

April 22, 2015

RE: *Vocational Evaluation Process and the Importance of the Personal Interview*

In personal injury litigation where physical and/or mental injury has potentially affected an individual's ability to earn, it is necessary to assess the impact of those injuries. The process by which this assessment takes form is referred to as a vocational evaluation. Vocational evaluations are routinely relied upon by providers in order to establish reasonable rehabilitation goals for each specific individual. While often the focus of the vocational report, opinions of occupational ability are often accompanied by the recommendations for specific interventions that the rehabilitation provider will assist the evaluatee in identifying, obtaining, and taking full advantage of all services believed to encourage the attainment of the vocational goals.

The methodology by which a vocational opinion of occupational ability is pursued is outlined in the education, training, research, and applied field experience practiced by rehabilitation counselors and vocational evaluators. Typically, this process is carried out in three distinct activities: record review; personal interview; and labor market survey.

Record review is a required component of the vocational evaluation. Section F.1.a. of *The Code of Professional Ethics for Rehabilitation Counselors* addresses this by encouraging rehabilitation counselors engaged in forensic services to review vocationally relevant records. Such records will likely include medical notations in the form of progress notes, hospitalization charts, operative reports, physician evaluative reports, and functional capacity assessments. The *Code of Professional Ethics for Vocational Evaluation Specialists, Work Adjustment Specialists, and Career Assessment Associates* also speaks about the importance of records review. Here, in Section I.3.m., the *Code* expects that forensic vocational evaluators will "minimize sole reliance upon" hearsay and will make diligent efforts to "obtain independent and personal verification of data relied upon." Therefore, seeing the information, data, and records firsthand, with minimal reliance upon the recollection and interpretation of others, is encouraged.

Firsthand information is obviously important and should not be limited to paper and electronic records. A personal interview of the client is an integral component of any clinical rehabilitation counseling practice. When providing clinical rehabilitation services, the initial interview provides an opportunity to develop rapport with the client, gather relevant information, and become informed of any specific accessibility issues necessary for successful provision of services. Although clinical services cannot be provided for an evaluatee in a forensic setting, the personal interview remains an essential part of the vocational evaluation process.

Section I.4.c. of the *Code of Professional Ethics for Vocational Evaluation Specialists, Work Adjustment Specialists, and Career Assessment Associates* explicitly identifies the importance of the personal interview with a specific expectation that such an interview take place with the evaluatee. Here, the *Code* requires that "Forensic Vocational Assessment Professionals utilize a professionally accepted methodology that includes an interview" when conducting vocational assessments.

If you have contacted our office regarding a potential forensic vocational evaluation, then our staff has certainly communicated George's request to meet with the evaluatee. This request exists for both plaintiff and defense retentions. The aforementioned ethical cannon is but a formality as the information obtained through the interview is typically found to be an invaluable resource in the formulation of valid and reliable vocational opinions for each evaluatee assessed. In other words, even if the Code was silent

on this topic, George would still request the opportunity to meet the evaluatee face to face. And this is something that you, as the referral source, definitely want George to continue practicing.

So what happens behind those closed doors during the evaluation interview?

If you have retained George for a vocational assessment then you may have noticed that the amount of time required for the interview varies from case to case. While there may be an initial appearance of randomness, this is certainly not the case as the unique circumstances surrounding each individual evaluatee provides the queuing for the specific assessment activities taking place during the interview. Typically, there is a general outline of questions which will take place in each interview following the acquisition of the evaluatee's informed consent. Identification, basic background information such as date of birth, confirmation of race and gender, description of educational attainment, residential history, and family/household composition inquiries are commonly the first topics of discussion. Then, the interview may take a unique pathway, which is entirely dependent upon the specific responses to questions regarding educational attainment and prior employment.

For an evaluatee who presents with physical injuries and has demonstrated higher levels of educational attainment, such as a college degree, then it would be quite inappropriate to administer a test of basic reading ability. Similarly, a physically impaired evaluatee with an employment history consisting of professional or technical occupations would not require assessments of cognitive abilities, so IQ testing would not be performed. These are examples of why testing is not always performed during an interview. Data from standardized testing is often found to be quite valuable in determining the academic abilities (reading, writing, and mathematics), vocabulary, intelligence, occupational aptitude and preference, etc. of forensic vocational evaluatees. In cases where the evaluatee's prior educational attainment and intellectual capacities are unknown due to lack of demonstrated achievement (no diploma) or past relevant employment activities (prior employment as a laborer), then standardized testing will likely be necessary. This is because the likely post-injury occupations consistent with residual physical abilities will be office, clerical, administrative, and support jobs which will require sufficient verbal and written communication abilities, possible arithmetic requirements, and the ability to acquire information, solve problems, and make decisions. In such cases, data indicating the level of these abilities will allow the evaluator to determine if the evaluatee currently possesses the necessary abilities, educational and/or cognitive abilities; if remediation may be necessary; or if the results are not suggestive that any level of remediation will be of vocational benefit in a case.

Of course, in some cases, testing is not required simply because the effects of the disabling condition(s) overwhelm any rehabilitation potential. In such catastrophic instances, it might be found that a poorly educated evaluatee who has demonstrated low-skilled past employment activities would likely lack reading, writing, or mathematical abilities consistent with clerical level work. However, in such a case, the residual functional abilities demonstrated by the evaluatee still would not permit employment at any level. Therefore, standardized testing would be unnecessary.

In some cases, especially where there are claims of cognitive disabilities, sufficient academic achievement and intellectual capacity test data may already be available. If neuropsychological assessments have been completed and it is determined that further testing would simply be duplicative and provide similar results, then it is unlikely that this type of testing would be performed during the interview. There may be exceptions to this, however. When retained by the defense, it is possible that any available test result data will have originated by the plaintiff's vocational expert or psychologist. While it is advised that a corresponding psychological expert be retained to review any neuropsychological assessments, it may be reasonable for the defense vocational expert to conduct parallel achievement and intelligence testing to determine the test-retest reliability of prior testing results.

George makes every effort to determine the reasonableness and appropriateness of standardized testing for each specific case.

Job skills which may be transferrable to alternative occupations are often determined by analyzing the evaluatee's prior employment. Obviously, when working with pediatric evaluatees a prior employment history will not be obtained. However, for adults it will be necessary to ascertain the past relevant employment activities completed by the evaluatee. This component of the vocational evaluation interview may be completed rather quickly or could require considerable time. Clearly, the amount of time needed to describe prior employment will depend upon the number of past jobs and the ability to effectively explain the job tasks performed in those occupations. This is not entirely dependent upon age. An evaluatee of advanced age may have only worked in one occupation during the entire work-life experience...think of the 55 year-old locomotive engineer who began this occupation at age 23 after working for 4 years as a locomotive conductor. Here, the past employment history will be acquired quite easily. In other cases, it may be found that the evaluatee has been employed in numerous occupations in multiple industries across decades of prior work. Here, the past employment history will be acquired quite slowly and methodically as all preceding job activities are fully described. Therefore, the amount of time spent accumulating this information will vary greatly depending upon each evaluatee.

Finally, the specific nature of the disabling condition will have an effect on how the interview is conducted. For some evaluatees, the mechanism of injury and subsequent medical treatment will be straightforward and simple to explain. However, for many evaluatees the rehabilitation process has been complicated by repeated surgical interventions, non-healing wounds, chronic pain, reliance upon multiple medications which may have demonstrated adverse side-effects, etc. Simply stated, the amount of time needed to fully disclose these specifics is going to vary from case to case.

At this point, it is hoped that you understand the difficulty in estimating the amount of time needed for a successful vocational evaluation interview. George has found that the "average" interview is most likely two hours in length but some have been concluded as quickly as 30 minutes while others have required a half-day. For this reason, we typically advise our clients that the evaluatee should plan for the interview to take up to four hours. However, George always moves through the process as efficiently as possible to diminish the inconvenience of this necessary component of the vocational evaluation process.

Mike has just published a peer-reviewed journal article entitled, "The P Problem and the Estimation of Worklife Expectancy Losses in Personal Injury Cases." His co-author Gray Forlines was the research associate in our office and is now a Ph.D. student in economics at the University of Kentucky. The article was published in *The Rehabilitation Professional*, which is the leading journal for U. S. vocational rehabilitation experts, who are often the foundation experts for forensic economists estimating personal injury damages. The article is very important for attorneys dealing with the issue of earning capacity losses due to a diminution in the years of worklife expectancy. Also on the topic of research, the 2015 survey of forensic economists has just been completed. Mike and his co-authors expect to present a paper based upon the results of this survey at two upcoming meetings of the National Association of Forensic Economics and submit the paper to the *Journal of Forensic Economics*. We will be providing information based upon these results in later newsletters during 2015.

If you have any specific questions regarding the vocational evaluation process or our most recently published research, we invite you contact us at any time.