



Précis Paper

Returning Injured Parties to the Workplace

A discussion on the role of occupational physicians and their expertise in conducting medicolegal assessments for work ability.

Discussion Includes

- What is an Occupational Physician?
- The use of Occupational Physicians by law firms
- Specialists in the field vs Occupational Physicians
- How are assessments undertaken?
- Impairment vs Disability
- Capacity, Tolerance and Risk
- Causality

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Returning Injured Parties to the Workplace

1. In this edition of BenchTV, Hanna Barclay (Business Relationship Manager, eReports, Melbourne) and Dr Reza Sabetghadam (Occupational Physician, eReports, Sydney) discuss the role of occupational physicians and their expertise in conducting medicolegal assessments for work ability.

What is an Occupational Physician?

2. An occupational physician is a specialist in the medical field who deals with the impact of work on health and the impact of health on work.
3. Occupational Physicians are Members of the Royal Australian College of Physicians (RACP).
4. They must have basic training as a physician or as a general practitioner, subsequently obtain a Masters degree in Occupational Health and Safety.
5. **Following this, the physician must undergo** extensive training in a fellowship program, working in different locations and industries under the supervision of a consultant.
6. **After the training is complete**, the physician will take a series of examinations and a research project. This then qualifies the physician as a consultant fellow of in the faculty of Occupational and Environmental Medicine and to practice as an Occupational Physician.

The use of Occupational Physicians by law firms

7. Occupational Physician consultants are the best medical experts in the medicolegal area to provide opinion about disability and impairment to work ability and causality.
8. It is important that the legal community has knowledge about occupational medicine, what occupational physicians can offer and how they assess an impaired person.
9. The referral process of a patient to an occupational physician is similar to the referral process to other specialist doctors in the field undertaken by legal personnel for the assessment of patients in the area of independent medical examination or impairment assessment.

Specialists in the field vs Occupational Physicians

10. Disability medicine or specialist medicine requires a specific sets of skills and the application of a specific set of knowledge.
11. However, there are multiple levels involved in the medical examination of a patient in regard to a medical-legal matter, one such level being causality and another being work ability.
12. This multi-level assessment, combined with the necessity for the extensive history taking of a patient, requires a different skillset from a specialist physician in the field.

How are assessments undertaken?

13. An occupational physician will usually start with an extensive history taking of the patient, including the patient's medical, occupational and psychosocial history.
14. Thereafter, a comprehensive examination will follow.
15. The comprehensive history taking of the patient requires a specific skillset in which occupational physicians are trained.
16. In respect of the medico-legal field everything, including causality and the psychosocial reinforcers of pain and the disability perception of a patient, can be extracted from succinct history taking.
17. As a result of this comprehensive history taking, the occupational physician is able to provide better recommendations and examinations of work ability.

Impairment vs Disability

18. Impairment, is a loss of function or ability of a body part, physiologically, psychologically or anatomically.
19. Disability is the effect of that loss on a person's day to day activity.
20. Disability may be different in different people with different mindsets as disability is largely the product of psychosocial factors and pain perception.

Capacity, Tolerance and Risk

21. In terms of workability and return to work assessments, there are three related but different concepts; risk, capacity and tolerance.
22. Whilst these three concepts are different, these concepts are often used interchanably by the majority of treating practitioners, surgeons and general practitioners.
23. Risk is the ability of a person to perform his or her job without posing a risk on his or her own health and safety, their colleagues health and safety or the public's health and safety.
24. When providing job capacity as an occupational physician, they always look at the risk factor first and if there is a risk, the physician must determine the restrictions to be imposed, proportionate to the risk that the activity poses.
25. Capacity is the ability of the work based on the joint movements, strength, flexibility and endurance. This is different for different individuals.
26. Tolerance is the ability of the worker to work in their occupation and tolerate the symptoms of their impairment.
27. Tolerance has a number of elements and is subjective. It is variable on a day to day basis and is reinforced by psychosocial factors. For example, on a good day a patient may have high tolerance and on a bad day, the same patient may have low tolerance.
28. One of the main problems with medical legal reports is that often, specialists are unable to differentiate between restrictions for risks and limitations for capacity and often do not address tolerance at all.

29. Tolerance represents the patient's choice and as such, there is no scientific measurement for tolerance.
30. Tolerance could be reinforced by psychosocial factors which may include work satisfaction, work stressors or psychosocial stressors at home.
31. In taking an occupational and medical history, physicians can extract the psychosocial factors relevant to the patient.

Causality

32. The Sir Bradford Hill criteria is used for medical causality.
33. It is important to note that medical causality is completely different from legal causality.
34. Medical causality is developed based on scientific research and observation. Medical causality relates to medical conditions determined as a result of multifactorial contributions.
35. Legal causality establishes that a harmful act was the cause of an unwanted event.
36. The Bradford Hill criteria was developed by Sir Bradford Hill to scientifically draw causality about a medical condition.
37. There are lists of criteria which start from specificity, consistency, biological plausibility, temporal relationship etc.
38. When cause and effect is examined in medicine, it is important to first look at the mechanism which initially explains the biological plausibility. For example is there valid scientific evidence to show that typing is the cause of the condition complained of.
39. If the criteria of Bradford Hill are not met, a physician cannot say with a high level of medical probability that the condition is work related.
40. It is important for a physician to establish a patient's past medical history, occupational history, psychosocial history and mechanism of injury.
41. Independent medical examinations and causality definition is a collaboration of lawyer and medical professional and despite differences of causality medical professionals and lawyers should have a good understanding of how each other establishes causality.
42. Due to the occupation physician specialist's familiarity with the legal framework and legal system, physicians and lawyers can work collaboratively to draw a better conclusion in relation to causation.

BIOGRAPHY

Hanna Barclay

Business Relationship Manager, eReports - Melbourne

Hanna Barclay is the Business Relationship Manager at eReports with years of experience in personal injury law, disability insurance and workers' compensation. Hanna is working closely with industry leaders and peak bodies to provide customised solutions to personal injury sectors. Hanna is focused on partnering with stakeholders to understand their unique needs and is driven to exceed expectations.

Dr Reza Sabetghadam

Occupational Physician, eReports - Sydney

Dr Sabetghadam (known as Dr Reza) is an Occupational Physician specialized in the field of occupational medicine focusing on prevention, identification, management and treatment of health conditions and rehabilitation programs specific to the workplace. Dr Reza can consider potential impacts and challenges in returning injured parties to the workplace, recommending adaptations to enhance the success of a return to work effort, interpreting functional capacity and vocational assessments and their validity in contemplating suitable or modified duties, reviewing occupational and safety measures, reviewing systemic processes in the workplace that may be contributing to risk of injury.

BIBLIOGRAPHY

Focus Case

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Benchmark Link

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Judgment Link

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Cases

Forfeiture Act 1995 (NSW). These case were *Public Trustee v Fitter* [2005] NSWSC 1188; *Guler v NSW Trustee and Guardian* [2012] NSWSC 1369; *Hill v Hill* [2013] NSWSC 524; 11 ASTLR 121; *Estate of Raul Novosadek* [2016] NSWSC 554.

X v A

Y v B

Z v C

Legislation

Xyz

