Fitness-For-Duty (FFD)
What We’re Going to Talk About

• Definition of FFD
• The aging workforce
• Presenteeism
• Triggers for FFD exams
• FFD/Return-to-work policies/forms/job descriptions
• “Pitfalls” of treating physicians’ evaluations
• Benefits of utilizing occupational medicine specialists & corporate medical directors/consultants
• FFD “Don’ts”
• Conclusions
• Case studies
• Questions and Answers
Fitness-For-Duty: What Does It Mean?

Fitness-for-duty means that an individual is in a physical, mental, and emotional state which enables the employee to perform the essential tasks of his or her work assignment in a manner which does NOT threaten the safety or health of oneself, co-workers, property, or the public at large.
Challenges of an Aging Workforce

• 39.6 million people are 65+ in the U.S.
  – 12.9% of U.S. Population (U.S. Administration on Aging, 2009)

• Estimated that 72.1 million people or 19% of U.S. population will be 65+ by 2030

• Many individuals continue working after age 65 for various reasons:
  – Monetary
  – Social

• 70 to 75% of Americans expect to work after “retirement” (UNC Institute on Aging)

• With deteriorating economic conditions 45% of Americans believe they will retire at a later age than they originally expected (UNC Institute on Aging)
Aging of the Workforce

Projected percentage change in labor force by age, 2006-2016

- 75 and older: 84.3%
- 65 to 74: 83.4%
- 55 to 64: 36.5%
- 25 to 54: 2.4%
- 16 to 24: -6.9%

Source: U.S. Bureau of Labor Statistics
A Word About “Presenteeism”

• Employee is working but due to a health problem is less productive
• Often goes unnoticed because employee is not absent
• Difficult to measure decreased productivity
• May be result of
  – Stress
  – Illness (e.g. headache, diabetes, asthma)
  – Medications
  – Substance abuse
  – Mental illness (e.g. depression, anxiety)
  – Family issues
Cost of Presenteeism

- The economic impact based on loss of worker productivity has been estimated to cost more than $\textbf{150 billion per year} in the United States.

- Costs for presenteeism are estimated at about \textbf{60 percent} of the total cost of worker illness.

*Presenteeism: A Public Health Hazard*

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Presenteeism and Safety

A 2012 study from NIOSH showed that workers with access to paid sick leave were 28% less likely overall to suffer nonfatal injuries than workers without access to paid sick leave*

Medical Exams May Trigger FFD Concerns

- Pre-placement exams
- Return-to-work exams (FMLA, STD, LTD, WC injury/illness)
- Medical surveillance exams
- DOT exams
- Respirator clearance exams
The Employee Might Raise FFD Concerns

- Employee factors:
  - May be minimizing health problems
  - May be exaggerating health problems
  - May be seeking excessive sick-leave or unpaid leave
  - May be trying to return-to-work too quickly
  - Excessive number of errors in job tasks
  - Reduced productivity
  - Frequent injuries or near-misses
The **Employer** Might Raise FFD Concerns

- **Employer factors:**
  - Desire to minimize health risk to employee and company liability
  - Desire to maintain safety of co-workers
  - Consideration for public safety
  - Clarify poor job performance vs. a legitimate health issue
Fitness-for-Duty: Intersection with ADA and FMLA
Fitness-For-Duty/Return-to-Work Policy

- A FFD policy is not prohibited under FMLA, ADA, and EEOC
- Must be uniformly applied (non-discriminatory)
- Must be based on a specific job description with essential functions
- The policy should provide a FFD/RTW clearance form
- The policy should be easily accessible to employees and managers
- Managers/supervisors should be trained in FFD policy
Fitness-For-Duty/Return-to-Work Policy--Continued

• Under the FMLA:
  – A health care provider can seek clarification of FFD
  – Must have the employee’s written consent
  – Can delay return-to-work until an employee submits a required fitness-for-duty form.
  – Employee may bear the expense of evaluation & tests needed to establish FFD

• All requests and reports must be limited to the condition that caused the absence or disability – No Fishing Expeditions!
Pitfalls of FFD Evaluations by “Treating Physicians”

- The employee is the treating physician’s “customer”
- The treating physician is the employee’s “advocate”
- The treating physician is unfamiliar with the company and with the job
- The treating physician may be given inaccurate information about the job by the employee
- The treating physician usually does not know what work accommodations are possible
Advantages of FFD Evaluations by Occupational Medicine Physicians

- More knowledgeable about the work environment
- More likely to give an impartial opinion about FFD or RTW capabilities
- Better able to make specific recommendations for job accommodations
- More willing to review job descriptions and contact employers for more information
Utilizing a Corporate Medical Consultant or Medical Director

• Oversees the FFD/RTW process and gives final approval to outside medical recommendations
• Understands the company and the employee’s specific job assignment
• Assists with determination of appropriate job accommodations
• Able to consider both the best interests of the company and of the employee (win-win scenario)
• Able to contact the treating physician to clarify medical issues (once employee has signed a medical release)
Utilizing a Corporate Medical Consultant or Medical Director

--Continued

- Must be familiar with the Company
  - Facility walk-throughs
  - Knowledge of job classifications and potential accommodations
  - Familiarity with key company contacts (e.g. HR, safety, legal)
  - Knowledge of historical company information on injuries/illnesses

- Must be familiar with the workforce
  - Union vs. non-union environment
  - Older vs. younger workforce
  - Specific job performance issues or ongoing medical concerns
  - Recent hiring vs. layoffs

- Must maintain confidentiality of medical information where required by ethics or law (e.g. HIPPA)
Complicated FFD Cases

- About 5% of cases
- Involve the occupational medical consultant to drive the process
  - Communication with all parties
  - Written documentation
  - Reasonable accommodation
  - Suggest additional consultations or tests (e.g. 2nd opinion, functional capacity evaluation)

- Document, document, document!
  - Lawyers & lawsuits
The FFD Medical Form

- Concise and easy to complete
- Specific to type of work and essential physical or mental job requirements
- Include:
  - Instructions to the provider for completing the form
  - Employer contact information and contact person
  - Specific work recommendations only (No Diagnoses)
- Distribute FFD form to those who “need-to-know” (e.g. HR, safety, manager or supervisor)
Fitness-for-Duty: Requires a Multi-Disciplinary Team

- Treating physician
- Corporate occupational medical consultant
- HR
- EHS
- Legal
- Supervisor
- Risk Management
Can You Accommodate?

Is there another way to do the job?

Software

Reach

Squat

Sit

Ergonomics
Fitness-for-duty “Don’ts”

- Apply FFD policy inconsistently
- Have non-healthcare professionals seek employee medical information
- Materially change the job in order to accommodate
- Use FFD evaluations punitively
- Use FFD evaluations as a substitute for taking appropriate action for poor job performance
Conclusions

- Match the employees physical and mental capabilities to the essential job functions
- Accommodate when possible
- Have a written FFD policy
- Maintain updated and accurate job descriptions
- Use standardized FFD forms
- Maintain confidentiality of employee medical information
- Partner with an occupational medical consultant to assist in difficult cases
FFD Case #1

- A 56 year old male works in the control room of a recovery boiler at a paper mill. His co-workers have noticed several times in the past month that he has fallen asleep while sitting in front of his computer screens. Before waking him up, they noticed that he was snoring. His height is 6 feet and his weight is 350 pounds. There were no problems with operation of the boiler during these brief incidents, but his coworkers and supervisor are concerned that a catastrophic incident could occur in the future.

- Is this a job performance issue?
- Is this a fitness-for-duty problem?
- Is it correctable?
- What are the next steps?
FFD Case #2

- A 65 year old female works as an assembler of laboratory testing equipment for a healthcare diagnostics company. Her supervisor has noted over the past year that she is working at a slower pace, makes more mistakes with the equipment assembly, and seems to have difficulty remembering instructions when changes are made to the assembly process. She has shared with coworkers that she has some chronic medical problems and takes several medications.
- Is this a job performance issue?
- Is this a fitness-for-duty problem?
- Is it correctable?
- What are the next steps?
FFD Case #3

- 49 year old male with bipolar disorder (multiple hospitalizations), and a history of alcohol and substance abuse
- Previously worked on a safety sensitive job on an off-shore oil rig
- Applied for and received disability retirement in 2011
- In 2013 he applied to be reinstated to the same job
- A note from his treating psychiatrist cleared him to RTW to the same safety sensitive position
- Current psychiatric medications: Seroquel; Lexapro; Lamictal; and Zyprexa
  - Is he fit-for-duty?
  - What are the next steps?
FFD Case #4

- A 31 year old male works as a field services technician for a hazardous waste disposal company. He is a known insulin dependent diabetic. Within the last 3 months, he has had 4 episodes of low blood sugar (hypoglycemia) in which he became sweaty, weak, disoriented, and combative. Paramedics had to be called each time to administer glucose and transport him to the local hospital.
  - Is he fit-for-duty?
  - What are the next steps?
Questions?
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