**How to Determine Workers’ Comp Injury Causation**

**Introduction:**

* Welcome to WC Mastery training
  + In high integrity, causation most difficult thing we do; determines who financially responsible
  + Challenges with causation:
    - Pre-existing conditions
    - Co-morbidities
    - Quality of investigation
    - Weeding out BS
* Introduce 3 Major Points
  + Define Causation Level of Certainty
  + 6 Step Process to Determine Causation
  + Action Steps to Put it Together

**Main Point #1: Causation Defined (10 minutes)**

* Causation is a Process, Not an Event
* Level of certainty determines causation
  + OJ Simpson trial
    - Criminal trial: beyond a reasonable doubt
    - Civil trial: POTE, sufficient evidence or ‘more likely than not’
  + Variance in state law – pg 30 AMA guide; 46-104 state summaries
    - Types of evidence
      * Unequivocal medical evidence
      * Reasonable probability
      * Reasonable certainty
    - Daubert rule / Frye rule
* Aggravation vs. Exacerbation
  + AP & ET
  + Dr. Jake defined difference
  + States vary, different thresholds for different diseases
* Plaintiff has the burden of proof – Yet most judges rule in favor or plaintiff

**Main Point #2: 6 Step Process to Determine Causation (20-25 minutes)**

* NIOSH / ACOEM Steps to Determine Causation

1. Evidence of disease
   1. Does disease exist?
2. Evidence for causal relationship
   1. Do studies support a link?
3. Evidence of exposure
   1. Highest quality data are quantified personal measurements of tasks of worker
   2. Lowest quality are job title or self-report of exposure
4. Other relevant factors
   1. Co-morbidities, prior injuries, etc.
5. Judge validity of testimony
   1. Judgement call on what is true or false
6. Evaluation & Conclusions

* Shoulder Example – Dr. Jake
  + Occupational vs. Non Occupational Risk Factors
  + Decision making process based on evidence
  + Bad decisions are made right at beginning of claim
  + Bad decisions made as additional body parts emerge
* Escalation Process

**Main Point #3: Action Step to Put It Together (20-25 minutes)**

* Challenging situations / Red Flags
  + Degenerative conditions
  + Pre-existing conditions
  + Hip, back, shoulder, knee
  + Delayed reporting (Monday morning or otherwise)
  + Reported to attorney before reported to employer
  + Uncooperative – missing appointments
  + Job dissatisfaction
* 1) Documenting Job Functions
  + Essential functions
  + Marginal functions
    - Video of job (video telematics)
  + Make sure provide to physician!
* 2) Develop Physician relationships
  + Are you willing to exaggerate clinical data to help a patient you think deserves benefits?
    - YES - 56%
  + Develop working relationship with occupational clinic
    - NCM
    - Outcome metrics
    - Trial & Error
  + Peer Review / Medical Advisor
* 3) Consistent Injury Response w/ Injury Triage
  + Consistent reporting & documentation of injury
  + Early reporting
  + 98% in-network penetration
* 4) Thorough Investigation
  + Determining Baseline (our job is to return to baseline)
    - EFA
    - Prior medical records (check jurisdictional laws for authorization requirements)
    - Emergency room records on every claim which visits ER
    - ISO Database search.
      * Follow up on information discovered through records search – research pharmacy fills, speak with treating physician, etc.
  + Investigating Injury
    - Written / recorded statements
    - Videos: of nearby, outside, of the actual job
      * Reenact accident
      * Be creative
    - Body bubble – be specific to limit ‘expanding injury area’
    - Social media
    - Mechanism of Injury
      * “Bob lifted a tire and hurt his back” vs “Bob came to me 9:37 am, said he was lifting a 30 lb tire and turning to put it up on the 3rd shelf in the warehouse, he said he felt a pop in his lower back with a shooting paid down his left leg, about a 7 on the pain scale, he reported the injury immediately.”
      * Each injury report should contain: the actual mechanism
      * Put picture together:
        + lifting and twisting
        + was it reported right away
        + how much did the item weigh, etc.
        + What was the person really doing, and what caused the injury, was it the lifting and twisting, or was it something else?
        + Writing a description that says “injured low back” doesn’t cut it
    - Context of injury environment
      * Describe the environment surrounding the injury
        + If the person is injured lifting a tire while working on a car,

where was the tire in relation to his body

how high was the car he was servicing

does he have to lift it up to his head, or is it at his chest level?

* + - Make sure to provide to physician!