



# Defense/ petitioner's view of QRC services

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# The qualified rehabilitation consultant (QRC)

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## **5220.1803 RESPONSIBILITIES.**

### **Subp. 2. Knowledge of laws and rules.**

A rehabilitation provider shall be knowledgeable and informed regarding portions of the workers' compensation law and rules that directly relate to the provision of rehabilitation services.

Communication of inaccurate information regarding workers' compensation is grounds for discipline.

# Communications

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## DEFENSE

Notification is Key: Often request copy of whole file to date, especially the consultation and R-2 narrative report.

Red flag: Not copied on all e-mail.

Appreciate updates following medical appointments.

E-mail communications for documentation.

Phone communications about the case.

## PETITIONER

Notification is Key: Often request copy of whole file to date, especially the consultation and R-2 narrative report.

Appreciate updates following medical appointments.

Phone communications about the case.

# Communications continued

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## **5220.1801 PROFESSIONAL CONDUCT - Subp. 9. Prohibited conduct.**

K. Engaging in adversarial communication or activity. Adversarial communication includes, but is not limited to:

- (1) requesting or reporting information not directly related to an employee's rehabilitation plan;
- (2) deliberate failure or delay to report to all parties pertinent information regarding an employee's rehabilitation including, but not limited to, whether the employee is a qualified employee as defined in part [5220.0100](#), subpart 22;
- (3) misrepresentation of any fact or information about rehabilitation; or
- (4) failure to comply with an authorized request for information about an employee's rehabilitation.

# Communications continued

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## **5220.1802 COMMUNICATIONS.**

### **Subp. 3. Copies of reports and records.**

The assigned qualified rehabilitation consultant shall file all required rehabilitation reports with the commissioner and provide copies to all parties and their attorneys as the reports are created by the consultant. The qualified rehabilitation consultant shall provide a copy of required progress records to the employee, the insurer, and their attorneys, and also to the employer upon the employer's request. The qualified rehabilitation consultant may not charge for the initial copy or photocopy of required rehabilitation reports or required progress records. If additional copies are requested by any party, the qualified rehabilitation consultant is entitled to reasonable compensation for cost from the requesting party. A dispute about cost is not a basis for a provider to withhold required reports or records when requested.

The requesting party shall pay for reasonable costs incurred by a rehabilitation provider in creating a report not required by rule or requested by the commissioner or compensation judge.

# Communications continued

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Request QRC to contact the injured worker and treating physician within 24 hours of the referral.

For the QRC to contact the injured worker the day of their medical appointment to remind them to attend.

Do defense attorneys have a favorable impression of QRCs and the function they are supposed to provide? If you had a family member who became injured/ill, would you suggest a QRC? Could you expound on QRC activities which enhance and hinder the resolution of a claim? What hindering activity makes you the wildest?

# Communications continued

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What are attorneys' current thoughts and positions regarding the value of job placement? Do they find value in the service, or is it the contemporary thought to avoid it, if at all possible, because of the economics, sometimes significant, attached to the effort? What are attorneys hearing from insurers and their clients regarding the same?

# Neutrality

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## DEFENSE

Not sharing information when you have it:

- \* Date EE is back to work.
- \* EE is at MMI.
- \* EE is released without restrictions.

## PETITIONER

\* QRC communicating information to HCP that is inaccurate or incomplete.

\* Sharing information with insurer that isn't shared with EE and/or attorney.

\* Open communications.



# Neutrality continued

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## **5220.1801 PROFESSIONAL CONDUCT.**

### Subp. 4a. **Objectivity.**

Good faith disputes may arise among parties about rehabilitation services or about the direction of a rehabilitation plan. A rehabilitation provider shall remain professionally objective in conduct and in recommendations on all cases.

### Subp. 8. **Separate roles and functions.**

B. A qualified rehabilitation consultant, qualified rehabilitation consultant intern, or registered rehabilitation vendor shall not act as an advocate for or advise any party about a claims or entitlement issue. Except as permitted by item C, qualified rehabilitation consultants, qualified rehabilitation consultant interns, and registered rehabilitation vendors shall at no time in any capacity engage in any of the following activities regarding any claim for workers' compensation benefits pursuant to Minnesota Statutes, chapter 176:

# Neutrality continued

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## **5220.1801 PROFESSIONAL CONDUCT.**

### **Subp. 11. Impaired objectivity.**

... The rehabilitation provider shall disclose any potential conflicts of interest to the parties to the case and their attorneys.

## **5220.1803 RESPONSIBILITIES.**

### **Subp. 1a. Disclosure of information.**

The disclosures required by Minnesota Statutes, section [176.102](#), subdivision 4, must be made at the first meeting or written communication with an employee. For purposes of the disclosures, the following terms shall have the meanings given them.

A. "Ownership interest" includes, but is not limited to, any partnership or holding, subsidiary, or corporate relationship as well as ordinary ownership interest.

B. "Business referral" means any referral arrangement, whether documented or not.

# Neutrality continued

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Many IRs fail to understand a QRC is to be neutral so they will request QRCs to assist in claims investigation – get records, provide specific questions to ask MDs, provide specific questions to ask the injured worker.....

IRs will get upset with QRCs who copy the EE on all e-mail they receive including the IR's, which the rules require them to do. They will tell the QRC to not forward the IR's e-mail to the parties.

IRs appear to look more upon QRCs as assistant adjusters to help get records for them, schedule the EE medical appts, etc.

If a registered rehab provider (QRC) is acting as a disability case mgr. they will have the DCM work the EE, when it's known they won't RTW the same ER, until a FCE can be scheduled and/or DLI finally sends the IR a letter that they must have a rehab consultation performed.

# QRC roles

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## DEFENSE

Collecting medical records unrelated to the injury including for an IME.

QRC making treatment recommendations not the HCP.

## PETITIONER

Neutral communications.

QRC investigating the claim (e.g., activities outside of work, past injuries)

QRC asking questions on behalf of the insurer.

## QRC roles continued

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IR request to keep the rehab plan open, even though the EE has been back to work successfully for more than 30 days, until the treating physician declares the EE to be at MMI.

That the QRC go along with the IR's request to not begin job search, even though there are physical limitations, and it is known the ER does not have a job for the EE to RTW to, until the treating physician has declared the EE to be at MMI.

For the QRC to call the health care provider to confirm the EE attended the medical or therapy appointment, etc.

## QRC roles continued

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The employer does not have a job for the EE to return to so the EE will have to seek employment with a different employer. The insurer has requested that the QRC indicate on the rehab plan that the goal be to both RTW to same and different employer not just different employer.

That the QRC go along with the IR's request to not begin job search, even though there are physical limitations, and it is known the ER does not have a job for the EE to RTW to, until the treating physician has declared the EE to be at MMI.

## QRC roles continued

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IR requires QRC to seek approval before attending all medical appointments even if the rationale was already provided in the last monthly report and is part of the rehab plan.

Annoyance that the QRC is providing services, not on the rehab plan, and billing the insurer for those services.

DAMON A. EWING, Employee, v. PRINT CRAFT, INC.,  
SUPREME COURT – JANUARY 2, 2020  
No. A19-0534  
WCCA No. 18-6197  
[Ewing v. Print Craft, Inc. \(mn.gov\)](https://www.mn.gov)

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An IME is done and shuts down the medical treatment. EE puts the medical under their personal health insurance and move to STD/FMLA with their employer. Adjusters tell QRCs to close their case based on the IME results. QRCs tell them that they can't do it under the rehab rules and that the IR should file a Rehab Request, which they usually fail to do. The adjuster gets mad at the QRC.





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