

The Medical Report and Expert Witnesses

Insurance Company's Release Clauses

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The release form is much too broad. In my opinion, it goes beyond the requirements of the long-term disability carrier. All the disability carrier should be entitled to receive is employment information and medical and other hospital reports and records. Records from any investigation agency and "any other personal information" is intrusive and represents an unjustified invasion of privacy.

What happens if the Form is altered? More than likely the insurer will cease paying benefits. The claimant who depends on the benefits for his or her economic well-being is thus in a very difficult and tenuous position. Insured will have to make a judgment call.

Most long-term disability policies require a claimant to cooperate with the insurer, to attend on medical examinations, to release employment and other documentation necessary for the assessment of the claim. I question whether any other person holding "personal information" is necessary for the assessment of the claim. The issue is whether the insured is "totally disabled" within the meaning of the policy. The insurer does not need the additional information to assess the claim, in my opinion. I believe that attempts should be made to negotiate the terms of the Release Form.

It should be clearly understood that I cannot, in any way, advise any injured person what to do. Every case depends on its own facts, and I certainly cannot proffer any opinion unless I have been retained.

It goes without saying that any insured when confronted with a very broadly-worded Form should seek legal counsel. The decision may be to sign the Form if they want to ensure benefits are being paid, however, every effort should be made to cross out or excise out the phrases "any investigation" and "any other person holding personal information". My own view is that every individual will have to seek a legal opinion and as I said earlier, every effort should be made to negotiate the information that is going to be provided and to cross out the portions which I have indicated are too broad.

I would be willing to assist your organization in any way I can. I am very impressed with the tremendous work you do on behalf of the ME/FM community.

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