

**Defining Earning Capacity: A Process Paradigm**

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*Abstract.* Though earning capacity is the usual standard in defining lost earnings, the courts do not always allow it. Distinguishing earning capacity from expected and actual earnings may create unduly limited categories of thought that detract from insightful perception of the issue. This article proposes a process model for considering earning capacity. It differs from traditional models by forsaking common definitions, and, by focusing on the process, allows the earning capacity of a particular individual to emerge.

**Comparisons of Pre-Injury Characteristics of Injured Workers Across Levels of Post-Injury Occupational Congruence: Potential Applications for Transferable Skills Analysis**

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*Abstract.* The purpose of this study was the identification of significant differences in vocational traits and personal and rehabilitation case management characteristics among injured workers of varying occupational congruency between post-injury and pre-injury employment. Thirty-nine variables were considered, one of which (temperamental capacity for working with people) differed significantly among levels of occupational congruency. Twelve other variables were found to approach statistical significance, most of which related to personal characteristics or vocational traits related to communication skills or ability to work with people, and may have some practical utility. The results of the study are discussed in relation to vocational assessment procedures. An agenda for future research endeavors is also discussed.

**Pediatric Earning Capacity: Developing a Defensible Estimate of Pre-morbid Earnings**

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*Abstract.* The Supreme Court made a land mark decision that has changed how experts are identified and what evidence will be admitted. The changes have caused vocational experts to have a greater understanding of the research regarding estimating the pre-morbid earning capacity of children who suffer catastrophic conditions. The body of research in the area of labor economics and sociology is reviewed and discussed. Both disciplines arrive at comparable estimates of the predictive value of the parents' level of occupational obtainment, educational level of obtainment, and earnings to their children's. Absent other information useful in making the estimation due to the early age of the onset of the disabling condition, pre-morbid earnings capacity is best predicted by parents' level of earnings, and/or parents' level of educational obtainment.

**Predicting Wage Earning Capacity in Litigated Personal Injury Cases**

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*Abstract.* A study was conducted on 75 subjects involved in personal injury litigation, through a review of closed files in a private vocational rehabilitation practice. The purpose of this study was to determine the predictive relationship between age, education, pre-injury hourly wage, skill level, exertion level, physical restrictions, time since injury, number of previous injuries, intelligence, letter/word recognition, reading passage comprehension, arithmetic calculation, arithmetic applied problem solving, the number of job search efforts, and wage earning capacity. A principal component analysis was conducted to reduce the variables resulting in loading on four factors. A varimax rotation of the factors revealed six variables heavily loading on Factor 1, which is educational achievement. These variables included education,

intelligence, letter/ word identification, passage comprehension, arithmetic calculation, and arithmetic applied problem solving. A step-wise regression analysis was conducted, which included only Factor 1 in the equation model. The conclusion is that educational achievement is correlated with wage earning capacity both pre- and post-injury, and can be used in a predictive model.

### **The Vocational Expert and Educational Competencies**

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*Abstract.* Rehabilitation practitioners who function as vocational experts (VEs) in the legal arena share a common but diverse educational experience in the human services ranging from graduate education in rehabilitation counseling, social work, psychology to that of nursing and medicine. Ethical practice in this emerging occupational specialty has been influenced by multiple codes of ethics and has, as well, been constrained by the delayed development of a shared or common educational or training experience for those who desire to practice in this arena. The American Board of Vocational Experts (ABVE) is called upon to champion the design and development of a distinct educational experience that imparts the skills of vocationology with the goal of standardizing the process of providing expert testimony or opinions. Similarly, the ABVE is called upon to update and revise its Statement of Professional Standards (code of ethics) to recognize, in particular, the effects of the Daubert decision.

### **Ethical Dilemmas and the Vocational Expert: Pathways to Resolution**

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*Abstract.* Vocational experts are often asked to provide an opinion on employability and earnings capacity in a variety of legal settings. Qualifying as an expert requires training, experience, and proper credentials. As significant as these criteria are in establishing oneself as an expert, adherence to ethical standards also plays a major role in maintaining credibility. Experts are bound by a code of ethics that serve as a guideline during marketing, referral, assessment, and testimony phases of a case. Often however, ethical lines become blurred during the course of an expert's involvement in a case. This article identifies common ethical dilemmas in the work of a vocational expert, asserts the need to maintain ethical standards, and suggests possible methods for responding ethically.