

Rating Strategies and SB 863 Issues



Presented By

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Disability Evaluation Unit

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Presentation Overview

- Use case studies to examine various rating issues and how they might be handled
- Rating issues
- Rating issues involving SB 863



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Case Study #1

- Carpenter Age 30
- Rotator cuff injury
- Surgical repair of rotator cuff
- Decreased strength and motion with significant pain



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Case Study #1

Y.A. Tittle, MD AME report

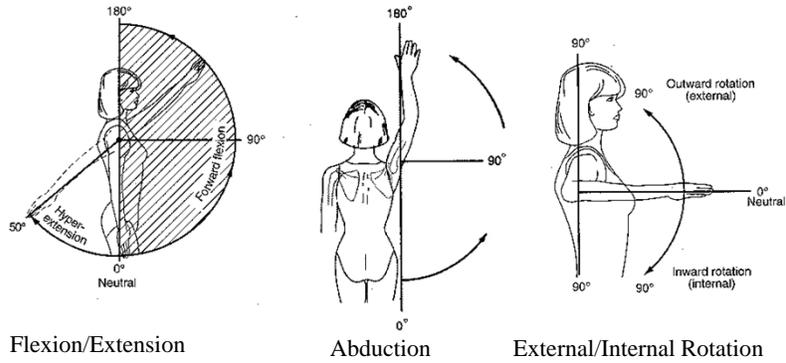
Factors of Impairment

- Grade 4 muscle strength 25% deficit all units of shoulder motion
- ROM S: 20-0-100 F: 110-0-30 R: 40-0-20
- 3 WP for pain

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Shoulder Motions

There are six shoulder motions

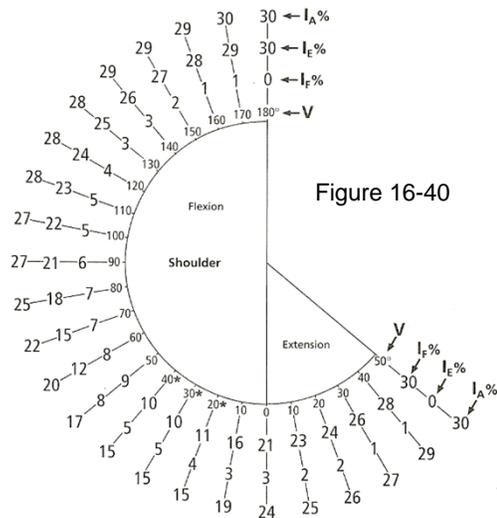


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Shoulder ROM Impairment

Extension =

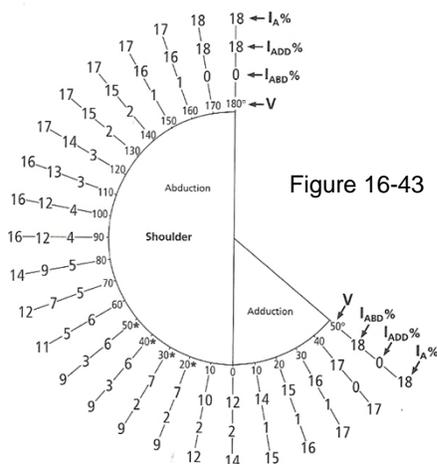
Flexion =



6

Shoulder ROM Impairment

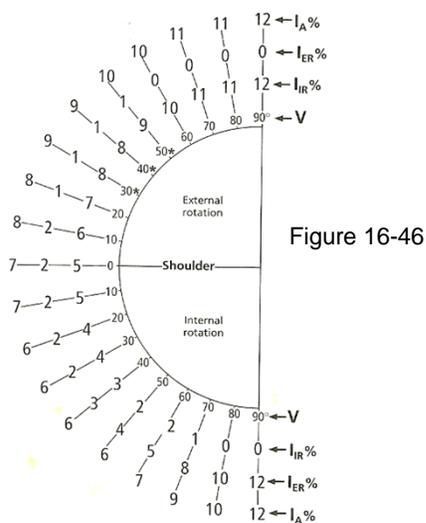
Abduction =
Adduction =



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Shoulder ROM Impairment

External Rotation =
Internal Rotation =



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Shoulder ROM Impairment

Extension	=	2 UE
Flexion	=	5 UE
Abduction	=	3 UE
Adduction	=	1 UE
External Rotation	=	1 UE
Internal Rotation	=	4 UE
Total		16 UE

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Muscle Strength Impairment

Muscle Strength

Flexion	24 X 25% =	6 UE
Extension	6 x 25% =	2 UE
Abduction	12 X 25% =	3 UE
Adduction	6 x 25% =	2 UE
Int rotation	6 X 25% =	2 UE
Ext rotation	6 X 25% =	2 UE
Total		= 17 UE

Table 16-35 Impairment of the Upper Extremity Due to Strength Deficit From Musculoskeletal Disorders Based on Manual Muscle Testing of Individual Units of Motion of the Shoulder and Elbow

% Upper Extremity Impairment			
Joint Relative Value	Unit of Motion Relative Value	Strength Deficit*	
		5%-25%*	30%-50%*
Shoulder (60%)			
Flexion	24	1-6	7-12
Extension	6	0-2	2- 3
Abduction	12	1-3	4- 6
Adduction	6	0-2	2- 3
Internal rotation	6	0-2	2- 3
External rotation	6	0-2	2- 3
Elbow (70%)			
Flexion	21	1-5	6-11
Extension	21	1-5	6-11
Pronation	14	1-4	4- 7
Supination	14	1-4	4- 7

*Use clinical judgment to select the appropriate percentage from the range of values

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Case Study #1

- Combining Muscle strength and ROM

$$17\ C\ 16 = 30\ UE \times .6 = 18\ WP$$

Rating Formula

16.02.02.00 – 21 – [7]29 – 380H – 35 – 32 PD
3 WP add-on included for pain

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Rating Annotations

- Strength cannot be rated if maximum application of force is prevented by pain or decreased motion
- Rating assumes strength impairment due to an unrelated etiologic or pathomechanical cause. Otherwise impairment based on anatomic findings should be used.

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Rating Issues

- Can Strength impairment be rated?
- If strength can be rated can it be combined with decreased motion?

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Questions for Physician?

- Is maximum application of force on muscle strength testing prevented by decreased motion or pain?
- What is the cause of the strength deficit?
- Etiologic and Patho-mechanical cause

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Case Study #1

- Etiologic – medical cause
- Patho-mechanical – related to changes in how the body moves and functions.

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Case Study #2

- Warehouse Manager Age 40
- Injured re-stacking crates
- Cervical discectomy C6-7
- Unresolved bilateral radiculopathy
- Moderate pain and difficulty with most ADL

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Case Study #2

Otto Graham, MD

Factors of Impairment

- Cervical DRE III: 13 WP
- 3 WP add-on for pain

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DEU Rating

Rating Per AMA Guides

Cervical DRE III: 18 WP

15.01.01.00 – 21 – [5]27 – 212E – 25 – 25 PD
3 WP add-on for pain

Injured may qualify for higher of cervical DRE IV
category or ROM method

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Rating Issue

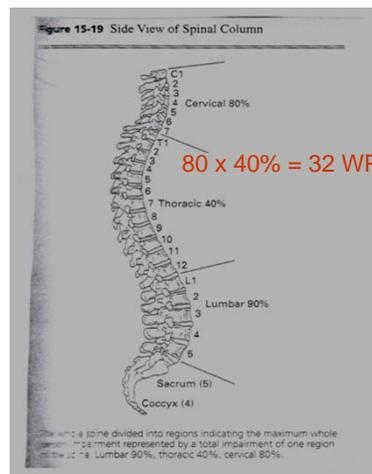
Bilateral Radiculopathy

- Criteria for ROM method per AMA Guides page 380
- Criteria for Cervical DRE IV (WP 25-28) per Table 15-5
- AMA Guides page 380 small number of instances where both methods apply

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Case Study #2

- Otto Graham, MD
- DRE not accurate
- Figure 15-19
- 40% loss of cervical function



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DEU Rating

Rating per Almaraz Case

Cervical loss of function: $80 \times 40\% = 32$ WP

15.01.01.99 – 35 – 212E – 32 – 32 PD

3 WP add-on included for pain

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Almaraz/Guzman Rating

Strengths

- Within four corners of AMA Guides
- From Chapter 15
- Opinion of the medical expert

Weaknesses

- Figure 15-19 not designed for rating
- Where did the 40% functional loss come from?

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Case Study #2

Occupational Issue

- Hurt lifting crates
- Dual occupation - warehouse worker?
- Group 360?

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Case Study #2

Traditional AMA Guides Rating

Utilizing Occupational Group 212

15.01.01.00 – 21 – [5]27 – 212E – 25 – 25 PD
3 WP add-on included for pain

Utilizing Occupational Group 360

15.01.01.00 – 21 – [5]27 – 360G – 30 – 30 PD
3 WP add-on included for pain

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SB 863 Rating Issues



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Effective Date of PD Changes

- Date of injury controls
- On or after January 1, 2013 DOI



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Rating Formula Changes

- LC 4660.1
- Elimination of FEC modifier
- Replacement with 1.4 modifier
- First modification of standard WP impairment

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New Rating Formula

2012 DOI

17.05.05.00 – 9 – **[2]10** – 360G – 12 – 13 PD

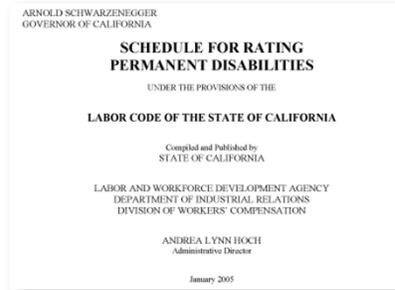
2013 DOI

17.05.05.00 – 9 – **[1.4]13** – 360G – 15 – 16 PD

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New Rating Schedule

- Eventually a new PDRS will be adopted
- Until then use 2005 PDRS
- Replace FEC modifier with 1.4 modifier



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No add-on for sleep or sexual dysfunction

- LC 4660.1
- Arising out of compensable physical injury
- Table 13-4 Sleep Arousal Impairment
- Does prohibition for add-on sleep dysfunction preclude use of Table 13-4 with other impairments?

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Case Study #3

- 50 year old police officer
- Suffered heart attack chasing suspect
- Requires medication to prevent angina
- Insomnia – Sleep Arousal Class I – 9 WP

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Case Study #3

Bobby Layne, MD AME Report

Factors of Impairment

- Coronary Heart Disease Class III: 40 WP
- Insomnia – Sleep Arousal Class I – 9 WP

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DEU Rating

Coronary Heart Disease

03.02.00.00 – 40 – [1.4]56 – 490I – 65 – 69 PD

Sleep Arousal Class I: 9 WP (not used)

Per LC 4660.1 there are no increases in impairment rating for sleep dysfunction or sexual dysfunction arising out of a compensable physical injury.

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DEU Procedure

- List, but do not rate the impairment in the presence of other physical impairments
- Rate if impairment is not accompanied by other impairments
- Furnish informational rating including sleep arousal upon request

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Pain Add-On

- What about pain add-ons due to difficulty sleeping or sex?



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Case Study #4

- Electrician Age 37
- Lumbar injury
- Unresolved radicular symptoms
- Pain that makes sleeping difficult and precludes many activities of daily living including sex

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Case Study #4

Robert Waterfield, MD

Factors of Impairment

- Lumbar DRE III: 13 WP
- 3 WP add-on for pain with ADL including sleep

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DEU Rating

Lumbar DRE III: 13 WP

15.03.01.00 – 16 – [1.4]22 – 380H – 27 – 27 PD

3 WP add-on included for pain

Per LC 4660.1 there are no increases in impairment rating for sleep dysfunction or sexual dysfunction arising out of a compensable physical injury.

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Rating Issue

- Is a pain add-on for pain with sleeping or sex ratable?
- DEU Position:

Rate the pain unless the pain add-on is specifically only for activities of sleep or sex.

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Case Study #4

Clarify with Physician

- Is part of the pain add-on due to impact of pain on ADL of sleep or sex?
- If so, how much pain add-on absent the effect on sleep and sex?

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Corticospine Injuries

- Does the preclusion from rating sleep arousal extend to corticospine Table 15-6 sexual impairment?
- Nature of injury vs. arising from injury



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No Add-on for Psychiatric Disorder

- LC 4660.1
- Arising out of compensable physical injury
- Psyche GAF
- Exception for violent act or catastrophic injury

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No Add-on for Psychiatric Disorder

What is a catastrophic injury?

Term not defined

Includes

- Loss of limb
- Severe burn
- Severe head injury
- Paralysis



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Case Study #5

- Outside salesperson age 34
- Slip and fall
- Lumbar injury
- Psyche injury



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Case Study #5

Bart Starr, MD

Lumbar DRE II: 5 WP

John Unitas, PHD

Psyche GAF 60: 15 WP



Tail wagging the dog

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Lumbar Rating

- Bart Starr, MD

Lumbar DRE II:5

15.03.01.00 – 5 – [1.4]7 – 212E – 6 – 6 PD

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Psyche Rating

- Psyche GAF 60: 15 WP

14.01.00.00 – 15 – [1.4]21 – 380H – 26 – 25 PD

Per LC 4660.1 there are no increases in impairment rating for psychiatric disorder arising out of a compensable physical injury.

Note: DEU rated the psyche impairment because there were no other impairments in report.

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Case Study #5

- Lumbar 6 PD Psyche 25 PD
- Can PD be combined for 2013 DOI?
- What is the final PD?

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Case Study #5

- If the psychiatric report and the orthopedic report impairments were combined there would be an issue with LC 4660.1.
- What if the psyche rates higher than the orthopedic impairment? Can the psyche stand alone?
- “No increases in impairment rating”

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LC 4660.1 Issues

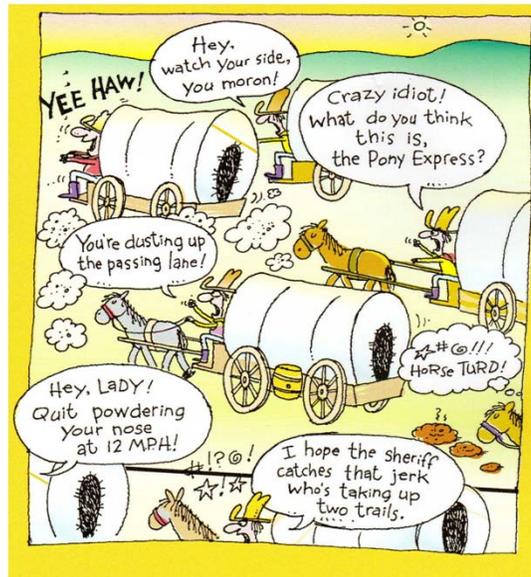
- What is a compensable physical injury?
- What about spinal cord injuries?
- What about sleep arousal or sexual dysfunction in psychiatric injuries?

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SB 863 Effect on Almaraz/Guzman

- PDRS remains prima facie evidence
- Therefore the PDRS is rebuttable
- No effect of Almaraz/Guzman

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Bakersfield Road Rage

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PD Rate and Weeks

- PD Weeks remain the same
- LC 4453 (d) (8)
- PD minimum and maximum rates increase



Year	Min	Max
2012	\$130	\$230 \$270
2013	\$160	\$230 \$270 \$290
2014	\$160	\$290

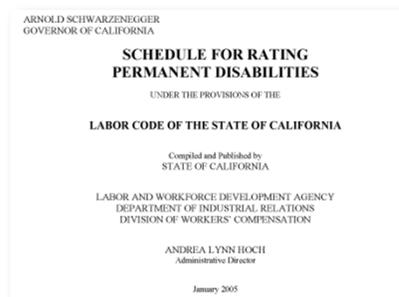
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New Rating Schedule Changes?

- No major changes anticipated at this time
- Same

Occupation modifier

Age modifier



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Case Study #6

Registered nurse Age 48/52

Factors of Impairment

- Lumbar DRE III: 13 WP
- Psyche GAF 63: 11WP

Apportionment

- 50% - 8/16/09 Specific 50% - 4/30/13 CT

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Benson Apportionment

8/16/09 Specific DOI

15.03.01.00 – 13 – [5]17 – 311G – 19 – 22 PD (A)
14.01.00.00 – 11 – [8]15 – 311J – 23 – 26 PD (A)
(A) 26 C 22 = 42 PD

4/30/13 CT DOI

15.03.01.00 – 13 – [1.4]18 – 311G – 20 – 24 PD

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