

MEETING WITH IRVING J. SELIKOFF  
THURSDAY - NOVEMBER 18, 1982

Dr. Selikoff and I reviewed the Du Pont Guidelines for Physicians sections which pertain to asbestos-related findings. He stated that using X-ray findings as the entry point was logical because most cases will show X-ray changes relatively early, even though some may have parenchymal disease without X-ray evidence. These latter cases will, however, have an increased risk of disease and usually show clubbing, rales, cyanosis, and dyspnea.

He generally agrees with our categories of Benign Asymptomatic Abnormalities, Benign Symptomatic Abnormalities, and Malignant Disease, because it keeps the categories in medical terms, not legal terms. He believes, however, there can be minimal parenchymal fibrosis and no true disability, hence there should be a category for this under Benign Asymptomatic Abnormalities. He says there is no asbestos-related condition of Exudative Pleural Thickening, but there is Excessive Pleural Thickening which can be fatal. The term "Exudative" should be changed to "Excessive." Cancers of the kidney and oropharynx should be added under the Malignant Disease category. All of these changes should be made on the next revision of the Guidelines.

We then discussed Du Pont's voluntary handling of cases of occupational asbestos-exposure abnormalities as shown on the attached flow chart. He agreed with our procedure and readily recognized where we would have trouble because of the imprecision in determining percent of disability. He asked if we would consider giving some dollar award even for 0% disability, as a show of good faith. I indicated it was not out of the question, but was unlikely because of the difficulty we would have in treating all employees fairly and equitably in the many different states and localities where we operate.

He is anxious to establish some criteria which can be used to ascribe percent of disability irrespective of where the person lives or works or which pulmonary disease specialist evaluates him or her. He has completed a study of 2,000 asbestos-exposed workers using the AMA criteria, the NIOSH criteria, and a double-pronged (leisure and work) 12-point criteria developed at Mt. Sinai, but doesn't yet have the data analysis completed.

DUP 0937094

We eventually got into a discussion of workers compensation and tort laws and I then explained the unique nature of Delaware law and the problems we are having. He readily recognized and understood the problem and indicated a willingness to help.

He has agreed to have our pending Delaware cases evaluated at Mt. Sinai and he will be involved with each case and his name will be associated with each. He was not firm on this, but indicated he generally will not testify, but someone from Mt. Sinai will. His stated reason for not testifying is that he does not want to have to answer questions such as "Should Du Pont have known sooner that asbestos was bad?, etc."

He believes there is a big need to establish criteria for determining the degree of disability from asbestos exposure and wishes to assign about 2+ people to work full time to review all current procedures on disability evaluation for pulmonary disease. The results can be used to set internal standards for himself and members of his staff and possibly for others.

His overall reaction to our request is yes, he will help us. He pointed out that our program will make other companies look bad. I responded we had considered that, but we had an obligation to do what was right and proper for our employees and, after all, some company had to be a leader.

The theme throughout our discussion was our desire to do what is right and proper for our employees and our wish that they recognize this and not feel we were showing poor faith.

We agreed to continue the discussion of the workers compensation issue of asbestos-exposed employees on Monday, November 22, at 9:00 a.m. with me, Du Pont workers compensation attorney (A. G. Burton), and Du Pont Assistant Medical Director (B. W. Culpepper, M.D.). I left a copy of the Du Pont Guidelines for Physicians sections for handling occupational injuries and illnesses and those for asbestos-related abnormalities, the flow sheet of our procedure for determining percent of disability and the appropriate compensation, and A. G. Burton's summary of Delaware workers compensation law for asbestos abnormalities. He is to give me suggestions on the Guidelines sections.

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BWK:ceb  
11/18/82

DU 038101

MEETING WITH I. J. SELIKOFF  
THURSDAY - NOVEMBER 18 - 9:30 A.M.

I. Introductory Remarks

A. Small Talk

1. Upcoming meeting - December 13-16
2. Dr. Hata - offer residency and tailor for his needs.

B. Success of Videotape

1. Within Du Pont
2. ORC physicians group - well received
3. We show, but don't release copy. AIA request.

II. Du Pont's Asbestos Victim Acknowledgment and Compensation Procedure

A. Intent - to acknowledge responsibility and appropriately and fairly compensate employees and former employees if there is reasonable probability we caused the condition.

B. Describe Various Stages

- Benign Asymptomatic - acknowledge, but not compensate
- Benign Symptomatic - acknowledge and compensate
- Malignant - acknowledge and compensate

C. Ask his opinion on our procedure

D. Discuss compensation Flow Chart and solicit opinion

III. Describe Problem Having with Compensation Laws, especially Delaware.

A. Ill-defined

B. Not use AMA Guide, but decision of lay members

C. Pyramiding Awards

D. Du Pont can't offer to Compensate Fairly Before Goes to Commission Because no Formula to use to Determine Appropriate Compensation

1. Creates employee relations problem. Employees know they can get more money from Commission than we offer if they can get right expert witness.
2. We want to offer compensation to which the employee, or former employee, is entitled without he or she having to go to Commission.

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IV. Request Dr. Selikoff's Help in Determining the Extent of the Disease and, if Possible, Appropriate Compensation For Delaware Employees

- A. Evaluate Each Delaware Case and Determine Extent of Disability
  - 1. Examine employee, or
  - 2. Review other consultant's report of an evaluation
- B. Advise us of Best Estimate of Appropriate Compensation
- C. Testify if goes to Commission, or
- D. Allow us to introduce his report into proceedings.
- E. Intent is not to deny employees fair and appropriate compensation, but to be able to offer it to them without need for adversary proceedings or being second-guessed.
- F. Disadvantages to him
  - 1. Dr. Daum

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