Employability, Earnings Capacity Assessments: Why Transferable Skills are Not Enough

Since the inception of the Loss of Earnings Capacity Award with Bill 164, numerous providers have entered the field to offer related assessment products. Presumably, with the return of tort to address long term economic loss under Bill 59, these assessments will remain significant in the future. As an original member of the Residual Earning Capacity Designated Assessment Centre (REC DAC) pilot committee and examiner for one of the Province’s busiest REC DACs, the author has had the opportunity to review many of these residual earnings capacity assessments reports.

Un fortunately, due to the lack of interdisciplinary methodologies used, the REC DAC in which the author works has yet to support any of the conclusions regarding occupational selections and residual earnings capacity derived from any of the Loss of Earning Capacity/Transferable Skills reports viewed to date. Other facilities have expressed similar concerns. While these sample cases may reflect anomalies in that they have been brought to a REC DAC because of the client’s disagreement with the findings, there is reason to suspect that these concerns are wide-spread, given the general lack of use of an interdisciplinary approach. That is not to imply that the REC DAC does not have its limitations as well, however.

A fallacy that appears to exist in some circles is that the concepts of transferable skills and aptitudes are equivalent.

In particular, many members of the pilot committee strongly expressed the necessity of including a Vocational Rehabilitation Specialist as a key member of the team, whose responsibility it would be to address issues of labour market analysis, barriers related to employment practices and worker job placement skills, in particular.

This article is meant to highlight the necessity of an integrated team approach to Vocational, Employability and Loss of Earning Capacity Evaluations by knowledgeable examiners experienced in the process. Further, while a highly qualified team of professionals may be capable of critiquing the opinion of others who have thoroughly examined the client utilizing a sound protocol, basing such an original opinion solely on file review is highly inappropriate in many situations.

Transferable Skills as Aptitudes

A fallacy that appears to exist in some circles is that the concepts of transferable skills and aptitudes are equivalent. While in many ways these concepts are linked, they are by no means synonymous. A transferable skill is defined as a practical work skill or application which the individual has actually attained, and which may be applied...
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across more than one job or occupation. An aptitude reflects the individual’s potential for attaining a type or class of related practical skills, but by no means necessarily infers that the individual has actually acquired that skill at the point of examination.

Thus, while a client may demonstrate a strong performance on “clerical perception” on the General Aptitude Test Battery (GATB) for instance, this by no means indicates that (s)he has the requisite knowledge and skills currently to function in a clerical capacity (e.g. word-processing experience, office management skills, microcomputer skills, etc.). Rather, it implies that the individual has sound visual perception skills for discerning details in text-based materials, and thus possesses one of the foundation skills typically required of clerical occupations.

Similarly, strong spatial aptitude (suggesting learning potential for complex three-dimensional formats) essential to blueprint reading for instance, is not synonymous with acquired and proven skills in blueprint reading, or CAD CAM design. Likewise, a high performance in numerical aptitude does not equate to the presence of bookkeeping/accounting experience or skills, although a person with a prior history of such skills would certainly be expected to perform well on this type of aptitude measure, depending upon the nature of disability.

True Transferable Skills Analyses (TSA)

Transferable skills, and transferable skills analyses then, are completely distinct from aptitude assessment. Unfortunately, too often, true transferable skills analyses are not presented in reports overtly, nor do they generally appear to be integrated into the final occupations recommended. The upshot is that clients are often recommended for occupations with which their tested aptitudes match, but for which they have no known practical skills or knowledge. Therefore, the client does not in fact have the skill-set to immediately pursue such occupations, as implied by the “transferable skills analysis”.

Such analysis should reflect a rigorous account of the individual’s job history by discrete skill-sets acquired
across the span of jobs and occupations performed. The number of years during which the individual has performed the skill and qualitative aspects (e.g., at what level of complexity/proficiency of the skills performed) must also be reflected. Clearly, one summer job as cook in a slow cottage-town fast food restaurant is not equivalent to five years experience as a senior cook in a chain restaurant, which is not the same as 10 years experience as a senior chef in a Keg restaurant, for instance. Each of these "transferable skills histories" in isolation or as part of a more diverse employment history may have the identical aptitude profile. If the aptitude profile is utilized as the basis for the "transferable skills analysis" as it often appears to be, then in some instances the client's employability and residual earnings capacity will likely be overestimated for the person with the least skills/experience.

Measurement of Aptitudes

Despite the above strengths of an appropriately performed transferable skills analysis, proper measurement of aptitude remains a critical component of an evaluation of employability and earnings capacity. The weakness of the TSA alone is that it restricts its assessment to the individual's past proven skills without regard for his/her ability to pick up new skills through short to longer term training; in a current earnings capacity evaluation only short term training on the job capability is considered, while more rehabilitation-oriented assessments look at longer term training as a means of maximizing earning potential. Where the TSA leaves off, aptitude and related testing take over.

All that it takes to become a "qualified" GATB examiner is a few days' course. While this may be sufficient to administer the instrument and to have a basic understanding of the mechanics of its interpretation, it is clearly insufficient to interpret GATB results, or transferable skills results for that matter, in the context of today's complex economy and labour market.

Furthermore, such courses, or even slightly more intensive ones, are also insufficient to interpret a client's aptitude profile in the context of disability. Aptitude assessment of the able-bodied may be highly influenced by cultural and linguistic differences, as well as by educational background and socio-economic factors. In the context of disability: accidental, condition-related factors significantly further complicate the interpretation of aptitude measures.

The influencing factors, which must be incorporated into the interpretation, include the presence of a psychological disorder, pain condition, physical impairments, cognitive impairments, motivational and secondary gain issues and the presence of pre-morbid elements. It requires literally years of experience beyond post graduate training to become competent in appropriately: (a) determining the effects of these various influences on the tested aptitude results; (b) determining whether all or parts of the aptitude profile are invalid; (c) cross-validating aptitude results with other ability measures (e.g., intelligence) prior vocational history; and, (e) making appropriate adjustments to the aptitude profile to assure validity, based on the above inputs.

Once the above process is achieved, it also requires the necessary experience to integrate the most valid estimate of the aptitude profile with the client's broader physical, psychological and cognitive limitations/functional capacities, and transferable skills, and then to interpret these relative to labour market information and standard business hiring practices.

Comparing Tested to Past Aptitudes

Proper measurement of aptitude remains a critical component of an evaluation of employability and earnings capacity.
A comparison of the individual's tested aptitudes to his/her aptitude levels based upon cumulative prior work history is an important step in the assessment process. This step serves to verify the lower limits of the tested aptitude profile, and if invalid, may substitute for the overall or certain components of the tested aptitude results. The benefits of incorporating this added level of analysis is that it reduces the likelihood that the estimated aptitude profile will underestimate the client's employment (and hence earning) potential.

In the ideal world, a thorough analysis would include an actual assessment of each prior work environment to accurately document the quantity/quality dimensions of the acquired work skills. Such job analysis also serves to determine the accuracy with which the NOC/DOT average aptitude classification of each prior occupation matches the actual job demands; one would then be able to substitute the job task analysis results for the NOC/DOT average values to most accurately reflect the individual's proven past aptitude profile. However, time and cost preclude this step in the process from occurring in most situations.

Integrating Achievement Data

In several instances observed in reports prepared prior to the REC DAC evaluations, occupations were selected without due regard for the client's academic achievement levels. Occupations such as bank teller, customer service clerk, and similarly skilled occupations were suggested for several individuals who, largely because of their English-as-a-second-language status, were functionally illiterate. An individual who had been recommended for work as a bank teller was found to be functionally innumerate based upon a tested arithmetic level equivalent to grade four.

In most cases, these occupations were selected on the basis of aptitude assessment alone without any academic achievement measures having been used. In two of these cases, the client had scored somewhat better on a measure of single word reading performed during the REC DAC exam as well as on prior earning capacity assessment; however, unlike the prior assessment, the REC DAC psycho-vocational assessment included a broader-based measure of reading comprehension.

As is common of ESL clients (a significant proportion of clients assessed by this REC DAC to date) measures of reading comprehension will often reveal the individual's true functional reading level. To date, several of the earnings capacities assessments have been based upon "transferable skills" analyses alone, often with some aptitude testing but generally no achievement testing whatsoever. When achievement testing has been included in more involved assessments, it is often not fully integrated into the final occupational selection, and often measures of reading comprehension are omitted.

Integrating Physical/Functional Situational Data

It is clear from the review of prior reports that even when the occupational selections have been appropriate from the psycho-vocational perspective (which few, if any have been) many have been inappropriate from the standard of accommodating the client's post-traumatic physical capabilities. This reinforces the pivotal role of qualified functional evaluators in addition to medical input (often from the client's own specialist may be insufficient.)

Medical input provides key information about the validity of job tasks over time relative to the nature of the pathology. In other words, it addresses the issue of whether the pathology is likely to be made worse over time by anticipated job demands or whether the natural course of the impairment is one of deterioration, likely rendering the person incapable of performing anticipated job tasks over a specific time frame.

With respect to functional assessments, it is clear that any evaluation of employment/earnings capacity clearly must go beyond the client's self-reporting of functional tolerances. Evaluators within our REC DAC have come once again to appreciate the value of the traditional longer term

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situational assessment process over that of the one or two day FAB/FC/CE. Endurance issues are particularly relevant here.

An example of this arose in the context of an individual with a significant single lower extremity impairment. Over the course of one or two days, the uninvolved lower extremity had little difficulty compensating for the weakness of the injured one. However, over a week-long evaluation, due to the load and postural demands, the joints (e.g., knee) of the injured leg became symptomatic for early arthritis and it was medically established that it would deteriorate in the medium-term. Certain occupations, including his past occupation, were ruled out on this basis.

Brain Injury and Emotional Conditions

Although few files to date have involved the possibility of traumatic brain injury (TBI) those which have did not raise this issue or address it in the pre-DAC residual earnings capacity assessment. While this is a whole topic in and of itself, suffice it to say that a client who is recognized or suspected of having a TBI should have neuropsychological input into the occupational selection process.

In particular, neuropsychological deficits may have ramifications on the individual’s cognitive perceptual functioning and may either adversely influence the aptitude profile and/or result in the aptitude profile’s overestimating the person’s true capacity in a number of contexts.

More specifically, memory/learning deficits may preclude the individual from learning a new job efficiently enough to realistically be considered readily employable in that area. Similarly, post-traumatic problems in executive functioning—organization, planning, problem-solving, multi-tasking—will be undetected by traditional measures of aptitude, intelligence and achievement even by the otherwise most qualified psycho-vocational examiner.

Finally, one must carefully evaluate the individual psychologically, both from the standpoint of potential emotional pathology which may have arisen post-traumatically, as well as in terms of characterological features that go beyond vocationally-related temperaments.

With respect to the former, certain emotional conditions may rule out certain types of occupation, the most obvious example being of an occupation requiring that the person drive, when the individual has a clinically severe phobia for driving or being a passenger. A less obvious example may be an individual with a post-traumatic depressive disorder whose symptoms may intensify in a job where they may be isolated from others. With respect to the latter, a person who has always been somewhat of a loner and has always worked in isolation will likely, depending upon his/her personality make-up, be ill-suited to occupations in which frequent dealings with the public or co-workers are required.

Another interesting example which arose during the course of a REC DAC was that of an individual who had been previously diagnosed with major depression, with many prior examiners suggesting that she was unemployable on psychological grounds. This was also the author’s initial impression at the beginning of the assessment process, upon interview and psycho-vocational testing. However, during the course of the five day situational assessment, the client became much more animated and engaged. This change no doubt occurred as a direct result of increased structure, shift in focus to productive tasks, and renewed hope for the future (i.e. a shift in her prior perception of being totally disabled) brought about by her observing her own capabilities rather than limitations, which she had previously been focused upon. In the end, she was deemed to be employable and with no anticipated loss of earning capacity, as work was viewed by both the team and the client as being a therapeutic imperative. In other cases, the depth of the psychological disability was confirmed, but to the contrary of prior LEC assessment (which had occurred without psychological input.)

Best Timing of Earning Capacity Assessments

In order to provide sufficient time for vocational rehabili-
Confusion planning and implementation particularly when a significant loss of earnings capacity is anticipated, employability earning capacity assessments should occur as early as possible. Generally, in the case of obvious significant disability, once the client is medically (or where the maximal functional recovery is predictable) and psychologically stable, the assessment may occur. For chronic soft tissue clients, the best timing is more debatable, but the assessment should occur upon a plateau in functional recovery, likely no later than six to eight months post-condition onset, assuming that appropriate clinical management has occurred up to that point.

Conclusions: An Integrated Team Approach

There is no doubt that, to some degree, reluctance to provide a streamlined employability assessment is born out of pressures from insurers to minimize the cost of these. However, in seeking to reduce costs, we must be aware that doing so may come at a significant longer term financial impact—which by far outweighs any additional cost incurred by a more comprehensive assessment process—to both clients and insurers, depending on an over or underestimate of the individual’s residual earnings capacity.

This review has provided examples of how an improper LECB award arising out of a non-integrated assessment can unfairly burden either party and can also reduce the likelihood of future rehabilitation success. In the context of a client’s support system, rendering a verdict of employ-
Why Transferable Skills are Not Enough

ability/earning capacity beyond one's true potential may do irreparable damage to the client's emotional state and support network.

A clinically supportive evaluation process, on the other hand, may have tremendous implications for the evaluation of the client's current earning capacity, as the client is able to demonstrate his/her maximum effort and capabilities. Similarly, such an approach will often enhance the prospects of ongoing rehabilitation efforts, as it may serve to instill confidence, renew hope and provide the client with a renewed sense of purpose and direction, as competencies, rather than limitations, are reinforced.

In summary, an integrated interdisciplinary approach to such evaluations is being promoted here. Granted that there is some overlap, depending upon the skill sets of any team of professionals, the following most closely reflects the contribution of each professional based upon his or her core competencies plus specialized training/experience.

Medical Practitioner/Specialist: Rule out occupations from perspective of medical restrictions relative to impairment, as well as potential deterioration over time which may influence vocational selection.

Qualified Functional Evaluator: Rule in/out past and alternate occupations based upon current functional physical capacity/limitations and/or physical demands analyses; consideration of ergonomic interventions.

Psychologist: Rule out occupations from perspective of restrictions relative to psychological/characterological impairment/limitations, learning disabilities; rule in occupations through measurement of personal and vocational characteristics, especially with respect to determination of (most valid) aptitude profile, academic achievement and intelligence.

Neuropsychologist: Rule out occupations from perspective of neuro-cognitive deficits.

Vocational Rehabilitation Specialist: (based upon US professional designation) provide and integrate transferable skills analyses, labour market analyses, job search/placement skills analyses.

Given that neither insurers nor clients are versed in the appropriate processes and technologies related to these assessments, and that they may have difficulty discerning the validity of the findings, it behooves the industry to take a unified stand in the adoption of standards of practice around such evaluations.

It is important to note that, while most on the above list are regulated professionals, none necessarily have the specialist training programs in Ontario/Canada to assure consistency in competent integrated service provision. In the case of vocational rehabilitation personnel, these issues add to the call for Ontario/Canada to embark upon a formal educational curriculum to complement the proposed accreditation process.

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LECB/LTD Overexposure The Problem:
Are You Choosing Your Earning Capacity Assessment Tools Well?
Insurer Perspectives: Part 1 of a 2 Part Series

By Dr. J. Douglas Salton, Jr.

As an original member of the OIC's Residual Earning Capacity Designated Assessment Centre (REC DAC) pilot committee, primary examiner for a REC DAC, and Director of Sibley's Employability Assessment Services, the author has had the opportunity to review many residual earning capacity assessment reports. Unfortunately, often due to the lack of appropriate comprehensive methodologies used, many of these evaluations do injustice to both insurers and claimants alike.

This article is one of a two part series meant to highlight the importance of utilizing a sound methodology within an integrated team approach in order to appropriately evaluate the disabled client's residual earning capacity. Through their Comprehensive and Neurological Employability Assessments, Sibley and Associates offers such advanced assessment technologies. This first article shall emphasize the insurers' perspective: how LECB or long-term disability overexposure may occur due to inappropriate evaluation.

A future article will highlight the claimants' perspective and shall continue to address the specific issues of special populations, namely brain injured/cognitively impaired and psychologically impaired claimants.

Insurer Perspective: Reasons for LECB/LTD Overexposure

It would appear that under Bill 59 the automobile sector shall continue to necessitate the determination of loss of earnings capacity after 102 weeks (claims post November 1, 1996), but under a tort action as opposed to under an administrative based system. Within the LTD marketplace, the corollary to the Bill 164 loss of earnings capacity benefit is a continuing income maintenance benefit post 2 years should the claimant not meet the "any occupation" definition. While traditionally, the criterion for benefit determination beyond 104 weeks was in fact the claimant's ability to engage in "any occupation", increasingly a more liberal definition has been adopted. Now, claimants must generally be demonstrated to be unable to perform work which would provide them with an average two-thirds to three quarters (depending upon the policy) of their pre-disability earnings, rather than demonstrating complete inability to work.

Thus, within either of the two recent automobile loss of earnings capacity frameworks, as well as within the LTD "own occupation" criterion, the claimant's current highest earning occupation must be identified through appropriate assessment. Selection of an appropriate occupation necessitates that: the job accommodates the limitations resulting from the medical condition; and, must reflect work skills for which the person is qualified by training, education and experience.

The following are typical reasons why a claimant may be inappropriately assessed as having a lower post-disability earning capacity, resulting in an unnecessarily high LECB (either Bill 164 or 59) or unnecessarily long period of LTD benefit:

1. Inappropriate/Incomplete Evaluation of Pre-Disability Occupational Viability

Issue: LECB/LTD overexposure may occur because improper criteria or evaluative tools are used to determine the claimant's ability to perform an occupation and/or because there is a failure to consider appropriate accommodations to make the employment type viable.

This was the case of a 52 year old man whose LECB assessment team had ruled out the client's pre-accident occupations involving both teaching and librarian roles within a high school, due to the physical demands required of these occupations (according to the National Occupational Classification (NOC)), which apparently exceeded the client's tested sedentary physical capacity. The assessors had otherwise concluded that from the standpoint of his cognitive abilities and other aspects of his personal and vocational characteristics, the client's profile was deemed to be compatible with that of his teaching and librarian roles. On the basis of their opinion that his physical limitations precluded both teaching and librarian responsibilities, a clerical occupation was selected at the REC base at a salary of $26,292 per annum. Given the pre-disabili-
ty earnings in the mid-70 thousands, a significant LEC exposure was evident. Were this an LTD case in this scenario, then the client's income would have been assessed to be well below 50% of pre-disability earnings. This would result in ongoing LTD benefits.

What this assessment failed to recognize and fully assess was whether the claimant's actual prior occupations in fact demanded the standing and lifting requirements as stated within the NOC which merely reflects average demands of an occupation in general rather than the specifics of any given situation. Had the evaluation been conducted using a Sibley Comprehensive Employability Assessment such a case would have revealed that these were not this specific employer's strict requirements. The claimant in fact would be permitted to sit down during his classes, use handouts rather than write on the blackboard and have volunteer assistants who were available to re-shelve books, thus eliminating any lifting requirements. The client could therefore have returned to his prior occupations with no LEC exposure in the MVA context, and with no further eligibility for LTD benefits had the disability occurred in that context.

As illustrated in the graphs above, it has been necessary to do so, even the elimination of the librarian component in considering the REC would have indicated that a teacher with just 10 years experience (less than that of the claimant by 7 years) would command an average salary of $67,351 according the OIC's Wage Table, and even higher based upon the wages provided by the claimant's actual school board.

2. Inappropriate/Incomplete Evaluation of Modified/Alternate Jobs in Same Occupational Category

*Issue:* LECR/LTD overexposure may occur due to the failure to adequately investigate appropriate accommodations and/or alternative jobs in the same occupational field with the same or new employer.

**Case Illustration:** Following with the above example, even if this claimant's physical condition had indeed precluded him from meeting the requirements of his prior occupation, the original assessors did not explore the viability of the client returning to alternative existing roles in teaching or in a librarian capacity with modifications, outside of the prior school/college board. Comprehensive Employability Assessment, on the other hand, identified specific teaching jobs which allow the use of a chair or stool rather than forcing the teacher to stand for prolonged periods in the classroom; other locations involve the use of a teaching assistant, or involve smaller groups of students where small group and/or 1:1 interaction is emphasized, both of which would likely have accommodated the claimant's standing/walking limitations. The latter are not uncommon in certain private or alternative schools, and/or settings with gifted or special education students (contingent upon the hiring requirements across jurisdictions). Such considerations would clearly have revealed associated Wages equivalent or almost equivalent to the claimant's pre-accident earnings capacity.

3. Failure to Identify Highest Earning Appropriate Alternate Occupation

*Issue:* Even when appropriate assessment tools and methods are used, the highest earning occupation may not be selected for a variety of reasons including the inherent difficulty of matching the NOC job classification data with, for example, the OIC's Wage Table. Information on fully integrated published database is available that leaving unprepared assessors potentially vulnerable to this pitfall, and leaving insurers significantly overexposed to both LEC and LTD situations. The explanation is that, even an experienced assessor may overlook the highest possible base occupation is simple: There is a lack of integration between the OIC's Wage Table and the NOC based occupational criteria. Not having access to an organized software database means that thousands of discrete pieces of information must be sorted by hand, leaving ample room for honest errors to be made.

**Case Illustration:** Again continuing with the above case, based upon the claimant's assessed personal and vocational characteristics, coupled with an assessed Sedentary physical capacity, Comprehensive Employability Assessment revealed that this individual would clearly meet all the NOC (94166) criteria to be an entry level "Education Policy Research, Consultant or Program Officer." In fact, this and not the reported clerical occupation would reflect this individual's highest residual earning capacity were the teaching and librarian positions legitimately ruled out. The associated OIC wage table salary for such occupations is $40,184 per annum, rising to $57,738 at 5 years experience and $71,879 at 10 years experience. Within his own school board, given his level of seniority and past administrative responsibilities, this gentleman would have in fact commanded a salary closely approximating that of his pre-accident earnings level, sufficient to make the LEC trivial if not non-existent, and clearly meeting the LTD own occupation criteria. In such situations, actually obtaining such detailed salary information and entrance criteria become the key to establishing the individual's true earning capacity. Further, in working with, and receiving such information from the prior employer, the credibility of the selected occupation is maximized, and often actual job opportunities emerge resulting in the best case scenario for all parties concerned.
4. Non-Comprehensive Assessment Methodology

**Issue:** There are several domains which may be neglected or inappropriately evaluated in the context of employability/earning capacity assessment, increasing insurer exposure. Too often, "Transferable Skills Analyses" are being used in isolation with little or no proper evaluation of the client's work related aptitudes, academic achievement (reading, writing, math) capacities, cognitive/learning abilities and physical capacities/limitations. In the interest of brevity, two brief examples of faulty evaluation methodologies will be illustrated using the same case.

**Case Illustration:** A 32 year old woman had established her own landscaping firm over the 6 year period preceding the accident. She had held a grade 11 education but prior to establishing her company she had only worked in unskilled restaurant and construction related jobs. Her accident was believed to have involved a mild to moderate traumatic brain injury and it was thought that she would be unable to handle the managerial aspects of her prior job from the cognitive perspective, and unable to perform the physical aspects due to her soft tissue related injuries. The prior neuropsychological evaluation suggested that while she would be capable of performing a relatively routine manual job, the prospects of her being able to handle the managerial aspects of her prior position were extremely low based upon testing data. As a result, the initial assessor who had conducted a "Transferable Skills Analysis" recognizing very limited pre-morbid aptitudes on the basis of the NOC classifications of her prior jobs, resulting in the selection of a base occupation of security guard corresponding to an REC of $18,676. This compared to a Pre-Accident earnings of $29,984 net from self-employment income, suggesting a significant loss of earnings benefit and likely continuation of LTD benefits had this injury occurred in that context.

**Point 1: Integration of Aptitude, Achievement Interest Assessment Data.** Sibley Neurological Employability Assessment was used to formulate a second opinion. This evaluation repeated core neuropsychological testing, but added key essential aspects which were not previously formally assessed, those being aptitude, achievement and interest testing in addition to a 5 day situational assessment component.

This multidisciplinary assessment revealed a much higher aptitude profile than that suggested by the claimant's prior work history, and also identified that the client possesses high school equivalency in reading, spelling and math. On this basis alone, in conjunction with reported and tested clerical interests, several clerical related occupations were identified as being feasible with the highest earning of these being at $28,804. This occupation was felt to be realistic as it was viewed as a relatively distraction/stress free occupation, in which the client could readily establish routine daily activities as suggested in the initial neuropsychological assessment.

**Point 2: Validating Neuropsychological Test Results Using Repeat Measurement and Work Task Assessment:** In the case scenario above, previous neuropsychological data had suggested significant cognitive limitations which were thought to likely be significantly limiting. In the context of the Sibley Neurological Employability Assessment, the real work task components confirmed that this client continued to possess these clerical skills at a competitive employment level. They also confirmed that despite some evidence of cognitive impairment at a more modest level upon follow-up neuropsychometric testing, the claimant consistently demonstrated the ability to perform all of the essential managerial tasks of her prior self employment including: bookkeeping, job estimating, materials planning/ordering, and creative landscape design. On the basis of this finding, it was felt that she met the criteria for the NOC defined occupation of "Contractors and Supervisors, Other Construction Trades", which at 36 months experience (related to self-employment duties) equates to a salary level of $43,012 on the basis of the OIC Wage Table. Selection of this occupation therefore eliminated the LECB and like the clerical occupation above, supported LTD benefit termination.

![Transferable Skills Analysis](image)

On left depicts significant LECB exposure due to improper occupational selection: on right, minimal OIC wage Table or no (Employee's wages) LECB exposure for selection of highest earning occupation; left scenario would result in ongoing LTD, but not right side.

5. Failure to consider impact of cognitive and/or emotional impact on vocational functioning

**Issue:** While the presence of significant cognitive and/or emotional impairment generally reduces the employability and/or earning capacity of an affected individual, such is not always the case. Rather, there are instances in which the appropriate selection of a base occupation serves to minimize the client's limitations rather than accentuate them. At times, even remunerative occupations will be at odds from the standpoint that one occupation may completely overwhelm the individual, heighten their symptoms, add to the emotional distress and potentially cause total disability for an indeterminate period; the other occupation may be physically and cognitively manageable, allow the individual to be distracted from his/her symptoms, boost self esteem and reduce the need for psychotherapeutic involvement.

**Case Illustration:** A 38 year old previously self-employed woman had been recognized as having sustained a mild traumatic brain injury in addition to a chronic depressive disorder since her fall from a ladder in the context of her LTD case. She had held a variety of managerial jobs in the past in various fields and possessed a community college diploma in business. Earlier efforts to rehabilitate her to her previous occupation were unsuccessful due to her residual cognitive and physical difficulties which precluded her performing multiple tasks required by her busy retail environment, as well as prevented her from lifting heavy inventory and standing for prolonged periods. Her store was too small to make any physical accommodations and also precluded the hiring of part time staff. Through the use of a Transferable Skills Analysis, it was determined that her historical aptitudes based upon previously held occupations, coupled with her known educational level, would allow her to meet the criterion to be a telephone operator with an annual salary of
$27,166. This occupation was felt to meet the "own occupation" criterion as it reflected approximately 80% of her previous earnings as a self-employed business owner. The claimant was then provided with three different work trials in the capacity of telephone operator, and call centre sales representative. Unfortunately she failed at each of these attempts and became more depressed with each occasion.

In summary, the unique and interdisciplinary nature of Sibley's Comprehensive and Neurological Employability Assessment Services are structured to avoid the pitfalls of inappropriate earnings determinations. A subsequent article shall outline similar issues and concerns from the claimant's point of view.

About the Author

J. Douglas Salmond Jr., is a registered psychologist and consultant in the areas of neuropsychological assessment, neuropsychological evaluation and neuro-rehabilitation of brain injured patients and psychological evaluations and treatment of general disability populations. He holds Ph. D., an MA in Vocational Counselling and an Honours BA in Economics. He designed and currently oversees the Employability Assessment Services for Sibley and Associates. He conducts assessments for Medical/Rehabilitation, Disability, and Residual Earnings Capacity DAC purposes, as well as LECB's in the Metropolitan Toronto, Durham and Peel Regions. He has also conducted numerous assessments related to treatment planning and impairment/disability ratings for Ontario Workers' Compensation Board purposes. He has overseen several facilities and services including a Medical Rehabilitation/Residential Learning Capacity DAC Centre, and other services involving multidisciplinary brain injury and diverse disability assessments. He also oversees the Neuropsychological Service of the Whitby Mental Health Centre. He was a member of the Residual Earnings Capacity DAC Development Committee for the Ontario Insurance Commission (OIC). Currently he chairs the OIC's Mental and Behavioural Disorders Case Management DAC Committee and chairs the Treatment Guidelines Development Sub-Committee of the Ontario Psychological Association's MIA Task Force.

Best Timing of Earning Capacity Assessments

In order to provide sufficient time for vocational rehabilitation planning and implementation, should a significant loss of earning capacity be anticipated, employability/earning capacity assessments should occur as early as possible. Generally, in the case of obvious significant disability, once the client is medically (or when the maximum functional recovery is predictable) and psychologically stable, the assessment may occur. For chronic soft tissue clients the best timing is more debatable, but the assessment should occur upon a plateau in functional recovery, and likely no later than 6 to 8 months post-condition onset, assuming that appropriate clinical management has occurred up to that point.

Conclusions: An Integrated Team Approach

No doubt that to some degree the reluctance to provide a streamlined employability assessment is borne out of pressure from insurers to minimize the costs of these. However, in seeking to reduce costs, it is important to recognize that to do so may come at a significant longer term financial impact which often by far outweighs any additional costs incurred by a more comprehensive assessment process. This review has provided examples of how improper LECB awards or unnecessarily extended LID claims may arise out of non integrated assessments. It can also reduce the likelihood of future rehabilitation success. A methodologically sound and clinically supportive evaluation process on the other hand, may have tremendous implications for the evaluation of the client's current earning capacity, as the client is able to demonstrate his/her maximum effort and capabilities. Similarly, such an approach will often enhance the prospects of ongoing rehabilitation efforts as it may serve to instill confidence, renew hope and provide the client with a renewed sense of purpose and direction, as competencies, rather than limitations, are reinforced.

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