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Critical Language of Vocational Disability Evaluation and Earning Power Assessments

Nothing is more usual than for philosophers to encroach on the province of grammarians, and to engage in disputes of words, while they imagine they are handling controversies of the deepest importance and concern.

David Hume

Those assigned with the responsibility of evaluating the occupational disability and vocational potentials of individuals who have sustained trauma and acquired impairment must have a common language or an agreement of terminology in order to effectively communicate analyses and opinions. Only with standard, specifically defined terms can a vocational expert reliably state his/her argument for whether a set of health circumstances creates a reproducible outcome, such as disability or employability. Indeed, these first two statements are filled with jargon that a layperson may struggle to understand. In this article, we introduce (then visit and revisit) terminology that allows vocational experts to present findings and opinions regarding the occupational disability, employability, and earning capacity of an individual who has become medically impaired as a result of trauma.

People arrive at the occupational disability evaluation process most often following **trauma**. The term trauma originates from the Greek word, *titroskein*, meaning “to wound.” Physical trauma can occur in many ways, including slip-and-fall accidents, motor vehicle collisions, work-related incidents, physical assaults (e.g., shootings and stabbings), and even surgeries. The effect of trauma on individuals is variable, and mild physical trauma does not always cause damage. For example, striking one's elbow on the arm of the chair (i.e., hitting the “funnybone”) is a mild form of trauma that does not necessarily cause damage to the organism, and if the damage is not in the form of physical or anatomic change, no impairment occurs.

Trauma can be the result of a single event or repetitive exposures to the same or

similar environmental forces. Although a single industrial explosion can cause trauma, so can repetitive exposures to the same insult. Repetitive trauma at work, such as constantly using hand and wrist force to scrape old paint from metal, has been thought to cause carpal tunnel syndrome.

Moreover, trauma can have mental or psychological consequences. The American Psychological Association's *Dictionary of Psychology* defines trauma as a “physical injury or event in which a person witnesses or experiences a threat to his or her own life or physical safety or that of others and, as a consequence, also experiences fear, terror, or helplessness.”

As with physical or mental trauma, **impairment** may be temporary or permanent. Impairment is defined by the American Medical Association as “a significant deviation, loss, or loss of use of any body structure or body function in an individual with a health condition, disorder, or disease.” Even this definition, however, lacks application to mental disorders. Nonetheless, impairment may be thought of as “what is wrong with” the individual, a change in the organism's anatomy and/or physiology.

The World Health Organization (WHO) and the Institute of Medicine (IOM) have paved the way to distinguishing pathology, impairment, disability, and handicap. According to WHO classifications, **pathology** represents the underlying disease or diagnosis; **impairment** is the immediate physiological consequences, symptoms, and signs; **disability** is the functional consequences or the abilities lost; and **handicap** represents the social and societal consequences or freedoms lost. The IOM defined disability as “a function of the interaction of the person with the environment” and introduced an interactive model of “enabling-disabling process,” which identifies three independent modifiers: biology (i.e., heredity); environment (i.e., physical, social, psychological); and lifestyle behavior. The IOM's language conception opened the door for the “biopsychosocial” model of understanding **occupational disability**.

Occupational disability may be defined as an individual's loss or limitations in employment capabilities secondary to activity restrictions caused by physical or mental impairment. As noted by the IOM, disability, including vocational disability, can have biopsychosocial components. Observations and research have shown that vocational disability can be induced by social dynamics; conversely, disability can also be ameliorated or managed through psychological and social interventions, including ergonomic accommodations and transition-to-work programs.

Vocational disability assessment or evaluation is not the purview of medical practitioners. Physicians are not trained to evaluate disability. Because there is a difference between impairment and disability, physicians are encouraged to rate impairment based on the level of impact that the condition may have on the performance of activities of daily living rather than on the performance of work-related tasks. Vocational disability is best assessed by rehabilitation personnel, individuals generally trained outside of medicine in the fields of rehabilitation, psychology, counseling, and education. Historically, the Social Security Administration has identified these professionals as Vocational Experts, who are deemed qualified by education and experience to testify at the request of the Office of Hearings and Appeals (OHA) before administrative law judges regarding jobs that an individual would be capable of performing given the individual's history of “medically determinable impairment.”

Vocational Experts invited to court by the OHA, however, seldom if ever have the opportunity to actually perform assessments on Social Security disability applicants. Instead, Vocational Experts under contract with the OHA review an applicant's documentation, listen to court testimony, and respond under oath to an administrative law judge's hypotheticals and queries. When appropriate, the Vocational Expert will perform a Transferable Skills Analysis (TSA), an effort to identify an individual's skills that may be transferable to a level of work presented in the judge's hypothetical based on the applicant's age, education, and work experience.

Analysis of an individual's transferable skills without additional data gathering, however, is a limited and often misleading method of determining an individual's capacities to perform alternative employment. Rehabilitation professionals have long recognized that comprehensive assessment of impaired individuals provides the most reliable and strategic foundation for determining an individual's employability and/or earning capacity. Yet, perhaps to limit costs or because rehabilitation program graduate students have failed to be properly trained and encouraged to understand and administer standardized measurements, evaluation beyond TSA is often neglected. This is unfortunate given that researchers have demonstrated that many published tests are as reliable as medical tests such as x-rays and CAT scans. As this writer and Stacy Petersen noted (2009), an appropriate test battery for the purpose of disability assessment generally includes measures of achievement, intelligence, aptitude, interest, and temperament. In forensic matters, measures of effort are also important to employ.

This author has noted that it is difficult to determine with any certainty an impaired individual's learning potentials, employability, and earning capacity without the benefit of standardized testing. For example, an individual who *claims* to be cognitively and/or emotionally impaired secondary to chronic pain complaints may not be measured as impaired either cognitively or emotionally with valid testing, and thus, the individual's subjective complaints are not objectively demonstrated. On the other hand, subjective complaints can be substantiated with data from appropriate tests.

Therefore, vocational disability assessment must be comprehensive and include not only review of pertinent historical documentation and a structured, diagnostic interview, but also appropriately selected and administered standardized testing. The results of valid standardized testing reflect elements of an individual's functional capabilities.

Ultimately, comprehensive data-gathering informs the observer as to an individual's **residual employability** and **earning capacity**. No single individual has contributed more to the concept of residual employability than Dr. Timothy Field, a major publisher of literature for Vocational Experts and Rehabilitation Counselors. Residual employability **is a function** of jobs that an individual can reasonably perform given his or her age, education, work experience (including transferable skills), measured mental abilities, and functional capabilities.

Earning capacity is defined by *Black's Law Dictionary* as "a person's ability or power to earn money, given the person's talent, skills, training, and experience." In most cases, after an assessment of an individual's residual employability, wage data resources are used to calculate what an individual would reasonably be capable of earning in jobs for which they remain qualified.

In the future, the language of disability evaluation and assessment of employability and earning power will expand. Positive psychological assessment, an attempt to measure human strength rather than weakness, seems highly compatible with occupational rehabilitation and represents a developing field for rehabilitation professionals. As rehabilitation generally affirms the dignity and worth of people rather than focusing on their impairments and limitations, positive psychological assessment represents an important method of investigating positive emotions, courage, resilience, and gratitude – aspects of character that often fuel an individual's will to work.

Ultimately, precise language will remain critical to the foundation and methods we employ in comprehensively evaluating an individual's capacities and willingness to carry out work while overcoming the functional limitations presented by permanent medical impairment. We have attempted to outline the importance of particular terms in the language we use to describe occupational disability, residual employability, and earning power.

The Application of Positive Psychology to Workplace Assessments

Positive psychology is the attempt of a growing number of psychological scientists and practitioners to focus on individual character strengths and group potentials, including courage, interpersonal skill, insight, optimism, perseverance, happiness, and commitment. In some ways, positive psychologists are questioning the efficacy of “illness ideology” and the “pathologizing” of normal behavior and transit conditions that most humans experience. Some argue, as does Dr. James Maddux of George Mason University, that “building a more positive clinical psychology will be impossible without abandoning the language of the illness ideology and adopting a language from positive psychology that offers a new way of thinking about human behavior.”

Positive psychological assessment is an attempt to measure human strengths, healthy processes, human fulfillments, and the interplay among positive and negative characteristics, processes, and life outcomes. The WHO provides the definition of health as the “state of complete physical, mental and social well-being, not merely the absence of disease.” Positive psychological assessment attempts to measure aspects, domains, and facets of quality living. In contrast, psychology and psychiatry have historically focused on dysfunctional human behaviors, and by focusing on pathology and disorders, the Diagnostic and Statistical Manual of Mental Disorders, now in its fifth edition, tends to pathologize human behaviors.

The American Psychiatric Association published its fifth edition of The Diagnostic and Statistical Manual of Mental Disorders (DSM-5) in 2013. In the former manual, the DSM-IV, Axis V consisted of the Global Assessment of Functioning (GAF) scale, representing the clinician's judgment of the individual's overall level of “functioning on a hypothetical continuum of mental health-illness.” It was recommended that the GAF be dropped from the DSM-5 for several reasons, including its conceptual lack of clarity and questionable psychometrics in routine practice. The World Health Organization Disability Assessment Schedule 2.0 (WHODAS 2.0), a 36-item self-administered questionnaire is now being recommended by the DSM-5 task force. In at least one study, the WHODAS 2.0 has been shown to have good metric properties and thought to be a valid instrument for measuring disability as defined by the World

Health Organization.

Among others, the Nobel Prize-winner Amartya Sen, has declared that self-reported measures of morbidity have severe limitations and can be extremely misleading. There is a conceptual contrast between health perception versus observation. Tension often exists between internal or subjective views of health and health-related conditions, based on the person's own perceptions, and external or objective views, based on the observations of doctors or professionals of individual health status. (Federici and Meloni 2013)

Reference:

Federici S, Meloni F. 2013. WHODAS II: Disability self-evaluation in the ICF conceptual frame.

In: JH Stone, M Blouin, editors. *International Encyclopedia of Rehabilitation*.

Available online: <http://cirrie.buffalo.edu/encyclopedia/en/article/299/>

What Constitutes a Legitimate Mental Illness?

The American Psychiatric Association periodically appoints a panel of experts to decide what constitutes a legitimate mental illness. The results are published as an update to the ***Diagnostic and Statistical Manual of Mental Disorders (DSM)***. The 2013 edition was published in early May 2013, and like its predecessors, it is highly controversial. The following considerations were involved in the revision:

- When is an unruly child simply being headstrong as opposed to exhibiting “oppositional defiant disorder”?
- Should Internet pornography be classified as a mental disorder? (An earlier version of the DSM listed homosexuality as a mental disorder.)
- Do pharmaceutical companies exercise undue influence on what goes into the DSM and the definition of the entry?

Still, most psychologists/psychiatrists believe the DSM plays a vital role for doctors in determining treatments; they still consult the DSM for help in prescribing medications. Also, insurance companies consult the DSM as to whether they should accept or reject claims, and the DSM is still used as a reference in court proceedings. Despite the controversy, employers and vocational rehabilitation personnel should not conclude that the DSM is no longer an accepted authority on mental illnesses.

Working Memory “Chunks”

Working memory is a system for temporarily storing and managing the information required to carry out complex cognitive tasks such as learning, reasoning, and comprehension. Working memory is involved in the selection, initiation, and

termination of information processing functions such as encoding, storing, and retrieving data. In short, it is a capacity limit.

Psychologists refer to the aggregated number of elements as “chunks,” and the earliest quantification of the capacity limit is the “[magic number seven](#),” i.e., a young adult's short-term memory span is generally made up of seven elements (digits, letters, words, or other units). Later research determined that the chunks were dependent on the type of element, the general breakdown being:

- seven for digits
- six for letters
- five for words

Capacity is also a factor with attention deficit hyperactivity disorder (ADHD). While ADHD is generally applied to children, it can lead to deficits in working memory, which in turn can affect an individual's facility to be productive in a workplace. Therefore, assessing working memory is a significant component of overall information-processing assessment and evaluation of employability, particularly in skilled jobs.

STEM to STEAM

The forces of STEM (Science, Technology, Engineering, and Math) have remarkably transformed our economy in the last century, but what about Art & Design? Will those fields transform our economy in the 21st century? Researchers at the Rhode Island School of Design believe so, and with the support of policy makers and businesspeople, they are championing a movement to place Art & Design in the middle of STEM, creating [STEAM](#). According to the organization's website, objectives of the STEAM movement include:

- Transforming research policy to incorporate Art & Design into STEM
- Encouraging integration of Art & Design into K-20 education
- Influencing employers to hire artists and designers to drive innovation.

So what, if anything, does this mean for employers? Should employers who have businesses that are basically dependent on employees who are good engineers and good at math care to integrate those who are adept at art and design into their company? During a February 2013 [Congressional STEAM Caucus](#), members of Congress and various experts provided testimonials speaking to the need for creativity in America's workers, creativity and innovativeness as qualities employers consider in hiring decisions, and creativity as being fundamental to progress in almost every field imaginable.

Rehabilitation Research

Four primary sources of research and support for rehabilitation programming are

identified below. Their web sites provide resources and directions for professionals who have established or are interested in establishing disability management programs in their workplace.

National Occupational Injury Research Symposium (NOIRS) and Liberty Mutual Research Institute for Safety (LMRIS)

[NOIRS](#) and its partner, [LMRIS](#), serve as a joint national organization dedicated to research workplace safety and health issues. The outputs of these non-profits are products and publications focused on workplace safety and health topics for use by employers to reduce workplace injuries. Among other public activities, NOIRS and LMRIS sponsor annual awards for the best interventions by any entity to prevent workplace injuries.

National Institute on Disability and Rehabilitation Research (NIDRR)

[NIDRR](#) is a branch of the U.S. Department of Education. Its primary mission is to invest in research that will benefit individuals with disabilities, including individuals in rehabilitation programs in workplaces.

National Occupational Research Agenda (NORA)

This [federal program](#) is charged with the responsibility of stimulating public and private innovation in specific products and procedures to encourage workplace improvement practices.

Occupational Safety and Health Administration (OSHA)

While [OSHA](#) is best known for its regulation of safety and health practices in business and industry, it also provides safety and health grants to rehabilitation professionals and employers for training programs.
