



Ethical Issues in Pre-Surgical Assessments with Industrial Patients

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Assessing and treating patients with work-related injuries presents interesting clinical and ethical challenges, as the rules governing workers' compensation treatment are derived from a medical model and don't always fit squarely in a mental health framework.

Increasingly, psychologists who treat patients with work-related injuries are being asked to provide input to treating physicians and workers' compensation carriers about psychological factors that can dictate the employee's medical care and surgical options. Presently, most workers' compensation insurance carriers require psychological clearance before allowing an injured worker to proceed with a potentially costly invasive spine procedure. Pain management doctors also want feedback from psychologists as to how well their patient understands the procedure and whether unforeseen psychological problems might circumvent the patient's recovery and progress after surgery.

Pre-surgical psychological screening is a relatively new area of assessment specialty, but there are a growing number of resources and training materials that provide guidelines and recommendations. Typically, a variety of risk factors are assessed through clinical interview, psychological testing, and reviewing the surgical candidate's medical records. Important risk factors include length of disability, substance abuse, psychosocial support, psychiatric history, somatization, personality factors, and behavioral comorbidities (like obesity and cigarette smoking). Newly available are decision trees and risk factor algorithms that quantify the level of psychological risk for patients into prognostic categories (Deardorff, 2005).

The typical injured worker has a triumvirate overseeing their claim – the treating physician, the insurance carrier, and the employee's attorney. Because these factions often have polarized stances about interpreting how the Labor Code should be applied to a given situation, the psychologist may become

suspended in a kind of tug-of-war over how their clinical impressions will be used.

First, the evaluating psychologist must ensure that the patient understands that the purpose of the evaluation is a snapshot assessment yielding clinical impressions that may effect their surgical candidacy (APA, 3.10, Informed Consent). Because most surgical evaluations are conducted on medical patients not currently in psychological treatment, clinical issues that arise may warrant psychological treatment. Recommending such care could adversely impact on the patient's immediate approval for surgery, but obtaining that psychological treatment may also result in a better overall outcome when the patient is eventually approved for surgery.

Second, the evaluating psychologist needs to be acutely aware of

the potential for complicated multiple relationships (APA, 3.05) and conflicts of interest (APA, 3.06) and clearly adhere to their clinical objectivity. Surgeons and carriers tend to refer patients to psychologists who can do timely assessments and provide reports with useful clinical information. However these parties can be at odds when it comes to proceeding with expensive interventions, especially when patients have serious injuries with lengthy disability and treatment costs. The physician's goal is to offer potential remedy to a patient who is suffering. The carrier's goal is to monitor medical care with an eye on cost containment. The psychologist must repeatedly clarify the nature of his or her relationship with all of the parties involved (APA Ethical Standard 3.07, Third-Party Requests for Services), maintain neutrality, insist on clinical accuracy, and provide objective rationale for impressions and conclusions.

Third, the psychologist should carefully consider the unintended impact of their assessments. The rules governing the disclosure of psychological information differ between non-industrial and industrial psychological treatment. When an injured worker files a workers' compensation claim, they consent to disclosure of all their medical records to the concerned parties. Psychiatric data is only withheld if that data is deemed potentially injurious to the employee. Because the pre-surgical assessment becomes part of the entire industrial medical record, a seemingly innocuous psychiatric report with sensitive psychosocial data, testing results, and clinical impressions can easily find its way to a claims adjuster, human resources, or to third parties such as vocational rehabilitation counselors, disability or civil attorneys, or long-term disability carriers.

Patients should be clearly advised about the limits of confidentiality in such assessments and the clinician should obtain appropriate consents prior to initiating the evaluation (APA 3.10, Informed Consent in Assessments, 9.02 Use of Assessments, 4.01 Maintaining Confidentiality).

Psychologists considering these evaluations might consider taking industrial medicine (QME) continuing education classes to learn more about the overlap and differences between the laws governing industrial and non-industrial psychological services. Getting started in pre-surgical assessments and writing useful, informative, and reimbursable reports – without stepping on ethical minefields – may also initially require supervision and mentoring for best outcome. □

References

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