

Factors Influencing Apportionment in the Spine

The Facts and The Challenges



Permanent disability can be
caused by:

Work injury

Pre-existent medical condition

Pre-Existent Condition

1. Non-work related injury
2. Previous work injury
3. Non-work related medical condition

Why is it difficult to apportion
to non-work related medical
conditions?

The predominance of work related spine injuries revolve around a report aggravation of a degenerative spine

Most individuals with spinal disk degeneration are asymptomatic

Prior Thoughts:

Spinal disease was primarily related to
mechanical stresses

Recent Research:

- Strong genetic predisposition to lumbar disk degeneration
- Finnish Twin Spine Study

Non–Industrial Risk Factors

- increased body mass index
- smoking

Permanent and stationary report
is NOT VAILD without
apportionment

Most Common Reasons to Apportion to Non-Industrial Disability

Prior work related or non-work
related injury



Known pre-existent structural
deformity



Medical evidence is critical

- medical records
- diagnostic tests

Employer is NOT responsible for
natural progression of a pre-existent
condition unless it can be substantiated
that work was a aggravation

Apportionment can be applied easier in
discussing cumulative trauma



A number of factors can contribute to
the onset of spinal pain

Critical Question:

Whether these factors
contribute to a legal basis
for apportionment

Key Factors in Proving Apportionment

Five Components to Ensure
Doctor's report is “Bulletproof”

#1

The physician must make a specific determination using percentages, based on the permanent disability that existed at the time of the evaluation

#2

The physician must analyze permanent disability based upon the causation of the disability, rather than causation of the injury

#3

The physician opinion must not be speculative, it must be based on pertinent facts and on a adequate examination and history

#4

The physician opinion must be based
on reasonable medical probability

#5

The physician must explain how and
why he or she has arrived at the
conclusion

Adult Scoliosis

Sagittal balance is the best predictor of functional outcome

Region of spine most commonly
injured in trauma

Thoracolumbar Junction T₁₀ – L₂

Concern of lateral interbody
fusions

Psoas muscle is split with tubular
retractor

Post operative neurologic palsy

Only FDA approval of BMP-2

ALIF in a cage