

Health Law: Quality & Liability

Prof. Thaddeus Pope

Treatment Relationship:
Informal Consults, IMEs



**When is relationship
formed with NON-
treating physicians**



2

situations



1. Informal
consult

2. IME



**Informal or
“curbside”
consult**



Reynolds

v.

**Decatur
Memorial**



4-year-old
falls off sofa

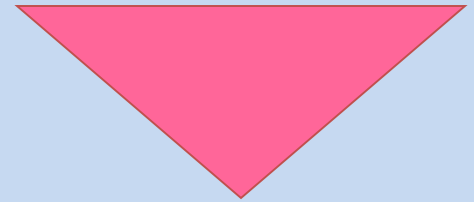




ED doc in
treatment
relationship



ED doc calls
pediatrician





Pediatrician
examines → in
treatment
relationship



Pediatrician insure:

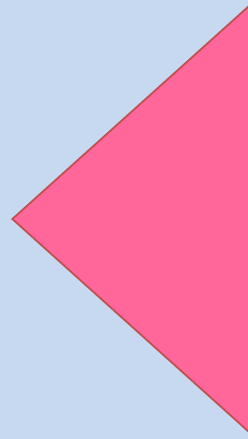
Infectious problem

vs.

Spinal cord injury



Pediatrician calls neurologist





Misdiagnosis –
sues all 3
physicians



But no claim
against neurologist

Only **informal**
consult



No treatment
relationship with
physician who
provided only
informal consult



No see patient

No see record

No write in record

No bill

No see labs



Treating physician
retains independent
judgment

No reliance by patient



To impose duty would
create “chilling effect”
on communication,
education (via
curbside, hallway
chats)



Fuzzy line
between
formal &
informal



More of these →
more likely formal

Bill patient

See record

See patient

Write in record

See labs



2nd situation
non-treating
physician



IME



SOCIAL SECURITY DISABILITY CLAIM

Failure to complete this form in its entirety may result in a delay in processing this claim.

Claimant	Insured
NA	NA
NA	NA

APPROVED

FILED CLAIM FOR **Initial** **Reopen**

Policy Number: **123456**

INSTRUCTIONS:

- Complete this form and attach all required documents.
- Return this form to the Social Security Administration.
- Keep a copy of this form for your records.

ADDITIONAL NOTES:

- Failure to provide complete and accurate information may result in denial of the claim.
- Failure to provide complete and accurate information may result in denial of the claim.
- Failure to provide complete and accurate information may result in denial of the claim.

POLYHOLDERS INFORMATION

Policyholder's Name: **123 456-7890**



WORK INJURY CLAIM FORM

1 WORKER'S PERSONAL DETAILS

Title Family Name

Given names

Other known or previous legal names *eg Maiden name*

Date of birth

Gender

 Male Female

What area of the worksite were you working in when you were injured?

What is the street address where the incident occurred?

Suburb

State





PLEASE READ

No

FO

G IN

VERY CAREFULLY

LIFE INSURANCE APPLICATION

FORM OR FOR M...
workplace

... INFORMATION CONTACT:

at the details from your employer, check the if you are insur...
cost of a local call

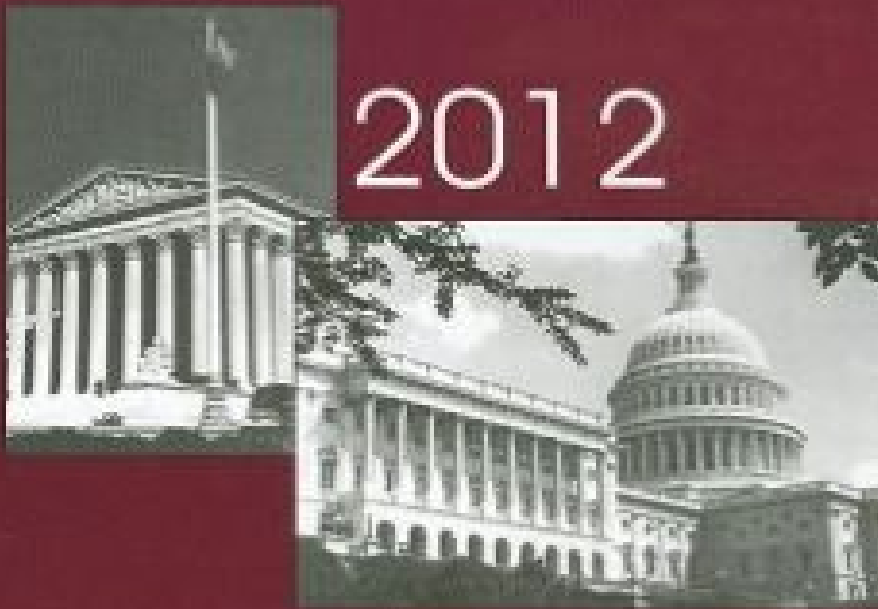
YOU NEED TO



FEDERAL RULES OF CIVIL PROCEDURE

Compiled by Kevin M. Clermont

2012



And Selected Other
Procedural Provisions

- Civil Advisory Committee's Notes
- Federal Rules of Appellate Procedure
- Constitution and Procedural Statutes
- Federal Rules of Evidence

Rule 35

The court . . . may
order a party
whose mental or
physical . . . is in
controversy to
submit to . . .
examination





Apply the balm



IME physician is
not in a treatment
relationship with
examinee



Physician
interacts
with the
“examinee”



BUT



IME is not
“treatment”



Not consensual



Examinee does
not select
physician



Examinee does
not pay
physician



Physician does
not report to
examinee



But ...



IME can **cross**
the line from
examination
to treatment



e.g. offers

recommendation



Summary of rules on formation of treatment relationship



INTERACTION

RELATIONSHIP

Provide care

Yes

Make
recommendation

Yes

Telephone call

Maybe

Formal consult
2d physician

Yes with both

Informal consult
2d physician

Not with 2d doc

IME

No

