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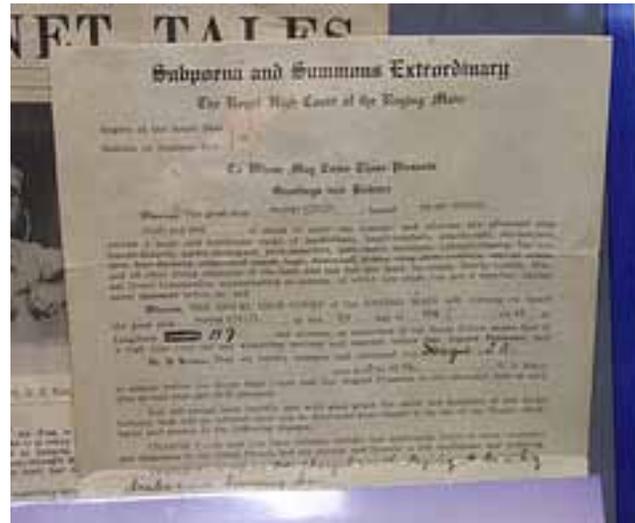
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PRACTICE AREAS

Workers Compensation
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Illinois Court on Workers' Compensation Commission's Authority to Subpoena Copies of Medical Records

8/16/2010



The Appellate Court of Illinois, First District, recently addressed the issue of the proper scope of a subpoena duces tecum issued by the Workers' Compensation Commission.

In *Holtkamp Trucking Company v. Fletcher, M.D.*, one of the issues before the court was whether the Illinois Workers' Compensation had the authority to issue a subpoena duces tecum to a physician, wherein the subpoena required that the physician photocopy medical records for a fee and send the records to the employer of an employee who had filed an [Illinois workers' compensation claim](#).

In reaching its conclusion, the court acknowledged that the Commission was authorized by Section 16 (820 ILCS 305/16 which authorizes the Commission to "issue subpoenas duces tecum requiring the production of such books, papers, records[,] and documents as may be evidence of any matter under inquiry and to examine and inspect the same..."

However, the court noted that the statute doesn't provide the Commission with the authority to require a party to photocopy records; rather, the Commission can require that a party appear on a certain date and produce any requested records relevant to the proceeding. The court, after noting the limitations in the current statutory framework,



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encouraged employers to attempt to work out an agreement with physicians whereby physicians would copy and mail medical records to employers for a reasonable fee that would compensate the physicians for their costs.

Finally, the court suggested that the Commission should consider amending its rules to facilitate such an arrangement:

Perhaps the Commission should consider promulgating a rule whereby a subpoena issued by the Commission could offer an alternative to appearing at the hearing with the original records in hand. The alternative, for example, might be photocopying the records at a certain price per page, which the Commission could specify, and mailing the photocopied records by a certain date.

The Commission would be wise to heed the court's advice, since workers' compensation proceedings are complex enough as it is. Anything that would simplify the procedure would be a welcome addition to the statutory framework.

Howard Ankin of Ankin Law Office LLC (www.ankinlaw.com) handles **workers' compensation and personal injury cases**. Mr. Ankin can be reached at (312) 346-8780 and howard@ankinlaw.com.