TOP SEVEN THINGS TO DO AFTER AN ON-DUTY INJURY TO PROTECT YOURSELF AND YOUR CO-WORKERS

In these uncertain times when safety is being waived by the carriers, railroaders need to protect themselves and their fellow co-workers by knowing the steps to take after an on-duty injury. Railroad workers all over the country are anxious about safety right now, and rightfully so. The FRA has allowed the railroads to waive essential safety regulations while our nation continues to be plagued by COVID-19. Railroad workers are considered essential transportation personnel and are on the frontlines facing all these issues while trying to get home safely to their families at the end of the day.

Railroad workers universally are very concerned about what do when faced with an on-duty injury at work, especially now. At educational seminars which our firm hosts for railroaders all over the country, we always get the question: What is the most important thing for me to do immediately after an injury at work? The answer is that there are seven steps to protect yourself after an on-duty injury. These are the steps:

1. GET MEDICAL ATTENTION

Most important thing to do after an on-duty injury is to get medical treatment. Take an ambulance if you need to, but do not delay. It is important to go as soon as possible. Under federal whistleblower laws, the railroad is not allowed to deny or delay your medical treatment. If you ask for medical treatment, you get it!

Make sure you see your own doctor and remember that the railroad does not get to pick your doctor or make you see one of their "company" doctors.

You also do not have to get in the vehicle with your supervisor as the only means of getting to the hospital. You can bring yourself if you are able, have a friend or family member bring you, or take an ambulance. Many workers have relayed stories of getting in the vehicle with their supervisor thinking they were heading to the doctor only to be forced to give a recorded statement or asked to participate in a reenactment before going to the hospital. Do not let that happen to you or a co-worker. Remember, if you ask for medical treatment, there should be no delay by the railroad providing medical treatment!

2. GIVE A COMPLETE AND ACCURATE HISTORY TO YOUR DOCTORS

Make sure that while you are at the doctor, you give a complete and accurate history. This means that you tell your physician every part of your body that is hurting from your on-duty accident. Also tell them exactly what happened, and what you felt at the time of your accident i.e., my shoulder popped, or I felt shooting pains in my back.

This is not the time to be stoic about what hurts. If you are feeling pain in your neck, your shoulder hurts, and you have a headache, all your symptoms need to be reported. So many times, railroaders tell us that they did not want to seem like they were "whining" to their doctor. But what happens is if you only report your neck hurting, and not your shoulder, and it turns out that there is a medical issue with your shoulder, the railroad is going to argue that your shoulder pain and treatment is not related to your on-duty injury because you did not report it.

3. DON'T BE PRESSUED TO LET THE RAILROAD TALK TO YOUR DOCTOR

The railroad is not allowed to talk to your doctors. There is still a doctor // patient privilege even if you are hurt at work. Whether you are at the hospital, urgent care, or with your own physician, do not let your supervisors' pressure you into letting them speak with your doctors.

Many railroaders have told me the story of railroad supervisors and risk managers telling them that "we pay all the bills so we are just going to talk to the doctors and let them know we pay the bills and talk to them about the treatment you need." This is not allowed. You can very simply say that you are going back in the examining room by yourself and you can explain that the railroad will pay the medical bills.

If you are in the hospital, and you find yourself surrounded by management and the doctor comes in, ask everyone other than your family to leave or ask the physician to ask everyone to leave. This is another reason why it is very important to see your own doctor and not the company doctor so you don't find yourself in a situation where all of your supervisors are sitting in the room with you dictating to the doctor what kind of treatment that you need.

Finally, many doctors' offices also may think that they must speak with the railroad because you were hurt at work and this is "workers' comp." As a railroader,

you do not have workers comp and you can simply tell your doctors that the railroad does not have to "approve" treatment but that they simply pay the medical bills because it happened at work.

4. FILL OUT PERSONAL INJURY REPORT AS SOON AS POSSIBLE

All railroads will have a rule about when you need to fill out your personal injury report. Some railroads have a specific timeframe, such as immediately after an injury, or within 24 hours of being hurt. It is important to report your injury as soon as you can (verbally to supervisor if possible), and then fill out the injury report when you are capable to doing so.

If you are at the hospital or urgent care getting treatment, do not let your managers or supervisors' pressure you into filling it out. You need to be capable in body and mind to fill out the injury report. Remember, you have reported the injury – the railroad knows that you are hurt. Now they want the form filled out. You can simply say that you are going to do it as soon as you feel capable and that you do not feel comfortable filling it out while you are taking medicine or getting treatment.

Another trick to be aware of is a supervisor offering to fill it out for you and telling you that you can simply sign it. Again, this is not allowed, and you can wait until you are capable. Again, tell your supervisors you will fill it out and get it back to them as soon as possible. Make sure you keep a copy of your personal injury report once it is completed.

5. DO NOT GIVE A RECORDED STATEMENT

By law, you do not have to give a recorded statement to the railroad supervisor or risk manager. Let me repeat: YOU DO NOT HAVE TO GIVE A STATEMENT. There is going to be a bunch of questions that are just going to benefit the railroad's agenda and there is no benefit to you.

You also do not have to give a statement to get medical treatment. Once you ask for medical treatment, that is the first thing that the railroad must provide.

6. WRITE DOWN THE DETAILS OF YOUR ACCIDENT

Make sure to write down all the details of your accident when you can. After you get home from the hospital, or after you've seen your doctor, makes sure to write down the names and phone numbers of any crew you were working with at the time

of the accident, exact details of what happened, and exactly how you are feeling physically and/or mentally. Make sure to note any details about how management reacted and if you were denied medical treatment or it was delayed. It is important to get all of those facts on paper while it is fresh in your mind so if the railroad has a different version of events later on, you have exactly what you remember written down.

7. APPLY FOR YOUR BENEFITS

Finally, the last thing that you need to do after an on-duty injury is to make sure you apply for your railroad retirement board sickness benefits and any short-term disability benefits. If your doctor is telling you that you will be out of work for more than 30 days, it is best to apply for these benefits sooner rather than later. It takes some time for the process; it is important to get the forms needed for your doctors to fill out. Having your doctor fill out the form is going to take some time too, and you don't want to have a situation where you do not have income to protect you and your family to take care of your bills.

There are resources on our website if you have any questions about these important steps.

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