

Is your client a poor or unreliable historian? Oregon Provider bias study!  
Part 5 of a series.

Dr Lichtenberg Reports:

### **Why is your client a Poor Historian?**

1. For secondary or monetary gain? *Rarely*
2. Because they have a poor memory? *Possibly*
3. Because they have mental or behavioral disorders with associated psychological factors that affect everything they do? *Commonly*
4. Because their complaints were ignored or not considered claim-related by a treating provider? *Commonly*
5. **Because the treating provider failed to document properly or was biased towards the insurance company or employer?**  
*Commonly*
6. Because of neuroplastic brain changes? *Frequently*

*-In the first newsletter, we reviewed defense arguments that litigating accident patients have poor recall of their medical histories, usually under-reporting pre-existing conditions and over-reporting current symptomatology.*

*-In the second newsletter, we explored secondary gain, Waddell's signs, and symptom magnification as reasons why clients are so often considered poor medical historians, yet these are usually incorrect analyses and therefore false arguments.*

*-In the third newsletter, we explored poor memory and mental and behavioral disorders with associated psychological factors as causes of being a poor historian.*

*-In the fourth newsletter, we explored provider bias where the claimants complaints were either ignored or not considered claim-related, or the provider did not document the complaints properly or at all, or did not like the claimant, or the provider was poorly trained in causality. or the provider had insurance interference, or the provider felt financial pressure due to frequent insurance company referrals for IMEs, and the provider considered the claimants to be malingerers or only looking for compensation.*

**\*\*\*\*So now let's look at a study done by the State of Oregon in 2004 concerning Workers Compensation and Defense IMEs.**

State of Oregon Department of Consumer and Business Services  
Insurer Medical Examination Study

-Presented to: Workers' Compensation Management-Labor Advisory Committee

-This confirmed what injured workers have reported for years.

The 271-page report is nothing short of a wholesale indictment of defense IME's. 53 percent of IME practitioners admitted they're biased against workers. Replies were anonymous which improved honesty on their part.

The committee had been given information on anecdotal complaints about IME doctors and the IME process. The findings from the study validated all of the following areas of concern: IME doctor bias towards insurers, IME doctors mistreating injured workers, IME doctors did not view the actual diagnostic studies, injured workers had to travel quite far to attend IMEs, injured workers were not being adequately informed on what to expect at an IME, and that insurers attempted to influence IME doctor's medical reports.

What the IME system in Oregon looks like: Some statistics:

-The number of claims with one or more reported IMEs has been rising,  
-IME claims, as compared to non-IME claims, were 15 times as likely to have a disputed claim settlement (settlement of a denied claim).

Significant highlights from the surveys and focus groups include:

**Injured workers**

- 21% of injured workers traveled more than 100 miles one way to their IME and had difficulties covering their travel expenses.
- 60% of the respondents stated they were dissatisfied to very dissatisfied with their IME.
- 34% responded they saw their attending physician after the IME due to re-injury or increased levels of pain.

**Attending physicians**

- 32% of attending physicians stated they felt pressured by an insurer to concur with an IME report.
- 75% have received complaints from the patients regarding their IME experience

### **Claimant attorneys**

- 74% rated their clients' experience with IMEs as poor.
- The 3 greatest concerns were bias (48%), lack of practicing doctors performing IMEs (7%), and IME reports not accurately reflecting what occurred in the exam (7%)

### **Defense attorneys**

-In asking about shortcomings of the process, 16% said the exam is biased toward the insurer, 11% said doctors do not receive adequate records, and 20% indicated there were no shortcomings.

### **IME physicians**

- 85% maintained a private practice
- 22% contracted with insurance companies, including one who said they had a contractual agreement with a guaranteed minimum of IME referrals.
- 9% said they would often consult with the claims examiner before drafting the IME report. 44% said they never consult with a claims examiner prior to the report.
- 21% reported that an insurer representative has attempted to influence their IME report.

\*\*When asked about insurer bias of IME doctors, 53% said there is bias.

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Hard to believe, but the insurance companies are involved in all aspects, including pressuring IME Drs to write favorable reports.

2007: Oregon fines AIG \$5 million for mishandling claims

Friday, July 06, 2007, **The Oregonian Staff.**

[www.oregonlive.com/business/oregonian/julie\\_](http://www.oregonlive.com/business/oregonian/julie_)

Oregon regulators on Thursday imposed \$5 million in fines against a group of nine companies, all under the American International Group umbrella, for mishandling workers' compensation claims and failing to accurately report premium and claims data. The Department of Consumer & Business Services also imposed at least \$3 million in back payments to the state's workers' compensation system.

The companies had failed to pay injured workers in a timely fashion or accurately reimburse people for some medical services. AIG's inaccurate claims reporting also led to an underpayment of the assessments insurers

pay to finance the workers' compensation system, the department. AIG, the third largest provider of workers' compensation insurance in Oregon, has had an ongoing pattern of violations. The company has an average of 68 civil penalties per year for claims and coverage compliance violations in 2005 and 2006.

AIG has agreed to the fine and the conditions, the department reported. An AIG spokesman in New York said the company is pleased to have reached an agreement with Oregon regulators.

**The next newsletter in this series: a few more of the studies and reports of Biases of the Defense IME Dr.**