

Volume 7, Number 2 December 2004 Special Issue: The Use of Functional Capacity Evaluations in Vocational Forensics

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Introduction to Special Issue

In the Spring of 2003, at the invitation of editors Bruce Growick and Craig Johnston, we agreed to produce a special issue of the Journal of Forensic Vocational Analysis devoted to the education and training of Vocational Experts. The goal of this issue was to identify sources and issues for education and training in forensic rehabilitation. Authors have had the opportunity to share their knowledge, research, expertise and experience with other Vocational Experts. Proposals were reviewed and selected based on their contribution to the field. The review criteria were overall quality, relevance, practical application, and originality and timeliness of the proposal.

The first manuscript was co-authored by your guest editors, and evaluates the responses to a survey requesting opinions of practicing Vocational Experts in Social Security. It reports the results in terms of the knowledge and skills needed by Vocational Experts. Suggestions to incorporate information on VE testimony within rehabilitation counselor education programs are outlined.

The second manuscript was written by Timothy N. Tansey and Julie F. Smart, both of Utah State University. It is an examination of the Council on Rehabilitation Education (CORE) development of new curricula for programs offering graduate training in rehabilitation counseling. The revised curricula provide guidelines for preparing students for careers in forensic rehabilitation. This article is a review of current CORE standards and the specific curricula areas for competencies required by vocational experts. Also provided is a methodology for implementing modifications to existing coursework, which will allow for greater exposure to principles of vocational forensics. The suggested modifications provide infusion across the rehabilitation curriculum, relying on alterations in existing coursework and, in addition, the development of coursework specific to forensic rehabilitation. Finally, the authors address considerations on why "forensic-friendly" coursework may not be widely developed.

The third article was written by Irmo Marini, Amber Feist, and Eva Miller, all of the University of Texas-Pan American. It explores the changing demographics of beneficiaries, citing increases in those diagnosed with mental disorders, obesity complications, non-English speaking applicants, and those living in poverty. . Also discussed is the Social Security Administration policies and procedures in relying upon medical and psychological experts that directly impact vocational expert testimony. Procedural implications concerning the datedness of the Social Security Grid Rules and the Dictionary of Occupational Titles is also presented as well as current administrative problems in conducting Continuing Disability Reviews.

A related piece by Chandra Donnell (The University of Memphis), Silvio Reyes (Southern Illinois University), Pamela Cogdal (The University of Memphis), and Dion Porter (Jackson State University) discusses and compares educational standards for rehabilitation counselor trainees and the recommended competencies and standards for practicing vocational experts. A comparison of both sets of standards identifies training strengths and needs for rehabilitation counselors seeking to become effective vocational experts.

Judi Drew and Bruce Growick, both of The Ohio State University, present a paper on the early role of vocational experts in determining disability for the Social Security Administration, and then discuss ways in which this role can be expanded. Vocational experts must understand the impact that age, education, residual functional capacity, and transferable skills have on the employment of people with disabilities. This expertise is crucial to the disability determination process in Social Security. However, vocational

experts can be used to improve not only the accuracy and consistency of the decision-making process for eligibility, but also increase the number of SSA beneficiaries who can return to work.

The last manuscript was written by Joseph Havranek. It is a description of an elective course designed to train students in forensic rehabilitation.

We are excited about bringing this information together on vocational forensics. The field of vocational forensics will surely be enhanced when the need for training and education are addressed. It is our hope that the information presented will be of special use to you in your everyday work. Our special thanks go to all of the authors who shared our vision for this Special Issue of the journal.

Joseph E. Havranek & Martin G. Brodwin
Guest Editors, Journal of Forensic Vocational Analysis

Incorporating Expertise in Social Security Vocational Expert Testimony into University Curricula

Joseph E. Havranek, Ed.D. Bowling Green State University
Martin G. Brodwin, Ph.D., California State University

Abstract. This article evaluates the responses to a survey requesting opinions of currently practicing Vocational Experts in Social Security. It reports the results in terms of knowledge and skills needed by Vocational Experts. Suggestions to incorporate information on VE testimony within rehabilitation counselor education programs are outlined.

Training in Forensic Rehabilitation by Graduate Rehabilitation Counselor Education Programs

Timothy N. Tansey, Utah State University
Julie F. Smart, Utah State University

Abstract. In 2003, the Council on Rehabilitation Education (CORE) developed new curricula requirements for programs offering graduate training in rehabilitation counseling. The revised curricula, although not specifically intended to train students as vocational experts, does provide guidelines for preparing students for careers in forensic rehabilitation. This article is a review of current CORE standards and the specific curricula areas, which train competencies required by vocational experts. Also provided is a methodology for implementing modifications to existing coursework, which, while maintaining CORE requirements, will allow for greater exposure to principles of forensic vocational evaluation. The suggested modifications provide infusion across the rehabilitation curriculum, relying on alterations in existing coursework and, in addition, the development of coursework specific to forensic rehabilitation. Finally, the authors address considerations as to why the development of "forensic-friendly" coursework may not be a widely adopted practice, even with the range of feasible modifications.

Vocational Expert Testimony for the Social Security Administration: How Beneficiaries, Related Experts and the Process has Changed

Irmo Marini, University of Texas-Pan American
Amber Feist, University of Texas-Pan American
Eva Miller, University of Texas-Pan American

Abstract. With the Social Security Administration beneficiary rolls currently approaching 51 million, and new benefit awards exceeding 4.3 million claimants in 2002 alone, the Social Security Trust Fund is expected to run deficits by 2031. This paper explores the changing demographics of beneficiaries, citing increases in those diagnosed with mental disorders, obesity complications, non-English speaking applicants, and those living in poverty. Also discussed is the Social Security Administration policies and procedures in relying upon medical and psychological experts that directly impact vocational expert

testimony. Procedural implications concerning the datedness of the Social Security Grid Rules and the Dictionary of Occupational Titles is also presented as well as current administrative problems in conducting Continuing Disability Reviews.

Examining Rehabilitation Counselor Preparedness as Vocational Experts

Chandra M. Donnell, The University of Memphis

Silvio Sean Reyes, Southern Illinois University

Pamela Cogdal, The University of Memphis

Dion F. Porter, Jackson State University

Abstract. Approximately a decade has passed since the role and function or knowledge level and training needs of rehabilitation counselors has been examined (Leahy, Szymanski & Linkowski, 1993; Leahy, Chan, & Saunders, 2003; Szymanski, Leahy & Linkowski, 1993; Szymanski, Linkowski, Leahy, Diamond, Thoreson, 1993). More recently, substantial research of competencies and standards for vocational experts has occurred as well (Weed, 2000; Sleister, 2000; Martin & Sinsabaugh, 2001). However, it appears as though a comprehensive review of the "match" between rehabilitation counselor training and vocational expert witness standards has yet to occur. This article discusses and compares educational standards for rehabilitation counselor trainees and the recommended competencies and standards for practicing vocational experts. A comparison of both sets of standards will identify training strengths and needs for rehabilitation counselors seeking to become effective vocational experts.

The Role of Vocational Experts in Determining Disability in Social Security in the 21st Century

Judith L. Drew, MA, CRC, The Ohio State University

Dr. Bruce Growick, Ph.D., The Ohio State University

Abstract. This paper will present the early role of vocational experts in determining disability for the Social Security Administration, and then discuss ways in which this role can be expanded. Vocational experts must understand the impact that age, education, residual functional capacity, and transferable skills have on the employment of people with disabilities. This expertise is crucial to the disability determination process in Social Security. However, vocational experts can be used to improve not only the accuracy and consistency of the decision-making process for eligibility, but also increase the number of SSA beneficiaries who can return to work.

A Model Course for Training in Forensic Rehabilitation

Joseph E. Havranek, Bowling Green State University

Abstract. An approach to education for rehabilitation counselors who aspire to serve in forensic rehabilitation has been developed. It is a post-master's course in forensic rehabilitation. This article is a brief description of such a course intended to facilitate others' efforts to achieve similar courses of study.

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Forensic Vocational Analysis and Testimony for Permanent Disability Claims In State Workers' Compensation

Gene Van de Bittner, Guest Editor

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.

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

John F. Berg, M.Ed.

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 Function of the Vocational Expert in Workers' Compensation in Arizona

Gretchen Bakkenson, MA

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.

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
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.
L. Stuart Cody, MHS

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.