

2022 QME WINTER ZOOMINAR SERIES

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DECEPTION, SYMPTOM MAGNIFICATION, AND MALINGERING

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ADMIN

- Check the Chat for links to your Course Materials
- Use “Right Click””Open Link in New Tab”....to keep link open during ZOOMinar
- During ZOOMinar Keep Microphone muted
- Put any comments/contributions in the “Chat” and we will discuss at the conclusion - Please Participate
- Answer Questions on Course Exam for Immediate Certificate of Completion

UPCOMING SESSIONS

- WINTER “QME SUCCESS” ZOOMINAR SERIES -
 - 3X PER MONTH DWC APPROVED CEU DISCUSSION
 - 1X PER MONTH *QME PRACTICE BUILDING SUCCESS* SERIES - NO CE CREDITS!
- 02/23/22 - The New Medical Legal Fee Schedule - No CE Credit
- 03/02/22 - SPRING ZOOMINAR SERIES - NEW CONTRIBUTORS:
 - Robert Larsen M.D. - Psychiatry Evaluator
 - Robert Adams D.C. - Chiropractic Evaluator

CURRENT AFFAIRS

- **Current Affairs: DWC Posts Proposed Amendments to the Qualified Medical Evaluator Regulations to Online Forum for Public Comment**
- **<https://www.dir.ca.gov/DIRNews/2022/2022-15.html>**

CURRENT AFFAIRS

- Today's (02/16/22) Discussion - “Deception, Symptom Magnification, and Malingering”
- For More Information:
 - Malingering & the QME (6 hours/\$175)
 - Deception, Symptoms Magnification, and Malingering (6 hours/\$175)



DECEPTION, SYMPTOM MAGNIFICATION AND MALINGERING

- Deception (Merriam-Webster): “to cause to accept as true or valid what is false or invalid, to give a false impression.”
- This may include 1) statements (“I told my Supervisor about the injury”) or 2) physical acts (“Oh no I can’t bend in that direction”) - the purpose of which are to propagate beliefs that are not true, or, are not the whole truth. This may also include **omission** or **withholding of information**.



DECEPTION, SYMPTOM MAGNIFICATION AND MALINGERING

- **Lying by omission**, also known as a continuing misrepresentation, occurs when an important fact is left out in order to foster a misconception. Lying by omission includes the failure to correct pre-existing misconceptions.
- For example, when an injured worker explains that he/she has tried multiple treatment modalities, but does not mention that the treatment was punctuated by a 4 week Christmas vacation out of the country, the seller lies by omission.... An omission is when a person tells most of the truth, but leaves out a few key facts that therefore, obscures the truth.
- Practice Tip: “What’s missing here?”



DECEPTION, SYMPTOM MAGNIFICATION AND MALINGERING

- **What's missing here?**
- **Pain Behaviors (page 580):**
 - Facial Grimacing
 - Holding or Supporting Affected Area
 - Limping or Distorted Gait
 - Frequent Shifting of Posture or Position
 - Extremely Slow Movements
 - Sitting with a Rigid Posture
 - Moving in a Guarded or Protective Fashion
 - Moaning
 - Using a cane, cervical collar or other assistive device
 - Stooping while walking
 - Other



DECEPTION, SYMPTOM MAGNIFICATION AND MALINGERING

- **Symptom Magnification** (Merriam-Webster):
 - “the patient exaggerating or magnifying their actual complaints in order to “sell” the doctor on the truth of their claims.”
 - ...is the conscious or sub-conscious behavioral pattern where the individual’s subjective reports of symptoms are inconsistent with the known condition. The individual exhibits a tendency to **under-rate their abilities** and/or over-state their symptoms and limitations,
 -it does not imply intent.



SYMPTOM MAGNIFICATION AND MALINGERING

- Malingering:
 - Merriam-Webster Dictionary: “to pretend or exaggerate incapacity or illness (as to avoid duty or work)).
 - DSM IV - Diagnostic and Statistical Manual of Mental Disorders IV: “The intentional production of false or grossly exaggerated physical or psychological symptoms, motivated by external incentives such as avoiding military duty.....,



SYMPTOM MAGNIFICATION AND MALINGERING

United States Armed Forces

Malingering is a court martial offense in the United States Armed Forces under Article 115 of the Uniform Code of Military Justice, which provides that:

Any person subject to this chapter who for the purpose of avoiding work, duty, or service-

- (1) feigns illness, injury, headache, a sore back, mental lapse or derangement; or
- (2) intentionally inflicts self-injury;

shall be punished as a court-martial may direct.



SYMPTOM MAGNIFICATION AND MALINGERING - DSM IV

- DSM IV -**external incentives** such as avoiding military duty....., avoiding work, obtaining financial compensation, evading criminal prosecution, or obtaining drugs.”
- Incentives in Workers Compensation?
- In the Workers Compensation setting, this amounts to deliberate and fraudulent feigning of symptoms. It is important to understanding that, with malingering, claims of symptoms, impairment, and disability are willfully, intentionally, and deliberately overstated.



MALINGERING

- Diagnostic and Statistical Manual of Mental Disorders IV (criteria):
 1. A “**medical legal context**” of presentation
 2. A “**marked discrepancy**” between the stated level of disability/impairment and the medical history
 3. A history of “**lack of cooperation**” - either with the Diagnostic Evaluation itself or with prior prescribed tests and/or treatments
 4. An “**antisocial personality disorder/traits**”



MALINGERING

- DSM-IV: The presence of 2 of the 4 criteria suggests “probable” malingering. This is not absolutely definitive and the DSM-IV has been criticized however, it sharpens the evaluator’s thinking to the possibility that malingering is present.
- In the Worker’s Compensation System - which of the 4 criteria are already (most likely) present?



MALINGERING

- AMA Guides Chapter 18

18.7 Malingering

Malingering is conscious deception for the purpose of gain. While most authorities declare that malingering is quite uncommon, there appear to be few data regarding its frequency. Fishbain et al reviewed literature suggesting that malingering is present in 1.25% to 10.4% of individuals with chronic pain; however, they found serious flaws with the methodology and concluded that no conclusions could be drawn from the data.⁶²



MALINGERING

- AMA Guides Chapter 18

Other fields provide some limits regarding the prevalence of malingering. In individuals with unexplained intractable diarrhea, 14% had positive stool examinations for laxatives, although all had denied use of laxatives.⁶³ Among 333 people who claimed compensation for noise-induced hearing loss, the incidence of exaggeration on hearing tests (as determined by cortical evoked response audiometry) was 17.7%.⁶⁴ Weintraub cites studies showing that 20% to 46% of people consider purposeful misrepresentation of compensation claims to be acceptable behavior.⁶⁵





PHYSICAL EXAMINATION

- Findings of Symptom Magnification and Malingering:
- 2 Ways that Examinees can exaggerate their disability - overstating/understating:
 1. By overstating their symptoms during Physical Examination maneuvers - (“That hurts!”)
 2. By understating their abilities/capacities during Physical Examination maneuvers - (“I can’t do that!”)

