

California Permanent Disability Ratings

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The California Rating Formula: AMA Guides Impairment-to-California Permanent Disability Rating Mechanics for Injury Dates on or after 01-01-2013

• **LC Section § 4660.1 - Calculating a California Permanent Disability Rating**

(a) In determining the percentages of permanent partial or permanent total disability, account shall be taken of the nature of the physical injury or disfigurement, the occupation of the injured employee, and his or her age at the time of injury.

(b) For purposes of this section, the "nature of the physical injury or disfigurement" shall incorporate the descriptions and measurements of physical impairments and the corresponding percentages of impairments published in the American Medical Association (AMA) Guides to the Evaluation of Permanent Impairment (5th Edition) with the employee's whole person impairment, as provided in the Guides, multiplied by an adjustment factor of 1.4 (40%).

(c) (1) Except as provided in paragraph (2), there shall be no increases in impairment ratings for sleep dysfunction, sexual dysfunction, or psychiatric disorder, or any combination thereof, arising out of a compensable physical injury. Nothing in this section shall limit the ability of an injured employee to obtain treatment for sleep dysfunction, sexual dysfunction, or psychiatric disorder, if any, that are a consequence of an industrial injury.

(c) (2) An increased impairment rating for psychiatric disorder shall not be subject to paragraph (1) if the compensable psychiatric injury resulted from either of the following:

(c) (2) (A) Being a victim of a violent act or direct exposure to a significant violent act within the meaning of Section 3208.3.

(c) (2) (B) A catastrophic injury, including, but not limited to, loss of a limb, paralysis, severe burn, or severe head injury.

(d) Until the schedule for age and occupational modifiers is implemented, for injuries occurring on or after January 1, 2013, permanent disabilities shall be rated using the age and occupational modifiers in the current permanent disability rating schedule adopted as of January 1, 2005: The California Schedule for Rating Permanent Disabilities (PDRS)

(e) The schedule of age and occupational modifiers shall promote consistency, uniformity, and objectivity.

(g) Nothing in this section shall preclude a finding of permanent total disability in accordance with Section 4662.

(h) *In enacting the act adding this section, it is not the intent of Legislature to overrule the holding in Milpitas Unified School District v. Workers' Comp Appeals Bd. (Guzman) 2010 187 Cal. App. 4th 808. (Also known as Guzman-3.)* See page 4 of this appendix.

In the table below, click in any of the titles for presentations made by the Division of Workers Compensation (DWC), which indicate how to use the 05PDRS for rating impairments for injuries after 01/01/2013. The 05PDRS impairment rating standards are still in use.

SB 863 & PD (2013)	Rating Strategies & Senate Bill 863 Issuers (2013)
Rating Strategies for 2014	Addressing Rating Issues – Spine Impairment (2015)
Rating Boot Camp: Upper Extremities (2016)	DEU & Almaraz-Guzman (2016)
Identifying Rating Issues (2017)	Rating Boot Camp: Lower Extremities (2017)
Case Studies in Rating 2018	

**The California Rating Formula - Rating Mechanics for Injury Dates on or after 01-01-2013
AMA Guides Impairment-to-California Permanent Disability**

- **LC Section § 4660.1(b)** ... with the employee's whole person impairment, as provided in the Guides, multiplied by an adjustment factor of 1.4 (40%).
- **LC Section § 4660.1 (d)** ... for injuries occurring on or after January 1, 2013, permanent disabilities shall be rated using the age and occupational modifiers in the current permanent disability rating schedule adopted as of January 1, 2005: The California Schedule for Rating Permanent Disabilities (PDRS)

The Rating Formula – For Injury Dates On or After 01/01/2013							
Impairment-to-Disability Rating Mechanics							
XX. XX. XX. XX		%	[]	% - ()	- -	% -	%
#1	#2	#3	#4	#5	#6	#7	#8
Impairment # a) b) c) d)	AMA WPI %	1.4 Multiplier	Weighted WPI by 1.4	Occupational Group # (3 Digits)	Occupation al Variance (C-J)	Weighted % for Occupation	Weighted % for Age (Disability)
<u>AMA Guides Impairment</u> †		† After California Rating Schedule Modifications –Sections 2 to 7 :					

(#1) Impairment Rating Number- 05PDRS Section # 2 (pages 2-1 to 2-5)

The impairment rating number identifies the body part, organ system and or nature of the injury and takes the form of "XX. XX. XX. XX." **In Section # 2 of the 05PDRS (pages 2-1 to 2-5) find only the impairment rating number for the body part, organ system being adjusted.** After 01/01/2013 FEC # is not used. The impairment rating number components "XX. XX. XX. XX" are as follows:

- AMA Chapter # (03 to 17) for the 'nature of physical injury'
- Body Part/Organ System Number
- Impairment Rating Evaluation Method: **(1)** Range of Motion (ROM), or **(2)** Diagnosis Related Estimates (DRE).
- Varies according to AMA Impairment.

(#2) AMA Whole Person Impairment Rating Standard Percentage (WPI %)

From the evaluating physicians' Permanent & Stationary (P&S) report at MMI, obtain the Whole Person Impairment Percentage (WPI %) for each body part/region or organ system being adjusted with the California PDRS.

- Convert any specific joint scale (e.g., hand scale) or regional scale (upper extremity scale) to a whole person impairment scale before applying the Rating Schedule Modifications.
 - Section # 7 of The Schedule provides you with illustrated examples.
- Enter whole person impairment (WPI %) rated by the physician into the formula before multiplication by the 1.4 modifier LC Section § 4660.1(b).

(#3) 1.4 (40%) Adjustment Factor

(#4) Weighted WPI % by 1.4 adjustment factor

The AMA Guides Whole Person Impairment Rating Standard (WPI%) is adjusted by the 1.4 multiplier before adjustments for (1) Occupation, (2) Age and before (3) The Application of The Combined Values Chart in Section # 8 of the 05PDRS (pages 8-1 to 8-4).

- Enter the modified WPI% , multiplied by an adjustment factor of 1.4 (40%) on # 4

**The California Rating Formula - Rating Mechanics for Injury Dates on or after 01-01-2013
AMA Guides Impairment-to-California Permanent Disability**

- **LC Section § 4660.1 (d)** ... *Until the new schedule of age and occupational modifiers is implemented, for injuries occurring on or after January 1, 2013, permanent disabilities shall be rated using the age and occupational modifiers in the current permanent disability rating schedule adopted as of January 1, 2005: The California Schedule for Rating Permanent Disabilities (PDRS)*

<p align="center"><u>The Rating Formula – For Injury Dates On or After 01/01/2013</u> Impairment-to-Disability Rating Mechanics</p>							
XX. XX. XX. XX		_____ %	[_]	_____ % - (_ _)	- _ -	_____ % -	_____ %
#1	#2	#3	#4	#5	#6	#7	#8
Impairment # a) b) c) d)	AMA WPI RS%	1.4 Multiplier	Weighted WPI by 1.4	Occupational Group # (3 Digits)	Occupation al Variance (C-J)	Weighted % for Occupation	Weighted % for Age (Disability)
<u>AMA Guides Impairment</u> †		† After California Rating Schedule Modifications –Sections 2 to 7 :					

(#5) Occupational Group Number Modification – PDRS Section 03 (pages 3-1 to 3-37)

Using Section # 3 of 05PDRS - Occupations & Group Number, determine the three (3) Digit Group Number for the occupation of the injured worker on the date of injury.

(#6) Occupational Variant (C to J) - PDRS Section 4 (pages 4-1 to 4-9)

Occupations are assigned a modifying letter, which reflects the level of seriousness of a particular injury upon that occupation. From the PDRS Section 4 (pg. 4-1), enter The Occupational Letter Variant. "Occupational Variant Table" that correlates the disability numbers with the occupational group number and indicates which of eight (8) possible variants, "C" through "J", applies.

(#7) Weighted % for Occupation - PDRS Section 5 (pages 5-1 to 5-3)

Use The Occupational Adjustment Table in the PDRS Section 5 (pg. 5-1) to adjust the weighted percentage by the 1.4 adjustment factor (#4) for the occupational demands. After this adjustment, we refer to the percentage as a Modified (%) for Occupation.

(#8) Age Adjustment – 05PDRS Section 6 (pages 6-1 to 6-5)

The weighted modified percentage by occupation (# 7) is then modified for Age.

1. **Section # 6 of The Schedule:** Provides the age adjustment table. Combines the age groups into 5-year increments. The rating is the same for any of the ages within each 5-year cluster.
 - a. **Ages 21 to Age 36** adjust the modified WPI% downwards.
 - b. **Ages 37 to 41** - the midpoint of the Table.
 - c. **Ages 42 to 62+** adjust the WPI% upwards.

Combined Values Chart

In California Multiple Disability/Combination Principles cannot be applied until the whole person impairment % has been adjusted by its corresponding California Rating Schedule Modifiers.

If the physician's WPI% rating reflects the combination of multiple regional or body systems, deconstruct/revert back to the specific body part (WPI %) for each rating component. Once the impairment-rating % has been converted to a California Disability Percentage, then apply the Combination Principles outlined in Section # 7 of The Schedule – Rules for Combining Multiple Disabilities, using Section 8 (pg. 8-1.)

California Impairment-to-Disability Ratings Using the AMA Guides 5th Edition

Guzman 3 states that the AMA Guides must be looked as an integrated document with principles established in Chapters 1 & 2 applicable to all the Clinical Chapters. ***“The failure to follow all of the instructions in the first two chapters could result in useless evidence, inadequate diagnostic reasoning, and inaccurate and inconsistent ratings.”*** Guzman-3, pgs. 17, 20

- **LC Section § 4660.1(b):** (b) For purposes of this section, the "nature of the physical injury or disfigurement" shall incorporate the descriptions and measurements of physical impairments and the corresponding percentages of impairments published in the American Medical Association (AMA) Guides to the Evaluation of Permanent Impairment (5th Edition) with the employee's whole person impairment, as provided in the Guides,
- **LC Section § 4660.1 (h):** *In enacting the act adding this section, it is not the intent of Legislature to overrule the holding in Milpitas Unified School District v. Workers' Comp Appeals Bd. (Guzman) 2010 187 Cal. App. 4th 808. (Also known as Guzman-3.)*
- **Physician's Duties - AMA Guides (pg. 18) Section 2.3:** Provides an unbiased assessment of the individual's medical condition, including its effect on function and identifies ADL abilities and limitations.

Value and credibility of the rating depends on the accuracy of the clinical observations, the thoroughness by which the medical history and records are analyzed, the logic by which relevant factors are incorporated into a decision relating the medical findings to the criteria in the Guides and the clarity & completeness of the report. AMA Guides 1st to 6th Edition

Ratings are not only reviewed by other physicians, but also non-medical professionals. The documentation of any impairment calculation will; (1) lead to an understanding of the method used, (2) validate the reliability of the medical report, and (3) allow all parties to have the information needed to provide statutory benefits. **Fully described & calculated Impairment ratings allow anyone to check with the Guides criteria and determine if the proper estimate of impairment has been provided for the injured worker.**

At MMI, the consistency of objective diagnostic studies to measurable clinical findings, to the medical/treatment history, to subjective complaints or excessive pain factors, and to the impairment rating criteria of the AMA Guides, bind together to become the substantial medical evidence in support of the reasoned medical opinion.

The perception that no one but a medical professional can verify or confirm the correct application of the AMA Guides in the calculation of an impairment rating is a misconception.

However, if the medical evaluator provides a miscalculation of impairment and the medical report includes objective clinical findings that would support a higher or lower impairment, the AMA Guides allows any knowledgeable observer to adjust the reported impairment accordingly. AMA Guides 5th Ed, Ch.2, pg. 17

California Impairment-to-Disability Ratings Using the AMA Guides 5th Edition (Cont)

- **“Chapters 1 and 2 are in essence the Constitution of the Guides.”** Mohammed Ranavaya, MD, JD, Contributor & Senior Editor, AMA Guides 5th and 6th Editions. **The Fundamental Principles of the Guides found in these Chapters, including special considerations for rating impairments in California, can be summarized as follows:**

Concepts and philosophy in Chapters 1 and 2 are the fundamental rules of the *AMA Guides and preempt* anything in subsequent chapters that conflicts-with or disputes these principles.

No impairment may exceed a 100% whole person. No impairment arising from a member or organ of the body may exceed the amputation value of that member; i.e., for the hand region the value of each digit when impairment factors due to multiple findings can be combined (sensory loss, amputation, and rom).

To be considered substantial medical evidence, an impairment evaluation report based on the 5th Edition of the Guides must contain the elements described in Section 2.6, pg. 21.

For each injured region of body system, the evaluating physician must discuss how the medical findings relate-to, compare-to and meet the applicable criteria of the *AMA Guides*. Section 2.6b Principles, p. 22.

An explanation of how each impairment value was calculated with a listing of all Charts, Tables and AMA Guides page numbers used for the calculations of each region or body system being rated must be included. Section 2.6c Principles, p. 22 & Master the AMA Guides, pg. 30

AMA Guides states that all regional impairments in the same organ or body system, shall be combined in their native scale first, as prescribed by the rules; i.e., digit, upper or lower extremity scale.

In California regional or body system impairments are first adjusted by PDRS modifiers and then they are combined, not as a Whole Person Percentage of Impairment but as a California modified percentage of Permanent Disability.

Before combining a regional WP impairment (elbow) with another regional impairment in the same extremity (shoulder) and/or other body systems (cardiovascular), each must be adjusted by the Permanent Disability Rating Schedule (PDRS) modifiers.

A combined WPI percentage can be ‘deconstructed’ into its basic components and then converted into a California Permanent Disability Rating, if the physician has calculated each impairment rating in accordance with the protocols, objective criteria & procedures set forth in the proper Clinical Chapters of the *Guides*.

A Permanent & Stationary (P&S) report must stand alone and impairment factors, findings and calculations must be found within the body of the medical report. Computer program worksheets standing alone, although helpful to verify mathematical calculations, do no constitute ‘substantial medical evidence’ without an accompanying medical-legal report.

The *Guides* is based on objective criteria. Physician must use clinical knowledge, skill, and abilities in determining whether the measurements, test results, or written historical information are consistent and concordant with the pathology being evaluated that is due to an injury. **If such findings or an impairment estimate based on these findings, conflict with established medical principles, they cannot be used to justify an impairment rating.**

California Impairment-to-Disability Ratings Using the AMA Guides 5th Edition (cont.)

Impairments must be rated in accordance with the chapter relevant to the organ or system where the injury primarily arose or where the greatest dysfunction consistent with objectively documented pathological remaining factors exist.

Physician needs to explain the medical basis for determining that the individual is at MMI. If the condition is neither static nor well stabilized, the physician has an obligation to inform the requesting party about the condition and recommendations for further medical assessment.

Anticipated 'future' impairment is not ratable. The *Guides* does not permit the rating of future impairment. Ratings must be based on measurable factors present at MMI, as a result of an injury. The California Workers Compensation System allows for the re-opening of a disability award within a specific time frame, to address augmented disability due to the industrial injury.

The final calculated impairment rating must be mathematically rounded to the nearest whole number. Numbers ending in .5 to .9 must be mathematically rounded up in favor of the injured worker. Numbers ending in .4 or less are rounded down. AMA Guides Section 2.5d, pg. 20

Impairment values for motion measurements falling between those shown in a pie chart or table may be adjusted or interpolated proportionally in the corresponding intervals. Mathematical rounding principles still apply. **An impairment rating is no longer rounded to the nearest 05% as indicated in earlier editions of the Guides.** – Master the AMA Guides, pg. 14 and 38

Measurements must fall within 10% of each other and are mathematically rounded to the nearest whole number. ROM and strength measurement techniques should be assessed carefully in the presence of apparent self inhibition secondary to pain or fear. Precision, accuracy, reliability and validity are critical issues in defining impairment. If, in spite of an observation or test results, the medical evidence is insufficient to support the impairment, the physician can modify the rating accordingly, clearly explaining the reasons for the modifications as part of the calculation. For the spine, if after repeating the tests the results remain inconsistent, they must be discarded. Section 15.8c Principles, p. 399.

It is not always appropriate to combine all impairment standards resulting from a single injury, since two or more impairments may have duplicative effect on the function of the injured body part or body system. The AMA Guides provides direction on what impairments can be used in combination.

Physician must have good understanding of pathomechanics and apply proper judgment to avoid duplication of impairment ratings.

If the *Guides* provide more than one method to rate a particular impairment or condition that is properly supported by medical findings, the method producing the higher rating must be used.

Subjective complaints alone are generally not ratable under the *Guides* (see Chapter 18, for potential exceptions).

In California, a formal pain assessment is not required but a description of how the pain impacts activities of daily living will serve to support the validity of the additional impairment.

Since pain is an add-on to a regional or body system impairment, it should be addressed separately from the conventional rating.

California Impairment-to-Disability Ratings Using the AMA Guides 5th Edition (cont)

2005 Permanent Disability Rating Schedule (05PDRS) page 1-12: The Maximum allowance for pain resulting from a single injury is 03% WP regardless of the number of impairments resulting from the injury. When multiple impairments are present, physician can assign the entire 03% WP to one body region or divide it among all. The major consideration should be the excessive impact of pain on activities of daily living. **However, without a conventional WPI rating greater than 'zero', a 03% WPI based only on Chapter 18 criteria, is not ratable.**

An example would be to assign a 01% to 03% WP to any of the three spinal DRE I Categories.

Excess pain in the context of a verifiable ratable condition can merit a 01 to 03 WP Impairment add-on. If the conventional rating appears to adequately encompass the pain, leave the impairment rating as calculated. But, "if the individual appears to have pain-related impairment that has increased the burden of his/her condition the examiner may award an impairment add-on of up to 03%." AMA Guides p. 573 of errata.

When there is excess pain in the context of a verifiable medical condition, the evaluating physician may increase the conventional impairment by up to 03%, including those addressed under the spinal DRE Categories.

Ratings (By Analogy) or ratings for an unscheduled condition require equivalent objective factors to a scheduled condition found in the AMA Guides: Require Comparable measurable objective clinical impairment factors. - Section 1.5, AMA Guides 5th Edition, p. 10)

Example: Worker with a Non-Surgical Carpal Tunnel Diagnosis (CTS) has positive nerve conduction studies and symptoms affecting activities of daily living. It can justify up to 05 Upper Extremity Impairment Rating. AMA Guides, 5th Section 16.5d, pg. 495

Example: Out of a possible 10% UE Impairment, evaluating physician gives 08 UE Impairment rating for an acromial resection based on analogy to distal clavicle resection and similarity of post-operative impact on Activities of Daily Living (ADL's). AMA Guides, 5th Section 16.7b, pg. 506

Blackledge, pgs. 01, 07 & 09: *"Among other things, to constitute substantial evidence regarding WPI a physician's opinion must comport with the AMA Guides. "The physician's role is to assess the injured employee's whole person impairment percentage(s) by a report that sets forth facts and reasoning to support its conclusions and that comport with the AMA Guides and case law. (See AMA Guides, § 2.6, at pp. 21-22*

Almaraz-Guzman-1, (pg. 48), Almaraz-Guzman-2 (pg. 27), Guzman-3, (pg. 24): *"Our decision does not permit physicians (1) to deviate from [the AMA Guides] simply to achieve a more desirable result; (2) the reasons for such a deviation must be fully explained and the alternative methodology set forth in sufficient detail so as to allow a proper evaluation of its soundness and accuracy; and (3) within the report, an evaluating physician is expected to provide a full medical evaluation, analysis of the medical findings with respect to the patient's life activities, comparing the results of the analysis with the impairment criteria." "Failure to follow all of the instructions in the first two chapters could result in useless evidence, inadequate diagnostic reasoning, and inaccurate and inconsistent ratings. (AG-3, pg. 20)"*

Craig Andrew Lange & Luis Pérez-Cordero - Tuesday, January 8, 2019 (Revised)

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