

m) A determination of the percent of the total causation resulting from actual events of employment, if the injury is alleged to be a psychiatric injury.

n) Reasons for the opinion

o) Signature of the physician

Failure to comply with (a) through (o) will be considered in weighing such evidence.

Further requirements for the MLR are found in Labor Code 4628, "Responsibilities of Physician Signing Medical/Legal Reports."³ This section requires the evaluator to state:

1) The exam site location. 2) That he took the history or reviewed the history with the patient if it was taken by another member of his office staff. 3) That he composed and drafted the conclusions of the report. 4) The name of the person conducting any diagnostic service (MRI, EMG, x-ray, etc.) and the charge for that service. 5) His charges for clerical expenses and overhead expenses necessary in the production of the MLR.

Failure to comply with the requirements of this section shall subject the physician to a civil penalty of up to \$1,000 for each violation.

When the doctor (evaluator) signs the MLR, the date of signing must be written in and the country in which it is being signed, and must make a:

Conclusion and disclaimer declaration statement to include the following:

"Consistent with WCAB Rule 10606, I certify that I conducted the interviews, performed the examinations, and personally dictated this report. The report was transcribed from my dictation by a

professional medical transcriber, that it follows the protocol as outlined in Article 25, Section 10978 of the California Code of Regulations and as required in L.C. 4623 and 4628, and in compliance with the guidelines established by the Industrial Medical Council or the administrative director pursuant to paragraph 5 of subdivision (j) of Section 139.2. I proofread and signed the final draft of this report prior to submission. This report is for medical/legal assessment and is not to be construed as a complete physical examination for general health purposes. Only those symptoms which I believe to have been involved in the injury, or might be related to the injury, have been assessed. I declare under penalty of perjury that the information contained in this report and its attachments, if any, is true and correct to the best of my knowledge and belief, except as to information that I have indicated I received from others. As to that information, I declare under penalty of perjury that the information provided to me, and, except as noted herein, I believe to be true."

When the evaluator determines that the injured worker is suffering from permanent impairments causing permanent disability or inability to return to his regular work, then the health care provider must perform an impairment rating and disability evaluation, addressing the objective and subjective factors of disability of the worker, and what he can and cannot do in the open labor market.

The expertise, organization and consistency of the evaluator, then, helps ease the burden of pain in the injured worker as he produces a medical/legal report that is objective, accurate, and a credible representation of the true capacity and incapacity of the injured worker.^{4,5}

A complimentary photo-copy-ready "Personal Injury Questionnaire Effects on Lifestyle" will be sent upon request. Send SASE to Hawley Chiropractic Clinic, 809 No. A Street, Oxnard, CA 93030.

References

1. Sacks ZH: Medical/legal reports -- new exclusionary requirements. CA. W.C. Enquirer, pp 45-47, January 1993.
2. Bender M: The Workers' Compensation Laws of California. Times Mirror Books, pp 637-638, 1992.
3. Bender M: Op. Sit. pp 212.
4. Hawley TA: Hazards in the workplace. The American Chiropractor, pp 18-23, October 1990.
5. Hawley TA: The activities which precipitate pain. AFICC Newsletter, Vol. 2, Ed 2.

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Name -----

Injury Date -----

I Pain:

1. How has the pain from the accident affected you?
2. What does (or has) the pain kept you from doing?
3. In what area of your body do you still experience pain?

II Inconvenience:

1. In what ways have you been inconvenienced due to this injury?
2. How many miles do you have to drive to and from treatment?

Miles one way -----?

- 3) Have you had transportation (car) problems?
- 4) Was your car out of commission from the accident?

III Resulting Impairments:

- 1) Do you find that you are unable to do certain things since the injury, that you could do before?
Describe:
- 2) Have you had to change some of your activities of daily living due to your injury/impairments?
Describe:

IV Embarrassment:

- 1) Have you experienced any embarrassment or uneasiness resulting from your injuries? Explain:

V Prognosis:

- 1) What original complaints still bother you?

VI Occupational Effects:

1. In what way has this injury affected your work?
2. Have you had to change how you do things? Explain:
3. Have you lost time at work because of your injuries?
Number of days lost -----?

VII Restrictions on Lifestyle:

- 1) Has the effects of your injuries affected your habits or lifestyle.
- 2) Has it affected your sports or fitness participation?
- 3) Have you altered what you do with your family/children/friends?

VIII Treatment Needs -- Future

- 1) Do you feel that future care should be provided in your settlement?
- 2) What treatment gives you the most relief? () Medication () Chiropractic () Physical Therapy ()

Massage () Other IX Suffering: As a result of your personal injury:

1. Have you suffered inconvenience?
2. Have you suffered embarrassment?
3. Have you suffered pain?
4. Have you suffered problems at work?

Patient signature

Today's Date

MARCH 1993