

Work Capacity Functional Loss - Brain And Nervous System – Disability # 1. -

Evaluation of Industrial Disability (Packard Thurber, MD)- 8 CCR 46/9725: Physician must report measurable physical elements of disability in accordance with the standard method as described in the book. (Page 61 and Instruction IV on pages 10 &11.)

Brain and Nervous System impairments: Head injuries residuals, including headaches, the medical report should: include a complete description of precipitating circumstances, frequency, duration and intensity of such factors as vertigo, impairment of memory, impairment of concentration, headaches, fatigability, nervousness, and irritability, together with the means necessary for relief.

Functional Loss due to Brain and Nervous System impairments can be reported with an indication of the degree of severity [level/magnitude] as defined by 8 CCR 9727.

Descriptions of disability must demonstrate an understanding of the magnitude criteria for pain, how the pain affects performance/ability to work, rather than how severely the injured worker perceives the symptoms. This fundamental principle must be applied in the description of any type of subjective residuals be they neuromusculoskeletal or due to brain and nervous system impairment [neuro-psycho-physiological].

The Schedule allows the use of Multiple Indexes of Disability to address the impairment manifestations of an industrial injury. The fundamental rule is that they are never aggregated or combined and, ultimately, the index producing the greater rating is used.

In cases in which disability is described as both a 'weighed impairment based on The 8 Work Functions' or as a weighted degree of severity, only the index producing the greater rating is used.

0	03	05	08	10	13	15	20	25	30	35	40	45	50	55	60	65	70	75	80	85	90	95	100
Cognitive Disorders				↑	↓ Slight				Moderate ↓				↑	Severe ↓				Pronounced ↓					

Are considered organic mental disorders such as delirium, dementia, amnesia or other similar disorders.

Epilepsy	↑	↓ Slight				Slight-to-Moderate ↓				↑	Moderate ↓				Severe ↓			
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Consideration should be given to: frequency, type and severity of episodes, frequency and duration of loss of consciousness; extent of mental impairment; type and severity of other symptoms; presence or absence of aura; effect of medication in controlling seizures; prognosis.

Headaches	↑	↑				↑	↑				↑	↑				↑
	↓ Slight				↓ Moderate				Severe ↓				Pronounced ↓			

Paralysis	↓ Slight				Moderate ↓				Severe ↓			
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Post-Traumatic Head Syndrome	↑	↓ Slight				Moderate ↓				Severe ↓			
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May include the following factors: vertigo, impairment of memory, impairment of concentration, headaches, fatigability, nervousness, irritability, and cognitive disorders.

Vertigo	↓ Slight	↑	↑	Moderate ↓				Severe ↓			
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Stand Alone Analogies: ↓ No Emotional Stress (10% Add-on to a Work Capacity Guideline)¹

↓ No Prolonged/Excessive Stress ↓ No Driving, Working Near Machinery Or Heavy Equipment.

↓ No Undue Emotional Stress (05%-Add-On to a Work Capacity Guideline- Before Modification)

¹ Schedule Page 2-12 Note 30 – Defines Restrictions Involving Emotional Stress

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Determining a Rating Standard for Disability # 1.4

Pages 2-3 of The Rating Schedule: Combined Weighted Values are rounded off to the nearest whole number and the Standard Ratings must be one of the following 1, 2, 3, 5, 8, and 10, 13, 15, and thereafter to multiples of 5.

For example: 17.49 is rounded to 15 and 17.5 is rounded to 20.

Evaluation Guidelines 8 CCR 43 (9726)

↓	↓	↓	↓	↓	↓ Weighted Values of The 8 Work Functions				↓	↓	↓	↓
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Health & Safety – California Department of Motor Vehicles

<http://www.dmv.ca.gov/pubs/hdbk/pgs79thru81healthandsafety.htm#pmconditions>

PHYSICAL AND MENTAL CONDITIONS PHYSICIANS ARE REQUIRED TO REPORT

Health and Safety Code Section 103900 requires physicians and surgeons to report patients at least 14 years of age who are diagnosed as having a lapses of consciousness or dementia (mental disorders) conditions or related disorders. Although not required by law, physicians may report any other condition when they believe a patient cannot drive safely because of a medical condition.

Labor Code Section § 139.2 & California Code of Regulations 8 CCR 43 (8 CCR 9726) IMC 43

The Impairment levels for the 8 Work Functions as outlined by 8 CCR 43/9726 need to have a correlation to the clinical findings beyond an unbalanced listing of non-correlated test-findings, unsupported complaints, assertions of disability or an unexplained assignment of a 'severity' disability level. (Rating Schedule Page 2-2, notes 1,2, 3, and, Page 2-3, notes 1,2,3.)

In the same manner in which Rating Standards for subjective factors of disability cannot be based only on the patient's complaints or assertions of disability, neither can the supportive data for the validation of "Work Function Impairments" be only the injured worker's complaints or be based upon patient portrayal of behavior. The medical history, the medical records and findings at the time of examination [the physical objective/neurological findings, standardized psychological testing] must clearly support the reasons of the physician's determination of residual psychiatric disability. Support for the 8 Work Functions must take into consideration the duplication & overlapping of factors of disability when the psychological problems are due to 'physical pain' due to orthopedic problems' and the 'orthopedist' cannot find a relationship of the reported pain to underlying pathological processes.'

Great caution must be exerted to avoid 'medicalizing' problems that are not medical, or to indicate any mental dysfunction or neuro-psycho-physiological impairment, where none really exists. Caution must be taken not to artificially create impairment by taking everyday human behavior and problems into the realm of neuro-psycho-physiological disorders and/or medical jurisdiction by merely giving them the proper label and code.

'Everyday behaviors', 'responses to life experiences', or 'normal' physical, congenital or educational inability should not become the only foundation or support for neuro-physio-psychological impairments.