

# Malingering in Pain Management

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## General Principles

- Treating physician vs IME physician
- Subjective history is not fact
- With injury history, get records of initial treatment (ambulance, ER, etc).
- If delayed recovery, evaluate disincentives for recovery
- RTW often is less related to physical pathology and more work issues
- Review all records (if possible)

## Malingering (AADEP Position Paper)

- The gross volitional exaggeration or fabrication of symptoms/dysfunction for the purpose of obtaining substantial material gain or avoiding or escaping formal duty or responsibility.

## DSM IV TR: Malingering

- “The intentional production of false or grossly exaggerated physical or psychological sx’s, motivated by external incentives such as avoiding military duty, avoiding work, obtaining financial compensation, or obtaining drugs...”

## DSM-IV-TR Criteria for Malingering

- Medical/legal context (ref by attorney)
- Marked discrepancy between claimed disability and objective findings (R/O factitious disorder, somatization disorder, conversion disorder, and pain disorder associated with psychological findings)
- Lack of cooperation with testing or rx
- Antisocial personality disorder

## DSM-IV-TR- Malingering

- Probable malingering exists when 2 or more of the 4 criteria are met. However, other emotional disorders can be mistaken for malingering.
- Rogers-Critical of DSM-IV and found that use of 2 or more of the DSM-IV indicators of malingering correctly classified only 2/3 of malingerers

## DSM-IV-TR: Malingering (cont)

- Rogers-For every malingerer who was correctly classified, 4 actual claimants were misclassified. Malingering most likely to occur when "1. Context of evaluation is perceived as adversarial, 2. Personal stakes are very high, and 3. No other alternatives appear to be viable."

## Malingering (AADEP Position Paper)

- Incidence very variable from 1% (Keiser, 1968) to > 50% (Miller and Cartlidge, 1972)
- Amer Bd of Clin. Neuropsychology (Mittenberg et al. 2002) respondents noted probable malingering in 29% of personal injury cases presented, 30% of disability cases, 19 % of criminal cases, and 8% of medical cases.

## Malingering-2(AADEP Position Paper)

- Incidence of suspected malingering in the mild head injury population was 39%
- Binder et al(1993) reported the incidence of suspected malingering to be 27% in a population of patients with mild head injury.
- Rogers(1992) found 20-60% of the patients with mild head injury and financial incentives had improbably poor performances.

## Malingering-3 (AADEP Position Paper)

- Youngjohn( 1991)-Malingering as high as 47% in a WC group.
- It is often difficult to distinguish between "true" malingering and interference from other extraneous factors that can lead to sub-optimal performance...Moreover, it is very difficult to establish a threshold at which exaggeration or response bias reaches the proportion of malingering.

## Guidelines for Malingering (AADEP Position Paper)

- 1. Improbably poor performance on 2 or > neuropsychological measures
- 2. Total disability in a major social role
- 3. contradiction between collateral sources
- 4. claims of remote memory loss

Griffenstein et al (1994)

## Categories of Malingering-1(AADEP Position Paper)

- Fabrication- a patient with no impairment or symptoms fraudulently responds that he/she does
- Exaggeration- a patient with symptoms or impairment caused by the injury represents them to be worse than they are

Miller(2001)

## Categories of Malingering-2 (AADEP Position Paper)

- 3.Extension- patient with symptoms or impairment from an injury falsely reports that they have continued unabated when in fact they have significantly improved or resolved
- 4.Misattribution-patient with symptoms or impairment that may have preceded or post-dated the accident and are unrelated to it fraudulently attributes them to the injury

## Suspicion of Malingering (AADEP Position Paper)

- “Although the threshold for suspicion of malingering should be low on all settings, the threshold for its diagnosis should be high, particularly in view of potential judicial impact in forensic cases”

Gerson(2002)

# Importance of claimant's credibility (AADEP Position Paper)

- Considering that the base rate of malingering or significant symptom distortion appears to be somewhere between 20% and 40% in litigating and benefit-seeking claimants and the fact that chronic pain, PTSD, psychiatric disorders, and neuropsychological disorders are predominantly self-report syndromes, determining the credibility of the examinee is a paramount issue

## MALINGERING: Case Studies

