



ANDERSONS  
S O L I C I T O R S

## LawTalk Blog



# I've had a car accident and need help with the housework and garden (1)

Date: Tuesday January 23, 2018

Doctors play a vital role within the [workers compensation](#) system. Their opinions can assist with workers returning to employment quickly in their previous role or an alternative role.

A doctor's opinion can be the difference between a workers compensation claim being accepted or rejected or a worker receiving [weekly payments](#) or their payments ceasing.

Workers who are injured in the workplace and require initial and/or ongoing medical assistance, should choose their own doctor for this assistance. This doctor is what we call a "treating doctor" (most likely their own GP).

A "treating doctor" can help workers with their rehabilitation and their return to work in the following ways:

- Discuss the worker's restrictions and explain which tasks the worker can and cannot perform;
- Confirm the amount of hours a worker should perform throughout any given day or during the week throughout the recovery period;
- Confirm how regularly an injured worker should have breaks;
- Confirm how much time a worker should have off of work following the injury, or following surgery;
- Confirm whether restrictions are permanent, or whether the worker should fully recover over a period of time;
- Confirm whether the worker is suffering from a psychological illness following the workplace incident;

- Record the above information on a Return to Work Capacity Certificate;
- Help to manage ongoing pain;
- Confirm whether the worker requires help around the house and garden due to their injury;
- Confirm whether the worker should be referred to other specialists for examination; etc

As the treating doctor's role is so important following a workplace injury, and the doctor's opinion can significantly impact on the worker's rights, it is crucial that a worker is completely comfortable with their treating doctor.

## Do I have to see a doctor of my employer's choice?

All too often, injured workers feel pressured to consult with the employer's in-house doctor or a doctor of the employer's choice. But the worker has a fundamental right to seek treatment from their own doctor and/or specialist.

*"It is wrong and improper for an employer to choose the doctor that the injured worker receives initial and ongoing treatment from."*

It is wrong and improper for an employer to choose the doctor that the injured worker receives initial and ongoing treatment from.

Workers compensation laws allow an injured worker to be treated by whoever they want - the employer should simply butt out of this decision!

The only time a case manager or your employer can specify which doctor you see is if they arrange an [Independent Medical Examination](#) (IME) for you. IMEs are not "treating doctors" and have not previously been involved with the care of the injured worker, but rather are used to assess a worker's injuries and write medical reports or provide expert opinions to determine a worker's entitlements.

## What's the difference between my "treating doctor" and an Independent Medical Examiner?

It is important to understand the difference between seeing a doctor for treatment (which is completely your choice), and seeing a doctor for an IME which can be chosen by your case manager or employer.

But even in relation to IME's, **you always have a right to seek a second opinion** with another Independent Medical Examiner of your choice.

A case manager or employer is **not** allowed to sit in during any consultations with a doctor, whether or not you are seeing the doctor for treatment or an IME.

**You should never sign a document** authorising a case manager or employer to sit in with you on consultations, or speak directly with your doctor without you being present.

If a worker is given a document to sign regarding their workers compensation case, they should always seek advice from the a workers compensation lawyer.

Many employers look out for the interest of injured workers. But unfortunately many other employers treat injured workers as a liability, and they want to do whatever is possible to protect their own interests rather than the worker's interest. That is why some employers try to manipulate workers into seeing company doctors; so the employer can control how the claim progresses.

Many of these 'company doctors' are paid for directly by the employer. This often establishes a conflict of interest. All too often, these company doctors are looking out for the interests of the employer rather than the interest of the injured worker (who is actually their patient).

If you ever feel uncomfortable with the treatment or advice you are receiving from a particular doctor, make sure you stop seeing that doctor, and start consulting with another.

## 8 important things to remember

- You do not need to accept treatment from a company doctor
- You have a choice to be treated by a doctor of your choice
- You can change doctors if you are unhappy with the treatment you are receiving
- You have the right to seek a second opinion if you disagree with a report or recommendations of a company doctor or medical examiner
- Never perform duties that your doctor has restricted you from performing (even if your employer or case manager is pressuring you to perform these duties).
- If you are concerned about the way your workers compensation matter is being handled, speak with your a lawyer immediately
- Never sign a document without first seeking legal advice
- Most decisions of your case manager and/or employer can be disputed. Do not simply accept decisions if you disagree or if you do not understand the decision or its consequences!

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*Please note, this Blog is posted in Adelaide, South Australia by Andersons Solicitors. It relates to South Australian legislation. Andersons Solicitors is a medium sized law firm servicing metropolitan Adelaide and regional South Australia across all areas of law for individuals and businesses.*