A Tower of Babel

The Consequences of Incompetence
The AMA Guides to the Evaluation of Permanent Impairment and Psychiatry

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The American Medical Association Guide to the Evaluation of Permanent Impairment have become an outstanding success and their use has been widespread in America, Australia, and elsewhere. The Guides have provided a standardised method of determining impairment in all organ systems and through successive editions pioneered the use of methods of determining quantifiable and reproducible impairment ratings as a percentage of whole person impairment. They have also provided a method of combining impairments arising from different organ systems.

This success has not been mirrored in the section of The Guides in dealing with mental and behavioural impairment. Starting with the 3rd edition and continuing in the present edition the authors have produced a system which is unusable. Because of this, every jurisdiction which uses the AMA Guides has been forced to develop some modification. This has led to a veritable Tower of Babel in terms of methods of assessing psychiatric impairment.

Impairment/Disability

It is important to differentiate between impairment and disability. Impairment is the reduction or loss of a physical/mental function and is a matter for determination by clinicians.

By contrast disability is the reduction in ability arising from an impairment and is a matter for the courts.

The classical example of the difference is amputation of a little finger. This is a 5% whole person impairment according to the AMA Guides but may lead to 100% disability for a concert pianist and 0% disability for a construction worker.

Why Measure Psychiatric Impairment?

All statutory schemes that provide benefits for claimants such as workers' compensation schemes, transport accident schemes, personal injury schemes, pension and superannuation schemes require some method of measurement of impairment of health. Impairment measurements are used in two ways.

1. To provide a threshold so that claimants with impairments that lie below the threshold cannot proceed.

2. To provide a level of whole person impairment using a percentage to determine the level of benefits provided.

Various legislatures that implement and control these schemes have shown considerable anxiety about dealing with psychiatric injury. This anxiety arises from a number of sources. There is some prejudice against the people experiencing a psychiatric injury, at times with disbelief that such injuries occur.

There are also concerns that since psychiatric injury is regarded as subjective it is capable of being misused by fraudulent claims, so-called gaming.

Most jurisdictions have developed methods of limiting claims for psychiatric injury. Some jurisdictions simply exclude psychiatric injury from benefits. Other schemes require claimants with a psychiatric injury to meet a higher level of threshold of impairment before they can access the scheme. The third method, used extensively in Australia, is to reject claims for psychiatric injury which is secondary to physical injury, for example depression arising from a chronic back injury. Successful claimants have to demonstrate that they have an injury arising from the incident itself, such as a post traumatic stress disorder. In a number of jurisdictions in Australia the latter two methods are combined.

A reliable means of measuring psychiatric percentage impairment is critical for courts, tribunals, and claimants.

Requirements of Any Method of Psychiatric Impairment Measurement

1. It should measure impairment and not disability. In some methods, which we will see later, disability is used as a surrogate for impairment, this is inappropriate. All psychiatrists are familiar with assessing a person's mental status. This should be the core of any system of psychiatric impairment.

2. It should be easily and rapidly administered using data arising from the clinical interview. This is preferable to a checklist which is susceptible to cheating by claimants.

3. It should be able to produce a percentage figure which is reliable. The term reliable in this context means that different examiners, seeing the same claimant, come to a similar identical figure for percentage impairment.

4. It should be transparent and readily understood by courts and tribunals and the figures emerging from such a method should make sense. If a method consistently provides claimants with an impairment of 60% who are functioning normally it would not be credible. On the other hand, a system that consistently placed very ill people below the cut-off threshold would also not be credible.

Problems Measuring Psychiatric Impairment

The fundamental problem with measuring psychiatric impairment is that there is no "gold standard". There is no objective measure such as in physical science. There is a means of accurately determining the length of a metre which is reproducible and is the standard throughout the world. Such a situation cannot apply in psychiatry.

Despite the requirement that any method should only measure impairment and leave disability for the courts and tribunals there is inevitably a blurring between impairment and disability, this is difficult to avoid. Inevitably psychiatrists rely on the behaviour informing their opinion. Behaviour is a manifestation of disability. Furthermore any method relies, to a large degree, on self reporting. This causes problems for people who are deliberately misleading the examiner or who, for a variety of reasons, are unable to provide an accurate account of this situation.

Furthermore there is a fundamental absurdity about collapsing a complex pattern of behaviour into a single number. This is inescapable and is a basic problem with psychiatric impairment.

There are also special problems in psychiatric impairment assessment when dealing with the overlap between psychiatric injury and neurological injury and with assessing pain disorders and psychiatric injury.

Methods of Psychiatric Impairment

There are two basic methods of measuring psychiatric impairment.

Method 1 is to assess specific functions and combine these assessments to determine whole person psychiatric impairment. This is the method used in the American Medical Association Guides.

The second method is to group combinations of symptoms assumed to be present at specific levels of impairment. This is the method used by the Diagnostic and Statistical Manual of the American Psychiatric Association 4th Edition Global Assessment of Functioning Scale (GAF). This scale ranges between 1-100 where 1 is the most severe loss of function and 100 is superior functioning. For example *51-60 moderate symptoms e.g. flat affect and circumstantial speech, occasional panic attacks or moderate difficulty in social, occupational or school functioning e.g. few friends, conflict with peers or co-workers.*

Fundamental Problems with Chapter 14 of the AMA Guides (Both 4th and 5th Edition)

The method of impairment assessment described in chapter 14 is summarised by this table. The table assesses 4 areas of functioning including *activities of daily living, social functioning, concentration,* and *adaptation*. The impairment for each area lies within one of five classes, ranging from class one, *no impairment* to class five, *extreme impairment*. There is a generalised account of what each of these areas involves but no specific descriptors relevant to each class.

There are two basic problems with this table.

1. Three of the four areas are measures of disability, not impairment. The only measure of impairment is *concentration.* This is a fundamental problem.

2. From an operational point of view there is no method for combining the overall classes. Guide users have no guidance on how to combine the classes.

3. Quite deliberately, the authors have rejected providing percentage impairments.

There are five reasons given for this lack of percentages

1. There are no precise measures of impairment in mental disorders.
2. The use of percentages implies a certainty that does not exist.
3. Percentages are likely to be used inflexibly by adjudicators.
4. No data exists that shows the reliability of the impairment percentages.
5. It would be difficult for Guides users to defend their use in administrative hearings.

This is not seen to be a problem in other parts of the Guides. The chapter on Pain has a means of producing a score with regard to pain and a percentage increment to be added to a physical impairment for pain. The chapter on musculoskeletal systems provide a system of measuring impairment due to pain.

Arguably, pain is even more elusive than psychiatric injury as it is a totally subjective perception.

Consequences of the Inadequacy of Chapter 14 - the Australian Experience

Most jurisdictions in Australia have recognized that chapter 14 is unusable. This has led to each jurisdiction in Australia developing its own method of determining psychiatric impairment. There are not only differences between the states and the federal jurisdictions but there are also differences within states for determining psychiatric impairment depending whether a person has a workers compensation claim, a transport accident claim or some other claim.

For an analysis of Chapter 14 in AMA 6 see 'A Critical Analysis of Chapter 14, Mental and behavioural Impairment AMA6'

Differing Methods for Measuring Psychiatric Impairment in Australia

Victoria, a state which has been performing impairment assessments for longer than the other states began using the AMA Guides 2nd edition in 1985. At that time chapter 12, Mental and Behavioural Disorders, did provide for measuring mental status and percentages. Subsequently there have been further amendments to this original method and Victoria now uses the Guide to the Evaluation of Psychiatric Impairment for Clinicians (the GEPIC) which has five different classes of impairment with appropriate descriptors for each of the mental functions assessed and a method of combining these to produce a final percentage impairment.

Most other states who began doing impairment assessment after the publication of the fourth edition have attempted to use chapter 14 but with significant amendments. These amendments includes descriptors of differing levels of impairment for the four areas assessed with appropriate percentages and a means of combining these. The Psychiatric Impairment Rating Scale (the PIRS).

Since the PIRS is derived from chapter 14 it measures disability not impairment. It was specifically designed to meet legislative thresholds and the requirement is that impairment must be attributable to recognized psychiatric conditions. It has subsequently been modified for use in the New South Wales workers compensation scam with the addition of more descriptors, the use of employability as part of adaptation and a different method of combining classes. Tasmania also uses the PIRS but ironically, does not provide a percentage rating. Queensland uses the PIRS for assessing psychiatric injury for personal injury claims.

The Northern Territory uses chapter 14 without modification.

In the Commonwealth jurisdictions and some state jurisdictions the methods used have no relationship with the AMA Guides.

Do the Reasons Given for Not Providing Percentage Scores Withstand Scrutiny?

The authors state there are no precise measures of impairment in mental disorders. This is true but nor are there precise measures of any other organ system. Every system uses arbitrary measures, there is no fundamental gold standard.

The authors state that the use of percentages implies a certainty that does not exist. It may imply that certainty but the various parties, courts, tribunals, and psychiatrists are aware that there is no certainty in this area.

The authors state that percentages are likely to be used inflexibly by adjudicators. It is difficult to know what to make of this reason. One would not expect adjudicators to use these flexibly. Indeed the point of providing percentages for adjudicators is to give them a means of determining thresholds and levels of payment.

The failure of the authors to provide percentages means that those who use the guides are likely to come up with grossly different figures which leads to confusion for adjudicators, probable lack of fairness in determining thresholds and level of payments and casts doubt on the credibility of psychiatrists and claimants. There is a danger that because of this jurisdictions will exclude psychiatric injury from compensation schemes.

The authors state that there is no data that exist that shows the reliability of the impairment percentages. There appears to have been no research done in this area which is extraordinary considering the number of claimants and the amount of money involved. Rather than metaphorically throwing up their hands, it would be more useful for the authors to initiate research in this area.

The authors finally say it would be difficult for Guides uses to defend their use in administrative hearings.

This argument is really an expression of despair. Is chapter 14 any more defensible because of its lack of percentages? various jurisdictions have "marched with their feet" in abandoning chapter 14. Users are much more likely to differ in the percentages they are required to produce by the various tribunals and courts because of this failure of the authors.

The fact is that the decision of the authors to abandon percentages has meant that each jurisdiction has to determine some way of providing percentages to make their schemes work.

Fundamental Criticisms of Chapter 14 of the AMA Guides

The authors of chapter 14 have failed to meet the basic requirements of any system of psychiatric impairment. There is no systematic method to measure impairment. The chapter does not restrict measurement to impairment arising from psychiatric injury. For example, problems with adaptation may relate to a neurological disorder or dementia and not to a psychiatric injury.

The method does not enable a percentage figure to determined and the method has no inherent reliability. The method is not defensible in court and tribunal settings.

Conclusions

1. The American Medical Association Guides to the Evaluation of Permanent Impairment have provided an effective and efficient means of measuring impairment for all organ systems except for Mental and Behavioural Disorders. The authors of chapter 14 on Mental and Behavioural Disorders have failed in their duty to give a usable system.
2. This failure has led to every jurisdiction in Australia developing different methods of measuring psychiatric impairment, leading to a veritable Tower of Babel.
3. The reasons given for not providing percentage impairment do not withstand scrutiny.
4. The lack of percentage impairment disadvantages users, claimants, courts, and tribunals.
5. All jurisdictions fear that claims for psychiatric injury will overwhelm the funding of any statutory scheme.
6. The consequences of the failure of the authors to do their job has reduced the credibility of psychiatric impairment assessments and has the potential to lead to the exclusion of psychiatric injury from statutory schemes.
7. Any method which measures impairment and provides percentages is better than none. The chapter on Mental and Behavioural Disorders in the 6th edition is similar to the 4th and 5th edition. It is to be hoped that the 7th edition does better for claimants, users, and courts and tribunals.

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