

6-1954

The Total and Permanent Disability Problem

Louis J. Steiner

Follow this and additional works at: <https://scholarlycommons.henryford.com/hfhmedjournal>



Part of the [Life Sciences Commons](#), [Medical Specialties Commons](#), and the [Public Health Commons](#)

Recommended Citation

Steiner, Louis J. (1954) "The Total and Permanent Disability Problem," *Henry Ford Hospital Medical Bulletin* : Vol. 2 : No. 2 , 96-98.

Available at: <https://scholarlycommons.henryford.com/hfhmedjournal/vol2/iss2/10>

This Article is brought to you for free and open access by Henry Ford Health System Scholarly Commons. It has been accepted for inclusion in Henry Ford Hospital Medical Journal by an authorized editor of Henry Ford Health System Scholarly Commons.

THE TOTAL AND PERMANENT DISABILITY PROBLEM

LOUIS J. STEINER, M.D.*

In any consideration of the problem of "total and permanent disability" there are certain fundamental principles and concepts which should attract our attention. As society has broadened its conscience and responsibility toward its components, the problem of evaluating disability has become more accentuated. The injured workman is provided medical aid under law, and insurance of various types cushions the losses due to injury and disease. Prolonged periods of disability challenge his economic, social and personal welfare. To meet this problem, before normal retirement, there have appeared in labor-industry contracts disability provisions designed to aid the individual who has made a reasonable contribution to society in terms of production and service. This type of disability compensation is also available on a personal basis through various insurance companies. In more recent years, special legislation has been passed, such as the amendments to the Social Security Act of August, 1950. The latter are Federal grant-in-aid programs.

For physicians called upon to evaluate whether or not an individual is "totally and permanently disabled" it is absolutely necessary that they understand clearly what the contracting parties had in mind, or, when the state is involved, the intent of the law and the rules for its enforcement. The physician should be fully informed since there may be benefits of considerable variation. The phraseology of the law may be confusing.

The designation "totally and permanently disabled" needs clarification, particularly if it is taken to imply that both factors must be evident with absolute certainty. Strictly interpreted, such a person would be deceased or moribund. A person who is paralyzed from the waist down may write a successful book or conduct a business by telephone. However, he will require the assistance of another person to meet many of his primary needs, and work will have to be brought to him. Ability to do occasional odd jobs can hardly be disqualifying.

The modern industrial concept behind many plans is that utter physical and mental helplessness as a result of injury or disease is not a requirement of "total and permanent disability." "Permanent" surely cannot be interpreted in its extreme sense of absolutely predictable, everlasting, unchangeable, unending disability. It is used relatively in contra-distinction to "temporary" or "transient" disability. This is apparent from the usual requirement that evidence of continuity of the disability may be required at suitable intervals. This provision recognizes the fallibility of human predictions. The problem of certainty of prediction is constant. Obviously, slight chance of improvement cannot destroy permanency, and a mere possibility of permanence cannot be enough for a finding of permanency.

Our concept, from an industrial point of view of "total and permanent dis-

*Physician-in-Charge, Preventive Medicine.

ability," is that the individual has been disabled by bodily disease or injury so as to prevent him from engaging in a regular occupation or employment for remuneration or profit; such impairment will be permanent and continuous during the remainder of his life. Many contracts deny benefits if the impairment is related to chronic alcoholism or narcotics, to injuries sustained while engaged in felonious assault or self-inflicted injuries, or to injuries suffered while in the services of the armed forces of any country. A further explanation of terms is in order.

Impairment means the presence of a disease process, physical or mental, or in combination, or an anatomical abnormality.

Permanent refers to an impairment in which the concept of "cure" cannot be applied. Certainly, any condition which medical science thinks is not likely to respond to known treatment may be considered as "permanent." Furthermore, any condition likely to remain static or to become worse unless certain therapeutic measures are carried out may be deemed to be permanent if treatment is unavailable or inadvisable.

"*Permanence*" does not rule out the possibility of vocational rehabilitation or even recovery from the impairment. Every physician knows of cases which respond favorably to treatment after an unfavorable prognosis or after the disabling condition became arrested.

Newer advances in medical treatment may change the picture of a disabling disease. However, in those cases in which corrective treatment has been attempted and has failed and the individual has submitted to further treatment with failure, there is some question whether benefits should be denied. When the individual is resistant or has lost faith because of past failures or when there is a real presence of further jeopardy, there is raised a point of reason and justice. The American philosophy is against the use of force or undue pressure. However, those providing the benefits do not intend the disabled to remain so through choice or unwillingness to submit to cure.

Remaining capacity for activity is important. The great majority of people have more abilities than disabilities. These are the ability or capacity to carry on usual work or gainful employment, to get to and from work under reasonable climatic conditions, to care for personal needs, and to get along with fellow workers with a minimum of tensions.

It is of great importance to evaluate the effect of the impairment on function. This is basic. An electrocardiographic diagnosis without reference to function creates hardships, anxieties, frustrations, loss of hope and the unwarranted removal of the individual from effective happy economic life.

"*Total Disability*" refers to incapacity to engage in any useful work. The time factor does not enter the definition of "totally" as it does with "permanently." A person just operated upon for a gastric ulcer is totally disabled, but medical experience knows that he may be expected back on the job in four weeks; so there is no permanence.

An individual with an amputated leg who has held a job for the past twenty-

five years certainly has a permanent impairment, but, obviously, it is not total. The latter refers to what the individual can do in the light of his impairment and capabilities.

A regular occupation means one commonly accepted as such and not one created especially for the person. Regularity or reasonable regularity of performance goes with this. Of what use to a company is a toolmaker, a regular occupation, when the toolmaker's impairment prevents him from working more than one day each week? Gainfully employed or employment for remuneration or profit means the individual can be productive for his employer and for himself, and that his job is not in the nature of a sinecure. Evidence of gradual downgrading over a period of years because of progressive disease is clear evidence of the fact that gainful employment is coming to an end.

The role of the family physician is considerable in all cases which are brought before the impartial medical examiner. With him is first recorded the sequential medical history of the case. Thus, a record is made which may shed light on the impairment. The family physician frequently has sociological data not readily available to others. His opinions are valued and respected, and he does have the responsibility of caring for the individual medically for the future. There is little doubt that the family physician is most happy when his patient is rehabilitated or returned to an effective economic pursuit. The family physician carries the responsibility, in many instances, of the family problems brought about by the change. On the other hand, the family physician is generally not experienced in the physical, mental and temperamental requirements of industrial occupations.

When the medical impairment is severe little difficulty arises, but in those cases in which the disability is borderline, and they are numerous, special experience is desirable. There, too, is some understandable yielding of the physician to the desires of the patient. Independent examiners eliminate this situation.

The opportunity for further examination of those rejected should also include the review of any additional data submitted.

The records of the plant physician and personnel are of material assistance. Time lost because of illness, nature of illness, regrading of residual abilities or capacities, reassignments may contribute much in the evaluation.

Social factors such as age, racial origin, language, education, training, work, marital situation, home surroundings, may have medical significance and should be considered. The significance of these factors will vary in each case.

Reactionary factors make disability evaluation difficult, ambiguous and variable. They involve human equations and opinions which are difficult to regulate, standardize or correlate. Here we have the loss of will to work. This may be psychological due to aging process, to frustrations, depressions, feelings of not being wanted, adverse social relations, difficult labor situations, unfavorable labor climate, etc. Often these factors are minimal, but, at times, are important determinants.

In summary, an attempt has been made to clarify the present basic concepts of the "total and permanent disability" problem as specifically applied.