

# Extent of Injury Workshop

# Disclaimer

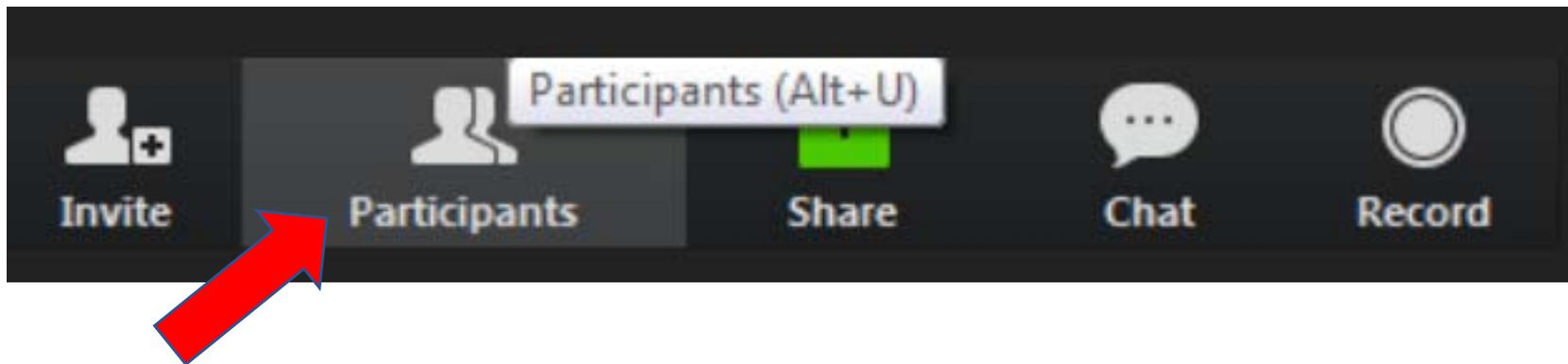
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# Housekeeping

- “Interactive” webinar
- Mute your phone/VOIP audio connection until time to ask questions
- We will mute all attendees during the presentation and unmute all for questions
- Unmute your phone/VOIP connection to ask questions

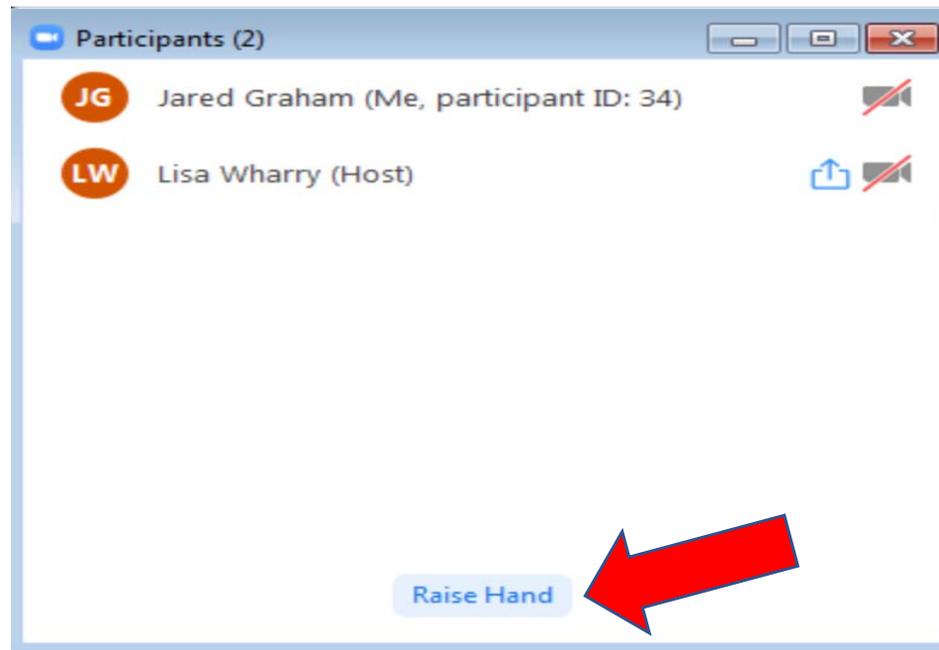
# Housekeeping

- At the bottom of your screen, click to turn on the participant list:



# “Raising your Hand”

- When we get to the question slides, and you have a question, please click on the “raise your hand emoticon” at the bottom of the participant list.



- We’ll call on you accordingly.
- Please click on the emoticon again to put your hand down.

# Dispute Resolution – Designated Doctors (DD) System

- **Designated Doctor's role is to assist in Dispute Resolution**
  - Impartial, objective medical expert selected and ordered by DWC
  - Answers specific questions
  - Does not recommend or provide treatment
  - One of the dispute questions for the DD is Extent of Injury

# Importance of DD Opinion

- The report of DD is given **presumptive weight** in dispute resolution unless the preponderance of evidence is to the contrary
- Insurance Carrier (*IC*) is required to pay income and medical benefits based on opinion of DD during pending dispute

# DD Reports in Dispute Resolution

- **DD reports facilitate informal resolution of many issues**
- In event parties cannot resolve issues in dispute based on DD's report, they may pursue issues through DWC dispute resolution process
  - Benefit Review Conference
  - Contested Case Hearing
  - Appeals Panel
  - Courts



# Dispute Resolution – Designated Doctors (DD) System

- Most disputes arise after the first several months from the DOI.
- To have a Designated Doctor be appointed to resolve a dispute, a *Request for Designated Doctor Examination* (DWC Form-32) must be completed.

# Dispute Resolution – Designated Doctors (DD)

**Texas Labor Code §408.0041** states questions to be addressed by DD:

- Attainment of Maximum Medical Improvement (*MMI*);
- Impairment as a result of the compensable injury (*IR*);
- **Extent of employee's compensable injury (*EOI*);**
- Whether disability is a direct result of the compensable injury (DDR);
- Ability to return to work (RTW); and
- Issues similar to those described above.

# Dispute Resolution Designated Doctors (DD)

- **Some reasons an insurance carrier (IC) may raise dispute resolution:**
  - When there appears to be delayed recovery
  - There is concern as to what diagnoses are related to the events on the date of injury
  - Multiple ICD-10 diagnoses used on the claim
- The latter may occur after the insurance carrier has requested a peer review to review the records to assist in defining the compensable diagnosis.

# Dispute Resolution Designated Doctors (DD)

**Some reasons an injured employees may initiate dispute resolution:**

- there is a notice (PLN-11) disputing a diagnosis, condition or symptom; or
- treatment is denied.

# Dispute Resolution

## **Designated Doctors (DD)**

**Who can complete a *Request for Designated Doctor Examination* (DWC Form-32)?**

- Insurance carrier
  - Adjuster
  - Carrier attorney representative
- Injured employee
- Injured employee's representative
  - Ombudsman
  - Attorney
- Benefit Review Officer / Administrative Law Judge

# Dispute Resolution

## Designated Doctors (DD)

- Who can complete a **Presiding Officer's Directive (POD)** to Order a Designated Doctor Exam?
  - DWC Benefit Review Officer (BRO)
  - DWC Administrative Law Judge (ALJ)

# Dispute Resolution

## Designated Doctors (DD)

### Presiding Officer's Directive (POD)

- This may be generated after a hearing at some level (BRO or ALJ). Specific diagnoses / conditions may have been stipulated by the parties or adjudicated by ALJ
- The DD **MUST** consider **ONLY** the questions posed in the POD
- Do not add other diagnoses / opinions unless specifically asked to (may be asked for a potential 3<sup>rd</sup> certification).

# Dispute Resolution

## DWC Form-032

# REQUEST For DESIGNATED DOCTOR EXAMINATION

 <b>TEXAS DEPARTMENT OF INSURANCE</b> Division of Workers' Compensation (MS-603) 7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645 (512) 804-4380   F: (512) 804-4121   (800) 252-7031   TDI.texas.gov   @TexasTDI		DWC032
		Complete, if known: DWC Claim # Carrier Claim #
<b>Request for Designated Doctor Examination</b> <i>Type (or print in black ink) each item on this form</i>		
<b>I. INJURED EMPLOYEE INFORMATION</b>		
1. Employee Name (First, Middle, Last)	2. Employee Social Security Number	
3. Employee Address (Street or P.O. Box, City, State, Zip Code)	4. Employee County	
5. Employee Primary Phone Number ( )	6. Employee Alternate Phone Number ( )	
7. Employee Date of Birth (mm-dd-yyyy)	8. Date of Injury (mm-dd-yyyy)	
9. Representative's Name (First, Middle, Last)	10. Representative's Phone Number ( )	
11. Representative's E-mail Address	12. Representative's Fax Number ( )	
13. Employer Name	14. Employer Phone Number ( )	
15. Employer Address (Street or P.O. Box, City, State, Zip Code)		
<b>II. INSURANCE CARRIER INFORMATION</b>		
16. Insurance Carrier Name		
17. Insurance Carrier Address (Street or P.O. Box, City, State, Zip Code)		
18. Adjuster Name (First, Middle, Last)	19. Adjuster E-mail Address	
20. Adjuster Phone Number ( )	21. Adjuster Fax Number ( )	
22. Does the claim involve medical benefits provided through a Certified Workers' Compensation Health Care Network? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, provide the name of the network.		
23. Does the claim involve medical benefits provided through a political subdivision under Labor Code §504.053(b)(2), directly contracting with health care providers or contracting through a health benefits pool? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, provide the name of the health care plan.		
Only Insurance Carriers Complete Boxes 24 - 28		
24. Insurance Carrier's Authorized Agent Company Name	25. Insurance Carrier's Bill Review Agent Name	
26. Bill Review Agent Phone Number ( )	27. Bill Review Agent Fax Number ( )	
28. Bill Review Agent Address (Street or P.O. Box, City, State, Zip Code)		
For TDI-DWC Use Only		
DWC032 Rev. xx/18 <span style="float: right;">Page 1 of 6</span>		

# Dispute Resolution

## Designated Doctors (DD)

### ***DWC-32, Box 37***

- Contains all injuries accepted as compensable by the insurance carrier (*This information on the DWC Form-032 is not a final decision of the accepted injuries.*)

### ***DWC-32, Box 38***

- Contains all injuries as determined to be compensable by approved DWC Form-024, *Benefit Dispute Agreement*, DWC decision & order, DWC Appeals Panel decision, or final court order, if applicable.
- Will usually have an associated Presiding Officer's Directive (POD)

# Extent of Injury Question for the Designated Doctor

Was the accident or incident giving rise to the compensable injury a **substantial factor** in bringing about the additional claimed injuries or conditions, and **without it, the additional injuries or conditions would not have occurred?**

Include an explanation of the basis for your opinion, NOT just your opinion.

# EOI Analysis: Understanding the Question

- Important medical/legal question in workers' compensation
- *You* give your opinion and rationale as to which injuries are caused by accident and which are not
- Support your opinion, from a medical perspective, within the legal framework
- You provide medical expertise to inform those reading your report, including an Administrative Law Judge
- We will review legal standards for you to consider

# DWC 32, Box 36C

## C. Extent of Injury

List all injuries (diagnoses/body parts/conditions) in question, claimed to be caused by, or naturally resulting from the accident or incident **and** describe the accident or incident that caused the claimed injury.

# Extent of Injury (EOI): DWC Form-032, Box 36C

- Lists all injuries in question/in dispute.
- Specifically, the injury or injuries in question for the extent of injury determination.
- DD must address EACH injury (diagnosis/body part/condition) listed in Box 36C
- Gives a description of the accident/incident that caused the claimed injury in question/in dispute.
- [28 TAC §127.1\(b\)\(11\)\(C\)](#) Revised 12/06/18

# Extent of Injury Evaluation

## HOW DO WE START OUR ANALYSIS?

Understand each of these areas of

### **BASIC SCIENCE:**

1. **Basic ANATOMY (including neuroanatomy) and PHYSIOLOGY of the diagnoses / conditions you will be analyzing,**
2. **What is the Natural History of Biologic Tissue,**
3. **Tissue Injury Model,**
4. **Tissue Healing Model**

# Extent of Injury Evaluation

## Understand Tissue Injury Model

What is the Natural History of Biologic Tissue?

All tissues age

- Tendons and muscles
- Ligaments
- Chondral and hyaline cartilage
- Fibrocartilage of the joints
- Nerves
- Blood vessels (arteries and veins)
- Skin

# Extent of Injury Evaluation

## Understand Tissue Injury Model

What is the Natural History of Biologic Tissue?  
All tissues age.

- Biochemical changes occur with the aging process, no matter how healthy the individual.
- Connective tissues lose:
  - elasticity;
  - water content;
  - volume; and
  - and resiliency to mechanical stress.

# Extent of Injury Evaluation

## Understand Tissue Injury Model

### Potential Tissue Injuries

Strain

Sprain

Tendinopathy / Tendinitis

Abrasion

Contusion

Bruise

- All of these can demonstrate a continuum of tissue disruption.
- Since several of these can be degenerative, there should be some acute, objective findings or structural change in a tissue if due to an injury.

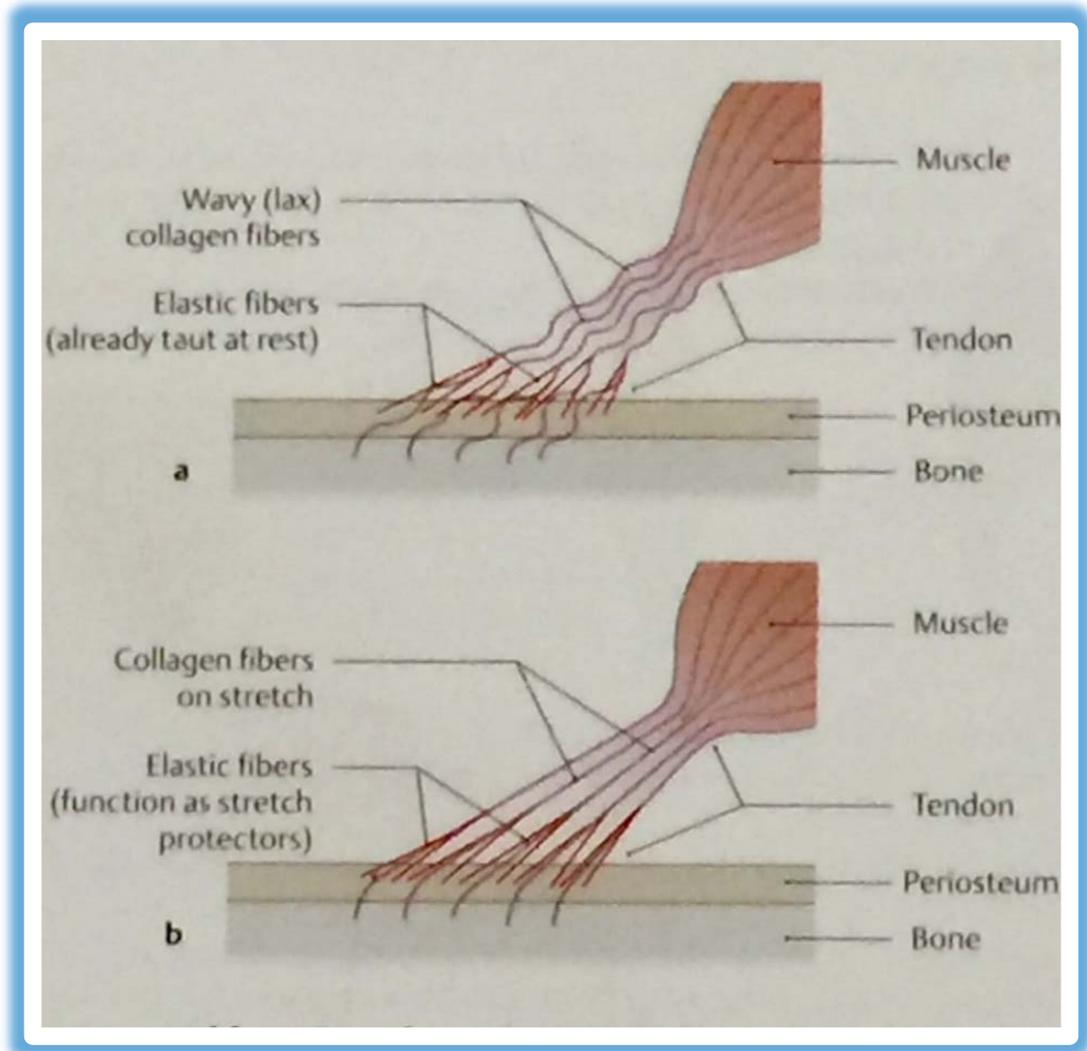
# Extent of Injury Evaluation

## Tissue Injuries and Changes

- Not ALL structural changes are synonymous with an injury.
- These terms are often used interchangeably, but while they may co-exist, they are not synonymous.
- Structural changes can occur as a result of trauma but are most often degenerative.
- Tears have a connotation of trauma, but are mostly degenerative, resulting from the slow, insidious breakdown of tissue.

# Extent of Injury Evaluation Strains

- A **strain** occurs when the fibers of a muscle or tendon overextend / stretch / *tear* due to mechanical stress.
- Can occur as a result of:
  - repetitive contraction
  - excessive eccentric load
  - age and time



# Extent of Injury Evaluation

## Sprains

A **sprain** is a stretching of the ligaments of a joint.

- Ligaments are tough, semi-elastic bands of fibrous tissue that connect one bone to another in a joint.
- Sprains occur after mechanical stress to a joint, disrupting some or all the fibers of the ligament.
- Sprains are usually traumatic but *may* be due to chronic attrition (i.e. ACL of knee in the face of OA).
- Sprains of ligaments can heal uneventfully, or when more significant, due to residual lengthening or disruption of the ligament, can result in instability of the joint.

# Extent of Injury Evaluation

## Sprains and Strains

Sprains are graded by the degree of fiber disruption.

Grade I = Mild (stretching)

Grade II = Moderate

Grade III = Severe

(Grade II and III usually with some macroscopic changes)

*Further information is available in the Official Disability Guidelines (ODG).*

# **Extent of Injury Evaluation Sprains and Strains**

## **Why is this important?**

**Degree of injury will determine:**

- recovery time;
- necessary treatment; and
- prognosis

# Extent of Injury Evaluation

## Tissue Injury

- Connective tissue responds to injury with:
  - edema
  - Inflammation,
  - hemorrhage,
- These processes are also the body's mechanism to repair the structure.
- The greater the trauma, the more objective evidence should be present on the clinical exam or imaging.
- The corollary is the lesser the trauma, less edema / inflammation / hemorrhage expected.

# **Extent of Injury Evaluation**

## **CLASSIFICATION OF TISSUE INJURY:**

While the following may seem elementary,  
lack of basic understanding of tissue injury model  
will limit success of providing  
thoughtful and legally sufficient  
**EXTENT OF INJURY ANALYSIS**

# Extent of Injury Evaluation

## Sprains and Strains

### Grade I = Mild

- Stretching of the muscle tendon unit
- Typically microscopic or minimal disruption of the muscle, tendon or ligaments

# Extent of Injury Evaluation

## Sprains and Strains

### Grade I = Mild

#### Clinical Findings:

- Some localized swelling
- Stretching of the ligament or contraction of the muscle may be painful
- No instability
- Resolve uneventfully within weeks

# Extent of Injury Evaluation

## Sprains and Strains

### Grade II = Moderate

- Some macroscopic disruption or tearing of the fibers
- Tendons and ligaments have a height, width and length, so PARTIAL tears can have a variable degree of involvement of those dimensions
- The muscle or tendon has not been completely disrupted

# Extent of Injury Evaluation

## Sprains and Strains

### Grade II = Moderate

#### Clinical Findings:

- Loss of strength (often due to pain inhibition)
- Local swelling or joint effusion
- Limitation in active motion
- Some degree of joint instability on clinical exam (especially if a SPRAIN)

# Extent of Injury Evaluation

## Sprains and Strains

### Grade III = Severe

- Complete rupture in the muscle tendon unit or ligament at mid-point or avulsion
- Mechanism is usually much more substantial IF the grade III disruption is traumatic.
- Often other associated tissue injuries
- Individual will often report hearing a loud pop or snap when the injury occurred (although “pops and snaps” may occur without tissue disruption)

# Extent of Injury Evaluation

## Sprains and Strains

### Grade III = Severe

#### Clinical findings:

- Very painful at the location of injury.
- May be a palpable defect in the muscle or tendon.
- Grade III muscle strain / ligament sprain will often have very serious bruising and swelling and pain with movement of the tissue.
- Grade III ligament injury results in significant joint effusion and substantial joint instability with or without bone contusions that are evident on MRI.
- Once a large effusion established, clinical instability may be masked

# Extent of Injury Evaluation

## Sprains and Strains

**Tendonitis:** An inflammatory process within a tendon. Not always due to an acute event.

**Tendinopathy:** Any dysfunction of a tendon, manifest as tendon damage involving overuse, microtears and collagen degeneration.

- Broad terms encompassing painful conditions occurring in and around tendons usually in response to overuse or age.
- Typically chronic conditions of a tendon.

# Extent of Injury Evaluation

## Tendonitis vs. Tendinopathy

### Tendinopathy:

- Recent basic science research suggests little or no inflammation is present in tendons exposed to overuse.
- Many of the biochemical changes in tendinopathy are pathologic and result in tendon degeneration, whereas others appear to be beneficial or protective.
- Many of the initial anatomic changes to a tendon are sub-clinical (no symptoms) or produce only intermittent brief periods of “soreness.”

# Extent of Injury Evaluation

## Contusions & Bruises & Abrasions

**Bruises & Contusions are somewhat interchangeable but are due to blunt trauma.**

- A **bruise** requires injury to tissues, resulting in extravasation of blood out of broken blood vessels in a diffuse pattern.
- As the blood accumulates under the skin or the heme in the blood breaks down, the colors change.
- When there is breakage of the skin, this is called an **abrasion**, which can have surrounding bruising.

# Extent of Injury Evaluation

## Contusions & Bruises & Abrasions

(continued)

- The depth of a bruise / contusion can vary; what is below the surface can be greater than what is visible at the surface.
- Contusions can also occur at the level of the bone
- These usually require greater force or degree of injury (i.e. “kissing lesions” of the femur and tibia after a grade III sprain of the ACL)
-

# Extent of Injury Evaluation

## Hematoma & Seroma

**Other terms related to blunt trauma.**

A **HEMATOMA** is a pocket or localized area of collected blood.

- Often due to a larger blood vessel with injury.
- These can present with more swelling from the underlying collection of blood.

A **SEROMA** is a mass caused by the accumulation of serum within a tissue or an organ.

- Seromas may accumulate as a complication of surgery or after other traumatic injuries to soft tissues.

These may require more specific treatment to remove the collection.

# Extent of Injury Evaluation

## Analysis of Injury

- **Mechanism of injury (MOI)** is an important concept in the analysis of an injury.
- The MOI is defined by the principal direction of force in relation to the injured segment.
- Tissues fail due to local stress *and* can be affected by:
  - Factors that alter stress distribution; joint position or muscle tension
  - Systemic factors that affect the health of the tissue.

# Extent of Injury Evaluation

## Analysis of Injury

- Tissue injury occurs when a force exceeds the tissue's ability to tolerate that force and is disrupted.
  - However, make your MOI statement more detailed than the preceding statement
- The degree of injury will be determined by clinical and radiologic findings.

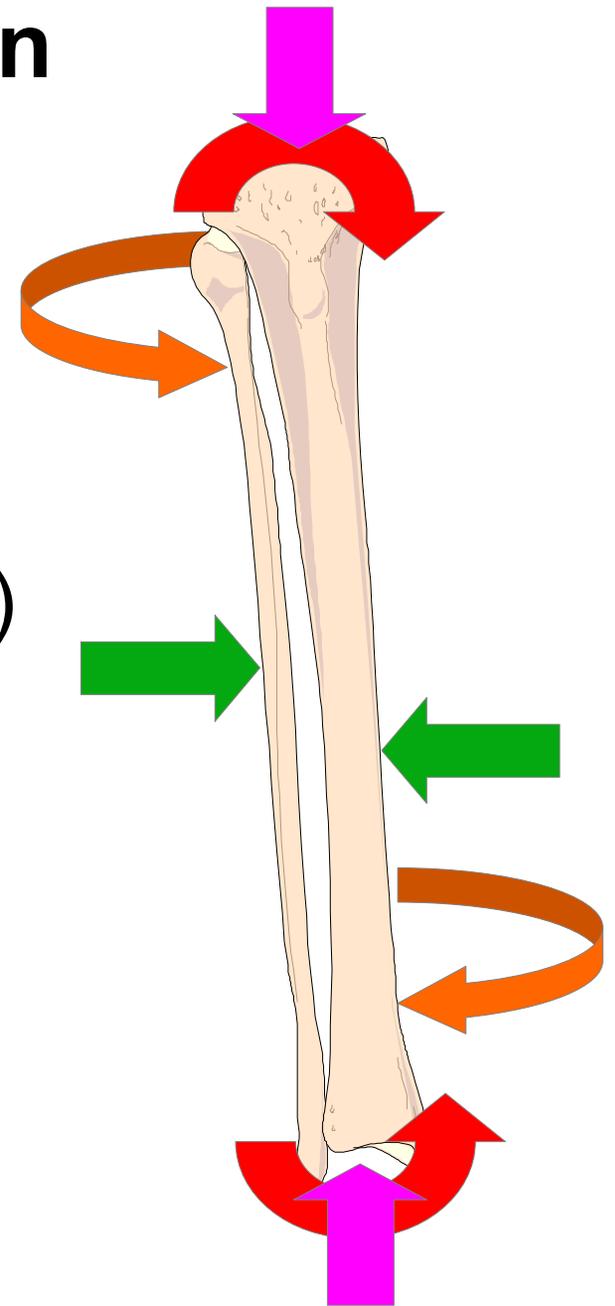
Grades I, II, III

(and higher for some joints or fractures)

# Extent of Injury Evaluation Mechanism

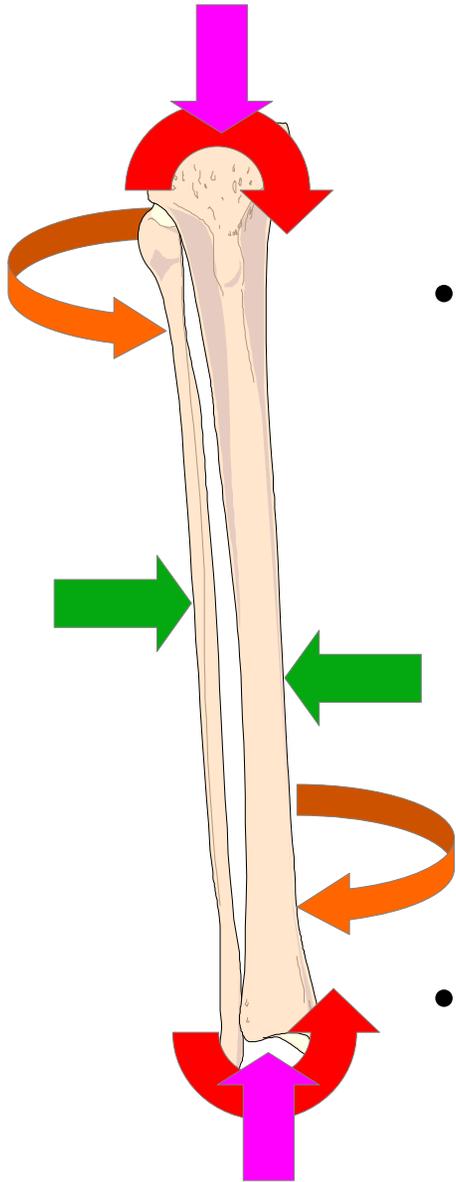
## Forces that cause tissue injury

- Axial Load = Compression (Pink)
  - Bending (Red)
  - Shear (Green)
  - Torsion (Orange)



# Extent of Injury Evaluation

## Tissue Injury



**Variables affect the extent of tissue injury**

- **Effects of applied force are dependent upon:**

- age
- gender
- body mass
- bone density
- individual variations in tissue health

- **Factors affecting local stress:**

- joint position
- muscle tension

# Extent of Injury Evaluation

## Tissue Injury

### Evidence-based medicine demonstrates:

- There is a natural timeline for the appearance of tissue injury by objective clinical findings and imaging findings.
- Most soft tissue injuries are lower grade and will resolve spontaneously with limited intervention.

# Extent of Injury Evaluation

## Tissue Injury

### Evidence-based medicine demonstrates:

- More significant injuries require more intervention and minor injuries should require less.
- With appropriate treatment, the injury should result in limited residual effect.
- On-the-job injuries can result in greater cost and length of treatment and greater “*Disability*” than other injuries. **Refer to the ODG and other EBM.**

# Extent of Injury Evaluation

## Tissue Injury – Alternate Explanations

Doctors must be cognizant of alternate explanations for the continued perceived or claimed symptoms and disability:

- A different musculoskeletal or neurologic “usual disease of life” mimicking the proposed work-related injury.
- **Non-Injury related factors:**
  - Secondary gain
  - Conscious manipulation

# Extent of Injury Evaluation Case Study

Insurance carrier requests DD exam to determine MMI and IR.

Box 37 - Injuries accepted as compensable by the insurance carrier:

**Right shoulder strain**

# ANATOMY OF A DISPUTE DWC Form-32

## V. Purpose for Examination

DWC032

### V. PURPOSE FOR EXAMINATION

**36. Requester:** Check box(es) A through G next to the issue(s) you want the designated doctor to address and provide the requested information.

<input checked="" type="checkbox"/> <b>A. Maximum Medical Improvement (MMI)</b>	Statutory MMI Date (if any) _____ <span style="display: block; text-align: right; font-size: small;">(mm/dd/yyyy)</span>
<input checked="" type="checkbox"/> <b>B. Impairment Rating (IR)</b>	MMI Date* _____ (required only if Box A is not checked) <span style="display: block; text-align: center; font-size: small;">(mm/dd/yyyy)</span>  <small>*The MMI date determined valid by a final TDI-DWC decision, court, or agreement of the parties.</small>

**C. Extent of Injury**  
List all injuries (diagnoses/body parts/conditions) in question, claimed to be caused by, or naturally resulting from the accident or incident **and** describe the accident or incident that caused the claimed injury.

# Extent of Injury Evaluation DWC Form-32

## VII. Examination / Injury Information Box 37

### VII. EXAMINATION / INJURY INFORMATION

37. List all injuries accepted as compensable by the insurance carrier. (Provide descriptions if using ICD codes.)

**Right Shoulder Strain**

38. List all injuries determined to be compensable by an Approved DWC Form-024, DWC decision & order, DWC Appeals Panel decision, or final court order, if applicable. (Provide descriptions if using ICD codes.)

# Extent of Injury Evaluation Case Study

The DD reviews:

- medical records;
- additional questions for history based on records;
- relevant anatomy and clinical examinations in the records; and
- evidence-based medicine regarding the condition or diagnosis.

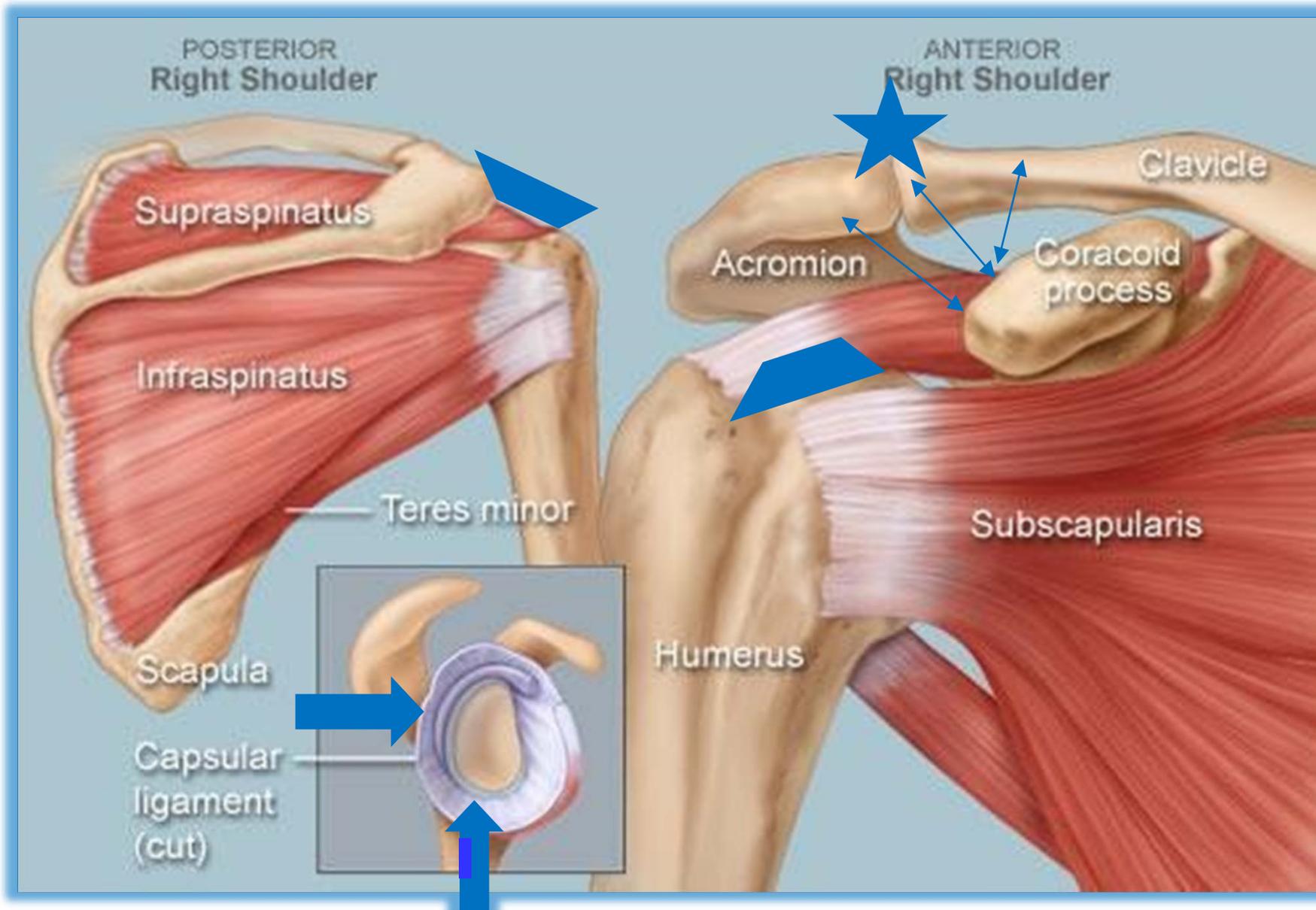
# Extent of Injury Evaluation Case Study

**Let's review:**

- Relevant anatomy
- How that relates to imaging studies & EBM

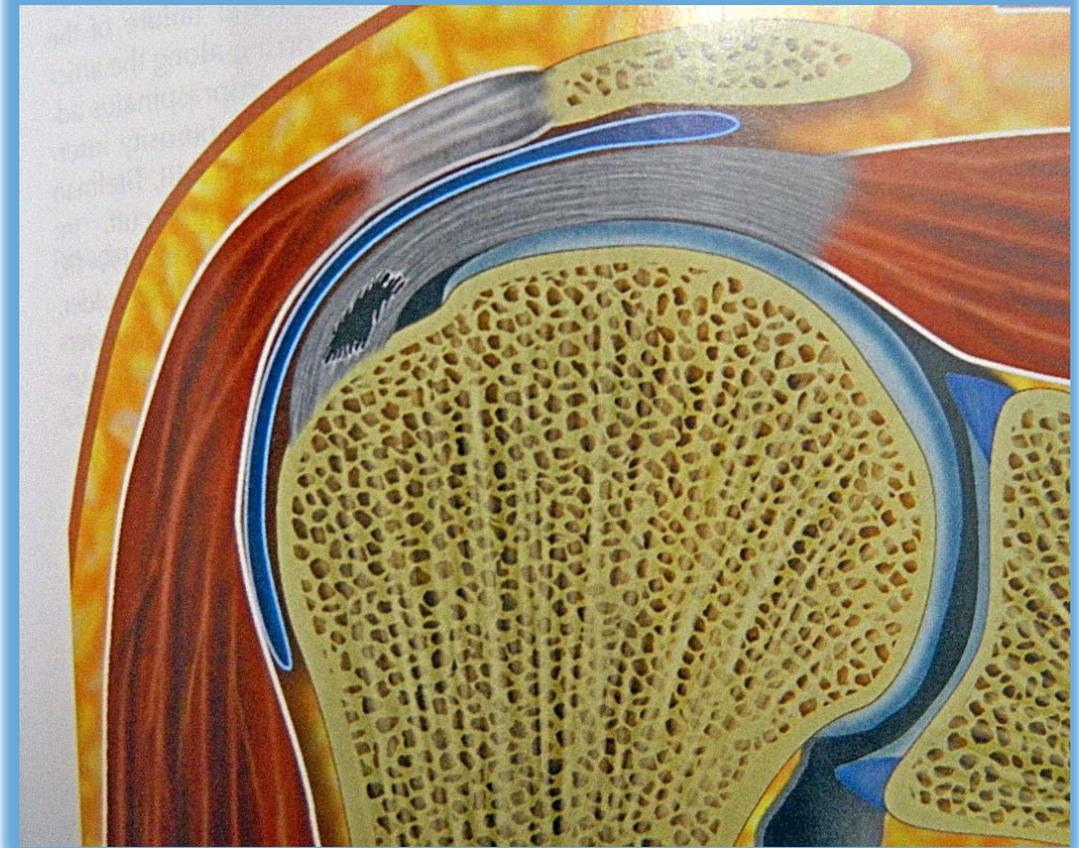
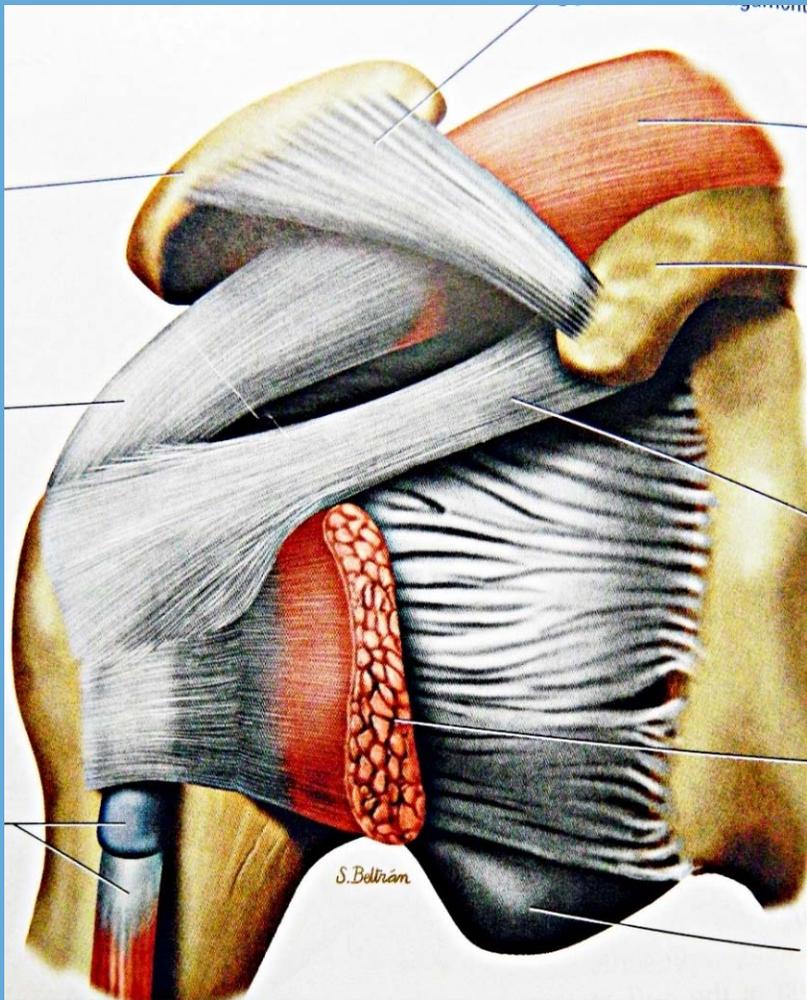
# Extent of Injury Evaluation

## Landmarks of the Shoulder



# ANATOMY of a DISPUTE

## Schematic Frontal View of Right Shoulder



**Coronal Cross-Section  
Example of Interstitial Tear**

# Extent of Injury Evaluation

## MRI of the Shoulder - Rotator Cuff Tears

- Complete Rotator Cuff Tear (CRCT)  
Full thickness and full width
- Full thickness rotator cuff tear (FTRCT)  
Vertical with a connection from joint to bursa,  
NOT involving the whole width of tendon
- Partial thickness rotator cuff tear (PTRCT)  
Bursal surface,  
Articular surface,  
Intrasubstance

# ANATOMY OF A DISPUTE

## MRI of the Shoulder - Rotator Cuff Tears

### Complete Rotator Cuff Tear (CRCT) – in general

- Extend from articular to bursal surface, most commonly in supraspinatus tendon.
- The presence of tendon defect filled with fluid is the most direct sign of rotator cuff tear.
- Tendon retraction may also be present.
- Indirect signs of complete RCT on MRI are:
  - subdeltoid bursal effusion; medial dislocation of biceps; fluid along biceps tendon; and diffuse loss of tendon volume.

# ANATOMY OF A DISPUTE

## MRI of the Shoulder - Rotator Cuff Tears

### Full thickness partial tear:

- Hyperintense signal area within the tendon on T2W, fat-suppressed and GRE sequences (fluid signal).
- Partial tears extending to either the bursal or articular surface.
- Intrasubstance or interstitial due to delamination of the intrasubstance fibers.
- Retraction of tendinous fibers from the distal insertion into the greater tuberosity may also be considered partial tear.

# ANATOMY OF A DISPUTE

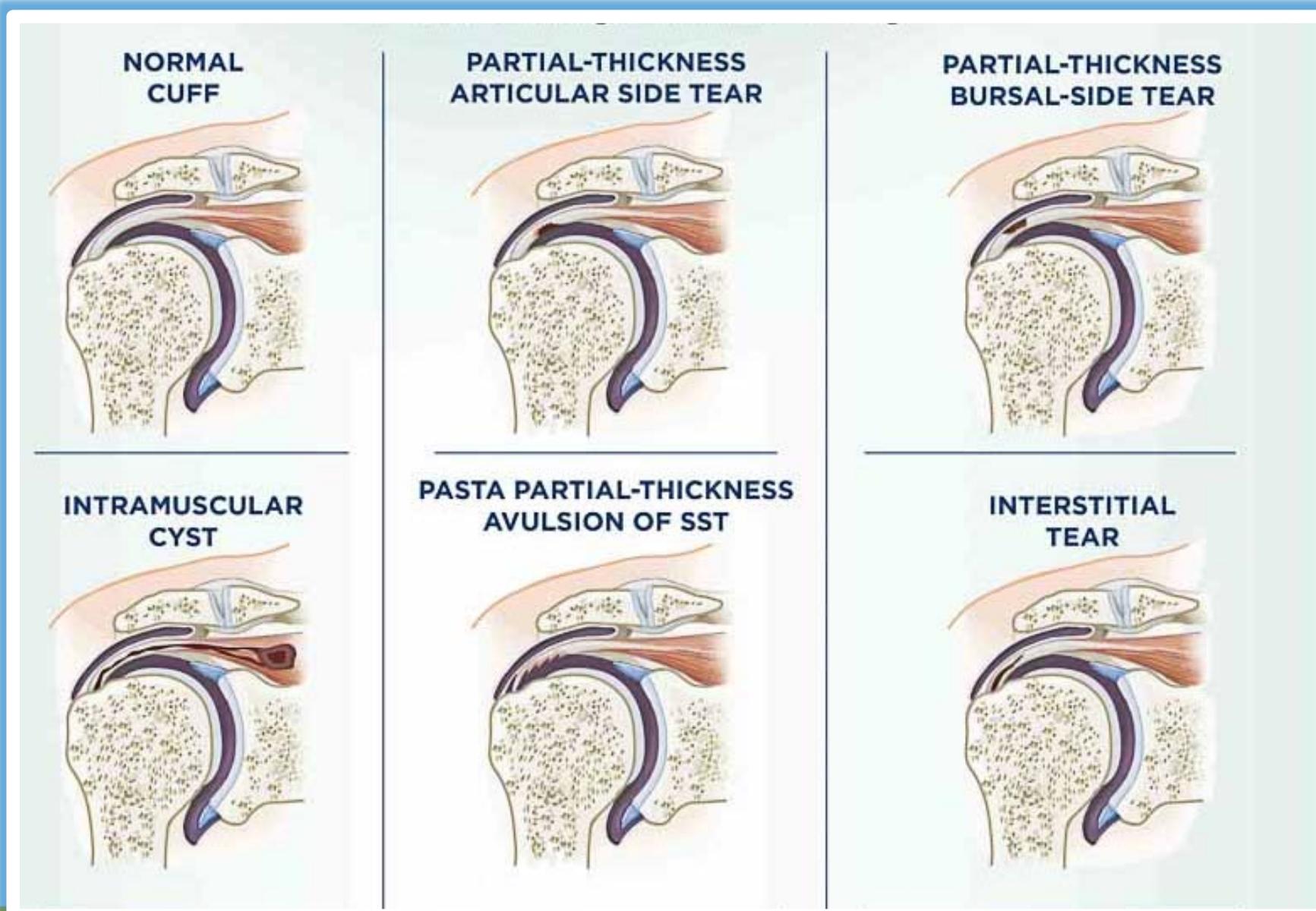
## MRI of the Shoulder - Rotator Cuff Tear

### Signs of Chronicity:

- Muscle atrophy and fatty replacement and can be graded using:
  - Goutallier classification; or
  - Tangent sign or scapular ratio
- Chronic tears may be associated with:
  - degenerative changes at acromioclavicular (AC) joint; and
  - AC joint cysts.

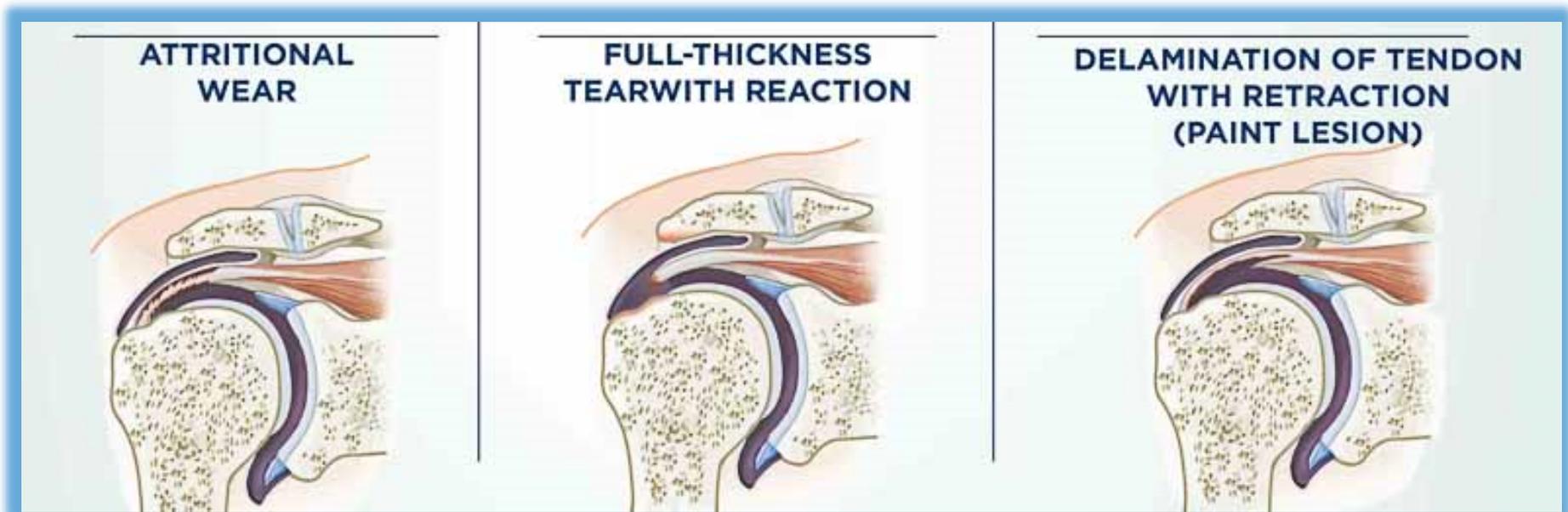
# Extent of Injury Evaluation

## Rotator Cuff Tear Classification



# ANATOMY OF A DISPUTE

## Rotator Cuff Tear Classification



# Extent of Injury Evaluation

## MRI of the Shoulder

### Imaging in a claim:

- Should be based on a **presumptive diagnosis**.
- Should meet **INDICATIONS** for testing; *“a valid reason to use a certain test”*.
- Should be no **CONTRAINDICATIONS** for testing; *“a risk of a procedure or test that outweighs the benefits”*.
- What is net benefit?

Cost?

Will it result in unnecessary treatment of incidental findings?

# Extent of Injury Evaluation

## MRI of the Shoulder

### Case Study

#### MRI of the Right Shoulder:

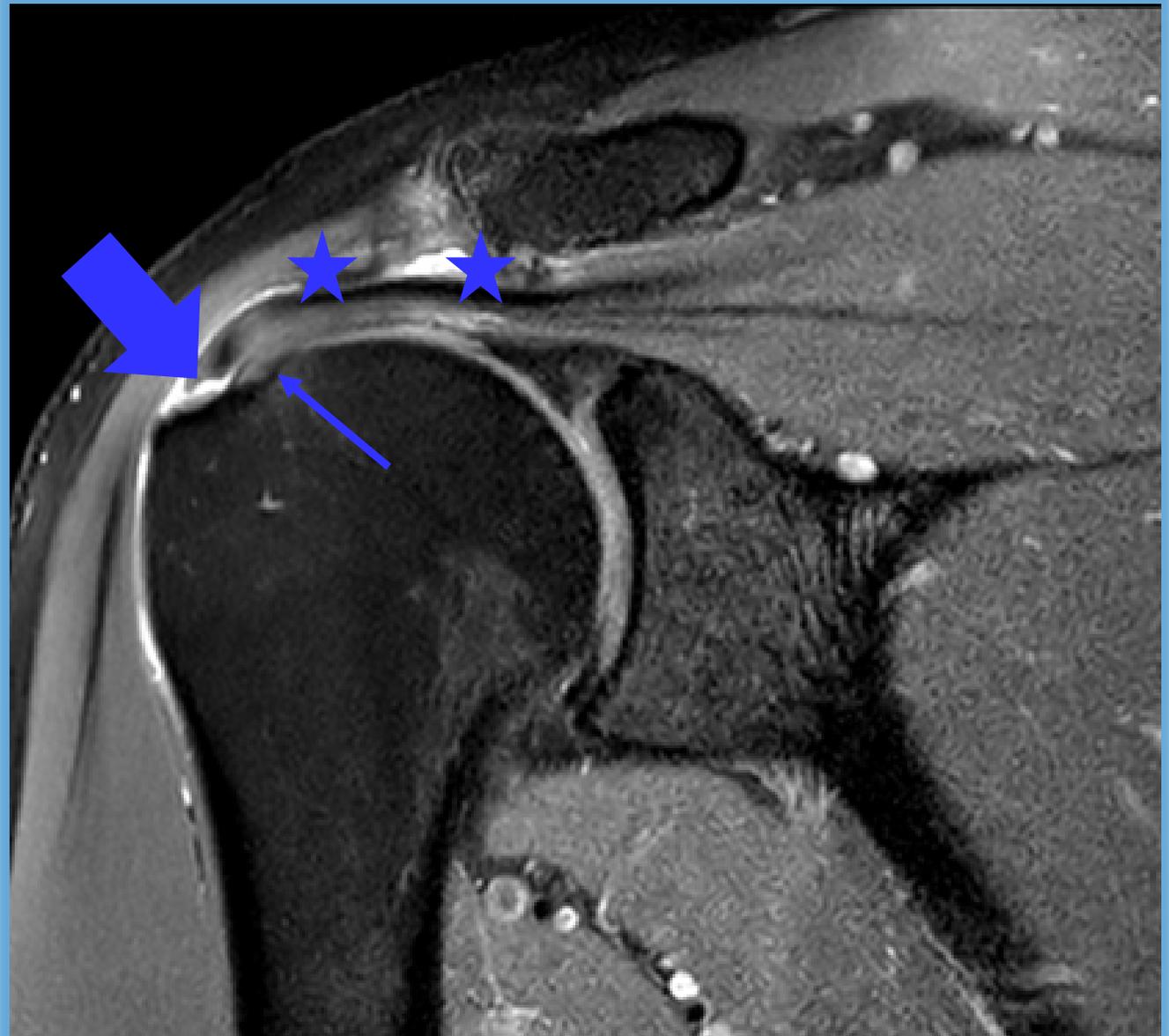
- Completed within 6 weeks of the date of injury
- 1.5 T magnet and trauma sequences

#### Findings:

- High grade partial thickness supraspinatus rotator cuff tear
- Tendinosis of the supraspinatus
- Mild AC joint arthritis
- No fatty infiltration of the supraspinatus muscle

# Extent of Injury: Case Study

- Coronal oblique STIR MRI of the shoulder
- Partial rotator cuff tear at bursal surface with tendinosis
- Large arrow = tear
- Skinny arrow = intact fibers
- Stars = Above zone of tendinosis



# Extent of Injury Evaluation

## Correlation Imaging to Clinical Examination

- Imaging is a snapshot of the anatomic structure.
- Imaging cannot convey the biomechanics or function of the area, and certainly not what clinical symptoms may be present.
- A good clinical examination will help to tease out what imaging findings are relevant.
- **A doctor must rely upon the mechanism of injury, other historical information and evidence-based medicine to make a causation analysis.**

# Extent of Injury Evaluation

## Rotator Cuff Tear

### Case Study - History

- 52 year old right hand dominant male with a reported date of injury of March 9, 2019.
- Loading a full heavy lumber carrier, which started to tip, causing lumber to shift. He tried to catch the wood load with his right arm and hold the carrier with his left arm.
- Felt a sudden and heavy pull to his arm as it was away from his side (abduction / distraction force).
- The injured employee described that he had an immediate pain and an audible and palpable pop at his superior lateral shoulder.

# Extent of Injury Evaluation

## Rotator Cuff Tear

### Case Study - History

- Within hours claimant had difficulty lifting his arm in front or to the side.
- After a few weeks of resting the shoulder, his pain diminished.
- It hurt worse to lift the arm away from his body than in front of the body
- Records demonstrate consistent location of pain at the anterolateral superior shoulder and not AC joint

# Extent of Injury Evaluation

## Rotator Cuff Tear

### Case Study - History

- Current pain is at a specific location of the shoulder leading edge of supraspinatus and specific arc of range of motion (80 to 100 degrees of abduction).
- Pain can radiate to the right side of the neck; doesn't worsen with head or neck movements.
- Pain can ache to the upper arm but denies pain or paresthesias into his right forearm and hand

# Extent of Injury Evaluation

## Rotator Cuff Tear

### Case Study - DD Examination

- No evidence of deformity or atrophy involving the right shoulder girdle, including the AC joint.
- “Popeye’s sign” was negative.
- No winging of the scapula.
- No muscle atrophy in the upper arms or forearms by measurement.
- Tenderness was present at the anterolateral greater tuberosity at the supraspinatus insertion.
- No tenderness over the AC joint.

# Extent of Injury Evaluation

## Rotator Cuff Tear

### Case Study - DD Examination

- Passive ROM of the right shoulder was full.
- Active left shoulder ROM was full in all planes.
- Active right shoulder ROM in degrees was: flexion 152 and abduction 145, both with a positive impingement interval from 85 to 110 degrees.
- Extension 35, adduction 15.
- Internal rotation from 90 degrees abduction was to 15 degrees and painful at area of maximal tenderness.
- External rotation from 90 degrees abduction was to 60 degrees.

# Extent of Injury Evaluation

## Rotator Cuff Tear

### Case Study - DD Examination

- Manual muscle testing was 5/5 in all muscle groups except 4/5 at the supraspinatus and infraspinatus due to pain at the greater tuberosity.
- No other C5 or C6 innervated muscles with “weakness” or dermatomal sensory loss
- Partially positive drop arm test, a positive Hawkins-Kennedy test and a mildly positive Yergason’s test.
- Crossed adduction/ Yokum’s test was positive in the area of noted tenderness at the tuberosity, but NOT the AC joint.
- Negative lift off test for subscapularis pain and negative apprehension test in supine.

# Extent of Injury Evaluation Rotator Cuff Tear

## Case Study – Imaging

- Already Reviewed

# Extent of Injury Evaluation

## Rotator Cuff Tear

### Case Study – Evidence-based Medicine

- Important causes of rotator cuff “tear” include:
  - Long term tendon degeneration;
  - Hypovascularity in watershed zone;
  - subacromial impingement; and
  - trauma, either
    - acute; or
    - chronic repetitive.

# Extent of Injury Evaluation

## Rotator Cuff Tear

### Case Study – Evidence-based Medicine

Appearance on MRIs of asymptomatic individuals with increasing frequency with each increased decade of life:

- rotator cuff tendinosis
- partial rotator cuff tears
- complete rotator cuff tears
- AC joint arthrosis
- labral tears

# Extent of Injury Evaluation

## DD Examination for MMI and IR

- **To determine MMI (and IR), the DD must determine the compensable diagnoses**
- **Similar to EOI analysis, DD should consider:**
  - mechanism of injury;
  - timing of complaints / findings;
  - clinical examination;
  - imaging; and
  - evidence-based medicine
- **Once compensable diagnoses determined, APPLY the ODG.**

# Extent of Injury Evaluation

## DD Examination for MMI and IR

### Case Study

- DD determines the diagnosis based on the review of records and the certifying examination.
- The DD's opinion is that the events of the DOI produced or caused:
  - The right shoulder sprain / strain  
**AND**
  - Right Shoulder – High grade partial thickness supraspinatus rotator cuff tear  
***#Must explain but without full EOI analysis***

# Extent of Injury Evaluation

## DD Examination for MMI and IR

### Case Study

- Based on DD opinion, the DD stated that the claimant was NOT at MMI:

***“based on the records, my certifying exam, the clinical diagnoses and the ODG there is reasonable medical probability that additional treatment would be anticipated to result in further material recovery”.***

# Extent of Injury Evaluation

## Rotator Cuff Tear

### Case Study

### DWC Form-69

S39.012A = Shoulder strain, right

S46.01 = Strain of the muscle(s) and tendon(s) of the rotator cuff of the shoulder

M75.01 = Unspecified rotator cuff tear or rupture

DWC069



**Texas Department of Insurance**  
**Division of Workers' Compensation**  
 7551 Metro Center Drive, Suite 100 • MS-94  
 Austin, TX 78744-1645  
 (800) 252-7031 phone • (512) 490-1047 fax

Complete if known:  
 DWC Claim #  
 Carrier Claim #

**Report of Medical Evaluation**

<b>I. GENERAL INFORMATION</b>			<b>4. Injured Employee's Name</b> (First, Middle, Last)	<b>9. Certifying Doctor's Name and License Type</b>
<b>1. Workers' Compensation Insurance Carrier</b>	<b>5. Date of Injury</b>	<b>6. Social Security Number</b>	<b>10. Certifying Doctor's License Number and Jurisdiction</b>	
<b>2. Employer's Name</b>	<b>7. Employee's Phone Number</b>		<b>11. Certifying Doctor's Phone and Fax Numbers</b> (Ph) _____ (Fax) _____	
<b>3. Employer's Address</b> (Street or PO Box, City State Zip)	<b>8. Employee's Address</b> (Street or PO Box, City State Zip)		<b>12. Certifying Doctor's Address</b> (Street or PO Box, City State Zip)	

**II. DOCTOR'S ROLE**

**13. Indicate which role you are serving in the claim in performing this evaluation. Only a doctor serving in one of the following roles is authorized to evaluate MMI/impairment and file this report [28 Texas Administrative Code (TAC) §130.1 governs such authorization]:**

Treating Doctor     Doctor selected by Treating Doctor acting in place of the Treating Doctor     Designated Doctor selected by DWC  
 Insurance Carrier-selected RME Doctor approved by DWC to evaluate MMI and/or permanent impairment after a Designated Doctor examination

**NOTE:** If you are not authorized by 28 TAC §130.1 to file this report, you will not be paid for this report or the MMI/impairment examination.

**III. MEDICAL STATUS INFORMATION**

<b>14. Date of Exam</b>	<b>15. Diagnosis Codes</b>
	S39.012A    S46.01    M75.01

**16. Indicate whether the employee has reached Clinical or Statutory MMI based upon the following definitions:**

**Clinical Maximum Medical Improvement (Clinical MMI)** is the earliest date after which, based upon reasonable medical probability, further material recovery from or lasting improvement to an injury can no longer reasonably be anticipated.

**Statutory MMI** is the later of: (1) the end of the 104th week after the date that temporary disability benefits (TIBs) began to accrue; or (2) the date to which MMI was extended by DWC pursuant to Texas Labor Code §408.104.

a)  Yes, I certify that the employee reached  STATUTORY /  CLINICAL (mark one) MMI on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_.  
 (may not be a prospective date) and have included documentation relating to this certification in the attached narrative. - OR -

b)  No, I certify that the employee has NOT reached MMI but is expected to reach MMI on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_.  
 The reason the employee has not reached MMI is documented in the attached narrative.

**NOTE:** The fact that an employee reaches either Clinical MMI or Statutory MMI does not signify that the employee is no longer entitled to medical benefits.

**IV. PERMANENT IMPAIRMENT**

**17. If the employee has reached MMI, indicate whether the employee has permanent impairment as a result of the compensable injury.**

"Impairment" is any anatomic or functional abnormality or loss existing after an injury that results from a compensable injury and is reasonably presumed to be permanent. The finding that impairment exists must be made based upon objective clinical or laboratory findings meaning a medical finding of impairment resulting from a compensable injury, based upon complete and objective medical evidence that is independently confirmable by a doctor, including the certifying doctor, without reliance on the subjective symptoms perceived by the employee.

a)  I certify that the employee does not have any permanent impairment as a result of the compensable injury. - OR -

b)  I certify that the employee has permanent impairment as a result of the compensable injury. The amount of permanent impairment is \_\_\_\_\_%, which was determined in accordance with the provisions of the Texas Labor Code and Texas Administrative Code. The attached narrative provides explanation and documentation used for the impairment rating assigned using the appropriate tables, figures, or worksheets from the following edition of the *Guides to the Evaluation of Permanent Impairment* published by the American Medical Association (AMA):  
 third edition, second printing, February 1989 - OR -  
 fourth edition, 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, or 4<sup>th</sup> printing, including corrections and changes issued by the AMA prior to May 16, 2000.

**NOTE:** A finding of no impairment is not equivalent to a 0% impairment rating. A doctor can only assign an impairment rating, including a 0% rating, if the doctor performed the examination and testing required by the AMA Guides.

# ANATOMY OF A DISPUTE

## Case Study DWC Form-69

**MMI = Not at MMI;**

ODG would support additional treatment for these diagnoses, AND would be anticipated to result in further material recovery.

DWC069



**Texas Department of Insurance**  
Division of Workers' Compensation  
7551 Metro Center Drive, Suite 100 • MS-94  
Austin, TX 78744-1645  
(800) 252-7031 phone • (512) 490-1047 fax

Complete if known:  
DWC Claim #  
Carrier Claim #

### Report of Medical Evaluation

<b>I. GENERAL INFORMATION</b>			<b>4. Injured Employee's Name</b> (First, Middle, Last)	<b>9. Certifying Doctor's Name and License Type</b>
<b>1. Workers' Compensation Insurance Carrier</b>	<b>5. Date of Injury</b>	<b>6. Social Security Number</b>	<b>10. Certifying Doctor's License Number and Jurisdiction</b>	
<b>2. Employer's Name</b>	<b>7. Employee's Phone Number</b>		<b>11. Certifying Doctor's Phone and Fax Numbers</b> (Ph) (Fax)	
<b>3. Employer's Address</b> (Street or PO Box, City State Zip)	<b>8. Employee's Address</b> (Street or PO Box, City State Zip)		<b>12. Certifying Doctor's Address</b> (Street or PO Box, City State Zip)	

**II. DOCTOR'S ROLE**

13. Indicate which role you are serving in the claim in performing this evaluation. Only a doctor serving in one of the following roles is authorized to evaluate MMI/impairment and file this report [28 Texas Administrative Code (TAC) §130.1 governs such authorization]:

Treating Doctor     Doctor selected by Treating Doctor acting in place of the Treating Doctor     Designated Doctor selected by DWC  
 Insurance Carrier-selected RME Doctor approved by DWC to evaluate MMI and/or permanent impairment after a Designated Doctor examination

**NOTE:** If you are not authorized by 28 TAC §130.1 to file this report, you will not be paid for this report or the MMI/impairment examination.

**III. MEDICAL STATUS INFORMATION**

<b>14. Date of Exam</b> / /	<b>15. Diagnosis Codes</b> <b>S39.012A S46.01 M75.01</b>
--------------------------------	---

16. Indicate whether the employee has reached Clinical or Statutory MMI based upon the following definitions:

**Clinical Maximum Medical Improvement (Clinical MMI)** is the earliest date after which, based upon reasonable medical probability, further material recovery from or lasting improvement to an injury can no longer reasonably be anticipated.

**Statutory MMI** is the later of: (1) the end of the 104th week after the date that temporary income benefits (TIBs) began to accrue; or (2) the date to which MMI was extended by DWC pursuant to Texas Labor Code §408.104.

a)  Yes, I certify that the employee reached  STATUTORY /  CLINICAL (mark one) MMI on \_\_\_/\_\_\_/\_\_\_ (may not be a prospective date) and have included documentation relating to this certification in the attached narrative. - OR -

b)  No, I certify that the employee has NOT reached MMI but is expected to reach MMI on or about \_\_\_/\_\_\_/\_\_\_ **6 months after DD exam**  
 The reason the employee has not reached MMI is documented in the attached narrative.

**NOTE:** The fact that an employee reaches either Clinical MMI or Statutory MMI does not signify that the employee is no longer entitled to medical benefits.

**IV. PERMANENT IMPAIRMENT**

17. If the employee has reached MMI, indicate whether the employee has permanent impairment as a result of the compensable injury.

"Impairment" means any anatomic or functional abnormality or loss existing after MMI that results from a compensable injury and is reasonably expected to be permanent. The finding that impairment exists must be made based upon objective clinical or laboratory findings meaning a medical finding of impairment resulting from a compensable injury, based upon competent objective medical evidence that is independently confirmable by a doctor, including a designated doctor, without reliance on the subjective symptoms perceived by the employee.

I certify that the employee does not have any permanent impairment as a result of the compensable injury. - OR -

I certify that the employee has permanent impairment as a result of the compensable injury. The amount of permanent impairment is \_\_\_%, which was determined in accordance with the requirements of the Texas Labor Code and Texas Administrative Code. The attached narrative provides explanation and documentation used for the calculation of the impairment rating assigned using the appropriate tables, figures, or worksheets from the following edition of the *Guides to the Evaluation of Permanent Impairment* published by the American Medical Association (AMA):

third edition, second printing, February 1989 - OR -  
 fourth edition, 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, or 4<sup>th</sup> printing, including corrections and changes issued by the AMA prior to May 16, 2000.

**NOTE:** A finding of no impairment is not equivalent to a 0% impairment rating. A doctor can only assign an impairment rating, including a 0% rating, if the doctor performed the examination and testing required by the AMA Guides.

# Extent of Injury Evaluation

## DD Examination for MMI and IR

### Case Study

- DD Exam for MMI and IR Results in a Request for a Second Exam.
- Injured employee's representative requests **Extent of Injury** to be addressed.

# Second DD Exam

## Extent of Injury Evaluation

**Case Study - DD Exam for MMI and IR Results in a Request for a Second Exam:**  
Injured employee's representative requests Extent of Injury to be addressed.

### **C. Extent of Injury - Additional claimed diagnoses / condition:**

Right Shoulder –

- High grade partial thickness supraspinatus rotator cuff tear
  - Tendinosis of the supraspinatus
  - Mild AC joint arthritis
- (ALL from the MRI report)*

# Extent of Injury Evaluation

## DWC-32 V. Purpose for Examination

DWC032

### V. PURPOSE FOR EXAMINATION

**36. Requester:** Check box(es) A through G next to the issue(s) you want the designated doctor to address and provide the requested information.

<input type="checkbox"/> <b>A. Maximum Medical Improvement (MMI)</b>	Statutory MMI Date (if any) _____ (mm/dd/yyyy)
<input type="checkbox"/> <b>B. Impairment Rating (IR)</b>	MMI Date* _____ (required only if Box A is not checked) (mm/dd/yyyy) xx/xx/xx  *The MMI date determined valid by a final TDI-DWC decision, court, or agreement of the parties.

**C. Extent of Injury**

List all injuries (diagnoses/body parts/conditions) in question, claimed to be caused by, or naturally resulting from the accident or incident **and** describe the accident or incident that caused the claimed injury.

**Right Shoulder –  
High grade partial thickness supraspinatus rotator cuff tear,  
Tendinosis of the supraspinatus,  
Mild AC joint arthritis,  
No fatty infiltration of the supraspinatus muscle**

# Extent of Injury Template

## Extent of Injury Analysis Section of a Designated Doctor Report

In addition to the basic requirements of a designated doctor narrative report in 28 TAC Rule 127.220, a narrative on extent of injury may include the following information:

+

### I. Injury in Question (Box 36C of the DWC Form-032)

*State injuries in question as listed in Box36C, and define and describe each injury in medical terms.*

Note: Extent of Injury is a specific question as to a specific injury as listed in Box 36C. Failure to use the exact terms as listed in Box 36C to refer to the injury may result in a letter of clarification, or a report not being adopted. If there are other medical terms used in the report to refer to the injury in question as listed in Box 36C, explain or clarify that to the reader by stating these terms are synonyms, one is inclusive of the other, etc. If there are injuries that can be grouped together as the same, or part of the same medical process, explain such grouping.

# Extent of Injury Template

## II. Accident/Incident (Mechanism of Injury)

Describe the accident/incident (mechanism of injury). Include any account described and who gave it. (i.e. Claimant told me during the exam, or treating doctor describes in the notes on 1/1/2014.)

## III. Clinical Findings and Timeline in Support of Causation Analysis

*Provide the relevant findings contained in the medical records, history and physical exam. Where applicable, detail symptom onset relative to the timeline of the medical history.*

In your review and detail of the above, pay particular attention to the following in relation to the injury in question (Box 36C):

- a. Did the injury in question exist prior to the work-related accident or incident (mechanism of injury)?
- b. Was the injury in question present during the physical examination?

# Extent of Injury Template

## III. Clinical Findings and Timeline in Support of Causation Analysis

*Provide the relevant findings contained in the medical records, history and physical exam. Where applicable, detail symptom onset relative to the timeline of the medical history.*

In your review and detail of the above, pay particular attention to the following in relation to the injury in question (Box 36C):

- a. Did the injury in question exist prior to the work-related accident or incident (mechanism of injury)?
- b. Was the injury in question present during the physical examination?

# Extent of Injury Template

## IV. Analysis of Clinical Findings and Timeline

*Provide an analysis based on the findings from Sections II and III above, and any other relevant supporting factors to explain the basis for the opinion regarding the injury in question (Box 36C).*

Pay particular attention to the following in relation to the causation analysis for the injury in question (Box 36C), and explain all that are applicable:

- a. Consider whether the timeline of symptom onset was consistent with the work-related injury, including relevant medical records prior to the injury, proximate to the time of injury, as well as post-injury treatment and testing.
- b. Is this type of work-related accident/incident (mechanism of injury) consistent or inconsistent with the injury in question?

If evidence-based medicine is available, then explain how it supports that the work-related accident/incident (mechanism of injury) caused or did not cause the injury in question (Box 36C).

# Extent of Injury Template

## v. Medical/Legal Causation Opinion Statement

### *SAMPLE CONCLUSION TEXT*

“Based on the above referenced reasons, it is my medical opinion, based upon my education, training, and experience, and within reasonable medical probability that (the work-related accident/incident/ mechanism of injury) caused or did not cause the injury in question (Box 36C). I find that the compensable injury of (mm/dd/yyyy) was/ was not a substantial factor in bringing about the additional claimed injury or condition (Box 36C), and without it, the additional injury or condition (Box 36C) would not have occurred. Specifically, it does or does not extend to include (Box 36C).”

*\*\*DWC does not require use of this form, and additionally, this form is not applicable in all cases. DDs must adhere to all applicable rules regarding reporting requirements and this form is neither a substitute nor an addendum to those requirements. This form is an example of expert causation analysis where extent of injury is an issue, and is not a comment on whether expert testimony is required to establish causation as to this, or any other specific injury. Whether expert testimony is required to establish causation for an injury is a determination that is made at the hearings level on a case by case basis.*

# EOI - Steps for Success

- Prepare a Checklist for the DD exam
- Conduct the DD Exam
- Research and Literature Review
- Causation Analysis
- Drafting the Narrative Report
- Multiple Certifications
- Rules to Remember: Stay in Compliance

# 1. Prepare for DD Exam

# 1. Prepare for DD Exam

- Review **all materials** including
  - DWC Form-032 (particularly Box 36C)  
Or Presiding Officer Directive (POD)
  - Commissioner's Order
  - Medical records
  - Insurance carrier/treating doctor analysis

*MAKE SURE you are ADDRESSING ALL of the Carrier Compensable & Disputed*

# 1. Prepare for DD Exam

## **Review of Medical Records**

- DD can receive injured employee's confidential medical records and other records to assist in dispute resolution without signed release
- Treating doctor and insurance carrier must provide all required medical records and may send analyses
- Treating doctor and insurance carrier shall ensure required records are received by DD no later than 3 working days prior to exam

[28 TAC §127.10\(a\)\(3\)](#)

# 1. Prepare for DD Exam

## Review of Medical Records

- DD must review the records **prior** to the exam.
- As you review the submitted records **prior** to the exam, you may discover additional required records are out there. You must obtain and review those required records **prior** to conducting the exam.

**28 TAC §127.10(a)(3)**

# 1. Prepare for DD Exam

## Review of Medical Records

- DWC shall take action necessary to ensure DD receives records
  - DWC assistance with records:  
[DDRecords@tdi.texas.gov](mailto:DDRecords@tdi.texas.gov)

# 1. Prepare for DD Exam

## **Review of Medical Records**

- **If DD does not receive medical records or any part thereof at least 3 working days prior to exam, DD SHALL:**
  - Report violation to DWC within *one* working day of not timely receiving records
  - *IF* DD has not received records within *one* working day of exam, or if DD does not have sufficient time to review late medical records before exam, do *NOT* conduct exam until all records received

# 1. Prepare for DD Exam

## **Review of Medical Records**

- **If DD does not receive medical records or any part thereof at least 3 working days prior to exam, DD SHALL (continued):**
  - *THEN* DD shall reschedule exam to occur no later than 21 days after receipt of records
  - Report/file complaint regarding non-compliant carrier or treating doctor

# 1. Prepare for DD Exam

**Put together an “Exam Checklist” based on the diagnoses you are considering**

- Will help ensure you do not miss anything
- Will make you think through evidence and issues *prior to exam*, to ensure you get what you need *during exam*
- Additional questions from your standard history form
- Any additional physical exam tests that would help in your decision process

# 1. Prepare for DD Exam

## Review Other Analyses Provided

- **Both carrier and treating doctor can provide you with an analysis limited to the following topics for injured employee**
  - medical condition
  - functional abilities
  - return to work opportunities
- May include videotaped activities and marked copies of medical records
- Consider the source: Is it written by a doctor, lawyer, or adjuster?

# 1. Prepare for DD Exam

## Create Timeline from Records

- Date of injury
- How accident/incident happened (mechanism of injury)
- Condition before/after accident/incident; BUT can't be sole factor in analysis
- Timing of signs/symptom onset from the DOI – IS IT CONSISTENT with the INJURY MODEL?

# 1. Prepare for DD Exam

## Create Timeline from Records

- Clinical findings
- Testing results
- Response to prior treatment
- Treatment plan-claimant compliance
- Recommended future treatment or testing and does that comport with the ODG and case specific details?

# 1. Prepare for DD Exam

## Create Timeline from Records

### Recommended future treatment\*

- Recommendation of treatment or even Pre-Authorization of a treatment is not a reason to include a diagnosis without an independent analysis.
- As a DD you have access to all the records, the benefit of the ODG and a forensic examination
  - The TD usually does not have the ODG or may not understand causation analysis
  - The Pre-Auth Peer does not have benefit of an exam and may not have complete records

# Questions About Preparing for EOI Exam?



# 2. Conduct DD Exam

## **2. Conduct DD Exam**

- Medical History**
- Physical Exam**
- Additional Testing/Referrals if needed**

## 2. Conduct DD Exam

### The Medical History

- Document a thorough medical history
- Cover all items on DD's checklist
- Clinical course, including past medical history, signs/symptoms, prior treatment, and testing
- Consider timeline
  - Are onset and timeline of signs and symptoms consistent with what happened (mechanism of injury) and condition / injury in question?

Rule 127.220 (a)(3)

## 2. Conduct DD Exam Mechanism of Injury (MOI)

- Document understanding of the **mechanism of injury**
  - Failure to do so may discredit report
- **Document each account**
  - Sources?
  - Are they consistent?
  - Document all findings in an objective way
- If there are multiple accounts of accident in records and exam, then describe **which account used and why**

## 2. Conduct DD Exam

# Physical Exam Checklist

- **Some common musculoskeletal and neurological bullets**
  - examination of gait and station
  - ROM (measured active ROM)
  - strength
  - sensation
  - stability
  - deep tendon reflexes
  - spine - presence or absence of neural tension signs (i.e., SLR )
  - other - non-organic signs, comparison of observed vs. measured ROM, etc.

## **2. Conduct DD Exam Physical Exam Checklist**

- **Consider other potential injuries, conditions or diagnoses**
- **Examination of contralateral extremity**

## 2. Conduct DD Exam

### Additional Testing/Referrals

- DD determines the need for additional testing/referral
- Not subject to preauthorization or retrospective review for medical necessity, extent of injury or compensability
- If it is necessary to determination, then it is DD's obligation to order and review findings prior to completing DD report
- Failure to base analysis on **complete** patient evaluation may discredit DD analysis

[28 TAC § 127.10 \(c\)](#)

## 2. Conduct DD Exam Additional Testing/Referrals

**Three things you must do if ordering additional testing:**

1. EXPLAIN YOUR RATIONALE
2. INCLUDE WHAT YOU FOUND TO BE PERTINENT FINDINGS FROM THE TESTING – DON'T JUST ATTACH REPORT
3. DISCUSS HOW THE FINDINGS FACTORED INTO YOUR MEDICAL DECISION MAKING

[28 TAC § 127.10 \(c\)](#)

***Not just because scheduling company wants you to!***

# Questions About Conducting EOI Exam?



# 3. Research and Literature Review

### 3. Research and Literature Review Evidence-Based Medicine (EBM)

**“Evidence-based medicine”** means use of current best quality scientific and medical evidence formulated from credible scientific studies, including peer-reviewed medical literature and other current scientifically based texts, and treatment and practice guidelines in making decisions about care of individual patients.

[TLC §401.011\(18-a\)](#)

# 3. Research and Literature Review

- Obtain and review relevant medical literature, if available.
- Many resources for evidence-based medicine (EBM).
  - See Supplemental Information
  - Build a library of EBM
- Consider relevant EBM that supports or refutes your causation conclusion, if available and when appropriate.
  - What EBM would be cited by an individual with a contrary opinion?

# Resource List

*See Evidence-Based Medicine sources handouts*

# Questions About Research and Literature review for EOI Exam?



# 4. Causation Analysis

# **4. Causation Analysis – Step by Step**

**Applying  
medical findings  
to  
legal standards  
to reach a  
supported conclusion.**

# 4. Causation Analysis – Step by Step

- A. Describe each injury or condition in question from Box 36C**
- B. Explain the mechanism of injury**
- C. Describe the clinical findings and timeline**
- D. Apply EBM, if available and appropriate**
- E. Answer the question using appropriate legal terms**

# 4. Causation Analysis Understand Legal Definitions

## “Injury”

- Damage or harm to the physical structure of the body
- Disease or infection naturally resulting from the damage or harm
- Includes occupational disease

[Texas Labor Code §401.011\(26\)](#)

# 4. Causation Analysis - Appeals Panel Interpretation of “Aggravation”

- Claimed injury that causes additional damage or harm to the physical structure of the body
- May include any naturally resulting disease or infection
- Can include an enhancement, acceleration or worsening of an underlying condition\*

\* Not just increase in subjective symptoms.

[Appeals Panel Decision 002967](#)

# 4. Causation Analysis

## Substantial Factor

- No legal definition in DWC system
- **Substantial factor is relative**
- Consider the mechanism of injury
- Co-morbidities
- Substantial factor is not the same as sole cause
- May be more than one substantial factor

# 4. Causation Analysis Examples of Substantial Factor

- Falling off a curb is a substantial factor in causing a broken ankle.
- A slip and fall on some water in the break room is not a substantial factor in causing diabetes.
- Falling off of a ladder onto the buttocks is a substantial factor in causing a compression fracture.

# 4. Causation Analysis

## “Eggshell Claimant”

- Means DD takes injured employee as is . . . .
  - With all pre-existing conditions and co-morbidities DD finds in any patient
- History and medical timeline factor into DD analysis
- Determine if accident was substantial factor in causing injury in question and without accident or incident, additional injuries or conditions would not have occurred

# 4. Causation Analysis

## Describe Injury in Question

- Refer to injury or condition using the **same terms** as listed in Box 36C
- If referring to injury or condition by different medical term or grade of condition than listed in Box 36C, explain
  - Do you view these terms as synonymous? If so, state that these are same
- Keep in mind legal concepts of injury and aggravation

# 4. Causation Analysis

## Describe Injury in Question

- If there are injuries that can be **grouped together** as the same, or part of the same medical process, explain diagnoses / conditions in a grouping
- Do not assume the reader of your report has any medical knowledge
- Give thorough explanation
- Describe how the injury typically occurs

# 4. Causation Analysis

## Describe Injury in Question

- Explain injury using medical terminology
- A list of diagnoses or codes from records is not sufficient
- Address each injury/body part/condition in question – failure to do so may result in your opinion not being adopted

# 4. Causation Analysis

## Explain Mechanism of Injury

- Explain the mechanism of injury that caused injury or condition in question
- Explain accident/incident and how these forces, if applicable, caused claimed injury, condition, or an aggravation of preexisting injury or condition
- An incorrect or incomplete account of this in your analysis may create doubt regarding your conclusion

# 4. Causation Analysis

## Explain Mechanism of Injury

- Be as specific as possible as to details and where you found them: Specific medical records, claimant's account, carrier's analysis, etc.
- *Objectively recount* any contradictions regarding accident/incident you find
- State how injury happened
  - Mechanism of injury that occurred and who gave you that account

# 4. Causation Analysis

## Explain Mechanism of Injury

- Not stating in report how injury happened implies you do not know what happened
- **If you do not know and state what happened, then how can you render credible opinion on causation?**
- Be objective in descriptions; do not use inflammatory language

# 4. Causation Analysis

## Clinical Findings and Timeline

- What was medical condition of IE at time of accident /incident?
- What about the condition and history of this particular claimant was a ***substantial factor*** in causing the specific injury/condition or aggravation in question?

# 4. Causation Analysis

## Clinical Findings and Timeline

- On the flip side, what about the history or condition of **this** claimant allowed you to rule out the events of the DOI as a substantial factor in giving rise to injury or condition in question?
  - Preexisting conditions
  - Prior surgeries
  - Comorbidities
  - Symptom onset

***REMEMBER that pre-existing conditions can be aggravated – objective evidence of additional injury or harm.***

# 4. Causation Analysis

## Clinical Findings and Timeline

- Pertinent positive and negative findings in your review of medical records and your exam
- How all these fit into timeline to assist you in determining whether the events of the DOI were a substantial factor in causing injury?
- Resulted from something else related or unrelated? **Are there non-injury related factors?**

# 4. Causation Analysis

## Apply Evidence-Based Medicine

- Both medicine and law are based on research and applicable precedent
- Use EBM *when* available and *if* appropriate to inform and support your opinion
- What supports your conclusion that a diagnosis / condition was or was not the result of this accident/incident?

# 4. Causation Analysis

## Apply Evidence-Based Medicine

- What studies would a doctor taking a contrary position cite and why did you render those inapplicable or unconvincing?
- Peer review journals, articles and studies
- If evidence or resources on subject matter are limited, indicate so in your report
- **See EBM resource list**

## 4. Causation Analysis - Answer Dispute Question Using Appropriate Legal Terms

- “YES” *or* “NO” *and* “WHY”
- Regardless of conclusion, you MUST explain based on aforementioned factors how reached
- Stating conditions in question were result of accident is incomplete
- Follow steps previously discussed and connect the dots
- Keep in mind “**WHY**” as you work through this analysis

## 4. Causation Analysis - Answer Dispute Question Using Appropriate Legal Terms

- Reasonable medical minds will differ, so explain in ***“reasonable medical probability”*** to ensure reader understands why injury is/is not result of accident
- **Avoid the following and similar terms/phrases**
  - “possible”
  - “might have”
  - “could have”
  - “potentially”

## 4. Causation Analysis - Answer Dispute Question Using Appropriate Legal Terms

- Ensure your approach references relevant legal definitions and standards in reaching your conclusion
  - Injury
  - Aggravation
  - Substantial factor
  - Reasonable medical probability

# Connect the Dots

DESCRIBE EACH INJURY FROM BOX 36C

+ MECHANISM OF INJURY

+ CLINICAL FINDINGS AND TIMELINE

+ EVIDENCE BASED MEDICINE

+ ANSWER QUESTIONS WITH APPROPRIATE LEGAL TERMS

---

SUFFICIENT CAUSAL ANALYSIS

# 4. Causation Analysis Insufficient Causation Analysis

- **Conclusions, rather than explanation**
- Only listing diagnoses
- General statements that condition was not present until after accident

All parties, including Administrative Law Judge, need explanation as to *why you reached your conclusion, not just a conclusion*

# QUESTIONS ABOUT EXTENT OF INJURY?



# 5. Narrative Report

# Extent of Injury Template

**We have discussed the EOI template, but after review of these examples, does the systematic approach help you in making sure that your EOI analysis is SUFFICIENT?**

# Connect the Dots

DESCRIBE EACH INJURY FROM BOX 36C

+ MECHANISM OF INJURY

+ CLINICAL FINDINGS AND TIMELINE

+ EVIDENCE BASED MEDICINE

+ ANSWER QUESTIONS WITH APPROPRIATE LEGAL TERMS

---

SUFFICIENT CAUSAL ANALYSIS

# 6. Multiple Certifications of MMI/IR

## 6. Multiple Certifications of MMI/IR

Pursuant to **28 TAC §127.10(d)**, if a DD is simultaneously asked to address MMI and/or IR and extent of injury

in a single exam,

the DD ***shall*** provide multiple certifications for MMI/IR that take into account each reasonable outcome for extent of injury

## 6. Multiple Certifications of MMI/IR

### *Best Practice*

1. Injury accepted / listed as compensable by insurance carrier
2. Injury accepted as compensable by insurance carrier plus **ALL** disputed injuries listed in Box 36C
3. Compensable injury as defined by DD, **ifDD opinion is different** from 1 or 2 above

# 6. Multiple Certifications of MMI/IR

**DO NOT require multiple certifications**

EOI alone in a single exam

or

MMI/IR alone in a single exam

Requests by a party to the claim that asks for multiple certifications in these cases is not appropriate.

## 6. Multiple Certifications of MMI/IR

**After certification, you must:**

State which of your certifications you believe is *the* appropriate MMI / IR and **WHY**, based on your EOI opinion.

## 6. Multiple Certifications of MMI/IR An Exception

- A DD *must comply* with a Presiding Officer's Directive (POD) from a **Benefit Review Officer or an Administrative Law Judge** ordering multiple certifications of MMI.
- Regardless your opinion, **do exactly** what the POD asks you to do.

# A case of MMI, IR and EOI in a single exam

You are asked to simultaneously address MMI, IR and EOI in a single exam.

# MMI, IR and EOI Case

## History of Injury:

- 45-year-old male warehouse worker with acute onset left sided low back pain four months ago after lifting a 150-lb toolbox.
- His lumbar spine was flexed and twisted awkwardly to the right at onset of lifting.
- He felt and heard a pop on the left just below the waistline.

# MMI, IR and EOI Case

## History of Injury (cont'd)

- Medical records and history consistently document immediate left sided low back pain just below the waistline.
- Examination demonstrated tenderness focally on the left at the L5S1 level , in the lower lumbar paraspinal muscles on the left, with a lumbar list to the right.
- This was accompanied by tenderness in the left sciatic notch and proximal radicular pain four days after DOI.

# MMI, IR and EOI Case

## History of Injury (cont'd)

- Between 7 – 14 days after the DOI there was evolving pain in the left leg with decreased sensation in the left S1 dermatome, slightly decreased left Achilles reflex and consistent sciatic nerve root tension signs demonstrated by left SLR in seated and supine.
- By 3 weeks after the DOI, there was evidence of weakness in the left hamstring, weak ankle and toe plantar flexors.

# MMI, IR and EOI Case

## History of Injury (cont'd)

- Lumbar MRI scan shows:
  - L4/L5 disc degeneration;
  - L5/S1 disc desiccation;
  - L5/S1 with 6 mm left posterolateral disc herniation to the left with impingement on the exiting left S1 nerve root.

# MMI, IR and EOI Case

## History of Injury (cont'd)

- Signs and symptoms persist despite 10 visits of PT, NSAIDS, muscle relaxants and narcotic pain medication.
- ESI and surgery denied because any diagnoses other than a lumbar sprain/strain was disputed.

# MMI, IR and EOI Case

- You see the claimant as a DD 4 months post injury.
- Box 37 of DWC Form-032 completed by insurance carrier lists injury accepted as compensable by insurance carrier as *“lumbar sprain/strain”*

# VII. Examination / Injury Information

## VII. EXAMINATION / INJURY INFORMATION

37. List all injuries accepted as compensable by the insurance carrier. (Provide descriptions if using ICD codes.)

**Lumbar sprain / strain**

38. List all injuries determined to be compensable by an Approved DWC Form-024, DWC decision & order, DWC Appeals Panel decision, or final court order, if applicable. (Provide descriptions if using ICD codes.)

# MMI, IR and EOI Case

## Box 36C of DWC Form-032

Lists injuries (diagnoses/body parts/conditions) in question, claimed to be caused by, or naturally resulting from accident or incident as:

- L4/L5 disc degeneration
- Disc desiccation at L5/S1 lumbar spine
- L5/S1 disc herniation with impingement on exiting left S1 nerve root

# Purpose for Examination

DWC032

## V. PURPOSE FOR EXAMINATION

**36. Requester:** Check box(es) A through G next to the issue(s) you want the designated doctor to address and provide the requested information.

<input checked="" type="checkbox"/> <b>A. Maximum Medical Improvement (MMI)</b>	Statutory MMI Date (if any) <u>    xx/xx/xx    </u> (mm/dd/yyyy)
<input checked="" type="checkbox"/> <b>B. Impairment Rating (IR)</b>	MMI Date* <u>                                </u> (required only if Box A is not checked) (mm/dd/yyyy)  *The MMI date determined valid by a final TDI-DWC decision, court, or agreement of the parties.

**C. Extent of Injury**

List all injuries (diagnoses/body parts/conditions) in question, claimed to be caused by, or naturally resulting from the accident or incident **and** describe the accident or incident that caused the claimed injury.

**L4/L5 disc degeneration**

**L5/S1 disc desiccation at L5/S1 lumbar spine**

**L5/S1 disc herniation with impingement on exiting left S1 nerve root**

# MMI, IR and EOI Case

The DD's opinion regarding the compensable injury **MAY** be:

- **The Carrier Compensable**
- **The Carrier Compensable PLUS ALL additional claimed injuries** (diagnoses/body parts/conditions)
- **A potential 3<sup>rd</sup> certification that includes:**
  - None / Some / All the Carrier Compensable;
  - None / Some / All the additional claimed injuries (diagnoses/body parts/conditions)
  - An ADDED diagnosis (es) that you determine after your review of the case specific information in the records (Mechanism / Timeline / Imaging / EBM)

# MMI, IR and EOI Case

- In this case, the DD defines compensable injury for *certifying MMI and IR* as:
  - Lumbar sprain/strain (*from Box 37*)
  - L5-S1 disc herniation with impingement on exiting left S1 nerve root (*from 36C*)
  - Left S1 radiculopathy (*not included in Box 37 or 36C*)

# MMI, IR and EOI Case

- Explain in your report the basis of your opinions regarding what you define as the compensable injury from the medical records and your certifying exam with a causation analysis.
- EXPLAIN your conclusion, not just provide a conclusion.
- May use the EOI template to ensure you cover all the important points to substantiate your opinion.

# MMI, IR and EOI Case

- Address ***Extent of Injury***, with a causation analysis that the events of the DOI **were** a substantial factor in producing or aggravating.
- In this case the DD opinion is that the compensable diagnosis **does** extend to:
  - Lumbar sprain/strain
  - L5-S1 disc herniation with impingement on exiting left S1 nerve root
  - Left S1 radiculopathy ( a NEW diagnosis not on the 32)

# MMI, IR and EOI Case

- Address *Extent of Injury*, with a causation analysis that the events of the date of injury **was not** a substantial in producing or aggravating and therefore the composable injury **does not** extend to:
  - Disc degeneration at L4/L5
  - Disc desiccation at L5/S1 lumbar spine

# MMI, IR and EOI Case

**Multiple certifications of MMI/IR, each with DWC-Form 69, all explained in report**

- **Certification 1:** MMI/IR for injury accepted as compensable by the insurance carrier as *“lumbar sprain/strain”*

# Certification # 1 – CC

Label the certification clearly somewhere on the DWC-69

DWC069



**Texas Department of Insurance**  
**Division of Workers' Compensation**  
 7551 Metro Center Drive, Suite 100 • MS-94  
 Austin, TX 78744-1645  
 (800) 252-7031 phone • (512) 490-1047 fax

Complete if known:  
 DWC Claim #  
 Carrier Claim #

## CERTIFICATION # 1

### Report of Medical Evaluation

<b>I. GENERAL INFORMATION</b>			<b>4. Injured Employee's Name</b> (First, Middle, Last)		<b>9. Certifying Doctor's Name and License Type</b>	
<b>1. Workers' Compensation Insurance Carrier</b>			<b>5. Date of Injury</b>		<b>10. Certifying Doctor's License Number and Jurisdiction</b>	
<b>2. Employer's Name</b>			<b>6. Social Security Number</b>		<b>11. Certifying Doctor's Phone and Fax Numbers</b> (Ph) (Fax)	
<b>3. Employer's Address</b> (Street or PO Box, City State Zip)			<b>7. Employee's Home Number</b>		<b>12. Certifying Doctor's Address</b> (Street or PO Box, City State Zip)	
<b>8. Employee's Address</b> (Street or PO Box, City State Zip)						

**II. DOCTOR'S ROLE**

**13. Indicate which role you are serving in the claim in performing this evaluation. Only a doctor serving in one of the following roles is authorized to evaluate MMI/impairment and file this report [28 Texas Administrative Code (TAC) §130.1 governs such authorization]:**

Treating Doctor   
  Doctor selected by Treating Doctor acting in place of the Treating Doctor   
  Designated Doctor selected by DWC  
 Insurance Carrier-selected RME Doctor approved by DWC to evaluate MMI and/or permanent impairment after a Designated Doctor examination

**NOTE:** If you are not authorized by 28 TAC §130.1 to file this report, you will not be paid for this report or the MMI/impairment examination.

**III. MEDICAL STATUS INFORMATION**

<b>14. Date of Exam</b> / /	<b>15. Diagnosis Codes</b> <span style="font-size: 1.2em; color: blue;">S33.5XXA</span> <span style="font-size: 1.2em; color: blue;">S39.012A</span>
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**16. Indicate whether the employee has reached Clinical or Statutory MMI based upon the following definitions:**

**Clinical Maximum Medical Improvement (Clinical MMI)** is the earliest date after which, based upon reasonable medical probability, further material recovery from or lasting improvement to an injury cannot reasonably be anticipated.

**Statutory MMI** is the later of: (1) the end of the period of the date that temporary income benefits (TIBs) began to accrue; or (2) the date that the employee is no longer entitled to TIBs as provided by DWC pursuant to Texas Labor Code §408.104.

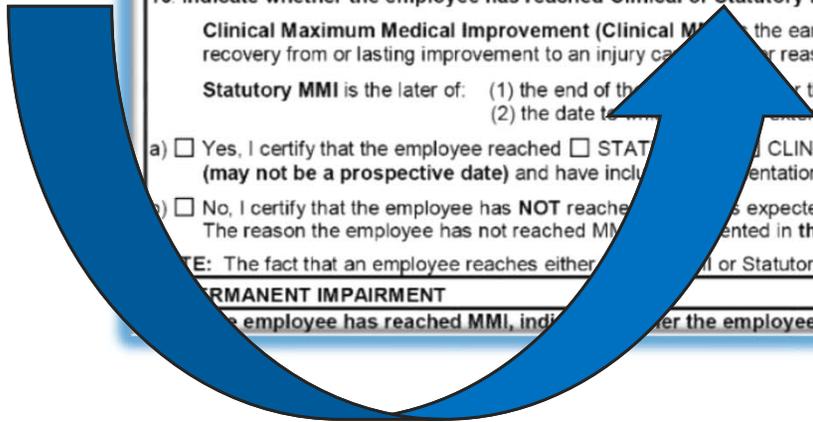
a)  Yes, I certify that the employee reached  STATUTORY  CLINICAL (mark one) MMI on \_\_\_/\_\_\_/\_\_\_ (may not be a prospective date) and have included the following information relating to this certification in the attached narrative. - OR -

b)  No, I certify that the employee has NOT reached MMI. The employee is expected to reach MMI on or about \_\_\_/\_\_\_/\_\_\_ The reason the employee has not reached MMI is as stated in the attached narrative.

**NOTE:** The fact that an employee reaches either Clinical or Statutory MMI does not signify that the employee is no longer entitled to medical benefits.

**PERMANENT IMPAIRMENT**

If the employee has reached MMI, indicate whether the employee has permanent impairment as a result of the compensable injury.



# MMI, IR and EOI Case

## Multiple certifications of MMI/IR, each with DWC-Form 69, all explained in report

- **Certification 2:** Injury accepted as compensable by the insurance carrier **plus** all disputed injuries listed in Box 36C
  - Lumbar sprain/strain
  - L5-S1 disc herniation with impingement on exiting left S1 nerve root
  - Disc degeneration at L4/L5
  - Disc desiccation at L5/S1 lumbar spine

# Certification 2 – CC + Additional Claimed

Label the certification clearly somewhere on the DWC-69

DWC069



**Texas Department of Insurance**  
**Division of Workers' Compensation**  
 7551 Metro Center Drive, Suite 100 • MS-94  
 Austin, TX 78744-1645  
 (800) 252-7031 phone • (512) 490-1047 fax

Complete if known:  
 DWC Claim #  
 Carrier Claim #

CERTIFICATION #2

Report of Medical Evaluation

<b>I. GENERAL INFORMATION</b>			<b>4. Injured Employee's Name</b> (First, Middle, Last)		<b>9. Certifying Doctor's Name and License Type</b>		
<b>1. Workers' Compensation Insurance Carrier</b>			<b>5. Date of Injury</b>		<b>6. Social Security Number</b>		
<b>2. Employer's Name</b>			<b>7. Employee's Phone Number</b>			<b>10. Certifying Doctor's License Number and Jurisdiction</b>	
<b>3. Employer's Address</b> (Street or PO Box, City State Zip)			<b>8. Employee's Address</b> (Street or PO Box, City State Zip)			<b>11. Certifying Doctor's Phone and Fax Numbers</b> (Ph) (Fax)	
						<b>12. Certifying Doctor's Address</b> (Street or PO Box, City State Zip)	

**II. DOCTOR'S ROLE**

**13. Indicate which role you are serving in the claim in performing this evaluation. Only a doctor serving in one of the following roles is authorized to evaluate MMI/impairment and file this report [28 Texas Administrative Code (TAC) §130.1 governs such authorization]:**

Treating Doctor   
  Doctor selected by Treating Doctor acting in place of the Treating Doctor   
  Designated Doctor selected by DWC  
 Insurance Carrier-selected RME Doctor approved by DWC to evaluate MMI and/or permanent impairment after a Designated Doctor examination

**NOTE:** If you are not authorized by 28 TAC §130.1 to file this report, you will not be paid for this report or the MMI/impairment examination.

**III. MEDICAL STATUS INFORMATION**

<b>14. Date of Exam</b>	<b>15. Diagnosis Codes</b>
/ /	S33.5XXA, S39.012A, M54.17, M51.27, M51.37

**16. Indicate whether the employee has reached Clinical or Statutory MMI based upon the following definitions:**

**Clinical Maximum Medical Improvement (Clinical MMI)** is the earliest date after which, based upon reasonable medical probability, further material recovery from or lasting improvement can no longer reasonably be anticipated.

**Statutory MMI** is the later of: (1) the date that is 13 weeks after the date that temporary income benefits (TIBs) began to accrue; or (2) the date that the employee's MMI was extended by DWC pursuant to Texas Labor Code §408.104.

a)  Yes, I certify that the employee reached  STATUTORY /  CLINICAL (mark one) MMI on \_\_\_ / \_\_\_ / \_\_\_ (may not be a prospective date) and included documentation relating to this certification in the attached narrative. - OR -

b)  No, I certify that the employee has not reached MMI but is expected to reach MMI on or about \_\_\_ / \_\_\_ / \_\_\_ The reason the employee has not reached MMI is documented in the attached narrative.

**NOTE:** The fact that an employee reaches either Clinical MMI or Statutory MMI does not signify that the employee is no longer entitled to medical benefits.

**IV. PERMANENT IMPAIRMENT**

**17. If the employee has reached Clinical or Statutory MMI, indicate whether the employee has permanent impairment as a result of the compensable injury.**

# MMI, IR and EOI Case

## Multiple certifications of MMI/IR, each with DWC-Form 69, all explained in report

- **Certification 3: Designated Doctor's Opinion**
  - Lumbar sprain/strain
  - L5-S1 disc herniation with impingement on exiting left S1 nerve root
  - Left S1 radiculopathy

# Certification # 3 – DD Opinion

Label the certification clearly somewhere on the DWC-69

DWC069

 **Texas Department of Insurance**  
**Division of Workers' Compensation**  
7551 Metro Center Drive, Suite 100 • MS-94  
Austin, TX 78744-1645  
(800) 252-7031 phone • (512) 490-1047 fax

Complete if known:  
DWC Claim #  
Carrier Claim #

**CERTIFICATION # 3**  
Report of Medical Evaluation

<b>I. GENERAL INFORMATION</b>		<b>4. Injured Employee's Name</b> (First, Middle, Last)		<b>9. Certifying Doctor's Name and License Type</b>	
<b>1. Workers' Compensation Insurance Carrier</b>	<b>5. Date of Injury</b>	<b>6. Social Security Number</b>		<b>10. Certifying Doctor's License Number and Jurisdiction</b>	
<b>2. Employer's Name</b>	<b>7. Employee's Home Number</b>			<b>11. Certifying Doctor's Phone and Fax Numbers</b> (Ph) (Fax)	
<b>3. Employer's Address</b> (Street or PO Box, City State Zip)	<b>8. Employee's Address</b> (Street or PO Box, City State Zip)			<b>12. Certifying Doctor's Address</b> (Street or PO Box, City State Zip)	

**II. DOCTOR'S ROLE**

**13. Indicate which role you are serving in the claim in performing this evaluation. Only a doctor serving in one of the following roles is authorized to evaluate MMI/impairment and file this report [28 Texas Administrative Code (TAC) §130.1 governs such authorization]:**

Treating Doctor     Doctor selected by Treating Doctor acting in place of the Treating Doctor     Designated Doctor selected by DWC  
 Insurance Carrier-selected RME Doctor approved by DWC to evaluate MMI and/or permanent impairment after a Designated Doctor examination

**NOTE:** If you are not authorized by 28 TAC §130.1 to file this report, you will not be paid for this report or the MMI/impairment examination.

**III. MEDICAL STATUS INFORMATION**

<b>14. Date of Exam</b> / /	<b>15. Diagnosis Codes</b> <b>S33.5XXA, S39.012A, M54.17, M51.27</b>
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**16. Indicate whether the employee has reached Clinical or Statutory MMI based upon the following definitions:**

**Clinical Maximum Medical Improvement (Clinical MMI)** is the earliest date after which, based upon reasonable medical probability, further material recovery from or lasting improvement in the employee's condition no longer reasonably be anticipated.

**Statutory MMI** is the later of: (1) the date that temporary income benefits (TIBs) began to accrue; or (2) the date that the employee's MMI was extended by DWC pursuant to Texas Labor Code §408.104.

a)  Yes, I certify that the employee reached STATUTORY /  CLINICAL (mark one) MMI on \_\_\_ / \_\_\_ / \_\_\_ (may not be a prospective date) and included documentation relating to this certification in the attached narrative. - OR -

b)  No, I certify that the employee has not reached MMI but is expected to reach MMI on or about \_\_\_ / \_\_\_ / \_\_\_ The reason the employee has not reached MMI is documented in the attached narrative.

**NOTE:** The fact that an employee has reached either Clinical MMI or Statutory MMI does not signify that the employee is no longer entitled to medical benefits.

**IV. PERMANENT IMPAIRMENT**

**17. If the employee has reached MMI, indicate whether the employee has permanent impairment as a result of the compensable injury.**

# DD EOI Analysis - Define

A **lumbar sprain/strain** is a collective “diagnosis” to explain common spinal soft tissue injuries.

As per the MDG, the event associated with the onset of back pain are *“low force (low violence) activities the person has done multiple times in the past without injury.*

*Physicians have historically diagnosed back "strain" as if muscles were torn, or back "sprain" as if ligaments were torn, although MRI studies in the first 48 hours after pain onset in patients who experience the acute onset of back pain have not shown either strained muscles or sprained ligaments to be present (Modic)”.*

# DD EOI Analysis - Explain

**Lumbar sprains / strains** *“have been used historically and are still used by many physicians along, with the associated ICD-10-CM code”*. It is an easy way to diagnose and label the cause of low back pain.

In general, it is easier to strain a muscle than tendon, and more difficult to sprain a ligament, based on the amount of and durability of their respective connective tissues.

The evidence-based medicine in the MDG demonstrates that *“the reason adults get episodes of low back pain is not scientifically established, and the exact structure in the back responsible for the pain cannot be determined”*, however, **these diagnoses are reasonable to explain the back pain event.**

# DD EOI Analysis - Define

A **disc herniation** is a change in the annular fibers of a disc that results in an outward deformation of the disc posteriorly, usually less than 180 degrees of the posterior disc if generalized or less than 90 degrees if it is focal.

Imaging findings of disc herniations are usually due to a slow degenerative process along with other changes of spondylosis.

If they uncommonly occur due to trauma, evidence-based medicine supports that these require super physiologic loads of axial compression and hyperflexion (and may involve twisting). Experimental studies have used finite element modeling to demonstrate that the bone is the most vulnerable structure in the spine and will often fail before the disc.

# DD EOI Analysis - Explain

*“The mechanism in this case was consistent with the MOI that produces a traumatic herniation. The early complaints and exam findings were consistent with the location and side of the additional claimed injury on imaging.*

*I am aware of the EBM that discusses that disc herniations can be present in MRIs of asymptomatic individuals, but in this case, the mechanism and specific complaints and findings are consistent with the focal **left L5-S1 disc herniation with impingement on the exiting left S1 nerve root.**”*

# DD EOI Analysis - Define

**Radiculopathy** is pain that arises from a nerve root that results in a specific nerve root distribution of pain / abnormal sensation, (dermatome), with potential weakness (myotome), reflex changes and atrophy. If due to trauma, there should be a corresponding anatomic lesion to cause nerve root compression or deflection.

# DD EOI Analysis - Explain

A **left S1 radiculopathy** is a specific side and nerve root level of involvement. The claimant complained of radicular symptoms within days of the injury event.

The clinical examination demonstrated neurologic findings consistent with an S1 radiculopathy that evolved within weeks of the injury event, which is consistent with the timeframe for radiculopathy to develop.

A left S1 radiculopathy correlates with the lumbar MRI findings of L5-S1 disc herniation with impingement on exiting left S1 nerve root.

# Determine MMI for EACH certification

- Regardless of what the findings are in the records or your certifying examination, your determination of MMI **MUST ONLY** consider the injury / diagnoses / conditions **for that** certification.
- What would the ODG say about the injury / diagnoses / conditions **for that** certification?
- If there are one or more certifications that you do not agree with, **you must put your opinion aside** to answer the question of MMI according to the ODG for the diagnoses **for that** certification.
- **Multiple certifications allows the ALJ to resolve the dispute.**

# Determine MMI for EACH certification

- If any one of the possible certifications includes any injury / diagnosis / condition where the claimant is not yet at MMI, then you cannot determine an impairment rating for that combination
- Present that certification as a possible alternate certification and explain with claim specific details and the ODG for that injury / diagnoses / condition why the claimant has not yet reached MMI.

# Determine Impairment Rating for EACH certification

- Rate the injury / diagnosis / condition you are considering based on the claimant's condition as of the date of MMI (**Rule 130.1**)
  - Must find some information in the records or EBM that would allow you to render a medically probable IR that is consistent with the injury / diagnosis / condition you are considering.
  - If the condition is the “same” or similar between the date of MMI and your exam, EXPLAIN that you will use your examination findings because they are more complete than those on MMI date.

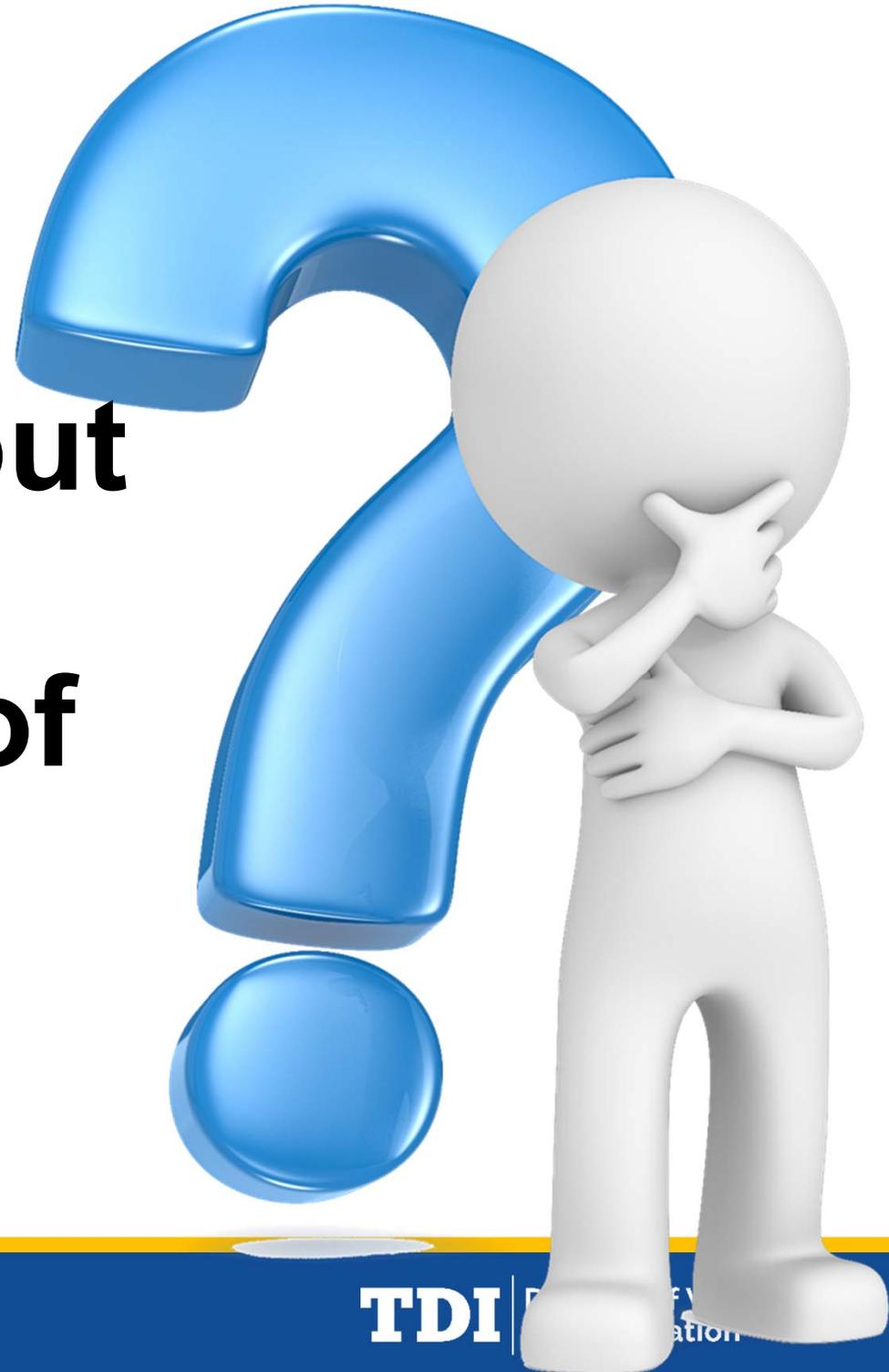
# Determine Impairment Rating for EACH certification

- The IR must be consistent with the injury / diagnosis / condition you are considering.
  - Example: Don't rate a lumbar sprain / strain as a DRE III (for spine fracture or ratable radiculopathy). A sprain strain should only ever be a DRE I or DRE II
  - Example: If the diagnosis is lumbar radiculopathy, then the IR could be a DRE I, DRE II or DRE III, dependent on the differentiators present as of the chosen MMI date.

# If a determination for a certification is NOT at MMI...

- If any one of possible certifications includes any injury / diagnosis / condition where the claimant is not yet at MMI, then you cannot determine an impairment rating for that combination
- Present the combination as a possible alternate certification.
- Address it by explaining that you cannot assign an impairment rating as the claimant is not at MMI for that injury / diagnosis / condition

# Questions About Multiple Certifications of MMI/IR for EOI Exams?



# Complete DWC Form-068



# Transfer Info from DWC Form-032

## Designated Doctor Examination Data Report

Extent of Injury, Disability, or Other Similar Issues

### I. INJURED EMPLOYEE CLAIM INFORMATION

1. Employee Name (Last, First, Middle) <b>George Raley</b>	2. Employee Social Security Number <b>000-00-0000</b>
3. Insurance Carrier Name <b>Carrier One</b>	4. Date of Injury (mm-dd-yyyy) <b>03-02-2015</b>

### II. EXAMINATION INFORMATION

5. Designated Doctor Name <b>E. J. McDermott, M.D.</b>	
6. Designated Doctor Mailing Address (Street or PO Box, City, State, Zip Code) <b>P.O. Box 7156, Austin, TX 78777</b>	
7. Designated Doctor License Number <b>T4321</b>	8. Designated Doctor License Jurisdiction <b>TX</b>
9. Designated Doctor License Type <b>MD</b>	10. Designated Doctor Phone Number <b>(512) 804-5128</b>
11. Examination Location (Street, City, State, Zip Code) <b>70 Medical Park Loop, Austin, TX 78647</b>	
12. Date and Time of Appointment <b>8/1/2016, 3:00 PM</b>	
13. Does the claim involve medical benefits provided through a Certified Health Care Network? <b>No</b>	

# Transfer Info From DWC Form-032, Box 36C and add ICD-10 Codes

DWC068

## III. PURPOSE OF EXAMINATION

15. Issues considered during Designated Doctor's examination. Check only the items that were included on the DWC Form-032 and provide the requested information.

a) Extent of Injury

Refer to the DWC Form-032 you received for this examination and provide below all the diagnoses/conditions listed in Section V, Box 36C. Did you determine that the accident or incident giving rise to the compensable injury was a substantial factor in bringing about the additional claimed diagnoses/condition, and without it, the additional diagnoses/conditions would not have occurred? Provide your answer below by checking Yes or No for each additional claimed diagnosis/condition. For data purposes only, assign the most reasonable corresponding diagnosis code(s) for each additional claimed diagnosis/condition. You may assign up to four diagnosis codes for each additional claimed diagnosis/condition. **Attach additional pages, if necessary.**

Additional Claimed Diagnosis or Condition	Yes	No	For Data Purposes Only			
			Diagnosis Code 1	Diagnosis Code 2	Diagnosis Code 3	Diagnosis Code 4
1) L4/L5 disc degeneration	<input type="checkbox"/>	<input checked="" type="checkbox"/>	M51.36			
2) Disc desiccation at L5/S1	<input type="checkbox"/>	<input checked="" type="checkbox"/>	M51.37			
3) L5/S1 disc herniation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	M51.27			
4) with impingement on	<input type="checkbox"/>	<input type="checkbox"/>				
5) exiting left S1 nerve	<input type="checkbox"/>	<input type="checkbox"/>				
6) root	<input type="checkbox"/>	<input type="checkbox"/>				

# Document Referrals / Testing & Sign

## IV. REFERRALS / ADDITIONAL TESTING

16. Provide the requested information regarding referrals and additional testing for this examination.									
Referral Health Care Provider Name	Provider License Number	Date of Service (mm/dd/yyyy)	Type of Testing						
			FCE	EMG / NCV	X-Ray	MRI	CT-Scan	Psychological Testing / Evaluation	Other
<b>Robert Payments</b>	<b>E2234</b>	<b>01/10/2016</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

FCE (Functional Capacity Evaluation); EMG (Electromyography); NCV (Nerve Conduction Velocity); MRI (Magnetic Resonance Imaging); CT-Scan (Computed Tomography Scan)

## V. DESIGNATED DOCTOR'S SIGNATURE

17. Signature of Designated Doctor <i>E. J. McDermott, M.D</i>	18. Date of Signature (mm/dd/yyyy) <b>05/23/2016</b>
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# QUESTIONS ABOUT EXTENT OF INJURY BASICS?



# Causation: Not a Trivial Pursuit

# Disclaimer

Every case has its own facts and this challenge is being offered for entertainment/educational purposes. It is not a substitute for the important exercise of basing your determination of the extent of injury on the physical examination and medical record.

# Sufficient or Not?

“It is possible that the degenerative disc disease noted in the MRI was aggravated by the compensable lifting event.”

# Sufficient or Not?

“Since the examinee was not symptomatic prior to the compensable injury event and developed symptoms right after the injury event, it stands to reason that the MRI pathology identified post-injury are related to the compensable injury event.”

# Sufficient or Not?

“The claimed condition of knee arthritis is an ordinary, disease-of-life finding that pre-existed the injury event.”

# Sufficient or Not?

“I opine that the examinee’s injury caused, within reasonable medical probability, the claimed condition of carpal tunnel syndrome.”

# Sufficient or Not?

“In my medical opinion and within a reasonable degree of medical probability, stepping on a crack and rolling her ankle at work on [the date of injury] caused torqueing forces to the examinee’s left ankle joint which stressed the joint structures of her left ankle and exceeded the strength of the joint structures of her left ankle and produced the left ankle plantar fasciitis.”

# Sufficient or Not?

“In my opinion, the right shoulder rotator cuff tear is not part of the compensable injury. The MRI of the right shoulder approximately three months from the date of injury demonstrated no acute injury in the right shoulder, but only chronic, degenerative changes. Also, a review of the medical records does not document any history of impact to the right shoulder or blunt trauma by the 2 eyewitnesses to the injury, nor does the medical record document any ecchymosis or swelling of the right shoulder in the emergency department on the date of injury.”

# Sufficient or Not?

“The mechanism of injury involved a rollover motor vehicle accident (MVA). The injury included jarring and jolting of the examinee’s cervical spine. Due to the impact of the MVA, there is a causal relationship between the impact involving jarring and jolting forces in the examinee’s cervical area resulting in the findings on the cervical MRI.”

# Sufficient or Not?

“Neuritis occurs when nerves become inflamed. The inflammation results in pain and numbness wherever the affected nerve travels. Nerves from the thoracic (middle) spine extend to the upper abdominal area as well as the back, the neck, and the area between the shoulder. There is nothing in the physical examination or the medical records to indicate thoracic neuritis, so that condition should not be included as part of the compensable injury.”

# Questions About Causation Analysis for the Extent of Injury Exam?



# Legally Sufficient Analysis

After going through that exercise, let's go through some examples of Appeals Panel Decisions (APDs) with examples of doctors in different roles and how they approached an analysis.

- These are some examples of causation opinions that:
  - Met the required standard, and
  - That were missing elements of the causation analysis and did not meet the standard.
- This is the context to be thinking about as we work through the steps for causation analysis.

# Sufficient Causation Analysis:

## APD 130235

- The Appeals Panel (AP) reversed the Administrative Law Judge (ALJ) who stated that there was not adequate expert evidence to show the infection was a result of the puncture wound.
- The Appeals Panel stated **all 3 opinions were good**. In particular, the RME and Peer Review addressed the time lapse between the incident (puncture wound), and the subsequent infection, debridement and loss of function.

# Sufficient Causation Analysis:

## APD 130235: DD ANALYSIS

**Original Compensable Diagnosis:** Puncture wound of the left hand (palm)

### **Additional Claimed Diagnosis / Conditions:**

Palmar Space Infection

Tissue debridement and scar formation following surgical treatment of infection.

Severe loss of left wrist and hand function secondary to infection and treatment of infection.

# Sufficient Causation Analysis:

## APD 130235: DD ANALYSIS

*“The injury to the left hand and wrist was due to infection and subsequent surgical procedures to treat the infection caused by a penetrating wound from a nail gun. The mechanism of the puncture wound to the palmar hand injury, mechanism of injury, and outcome are consistent with the physical exam”.*

# Sufficient Causation Analysis:

## APD 130235: RME ANALYSIS

“This claimant had a puncture wound to the left wrist in late April 2006. Several months later he went to the emergency room with an extremely infected left wrist. With the degree of infection found at the time of his visit to the emergency room, that infection had clearly been going on for quite some time.”

# Sufficient Causation Analysis:

## APD 130235: RME ANALYSIS

*“While there is a significant length of time, approximately three months between the date of injury here and the infection being treated at the hospital, with no other reason for this claimant to have had a deep abscess such as he had, it is reasonable to believe that the compensable injury was the proximate cause of the deep palmar staph infection that this claimant was treated for in July 2006.”*

# Sufficient Causation Analysis:

## APD 130235: PEER REVIEW

*“The claimant sustained a puncture wound to the left wrist area. This ultimately resulted in a deep-seated infection secondary to abscess formation. It is not unusual that this type of infection can take some time to develop in all medical probability however, the puncture wound was the cause of this infection. It should be understood that [the claimant] was compromised secondary to diabetes. This made him more susceptible to developing the infection.”*

# Let's look at an Insufficient Causation Analysis: APD 111881:

- **Extent of Injury Issue:**
- lumbar disc bulges at L1-2, L5-S1,
- L4-5 osteophyte.

# Lets look at an Insufficient Causation Analysis:

## APD 111881:

- The ALJ adopted Dr. P's (treating doctor) causation opinion.
- In this case, the Appeals Panel reversed the ALJ as to some of the additional claimed injuries.
- They stated that Dr. P's opinions were conclusory, and therefore insufficient.

# APD 111881: Dr. P's Conclusory Analysis

- *“Lumbar disc herniations and symptoms arise solely and directly from his work-related incident. It is impossible to comment on the potential shear forces without having observed the incident itself.”*
- The causation letter pointed out that the claimant was working full time, was asymptomatic at the time of the accident, and the injury was significant enough to warrant a trip to the emergency room where the MRI documented lumbar disc herniations.

# APD 111881: Dr. P's Conclusory Analysis

- As per the APD, *“Dr. P does not specifically mention the MRI finding of an osteophyte at the L4 level or explain how the mechanism of injury could have caused the lumbar disc bulges at the specified levels at issue”*.

# APD 111881: DD Dr. S' Analysis

- DD diagnosed the claimant with *“lumbar and thoracic strains/sprains aggravating degenerative disc disease and degenerative joint disease”*.
- As per the APD, Dr. S *“does not specifically mention the extent-of-injury conditions at issue or attempt to explain how the mechanism of injury could have caused the claimed conditions at issue”*.

# APD 111881: DD Dr. S' Analysis

- The DD used the term degenerative disc disease instead of DWC-32 terms lumbar disc bulges at L1-2, L5-S1, and L4-5 osteophyte without explanation.
- With an explanation that DDD and DJD were synonymous to the Box C diagnoses / conditions (if they were) AND an explanation as to why they were aggravated, this could potentially have been adopted.

# Sample Extent of Injury Reports



**EXTENT OF INJURY reports:**

**DD - Dr. Kimble**

**RME – Dr. Wisdom**



# Sample Extent of Injury Reports



Let's analyze some sample

**EXTENT OF INJURY** reports:

**DON'T CHEAT!  
READ THE REPORTS FIRST!**



# Sample Report Analysis



**DD - Dr. Kimble**

**What do you like about the format?**

**What is lacking?**

# Sample Report Analysis

**DD - Dr. Kimble**

**What do you like about the format?**

- ID date
- Purpose of the examination
- Location, start and stop time of exam
- List of records reviewed
- Reasonable medical exam\*
- Attestations



# Sample Report Analysis

**DD - Dr. Kimble**

**What is lacking?**



- On the surface, this report seems sufficient.
- Not until you read the RME report that you see clearly that the DD missed **MANY** important facts in the case.
- The DD mostly relied upon the claimant's history and did not verify from the records, despite stating that the records were reviewed.
- These **FACT ERRORS** discredit the report.

# Sample Report Analysis



**DD - Dr. Kimble**

## What is lacking?

- Mechanism vague – inconsistent with records
- No details of timeline of **complaints** from the records to determine MMI / IR / EOI
- No details of timeline of **clinical findings** from the records to determine MMI / IR / EOI
- Did not discuss the **imaging findings** in question
- Minimal to no discussion to response to treatments.

# Sample Report Analysis

**DD - Dr. Kimble**

**What is lacking?**



- Used the MDG for determination of MMI rather than ODG.
- Did not tie the MMI date back to case specific details on that date. No knowledge as to clinical condition of the claimant on the MMI date chosen.

# Sample Report Analysis

DD - Dr. Kimble

What is lacking? *(continued)*



- Did not list Box 37 diagnoses
- Did not DEFINE the injury / diagnosis / condition(s) in question
- The EOI explanation was CONCLUSORY – gave a **conclusion without analysis of:**
  - MOI + Complaints / Clinical + Imaging + EBM
- Gave only one certification for MMI and IR, rather than at least the two necessary (CC and CC + additional claimed).

# Sample Report Analysis

## RME - Dr. Wisdom



**What do you like about the format?**

**What is lacking?**

# Sample Report Analysis

## RME - Dr. Wisdom



### What do you like about the format?

- A complete listing of DWC-32 information
- A more accurate mechanism supplemented with information in the records
- An actual chronology of the records documenting the timing of complaints and clinical findings
- Points out the inconsistencies in the record that the DD failed to discuss

# Sample Report Analysis

## RME - Dr. Wisdom



### What do you like about the format?

- Defined each of the additional claimed injury / conditions
- Gave evidence-based medicine to support opinions regarding EOI
- Clear as to which certification the doctor was of the opinion was compensable
- Gave clear direction from ODG as to date of MMI
- Gave clear direction from AMA Guides as to IR

# Sample Report Analysis

**RME - Dr. Wisdom**



**What is lacking?**

**Anything else you would have said?**

# FINAL Questions?



# Top Ten Least Effective Things Stated in a DD Report

10. Reference to the injured employee as a “malingerer” or “social ingrate.”
9. Stating the injured employee fell to explain the mechanism of injury, when, he was hit by a bus.
8. “I wasn’t actually in the room when the injured employee was examined, but eating lunch in the adjacent break room, and I could hear everything he said.”

# Top Ten Least Effective Things Stated in a DD Report

7. “He’s not yet at MMI, but I gave him an IR of 15% anyway because I felt sorry for him.”
6. Stating in your report, “because I said so.”
5. Citing diagnosis codes for all injuries in Extent of Injury, along with the sole statement “Looks right to me.”
4. After listing the injuries in Box 42c, stating “Ain’t nobody got time for that.”

# Top Ten Least Effective Things Stated in a DD Report

3. Referencing that you reviewed the medical records, “after the DD exam.”
2. Stating you solely relied upon the MDG in determining MMI/IR and Extent of Injury.
1. Stating in your narrative regarding causation, “No explanation required.”