

## Decision of the Appeal Division

**Number:** 92-0601  
**Date:** April 1, 1992  
**Panel:** Cassandra Kobayashi  
**Subject:** Varicose Veins

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The worker was a registered nurse at the hospital where she had been employed for almost eight years when she was diagnosed as having varicose veins in both legs. A decision letter dated January 10, 1990, denied her claim saying the varicose veins did not arise out of and during the course of her employment and that there was no specific incident or personal injury involved. In findings dated October 18, 1990 the Review Board denied the worker's appeal.

The issue is whether the worker's bilateral varicose veins arose out of and in the course of her employment as a registered nurse.

At the time of the onset of symptoms, the worker was 37 years old. She weighed 147 lbs. and stood five feet eight inches tall. The worker had saphenofemoral ligation and a compression sclerotherapy on November 24, 1989. She returned to work a few days later. According to the written submission from the worker's union representative, the worker is seeking wage-loss benefits for four shifts from November 27 to November 30, 1989, medical aid, and reimbursement for the opinion letter from Dr. R, vascular and trauma surgery.

The Review Board found the worker works a full-time rotation of 12-hour shifts on a ward caring primarily for sick children and infants. The representative submitted that the job on the paediatrics ward involved extensive standing in a stationary position to restrain children for lumbar punctures, to start intravenous infusions, to feed babies in their isolettes, to hold inhalation masks on babies, to administer medication, to feed sick older children, to administer chest physio, and to perform other treatments.

Dr. R wrote on his first report dated December 18, 1989, that long-term standing in nursing "caused exacerbation of venous disease." He included as her relevant past history a family history of varicose veins and that she had borne one child. In an attached letter to the Workers' Compensation Board dated November 16, 1989, Dr. R said the worker had developed varicose veins over the years. He recommended

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bilateral compression stockings and surgery. He also recommended she avoid standing for long periods and said “varicose veins are exacerbated by occupations which require long-term standing. However I feel that her problem should be adequately controlled with the therapy I am offering.”

The claims adjudicator obtained an opinion from the Board medical advisor who felt the worker had an inherent problem with her veins and would have developed the varicose veins in whatever profession she had chosen to work. The medical advisor said a family history of varicose veins is common and there are many other pre-disposing factors including “congenital arteriovenous fistulas, increased hydrostatic pressure by hormonal changes during early pregnancy, pressure in the pelvic veins of later pregnancy, abdominal tumors or ascites [accumulation of fluid in the abdominal cavity].”

The Board medical advisor concluded,

I do not feel that in this particular case that the medical condition outlined by Dr. R in his consultation report dated November 16, 1989 is related to the worker’s employment activity. There is no specific incident or personal injury. There is no indication of disability through this period of time. She has a family history of varicose veins and is para I [had one child]. Conditions which pre-dispose to varicose veins.

At the Review Board, the worker’s union representative submitted an opinion letter from Dr. R dated June 22, 1990. Dr. R explains that varicose veins develop from abnormally high pressure within the venous system of the leg. He says that when a person walks, the action of the leg muscles compresses the superficial and deep veins which propels blood towards the heart, and this “muscle pump” is the only mechanism to return blood to the heart. Dr. R acknowledges that primary varicose veins do tend to have a familial tendency and are present in some women after childbirth. However, he adds,

Most experts agree that primary varicose veins occur more frequently in, and are exacerbated by, those occupations which require long periods of standing. Standing is detrimental because disuse of the leg muscles (and the action of the muscle pump) leads to higher venous pressures even in normal individuals, and this may play a role in producing the incompetence of the venous valves.

Dr. R also addresses other possible causes of increased venous pressure as noted by the Board medical advisor. Dr. R was of the opinion that these are rare causes of varicose veins and are not present in the worker’s case.

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Dr. R also addressed the gradual onset of symptoms and absence of a precipitating accident. He explains that primary varicose veins usually develop over time and generally appear after the second decade of life. He says it would be the norm rather than the exception that these symptoms would develop over a period of time.

Finally Dr. R addresses the question of whether the worker would have developed varicose veins whatever her occupation. Dr. R says,

While there often is a tendency to produce varicose veins within families, suggesting an inherent component, most experts agree that varicose veins occur more frequently with standing occupations. I am impressed at the number of store clerks and hair dressers that I see in my practice whose only risk factor was that of a standing occupation. I do not believe that anyone can be completely certain as to the contribution of both the inherent versus the occupational component of varicose veins. While the worker has a family history of varicose veins, I think that it is very likely that at least her varicose veins were exacerbated by a standing occupation and at worse the occupation itself may have contributed to their development.

Board policy is to accept claims where the need for treatment was accelerated by the compensable injury “even where it would likely have been required at some point in the future in any event,” item #22.12 of the *Rehabilitation Services and Claims Manual* (the *Manual*).

There is no doubt that a family history of disease may indicate a genetic propensity for developing a disease, or it may reflect similar lifestyles. I do not have information as to the occupations of the worker’s affected family members.

As stated by Professor Terence G. Ison, in his text, *Workers’ Compensation in Canada*, 2nd edition, at page 59,

If a worker is vulnerable to injury because of a weakness of body structure and is injured in an occupational accident, it is not relevant that a hardier individual would have withstood the impact without injury. Similarly, in a disease case, it is not bar to a claim that the particular worker was unusually susceptible.

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This rationale is incorporated in the governors' policy in item #22.20 of the *Manual* which provides,

Where a worker has a pre-existing non-compensable condition which is aggravated and rendered disabling by a work injury, the Board does not deny a claim for compensation just because the injury would have caused no significant problems if there had been no pre-existing condition. The Board accepts that it was the injury that rendered that condition disabling and pays compensation accordingly.

This case turns on the causative significance of the worker's occupation, her family history, and other factors such as pregnancy. In weighing the conflicting medical evidence, I am guided by the governors' policy in item #97.34 of the *Manual*.

In this case, I am satisfied that although the worker had both a family history and a previous pregnancy, her work as a registered nurse contributed to the acceleration of the venous insufficiency to the point where surgery was required. I note that the pregnancy was ten years before the onset of symptoms, and there is no evidence of varicose veins developing at that time. I am satisfied that Dr. R has considered the relative role of the worker's pregnancy as he does acknowledge that varicose veins "are present in some women after child-birth." The fact that some workers who have borne children will develop a disability from non-compensable causes does not disentitle all mothers to compensation. As required by Section 99 of the *Workers Compensation Act*, each decision must be made according to the merits and justice of the case.

I also find it significant that Dr. R had the opportunity to examine the worker, perform the surgery, and take a detailed medical history whereas the Board medical advisor did not. I find the other pre-disposing factors which could have caused or contributed to venous insufficiency are not present in this case. While I agree with the Board medical advisor that this worker may well have had an inherent tendency to develop varicose veins, I find the medical evidence is convincing that her work as a registered nurse was causally significant.

The worker is entitled to wage loss, medical aid, and reimbursement for Dr. R's opinion letter.

THE APPEAL IS ALLOWED.

*Editors' note: This decision has been edited for publication.*