

Evaluating Workers' Compensation Claims for Permanent and Total Disability in California: A Vocational Rehabilitation Methodology

Eugene E. Van de Bittner, Ph.D.

Abstract . For many years, vocational experts have been retained to provide opinions regarding the level of an applicant's permanent disability. This article addresses the development of opinions by vocational experts for use in establishing permanent disability ratings for workers' compensation claims in California. The services of vocational experts are needed increasingly in the California workers' compensation system. However, there is no established methodology for conducting a vocational rehabilitation evaluation to assist the parties in determining the level of permanent disability for individuals with serious disabilities in this particular setting. An evaluation methodology is proposed in this article to address this need a lot from litigated cases. A general outline of suggested topics and issues can be included.

Evaluating Workers' Compensation Claims for Permanent and Total Disability in Washington State: A Forensic Vocational Rehabilitation Methodology

John F. Berg, M.Ed., CRC

Abstract . Since the 1970's, vocational expert opinion has been relied upon significantly for permanent and total disability determinations by the Board of Industrial Insurance Appeals (BOIIA) in Washington State. The "Board," as it is known, is a remedy available to injured workers for benefit appeals including permanent total disability. This appeal precedes Superior Court, Court of Appeals, or Supreme Court appeal opportunities. This article addresses historical trends and methods used in Washington State appeals by vocational experts. This article considers a methodology to standardize assessments by VEs for pension appeals in workers' compensation cases. The last decade has seen increasing reliance on vocational experts in Board appeals. The Board is required by the legislature to publish "significant decisions," which provide case law findings to concerned parties (<http://www.wa.gov/biia/ptd.htm>). However, Washington State has no standardized methodology of preparing a case for Board consideration involving vocational testimony. This article proposes an evaluation method for consideration.

Role and Functions of the Vocational Expert in Workers' Compensation in Arizona

Gretchen Bakkenson, MA, CRC, CLCP

Abstract . Vocational experts involved in the litigation of Arizona Workers' Compensation claims assist with the determination of an employee's loss of earning capacity (LEC) during periods of permanent partial disability and temporary partial disability. The vocational expert with rehabilitation experience will also be called upon to assess the impact of pre-existing conditions upon earning capacity. These issues and others have been defined by statute and case law, and continue to evolve the standard of practice and methodology the vocational expert utilizes to provide their opinion. This article will address these issues and provide examples of assessment. The purpose of this article is to review the role and function of the vocational expert in workers' compensation in Arizona. These individuals are known by a number of job titles, such as, forensic labor market consultant, vocational expert, vocational rehabilitation consultant and variations of these themes. These individuals assist the claims representatives, attorneys, and administrative law judges with a number of different issues within the Arizona Workers' Compensation system. The vocational expert is most often asked to determine an individual's LEC upon reaching "maximum medical improvement" or "permanent and stationary" status. Similarly, the vocational expert will be asked to determine an injured worker's employability given a period of temporary partial disability" or light-duty release. The vocational expert will be utilized to determine if an individual's prior non-industrial injury or out of state industrial injury resulted in an earning capacity

disability at the time of the Arizona industrial injury. This determination is necessary if a party wishes to unschedule a scheduled impairment. The difference between an unscheduled impairment versus a scheduled impairment will also be discussed. This same type of analysis is necessary when assisting the carrier with apportionment through the Special Fund of the Industrial Commission of Arizona. Occasionally, a vocational expert will be asked to analyze earnings to determine an Average Monthly Wage (AMW), or to perform a Job Analysis to determine if an injured worker with a scheduled impairment can return to the date of injury employment. Legislation and case law have created the construct within which the vocational operates.

Workers' Compensation In Nebraska: An Examination of the Rehabilitation Counselor's Role and How the ABVE Mentoring Program May Improve Services

Barton W. Hultine, Ed.D.

Abstract . Nebraska Workers' Compensation Legislation stipulates that Vocational Rehabilitation Services in Worker's Compensation be provided by persons who have achieved the status of a Nebraska Vocational Rehabilitation Counselor (NVRC), with the Nebraska Workers' Compensation Court. A NVRC is not only entitled to perform rehabilitation planning, but is also certified to perform Loss of Earning Capacity (LOEC), studies. The Court has struggled to refine this process to maximize the efforts of vocational rehabilitation training and employment assistance opportunities throughout the history of the Court, and is currently struggling with inconsistencies in LOEC reports and rehabilitation planning. This article outlines the current process and legislation in determining Loss of Earning Capacity and rehabilitation planning. The article also discusses some of the current legislative planning that attempts to further define and improve the vocational rehabilitation process.

The Use of Vocational Experts by the Ohio Industrial Commission: Building a Better Employability Assessment

Craig Johnston, MRC and Bruce Growick, Ph.D.

Abstract . Under workers' compensation law in Ohio, individuals who sustain impairment during the course of their employment that is so severe that they are incapable of engaging in any work in the national labor market are eligible to file for permanent total disability. As a part of this application process, physical and psychological specialists must evaluate these individuals, and their files are subsequently referred to employability assessors. These vocational experts are retained to offer an impartial opinion on a claimant's ability to engage in sustained remunerative employment due to an industrial injury, specifically addressing the impact of non-medical factors on work potential. This article examines case law, which has shaped permanent total disability in workers' compensation in Ohio, examines the inadequacies of the current report format, and offers recommendations for improving the reports.

The Role and Functions of Vocational Experts in Workers' Compensation in Florida

Ronald J. Spitznagel, Ed.D., CVE, CRC

Abstract. Workers' compensation cases very easily become adversarial. The introduction of experts who are to be objective and non-biased toward either side is becoming common in many states. In Florida the vocational expert can be any individual who is so recognized by the court. However, Florida Statutes determined that only a certified vocational evaluator could provide a vocational evaluation (training/education) through the Division of Workers' Compensation. The three options where a vocational expert could be used would be well within the training of a certified vocational evaluator considering the various tasks that a vocational expert is shown to do especially in a vocational

evaluation..