

Nevada
Workers' Compensation Law Blog
NEWS & UPDATES ON WORKERS' COMPENSATION LAWS & HELPFUL INFORMATION ON THE CLAIMS PROCESS

More Probable Than Not

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Under Nevada workers' comp law, the burden of proof is on the injured worker to show that it is **more probable than not** that the injury or claimed occupational disease is work-related. This makes it very difficult to get a claim accepted if your doctor isn't certain that your injury or illness should be treated under a comp claim. Your doctor may think that you should instead be getting treatment using your health insurance, assuming you still have health insurance.

Remember, it is the initial treating doctor at the first clinic that fills out the bottom half of the C-4 Claim for Compensation form. The doctor must check a box "yes" or "no" that the injury is directly work-related. If the doctor checks the "no" box, or puts a question mark, the insurer or its third-party administrator (TPA) is sure to deny the claim.

You may be sure that your work activity over time is causing your need for medical care, but a hearings or appeals officer will not order your claim accepted based only on your testimony about how you feel. If your job involves repetitive motions, such as dealing cards, heavy cleaning, constant lifting, bending, or other strenuous physical work, you may be right that you have a compensable claim under existing Nevada statutes and case law. However, you still may have difficulty convincing your doctor that you are entitled to benefits on a workers' compensation claim, and you need a supporting medical opinion.

When doctors consider whether your injury or illness is work related, they focus on whether you have pre-existing problems, whether there are other equally likely causes of your condition, and whether your need for care might be related to the normal aging process. The doctor must then decide whether your claim should be supported, and most doctors form their opinion without the benefit of information about Nevada law.

The law in Nevada is confusing regarding work activities that involve an **aggravation of a pre-existing condition**. Keep in mind that doctors aren't experienced workers' compensation lawyers. You will at least want to get a second medical opinion if your initial treating doctor doesn't report that it is more probable than not that your injury or illness is work related.

Virginia Hunt Law Office

1945 E. Warm Springs Road,
Las Vegas, NV 89119

Phone: (702) 699-5336

Fax: (702) 731-9097

Email: virginia@huntlawoffice.com