

Thoughts on Long- Term Medical Disability

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The question of long-term medical disability is frequently not straightforward.

At the extremes, there can be little doubt over disability.

For example, a double arm amputee
is disabled long-term from a former
career as a concert pianist

Or, a research physicist is disabled
long-term by the end stages of
Alzheimer's disease.

However, it is those areas of medicine
where objective medical evidence is
slim and where reliance has to be had
on individual subjective accounts
where the main difficulty lies.

Back pain is a good example of a physical condition where the determination of disability is difficult.

Mental illnesses are not diagnosable by
objective, scientific laboratory or
radiological tests.

A complicating factor is that of gain arising out of the disability, either material or psychological.

The “sick role” can also have social rewards such as evasion of responsibility.

Of course, the degree of illness has to be matched to the role from which one is disabled.

In psychiatry, phenomena such as cognitive decline, social decline, thought disorder, frank delusions and hallucinations, lack of motivation and catatonia would have a high probability of causing disability from a wide range of occupations particularly those with a high intellectual content.

Other psychiatric phenomena such as mild to moderate depression or anxiety are far less clear cut and open to abuse.

Traditionally, one of the tenets of psychiatric practice is that the patient presenting for treatment or help or brought for help by family is assumed to be telling the truth.

In medico-legal matters, this basic assumption is often not justified.

It is probably not an exaggeration to say that the majority of people, in a situation where some exaggeration of their symptoms will lead to a material gain, will not resist the temptation.

Many so-called disabilities on the basis of mental condition such as anxiety and depression arise out of situations of conflict within the workplace or are the culmination of years of resentment towards employers.

The question arises whether symptoms presented as causing disability would be managed and accepted, if, for financial reasons, the previous occupation had to be continued.

Another question is, if the symptoms are genuine, what degree of discomfort should the independent examiner regard as reasonable for the subject to endure if, indeed, a return to work would likely cause a recurrence of symptoms eg anxiety.

If the subjects really wanted to return to work, would they not “move heaven and earth” to obtain the best of treatments to facilitate this.

In many cases of so-called disability due to anxiety/depression, very little treatment has been sought.

In the absence of serious efforts to obtain treatment, can the individual be regarded as truly disabled?

Even with a history of treatments, there is no guarantee that the individual is not choosing a more relaxed lifestyle now facilitated through a finding of disability

It is possible to conclude that those individuals able to conduct full-time activities such as being a house-wife or house-husband with busy domestic and social lives are equally capable of performing their former profession.

The standard complaints used to justify the impossibility of a return to work include:

- Inability to concentrate
- “Too tired”
- No motivation
- Feeling of panic/anxiety “even when I go near the place....”
- A “lack of confidence in my abilities”

Possible indications that individuals may not be disabled by reason of mental illness:

- No long-term psychotic illness
- Symptoms of anxiety/depression relatively mild
- No history of psychiatric hospitalisation
- No attendance at a Consultant Psychiatrist

- No findings on mental state examination
- Ability to function domestically and socially
- Large financial incentive to be found disabled with respect to payment and savings on child-minding
- Thrusting forward of symptoms at mental state examination
- Inconsistency of symptoms
- Symptoms inconsistent with current activities
- Irritation with questioner's pursuit of symptoms and their details
- Theatricality during the mental state examination such as excessive sighing or holding of head
- Scoring in the Probably Feigning Ranges of the SIRS
- Fierce resentment of employers or a supervisor with whom previous interpersonal conflict has occurred

Possible indicators of disability on
mental health grounds:

- Significant long-term psychotic illness
- Significant negative symptoms, lack of motivation and social withdrawal
- History of hospitalisations and long history of treatment in the public psychiatric services
- Scoring in honest range in SIRs

Similar to a decision on mental capacity in other domains, the individual must be assumed to be of occupational mental capacity.

The burden of proof should, therefore, be on the individual to show in detail how the illness causes the disability. Mere “I would crack up if I went back to that place” statements should not be sufficient.

In summary, mental conditions are easily feigned or their symptoms exaggerated, in particular when dealing in the realm of anxiety/depression in the context of material gain. The independent psychiatrist has to tease out the relative contribution of “won’t” and “can’t”.