



Rehabilitation consultation and ethics

Rehabilitation practice

Eligibility scenarios		
Eddie	Babbs	Dean
Mary	Jose	Chan
Jake	Julie	Paul
Spike	John	Isabella

Eddie

At the time of his work injury, Eddie worked as a lifeguard at Lake Harriet in Minneapolis. He developed a nasty case of swimmer's itch on or about Aug. 7, 2020.

Eddie saw a dermatologist, who told him he should avoid contact with lakes and rivers until Sept. 15. After that period, the doctor indicated Eddie could return to work of any kind.

Shortly after this, Eddie received a letter from the City of Minneapolis stating he would be laid off when the beach closed for the season Sept. 4, 2020.

Eddie

Eddie spoke with an attorney who occasionally practices workers' compensation law. The attorney referred the case to you for a rehabilitation consultation.

Through a telephone conversation, Eddie requested you provide him rehabilitation services to help him find a year-round job or a temporary job that he can perform within his restrictions for the next couple of weeks.

You met with Eddie on Aug. 20 to conduct the consultation. Following this, you called the City of Minneapolis human resources office and were told the city has no indoor pools where an employee could work while recovering from his condition.

Eddie

The human resources person further reported no work of any kind would be available for employees at this time. However, if Eddie wanted to be a lifeguard next summer, he would be welcomed back.

Question

Is Eddie a qualified employee for rehabilitation services?

Why or why not?

Mary

Mary was hired to work on-call as a nursing assistant at a nursing home in a very small town. She worked only two days in her first month on the job. On her third day at work, she strained her back while changing the undergarments of a patient.

Mary's doctor has provided conservative treatment. The doctor does not think Mary is a surgical candidate.

After a few weeks of physical therapy and medication, the doctor recommended Mary not return to work as a nursing assistant and specified a lifting limit of 10 pounds.

Mary

Mary looked for a new job for a few weeks and then told the doctor she was too miserable to return to work of any kind.

The doctor then recommended Mary avoid all employment until she had a functional capacity evaluation (FCE). The insurer denied approval of the FCE due to Medical Disability Advisor guidelines, saying she should have recovered from the low back strain.

Mary talked with her pastor about the situation. The pastor looked at the Department of Labor and Industry (DLI) website and suggested Mary should ask for a rehabilitation consultation.

Mary

The insurer referred the case to you for the consultation. In the course of the meeting, you learn a few additional facts about Mary's situation. You notice Mary appears to be emotionally fragile.

When you mention this to her, she tells you she has been receiving Social Security Disability (SSDI) benefits on the basis of chronic depression for the past 14 years.

Mary is also 140 pounds overweight and deconditioned after 12 months away from work. In discussing her history, you learn Mary was previously treated for alcoholism and drug abuse.

Mary

Although Mary has attempted to do so, she seems unable to kick her nicotine habit, even though she is taking medication for asthma. The insurer has questioned her motivation to return to work at this time.

The insurer arranged for an independent medical examination (IME) by an orthopedic surgeon. The IME report was forwarded to you a couple of days after the insurer referred the case to you.

The report says Mary has returned to her pre-injury status and has no physical restrictions as a result of the work injury.

Question

Is Mary a qualified employee?

Why or why not?

Jake

Jake worked at a fast-food restaurant where a coworker accidentally spilled water into the hot grease fryer. This caused the grease to boil up, creating second-degree burns on Jake's face and arms.

His doctor said that other than some minor scarring, Jake should make a full recovery.

The doctor recommended Jake avoid all work activity for two months, after which he could "return to any work activity he pleased."

The claim representative has had several burn cases that did not go nearly as well as the treating physician had predicted. The claim representative is also suffering from stress because her caseload is much too large.

Jake

The claims representative called to let you know she was referring the case to you and requested you find Jake eligible because she does not have time to watch the case as carefully as she would like.

Question

Is Jake a qualified employee?

Why or why not?

Spike

At the time of his work injury, Spike worked as a laborer in a foundry. He suffered a low back injury that resulted in his receiving injections and physical therapy.

After some time, Spike was released to return to work by the treating physician, with a 30-pound lifting limit.

Although the doctor has not specifically said so, the medical report suggests to you that the doctor has no plans for additional treatment and considers the lifting restrictions to be permanent.

Spike

Spike reported his foundry job involved frequent lifting of castings weighing 45 to 60 pounds. However, you have not been able to verify anything about Spike's work activities because the foundry went out of business while he was recovering from his injury.

Question

Is Spike a qualified employee?

Why or why not?

Babbs

Babbs works on an assembly line where her job requires almost constant standing. She twisted her ankle at work and the insurer admitted liability.

Babbs went to her regular doctor for treatment and was diagnosed as having a sprained ankle.

The doctor recommended Babbs avoid work activity for a few weeks and then return for a follow-up visit if she continued to have symptoms.

About a month later, Babbs called you requesting a rehabilitation consultation because you had previously worked with her brother.

Babbs

When you met with Babbs, you asked her whether she had any other health problems. Babbs reported she has been treating for lupus for many years.

Babbs then mentions that when she returned to see the doctor a few weeks after the work injury, the doctor told her the ankle sprain was resolved.

The doctor stated Babbs' current symptoms were due to the effects of lupus. The doctor recommended Babbs avoid standing for more than a couple of hours a day.

Babbs

The doctor provided Babbs with a Report of Work Ability form explaining her work restrictions; she gave you a copy of the report.

Babbs said she disagreed with the doctor about the problem being related to lupus. Babbs thinks she is still suffering from the work injury because the symptoms are nothing like what she has experienced with lupus.

Question

Is Babbs a qualified employee?

Why or why not?

Jose

Jose worked at a plant near his home beak-trimming chicks. The work was light duty and required him to stand most of the day. Jose had worked there for five years and was well-liked by coworkers and the management staff.

Unfortunately, another employee clipped Jose's left leg with a forklift as he was passing by, causing Jose to have torn leg muscles and a fractured fibula.

Jose's supervisor immediately drove him to the hospital, where surgery was performed. Jose was off work for several weeks due to the accident.

Jose

Upon receiving the referral for a rehabilitation consultation, the insurer informed you Jose had been terminated after a light-duty job offer.

Apparently, the job had been offered to Jose contingent upon his proving he was a U.S. citizen and/or able to legally work in the United States.

The insurer noted that since Jose can't work in the U.S., the rehabilitation consultation should be straightforward in finding Jose "not qualified." The insurer requested the consultation report and invoice be faxed to it at your earliest convenience.

Jose

Because the insurer has provided several referrals to you in the past, you agreed to rearrange your schedule to see Jose this week.

Question

Is Jose a qualified employee?

Why or why not?

Julie

Julie fell off scaffolding while working as a commercial painter. This resulted in a broken right ankle and right hip fracture with sedentary limitations.

Three-quarters of the employees have been seasonally laid off, including Julie, and the employer thought it might have a light-duty job for her when business picked up in three months.

Julie was not surprised by the layoff, noting the time off would allow her get caught up on house projects. Also, because she has put on some weight, she felt it would be a good time for her to hit the gym and exercise.

Question

Is Julie a qualified employee?

Why or why not?

John

As a pharmaceutical salesman, John's job required extensive travel by car, the ability to lift samples in and out of his car, promotion of new products and the ability to close sales deals.

John was recognized by his peers as being very good at what he did and averaged a weekly wage of \$1,730.76.

On his way to Frostbite Falls Medical Clinic, John hit a patch of black ice that caused his car to spin out of control and to flip several times. John was unconscious when the ambulance brought him to the hospital.

John

Two months have passed since the accident and John still has not awakened. It is clear John will be off work for more than 13 weeks. The family would like medical management assistance to help with this difficult situation.

The family members are willing to sign any necessary forms and have you in the room when the doctor provides them with updates.

Due to your past medical experience with coma patients, the insurer requested you do a consultation and then provide rehabilitation services right away.

Question

Is John a qualified employee?

Why or why not?

Dean

As a full-time maintenance engineer, Dean's job was classified as "heavy duty." On Feb. 24, 2020, while Dean was lifting an object, he felt something pull in his groin area.

Hernia repair surgery was performed March 20, 2020, and he was eventually released for light duty April 13, 2020. The doctor indicated Dean could resume regular duty work activities May 25, 2020.

Unfortunately, on March 29, 2020, Dean's employer laid him off; one-and-a-half months later, Dean requested a rehabilitation consultation.

Dean

On May 6, 2020, you met with Dean and learned that in addition to the hernia, he had a prior admitted lumbar injury May 22, 2020, leaving him with permanent medium-duty restrictions.

Question

Is Dean a qualified employee?

Why or why not?

Chan

The open road was one of the things Chan really enjoyed about his heavy-duty job as a petroleum truck driver, which required an average of 60 hours a week. At age 58, with only a high school diploma, there was not another job where he would earn \$1,018.37 a week.

On March 23, 2020, when pulling a hose, Chan tore his right rotator cuff and ruptured the biceps tendon. Several weeks after surgery, Chan was referred for physical therapy twice a week; after a couple of months, Chan was able to progress to three times a week.

Unfortunately, significant pain persisted and Chan was not able to progress his physical limitations past a two-pound right-hand lift, carrying objects close to his body and performing no overhead reaching.

Chan

Discouraged, Chan applied for and was awarded SSDI benefits at \$491 a month. Through the county, Chan obtained a job working as a personal care attendant (PCA) for his four-year-old disabled grandson. In this job he earned \$800 a month.

The job was approved by SSDI, but Chan was unclear if it is through the Ticket to Work program.

Question

Is Chan a qualified employee?

Why or why not?

Paul

On Aug. 17, 2020, while working as a full-time sheet metal fabricator, Paul was using a clench machine to flatten metal parts. Unfortunately, while switching dies, the machine malfunctioned, coming down and automatically retracting, leaving Paul with a crushed right little finger.

Following emergency room care, Paul returned to work to complete mandatory drug screening, which he passed. After two weeks, a hand surgeon placed a pin into the broken finger and had Paul remain off work for two weeks.

At the end of two weeks, Paul returned to one-handed duty work.

Paul

Paul continued one-handed duty work for one-and-a-half months, after which he was released for unrestricted work. However, pain and swelling persisted.

Paul met with his doctor for a follow-up appointment and was advised there was nothing more that could be done surgically.

In February 2021, Paul was reassigned to the third shift to do parts handling. This required frequent to continuous hand movement, which increased his hand pain. Furthermore, Paul's right little finger developed a hypersensitivity to the point that Paul was missing work. He saw the doctor who prescribed Lyrica for the pain and hand therapy.

Paul

At Paul's June 2021 appointment, the doctor noted possible complex regional pain syndrome, but did not order any tests. The doctor prescribed Lyrica, continued hand therapy (including ultrasound) and recommended avoiding use of vibrating tools and no lifting of more than 25 pounds with his right hand.

Paul's employer continues to provide light-duty work, but has informed him his department will eventually be eliminated. The only other work is on the assembly line. Paul is concerned he won't be able to handle assembly work.

Question

Is Paul a qualified employee?

Why or why not?

Isabella

While here on a visa, Isabella obtained a stand-up assembly position at Jim's Electric Motor Company. Her job involved placing components into an electric motor frame and attaching an end bracket. She next placed the 20-pound unit into a crate located on a manual cart. After the crate had 50 motors in it, Isabella pulled the cart to the shipping room, where she off-loaded the crate using an electric hoist.

Isabella earned an average weekly wage of \$520 and her supervisor hinted she would get a 15-cent raise after the next pay period. Because Isabella lived with relatives, her expenses were minimal, which allowed her to send money to her ailing mother in Mexico.

Isabella

An hour before the end of Isabella's shift, the hoist failed, causing the crate to dump its load onto her left foot. Isabella was taken to the hospital, where she was diagnosed with a compound full foot fracture. The doctor prescribed pain medication, took her off work and recommended frequent dressing changes.

Eight weeks after her injury, Isabella still had not returned to work. Three weeks later, Isabella received notice that her visa was due to expire. So, frustrated and unable to work, Isabella returned to Mexico.

Upon receiving the referral, you called the employer, who stated the only available work was the pre-injury job. You then called Isabella and explained the consultation process and your conversation with the employer – who had indicated she was a great employee. When asked for a current address or email address, Isabella declined to provide them.

Isabella

However, as the phone conversation progressed, Isabella confided that doctors in Mexico were not very good, so she was not seeing one. Isabella reported being eligible for a U.S. visa again, but had no money to pay for it, so she was unsure about returning to Minnesota.

Your call with Isabella was interrupted by Isabella's mom calling for her assistance. Isabella consented to a follow-up call, but subsequent phone calls have gone straight to a full voicemail inbox, so you have been unable to leave a message. The clock is ticking to get the rehabilitation consultation filed with the department and parties.

Question

Is Isabella a qualified employee?

Why or why not?

Helping one person might not change the whole world, but it could change the world for one person.



Types of ethics

Professional ethics

"The personal and corporate rules that govern behavior within the context of a particular profession. An example of professional ethics is the American Bar Association's set of ethical rules that govern an attorney's moral obligations."

- From www.yourdictionary.com

Situational ethics

Elective noncompliance with ethics rules and standards for special circumstances or self-interest.

Pope's common rationalizations



It is not unethical as long as ...

1. You do not talk about ethics (for example, general denial).
2. You do not know a law, ethical principle or professional standard that prohibits the behavior in question.
3. You can name at least five other individuals doing it.
4. None of your clients have ever complained about it.
5. Your client wanted you to do it.
6. Your client's condition or behavior made them difficult to treat, troublesome or risky to be around, so you elicited whatever you did.

It is not unethical as long as ...

7. You were not feeling well that day and could not be expected to perform up to your usual level of quality.
8. A friend or colleague of yours knew someone who said an ethics committee somewhere once issued an opinion and "it's okay."
9. People who sit on ethics committees do not understand the hard realities of practice.
10. The behavior results in a higher income or more prestige.
11. It's expedient and convenient.
12. No one else finds out.

It is not unethical as long as ...

- 13. There is no intent to harm.
- 14. There is no empirical evidence that proves it was harmful.
- 15. You do not intend to do it more than once.
- 16. No one can prove you did it.
- 17. You are an important person.
- 18. You are too busy.

The key to success is how you handle it.



Thank you.