



The Brown & Carlson Insight

Utilizing Treatment Notes to Discontinue Narcotic Medications

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Striving to not only meet, but exceed our client expectations.

Utilizing Treatment Notes to Discontinue Narcotic Medications

Sometimes treatment notes are a hidden gem for the defense. As the saying goes, "the facts speak for themselves." Treatment note "facts," are no exception. Often, treatment notes are significant not so much for what is contained in the notes, but rather, what is missing from the notes.

The Medical Treatment Parameters state:

"Controlled substance medication indicated only for treatment of severe acute pain. Not indicated in the treatment of patients with regional low back pain (after the first 2 weeks) or upper extremity disorders. Patients with radicular pain may require longer periods of treatment. Health care provider must document the rationale for use with any scheduled medication. Treatment with non-scheduled medication may be appropriate during any phase of treatment. Minn. Rule 5221.6200, subp. 15 (low back) and 5221.6300, subp. 15 (upper extremity)."

Increasingly, we are re-opening previously settled cases in order to deny ongoing medical treatment, diagnostic testing, and use of narcotic prescriptions. A close review of the treatment notes is essential. Treatment notes often contain sweeping comments such as, "Diazepam (Valium) is being prescribed to 'control muscle spasms,' or, 'allow additional functioning as reported by the patient.'" However, when the chart notes are carefully reviewed, there is no documentation of any muscle spasms. Additionally, the chart notes may

show that virtually no examination has taken place at all when the employee presents every few months for prescription refills. More often than not, we find that treatment notes provide only subjective symptoms and subjective findings, such as reduced range of motion and complaints of pain. The chart notes are absent any specific objective findings.

Despite the fact that the employee may testify at Hearing that he/she needs the narcotic prescriptions "in order to keep working and functioning," a Judge will deny the prescriptions, in the face of deficient or missing chart note "facts." Thus, while it may be tedious and time consuming, it is imperative that every chart note be reviewed and all missing "facts" be pointed out to the Judge at the Hearing. Deficient chart notes may even be introduced as defense exhibits, to further substantiate the opinions given by the IME examiner. The goals are to provide the Judge with adequate foundation to support a defense decision to deny narcotic prescriptions and receive a Findings and Order in which the Judge finds the following: "the IME physician's opinion is simply more persuasive than the treating doctor's opinion; there is a lack of specific objective findings on examination; and there is a relative paucity or no specific notations regarding any formal examination or objective findings."

The key to success with these post-full, final and complete settlements is often found in the treating doctor's chart notes. The "facts" gleaned from the chart notes may be present or glaringly absent, and may be the most relevant facts presented to the Judge.

If you have any questions regarding the discontinuance of narcotic prescriptions or other matters, please feel free to contact us.

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