

### **Combining Medical and Vocational Evidence to Achieve Accurate Permanent Disability Ratings under *Ogilvie* in Workers' Compensation Cases in California**

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**Abstract:** The California Workers' Compensation Appeals Board (WCAB) ruled in *Ogilvie I* (2009, February 3) and *Ogilvie II* (2009, September 3) that the future earning capacity (FEC) component of the 2005 *Schedule for Rating Permanent Disabilities* (California Division of Workers' Compensation, 2005) can be rebutted through the application of a prescribed formula. While under appeal, this decision represents current California law. Subsequent panel (non-binding) decisions by the WCAB have ordered a consideration of *Montana* (1962) factors. A vocational evaluation is necessary to address many of these factors. A step-by-step methodology is described that combines medical impairments with occupational and wage data consistent with the prescribed *Ogilvie* formula and the *Montana* factors. Issues related to 100% claims, non-industrial factors, and payment of DFEC expert fees are also addressed.

### **Evidence-Based Vocational Analysis: A Solution to the "Soft Science" Problem**

*Steven S. Ehlert and John Berg*

**Abstract:** In the post *Daubert* era, there has been much concern about the admissibility of vocational analysis that relies on "soft science." Soft science, though, can be fortified with hard facts. Closely examining the evidence provides the vocational expert with those facts. Evidence-based vocational analysis is a methodology for evaluating the impact of injuries on the ability of an individual to work and earn a living. Evidence is gathered through systematic review of records, testing, and observation of the individual in his or her environment. These data are critically examined to determine correlations between medical evidence, vocational tests and measurements, and external behavioral evidence. Scientific skepticism must be observed in order that a methodical and logical analysis can be made of the objective evidence.

### **Life Care Planning in Individuals with Monocular Vision: Vocational and Future Care Considerations**

*Staci Schonbrun, Jane Erin and Charlene M. Kampfe*

**Abstract:** The individual component is critical in evaluating the vocational impact of individuals with monocular vision and loss of earning capacity. The issue of vocational loss can range from no loss of earning capacity to total loss of earning capacity. Individuals with monocular vision will likely incur future health care costs related to their visual impairment. This may include future medical care, evaluations, supplies, aids for independent function, and diagnostic care. The vocational professional and life care planner need to have an awareness of areas of general concerns and considerations for individuals with monocular vision in preparing their evaluations.