

# Viewing the Evidence from the Trenches: Workers Compensation System Dilemmas

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*A worker experiencing an intolerance for work determined to be compensable within the workers compensation system faces a conundrum both for the worker and an evaluator. Several dilemmas are noted.*

- 1) In order to perform an objective assessment, we discount subjective reports and remove control from the patient yet resolving a perception of disability requires partnering with the injured worker and empowering the development of the expert-patient, capable of self-care (addressing movement, posture and expectations).
- 2) Legally, we need to determine injury and tissue damage, yet modern pain studies have shown that the intensity of pain is unrelated to damage of the tissue or even if the tissue is there at all (phantom limb pain).
- 3) Our healthcare/legal system pays well for high tech diagnostics and procedures but 'it is dialogue that is the basis for clinical practice.' On average, a physician interrupts his or her patient within 18 seconds of the start of talking.
- 4) Opioids are used to control high levels of pain but are less helpful when anxiety and depression are present. Anxiety and depression are often present in elevated pain states, and it is those IWs that are most likely to be prescribed and then abuse opioids.
- 5) Modern MRIs show stunning anatomical images, yet the association of MRI findings to the cause of pain is weak, and therefore a guess. MRI images do not help guide effective treatment because the most effective treatment is what the patient does and believes.
- 6) When injured workers have ongoing mechanical pain, they are often referred to surgeons for their expertise in determining what is wrong and how to address it. Surgeons seldom assess movement and posture, nor spend the time to reassure and address unrealistic expectations. They do not explain pain, they refer out. A surgeon's unique expertise is in **how** to do surgery. Outcome research as to **if and when** to do surgery (without red flags) has not established them as experts in addressing these questions.

7) Modern Health Care ethics are rooted in balancing key principles of Nonmaleficence, Beneficence, Autonomy and Equality. A patient's autonomy is upheld when they are provided unbiased decisions aids based on evidence from which to make a treatment decision. A threat to these principals is paternalism (doing what the provider thinks is best). Offering surgery based on MRI findings and subjective complaints of distress can seem a plausible solution to a desperate patient when, absent the intense attention to movement, posture and expectations, this offer provides a veneer of certainty that is supported by little more than a guess.

8) We distance ourselves from emotions (ours and the injured worker's), yet self-awareness of emotions is needed to avoid cognitive errors in clinical decision making, and awareness of emotions is critical to best outcomes of negotiations.

9) The resolution of a worker's comp case is often the result of **positional** negotiation (i.e., adversarial negotiation- claimant vs. defense). Best outcomes occur when negotiations are focused on interests - considerations of the mutual interests of the IW and employer.

10) A Work Hardening Program is a highly structured program for people with chronic pain in which work is expected without attention to pain. Modern pain biology indicates that pain is an output of the brain, which occurs when many areas of the brain are hijacked in a dysfunctional pattern. Education about how pain occurs in the body and learning to effectively negotiate with symptoms in new ways should be the goal. For some patients, a high level of external structure may curtail the trial-and-error process needed for them to identify the actions, thoughts and beliefs needed to self-manage their pain.

## References:

- Butler and Moseley, Explain Pain. [www.optp.com](http://www.optp.com); NOIgroup.com  
Deyo R Patrick D, Hope or Hype Amacom 2005  
Fisher R Shipiro D Beyond Reason 2005  
Groopman J. How Doctors Think Mariner Books 2008  
Hadler N, Worried Sick UNC Press 2008  
Tong R, New Perspectives in Healthcare Ethics: An Interdisciplinary and Crosscultural Approach. Pearson Prentice Hall 2007  
Turk D, The Back Letter, Jan 2009 [www.lwwnewsletters.com](http://www.lwwnewsletters.com)  
Waddell G, The Back Pain Revolution Churchill 2004