



Fall 2014

The Pennsylvania Association of Rehabilitation Professionals

PARP News

A Chapter of the International Association of Professionals

President's Notes:

Welcome to the Pennsylvania Chapter of the International Association of Rehabilitation Professionals (PARP) Fall 2014 season. I want to thank everyone for their support and membership in our chapter. We are looking forward to another busy and successful program schedule. Next month we are holding our first program: the Fall Philadelphia Breakfast Seminar on Friday October 3, 2014. More details are listed later in this newsletter and a registration form is on the back page. We have also been invited back to Harmarville to hold a full-day conference in the Pittsburgh area. We will do this event next spring and will announce a specific date next month. We welcome member's contributions in writing articles for our newsletter, referring or being a speaker at our seminars and conferences, or joining the Board of Directors. Our current board membership represents a diverse professional and geographic mix. We can accept as many as three new members to our board, so please consider the rewarding task of service to your chapter. If you have an interest in participating or contributing in any of these areas please contact me : m.a.schmidt@comcast.net or our Past-President, John Czarick at czarickj@aol.com.

I hope I can meet most of the nearly 100 members of our chapter during the next ten months. For now, please enjoy the articles in this newsletter from two of our board members and please plan to attend our first seminar on October 3, 2014.

Mitch Schmidt, President,
PA Chapter of International Association of
Rehabilitation Professionals

REVIEW & COMMENTS on JAMES REICHERT VS.WCAB (DOLLAR TREE STORES) -PA Commonwealth Court: by Roy Patton & Victor Alberigi



In the recent past, many vocational experts assumed that an essential task of their assignment was to be diligent and thorough in investigating whether or not there exists the potential of modified-duty return to work at the time of injury (TOI) employer. A typical practice prior to initiating a labor market survey was obtaining written verification in the form of a letter or other recognized written form. Return of such a letter or form was presumed to be sufficient to address the issue of no modified-

duty work being available for the injured worker (IW) to return to with the TOI employer. The TOI employer was more likely not to have available work if the IW only has sedentary to light- duty restrictions and their pre-injury position was performed at medium or heavy-duty physical demand levels.

In the case of Reichert vs. Dollar Trees Stores, Inc., the Dollar Tree regional manager was able to credibly defend that his company has no light-duty work available. Furthermore, the only sedentary to light-duty office work is done by the managers and this activity was performed only about a half-hour of work per day. The rest of the store jobs are all at medium-duty, or more, physical range with constant stand/walk throughout the 8-hour work shift. A vocational expert working on behalf of the injured worker presented evidence that Dollar Tree Stores had been recruiting for employment on their web site, but this was after a petition for modification had already been filed by the defendant. In rendering its decision; the court noted: "there is no authority to support the claimant's

Continued on Page 2...

Continued from page 1...

assertion that the employer's vocational expert should be required to contact an employer about whether or not they an open and available position at its store prior to beginning to conduct the Labor Market Survey." The court also concluded that the Labor Market Survey conducted by the employer's vocational expert was valid and proper.

Despite the ruling made by the judges in the Reichert vs. Dollar Tree Stores, Inc. case, it is the opinion of this vocational expert that the modified-duty or alternative return to work issue needs to be thoroughly investigated before the labor market survey is completed. In many of the Act 57 Labor Market Survey cases performed by this vocational expert, the W.C. judge requests this written verification of no modified-duty work being available, prior to considering the labor market survey results. If this task was not completed, then the W.C. judge may find the labor market survey null and void. It is possible that a referral source or representative of the insured employer is not a recognized authority to verify that no such work is available. Even an email

from the TOI employer to the adjuster reporting that no such work is available is not sufficient. The vocational expert should contact the TOI employer directly.

The preferred process is to mail or email a letter to the TOI appropriate modified work contact person (HR Manager, Plant Manager, etc.) and attach the IW's restrictions (usually the physical capabilities chart issued with the LIBC form 757; "Notice of Ability to Return to Work"). The vocational expert then requests return of some written statement that would be evidence the TOI employer cannot offer work to their injured employee at the present time or into the foreseeable future. Once this form is received, then the VRC can feel comfortable in proceeding with a labor market survey in the case to determine the IW's residual earning capacity. If, in the future, the vocational expert would be called to testify on this issue they can rely on this documentation from the TOI employer to defend his/her investigation into this modified-duty RTW matter.

Review of Proposed Occupational Requirements Survey by Victor Alberigi The Department of Labor, [DOL], recently submitted the Bureau of Labor Statistics, [BLS], and "Occupational Requirements Survey for public review / comment.

Input is sought concerning comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including

through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Vocational Rehabilitation Counselors use such data in several venues, to include: SSD testimony; Personal Injury, Matrimonial Law & other wage loss cases and in assisting clients in job placement. Interested parties are encouraged to review pertinent information and submit comments. Additional information may be obtained from OSHA.

OSHA maintains an informational Web page for each NRTL, including MET, which details the NRTL's scope of recognition. These pages are available from the OSHA Web site at <http://www.osha.gov/dts/otpca/nrtl/index.html>.

SAVE THE DATES!

Philadelphia Conference-Friday, October 3, 2014

Concussions: Current Trends for Cognitive Therapy, Vestibular Therapy and Occupational Therapy

- Presenters are the therapeutic staff members of the Jefferson Comprehensive Concussion Center of Philadelphia
- Educational Program applied for 2 CEU credits (CC, CCM, CDMS).
- 9:00-11:00am – Breakfast Served
- Cost \$30.00 non-PARP member; \$25.00 PARP members – if pre-registered (\$ 5.00 fee added to all day of event registrants)
- Location will be Crowne Plaza Philadelphia West
4100 Presidential Blvd (just off City Line Ave and I-76 Schuylkill Exprwy)
Philadelphia, PA

Upcoming PARP and related events Spring and early Summer 2015:

2nd Annual PARP Pittsburgh HealthSouth-Harmarville Rehabilitation Center
Harmarville, PA late March or April 2014
- Exact date will be announced next month !

Philadelphia Spring Conference-Friday, April 10, 2015
Crowne Plaza Philadelphia West

PA Bureau of Workers' Compensation Annual Conference
June 1-2, 2015, Hershey, PA

NJ/PA Atlantic City Conference June 17-19, 2015 Tropicana AC



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For further information regarding membership and more, visit www.RehabPro.org

CALL FOR SPEAKERS

Have you met a physician, physical therapist, health professional, rehabilitation professional, nurse, etc., that has an interesting topic to discuss? How about your colleagues? How about yourself? Are there topics you would like to see offered for future seminars? Please voice your ideas as IARP of Pennsylvania is always looking for new ideas and ways to meet our members. Please contact John Czarick, IARP of Pennsylvania President, at czarickj@aol.com for more information.

