

<p>IPECAC Method</p> <p>I – Issue (Is there any percentage of permanent disability attributable to factors other than the industrial injury?) If yes, go to the next step.</p> <p>P – Premise (what is the physician's premise for apportionment to non-industrial factors?)(e.g., obesity causes knee problems – epidemiologic risk factor)</p> <p>E – Erudition, or knowledge acquired through study and reading, and Evidence. This is a requirement of the new paradigm of "evidence-based medicine" (EBM). Anything less is anecdotal and likely the "ipse dixit" logical fallacy</p> <p>C – Causal relationship/weighing of counter evidence: Even if there is EBM to support the premise, is there evidence that does not support the premise? In other words, does the EBM show cause and effect or simply correlation? If not dispositive of the issue, proceed to the next step (do studies show that all obese people have knee problems? Or that if bones are malaligned, obesity then causes problems?)</p> <p>A- Application or Analysis: how does this relate to the facts of this case and this injured worker? Connect all the dots! ("This IW has obesity and malaligned bones")</p> <p>C- Conclusion re: causation. Is the conclusion logically derived from the premise, the erudition and evidence, the weighing of causes and counter evidence, and the facts of the instant case? If not, examine further for logical fallacies, contrary studies, and legal attacks based on case law, other laws such as FEHA, concepts of fairness, Labor Code §3202, etc. and the like.</p>	<p>IPECAC for analyzing apportionment:</p> <p>Issue Premise Erudition & Evidence Causal Relationship & Counter Argument Application & Analysis Conclusion re: Causation</p> <p>Common Logical Fallacies Found in Forensic Reports:</p> <p>"Ipse Dixit" Latin for "he himself said it."</p> <p>Non Causa Pro Causa: Latin for "Non-cause for cause." Alias: False Cause</p> <p>"Mistakes about type-level causation are the result of confusing correlation with causation. Two types of event may occur simultaneously, or one type always following the other type, without there being a causal relation between them. One common source of non-causal correlations between two event-types is when both are effects of a third type of event." http://www.fallacyfiles.org/noncause.html</p> <p>"Cum Hoc, Ergo Propter Hoc" is the fallacy committed when one jumps to a conclusion about causation based on a correlation between two events, or types of event, which occur simultaneously. In order to avoid this fallacy, one needs to rule out other possible explanations for the correlation. http://www.fallacyfiles.org/cumhocfa.html</p> <p>"Red Herring" - A logical fallacy in which the premise is logically unrelated to the conclusion: may be at play when one physician uses another's apportionment even though the disorders are not the same and "other factors" are not the same (e.g., psychiatrist apportioning psychiatric PD by using orthopedist's percentages)</p>
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Questions to Ask Physicians

<p>To refute apportionment to preexisting, asymptomatic pathology, inquire along these lines:</p> <p>How and why does the pathology described result in X% of IW's permanent disability at the time of his evaluation?</p> <p>As to "pathology," on what evidence do you rely that there was pathology pre-existing the industrial injury or occurring due to non-industrial factors after that injury?</p> <p>What specific scientific studies or literature are you relying on?</p> <p>You have referred to epidemiologic studies as showing that X can cause Y, but can you say with reasonable medical probability in this case that X caused Y?</p> <p>Did the industrial injury light up the underlying asymptomatic degenerative disc disease to make IW symptomatic?</p> <p>If he wouldn't have any disability but for the work injury, why isn't a hundred percent of the permanent disability due to the work injury?</p>	<p>"But for" and Effect of Trauma:</p> <p>"Could you say with reasonable medical probability that IW would have had any disability absent the industrial injuries he sustained while working for EMPLOYER?" OR "In the absence of the industrial injuries, can you say with reasonable medical probability that IW would have symptomatic and disabling arthritis in his knees?" OR "If IW had not broken his right ankle in 1998 and spent the last eight years walking in an altered gait, could you say with reasonable medical probability that he would nonetheless have permanent disability in his right knee and the ankles?"</p> <p>"Lighting Up" of non-industrial, non-disabling, asymptomatic condition:</p> <p>"Did [the trauma][his continuing to work] cause a non-industrial condition to be "lit up?" If so, would the non-industrial injury otherwise have remained asymptomatic and non-disabling? Was there an aggravation or acceleration of non-industrial conditions?"</p> <p>Contralateral limb: Is there equal permanent disability in the uninjured limb? If apportioning to pre-existing asymptomatic pathology, would it not also affect the other limb?</p>
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The *Escobedo* board recited some rules for the substantial evidence requirement: "a medical opinion must be framed in terms of reasonable medical probability, it must not be speculative, it must be based on pertinent facts and on an adequate examination and history, and it must set forth reasoning in support of its conclusions."

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