
Rural Forensic Vocational Rehabilitation Practice: Challenges and Opportunities for Rehabilitation Professionals

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Overview

Forensic testimony has a long history that is traced to the late 1700s in which expert witness was used in case law in the case of *Republica vs. Ross*. At the various levels of appeals, the exchange that took place is suggested to have been new in forensics (Barros-Bailey, 2014). Over time the question of whether expert testimony could be useful was no longer the focus, but what kinds of questions and hypothetical scenarios could be presented. Eventually, forensic vocational expert testimony evolved into an examination of the components of work, work environments, and individual's capabilities to perform work and earn income.

Today, the forensic vocational expert's role is solidified across multiple jurisdiction ranging from determining damages in employment law to offering opinions on the liability of action when determining whether accommodations were reasonably offered (Barros-Bailey). The forensic rehabilitation expert has numerous tools that can be used to assist the courts in determining the impact of disability upon an individual and/or his or her surviving family members (International

Association of Rehabilitation Professionals, IARP, 2016). Although the forensic vocational experts apply their skills in a variety of settings, they are to consider the context in which they provide opinions. That is, in rural settings, forensic experts must understand how to apply the particulars of rural circumstances in interpretation of evaluation and planning and rendering of opinion.

Rural forensic vocational rehabilitation practice has numerous challenges including cultural expectations, transportation, test administration, vocational recommendations, and planning. Individuals referred for forensic vocational services may not understand the reasons for the evaluation or even what is vocational rehabilitation. These individuals may be expecting to speak to a physician or a psychologist about their physical or mental problems and be unaware that the evaluation process involves aptitude and achievement testing. Individuals may travel long distances to attend vocational evaluations and be unaware of how long the evaluation process typically takes and often confuse a vocational evaluation with a psychological evaluation or a functional capacity evaluation.

Recommendations made by rehabilitation professionals for vocational rehabilitation services, education, vocational training, or return to work may conflict with an individual's view of their own academic, physical, mental, or work capabilities. If individuals are unable to return to

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their previous work or work which they value, they may find that the jobs for which they qualify conflict with their work values and temperaments. Jobs within an individual's vocational capabilities may be scarce or even unavailable in the area in which they reside, and recommendations by a vocational rehabilitation professional may have profound consequences upon an individual's lifestyle or even where they live. Being aware of these issues can help rehabilitation professionals provide objective assessments of an individual's work capabilities while also addressing an individual's strengths, deficits, and barriers to employment.

The field of forensic consists of specific terminology. A glossary of terms is provided to assist the reader in understanding the meaning of such terminology used throughout this chapter.

Learning Objectives

By the end of this chapter, the reader should be able to:

1. Understand the perspectives of rural residents who become involved in the forensic vocational rehabilitation process.
2. Recognize some of the economic, legal, social, and cultural factors rural residents face, which can be barriers to successful vocational rehabilitation and a return to work.
3. Develop a better understanding of the areas of practice of forensic vocational rehabilitation and how those services are affected by the unique challenges faced by individuals living in rural areas.

Introduction

A discussion of the unique challenges and opportunities for rural forensic vocational rehabilitation practice and ways practitioners address these challenges and opportunities are addressed in this chapter. The reality of rural residence, employment opportunities, current changes in employment, cultural and familial expectations, gender roles, and the impact of disability are discussed. This chapter should help the reader view the pro-

cess of forensic rehabilitation from the perspective of the rural residents involved with forensic vocational rehabilitation services. The authors provide the reader with an understanding of how the vocational evaluation process and vocational recommendations can affect the emotional, physical, and economic lives of individuals with disabilities, their families, and their communities.

The forensic area of practice differs from public rehabilitation practice in so far as the individuals served are involved in some form of litigation, either fact finding such as administrative law or more adversarial such as civil litigation. The focus of the forensic rehabilitation professional can vary and may be to serve as a vocational expert, perform an evaluation, or provide vocational rehabilitation services. The question is not whether a person wants to do a job, would like doing a job, or can adapt and adjust to a job. The question is whether the person can do a job. Earnings and being able to perform past work, if the person is unable to return to such, are often secondary to the consideration of whether the person is able to perform any work in the competitive labor market, as jobs are typically found and performed. In employment law cases such as those filed under the Americans with Disabilities Act such concepts as "reasonable accommodations" and "essential job functions" must be considered.

Whereas public rehabilitation is typically based on meeting an eligibility standard, forensic or proprietary rehabilitation is based on entitlement. For example, a person is entitled to Social Security Disability based on paying into the system or meeting income requirements. An employee is entitled to worker compensation by virtue of being an employee. A person injured in an automobile accident is entitled to compensation based on being injured and insurance coverage.

In forensic rehabilitation, issues such as "order of selection" and severity of disability (with the exception of Social Security Disability) are not factors to consider with regard to whether a person will receive medical, monetary, and vocational rehabilitation services. However, in forensic practice, decisions regarding eligibility for benefits

as well as the type and amount of benefit awarded may be made by judges and juries based on the results of vocational evaluations and recommendations made by rehabilitation professionals. Rehabilitation professionals should be aware of the potential effects of their conclusions and recommendations even as they strive to remain objective with regard to the assessments they perform and the recommendations they make.

Areas of Vocational Rehabilitation Forensic Practice

Rehabilitation practitioners engage with individuals with disabilities involved with claims or litigation, which involve disability and employment. There are two primary areas of law involved: administrative law and civil litigation. Social Security Disability and worker compensation are administrative systems that are designed to determine an individual's eligibility for benefits. Personal injury, employment discrimination, and wrongful death claims typically involve litigation or lawsuits brought about as the result of a tort or "a private or civil wrong or injury, other than breach of contract, for which the court will provide a remedy in the form of an action for damages" (Black's Law Dictionary, 2016). These matters are litigated in federal and civil courts.

Domestic relations cases typically involve divorce cases where there is a question regarding the ability of one or both spouses to work and earn income based upon their age, education, work history, and any physical or mental impairments. Domestic relations cases often answer similar questions regarding earnings capacity, work life, and employability that are addressed in personal injury and wrongful death claims.

Employment cases often involve wrongful termination or workplace discrimination claims. Vocational experts may be hired to testify about an individual's separation from employment and what affect that loss of employment might have on future earnings and employability. In these cases, vocational experts may be asked to evaluate whether an employee is eligible for protection under the Americans with Disabilities Act (ADA)

or the Equal Employment Opportunity Commission (EEOC) based on the nature of any physical or mental impairments or the nature of the work.

It is important to understand the specific functions of the jobs and whether they are *essential functions* or *marginal functions* of the job. Additionally, a vocational expert may be asked to evaluate what accommodations might be available to help an individual perform the functions of a job and what those accommodations might cost an employer. The expert must consider what would be a *reasonable accommodation* and the rationale behind that determination.

Although the Americans with Disabilities Act is a national law, how the provisions of the ADA are applied may be different with different employers. For example, there can be two identical jobs; both may involve driving, but the act of driving is not an essential function of the job but a marginal function. The essential function is the work to be done when the individual arrives at the destination. In an urban area where a public transportation system exists, a reasonable accommodation would be to use that system. However, in a rural area where no public transportation exists, a reasonable accommodation would be to employ a driver or to reassign job functions. Nevertheless, a jury may determine that neither of these is "reasonable" and that rather than being a marginal job function driving is actually an essential job function.

Social Security Disability

In Social Security Disability, rehabilitation counselors are often involved as consultants, contracted by the government, and as "vocational experts." As a vocational expert, or VE, typically a rehabilitation counselor is responsible for reviewing exhibits pertaining to an individual's work history, listening to the claimant's testimony regarding their past work, and classifying that individual's past work based on the *Dictionary of Occupational Titles* (DOT) in terms of skill level and level of exertion. Vocational experts appear in person, by video teleconference,

or by telephone for Social Security Disability hearing which includes an administrative law judge, the claimant, the claimant's representative (if they are represented), and a hearing reporter.

The VE then may be asked to provide opinion testimony about whether an individual might be able to return to any of the past work or alternate work based on a residual functional capacity (RFC). This residual functional capacity is composed of limitations described by the claimant or contained in the medical records, which the judge or representative feels describe the claimant's level of physical and mental functioning. The VE will offer his or her opinion on whether an individual with the limitations described by the judge or representative could return to any of the past work (as actually performed by the claimant or as typically performed in the economy) or alternate work. The VE may also be asked about what, if any, *transferable skills* an individual may have acquired from past work which might transfer to other jobs in the economy.

The definition of disability in Social Security is whether the individual has a physical and/or mental impairment that prevents the individual from being able to perform a significant number of jobs in the national economy for a person of at least 12 months or will result in death. The determination of significance is made by the administrative law judge, who presides over matters pertaining to the Social Security law. Since Social Security is a national program, the ability to get to a job, the availability of jobs in a particular region, or whether the person will actually be hired is not considered. The question for the VE is whether jobs existing in different occupational areas exist throughout the national economy based on factors presented by the judge. As an administrative process unlike a civil case, disability hearings are closed to the public. In civil litigation the public can attend although witnesses are sequestered.

A VE does not determine what a claimant's residual functional capacity is, but rather responds to questions posed about a "hypothetical" individual's ability to perform work based on specific limitations. The vocational expert should listen carefully to a claimant's testimony

regarding how the past employment was performed including the training it took to perform that work as well as the physical requirements of that work. Claimants may have performed jobs which were unique or classified by multiple job titles by the DOT or not well described by the DOT description. Since judges and representative may ask an expert about aspects of claimant testimony, vocational experts should listen carefully to the claimant's description of their impairments and how those impairments affect their ability to function.

The Social Security Disability process is intended to be an administrative process and non-adversarial. However, when claimants are represented by attorneys or non-attorney representatives, the questioning of a vocational expert can become contentious. A claimant representative or even an administrative law judge might subject a vocational expert to many specific questions regarding the classification of past employment or about other unskilled jobs which they might cite as available in the economy based on the residual functional capacity. Often these questions will regard the numbers of jobs in the economy and the sources of an expert's information. Experts rely on their education, training, and experience in the field of vocational rehabilitation on which to base opinions; however, opinions regarding the numbers of jobs in the economy and the way jobs are performed should also be based on quantitative data and current peer-reviewed research whenever possible.

In Social Security Disability cases, rehabilitation professionals will often encounter individuals from rural areas with past work experience in skilled and semiskilled work learned with little formal training or on-the-job training and experience. These jobs are often in the mining, construction, agriculture, transportation, and manufacturing industries. In determining the skill level and any transferable skills from such work, a vocational expert should consider what specific tasks an individual was performing, what licenses and certifications a claimant may have, and the length of time an individual performs a particular type of work.

If available, an examination of the Social Security earnings record may reveal the tenure of a particular job and the average hourly or weekly earnings. These data can often provide insight into the skill level of a particular job by revealing the value of that employee to the employer and in the economy in general. A vocational expert can compare the earnings of a claimant to earnings of similar workers in the areas to help determine the relative skill level of that employment.

Rural workers will often have self-employment earnings for contract labor, agricultural labor, or service labor such as mechanic work, farm labor, and housekeeping services. The share of self-employed rural workers has been growing over the last 30 years, peaking in 2007 prior to the Great Recession (Goetz, 2008; Hertz, 2016). Vocational experts should understand that reported self-employment income may be lower than similar income paid through an employer (Spizman, 2002). Additionally, work through self-employment often requires an individual to generate their own business, keep track of expenses, give estimates, and bid jobs. These aspects of self-employment indicate a level of skill and insight not typical of low-skilled work. For these reasons, a vocational expert should take note of the specific tasks performed by a worker as well as the level and consistency of the earnings generated.

Several factors need to be kept in mind with regard to Social Security Disability. It is a national program. The same standard for disability is applied for claimants in rural and urban and suburban areas. The criteria is not whether the individual can or cannot perform his or her past work or work that exists just in the person's local regional economy but can the person perform work that exists in significant numbers (determined by the judge) in the national economy. Also, getting to a job is not considered, just whether the individual can perform the work.

Worker Compensation

Worker compensation grew out of the industrial revolution in the first part of the twentieth century when individuals were being injured in

industrial accidents. At the time the common law concept of the inherent danger of work and the acceptance by the worker of the dangers and hazards in the workplace was in effect. Thus, if a worker were injured, he/she would need to prove negligence in a civil court. This was often a difficult standard to meet and prove and would be a costly and a time-consuming civil litigation process.

Worker compensation thus became a compromise between workers and employers, whereby the worker gave up the right to sue (often for large amounts if successful) for immediate medical and monetary benefits. The amount of income benefits is typically capped in worker compensation and based on state wage rates related to the general state working population or based on the industry the individual was engaged in. Also, medical benefits including treatments and medications were tied to the effect of the injury and not any other impairments the individual might have.

In civil litigation, an injured person can be compensated for pain and suffering, punitive damages, as well as loss of capacity to earn money. Pain and suffering can include quantifying physical pain and psychological damage resulting from the injury such as post-traumatic stress disorder, flashbacks, and panic attacks. Punitive damages can be a punishment for an employer knowing of a safety hazard or violation but not doing anything about it. Lost wages can be for the actual amount of lost income. In worker compensation, there are no damages awarded for pain and suffering, no punitive damages are awarded to the claimant, and wages are capped to state or industry levels. If there is a safety violation, the employer may be fined, but the injured person does not receive this as compensation.

Worker compensation claim often involves vocational rehabilitation counselors working as consultants and evaluating an individual in terms of their capacity to return to work as a part of an administrative process. Worker compensation programs are state legislature and mandated administered insurance into which employers pay premium in order to insure themselves against work injuries incurred by their employees.

Each state administers their worker compensation differently, and the standards, which determine an individual's eligibility for benefits, may be different between states. As worker compensation claims are filed when a worker is injured on the job, the claimants in these actions all have some type of work history and were working at the time they were injured.

In a worker's compensation evaluation, a vocational rehabilitation counselor will typically conduct a formal vocational evaluation including a structured interview and vocational testing. The structured interview should be designed to collect information on the claimant's background including age, education, past work, areas of residence, disability status, and subjective reports of their physical and mental functioning. Vocational testing will typically include aptitude and achievement testing as well as interest inventories, personality tests, and manual dexterity tests.

The vocational expert will also review and abstract reports concerning specific levels of physical and mental functioning from medical records. This will include records from physicians, surgeons, physical therapists, psychiatrists, psychologists, counselors, and other vocational experts. The specific type of records to be reviewed is mandated by the nature of the claim and the state law.

As in many cases, records and reports reviewed might present inconsistent opinions as to the physical and mental functioning of the claimant. The vocational expert should avoid making determinations as to the credibility or weight afforded physical or mental assessments. Instead the vocational expert should present a range of opinions consistent with the range of functioning described in the records reviewed. Similarly, a claimant may view their own physical or mental functioning differently than the way it is described in the physical and mental health records. A claimant's opinion regarding their level of functioning should always be documented in a vocational evaluation report; however, these opinions are often regarded as subjective compared with the more objective opinions of qualified physical and mental health providers.

Individuals involved in worker's compensation claims may have a wide variety of physical and mental impairments as a result of their injuries. Often in such cases, an individual will be unable to return to the type of work they performed as the time they were injured. This is often true of individuals involved in medium or heavy construction, agricultural, mining, and transportation jobs. If an individual is unable to return to their past work, the vocational expert should conduct an assessment of what alternative work might be available that the individual would be capable of performing.

Recommendations for alternate work include specific jobs, which the claimant is currently able to perform given their level of physical and mental functioning. Recommendations should also include jobs for which the claimant has transferable skills. Additionally, if vocational testing indicates that the claimant is capable of retraining for other work, recommendations should be made for retraining and return to work options. This could include retraining for alternate work through a 6-month to 1-year certificate or diploma program, 2-year technical or associate degree training, or on-the-job training and experience.

Retraining and return to work recommendations should correspond with requirements and obligations described in the worker compensation regulations of the state or commonwealth in which the claimant is covered. The concept in worker compensation is similar to other forms of insurance. That is return the individual physically, mentally, and economically to the prior level of functioning. This is not always possible, particularly when there is a permanent injury, but through retraining the individual is assisted to be able to at least function economically at a prior or similar level of functioning.

Because vocational evaluations for worker's compensation claims often involve vocational testing, the vocational rehabilitation professional will often encounter issues regarding motivation, understanding, frustration, and pain tolerance. Many rural workers evaluated for worker's compensation claims may have little formal education and training. While the educational

attainment of people living in rural areas has increased over time, it is still well below that of residents of metropolitan areas (Marré, 2016). Some individuals may have cognitive problems, learning disabilities, or difficulty with reading, writing, and arithmetic, which are a source of significant shame. Older workers with little formal education will likely have not been in a school setting for many years and be unused to the standardized tests typical in vocational testing. For individuals with pain issues, the length of time typically required for vocational testing may cause an increase in pain and discomfort throughout the evaluation.

For some claimants, the worker's compensation process may have been difficult and protracted, and they may feel they have had to "fight" for the medical treatment and financial benefits they deserve. These claimants may be wary of the vocational evaluation process and believe that it is designed to thwart their attempts to receive treatment or benefits. If a rehabilitation professional is retained by an insurance firm or an attorney representing an insurance firm, the evaluator may be viewed as an agent of those who would seek to deny them treatment or benefits.

A well-developed contract of rights and responsibilities between the evaluator and claimant should be developed to explain the purpose, nature, and scope of the vocational evaluation process. By obtaining a signed agreement regarding rights and responsibilities, the claimant will understand that they and the evaluator are under similar obligations to provide a good effort on testing and honest answers to questions posed. Such a contract establishes that the claimant entered into the vocational evaluation process with an understanding of the purpose and scope of the evaluation.

A vocational rehabilitation counselor administering vocational tests should be aware that claimants may be intimidated by the vocational testing and evaluation process. A good effort from the claimant on vocational tests administered is essential to obtaining a valid and reliable measure of that individual's levels of aptitude and achievement as well as areas of interest and personality profile. The vocational evaluator should

strive to create a friendly, open, and inviting evaluation environment.

Questions regarding the evaluation process, vocational testing, reporting of results, and recommendations should be answered in a straightforward manner. Claimants who become discouraged during the testing process should be encouraged with regard to effort. Breaks should be offered frequently, and accommodations in terms of time, scheduling, and ergonomics (such as the ability to alternate positions during testing or the provision of magnifying glasses for written material) should be made whenever possible.

Vocational testing results may underrepresent the actual academic, intellectual, and aptitudes of the individual. When appearing for the vocational evaluation, the individual may not be aware of the vocational testing and not be prepared for the testing or length of the evaluation. In addition, the individual may have been out of an academic environment for many years and not perform as well as might be expected. For example, most people use math and read at a fifth or sixth grade level for daily activities, and although they may have a high school diploma, many do not test out at a high school level if functioning on a job at that level has not been required.

While the worker compensation process is typically administrative in nature and designed to be non-adversarial, the insurance carrier and claimant are usually represented by legal counsel. Because of the nature of the worker's compensation process, there may be disputes between the claimant and the worker compensation provider as to the level of disability of the claimant, treatment required, and whether the claimant is capable of returning to past work or any work at all.

A vocational rehabilitation evaluator may be questioned in a deposition regarding the conclusions of their vocational evaluation and the basis for those conclusions. The vocational evaluator may be asked to review and critique reports from other vocational evaluators who offer differing opinions. Because the opinions of a vocational evaluator can have very specific economic consequences for a particular case, these opinions and their basis will be scrutinized in detail by an attorney and other professionals.

The vocational evaluator is best served by offering unbiased opinions based on the most current and reliable evidence available. If more information about a claimant's background, past work, or medical treatment is needed, it should be requested. Diligence in collecting accurate information and assuring valid and reliable results on vocational testing establishes a solid foundation on which their vocational opinions are offered.

As state legislated and administrated programs, the nature of the program and the benefits available are often structured based on the economic composition of the state. Differences in worker compensation systems are often based on whether a state is a rural, an agrarian, or a more industrial state. Each state has its own worker compensation law, and consequently the medical, vocational rehabilitation, retraining, and return to work benefits vary from state to state. Worker's compensation laws in a state are subject to being changed whenever the legislature meets.

Conflicts can arise when a state bases an award of benefits on a strictly "impairment of disability" model or an "occupational disability" model. In an impairment model, the judge determines the level of benefits based on the impairment of disability he or she has decided exists.

In an occupational disability model, the judge considers factors such as age, education, past work, and geographic location. In the impairment model, everyone with the same level of impairment receives the same level of benefits. Impairment is based on objective guidelines which award a percentage of disability to each body part and also a percentage for surgery, and in the case of mental impairments, the disability rating is based on the *Diagnostic and Statistical Manual of the American the Psychiatric Association* (2013).

In the occupational disability model, the judge can consider where the person resides in awarding benefits. Thus, in rural areas where access to employment may be limited, a person may receive a greater level of benefits than an individual with the same level of impairment as a person in an urban area. In either a strictly impairment or occupational disability model, there can

be injustices. Thus, hybrid models in which a judge has the discretion to consider not just the impairment but the person's age, education, past work, and opportunities for retraining and employment are the most equitable. This is where the rehabilitation professional aids the judge with conducting vocational evaluations and offering vocational and retraining opinions.

Personal Injury, Wrongful Death, and Childhood Claims

Personal injury, wrongful death, and childhood claims typically involve civil litigation including a tort. In these claims, a vocational evaluator is often asked to assess a loss of employability, earnings capacity, and work life due to an injury, disability, or death. Claims of personal injury or wrongful death involving minor children will have a vocational evaluator assess a loss involving a minor child; however, without an established earnings capacity or career path, the estimate of future earnings of minor child is more speculative than that of an adult by their very nature.

Because these cases are adversarial in nature, there can be a high degree of scrutiny of a vocational expert's opinions and the basis for those opinions. Very often there will be a report from another vocational or economic expert expressing opinions, which may differ with or critique the opinions of the vocational expert. A vocational expert will likely have to testify in depositions or trials about their opinions and the basis for those opinions. Because these cases can involve juries who may not have experience with vocational rehabilitation services, the conclusions and opinions provided for these cases must be expressed in a way that the average person can understand.

In personal injury, wrongful death, and childhood claims, the evaluation process is very similar to that as described for worker's compensation claims. Claimants will often be given aptitude and achievement tests, personality surveys, and interest inventories as described in the prior section on worker compensation. Similar to other

types of claims, there are concerns with regard to effort, reliability, and validity of the testing process.

Claimants in personal injury, wrongful death, and childhood claims will also have similar concerns about fairness and the evaluation process as described with worker's compensation claimants. Claimants may have emotional reactions to the effects of an injury or the death of a loved one. A vocational expert should be aware that there may be issues a claimant may need to express in order to feel as though their concerns are being heard which may not be directly relevant to the questions being addressed by their report.

When evaluating the loss of earnings capacity, work life expectancy, and employability for rural residents, the economic context and physical nature of current and past employment are important to producing an accurate measure of lost earnings capacity. For rural workers engaged in physically demanding mining, construction, agriculture, transportation, and manufacturing work, traditional estimates of earnings capacity and work life may overestimate or underestimate the value of future lost wages. Future lost wages can be based on the inability to perform the usual and customary work the individual did previously. For example, if the person did a manual labor job operating heavy equipment and earning \$25.00 an hour but can now only do a job such as working as a cashier and being paid \$10.00 per hour that would result in vocational economic loss of \$15.00 an hour.

Workers engaged in physically demanding work activities, especially those with high rates of injury, will often have shorter work lives than individuals involved in less physically demanding or dangerous jobs (Rho, 2010; Tang, Choi, & Goode, 2013). Additionally, physically demanding and dangerous jobs often pay more than other work, especially in rural areas. By using a work life estimate which does not account for the likelihood of a shorter period of work in a physically demanding or dangerous job, a vocational expert will overestimate a worker's lost earnings. When estimating the work life of individuals employed in physically demanding or dangerous work, vocational experts should use all available infor-

mation including research or industry data specific to the worker's employment.

A worker with little formal education engaging in physically demanding work in an area of economic decline may have a limited work life in that occupation even without a physical or mental limitation (Rho, 2010; Tang et al., 2013). However, self-employed workers who reinvest earnings into their business may actually have an earnings capacity far higher than that which they demonstrate through their earnings records or tax returns. In each case a vocational evaluator should look at the experience of similar workers in the local and regional economy and model any work life or earnings capacity estimates accordingly.

Labor Market Changes Affecting Rural Residents of the United States

Residents of many rural areas of the United States have seen a loss of economic opportunity in the last few decades. This has been largely the result of two major factors: the urbanization of the US population and the polarization of the labor market in terms of the skill and wages of jobs (Holzer, 2015; Kusmin, 2016). Rural areas are experiencing declining populations; at the same time, employment and wages for traditionally middle- and high-paying jobs in rural areas are also in decline. The majority of new jobs in rural areas are low paid and low skill, which are typically replacing more skilled jobs with higher earnings (Kusmin, 2016).

Since the 1980s, job growth has been increasing for both the top and the bottom of wage distributions, and the numbers of jobs with middle-class wages have been declining (Holzer, 2015). While there is growth in the numbers of low-skilled jobs, these jobs are often at the lowest levels of the income distribution. Jobs with the highest wages are growing as well; however, these jobs tend to require higher levels of education, skill, and experience. The period of recession in the United States between 2007 and 2013 (Holzer, 2015) accelerated this trend with losses in well-paid jobs in the mining, production, clerical, and construction industries. Additionally,

since 2000 job growth in general has been concentrated greater in urban areas, increasing the problem for rural residents (Kusmin, 2016).

Middle- and high-income jobs which can be performed with little formal training or on-the-job training and experience are disappearing. These jobs are being replaced by low-paid, low-skilled jobs and high-paid, high-skilled jobs. The jobs that are the most accessible are increasingly the lowest paid. This creates economic barriers especially for middle aged and older workers who need to transition to alternate work due to health problems or disability.

In a forensic vocational rehabilitation setting, practitioners will often encounter workers who are faced with transitioning from physically demanding jobs to less physically demanding jobs. Unfortunately, these less physically demanding jobs for which individuals will qualify will often pay less than the individuals' past employment. Alternate work may also conflict with an individual's work interests and temperaments significantly reducing an individual's incentive to return to the workforce. Consider the case example below of a hypothetical worker, Mr. Joe Smith:

Joe Smith, who was working as a welder and heavy equipment repairer at a surface mine or in construction, a job requiring heavy lifting and extensive postural activities as well as significant standing, walking, and working around hazards. Joe is in his early 40's and has lived and worked in the same rural community most of his life. While he has migrated regionally for work in the past, in recent years he and his family have settled in a rural area of the state near his parent's residence where he grew up. Joe did not complete high school however he completed a GED and learned to weld and perform maintenance and repairs on heavy equipment through on the job training and experience. Joe enjoyed his job and earned a wage of \$30 per hour plus benefits and overtime, a very comfortable income in the rural area where he resides.

Joe is injured when a piece of equipment shifts during a repair and crushes his right leg. Joe survives the injury however his leg requires extensive surgical repair and he develops a pain disorder in the right leg. After almost two years of medical treatment Joe is released by his doctors and referred to a functional capacity evaluation to determine his physical work capabilities and a psychological evaluation to determine how the pain and the trauma of the injury have affected his mental capabilities.

It is determined by a functional capacity evaluation that Joe will be able to perform light work in the future lifting up to 20 pounds occasionally, however he will be limited in his ability to stand and walk to approximately 30 minutes at a time and will need to periodically alternate positions. Joe's physicians concur with the results of the functional capacity evaluation and recommend that Joe be released to return to work at the sedentary or light level of exertion. A psychological evaluation finds that Joe has depression and a pain disorder due the work injury but the psychologist does not recommend specific mental work limitations for him. Joe is treated by his family doctor for pain and depression however there are no mental restrictions placed on his ability to work.

Despite the results of the functional capacity evaluation and the recommendations of his physicians, Joe experiences pain and feelings of depression on a daily basis due to the injury and the loss of his job. Joe considers himself to be completely disabled because of the pain he experiences and his physical limitations will prevent him from returning to his past work which paid well and he enjoyed. When he is determined to be at 'maximum medical improvement' (he is basically improved as much as possible from the injury) for his injuries Joe is referred to a vocational evaluation by his former employer's workers' compensation insurance carrier to determine what work, if any, he might be capable of performing.

Joe travels over two hours from his rural home to a nearby city where the evaluation will occur. Because of difficulty with driving long distances due to the right leg pain Joe has his wife drive him to the evaluation. When Joe and his wife arrive for the evaluation they are uncertain of what to expect. Joe believes he will meet with a physician to discuss his medical problems and is surprised to learn what a 'vocational evaluation' is. Joe is somewhat frustrated to learn that the vocational evaluation will take upwards of six hours and he will be expected to complete a range of academic and achievement testing. Inwardly Joe considers himself to be disabled from working and feels that this evaluation is a means for the insurance company to deny him benefits to which he is entitled. Despite his reservations Joe is cooperative and participates in an interview and completes the vocational testing to the best of his ability, knowing that if he does not the judge might dismiss his case for not cooperating. Joe explains his physical and mental difficulties to the rehabilitation counselor conducting the evaluation and he also expresses his frustration with his experience with the worker's compensation process. Joe feels that he has been treated poorly and that he has had to fight the worker's compensation carrier for treatment and benefits he deserves. He feels that little consideration has been paid to the devastating nature of his injury and the effect it has had on his

life and the lives of his family. While Joe understands the necessity of a vocational evaluation he does not view himself capable of returning to his past or other work, however he acknowledges that he does not know if there is work he would be able to perform given his limitations.

Joe performs well on the academic and achievement tests administered, scoring in the average range on intellectual assessments, with achievement testing placing him in the range of an 8th to 10th grade equivalent in arithmetic, reading, and spelling. The results of the vocational testing indicate that he would be capable of formal training for other work and with a GED he is capable of enrolling in a technical or community college program. Interest assessments indicate that Joe has a preference for manual labor activities performed with little interaction with others or monitoring from supervisors. Joe reports to the rehabilitation counselor that while he has thought of returning to school but does not feel as though he would do well in school because he has a difficult time in school previously and he feels that the pain and physical limitations he currently experiences would further limit him in a formal learning environment.

After reviewing the results of the vocational testing and the opinions of the medical providers (limiting him to sedentary or limited light work), the rehabilitation counselor concludes that Joe is not capable of returning to his past work as a welder and equipment repairer and is also not capable of returning to work with which he might be able to utilize transferable welding, maintenance, and repair skills from his past work. However, the rehabilitation counselor does find that Joe is capable of a range of unskilled, entry-level work without retraining such as customer service, clerical, sales, clerk, nonhazardous security, and cashier work. It is also concluded that Joe benefits from formal retraining for other works existing at a sedentary and light level of exertion through short-term formal training through a technical or community college program.

A labor market survey of existing jobs in a particular region is conducted by the rehabilitation counselor which indicates that there are a range of customer service and cashier jobs available within approximately 25 miles of Joe's residence which he would be capable of performing. There are a limited number of these jobs in the area where Joe

currently resides however and many more such positions in urban settings much farther from his residence. Also when applying for these jobs, Joe would be competing against other individuals without disabilities, who may be younger and already have skills such as operating a cash register, dealing with customer complaints, or handling money which Joe would need to learn.

The jobs which Joe is capable of entering without training pay between \$7.25 (minimum wage) to \$10.00 per hour. With formal training and education, Joe could qualify for jobs paying in the range of \$15.00–\$20.00 per hour; however, this would require 6 months to 2 years of academic work from Joe which he would likely find to be difficult for him. In either case Joe would earn substantially less than he did with his prior work as a welder and heavy equipment repairer. Additionally, the work now available to Joe would require much more interaction with coworkers, supervisors, and the public than Joe is used to or would prefer. Joe often find extensive interaction with others to be stressful which is worse since his injury as he feels embarrassed by his physical limitations.

As someone who was not comfortable in an academic or social environment before being injured, Joe is now more apprehensive about such settings since his injury. Since Joe lives out in a rural area, he would need to drive approximately 30 miles each way to and from work driving about an hour and a half every day on narrow country roads. With pain in his right leg limiting his ability to drive, this commute would also be difficult for Joe.

Despite the recommendations from the rehabilitation counselor, Joe still considers himself completely disabled from work. Joe attends another vocational evaluation arranged by his attorney, and this evaluation finds Joe to be completely disabled from any work which might be available to him based on his physical limitations as reported by medical experts, lack of education and job skills, as well as the pain and physical limitations which Joe reports.

After reviewing the information in the case of Joe Smith, answer the following questions:

1. Do you consider Joe to be disabled?
2. What other factors might affect Joe's feelings about his ability to work?
3. What else could be done to help Joe return to work?
4. What do you think are the best options for Joe?

Rural workers face declines in employment and declines in pay in the jobs that are available to them. Declines in employment in the agricultural, construction, production, and mineral extraction sectors have led to overall declines in rural economies. Skilled jobs and jobs in the expanding health, managerial, and service sectors are increasingly found in urban areas. Overall rural populations in the United States have been steadily declining, further reducing economic opportunities in these areas (Hertz, 2016).

Declines in traditionally middle-wage jobs in the construction, production, and clerical sectors of the economy have led to declines in economic opportunity for low- and middle-skilled workers in rural areas. Regionally, employment growth in coal, oil, and gas production has shifted from areas of Appalachia to the Plains States and areas in the western United States. Jobs in the transportation sector such as truck driving remained relatively stable during the Great Recession; however, these jobs are often physically demanding (Kusmin, 2016) (see Chap. 1 for more information on occupational outlook in rural areas).

Does an injured person such as Joe have an obligation to mitigate his vocational economic damages through retraining and returning to work? Does an injured person such as Joe have an obligation to relocate to where a job he can do exists? Should Joe receive more monetary compensation because jobs do not exist where he resides than a person in an urban who can return to alternate work?

Barriers to a Rural to Urban Transition

Currently the growth of the labor market and employment opportunity is increasing in urban areas and decreasing in rural areas. Trends in

employment and demographics indicate that individuals in rural communities seeking alternate employment would be best served by moving to urban areas. However, rural residents are often reluctant to move away from areas where they grew up and have an established support network as well as family and community relationships. Rehabilitation professionals will often make commendations for retraining and return to work which may conflict with an individual's desire to remain in the area in which they live.

Younger individuals are more likely to leave rural areas for educational and employment opportunities in urban areas (Glasgow & Brown, 2012). However, even younger workers, especially those with disabilities, may not view themselves as capable of leaving their support systems found in rural areas. Family, friends, community, and church are often central to an individual's identity, and the loss of these valued social supports is understandably undesirable for many individuals. Often rural residents view their area of residence itself as a part of their identity which would be lost if they moved into a city. Recreational activities, which they might value such as hunting, fishing, riding four wheelers, and riding horses, may not be accessible in urban areas. A significant loss of social support may be particularly difficult for individuals who are also experiencing significant economic changes in their lives (von Reichert, Cromartie, & Arthun, 2014).

The economic cost of moving to an urban area, even for a specific job, also presents a barrier for rural residents. Rural residents may reside in houses or on property, which is paid for or was left to them by their family. Support networks including family, friends, community, and church while also socially important often also serve as financial support in times of need for food, housing, or even direct financial assistance. Moving away from these social and financial supports may seem difficult or even impossible to some individuals, especially for older workers who may not generate long-term financial returns from relocation. While some living expenses (such as the cost of food and energy) and transportation expenses (due to decreased travel distances or use of public transportation) may be the same or even lower in

urban areas, the cost of housing may be far greater depending on the area.

As younger workers seek to find education and employment opportunities in urban setting, their parents and older family members may discourage them from seeking these opportunities. This is often the case for young adults with disabilities. Parents often see themselves as responsible for their adult children, especially children who have disabilities. Parents or other adults may view these younger individuals as incapable of functioning independently, especially in an urban environment, which they themselves may view as unfamiliar, fast paced, and challenging.

In some cases, parents or guardians may encourage young adults to stay at or near home out of fear of losing the social and economic support of their younger relatives. This fear is not unfounded as rural areas have been experiencing a continual decline in population over the last few decades. The loss of jobs and the loss of young workers has led to a downward economic spiral of a decreasing tax base and decreasing local economy (Shah, 2014). Young workers faced with the prospect of leaving rural areas with social support may have been taught to view urban living or even their own social and financial independence as less desirable or unattainable. Young adults with intellectual disabilities may be encouraged by their parents to pursue Social Security Disability instead of employment as this might appear to be a more secure path for economic stability.

A vocational rehabilitation practitioner advising young adults in rural areas may find little family or social support for plans which encourage a young adult to move to an urban area to avail themselves of education or employment opportunities (Lindsay, McDougall, Menna-Dack, Sanford, & Adams, 2015). Many young adults in this situation find themselves faced with choices, which could anger or upset their immediate family. In some cases, individuals receiving childhood Social Security benefits may have actually been providing financial support to their family even as children. Parents faced with the

removal of this support may undermine their children's economic and social independence in an effort to preserve a feeling of economic security.

Transportation

Physical distance and transportation are often significant barriers to individuals accessing the work available within rural areas. Rural areas typically have little or no access to public transportation requiring individuals to obtain access to their own private vehicle or share a ride with others in the community (see Chap. 3 for further discussion on transportation).

In the transition from a higher-paying job to a lower-paying job, the cost of maintaining, insuring, and fueling a private vehicle can be a significant barrier for individuals. This is especially true for individuals who may have some difficulty with driving. For individuals with disabilities, even a 30 mile drive along unlit two lane roads can pose a barrier. For individuals who are unable to afford to maintain a vehicle or unable to maintain a driver's license, this may be an insurmountable barrier.

Individuals with a disability living in a rural area may face many barriers to employment such as limited financial resources, transportation, and access to employment which are not considered for the award of Social Security, worker's compensation, or personal injury benefits. A rehabilitation professional should be aware of these barriers for rural residents and acknowledge their existence when considering what jobs are available to an individual. However, in forensic vocational rehabilitation, the standards for disability and eligibility for federal or state benefits are usually applied to individuals equally with little regard to the specific area in which an individual resides. Rehabilitation professionals should make recommendations which help consumers overcome barriers to employment and return to work in areas where they are most likely to achieve vocational success.

Gender Roles and Personal Identity

Rural residents, especially those of middle age and older, are often employed in occupations which conform to traditional gender roles. Men will often work in mining, construction, agriculture, transportation, and manufacturing occupations, and women will often work in health care, clerical, education, and service occupations. Males, especially those in high-paying or locally important jobs and industries, will often ascribe a significant part of their personal identity to the occupation they perform or performed prior to being injured.

Males residing in rural areas and employed in traditionally male-dominated occupations may view themselves as the “breadwinner” or the head of the household and may have difficulty adapting to a change in this role. Inflexible expectations with regard to gender roles, occupation, personal identity, and earnings can present a barrier for individuals who need to transition from one occupation or industry to another. In some cases, individuals may view the role of an unemployed person with a disability as more acceptable than performing work which threatens their personal identity or which they simply do not value.

When workers are put in a position where a full-time job will pay them little more or even less than disability payments, they are left with a stark economic choice: to work for less or become disabled. This choice is often coupled with a worker’s own identity and work preferences. An individual who identifies as a construction worker, welder, equipment operator, or truck driver making a middle-class income must overcome a loss of income and identity to transition into lower-paid service sector work such as a cashier, fast-food worker, warehouse worker, or low-skilled production worker.

Often individuals in skilled trades, mining, agriculture, manufacturing, construction, and transportation jobs prefer work with little social contact and are adverse to positions which require a high degree of social or public interaction. On occasion individuals may have developed habits of personal appearance and grooming such as wearing long beards and a causal style of dress, which they may be unwilling to change for a new job.

The Impact of Substance Abuse, Dependence, and Drug Culture

Rural areas have been disproportionately affected by a rise in substance abuse and dependence. Some of this has been caused by a high number of opioid pain prescriptions in rural areas often for individuals working in physically demanding jobs, which can cause both acute and degenerative injuries. Over time a high concentration of individuals dependent on opioid pain medication has developed in many areas such as Appalachia. High concentrations of individuals dependent on opioid pain medication have caused the development of a drug culture, which had not traditionally been associated with rural areas.

Involvement in the drug culture causes many problems for individuals including poor employment outcomes, legal problems, and adverse health consequences. As opioid pain medication has become more regulated, the use of black market heroin has increased. Involvement in drug culture often leads individuals to sell drugs or commit other crimes such as prostitution or theft to support their habit. Individuals residing in rural areas will often turn to marijuana cultivation or manufacturing methamphetamines to support themselves and their drug habit.

Substance abuse and dependence can become a significant part of individuals’ lives involving friends, family, and even coworkers. Individuals often spend significant amounts of time and money to acquire and use drugs and alcohol. Individuals who live in households with others who are involved with drugs or alcohol may have difficulty escaping a cycle of substance abuse and dependence. This can be especially problematic in rural areas with small populations and tight-knit social networks where there may be few options for housing and individuals often live with extended family. An individual attempting to abstain from drugs or alcohol may be more likely to relapse if they live or regularly associate with others involved with drugs or alcohol.

Abuse and dependence of drugs and alcohol can have a lasting negative effect on earnings and employment of workers (MacDonald & Pudney, 2000). Drug and alcohol dependence can result in

lost work hours, work site injuries, and jobs loss (Lehman & Simpson, 1992; Mangione et al., 1999). Legal problems as a result of drug and alcohol abuse and dependence can prevent individuals from obtaining work in the future. In rural areas with few employers, an individual's problems with drugs and alcohol or legal trouble may often be well known, and that reputation can have a negative effect on employability (Compton, Gfroerer, Conway, & Finger, 2014; French, Roebuck, & Alexandre, 2001; Huang, Evans, Hara, Weiss, & Hser, 2011).

Employers in many areas of the country have a difficult time finding workers who can pass a pre-employment drug screen (Calmes, 2015). Areas with high rates of substance abuse and dependence often have a difficult time attracting new employers due to the difficulty with finding drug-free employees as well as higher worker compensation insurance rates, exacerbating the problem of obtaining employment in rural areas.

Treatment for problems with drugs and alcohol may be limited for residents of rural areas (Pullen & Oser, 2014). Often inpatient drug and alcohol rehabilitation will not be available locally and must be obtained in urban centers. Similarly, chemical detoxification or maintenance programs such as Suboxone and methadone treatment are also not available locally and must be obtained elsewhere. For some rural residents, local treatment options might be nonexistent or limited to self-help programs such as Alcoholics Anonymous or Narcotics Anonymous meetings. The time and money required for travel to and from drug or alcohol treatment are another burden rural residence with these problems must face when seeking to obtain or maintain employment (see Chap. 28 for discussion on substance abuse).

In addition to reducing employability, problems with drug and alcohol abuse and dependence can complicate an individual's claim for government benefits or through personal injury litigation. An individual may be found ineligible for Social Security Disability benefits or worker's compensation benefits if drug or alcohol problems are found to be a contributing factor to an individual's disability or work injury, the absence of which would not render the person as

being disabled. With personal injury or wrongful death litigation, a preexisting drug, alcohol, or legal problems could be determined to have a significant negative effect on an individual's earnings capacity and work life expectancy. Reduced estimates of work life and earnings capacity would typically reduce the overall value of a monetary claim based on these factors.

Access to Education

For most workers in the United States, higher education and technical training offer the best chance for an individual to improve their employability and earnings capacity. However, residents of rural areas may have less access to educational opportunities than urban residents (Marré, 2016). Colleges, universities, and technical programs are often located in more centralized or urban areas requiring rural residents to travel or move away from their support network. Online and distance learning programs have increased opportunities for rural residents and individuals with disabilities; however, areas of study may be limited in these programs. Additionally, students who would like more individualized instruction or who may need additional assistance or accommodations with schoolwork may be limited in what help they can receive via online or distance learning programs.

Public education in rural areas may be limited by low property tax values and limited school choice. An individual living in a particular area may only have the option of one local high school. The quality of a public high school education in the United States can vary widely depending on the school district or the individual school. Families residing in urban areas may be able to change schools for their child by moving to another district within a city. Rural residents may be less willing or less able to relocate or move between school districts to improve educational opportunities for themselves or their children.

Urban areas often provide individuals with educational and cultural opportunities, which are unavailable to rural residents. Museums, theaters, and cultural centers, which are often located in

urban areas, provide access to language and arts classes as well as lectures, performances, and artistic and historical exhibits. Rural residents often must have access to leisure time and transportation to enjoy these opportunities.

Many individuals withdrew from school or did not take school seriously when jobs were plentiful and high paying. The question raised was, "why should I attend school when I can make more money working in a physically demanding job than I can make by staying in school." Thus, the perceived value of education has led to lower levels of school completion and development of a skilled workforce in rural areas. Rural workers are not less intelligent than their urban counterparts, just less educated. However, as jobs that are high paying and not requiring extensive education to perform have declined, there has been a rise in poverty levels and drug usage and dependence.

Continued education offers the best opportunity for most individuals to improve their employability or earnings capacity. However, work values common in rural areas are often inconsistent with the development of vocational skills, which are the most beneficial in the economy, which is increasingly polarized by skill and urbanized by convenience. Rural workers employed in mining, construction, agriculture, transportation, and manufacturing industries often value "hands-on" work learned through short-term training or on-the-job training and experience. While jobs in these industries have paid well in the past, the jobs which are now emerging in these industries either require more formal education or pay far less than they once did.

Individuals with a bachelor's or master's degree may not understand the desire to leave the relative comfort of a classroom to labor as a carpenter in the heat of the sun or operate a mining machine in the bottom of a dark, dusty mine. However, many workers find comfort of their own in physical labor, and the satisfaction of seeing their accomplishments stand before them on a job site at the end of a workday. Residents of rural areas often have acquired these values over generations through the work available to them where they reside. The challenge for the rehabilitation professional working with such individuals

is to identify the skills and abilities necessary to perform physically demanding labor and help an individual apply those skills to training for more technical, less physical work.

In both urban and rural settings, there are individuals who do not enjoy school or formal training of any kind and prefer to learn through observation and demonstration. Often these individuals will perform better on measures of spatial perception, mechanical reasoning, and problem-solving than on measures of verbal aptitude and achievement. Because reading comprehension and verbal reasoning are important determinants of success in many formal education environments, individuals whose strengths lie in other areas often become frustrated and discouraged by schoolwork and formal education.

Individuals who experience difficulty with reading, writing, and arithmetic often dislike school and formal education generally. Older workers with these problems may view themselves as incapable of returning to school or training for alternate work. Older workers who experienced past success with skilled trades or manual labor positions may be frustrated by work requiring extensive reading or verbal abilities especially when that work is not accompanied by a similar level of earnings. For individuals faced with the challenge of overcoming lifelong learning deficits only to earn less money, the prospect of returning to the classroom may seem overwhelming and ultimately doomed to failure.

In rural areas which may be geographically or socially isolated from institutions of higher learning and where few individuals have more than a high school education, individuals may place higher cultural value on skilled trades or manual labor professions and less value on business, health care, clerical, and skilled technical professions which require a higher level of formal education. With incomes in rural areas lagging behind those in urban areas, the problem of funding higher education can be a significant barrier for rural residents (Marré, 2016). For individuals of modest means who know few friends or family members with college-level training, attending college or

obtaining formal technical training may seem more like a dream than a practical reality.

Recommendations

Education, economic development, and creative uses of technology are factors that need to be considered as the economy transforms from the industrial, mechanical age to a digital and information age. As old jobs end or are phased out, new jobs are created. Building on the past without clinging to the past will assist all persons involved in rural rehabilitation, education, and training to find pathways to the future of rural America. One person or one discipline will not solve the problems of rural rehabilitation and economic development. The future resides in developing technological applications to secure a prosperous, productive, and enriching education and economic and social future for rural America.

Summary

Forensic vocational rehabilitation professionals perform a variety of services for rural individuals involved with civil litigation and entitlement programs. Areas of practice include worker's compensation, Social Security Disability, personal injury, wrongful death, domestic relations, and employment discrimination. Issues which are often addressed often include job functions, accommodations, work classification, disability legislation, and the availability of work.

Rural individuals may be unfamiliar with or intimidated by the vocational rehabilitation process. Rural individuals involved in forensic vocational rehabilitation often have performed more physically demanding labor than urban workers and may have had skilled or semiskilled work learned through more informal means such as on-the-job training and experience. Workers engaged in physically demanding or dangerous work may have shorter work lives than workers engaged in less physically demanding or dangerous work, even in the absence of injury or disability.

A worker employed in an industry or region in economic decline may be less likely to work in the future if they are unable to transition to work outside that industry or region. Changes in the economy and labor market have led to fewer jobs in rural areas as well as fewer well-paying jobs that do not require extensive training or skills. The low-skilled, low-wage jobs that are currently being created are often in the service industry which require different skills and temperaments than jobs in production, mining, and construction work.

Currently more jobs are being created in urban areas and for rural residents commuting or moving to an urban area may be difficult or impossible. Rehabilitation professionals may find that an individual is capable of working; however, the jobs for which that individual qualifies may be low paid or far away from rural residents. Availability of transportation and the ability to drive may be critical factors in an individual's return to work but not issues considered in some forensic rehabilitation claims.

Work preferences and self-concept may be limiting factors for some individuals especially males engaged in physically demanding, production, mining, and construction work. As service sector employment and skilled employment requiring higher education increase, individuals unwilling or unable to work extensively with others or complete formal training programs will have fewer employment opportunities. Access to education and training can significantly affect rural residents' ability to obtain and maintain employment. In some instances, individuals involved with substance abuse or the drug culture may be precluded from employment and be ineligible for entitlement programs which could help them obtain employment. In order to best serve individuals involved with forensic rehabilitation services, rehabilitation professionals should be aware of local opportunities and resources as well as barriers to employment, which exist in rural areas.

Rehabilitation professionals involved with forensic vocational rehabilitation must address a variety of issues and competing interests when making rehabilitation recommendations. Rural residents involved with forensic rehabilitation

services are facing a changing labor market which is reducing the opportunities for employment in rural areas. Declining numbers of jobs in production, mining, and construction sectors present a barrier to return to work for individuals previously engaged in that employment. Declining wages for low-skilled work reduce the incentive for individuals to return to entry-level or unskilled work activities. As the skills needed for well-paying jobs increase, access to education becomes more important. Individuals with physical and mental disabilities living in rural areas have seen access to online education improve even as the prospects for work in rural areas decline. Rural residents may find that while they are capable of performing work which exists in the economy, that work may not be available to them where they live. Some rural residents are faced with difficult choices about whether to remain in the area with few employment opportunities or leave for areas where the work for which they qualify exists.

Resources

American Board of Vocational Experts (ABVE): <http://www.abve.net>

International Association of Rehabilitation Professionals (IARP): <http://www.rehabpro.org>. *Journal of Forensic Vocational Analysis*

National Association of Forensic Counselors: <http://www.forensiccounselor.org>

Robinson, R. H. (Ed.). (2014). *Foundations of forensic vocational rehabilitation*. New York, NY: Springer

Glossary of Terms

Administrative Law The branch of law governing the creation and operation of administrative agencies. Of special importance are the powers granted to administrative agencies, the substantive rules that such agencies make, and the legal relationships between such agencies, other government bodies, and the public at large. In forensic vocational rehabilitation, Social Security

and worker's compensation claims are adjudicated through administrative law.

Civil Litigation A legal dispute between two or more parties that seek money damages or specific performance rather than criminal sanctions. In forensic vocational rehabilitation, personal injury, wrongful death, and employment discrimination claims are adjudicated through administrative law.

Eligibility Standard Criteria by which an individual is assessed for entitlement for benefits or inclusion in a specific group or class.

Entitlement A right to benefits specified especially by law or contract; also a government program providing benefits to members of a specified group.

Forensic Relating to, used in, or suitable to a court of law.

Essential Job Functions Used in conjunction with the Americans with Disabilities Act. The basic job duties that an employee must be able to perform, with or without reasonable accommodation. Essential job functions are typically identified in a formal job description. Factors to consider in determining if a function is essential include:

- Whether the reason the position exists is to perform that function
- The number of other employees available to perform the function or among whom the performance of the function can be distributed
- The degree of expertise or skill required to perform the function
- The actual work experience of present or past employees in the job
- The time spent performing a function
- The consequences of not requiring that an employee perform a function
- The terms of a collective bargaining agreement

Labor Market Survey A report detailing the availability of jobs in a particular region or labor market typically related to a specific person. Labor market surveys typically include information about the numbers of jobs and employment rate in a specific region. Labor market surveys may include information about the exertion, skill level, duties, and essential functions of specific jobs they found through advertisements or job search websites.

Marginal Job Functions A marginal job function is a job duty which is relatively incidental to the reasons for the job existence. A marginal job function could be removed from a job position without changing the fundamental nature of the job. A marginal job function is a duty that could be easily reassigned to another worker without disruption to the job or work environment.

Maximum Medical Improvement (MMI) is defined as the point at which the injured worker's medical condition has stabilized and further functional improvement is unlikely, despite continued medical treatment or physical rehabilitation. A treatment plateau in the patient's recovery is reached and that is as good as the patient is going to get.

2. Review the IARP Code of Ethics and compare/contrast it to another code of ethics (e.g., ACA, CRCC) to determine if there are competing points of interest.
3. Develop a paper of two to three pages on the importance of testing in forensic vocational disability assessment.

Multiple-Choice Questions

1. Which of the following cases is considered as the early case in which an expert witness was used as forensic testimony?
 - (a) Republica vs. Democratica
 - (b) Republica vs. Ross
 - (c) Democratica vs. Smith
 - (d) Smith vs. Ross
2. Which of the following best describes the options of workers when put in a position of a full-time job that will pay them a little more or even less than disability payments?
 - (a) Work part time and earn less
 - (b) Become disabled and retire
 - (c) Work for less and become disabled
 - (d) Become disabled and sue the employer
3. In rural areas, which of the following types of jobs pay more?
 - (a) Physically demanding
 - (b) Highway and roads
 - (c) Textile
 - (d) Recreation
4. Which of the following is a barrier of males residing in rural areas that need to transition from one occupation or industry to another?
 - (a) Inflexible gender role expectations
 - (b) Personal identity
 - (c) Earnings
 - (d) All of the above
 - (e) None of the above
5. Which of the following best describes the initial expectation of a rural resident that is referred for forensic vocational services?
 - (a) Believe he or she is being registered for disability payments

Learning Exercises

Self-Check Questions

1. What are the challenges facing rural forensic vocational rehabilitation practice?
2. What is the definition of forensic?
3. What is the difference between impairment of disability model and occupational disability model?

Experiential Exercise

1. Interview a forensic or vocational expert about the roles and function of his or her job.

- (b) Awareness of the purpose of the evaluation
- (c) Expects to speak to a physician or psychologist about issues
- (d) Aware of how long the evaluation process typically takes
6. Which of the following is the basis of services in forensic rehabilitation?
- (a) Eligibility
- (b) Entitlement
- (c) Litigation
- (d) Income
7. In which type of rehabilitation services are “order of selection” and severity of disability used to determine whether an individual will receive services?
- (a) Proprietary
- (b) Public
- (c) Addictions
- (d) Mental health
8. Which of the following is a vocational expert is asked to do in response to a claimant’s testimony?
- (a) Respond to questions posed about a hypothetical individual’s ability to perform work based on specific limitations
- (b) Respond to a claimant’s residual functional capacity
- (c) Respond to a claimant’s request for an appeal
- (d) Respond to questions posed by witnesses on behalf of the claimant
9. Which of the following describes the Social Security Disability standard for claimants in rural areas?
- (a) The same standard is applied in rural areas as in urban and suburban areas
- (b) Rural areas receive an exempt status
- (c) Rural claimants need only to demonstrate that they can do work available in their local regional economy
- (d) The standard for rural areas is determined by state law
10. Which of the following is a significant barrier of rural residents to relocate to urban areas?
- (a) Type of disability
- (b) Age of onset of disability

- (c) Education attainment
- (d) Social support

Key

- 1 B
- 2 C
- 3 A
- 4 D
- 5 C
- 6 B
- 7 B
- 8 A
- 9 A
- 10 D

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