# 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

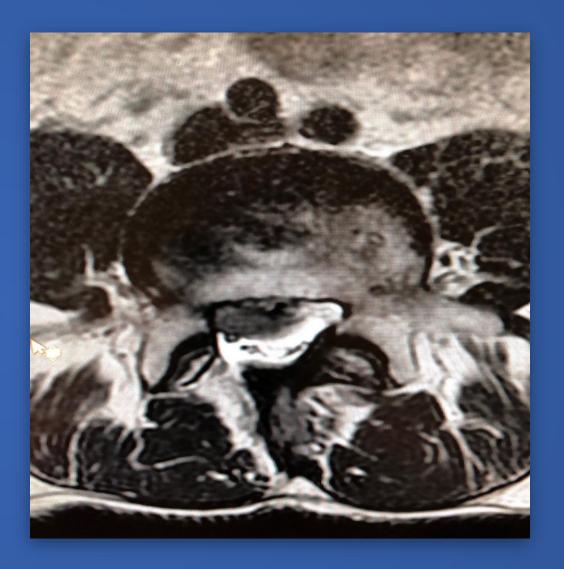
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# Permanent and stationary report is NOT VAILD without apportionment

#### 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 <u>NOT</u> 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 <u>legal basis</u> 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 <u>percentages</u>, based on the permanent disability that existed at the time of the evaluation

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

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

### The physician opinion must be based on reasonable medical probability

# The physician must explain <u>how</u> and <u>why</u> 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 T<sub>10</sub> –L<sub>2</sub>

### Concern of lateral interbody fusions

Psoas muscle is split with tublar retractor

Post operative neurologic palsy

#### Only FDA approval of BMP-2

ALIF in a cage