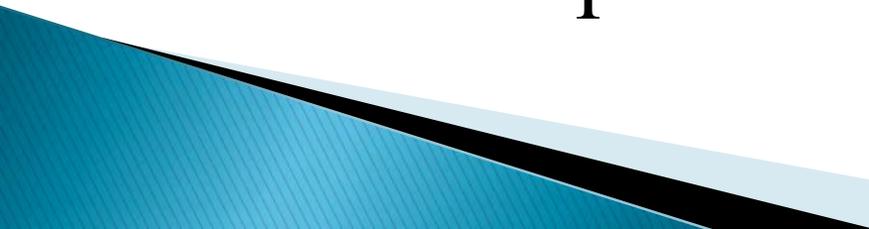




Explaining the Compensable Injury

Role of Treating Doctors in Workers' Compensation

- ▶ Only injuries/illnesses related to workplace accidents/incidents are compensable
 - ▶ Doctor's opinion sometimes needed to tell related injuries/illnesses within reasonable medical probability
 - ▶ Treating doctor may be asked to give such an opinion
- 

Treating Doctor's Report

Should contain:

1. Short summary of your qualifications
2. Injured employee's medical history
3. Your exam findings
4. **Analysis that explains how findings lead to your conclusion**

**If you take only one thing away
from this presentation:**

**Explain your conclusion
in your report!**



Explanation and Analysis

- ▶ Persuasively explain the reason for your opinion
 - Opinion of another health care provider could be adopted over yours in a dispute

Your explanation is very important!



Best Practices - Example

(Actual) Good Causation Explanation

“The claimant sustained a puncture wound to the left wrist area. This ultimately resulted in a deep-seated infection secondary to abscess formation. It is not unusual that this type of infection can take some time to develop. In all medical probability however, the puncture wound was the cause of this infection. It should be understood that [the claimant] was compromised secondary to diabetes. This made him more susceptible to developing the infection.”

-DWC Appeals Panel Decision No. 130235

Best Practices - Example

Insufficient Causation Explanation

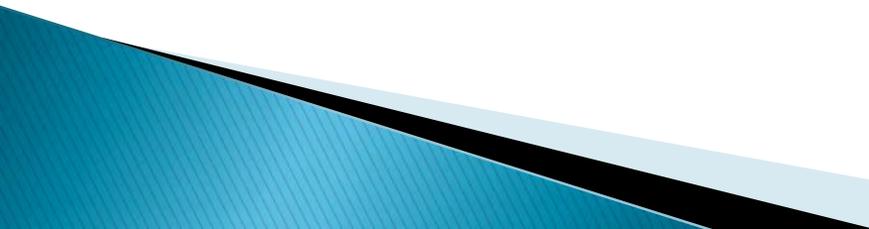
“Lumbar disc herniations and symptoms arise solely and directly from his work-related incident. It is impossible to comment on the potential shear forces without having observed the incident itself.”

-DWC Appeals Panel Decision No. 111881

Report notes:

- Claimant working full time
- Asymptomatic at the time of the accident
- Injury was significant enough to warrant a trip to the emergency room where diagnostic testing showed lumbar disc herniations

Does not specifically mention or explain:

- How mechanism of injury caused the injury
 - At specified levels
- 

Common Mistakes

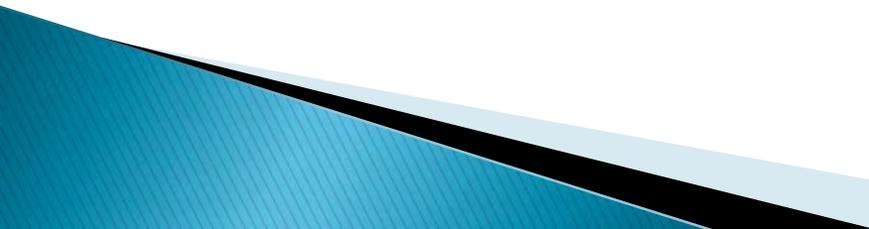
Insufficient Causation Statement

- Conclusions, rather than explanation
- Only listing diagnoses
- General statements that injury/illness not present until after accident/incident

The reader needs an explanation

- **Why did you reach your conclusion**

Avoid the following terms/phrases:

- Possible
 - Might have
 - Could have
- 

RESOURCES

Sample Treating Doctor Report*

<http://www.tdi.texas.gov/wc/hcprovider/causation.html>

Summary of Best Practices

<http://www.tdi.texas.gov/wc/hcprovider/causation.html>

Other Resources for Treating Doctors

<http://www.tdi.texas.gov/wc/hcprovider/causation.html>

Texas Workers' Compensation Act: <http://www.statutes.legis.state.tx.us/?link=CN>

- Select “Labor Code,” see Chapters 401-506

Division Rules: <http://www.tdi.texas.gov/wc/rules/index.html>

- See, e.g., 28 TEX. ADMIN. CODE §126.17(b)

Official Disability Guidelines: <http://www.worklossdata.com/>

* The Division does not require the use of this form, and additionally, this form is not applicable in all cases. Treating doctors must adhere to all applicable rules regarding reporting requirements and this form is neither a substitute nor an addendum to those requirements.

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- ▶ This presentation is provided for informational purposes only and does not constitute legal advice. This presentation is intended, but not promised or guaranteed to be current, complete, or up-to-date and should in no way be taken as an indication of future results. Transmission of the presentation is not intended to create, and the receipt does not constitute, an attorney-client relationship between sender and receiver. The information in this presentation is offered only for general informational and educational purposes.
 - ▶ For more information, you can find applicable law in the Texas Labor Code and the Texas Administrative Code, including 28 TEX. ADMIN. CODE §126.17(b).
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