



[Brown & Carlson Insight](#)

Not all "Physicians" are created equal... At least not in the eyes (or ears) of the MN Workers' Compensation System

By: Daniel D. Carlson

I will be the first to concede navigating the MN Workers' Compensation system can be a bit "routine." In essence, claims generally take one of three paths. Injuries that are admitted and resolved without complication; Injuries that are admitted, but the nature and extent is disputed; and those that are denied. For the latter two paths, there is often more "routine" denial/ termination language, Deposition, IME, Settlement Conference/Mediation, and then either settlement or trial.

In a system as "routine" as ours, it is often easy to focus on the outcome and forget about the "process." As we all know, the "process" of the MN Workers' Compensation system is governed by MN Statute § 176, and is further defined under the Minnesota Workers' Compensation Rules and Regulations, as well as case law. Although this "process" contains hundreds of rules, regulations, and burdens of proof, it is often overlooked as a means to an end, rather than as a tool to assist Employers/Insurers in defending questionable compensation claims, or to inhibit Employees and medical providers from performing certain actions.

The focus of this Insight article is to remind you, the Employers and Insurers, not to overlook the "process," as often times it contains specific information essential in determining the path your claimed injuries should take, and how you can utilize that path in minimizing your overall exposures on that claim.

For example, lately I have seen an expediential increase in hearing loss claims. In talking to many Employers and Insurers, I am not alone. Many of these claims involve older Employees, often retired, who are seemingly carving out random periods of employment for various Employers, months if not years after that employment has ended. Often times these Employees have gone on to work for several other Employers after their employment with the "Date of Injury" Employer has ended. Despite this, these Employees are retroactively filing hearing loss claims, against specific Employers, seeking permanency and entitlement to ongoing medical benefits/hearing aids. Attached to many of these Claim Petitions are narrative reports from doctors with surnames that appear to be of "European Descent" and are from outside the U.S. Receipt of a Claim Petition with this report is usually the first notice of the claim.

Should you receive such a report, be cautious. Regardless of their global medical qualifications, the MN Workers' Compensation Statutes require "Physicians" to be licensed in United States in order to issue an opinion in our system. Under

Minn. Stat. § 176.011, Subd. 17. **Physician.** “Physician” means one authorized by law to practice the medical profession within one of the United States and in good standing in the profession, and includes surgeon.” Thus, if the “physician” is not legally licensed to practice in the United States, then they may not meet the statutory definition of a “physician” in the eyes of our compensation system, and it could therefore be argued that their opinions are insufficient support for the Employee’s claims. This could give you grounds to file motions to dismiss in cases where they are the only medical opinions, or at a minimum, attack the “physicians” credibility/ability to issue a proper medical conclusion and/or medical recommendations before a mediator/arbitrator, or compensation judge. This could be utilized in many settings, including potential chiropractors, conservative care vendors, and potentially even independent medical examination physicians. Additionally, this could be used in situations in which doctors are being utilized as outside references, or second opinion doctors who may not be examining or treating the patient directly. If they are not a licensed physician as identified under the statute, then you certainly have grounds to argue their opinion carries no weight.

If you do have questions regarding whether the physician is legally practicing in the United States of America, and more specifically, within the state of Minnesota, you may want to obtain a copy of the medical provider’s CV. Alternatively, you may also want to reach out to any IME vendors, DOLI, and even Google as references. Additionally, potential references I’ve seen include the following:

<https://bmp.hlb.state.mn.us/DesktopModules/ServiceForm.aspx?mid=176&svid=30&step=2> (The MN Board of Medical Practice website)

For the entire US: <https://www.docinfo.org#!/search/query>

My purpose in preparing this article is not to have you Googling every doctor you come across to see whether or not they are licensed to practice within the United States, although, I suppose it couldn’t hurt. More importantly, the purpose is to remind you that the Minnesota Workers’ Compensation system’s “process” is filled with rules, regulations, and guidelines that would allow you to challenge, restrict, or inhibit medical providers, Employees, and even QRC’s from doing whatever they want on your claims. Use the Rules we have as your tool.

If you do come across a situation over the course of the file where you would like to know whether there is a rule, regulation, or any avenue that would inhibit the Employee, physician, or QRC from doing something that you don’t want them to be doing, please feel free to reach out to myself, or any of the attorneys here at Brown & Carlson, as we would happily walk you through that scenario, and direct you to any potential defenses available.

Additionally, if this is an urgent matter, please feel free to contact the Brown and Carlson hotline at (855) 844.7070, as someone will always be available to answer your call!

[Daniel D. Carlson](#)

763-253-0139

dcarlson@brownandcarlson.com



[Visit our Website](#)

Brown & Carlson, P.A.
300 Highway 169 S.,#500
Minneapolis, MN 55426-1113
763-591-9950
F: 763-591-9202