

## What to do About Substandard Medical Care in Your Workers' Compensation Case

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If you have never been involved in the Georgia workers' compensation system before, you may be shocked and disappointed to learn that some of the physicians you meet seem to have an agenda other than your health and best interest. The Georgia workers' compensation statute has created an environment where insurance companies have a financial interest to find and use doctors who downplay the seriousness of your injuries and who intentionally avoid referring you for necessary, but expensive care. The net result of this system can mean delay and unnecessary suffering for you.

I sometimes receive calls from injured workers who are receiving weekly wage benefits as well as medical care, who wonder why they should hire counsel if everything "seems to be working out okay." Sometimes they sense that something is not quite right but are wary of rocking the boat.

### **Know Your Doctor's Reputation**

I respond that one of the most valuable services I offer my clients has to do with my knowledge of and opinions about the medical providers that accept workers' compensation referrals in Georgia. After 20+ years of practice in this area of law, I have seen or know about the biases and quality of work offered by most of these doctors. Having worked as an insurance defense lawyer for several years at the beginning of my career, I can quickly identify an insurance company strategy to close out your case without addressing your medical needs or paying you a fair and necessary settlement.

Often the first indication you may have that something is not quite right may be a biased medical report. Sometimes you sense the bias right away – when you visit an “industrial clinic” with an uncaring, assembly-line approach to medicine. Sometimes the doctor you visit seems pleasant and caring, but you are stunned to read his report that minimizes your complaints, misstates your words, suggests that you are exaggerating your symptoms and releases you back to work far too soon.

Most of us are brought up to respect physicians and to defer to their opinions. I am here to tell you that this type of blind deference is a major mistake in a workers’ compensation case. You – or me as your representative – must advocate and advocate aggressively for your medical care.

## **Options if Your Workers’ Compensation Medical Care is Substandard**

We have several options if we suspect that the posted panel doctor who is treating you is biased and unfair.

### **One Free Switch**

First, under the Georgia workers’ comp. statute, we are allowed “one free switch” from one panel doctor to another. Assuming that your employer’s posted panel is valid, you have the right to change doctors one time without explaining why. In my experience, the quality of physicians on a posted panel can vary widely – sometimes switching from the industrial clinic doctor to a more independent physician can make a significant difference in your case.

### **Invalid Posted Panel**

Second, we may discover that your employer’s posted panel is invalid. I have written about the requirements for a valid posted panel of physicians elsewhere but if the panel is not valid, then you may have the right to seek company paid care with any doctor we choose, including quality health care providers that I know from other cases.

Along these same lines, Georgia law requires that posted panels contain the name of at least one orthopedist. I regularly see panels of doctors that contain multiple names and thus appear to be valid, but do not contain the name of an orthopedist. The absence of an orthopedist may very well invalidate the panel and give us control of your medical care.

See video link for more information:

[http://www.youtube.com/watch?v=AcZ1u-vDqwo&feature=player\\_embedded](http://www.youtube.com/watch?v=AcZ1u-vDqwo&feature=player_embedded)

## **Claimant's IME**

Third, under Georgia law, you as the injured employee can demand you “employee’s independent medical exam” (also known as the “claimant’s IME”). This relatively recent change to the workers’ compensation law allows employees to choose a physician to conduct an evaluation that must be paid for by the employer/insurer. While you will not get treatment at a claimant’s IME, the resulting report can be helpful evidence in your case and can support an effort to change the authorized treating physician.

## **Petition State Board for Change in Authorized Treating Physician**

Finally, injured workers have the right to petition a judge at the Georgia State Board of Workers’ Compensation to order a change in the authorized treating physician. In my practice I often find that I can negotiate a change in treating physician with the insurance adjuster. If I see that your current doctor is not doing you any good or if I know that doctor to be biased in favor of the insurance company, then I will call the adjuster and arrange for a change. If the adjuster will not work with me, then I request a hearing on the issue – although I rarely have to take such issues to court.

I hope you can see from this brief discussion that you do have many options if your current workers’ compensation authorized doctor is either not providing you with quality care or if that doctor is biased in favor of the insurance company. I encourage you to tap into my knowledge and experience with workers’ compensation medical providers in Georgia. Call me at 770-351-0801 or email me. I look forward to hearing from you soon.