DESIGNATED DOCTOR 101 WORKSHOP

TDI Division of Workers' Compensation

Disclaimer

The material presented in this workshop is made available by the Texas Department of Insurance - Division of Workers' Compensation (TDI-DWC) for educational purposes only. The material is not intended to represent the only method or procedure appropriate for the medical situations discussed. Rather, it is intended to present an approach, view, statement, or opinion of the faculty, which may be helpful to others who face similar situations.

AGENDA - Morning

- So You Want to be a Designated Doctor!
  General Steps for Success:
- Designated Doctor Role and Responsibilities
- Steps for Success When Examining the Injured Employee
- Discussion of Forensic Evaluation
- Maximum Medical Improvement Concepts (MMI)
- Impairment Rating Concepts (IR)

AGENDA – Working Lunch

- Brief Discussion Return to Work (RTW) and how to access the formal pre-recorded presentation for RTW
- Informal discussion of questions by attendees

AGENDA - Afternoon

- Spine IR Concepts
- Upper Extremity IR Concepts
- Lower Extremity IR Concepts
- Practical / Hands on Break-out Sessions
  - Spine
  - Upper
  - Lower
- Wrap up

OBJECTIVES

So, You Want to be a Designated Doctor! General Steps for Success:

- Understand the available course work and study options
- How to prepare for testing
- How to prepare for performing a designated doctor examination (scheduling company or do it yourself)
- Brief information related to billing and how to access the information

Designated Doctor Role and Responsibilities

- Understand the requirements for designated doctors regarding examinations, medical decision making (including the use of TDI-DWC adopted guides), referrals and testing, reporting, and administrative issues.
- Understand how to review what information is important from DWC Form-032 - Request for Designated Doctor Examination.
- Understand the importance of a thorough review and documentation of the medical records in preparation for the exam and generation of a legally sufficient report.
- The concept of and use of the combined values chart in the AMA *Guides*.

Discussion of Forensic Evaluation

- Discuss the concept of a FORENSIC evaluation.
- Consider the concept of clinical correlation of physical exam findings with symptoms, medical history, clinical studies (i.e., diagnostic imaging / EDX).
- Tips for obtaining the best exam of reluctant IEs.
- Tips for having a basic examination but expanding when necessary to obtain all information necessary to answer all dispute conditions in a legally sufficient manner.

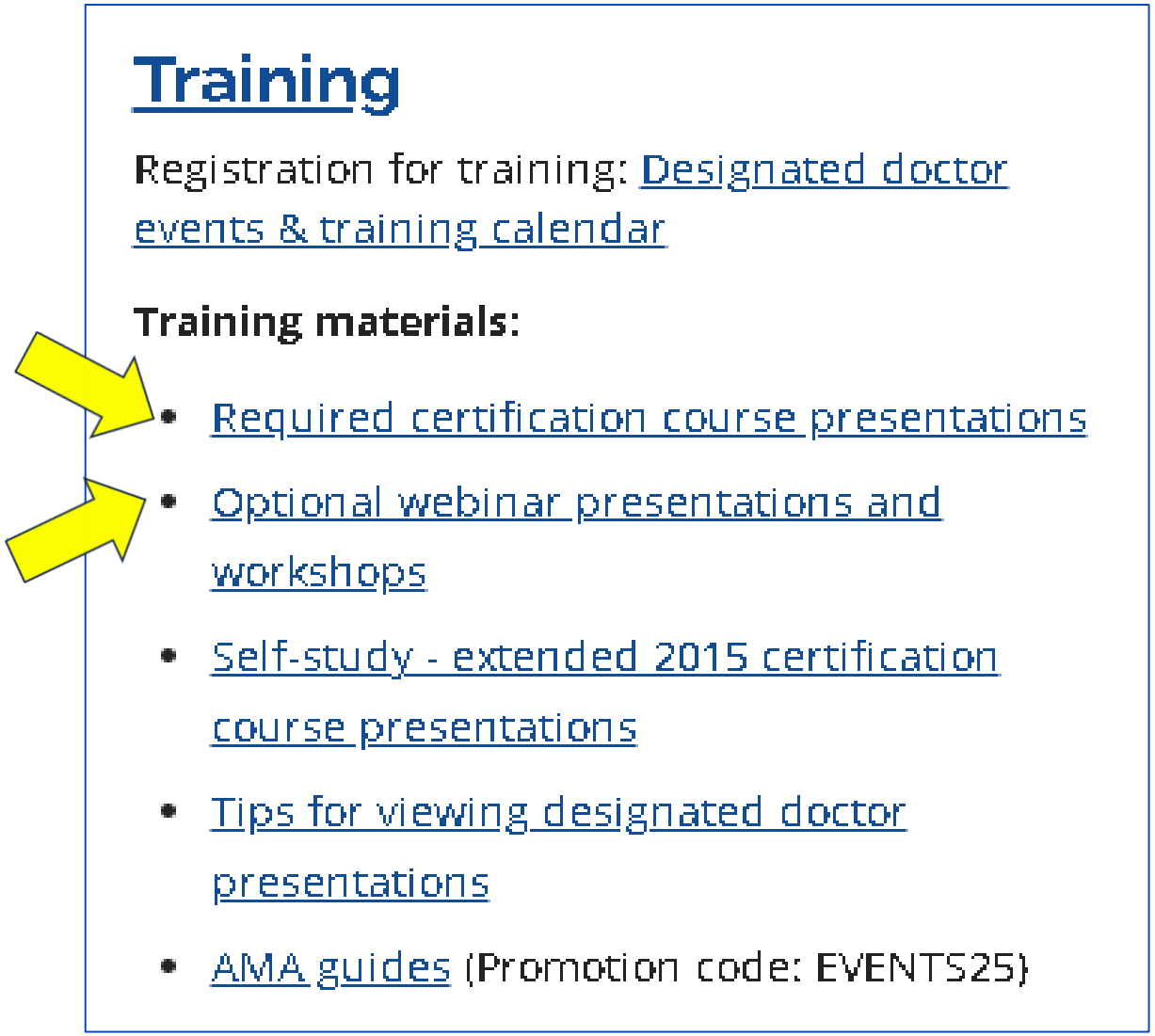
Steps for Success When Examining the Injured Employee

- Understand different strategies
  - for explaining the purpose of the exam to the injured employee (IE);
  - to help obtain a complete medical history and maximal effort from the IE.

Determining the Compensable injury and Extent of Injury

- Understand that the designated doctor determines the compensable injury based on a thorough review of the records, the certifying examination and evidence-based medicine.
- Understand that the issue of Extent of Injury is a more formal approach to address whether specific diagnoses or conditions are part of the compensable injury.
  - EOI may specifically be asked via a DWC-32 or a Presiding Officers Directive (POD)
- This is discussed fully in the pre-recorded presentation on Extent of Injury.
- There is also a separate Friday Webinar on Extent of Injury

DD Trainings – including Extent of Injury pre-recorded Certification Course, and Extent of Injury optional webinar



https://www.tdi.texas.gov/wc/dd/index.html

Maximum Medical Improvement (MMI)
&
Impairment Rating (IR)

MMI

- Understand how to determine whether an injured employee has reached MMI, including use of ODG, TDI-DWC's adopted treatment guidelines.
- Demonstrate the different scenarios (using graphic representation)

IR

- Review the processes for determining IR considering the Texas statute, TDI-DWC rules and the *AMA Guides to Evaluation of Permanent Impairment*, 4th Edition.

RETURN TO WORK

Understand how to address RTW as requested on the DWC Form 032, including use of the MDGuidelines, TDI-DWC's adopted guides for disability.

Return to Work

- Understand how to address RTW as requested on the DWC Form 032, including use of the MDGuidelines, TDI-DWC's adopted guides for disability.
- This will also be discussed briefly over the working lunch.
- This is discussed fully in the pre-recorded presentation on Return to Work.
- We will show you how to access this presentation at that point in today's webinar.

Musculoskeletal IR

Upper Extremity IR

- Review UE Guides Section 3.1 and DD 101 “pearls”.
- Understand how to assign IR for the upper extremity, including the use of Figure 1.

Lower Extremity IR

- Review LE Guides Section 3.2 and DD 101 “pearls”.
- Understand the 13 methods for determining lower extremity IR, and which of the 13 methods can be combined.

Spine IR

- Review Spine Guides Section 3.3 and DD 101 “pearls”.
- Understand the structural inclusions and differentiators in applying the DRE (Diagnosis Related Estimates) model.

LET's GET STARTED

So, You Want to be a Designated Doctor!
General Steps for Success:

So, You Want to be a Designated Doctor!
General Steps for Success:

- **Schedule of training events**

- **The only required training is the DD and Certifying Doctor Certification Course.**
  - Pre-course cases are provided for enhanced learning.
- PRIOR TO the Required Certification Training, you MUST ALSO listen to (and attest that you have done so) the **pre-recorded lectures**:
  - Administrative
  - Maximum Medical Improvement and the Official Disability Guidelines
  - Return to Work (RTW) and the MDGuidelines
  - Extent of Injury

STEPS FOR SUCCESS – After Today

Steps for Success to be a good Designated Doctor.

- Before attending a training course, print the PDF of the Power Point (PP) presentations and any pre-course cases!
  - Work the pre-course cases to the best of your ability BEFORE the course
  - Take notes in the margins of the PP PDF.
  - Save the CHAT for pearls and add to the notes on the PDF of the power point

STEPS FOR SUCCESS – After Today

PRIOR to the Cert Course

- **Review the DD Supplemental Information** at: https://www.tdi.texas.gov//wc/dd/documents/sipacket.pdf.
  - **This information will help you become familiar with commonly used acronyms and their definitions.**
  - The packet also contains:
    - ✓ Rules specific to DDs
    - ✓ Texas Department of Insurance, Division of Workers' Compensation (DWC) contact information
    - ✓ Relevant Appeals Panel decisions.

STEPS FOR SUCCESS - to be a good Designated Doctor

Schedule of training events

- All other webinar training events are optional, but STRONGLY ENCOURAGED.
- All webinars are interactive and live. They offer an opportunity to review and clarify information, ask questions, make comments, etc.

You can find all webinar training information at
https://www.tdi.texas.gov//wc/dd/training.html

STEPS FOR SUCCESS - to be a good Designated Doctor

Schedule of training events

- Take a deeper dive into content with the Case Based Webinar Series – 6 webinars from 12 – 2 p.m., over 3 consecutive Monday and Wednesdays.
- These offer more detail and opportunity for interactive dialog between attendees and instructors

  Module 1 – MMI

  Module 2 – Spine MMI, IR, and EOI

  Module 3 – Upper Extremity MMI and IR

  Module 4 – Lower Extremity MMI and IR

  Module 5 – Non-MSK MMI and IR

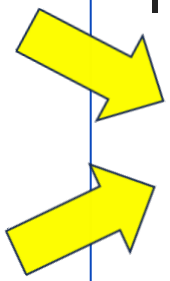
  Module 6 – Non-MSK Traumatic Brain Injury

STEPS FOR SUCCESS - to be a good Designated Doctor

Schedule of training events

- **EOI WEBINAR** (optional)
  - This webinar provides a detailed introduction to the DD's role in addressing the issue of EOI.
  - It includes important concepts and step-by-step guidance.
  - Includes guidance on report writing
- **MSK Workshop** (optional)
  - In-person, live event.
  - Learn and practice advanced basic and forensic examination techniques.

DD Trainings – including Extent of Injury pre-recorded Certification Course, and Extent of Injury optional webinar



Training

Registration for training: Designated doctor events & training calendar

Training materials:

- Required certification course presentations
- Optional webinar presentations and workshops
- Self-study - extended 2015 certification course presentations
- Tips for viewing designated doctor presentations
- AMA guides (Promotion code: EVENTS25)

https://www.tdi.texas.gov/wc/dd/index.html

STEPS FOR SUCCESS – Studying for the Exam

- Review the training PDFs and materials.
- Review your notes from the webinars you attended.
- Review the example cases in the AMA Guides, 4th Edition.
- Although The Guides Casebook for the 4th Edition is not adopted as an authoritative resource, it also has cases you can study
- Be very familiar with how to navigate and utilize the
  - AMA Guides, 4th Edition for answering IR questions
  - ODG for treatment guidelines for answering MMI questions
  - MDG for answering Return to Work questions

STEPS FOR SUCCESS – Studying for the Exam

- **Review the DD Sample Certification Test Questions.**
  - This document includes:
    - ✓An answer key that describes the concepts the test questions evaluate
    - ✓Explains the correct choice and why the other choices are not correct.
- **Testing:**
  - The DD Certification test is administered by our vendor, PSI, at multiple locations in Texas.
  - When you are ready to test, review PSI's Candidate Information Bulletin for information
    - ✓How to schedule your test
    - ✓Rules for the testing process.

So, You Want to be a Designated Doctor!

Starting work as a designated doctor - scheduling company or do it yourself

- **Many doctor choose to start their DD career with a Scheduling Company**
  - A scheduling company works for YOU (they are YOUR agent)
  - You are responsible for the actions of your agent
    - ✓Do not let them submit a report without your final approval
  - You will need to negotiate their fee (usually of percent of the collections) for providing various services
    - ✓Do not let them charge a percent of the billing, regardless if it is collected!

So, You Want to be a Designated Doctor!

Starting work as a designated doctor

- **Many doctor choose to start their DD career with a Scheduling Company** (continued)
  - Fees charged will often be dependent on what services they might provide for you
    - Scheduling
    - Providing the facility for examination
    - Paying for travel (airfare or gas mileage)
    - Medical Record collection and collation
    - Report template
    - Quality Assurance
    - Billing and Dispute Resolution

    # You may be able to negotiate some or ALL of these services

So, You Want to be a Designated Doctor!

Starting work as a designated doctor

- **Doctors may choose to start their DD career on their own or switch to that method after they have gained experience.**
- This is usually doctors and their staff that are familiar with the WC setting (have been a treating doctor)
  - ✓May choose the autonomy of doing it with their current system
  - ✓The doctor and their staff are most familiar with their professional and personal schedule
  - ✓Better ability to develop internal protocols and tailor make templates to your style and change as needed
  - ✓Successful, if they are already doing their own billing
  - ✓More control of working the Accounts Receivable

So, You Want to be a Designated Doctor!

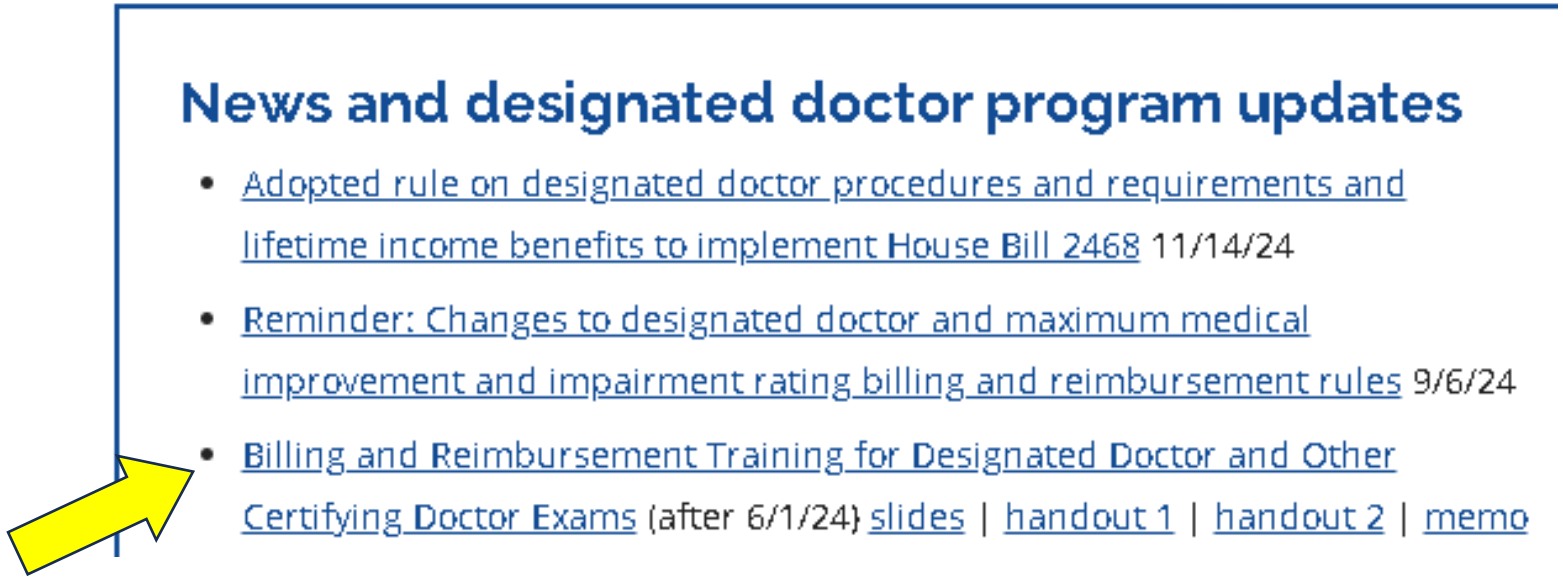
Starting work as a designated doctor

- **Doctors may choose to start their DD career on their own or switch to that method after they have gained experience.**
- Potential negatives
  - ✓Working in a vacuum – unless you can develop a network of other doctors that can bounce ideas off of
  - ✓Teaching your staff the QA may be more difficult
  - ✓If the doctor travels, they will need to find their own facilities (look for other DDs /CDs in TXComp for the county they plan to go to)
  - ❑Keeping up with the rules and changes to the rules is all on you

So, You Want to be a Designated Doctor!
General Steps for Success:

Access information on billing rules at:

https://www.tdi.texas.gov/wc/dd/index.html



News and designated doctor program updates

- Adopted rule on designated doctor procedures and requirements and lifetime income benefits to implement House Bill 2468 11/14/24
- Reminder: Changes to designated doctor and maximum medical improvement and impairment rating billing and reimbursement rules 9/6/24
- Billing and Reimbursement Training for Designated Doctor and Other Certifying Doctor Exams (after 6/1/24) slides | handout 1 | handout 2 | memo

And information on Medical fee dispute resolution at:

https://www.tdi.texas.gov/wc/mfdr/index.html

Designated Doctor Role

Designated Doctor Role

- Objective, neutral medical expert appointed by DWC to answer specific questions about the medical condition of the injured employee
- Requires special training and testing
- DD exam may be requested by the insurance carrier, the injured employee, the Injured employee's representative, or DWC
- May not initiate or provide treatment

Designated Doctor's Role

Texas Labor Code (TLC) §408.0041 states the specific issues to be addressed by designated doctors as questions concerning:

- Attainment of Maximum Medical Improvement (MMI)
- Impairment caused by the compensable injury (IR)
- The extent of the employee's compensable Injury (EOI)
- Whether disability is a direct result of the compensable injury
- Ability to return to work (RTW)
- Issues similar to those described above

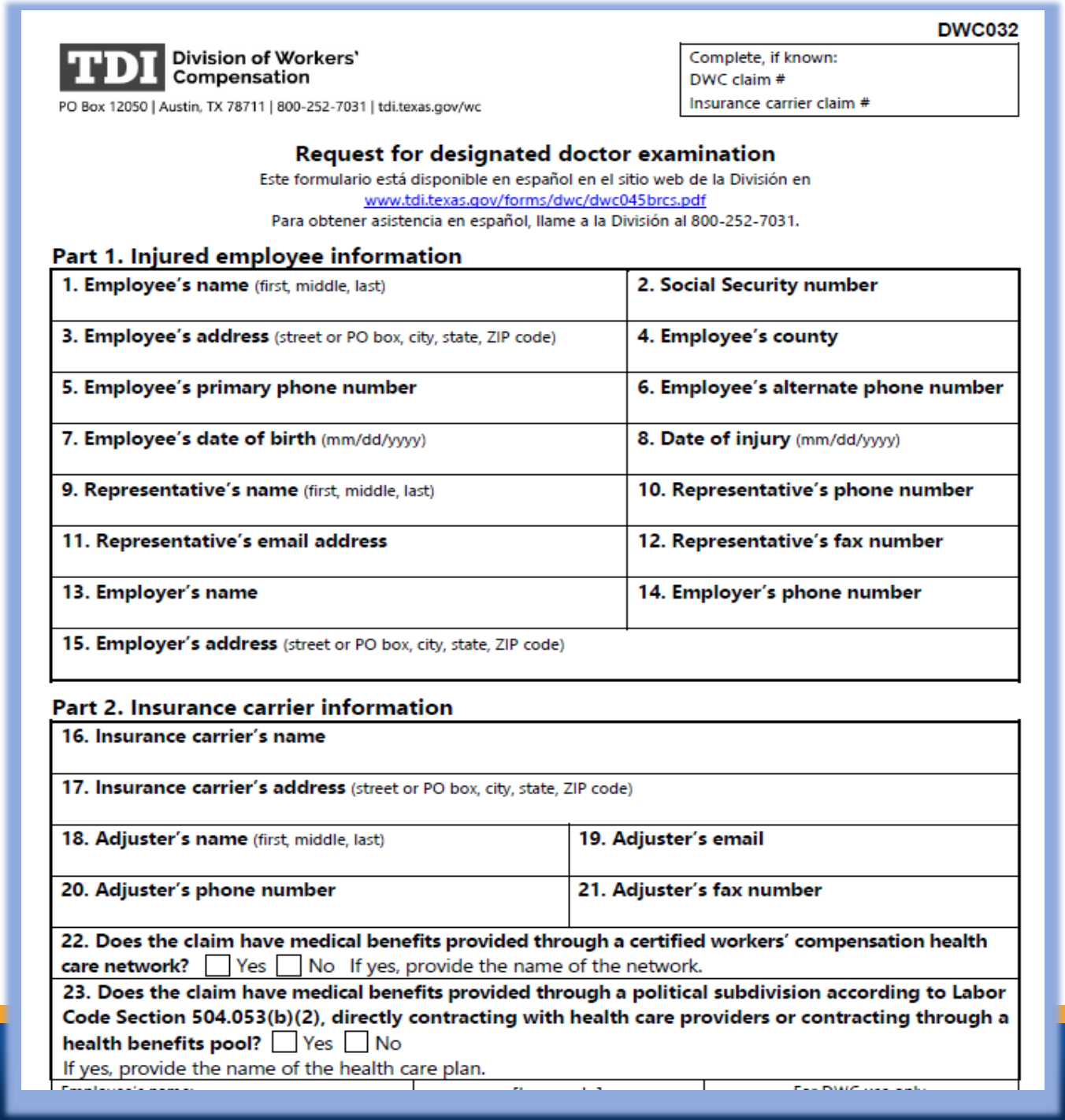
WHAT IS THE STARTING POINT FOR THE DD EXAM?

DWC-32 INFORMS YOU AS TO:

- **Dispute you are being asked to resolve**
- **Other specific information related to that area of dispute.**
  - **Statutory date (IR)**
  - **Additional Claimed injuries (EOI)**
  - **Date period in question (RTW)**

DWC Form-032

REQUEST For DESIGNATED DOCTOR EXAMINATION



DWC032

TDI Division of Workers' Compensation

PO Box 12050 | Austin, TX 78711 | 800-252-7031 | tdi.texas.gov/wc

Complete, if known:
DWC claim #
Insurance carrier claim #

Request for designated doctor examination

Este formulario está disponible en español en el sitio web de la División en
www.tdi.texas.gov/forms/dwc/dwc045brcs.pdf
Para obtener asistencia en español, llame a la División al 800-252-7031.

Part 1. Injured employee information

1. Employee's name (first, middle, last)	**2. Social Security number**
3. Employee's address (street or PO box, city, state, ZIP code)	**4. Employee's county**
5. Employee's primary phone number	**6. Employee's alternate phone number**
7. Employee's date of birth (mm/dd/yyyy)	**8. Date of injury** (mm/dd/yyyy)
9. Representative's name (first, middle, last)	**10. Representative's phone number**
11. Representative's email address	**12. Representative's fax number**
13. Employer's name	**14. Employer's phone number**
15. Employer's address (street or PO box, city, state, ZIP code)	

Part 2. Insurance carrier information

16. Insurance carrier's name	
17. Insurance carrier's address (street or PO box, city, state, ZIP code)	
18. Adjuster's name (first, middle, last)	**19. Adjuster's email**
20. Adjuster's phone number	**21. Adjuster's fax number**
22. Does the claim have medical benefits provided through a certified workers' compensation health care network? ☐ Yes ☐ No If yes, provide the name of the network.	
23. Does the claim have medical benefits provided through a political subdivision according to Labor Code Section 504.053(b)(2), directly contracting with health care providers or contracting through a health benefits pool? ☐ Yes ☐ No If yes, provide the name of the health care plan.	

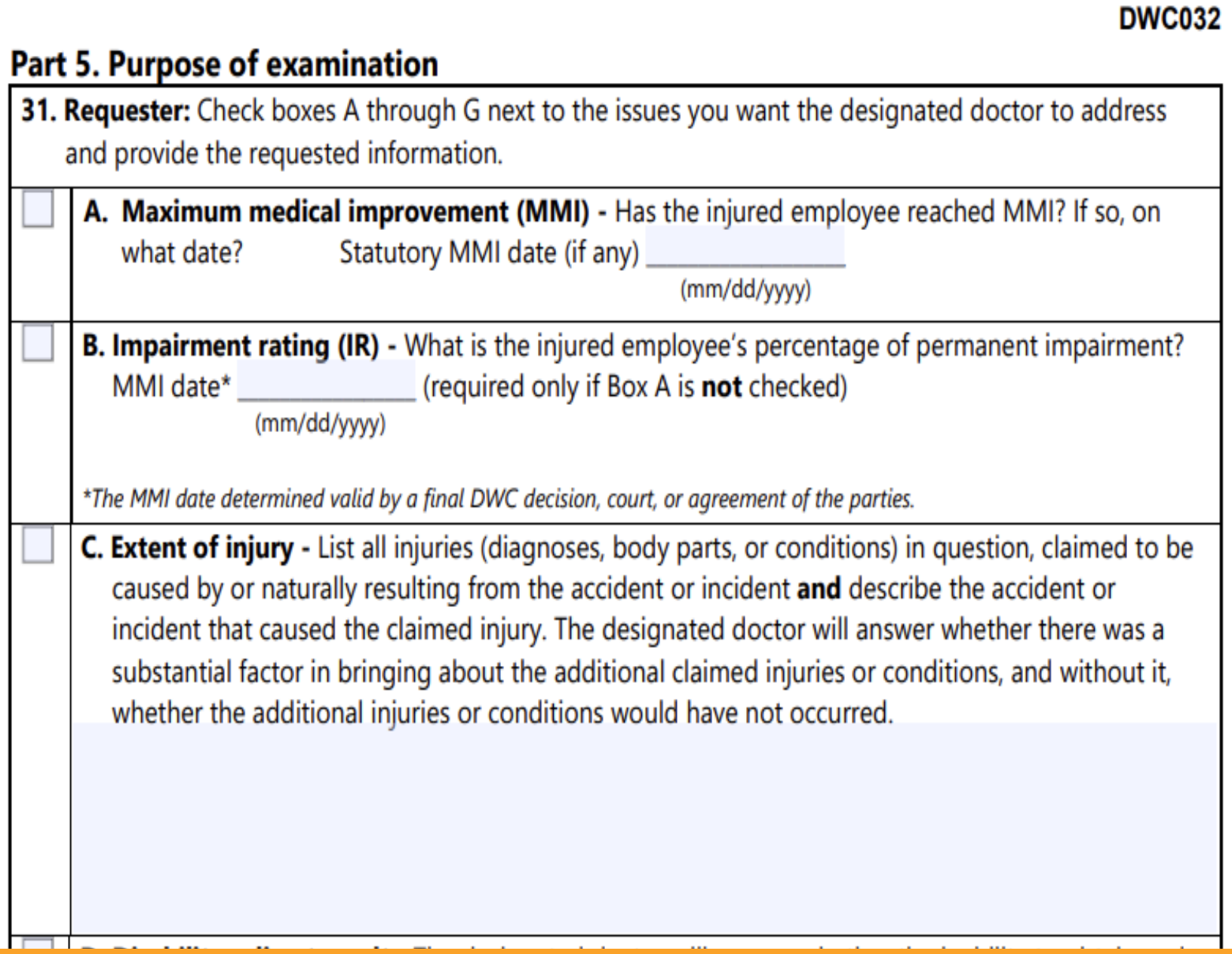
Designated Doctor's Role

DWC 32

What is your exam assignment?

Most common questions asked are

- MMI,
- IR, and
- EOI…



DWC032

Part 5. Purpose of examination

31. Requester: Check boxes A through G next to the issues you want the designated doctor to address and provide the requested information.

☐ **A. Maximum medical improvement (MMI) -** Has the injured employee reached MMI? If so, on what date? Statutory MMI date (if any) _____ (mm/dd/yyyy)

☐ **B. Impairment rating (IR) -** What is the injured employee's percentage of permanent impairment? MMI date* _____ (mm/dd/yyyy) (required only if Box A is **not** checked)

**The MMI date determined valid by a final DWC decision, court, or agreement of the parties.*

☐ **C. Extent of injury -** List all injuries (diagnoses, body parts, or conditions) in question, claimed to be caused by or naturally resulting from the accident or incident **and** describe the accident or incident that caused the claimed injury. The designated doctor will answer whether there was a substantial factor in bringing about the additional claimed injuries or conditions, and without it, whether the additional injuries or conditions would have not occurred.

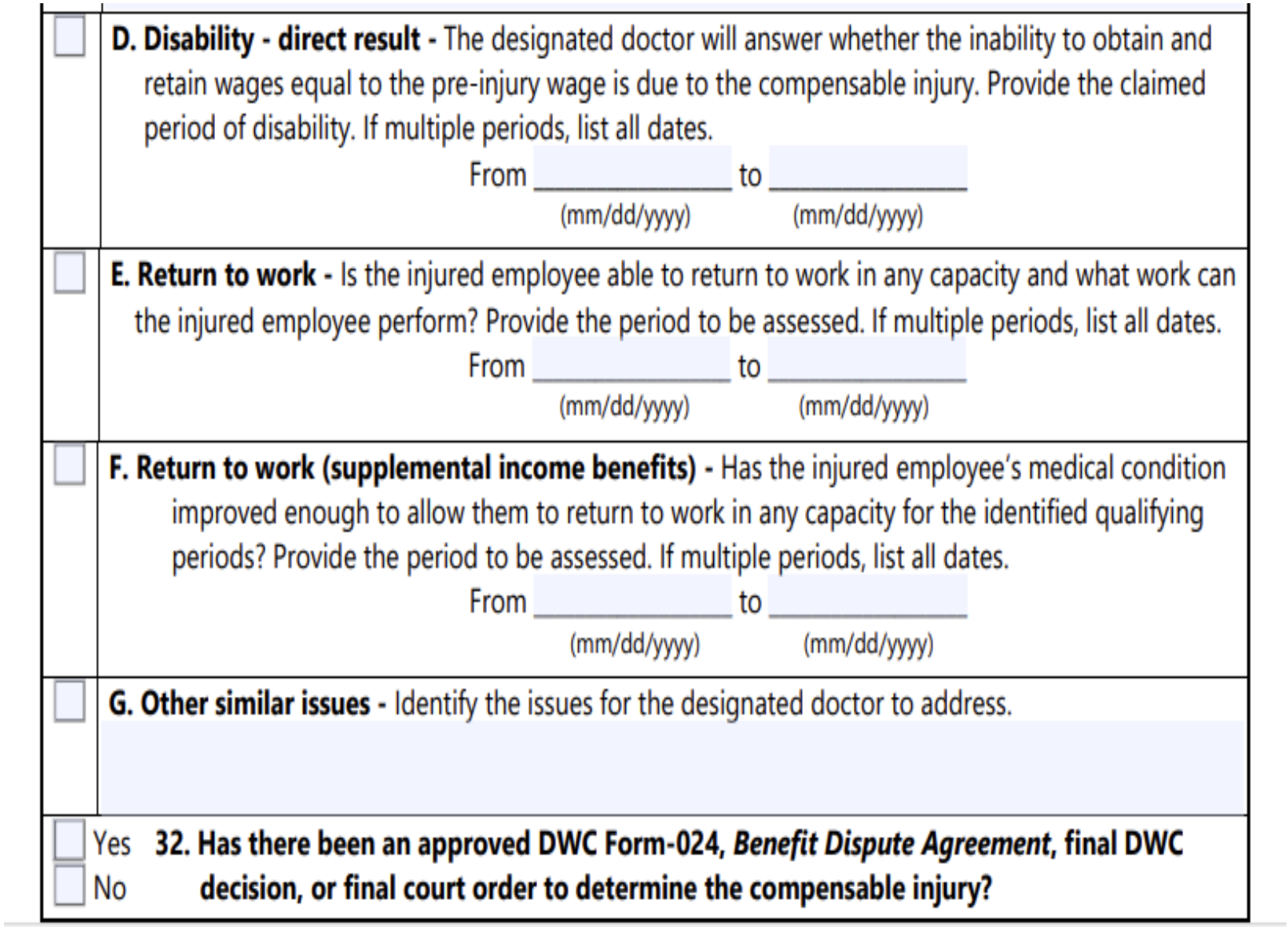
Designated Doctor's Role

DWC 32

What is your exam assignment?

Other questions are

- Disability – direct result,
- Return to Work and RTW SIBS, and
- Other Similar Issues.



☐ **D. Disability - direct result -** The designated doctor will answer whether the inability to obtain and retain wages equal to the pre-injury wage is due to the compensable injury. Provide the claimed period of disability. If multiple periods, list all dates.

From _____ to _____
(mm/dd/yyyy) (mm/dd/yyyy)

☐ **E. Return to work -** Is the injured employee able to return to work in any capacity and what work can the injured employee perform? Provide the period to be assessed. If multiple periods, list all dates.

From _____ to _____
(mm/dd/yyyy) (mm/dd/yyyy)

☐ **F. Return to work (supplemental income benefits) -** Has the injured employee's medical condition improved enough to allow them to return to work in any capacity for the identified qualifying periods? Provide the period to be assessed. If multiple periods, list all dates.

From _____ to _____
(mm/dd/yyyy) (mm/dd/yyyy)

☐ **G. Other similar issues -** Identify the issues for the designated doctor to address.

☐ Yes ☐ No **32. Has there been an approved DWC Form-024, *Benefit Dispute Agreement*, final DWC decision, or final court order to determine the compensable injury?**

Designated Doctor's Role

TO ANSWER MANY OF THE QUESTIONS...

THE DESIGNATED DOCTOR MUST **DEFINE THE COMPENSABLE INJURY**

Designated Doctor's Role

As the DD, you are tasked by rule with **defining the compensable injury**. You will need to do this to be able to answer the questions you are asked to address.

Rule 130.1(c)(3) Assignment of an impairment rating for the current compensable injury shall be based on the injured employee's condition on the MMI date considering the medical record and the certifying examination.

The only exception is when the compensable injury has already been legally determined (by formal agreement of the parties, or by the Judge during the dispute resolution process)

Designated Doctor's Role

- A Presiding Officer's Directive (POD) is sometimes used to assign an exam when the compensable injury has been legally determined.
  - In that case, the POD will provide that information
  - You will learn more about PODs in the DD Certification Course

  If you were assigned an exam via a DWC 32, you must determine the compensable injury per Rule 130.1(c)(3). [More on this later.]

Designated Doctor's Role

Body areas and diagnoses to be examined.

The **Qualification Table** for DDs can be found on the DD Program website at: **https://www.tdi.texas.gov/wc/dd/index.html**, in the Training Section, Supplemental information packet.

Part 4. Designated doctor selection information

30. Check all body areas and diagnoses that apply.	Examples (not a full list)
☐ **Spine and musculoskeletal structures of torso** **See below for spinal cord injuries, hernia*	cervical, thoracic or lumbar regions; herniated disc; rib cage, chest wall, abdominal wall, sprains, or strains
☐ **Upper extremities** **See below for a fracture with vascular injury or a rib fracture.*	shoulder, forearm, arm, elbow, wrist, hand, finger regions, rotator cuff tear, sprains, or strains
☐ **Lower extremities (excluding feet)** **See below for a fracture with vascular injury or a pelvis fracture.*	buttock, thigh, leg, knee regions, anterior cruciate ligament (ACL) tear, meniscus tear, sprains, or strains
☐ **Feet**	toes, heel
☐ **Teeth and jaw**	temporomandibular joint (TMJ)
☐ **Eyes**	eyelid, foreign body, corneal abrasion
☐ **Other body areas or systems**	ear, nose, and throat; head and face; skin; cuts to skin involving underlying structures; non-musculoskeletal structures of the torso; hernia; respiratory; endocrine; hematopoietic; urologic
☐ **Traumatic brain injury**	concussion, post-concussion syndrome
☐ **Spinal cord injury**	spinal fracture with documented neurological injury deficit, more than one spinal fracture, cauda equina syndrome
☐ **Severe burns (including chemical burns)**	2nd, 3rd, or 4th degree; deep partial or full thickness burns
☐ **Joint dislocation, fractures with vascular injury, pelvis fractures, or multiple rib fractures**	not applicable
☐ **Infectious diseases (complicated)**	infection requiring hospitalization or prolonged intravenous antibiotics, including blood borne pathogens
☐ **Complex regional pain syndrome**	not applicable
☐ **Chemical exposure**	not applicable
☐ **Heart or cardiovascular condition**	not applicable
☐ **Mental and behavioral disorders**	post-traumatic stress disorder (PTSD)

Designated Doctor's Responsibilities

- **Highly regulated.**
- **Timeliness:**
  - ✓Appointment offers,
  - ✓Conducting the exam,
  - ✓Filing of reports,
  - ✓Referrals (when needed),
  - ✓Letters of clarification, etc.
- **Please refer to the PRE-RECORDED administrative lecture, "DWC Overview" for further details.**
  - **This is mandatory for completion of the Certification Course**

Designated Doctor's Responsibilities

- **The DD MUST:**
  - **Sufficiently explain** how the DD determined the answer to each question in dispute within a reasonable degree of medical probability;
  - **Demonstrate, as appropriate, application or consideration of the:**
    - ✓ American Medical Association Guides to the Evaluation of Permanent Impairment,
    - ✓ Division-adopted treatment guidelines (Official Disability Guidelines)
    - ✓ Division-adopted return-to-work guidelines (MDGuidelines), and
    - ✓ Other evidence-based medicine, if available

Importance of the Designated Doctor's Opinion

- The report of the designated doctor is given **presumptive weight** in dispute resolution unless the preponderance of the evidence is to the contrary

- The DD's opinion has significant impact on **DWC dispute resolution.** [Please refer to the next several slides.]

- Insurance carrier shall be required to pay income and medical benefits based on the designated doctor 's opinion during a pending dispute

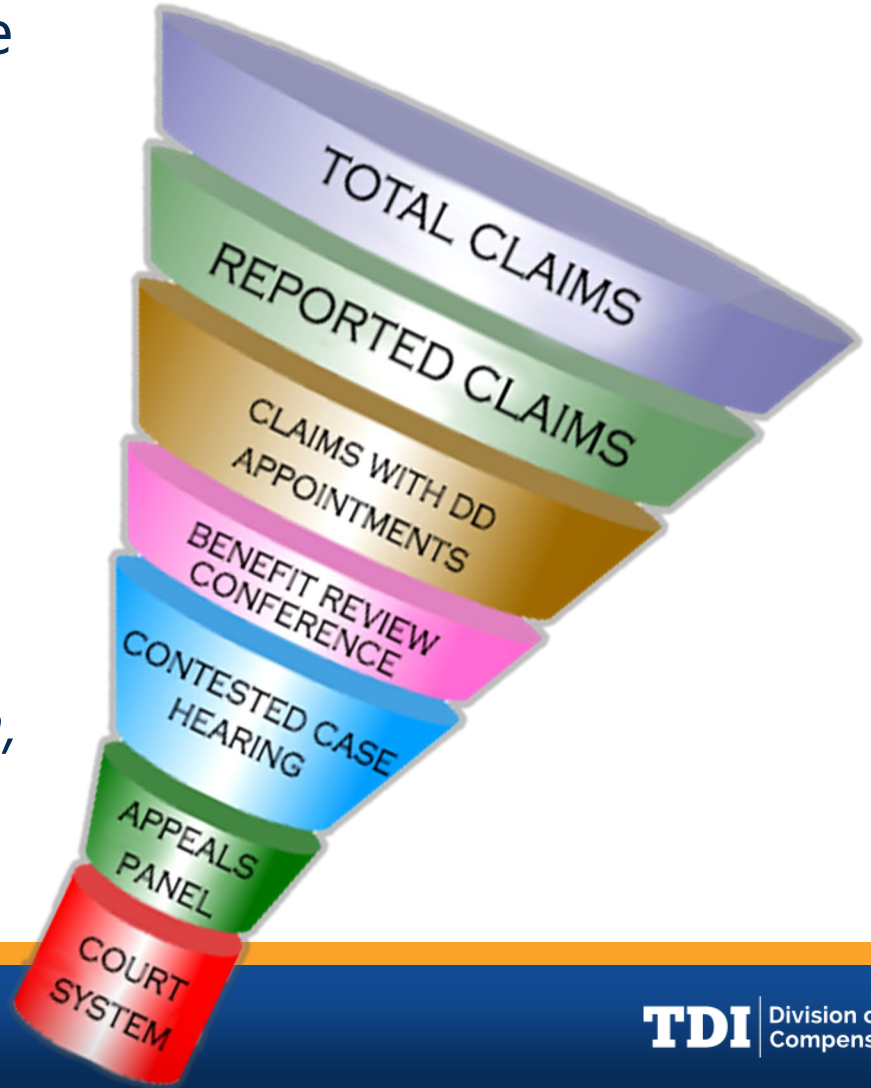
28 TAC 127.10(h)

DD Reports in Dispute Resolution

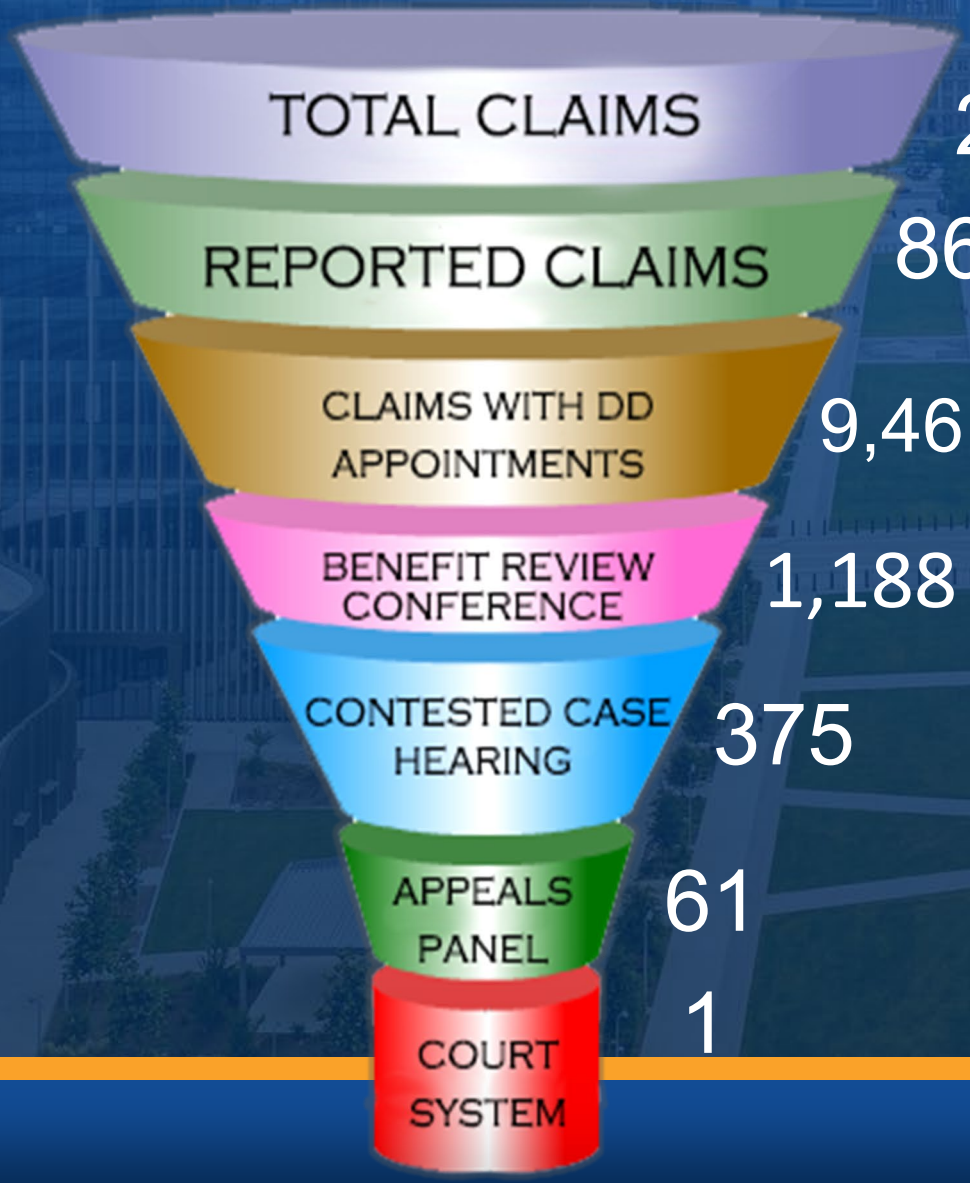
DD reports facilitate informal resolution of many issues

- In event parties cannot resolve issues in dispute based on DD's report, they may pursue issues through DWC dispute resolution process
  - Benefit Review Conference
  - Contested Case Hearing #
  - Appeals Panel
  - Courts

#Should there be a failure of informal mediation, you as the DD WILL NOT be called upon to testify!



DD Reports in Dispute Resolution (FY2024)



Designated Doctor System Reports

Reports available to the public on the Division of Workers' Compensation website:

tdi.texas.gov/wc/data.html

Available Reports

tdi.texas.gov/wc/data.html

Workers' compensation data and statistics

- Coverage verification
- Designated doctors and appointments by county and month
- Insurance carrier scorecard
- Medical bill/payment public use data files
- Non-subscribers list
- Subscribers list
- System data reports
- Workers' compensation claims data query tool
- Workers' Compensation Maximum Medical Improvement Doctors and Designated Doctors List
- Workers' Compensation Maximum Medical Improvement Doctors and Designated Doctors' Address Information
- Workers' Compensation Research and Evaluation Group reports and studies
- Workplace injury and fatality research and analysis

Designated Doctors by County and Month

tdi.texas.gov/wc/data.html

Statewide (Texas)

December, 2024

Doctor Type	Available Designated Doctors	Designated Doctors With Appointments	Total Appointments	Initial Appointments	Subsequent Appointments
Doctor of Medicine (MD)	71	49	415	298	117
Doctor of Osteopathic Medicine (DO)	15	15	85	65	20
Doctor of Chiropractic (DC)	248	187	1,078	812	266
Doctor of Podiatry (DP)	1	0	0	0	0
Doctor of Dental Science (DS)	0	0	0	0	0
Doctor of Optometry (OD)	0	0	0	0	0
TOTAL	335	251	1,578	1,175	403

System Data Reports

tdi.texas.gov/wc/data.html

Includes PDFs of information for...

- **Claims Data**
  - Number of claims, claims by county, claims by industry, etc.
- **Dispute Resolution Data**
  - Number of BRC requests, number of claims with disputes, etc.
- **Designated Doctor Appointment Data**
  - Number per year, number by issues, number by license type

Designated Doctor Appointment Data

Table of Number and Percent of Claims with Scheduled Designated Doctor Appointments

Calendar Year of Injury	Total Number of Claims	Number of Claims with Designated Doctor Appointments	Percent of Claims with Designated Doctor Appointments
2019	88,228	14,872	16.86%
2020	113,227	12,092	10.68%
2021	113,632	13,596	11.96%
2022	113,935	13,521	11.87%
2023	92,808	10,833	11.67%

Designated Doctor Appointment Data

Table of Number of Designated Doctors and Scheduled Designated Doctor Appointments by Calendar Year

Measure	2019	2020	2021	2022	2023
Number of Designated Doctors	802	721	642	573	562
Number of Designated Doctor Appointments	24,880	19,441	20,993	20,462	21,050
Number of Exams for Disability	1,908	482	521	1,339	1,482
Number of Exams for Extent of Injury	5,817	4,767	4,820	4,288	4,277
Number of Exams for Maximum Medical Improvement	22,764	17,990	19,355	18,951	19,509
Number of Exams for Impairment Rating	22,745	17,981	19,350	18,941	19,502
Number of Exams for Return-to-Work	5,894	1,527	1,243	3,731	3,699
Number of Exams for Return-to-Work (SIBs related)	169	37	116	148	165
Number of Exams for Other Reasons	16	11	17	7	19

Designated Doctor Appointment Data

Table of Number of Designated Doctor Appointments by License Type and Calendar Year

Designated Doctor License Type	2019	2020	2021	2022	2023
Doctor of Chiropractic	15,776	11,649	12,491	11,990	12,945
Doctor of Osteopathy	1,160	992	1,061	1,192	1,270
Doctor of Podiatric Medicine	0	1	2	0	0
Dentist	0	0	1	1	0
Doctor of Medicine	7,944	6,799	7,438	7,279	6,835
Total	24,880	19,441	20,993	20,462	21,050

Any Questions on Designated Doctor's Roles & Responsibilities?

STEPS FOR SUCCESS

STEPS FOR SUCCESS

FAIL TO PLAN...
PLAN to FAIL

What does this mean?

A successful DD examination takes planning and preparation.

STEPS FOR SUCCESS

- Obtain and review the records PRIOR to your exam
- Perform a thorough forensic history and exam to determine the compensable injury
- Consult the adopted GUIDELINES:
  - ODG for MMI
  - MDG for RTW
  - AMA Guides for IR
  - Evidence Based Medicine for determining the compensable injury and EOI
- Produce a medical report that is laid out logically and is medically and legally sufficient to answer the question in dispute

STEPS FOR SUCCESS

Obtain and review the records PRIOR to your exam

- It is helpful to create a thorough MEDICAL CHRONOLOGY from the medical records ahead of your exam, to:
  - Assist you in what additional questions need to be asked and what additional forensic exam techniques need to be performed.
  - Assist you in determining the compensable injury
  - Demonstrate whether symptoms or findings are consistent with the injury model / tissue healing model
  - Demonstrate inflection points in treatment that may be appropriate for MMI
  - Provide the case specific details to answer all other questions in dispute

STEPS FOR SUCCESS

- Perform a thorough forensic history and exam to determine the compensable injury.

  This will be covered later under Forensic Physical Exam…

- Consult the adopted GUIDELINES relevant to the question being asked.

  This was covered this morning in Role of the DD

STEPS FOR SUCCESS

Produce a medical report that is laid out logically and is medically and legally sufficient to answer the question in dispute.

- There is no adopted template at this time
- Your report should flow like a good novel –
  - A beginning: What is the purpose of your examination
  - A middle: All the supporting information for your conclusions
  - The end: Provide a summary and your conclusion
    - Wrap up your opinions so the reader of you report CLEARLY understands you opinion
    - Don't equivocate – answer the question within a degree of medical probability – more likely than not

STEPS FOR SUCCESS

Produce a medical report that is medically and legally sufficient to answer the question in dispute

Don't equivocate!

Answer the question within a degree of medical probability...

" more likely than not"

Avoid statements like:

"is consistent with"

is suggestive of",

"is possible",

"there is no other explanation"

"had no symptoms before but now has symptoms

STEPS FOR SUCCESS

Best Practice for Logical Report Writing

- How did the injury occur? / Mechanism of injury as reported to you
- What were the initial complaints and how have they evolved over time to the point of your exam?
- Provide a thorough medical chronology
  - Have the MOIs been consistent or inconsistent?
  - Have symptoms and findings been consistent with the injury model, or have additional symptoms expanded over time?
  - Have the objective findings been consistent with the injury model and has there been reasonable consistency of exam findings by the same provider and between providers?
  - Has there been consistency or correlation between the subjective / objective and any diagnostics?

STEPS FOR SUCCESS

- **Best Practice for Logical Report Writing** (continued)
  - Provide all the basic PE findings and any other necessary findings to answer the question in dispute.
    - ✓ What you expect to see with the described MOI
    - ✓ Highlight the pertinent positive and pertinent negative findings on exam
  - Document a thorough medical history.
    - ✓ If they have had a prior injury to the same area you are evaluating, how is this current episode different / or the same?
    - ✓ Many non-injury related disease processes can mimic or be misinterpreted to be caused by a work event = "***misattribution of symptoms***"

STEPS FOR SUCCESS

- **Best Practice for Logical Report Writing** (continued)
  - Document a thorough social, avocational and occupational history.
    - ✓ Don’t be uncomfortable asking about tobacco use, alcohol and other non-prescribed drugs
    - ✓ Ask questions about job / co-worker / supervisor satisfaction
    - ✓ The claimant's history may reflect the "good old days" bias
      - Ask additional questions as necessary to determine level of pre-injury function – is it consistent with their age / level of conditioning?
  - ANALYZE and EXPLAIN the compensable injury.
  - Answer the question in dispute with sufficient detail and with supporting Guidelines or EBM for the compensable injury YOU determined

STEPS FOR SUCCESS

- **Best Practice for Logical Report Writing** (continued)

- Complete your report, then set it aside.
- Re-read your answers to the dispute questions;
  - ✓Ensure that you have answered the question thoroughly with an analysis and conclusion (not just a conclusion)
  - ✓Have you provided supporting documentation in the body of the report, so that the reader of your report will follow your logic?
    - Remember that an ALJ will not have all the records.
    - You will not be testifying at any hearings that arise
    - You must put all relevant supporting material in your report – in the "4 corners" of the pages

STEPS FOR SUCCESS – Questions or concerns?

We are here to help!

Contact us by telephone or email

Designated Doctor Education:

desdoc.education@tdi.texas.gov

Telephone: 512-804-4765

Questions about Certification:

OMA@tdi.texas.gov

Telephone: 512-804-4766

Any Questions on Steps to Success?

STEPS FOR SUCCESS – Questions or concerns?

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FORENSIC PHYSICAL EXAMINATION

Discussion of Forensic Evaluation

- WHAT IS a FORENSIC evaluation?
- It is an examination that is not performed as a treating doctor but it is conducted to determine the medically probable compensable injury in a workers compensation and / or personal injury claim.
- It relies on applying medical principles such as validity, reliability, clinical correlation with the best available medical science evidence

FORENSIC PHYSICAL EXAMINATION

BASIC CONCEPTS

Validity = Accuracy of a Measure

- The test's ability to measure what it is stated to measure

Reliability = Consistency of a measure

- The same test administered over time reproduces the same similar findings (unless there is recovery over time)

Clinical Correlation = Determining if the diagnostic testing results (imaging, EMG / NCS) matches the subjective complaints and objective findings

FORENSIC PHYSICAL EXAMINATION

The purpose of a forensic physical examination:

The challenge is to determine which of the exam findings are relevant to the claimed symptoms.

WHY?

- The normal aging process results in loss of motion, strength and flexibility of the system
- Non-trauma related arthritis, medical conditions or illnesses also occur that can mimic trauma-related MSK symptoms

FORENSIC PHYSICAL EXAMINATION

The purpose of a forensic physical examination:

As with imaging,

the mere presence of a

finding on an clinical exam,

does NOT prove causation.

Evidenced based medicine documents that

- Clinical degenerative changes are present in asymptomatic individuals, regardless of the region / joint
- This increases with each increasing decade of life.

FORENSIC PHYSICAL EXAMINATION

To answer the questions in dispute with a degree of medical probability...

- **Must look for CONSISTENCY BETWEEN:**
  - Objective findings to the DOI and the normal biologic response to injury and recovery
  - Symptoms and complaints to OBJECTIVE FINDINGS
  - Active ROM to passive ROM
  - Active ROM to functional activities demonstrated during the history and the PE
  - Different examiners in the records

FORENSIC PHYSICAL EXAMINATION

- **Consistency** of the factors noted on the prior slide leads to **medically probable diagnoses.**
- **Subjective complaints** of pain alone is **not sufficient** to establish a diagnosis or causal relationship.
- Presence of **imaging findings** is **not sufficient** to establish a diagnosis or causal relationship.

FORENSIC PHYSICAL EXAMINATION

- **Consider that the 4th Edition GUIDES - Page 298 states:**
- ***"results of physical and mental status examinations and other data and information of the evaluation may be inconsistent with the nature and intensity of the patient's complaints"***
- In such cases, the proposed diagnoses in the records are unlikely to be present with a degree of medical probability

FORENSIC PHYSICAL EXAMINATION

A forensic physical exam should include:

- **All likely compensable body areas / systems**
- **Appropriate contiguous areas.**
- **Systems that might be alternate explanations for the collection of symptoms** claimed.

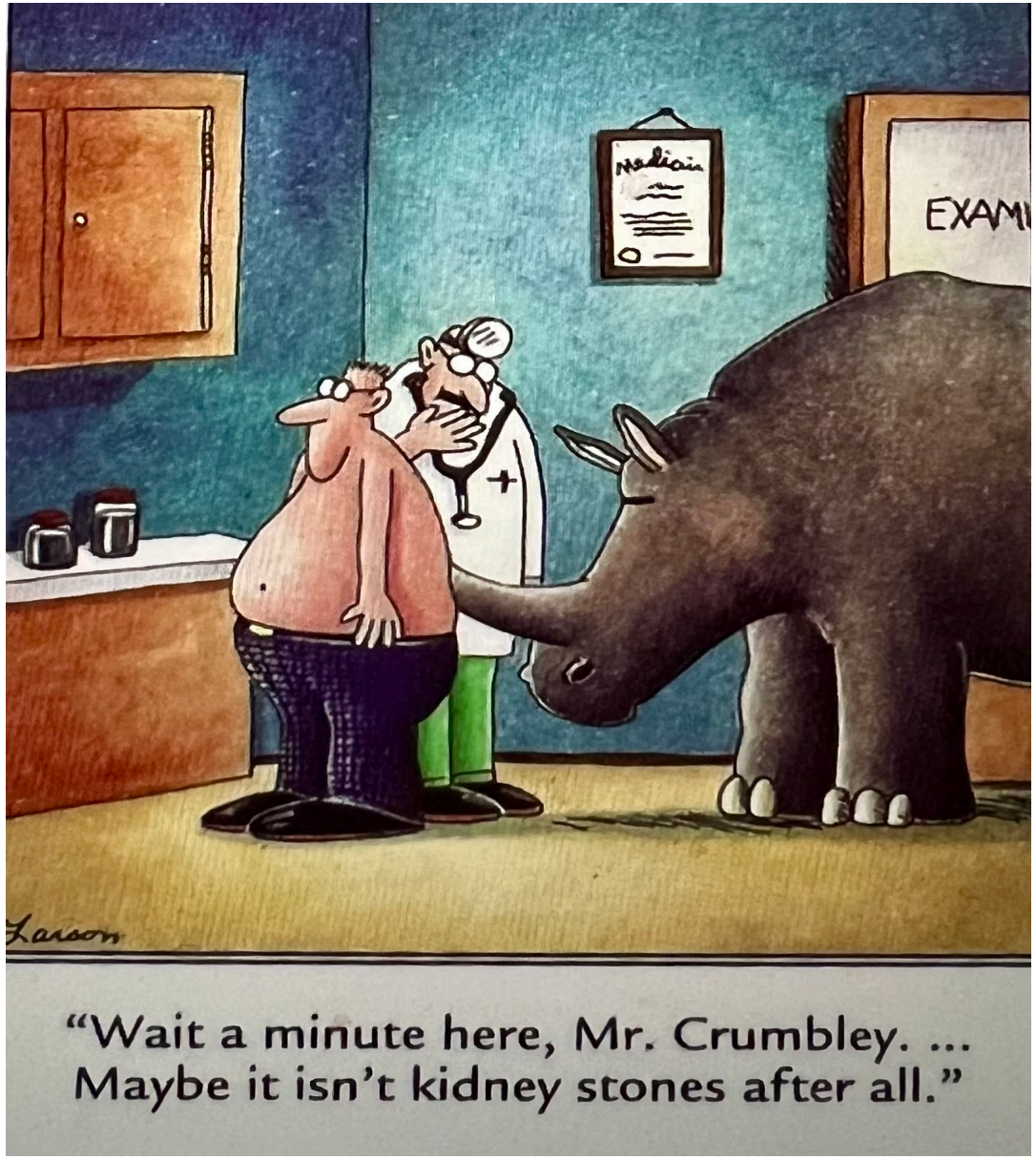
FORENSIC PHYSICAL EXAMINATION

- **Examples of consideration of contiguous areas:**
  - Hip joints for lumbar spine conditions or "knee pain"
  - Cervical, other upper extremity joints and chest wall for shoulder complaints
  - Consider that there may be referred pain from other musculoskeletal areas; a trigger point in the gluteus medius radiating down the lateral leg.

FORENSIC PHYSICAL EXAMINATION

KEEP AN INDEX OF SUSPICION FOR ALTERNATE EXPLANATIONS (from medical conditions):

- ✓ Chronic kidney stones or aortic disease for back pain
- ✓ Peripheral Vascular Disease as a cause of leg pain
- ✓ Angina as a cause of pain and tingling in the left arm
- ✓ Gallbladder pain as a cause of right shoulder pain
- ✓ Pancoast / upper lung tumor causing shoulder or lower plexus dysfunction



FORENSIC PHYSICAL EXAMINATION

- **YOU DON'T KNOW WHAT YOU DON’T LOOK FOR.**
- **YOU DON'T KNOW WHAT YOU DON’T KNOW.**

- There may always be people smarter than you, but you can always be more thorough than those smarter than you.

    - Lori Wasserburger, MD

FORENSIC PHYSICAL EXAMINATION

- Musculoskeletal Bullets or Basics:
  - Examination of gait and functional activities
  - Joint Stability or other Provocative Joint Maneuvers
  - ROM
  - Spine –Neural Tension signs (i.e., SLR, Femoral Nerve Stretch Test)
  - Other - Non-organic signs / Symptom Magnification, Pain Inhibition, etc.

FORENSIC PHYSICAL EXAMINATION

- Neurologic bullets or basics:
  - Strength
  - Sensation
  - Deep Tendon Reflexes (DTRs)
  - Measure for atrophy at specific anatomic points
  - Upper motor neuron / long tract signs
  - Cranial Nerves
  - Cerebellar

Forensic Physical Examination

Specifics of Exams

FORENSIC PHYSICAL EXAMINATION

Observation of functional activities:

Gives the examiner a forensic blueprint of what they ***should*** see:

- During measured ROM
- Other formal aspects of the forensic examination

FORENSIC PHYSICAL EXAMINATION

Observation of functional activities can assess:

- General neurovascular status
- Range of motion of the affected joints
- Integrity of the biomechanical chain (including stability) of the lower extremities and lumbar spine
- Work related functional abilities

Forensic Physical Exam

Lumber Spine & Lower Extremity Functional Activities

- **Normal Gait:**
  - **Symmetric and Stable?**
  - **Antalgic – real or feigned**
- **Ataxia or imbalance**
  - **Normal gait**
  - **Tandem Walk ***
- **Bilateral squat**
- **Repetitive Toe Raise / Heel Raise OR Toe and Heel Walk.**
- ***May a**lso evaluate under neurologic

Forensic Physical Exam

Lumber Spine & Lower Extremity Functional Activities

- Compensated OR
- Uncompensated
- Trendelenburg during:
  - Single leg balance
  - Single leg Squat
  - Single step up on exam stool
- *May ALSO be considered under the hip joint

Cervical Spine & Upper Extremity Functional Activities

Forensic Physical Exam

- Movement patterns while opening or closing the door, completing paper-work, pulling a zipper, getting on and off the exam table inform you as to abilities for:
  - Gross Grasp
  - Prehension ability
  - ROM and strength of the upper extremity joints and spine

Cervical Spine & Upper Extremity Functional Activities

Forensic Physical Exam

Muscle spasm / guarding

- **Discussed under the SPINE IR section**
- Terms are often mis-used, even by doctors
- When truly present, can inhibit ROM
- These can be a learned pattern rather than a persistent sign of injury
- **Tenderness or withdrawal to touch is NOT = to guarding or spasm**

Forensic Physical Exam

General
Cervical & Thoracic
Inspection
Examination

Check the spine for any malalignment in EACH plane:

- Forward Head Position
- Torticollis = Rotation and side bending of the head relative to the neck
- Scapular Asymmetry – elevated, protracted, winging
- Scapular Dyskinesis with **AROM**

Forensic Physical Exam

General
Thoracic & Lumbar
Inspection
Examination

Check the spine for any malalignment in EACH plane:

- Lumbar list or Pelvic shift = coronal plane
- Pelvic obliquity = axial plane
- Pelvic rotation = sagittal plane.
- Postural or fixed kyphosis = sagittal plane.
- Scoliosis = mostly coronal plane, it is a curve often with a twist

Forensic Physical Exam

Joint & Connective Tissue Evaluation

Check for presence or absence of:

- General ligamentous hypermobility of the joints
- Bony hypertrophic changes, synovitis or effusion of the joints (OA)
- Joint soft tissue swelling, erythema, warmth (OA or systemic arthritis)
- Rashes, abnormal skin texture, nail texture/ appearance (OA or systemic inflammatory arthritis)

Other general medical conditions can be alternate explanations to claimed work event

Forensic Physical Exam

Vascular Evaluation

Check for presence or absence of:

- Symmetric pulses
- Capillary refill
- Normal temperature
- Hair growth and skin texture
- Vasomotor instability or Raynaud's Edema
- Venous stasis changes and varicosities

Other general medical conditions can be alternate explanations to claimed work event

Forensic Physical Exam

RANGE OF MOTION (ROM)

As discussed before, keep in mind that each joint and region of the spine has a range of "normal"

- **This "normal" can be affected by**
  - **Age**
  - **BMI**
  - **Body Habitus**
  - **Gender**
  - **Prior Injury**
  - **Degenerative Conditions**

WHY it is SO important to check the contralateral side when doing measurements

RANGE OF MOTION (ROM)

Forensic Physical Exam

The "normal" range of motion can also be affected by:

- **Fear Avoidance**
- **Motivation / Effort**
- **Conscious deception**

✓ **Evaluate for Non-Organic findings if suspicious of these factors**

✓ **REGARDLESS of the CAUSE, the presence of these findings would be likely to INVALIDATE the ROM findings.**

Forensic Physical Exam

There are several pages in the authoritative **AMA Guides to Permanent Impairment - 4th Edition (Guides)** that discuss the necessity of corelating the examination findings with the injury and when findings may be invalid.

Please refer to:

- Chapter 2 - pages 8
- Chapter 3 – pages 14, 76, 77, 95
- Chapter 14 – page 298

Forensic Physical Examination

The GUIDES – Chapter 2, page 8,
"The physician must utilize the entire gamut of clinical skill and judgement in assessing whether or not the results of measurements or tests are plausible and relate to the impairment being evaluated."

What this means is do your measurements make sense?
Are they reliable / consistent?

Forensic Physical Examination

The GUIDES – Chapter 3, Page 14 states
"evaluating the range of motion of an extremity or the spine is a valid method of estimating an impairment".
"To some extent, however, the ROM is subject to the patient's control. The results of such evaluations should be consistent and concordant with the presence or absence of pathologic signs and other evidence."

Forensic Physical Examination

The GUIDES – Chapter 3, Page 95 for the spine states that
"The physician should note any physical findings that are not consistent with the medical history".
"The physician should identify any information based on the patient's verbal responses or interpretation and <u>not confuse it</u> with objective clinical findings".

What this means is that symptoms without objective signs cannot be verified

Forensic Physical Examination

The GUIDES - Page 298 states that
"Malingering or exaggeration of symptoms may be suspected when the individual's symptoms are vague, ill-defined, overdramatized, inconsistent, or not in conformity with signs and symptoms known to occur".

Forensic Physical Examination

RANGE OF MOTION:

- **For the purpose of assessing impairment (IR), it is important to measure ACTIVE range of motion (AROM)**
- **However, it is important to address PASSIVE range of motion (PROM) as well. [Noted on page 14 of Chapter 3.]**
- **WHY? IF there is a mis-match with PROM being far greater than AROM, there are two main reasons:**
  - Pain inhibition or decreased effort – invalidates the measured ROM
  - There is an occult nerve injury that limits the active movement of the joint

Forensic Physical Exam

The ROM findings must make sense based on the injury.

SOME variability of ROM on any given day would be expected, **BUT be suspicious of:**

- Wide swings of ROM
- Evidence of mismatch of ROM with functional activities observed in the exam room or documented elsewhere
- Passive motion far greater than active motion without an associated nerve injury
- ***Don't take the measurements obtained during your exam at face value.***

Forensic Physical Examination

PALPATION:

- Comment on response to palpation
  - Superficial tenderness #
  - Global tenderness #
  - Focal or specific segmental pattern
- Are there any referral patterns to palpation of muscle trigger points or joint structures (sclerotomal pain or abnormal sensation).
  - Alternate explanation to radiculopathy or other nerve injury

- # Discussed further under non-organic signs

FORENSIC PHYSICAL EXAMINATION

PROVOCATIVE TESTING:

- **These tests help fine tune a diagnosis.**
- **It** is important in a forensic DD examination to tease out the pain generator and determine IF that is related to the claim/part of the compensable injury.

Forensic Physical Examination

PROVOCATIVE TESTING:

- Many tests are intended to load a specific anatomic structure and thereby provoke pain at that structure **IF** it is symptomatic.
- Each joint has specific tests often identified by a name.

✓ [It is better to describe the positions the joint is put into, as this will determine which tissue is expected to be stressed.]

Forensic Physical Examination

PROVOCATIVE TESTING:

What is NOT helpful to making a forensic diagnosis?.

- Reporting a "positive" test
  - ✓ That may be OK for a treating MD, but not optimal in a forensic exam
- Reporting "pain" without an anatomic localization of the pain
  - ✓ Is the pain reported consistent with the tissue the test is designed to stress?
  - ✓ Example: Empty can test causing pain at the upper trapezius rather than the Supraspinatus tendon.

Forensic Physical Examination

PROVOCATIVE TESTING:

- Like ROM, it is important to test the uninjured side
- There can be gender and individual differences in the natural laxity of a joint. Don't identify something as *"abnormal"* , IF that is that individual's norm.
- When possible, test contiguous joints in the kinetic chain.
  - ✓ Assists in determining if there is referred pain
- Consider performing provocative testing PRIOR to ROM.
  - ✓ These tests require specific positioning or ROM of a joint
  - ✓ Gives the forensic doctor an idea what the active and passive ROM of each joint ***should*** be.
- ,

Forensic Physical Examination

PROVOCATIVE TESTING:

- Accuracy of a diagnosis is improved by using CLUSTERS of tests.
- Test clusters of many joints or body regions are discussed in the ODG, with associated evidence-based medicine (EBM)
- Many of the provocative tests are beyond this basic DD 101, but become familiar with and comfortable with the common tests for different joint conditions

Forensic Physical Examination

NON-ORGANIC SIGNS:

- **These are signs that DO NOT have an organic (anatomic or physiologic basis**
- They can indicate non-injury related factors that are influencing the claimant's expression of pain / dysfunction
  - ✓ Secondary Gain (and at times Tertiary Gain
  - ✓ Conscious Deception aka Malingering
- If present, you cannot tell if these findings are a subconscious process or conscious
- What they can inform you is whether that individual is likely to experience further material recovery AND if they are good candidates for invasive treatment (likely NO)

Forensic Physical Examination

Waddell Signs

DISTRACTION

OVER-REACTION

REGIONAL DISTURBANCES

SIMULATION TESTS

TENDERNESS

Forensic Physical Examination

NON-ORGANIC WADDELL SIGNs:

- **Distraction:** Findings that are present on formal testing that are not present while distracted.
  - ✓ Example: "positive" Supine SLR and negative seated SLR
- **Over-reaction:** Verbal / moaning, facial expressions, shaking / tremors, hyperventilating – out of proportion to the testing performed
- **Regional Disturbances:** Hemisensory or hemi-motor "loss" that does not follow accepted nerve anatomy

Forensic Physical Examination

NON-ORGANIC WADDELL SIGNs:

- **Simulation Tests: Simulating a movement pattern that the IE presumes will cause pain, but that movement is not actually performed**
  - ✓ **Simulated Compression**
  - ✓ **Simulated Rotation**
- **Tenderness: That does not make sense with a specific injury.**
  - ✓ **Superficial Tenderness –** tenderness to light touch / pinch over wide areas
  - ✓ **Non-anatomic Tenderness –** deep tenderness over a wide area of not only the spine but contiguous areas

Forensic Physical Examination

NON-ORGANIC SIGNs VARIATIONS:

- Prolonged "disability" experienced when there is (+)
  - ❑ Waddell + shoulder ROM causing LBP - ~ 53 % increase
  - ❑ Waddell + shoulder ROM + cervical ROM - causing LBP ~ 73 % increase

- **Hoover's Sign/Test:** Assesses effort
  - ✓ Examiner cups both heels of the IE
  - ✓ Instructs the IE to lift a leg off the table.
  - ✓ If good volitional effort is given, the examiner should feel increased downward pressure on the unexamined leg

Forensic Physical Examination

NON-ORGANIC SIGN VARIATIONS:

Even IF there is not a formal name given to non-organic findings:

- Document their presence
- Document any other inconsistencies
- Inform the reader of your report as to how these findings influenced your decisions on the compensable injury and the dispute issues you were tasked with
- If it does not make sense – do not try to fit a square peg in a round hole

Any Questions on Forensic Physical Exams?

Steps for Success When Examining the Injured Employee

Subtitle

Steps for Success When Examining the Injured Employee

- Develop a narrative for explaining the purpose of the exam to the injured employee (IE);
  - Appointed as a neutral expert for the state
  - To be a neutral expert, you can't have had any other role in their claim or any future role as long as you are the designated doctor assigned to the claim
  - That you will not giving medical advice or providing treatment
  - Will not be discussing your opinions with them

Steps for Success When Examining the Injured Employee

- Develop a narrative for explaining the purpose of the exam to the injured employee (IE) (continued)
  - All opinions will be included in a report that they will receive, as will TDI-DWC, the treating doctor and the insurance carrier of their employer
  - Your role is to apply the legislatively adopted guidelines for treatment, return to work and impairment and the best available medical studies related to their issues
  - Gauge your audience…some may require minimal explanation and others more detailed explanation

Steps for Success When Examining the Injured Employee

- Examiners choice as to letting family or friends in the examination room.
- In general, EBM demonstrates that observed exams alter the behavior of the person being examined and is sub-optimal
- You DO NOT have to allow an IE to record the examination
- Develop strategies for handing individuals with different personalities, including hostile individuals.
  - For the latter, kindly inform them that if you can't get reasonable cooperation on the history or exam, that it will not help their case
  - Any other ways to defuse a tense situation?

Steps for Success When Examining the Injured Employee

- Try not to ask leading questions during exam. Example: in performing a Tinel's over the median nerve..
  - You may decide to ask nothing, OR say let me know it anything different happens when I do this.
  - DON'T ask – does this reproduce the N/T in your fingers? You telegraph the response you want
- Understand different strategies to help obtain maximal effort from the IE.
  - Being a good listener will gain trust, so that WHEN you go to conduct the exam, they will be more compliant.
  - Keep an open expression
  - Explain what you are about to do when appropriate

Steps for Success When Examining the Injured Employee

- When getting suboptimal effort, you may:
  - choose to let them know that without better effort, you may not be able to sue these findings in your assessment
  - IF there was better movement during functional activities, you may choose to discuss this mismatch. Give them an "out", indicating that sometimes fear of pain can limit our effort, but “try to give one good effort anyway”
  - Any other strategies?

Determining the Compensable injury and Extent of Injury

Understand the legal concept of EOI and how to address it based on the information listed on the DWC Form 032

Determining the Compensable injury and Extent of Injury

- Understand that the designated doctor determines the compensable injury based on a thorough review of the records, the certifying examination and evidence-based medicine.
- The DD will then explain his / her rationale for why they included specific diagnoses as the compensable injury
- Basic discussion includes
  - a brief recap of the mechanism of injury,
  - the timeline of the subjective and objective findings
  - any relevant acute findings on diagnostics

Determining the Compensable injury and Extent of Injury

- Performing an Extent of Injury (EOI) analysis is similar to the process of defining the compensable injury for disputes such as MMI, IR, RTW.
- Understand that the issue of Extent of Injury is a more formal approach (causation analysis) to address whether specific diagnoses or conditions are part of the compensable injury
  - These diagnoses or conditions may include other disputed conditions by the carrier or additional claimed injuries by the IE.
  - EOI may specifically be asked via a DWC-32 or a Presiding Officers Directive (POD)

EXTENT OF INJURY - DWC 32, Box 31C

☐ **C. Extent of Injury**

List all injuries (diagnoses/body parts/conditions) in question, claimed to be caused by, or naturally resulting from the accident or incident **and** describe the accident or incident that caused the claimed injury.

Extent of Injury (EOI): DWC Form-032, Box 31C

- Lists all injuries / conditions in dispute, as per either the carrier or IE / IE Representative.
- Gives a description of the accident/incident that caused the claimed injury in question/in dispute.
- DD must address EACH injury (diagnosis/body part/condition) listed in Box 31C.
- Failure to do so may result in your opinion not being adopted.

28 TAC §127.1(b)(11)(C) Revised 12/06/18

Extent of Injury (EOI): DWC Form-032, Box 31C

- Continue to refer to the injury or condition using the **same terms** as listed in Box 31C

- If referring to injury or condition by different medical term or grade of condition than listed in Box 31C, this must be explained
  - Do you view these terms as synonymous? If so, state that these are same and provide evidence.

- If there are injuries that can be **grouped together** as the same, or part of the same medical process, explain diagnoses / conditions in a grouping

Extent of Injury Question for the Designated Doctor

Was the accident or incident giving rise to the compensable injury a **substantial factor**

in bringing about the additional claimed injuries or conditions, and

without it, the additional injuries

or conditions would not have occurred?

Include an explanation of the basis for your opinion, NOT just your opinion.

Extent of Injury Question for the Designated Doctor

What IS Substantial Factor?

- No legal definition in DWC system
- **Substantial factor is relative**
- Consider the mechanism of injury
- Co-morbidities

Substantial factor is not the same as sole cause.

There may be more than one substantial factor

Extent of Injury Question for the Designated Doctor

"Injury"

- Damage or harm to the physical structure of the body
- Disease or infection naturally resulting from the damage or harm
- Includes occupational disease

Texas Labor Code §401.011(26)

Extent of Injury Question for the Designated Doctor

"Appeals Panel Interpretation of AGGRAVATION"

- Claimed injury that causes additional damage or harm to the physical structure of the body
- May include any naturally resulting disease or infection
- Can include an enhancement, acceleration or worsening of an underlying condition*

* Not just increase in subjective symptoms.

Appeals Panel Decision 002967

EOI Analysis: Understanding the Question of EOI

- Important medical/legal question in workers' compensation
- ***You*** give your opinion and rationale as to which conditions are caused by events of the DOI and which are not
- Support your opinion, from a medical perspective, within the legal framework
- You provide medical expertise to inform those reading your report, including an Administrative Law Judge

As with the answer to ANY dispute question, do not assume the reader of your report has any medical knowledge!

EOI Analysis: Understanding the Question of EOI

Give thorough explanation. Describe:

- Terms of the additional claimed diagnoses / conditions
- How the injury in question typically occurs
- The pertinent positives and negatives in the records that support your opinion
- The consistencies or any inconsistencies of the MOI, subjective complaints (SC), objective findings (OF) in the medical records.
- Determine IF the MOI, SC, OF are consistent with the injury model

EOI Evaluation

Steps for Success for EOI

The revised DWC-32 as of June 2023 WILL NOT have a "Carrier Compensable" but will have the Additional Claimed Conditions.

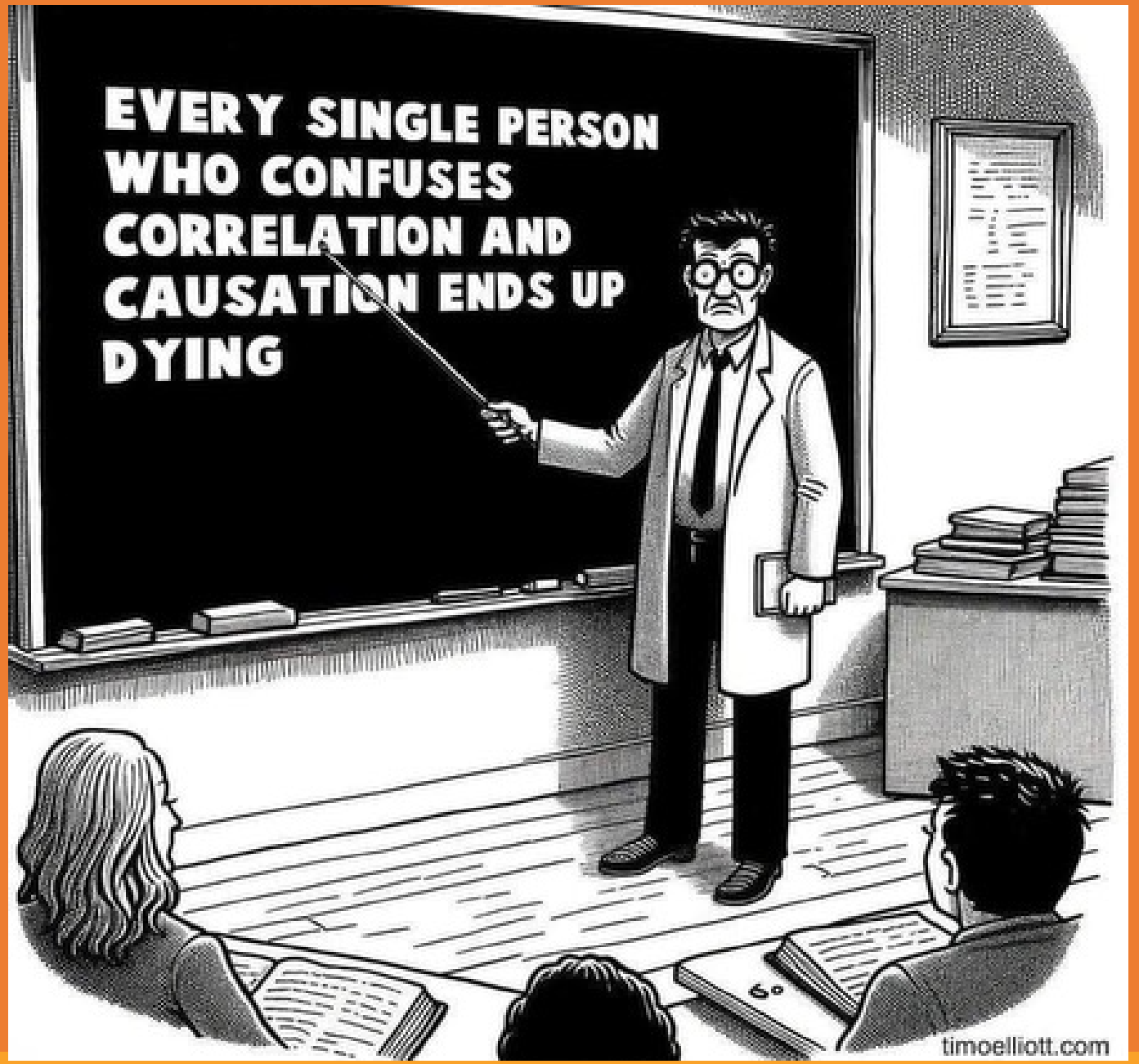
- **Provide:**
  - A Forensic Exam that captures all the necessary information
  - Research and Literature Review
  - Causation Analysis
  - Produce a Narrative Report that is legally sufficient

EOI Evaluation
Insufficient Causation Analysis

- **DOES NOT provide an EXPLANATION**
- **Provides CONCLUSIONS, rather than an explanation**
  - Only listing diagnoses or ICD-10 codes
  - General statements that the symptoms or condition was not present until after accident – the Post Hoc Ergo Proptor Hoc fallacy

All parties, including Administrative Law Judge, need explanation as to ***why*** *you reached your conclusion,* ***not just a conclusion.***

EOI Evaluation Insufficient Causation Analysis



EOI Evaluation
LEGALLY SUFFICIENT DESIGNATED DOCTOR REPORT

DESCRIBE EACH INJURY FROM BOX 36C

+ MECHANISM OF INJURY

+ CLINICAL FINDINGS AND TIMELINE

+ EVIDENCE BASED MEDICINE

+ ANSWER QUESTIONS WITH APPROPRIATE LEGAL TERMS

SUFFICIENT CAUSAL ANALYSIS

EOI Evaluation

This is a more legally challenging role of the DD.

- PLEASE REFER TO THE PRE-RECORDED EOI Webinar that is part of YOUR MANDATORY TRAINING prior to the Certification Course.
- IF you are a NEW potential DD, we strongly encourage you to attend the additional EOI Webinar
  - Usually conducted 2 weeks after the Certification Course
  - Has valuable information on Report writing

https://www.tdi.Texas.gov/wc/dd/training

Any questions on the Compensable Injury, or Extent of Injury concepts?

MAXIMUM MEDICAL IMPROVEMENT (MMI)

Question for the designated doctor:

Has MMI been reached? **If so, on what date?**

MAXIMUM MEDICAL IMPROVEMENT (MMI)

CLINICAL MMI

- The earliest date after which, based on reasonable medical probability, further material recovery from or lasting improvement to an injury can no longer reasonably be anticipated.
- **Clinical MMI** may not be later than the **statutory MMI** date

STATUTORY MMI

- The expiration of 104 weeks from the date on which income benefits began to accrue
- The date determined if the Commissioner orders an extension of statutory MMI for approved spinal surgery

MAXIMUM MEDICAL IMPROVEMENT (MMI)

- Based on the records reviewed and the exam findings, you will have defined the COMPENSABLE INJURY for certification of MMI and IR and explain this in your report.
- Do NOT rely on the following for your determination of the compensable injury:
  - ICD-10 codes or other diagnoses used by the treating doctor
  - A PLN-11 submitted by the carrier
  - A Carrier or other attorney analysis

MAXIMUM MEDICAL IMPROVEMENT (MMI)

How do you determine the COMPENSABLE INJURY ?

- Perform a thorough review of the records with attention to the:
  - Mechanism of injury proximate to the DOI
  - Subjective complaints and objective findings proximate to the DOI
  - Are there any imaging or other diagnostic studies that demonstrate acute / subacute findings?
- Perform your Certifying Exam (more on this in the afternoon)
- Consider what the evidence based medicine for injuries similar to this would inform you as to determining the compensable injury

MAXIMUM MEDICAL IMPROVEMENT (MMI)

- Consider the *Official Disability Guidelines* (ODG), including Appendix D, to determine if, based on reasonable medical probability, additional treatment for the **compensable injury** can be anticipated to result in further material recovery or lasting improvement
- If not at MMI, why not?
  - What is needed to reach MMI as per the ODG and / or other evidence based medicine?

Refer to the Pre-recorded MMI presentation to learn how to apply the defined compensable injury to the ODG and demonstrate exceptions with APPENDIX D

MAXIMUM MEDICAL IMPROVEMENT (MMI)

ADDITIONAL TESTING

- The DD ***must*** perform additional testing and make necessary referrals (when not qualified) ***when necessary*** to resolve issue in question
- Testing and referrals by DD not subject to preauthorization or denial retrospectively based on medical necessity, extent or compensability

  28 TAC §127.10(c)

MAXIMUM MEDICAL IMPROVEMENT (MMI)

ADDITIONAL TESTING

If additional testing or referrals are necessary, include in your report:

- **WHY** the referral was necessary to resolve the issue in question?
- **WHAT** were the results? Don't just attach a copy of the report. Indicate what you felt to be relevant,
- **HOW did the results affect your medical decision process?**

MAXIMUM MEDICAL IMPROVEMENT (MMI) ADDITIONAL TESTING

DO NOT order additional testing IF:

You do not have a presumptive diagnosis you are looking for;

Testing is too delayed from the DOI to provide meaningful information;

Testing is being done only because your scheduling company tells you to do it.

MAXIMUM MEDICAL IMPROVEMENT (MMI)

We will briefly present 4 different patterns of MMI

- This is detailed at length in the Pre-Recorded MMI lecture.
- *The MMI lecture is one of 4 that are mandatory as part of the Certification process to be a Designated Doctor*

MAXIMUM MEDICAL IMPROVEMENT (MMI)

The FIRST Scenario is NOT AT MMI

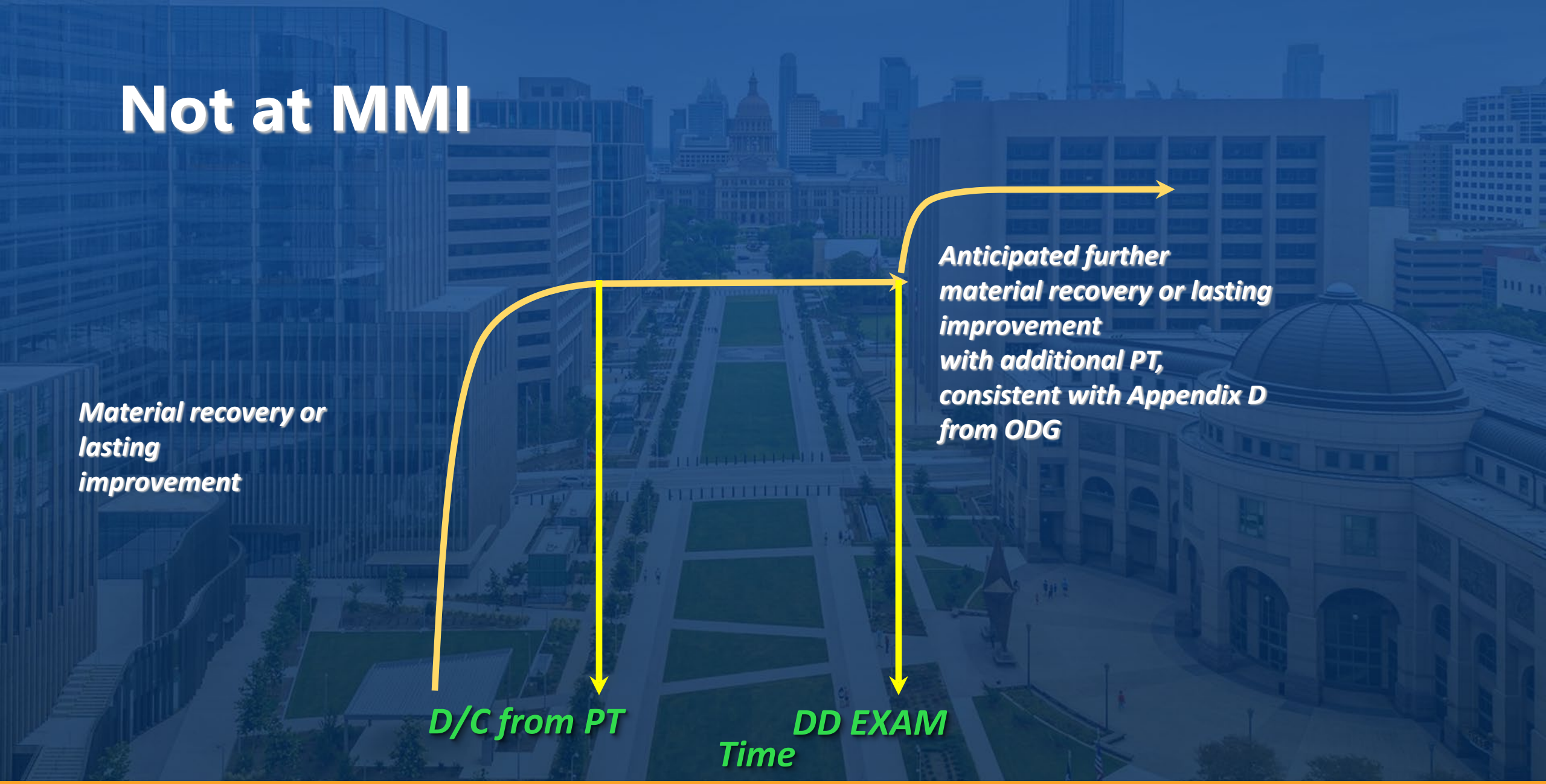
This is when "further material recovery or improvement" is still anticipated.

- The graph on the following slide illustrates that there was a “relative” plateau of the injured employee’s condition, but based on case specific details, further recovery or improvement still anticipated.

  ✓This situation may be when treatment was denied based on the Carrier's impression of the Compensable Injury. Once YOU define the Compensable injury, there is clearly additional ODG treatment that would be anticipated to result in further material recovery.

  ✓In other situations, there may have been slow progress, but based on other claim related information, those factors would give reasonable medical probability that with additional formal treatment, there would be further material recovery. [Appendix D]

Not at MMI


Material recovery or lasting improvement
Anticipated further material recovery or lasting improvement with additional PT, consistent with Appendix D from ODG
D/C from PT
DD EXAM
Time

MAXIMUM MEDICAL IMPROVEMENT (MMI)

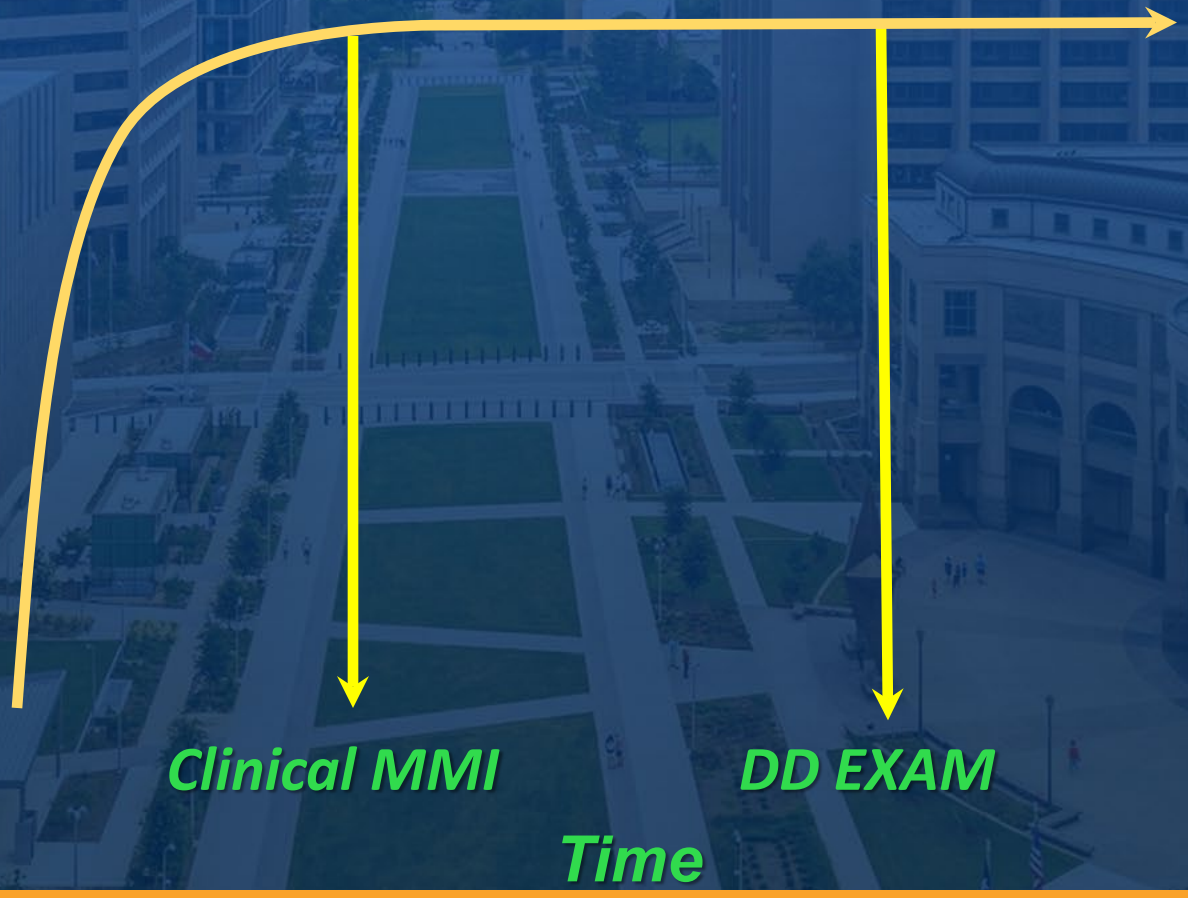
The 2nd Scenario is MMI BEFORE the date of the DD exam

The graph on the following slide illustrates that the injured employee reaching MMI prior to the designated doctor exam because there was no change in the condition and there was no anticipation that there would be further material recovery.
Their condition had:

- completely resolved
- resolved as fully as the defined compensable injury was likely to

- IF there was no intervening change in condition or a reasonable expectation of improvement from your determined date of MMI to your designated doctor exam, allows you to use physical exam findings from your designated doctor exam for determining impairment as of the MMI date you determined.

MMI Before the DD Exam



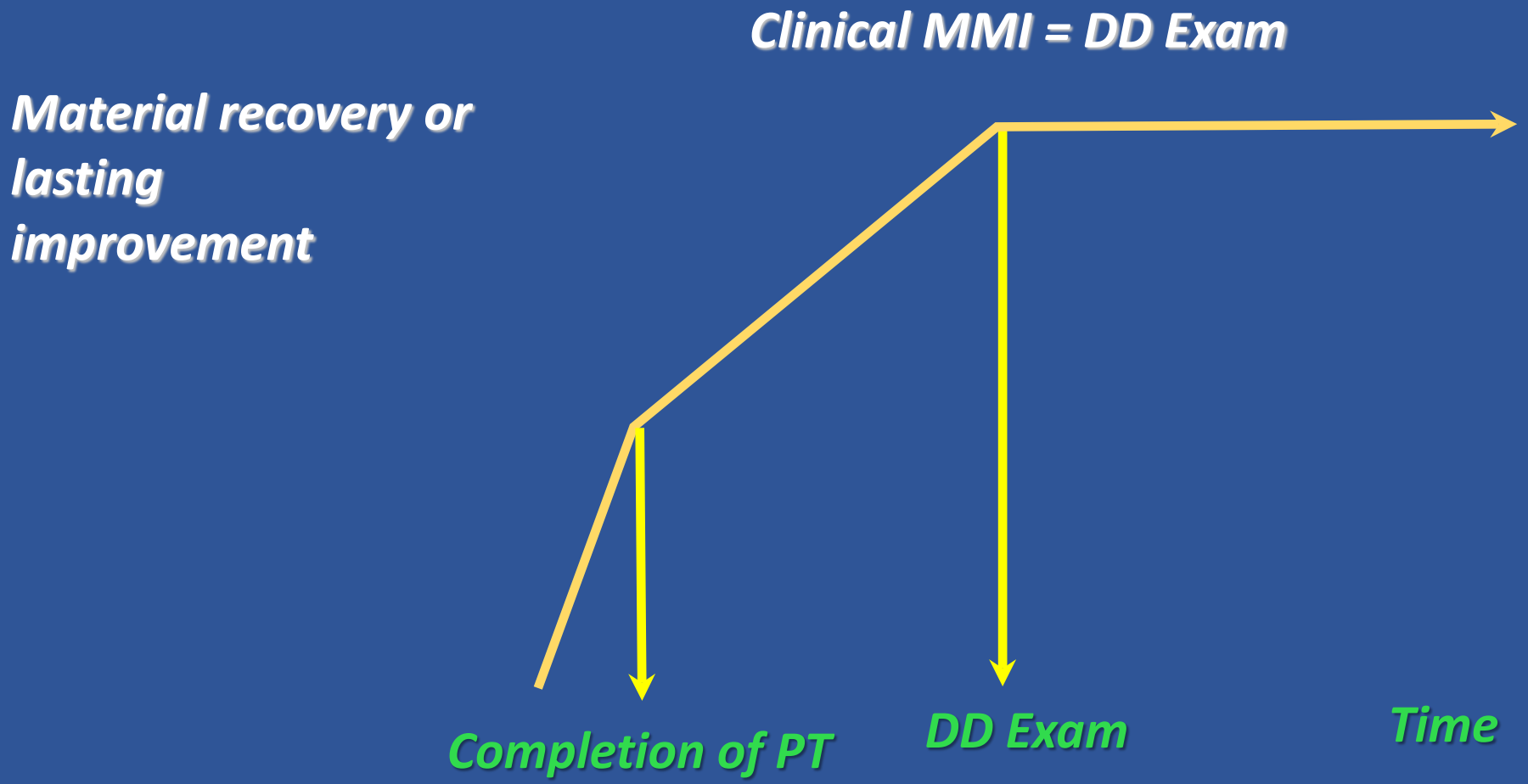
MAXIMUM MEDICAL IMPROVEMENT (MMI)

The 3rd Scenario is MMI ON the date of the DD exam

This graph on the following slide represents when the earliest date there was no probability of further material recovery was the date of the DD exam.

- There will be occasions were even after completion of formal treatment, such as PT, continuation of a home exercise program, and gradual return to their usual activities of daily living or job duties, the injured employee could be reasonably anticipated to have further material recovery or lasting improvement .
- This might be a situation where your designated doctor exam demonstrated that indeed, improvement did occur.
- This might also be a situation where recovery after a nerve injury takes time, without formal treatment.
- If there were no other data points that gave enough objective, functional information to conclude that MMI was at an earlier date, the date of the DD exam may be chosen, and your exam findings are used.

MMI on Date of DD Exam



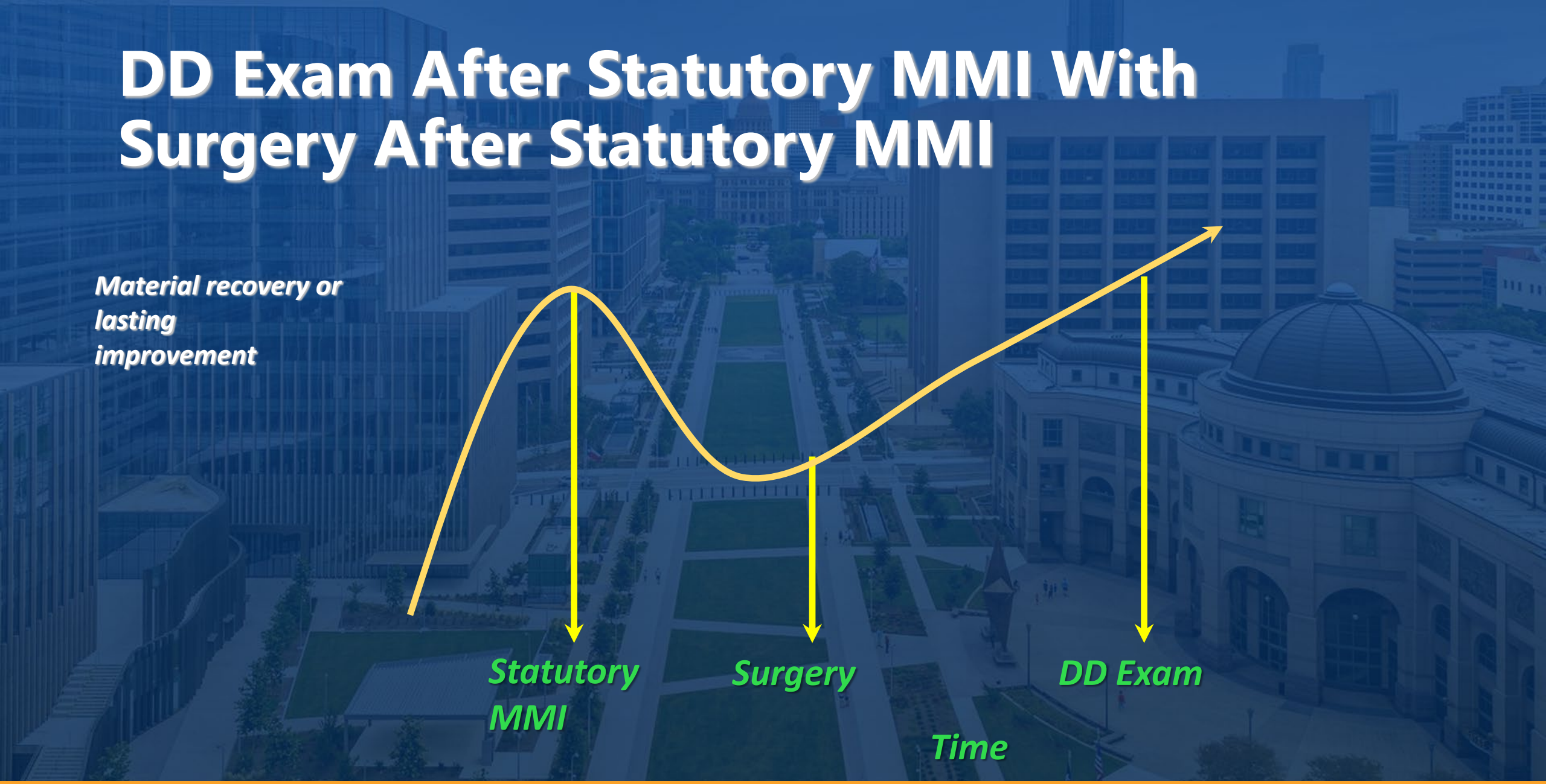
MAXIMUM MEDICAL IMPROVEMENT (MMI)

The 4th Scenario is MMI on the Statutory date of MMI

This is a graphic representation where there was still ODG treatment that was reasonable to result in further material recovery that took place AFTER STAT MMI.

- In this case, there was surgery AFTER Stat and the DD evaluated the claimant AFTER that surgery.
- Their condition was altered by the surgery (or other Post-Stat treatment), so the DD exam findings AFTER that treatment may not be used.
- Only their condition at or about statutory MMI may be considered and preferably prior to statutory MMI.

DD Exam After Statutory MMI With Surgery After Statutory MMI



Any Questions on Maximum Medical Improvement Concepts?

IMPAIRMENT RATING (IR)

Question for Designated Doctor

On the certified MMI date, what is the impairment rating?

Question for Designated Doctor:

**On the certified MMI date,
what is the impairment rating?**

- Perform a thorough, relevant physical examination of all compensable body areas/systems
- Correlate with the findings in the prior medical records
- Make referrals, if necessary, to answer question
- Use 4th Edition of AMA *Guides* to rate

SHOW YOUR WORK!

IMPAIRMENT RATING

- Assignment of an impairment rating for the current compensable injury shall be based on the injured employee's **condition on the MMI date** considering the medical record and the certifying examination [Rule 130.1]
- Assign one whole body impairment rating for the current compensable injury
  - Use the rating criteria contained in the appropriate edition of the AMA *Guides to the Evaluation of Permanent Impairment*

IMPAIRMENT RATING

Complete and sign the DWC-69

- **Show your work! S**o that "*… any knowledgeable person can compare the clinical findings with the guides criteria and determine whether or not the impairment estimates reflect those criteria.*"
  AMA *Guides,* page 8

- Document the findings and explain the impairment rating in your narrative report, plus
  - Relevant worksheets
  - Testing reports *

*Do NOT attach test results **without** explanation

Overview of the AMA *Guides*

- AMA *Guides*, 4th edition published June 1993
- Effective in the Texas workers' compensation system October 15, 2001

- 15 Chapters
- Chapters 1 and 2 Impairment Evaluation; Records & Reports
- BE FAMILIAR with advice regarding VALIDITY and CORRELATION *

Overview of the AMA *Guides*

- Chapter 3 – The Musculoskeletal System (Hand and Upper Extremity, Lower Extremity, Spine)
- Approximately 90% of designated doctor examinations involve these 3 body areas

DESIGNATED DOCTOR IMPAIRMENT CONCEPTS

WHAT IS IMPAIRMENT?

As per page 1, Chapter 1 of the AMA Guides, 4th Edition

- An impairment is a deviation from normal in a body part or organ system and its functioning.
- Mirrors the WHO definition of "*any loss or abnormality of psychological, physiological, or anatomical structure or function.*"

DESIGNATED DOCTOR IMPAIRMENT CONCEPTS

WHAT IS NORMAL?

As per page 2 of the AMA Guides, 4th Edition

"Normal is not an absolute"

"An interpretation of normal that is too strict can result in an overestimation or underestimation of impairment.

- Certain values may be normal for a given person based on age, gender and other factors, and the contralateral extremity.

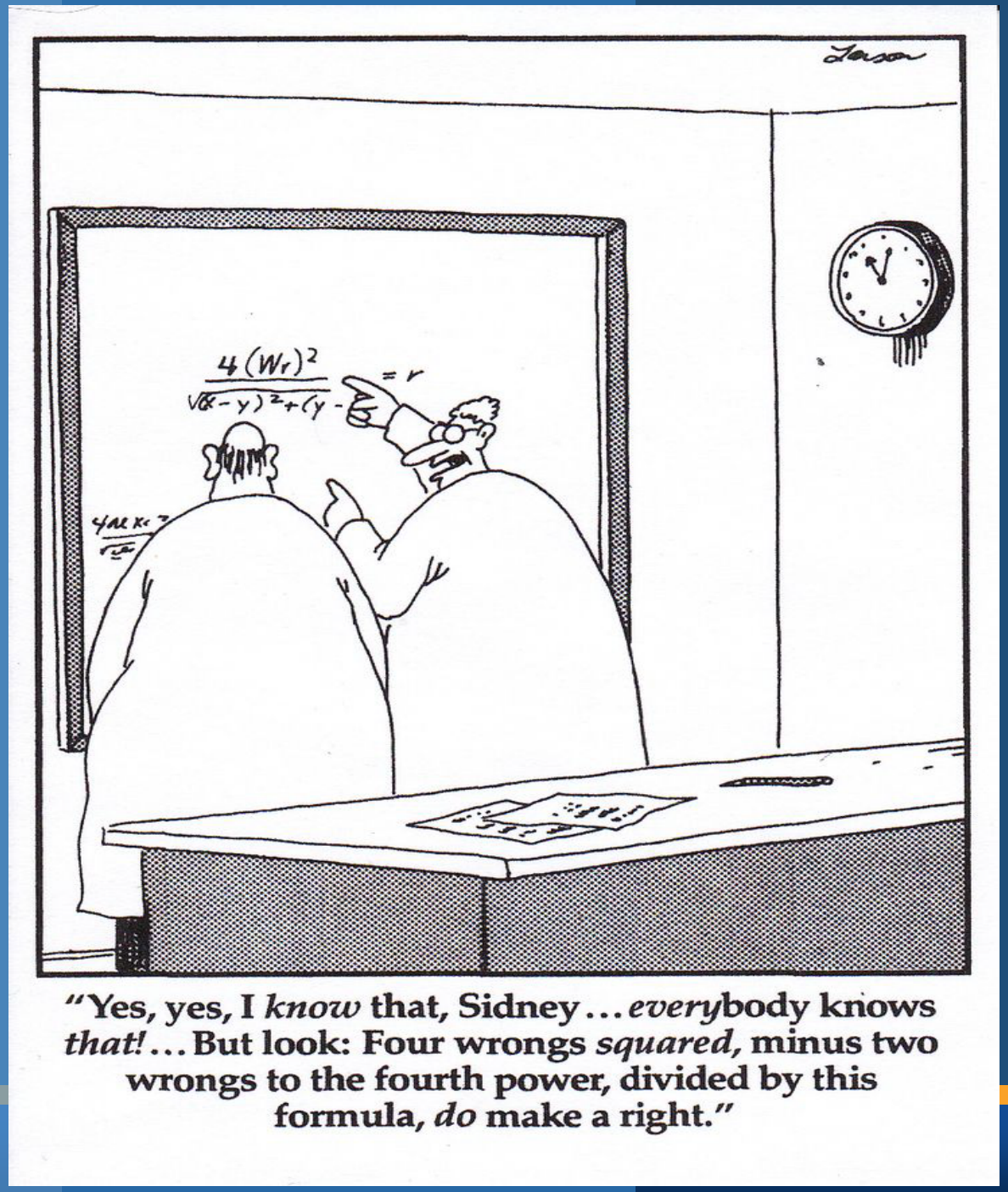
Measurements

CONSISTENCY OF MEASUREMENTS
(all measurements, not just ROM)

- Between examiners (Chapter 2, pages 7, 8, and 9)
- By the same examiner generally within +/- 10%, (Chapter 2, page 9)
- With the evidence in the medical records

MEASUREMENTS

- ***"must be plausible and relate to the impairment being evaluated,"*** (Chapter 2, page 8).
- DO THE MEASUREMENTS MAKE SENSE?



"Yes, yes, I *know* that, Sidney . . . *every*body knows *that!* . . . But look: Four wrongs *squared*, minus two wrongs to the fourth power, divided by this formula, *do* make a right."

MEASUREMENTS
[Chapter 2, page 8]

- "If in spite of an observation or test result the medical evidence appears not to be of sufficient weight to verify that an impairment of a certain magnitude exists, the physician should modify the impairment estimate accordingly...?

MEASUREMENTS

- Active, not passive ROM, should be rated.
- HOWEVER, the guides indicate that comparing active with passive may provide useful information
- (Chapter 3 - Page 14.)

- Rounding and interpolating are permitted **unless the book gives other directions.**
- DO NOT round WP impairment rating in DWC system
- (Not as instructed in the AMA *Guides* on page 9 in Chapter 2)

CONCEPT OF COMBINED VALUES

Use of the

COMBINED VALUES chart.

[Pages 322 - 324]

Using the Combined Values Chart

Combined Values Chart

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50
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The values are derived from the formula A+B (1–A)=*combined* value of A and B, where A and B are the decimal equivalents of the impairment ratings. In the chart all values are expressed as percents. To *combine* any two impairment values, locate the larger of the values on the side of the chart and read along that row until you come to the column indicated by the smaller value at the bottom of the chart. At the intersection of the row and the column is the combined value.

For example, to combine 35% and 20% read down the side of the chart until you come to the larger value, 35%. Then read across the 35% row until you come to the column indicated by 20% at the bottom of the chart. At the intersection of the row and column is the number 48. Therefore, 35% *combined* with 20% is 48%. Due to the construction of this chart, the larger impairment value must be identified at the side of the chart.

If three or more impairment values are to be combined, select any two and find their combined value as above. Then use that value and the third value to locate the combined value of all. This process can be repeated indefinitely, the final value in each instance being the combination of all the previous values. In each step of this process the larger impairment value must be identified at the side of the chart.

Note: If impairments from two or more organ systems are to be *combined* to express a whole-person impairment, each must first be expressed as a whole-person impairment percent.

Combined Values

Each organ system/body area should be expressed as a whole person impairment, then

- Whole person impairments should be **combined** using the Combined Values Chart (pp. 322 – 324)
- "Combining" assures that the impairment can't exceed 100% It reduces the remaining portion of the whole person that is available for the second impairment (or 3rd, 4th, etc.)

Combining 3 or More Impairment Values

- “If three or more impairment values are to be combined, select any two and find their combined value as above. Then use that value and the third value to locate the combined value of all. This process can be repeated indefinitely, the final value in each instance being the combination of all the previous values. In each step of this process, the larger impairment value must be identified at the **side** of the chart.” (page 322)

- **Best practice - combine the largest % with the second largest %, then combine with third largest %, etc.**

Combined Values

UPPER EXTREMITY

- Whole person maximum value of one arm is 60% WP
- Example: 60% WP IR leaves 40% of the remaining WP
  - 60% WP (of the remaining 40% WP) = 84% WP
  - Maximum IR for both upper extremities combined is 84%

Combined Values

LOWER EXTREMITY

- Whole person value of one leg is 40% WP
- Example: 40% WP IR leaves 60% of the remaining WP
  - 40% WP (of the remaining 60% WP) = 64% WP
  - Maximum value for both lower extremities combined is 64%

Combined Values

SPINE

- Example: 15% WP of the thoracolumbar spine [Thoracic] leaves 85% WP, c/w 10% WP of the lumbosacral spine [Lumbar] (of the remaining 85% WP) = 24% WP

DESIGNATED DOCTOR CONCEPTS - IMPAIRMENT

GENERAL COMMENTS

- Other important pages in the AMA Guides instruct you as to how to approach a specific claim.
- Please review
  - Section 2.2 on page 8 and 9
  - Section 2.9 on page 9 and page 14

When there is conflict between...

The Division of Workers' Compensation (DWC) Statutes/Rules/Appeals Panel Decisions (APDs)

and, the AMA *Guides*

Be aware of when DWC **Statutes/Rules/APDs take precedence**

Any Questions on basic Impairment Rating Concepts?