

## Lesson 4:

### Failing to Understand What a Doctor Does

**Rule:** Doctors and medical personnel keep a record of everything they observe

Practicing medicine is hard. In addition to figuring out how best to treat a medical condition, the doctor has to follow regulations, bill insurance companies and keep detailed records. Understanding that doctors and medical personnel are writing down everything that they see or hear that is critical to your claim.

#### Devon

Devon worked as a corrections officer at a youth facility for three years. His job was difficult. Students sometimes injured staff members when they were upset or angry. Staff members often didn't get along. Devon had some problems with student behavior and with the other staff. Devon's supervisor would have said that Devon was an accident waiting to happen. But Devon's injury at work didn't happen because of a fight or because he had to put a student in a hold. He got hurt when he was loading equipment into a car. Devon stepped onto a rock he didn't see and rolled his ankle, stumbling and stopping just before he fell to the ground. "Just like last summer," he thought.

When Devon was playing in his regular weekly basketball game the prior year, he fought for a rebound but landed on another player's foot. Devon spent a month in a rigid ankle brace before he could play basketball again. Worse, he had to go out of work on short-term disability because corrections officers have to be able to restrain the students. But Devon thought that this new injury wasn't nearly as bad. He went inside and iced his ankle, took some medicine, finished his shift and went home.

The next morning his ankle was really swollen so he pulled out the old brace from last year and called in sick. His wife called his family doctor and he

went in to see him. At the office, the nurse felt his foot and ankle and looked back at the computer screen.

“I see it’s the same left ankle bothering you again,” the nurse said. “Did you take anything for it?”

“Just some pain meds, nothing big.” Devon was ready to get this over with.

“Did you put any ice on it?”

“Yes, off and on most of the day yesterday at work when it started hurting, and again last night.”

“Dr. Avalon will see you shortly.”

Dr. Avalon came in, checked the chart, asked Devon where it hurt and ordered an x-ray. When nothing was broken, he gave Devon a prescription and a referral to a specialist in sports and physical medicine because he said Devon needed physical therapy.

Devon went to the appointment with the surgeon. When he was given a medical history form to fill out before he saw the doctor, he put down that he had rolled his ankle and that the problem had started “last summer.” He left a lot of the form blank. The doctor was running an hour behind and rushed in.

“Well, this seems to be a chronic problem,” said the surgeon. “You like to play basketball, huh? Let’s see about getting you back on the court. I don’t know whether we will talk surgery in the future, but I believe we can skip it for now.” As he spoke, the doctor mostly stared at the computer screen. Devon wasn’t sure of the doctor’s name and was too shy to admit it, so he didn’t say much. The exam took five or six minutes, and the doctor was gone.

Devon was happy to hear that he wouldn’t need surgery. But the physical therapy the doctor recommended was a problem since he would need to miss work. Devon knew then that he should report the injury, so he filled out a form and gave it to the supervisor.

This time Devon was given some desk work, but with his foot in a brace there wasn’t much else he could do. Within days of reporting his injury Devon received medical releases to sign that allowed the insurance adjuster to get any

of his medical records from any medical treatment that he had ever had, and a letter in the mail saying that she was investigating the injury. When he spoke to the adjuster, she was very nice and reassuring. Devon filled out the forms and sent them back.

The adjuster was really looking at the fact that the doctor wrote in the medical records: "The injury started a year ago playing basketball." A month after the injury Devon received a form denying his claim. He went out of work on short-term disability when he needed surgery for the torn ankle tendon that wouldn't heal and that interfered with his ability to stand. He looked for other employment, but he couldn't find anything.

### **Devon's grade for not understanding what a doctor does: D**

Not only did Devon fail to report the accident immediately, he also didn't take every opportunity to tell his medical providers about his work-related injury. You probably have seen your own doctor at a computer screen. Many medical records are kept electronically and can be sent easily from doctor to doctor. While this is meant to help patients have access to better medical treatment, it also means that it is easy to find whatever the doctor has written down. By law the adjuster can get any records that are related to a workers' comp injury. Devon gave the adjuster the ability to get any record of any treatment for any condition he has ever had, just because she asked him.

The people who make decisions in workers' comp cases – the insurance adjusters and judges who hear the claims – are the same as everyone else when it comes to looking at information. If there is an easy answer they will find it right away. A good employee with records from two doctors that confirm he told them about an injury? Pay as an accepted workers' comp injury. A problem employee who sees two doctors within days of the accident, neither of whom mentions an accident in their medical records? It is easy for that company to deny the worker's claim.

Even worse are the medical records that say “no known injury” or “NKI” for short. Yes, adjusters and workers’ comp judges know that you didn’t go in and write the medical records yourself or have a chance to make corrections. But if there is nothing in the doctor’s notes about the injury you are claiming happened and was so significant to you that you should receive medical treatment and money for it, then it’s going to be an extra hurdle.

Given these facts, it’s hard to give Devon a good grade on this one. A doctor may be asked to add to his notes when there has been a mistake made, but Devon didn’t tell him anything about the injury at the beginning of treatment. Now Devon will have to explain what happened to his doctors as best he can, explain it to the lawyer he now should hire, and explain it to a deputy commissioner at the Industrial Commission who likely will have to hear the claim before Devon can get any compensation.

### **Devon’s potential final grade: C-**

Devon will have to work hard to win his claim. Here is how his final tally could look on the issues:

- × Reporting the injury to his employer
- × Reporting the injury to medical providers
- ✓ Getting a lawyer

