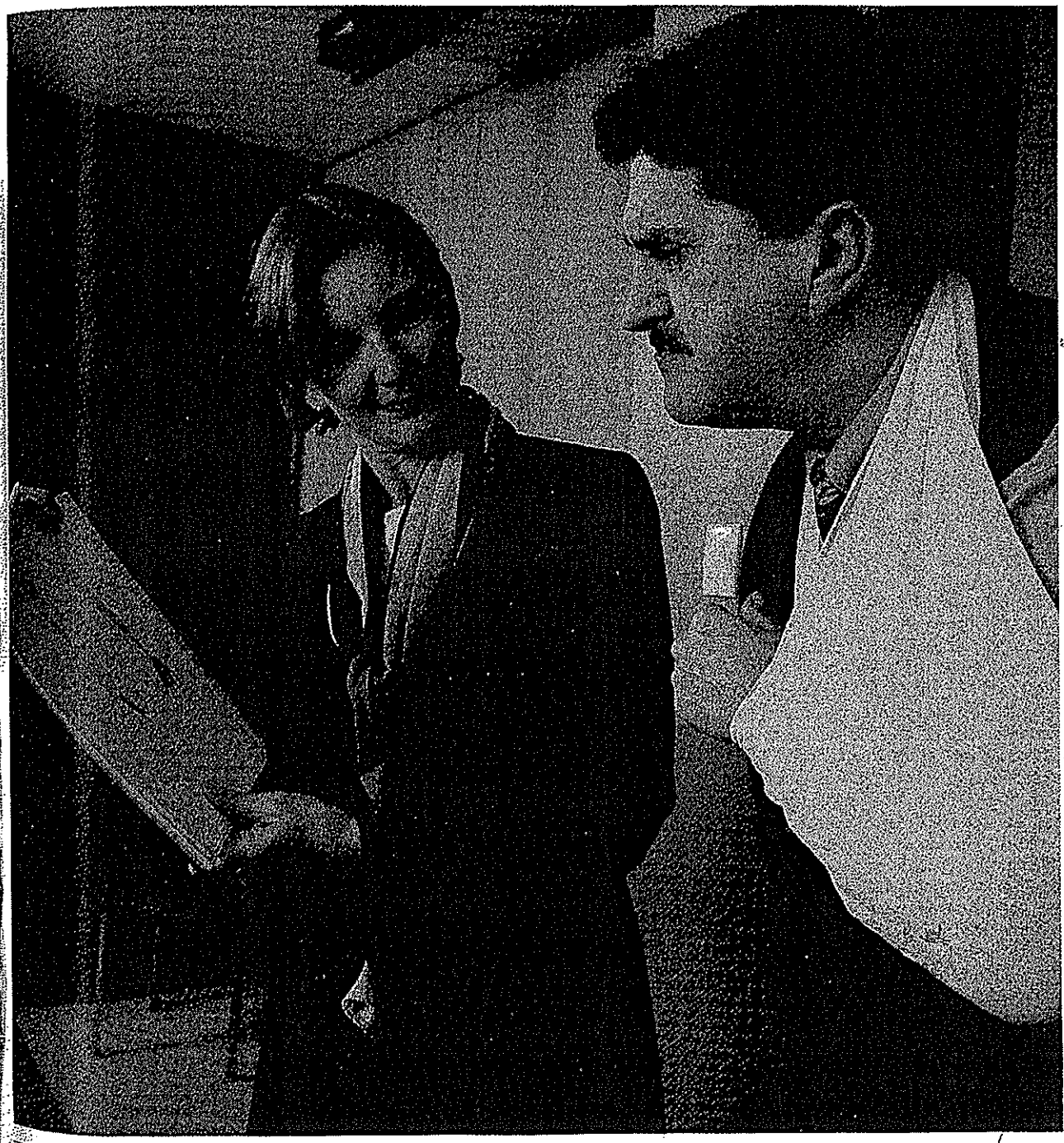
SPECIAL ISSUE

The shortcomings of the AMA Guides

by MR MURRAY J STAPLETON



The fact that legislation brings the evaluation of impairments to a page in a guidebook suggests that such a book can accurately compare, evaluate and adjudicate on cases of injury and workers compensation impairments.

Those injured workers who by legislation were required to have their impairments evaluated by the *AMA Guides to the Evaluation of Permanent Impairment Second Edition* should immediately compare the size of the second edition to the fourth. The second edition has 240 pages; the fourth edition has 324 pages. It would suggest that those who are confined to the second edition should, in percentage terms, regard themselves as profoundly unlucky.

It is apparent that what the regulators require is a system that brings uniformity and, therefore, takes away guesswork and examiner bias, from any impairment assessment. While it would be apparent that that would be exactly the way a legislator would argue, it comes as a great surprise that any band of medical "experts" can agree that such can be accurately arranged.

According to the fourth edition of the AMA Guides "impairment" is defined as an alteration of an individual's health status. Impairment, according to the Guides, is assessed by medical means and is a medical issue. An impairment is a deviation from normal in a body part or organ system and its functioning. The Guides define "permanent impairment" as one that has become static or stabilised during a period of time sufficient to allow optimal tissue repair, and one that is unlikely to change in spite of further medical or surgical therapy. In the Guides, impairments are defined as conditions that interfere with an individual's "activities of daily living".

The Guides distinguish impairment from disability. Disability may be defined, according to the Guides, as "an alteration of an individual's capacity to meet personal, social, or occupational demands, or statutory or regulatory requirements because of any impairment". Disability refers to an activity or task the individual cannot accomplish. The Guides, therefore, regard impairment as a medical matter and disablement as a non-medical matter. It follows that, according to an assessment based on the Guides, a concert pianist who loses a little finger has the same medical claim for an injury as a person who has no essential need for a little finger at all. To assess a concert pianist's total loss of a little finger as that of a 10 per cent impairment to the function of the hand involved, compared with a tram driver with a similar impairment, seems to be not only a waste of time, but an insult to the intelligence of someone who might be given the task of evaluating what the real impairment might be.

I am impressed by the number of those who have been involved in the gathering together of the chapters on the Guides. They are, no doubt, eminent doctors indeed. Having said that, I am left wondering how it can be argued that all the injuries that can be conceived of can be adequately compressed into 324 pages of writing. If one compares the number of pages in any surgical text book on trauma, it would be enough to suggest that to rely on a table in a book to assess permanent impairment would probably be a nonsense.

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I have no doubt that underneath the legislators' intention was the notion that uniformity would be the most acceptable way to proceed, and that if a book is published with all the charts available, one assessing doctor would hopefully arrive at the same decision as another. Unfortunately, we are not dealing with engineering, we are dealing with biology.

The next problem is not so much what is covered, but what is not covered in the Guides. In the case of hand injuries, for example, no award whatsoever is made for a scarred hand. Should a young woman have a scar on the back of her hand because of an injury that produces a thickened scar, say on her left ring finger, such that she cannot wear a wedding ring, that is not regarded as an impairment. There is no consideration given to this young woman for the embarrassment of the scar and her inability to wear a wedding ring on her left ring finger.

This article brings attention to some of the shortcomings of the AMA Guides. It goes on to point out the futility of attempting to bring every impairment to a page in a book.

It is inherent in the Guides that an impairment that can be measured, say in the movement of a finger joint, will be associated with pain. It follows, according to the Guides, that any deformity has within it a quantum of pain for which an award can be made, not by measuring the pain, but by measuring the joint that is in some way impaired. That is an absolute nonsense. There would be plenty of conditions, such as a generalised arthritis, that might have no joint impairment that can be measured but the claimant may be unable to work because of the pain that the arthritis imposes. Furthermore, there are many impairments to the movement of finger joints which have no associated pain whatsoever.

There is no consideration given, in the case, say, of carpal tunnel syndrome, where the patients are not suffering from pain, or deformity, or a restriction of movement, but their life is disturbed greatly from pins and needles. While carpal tunnel compression is not often work related, it just may be. Therefore, carpal tunnel compression that may have been operated on, or may not, takes with it, according to the Guides, no impairment whatsoever.

There is also no consideration given to the injured worker's age or degree of ambidexterity. For example, a 17-year-old youth will cope with a dominant hand amputation better than will a 60-year-old man. The young person, by virtue of his age, will be more efficient in converting to the other hand and will also better manage a "hook", than will his older colleague. His injury, however, will be seen as identical.

It is up to the assessing doctor in hand injuries to predict what will happen to a damaged joint insofar as long-term osteoarthritis is concerned. No one has the ability to accurately predict that matter, and to decide on an impairment because of the likely advent of osteoarthritis is, again, just a nonsense. These days, with the use of prosthetic joints, it is also impossible to predict the long term for many of these patients. The Guides do not address such a problem.

Also, implicit in the notion of the AMA Guides is that one normal hand is the same as another. That is also a preposterous notion, because it is frankly untrue. As I have mentioned previously, the referen

to scarring is scant indeed. There is no award for a scarred hand that does not have a limited movement.

The next omission is that of facial scarring. I have no doubt that no competent plastic surgeon could have been a part of the presentation of the chapter on facial scarring. I draw attention to 13/281 of the fourth edition of the Guides, "Class One, Impairments of the Whole Person Due to Scarring". The comment says, "If an impairment from cosmetic disfigurement existed, it would be manifested by behavioural changes, which would be evaluated in accordance with the criteria set forth in the Guides chapter on mental and behavioural conditions". What of the person who is badly scarred but who does not have behavioural changes? Does it follow that the person well adjusted to a severe facial scar should not be awarded compensation? And what about the patient who requires intense psychotherapy for a similar scar?

Imagine a 22-year-old female bank teller who has been assaulted by a bank robber. A knife is produced and the bank teller suffers severe facial injuries with fractures of facial bones and a scar that extends across her cheek. She also happens to be a person who, through no fault of her own, nor of the surgeon involved, suffers from the condition called "keloid scarring". One could search the Guides, and on no page will that person be awarded any impairment whatsoever.

I draw attention to 9/230 of the fourth edition Guides, which says, "disfigurement of the face can result from many causes, particularly burns, traumatic injury, surgery, infections, or dysplasia. Effects on individuals can vary tremendously. We recommend that 'total disfigurement of the face' after treatment be deemed 15 to 35 per cent impairment of the whole person". I ask, what on earth is "total disfigurement of the face"? The Guides help in the next paragraph by saying, "Facial disfigurement may be considered total if it is severe and grossly deforming of the face and features. Such disfigurement must involve at least the entire area between the brow line and the upper lip on both sides. Severe disfigurement above the brow line should be deemed to be at a maximum 1 per cent impairment of the whole person". In all my years of practice as a plastic surgeon, I cannot remember any patient who had a disfigurement of the entire area between the brow line and the upper lip on both sides. What could possibly create such a deformity? Our young female bank teller with a slash across her face, with a scar from which she may have no psychiatric sequelae, does not apparently fit the bill. That she may also not have psychiatric problems means that she has no impairment and nothing that deserves compensation.

The next area of omission is that of craniofacial and faciomaxillary injuries. I am sure that those who were involved in writing the Guides were not aware that fractures of the facial bones often are related to industrial injuries. The impairment of a patient who has had gross facial fractures, with deformity of the teeth with a malocclusion, are not to be found in the Guides. There is just no chapter on craniofacial injuries. So I imagine, if called on to give an assessment of a patient with an injury of that sort, it is just, from the claimant's point of view, "bad luck".

The Guides is filled with inadequacies. Its omissions are such that it grossly disadvantages so many people who are injured. There will never be a system that can be put into place that fairly treats an injured worker, such that the opinion of one specialist will be the same as that of another. Why it is necessary to separate the concept of impairment from disability is beyond my comprehension. A system that forces people to rely on the Guides is a system that, in my view, seriously disadvantages the injured. ■

Notes

Mr Murray J Stapleton worked for 25 years in plastic, reconstructive and hand surgical practice. He now works full time as a medico-legal consultant.