

The Documentation of Disability Debate

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Requiring Documentation Discourages False Claims of Disability

- Accommodations are tools, and, like any tool, can be misused.
- Clients do not always give us accurate presentations, especially when external incentives (such as accommodations) are available.
- They may either fabricate symptoms, embellish the functional limitations of existing conditions, or simply “not try hard” on evaluations of their conditions.

False Claims, Cont.

- **How does motivation affect a client's presentation?**

- Flaro, Green, and Robertson (2007) compared failure rates on the Word Memory Test (WMT) for parents in custody evaluations (n=118) and adults with TBI (774) tested for Workers' Compensation.

* **23x greater failure rate** in WC claimants, suggesting when they could get external reward for poor performance, they presented as functionally impaired.

Documentation and Malingering

- "In contrast to the monetary incentives for malingering in litigation suits, adult students with ADHD/LD may exaggerate or fabricate cognitive deficits and symptoms in order to receive special accommodations...and/or to obtain stimulant medication."
- In 2000, the California State Auditor reviewed 330 cases of public school students who received accommodations and found 18% to be "questionable."
- In the same study, it was found that students from families of high socio-economic status were over-represented in those receiving accommodations on the SAT. **When the stakes are high, some students/parents do/pay what is necessary to diagnose a "disability."**
- Osmon and Mano found a 31% effort test failure rate in a university learning disorder clinic, comparable to the rate found in litigation.

Source: Assessment of Feigned Cognitive Impairment: A Neuropsychological Perspective by Kyli Boone, pp. 361-368

False Claims, Cont.

- In our own study of BYU students, 15% (21 out of 137) failed effort testing during their psycho-educational evaluation of learning disorders.
- ADHD is even easier to malingering, as the symptoms are well known. *The Chronicle of Higher Education* recently featured an article referencing "Detection of Feigned ADHD in College Students" by Sollman et al. discussing this issue.
- Concern: if this level of erroneous presentation is occurring even with a documentation requirement, what happens when there is no such requirement?

Are Students Good Diagnosticians?

- Within the last 12 months, approximately:
 - > 46% reported having felt hopeless.
 - > 80% reported being "overwhelmed by all [they] had to do" (52% w/l the last 2 weeks).
 - > 30% reported feeling "so depressed it was difficult to function."
 - > 47% reported feeling "overwhelming anxiety."
 - > 6% reported "seriously considering suicide."

American College Health Association National College Health Assessment, Fall 2009

Student Reports, Cont.

- 44.2% reported that "Academics" had been "traumatic or very difficult for [me] to handle."
- Over 50% reported that their "overall level of stress" was "more than average" or "tremendous."
- 50.5% reported that they had 3 days or less of the last 7 days in which they had "enough sleep that [they] felt rested when they woke up."

BUT...

- > Only about 9% said they had been diagnosed with anxiety.
- > 3.4% said they had been dx'd with ADHD
- > 1.3% said they had been dx'd with Bipolar
- > 9.1% said they had been dx/d with Depression
- > 2.1% said they had been dx'd with OCD
- > .4% said they had been dx'd with Schizophrenia

Documentation Helps You "See" the Invisible

- Documentation is more important when dealing with "invisible" disabilities, and we are dealing with these disabilities more than ever.
- Per Harbour (2009), the four biggest disability categories in postsecondary institutions are:
 - Learning Disabilities (35%)
 - ADHD (23%)
 - Psychiatric Disabilities (11%)
 - Chronic Health Conditions (11%)

What Do Faculty Believe?

- Since faculty implement some of our most commonly utilized accommodations, getting their buy-in is important.
- Hong & Himmel (2009) found that "almost 79% of faculty responded positively regarding believing students who have a verified disability" (our emphasis added).
- So, 21% of verified disabilities are disbelieved or doubted.

Faculty Beliefs, Cont.

- Hong & Himmel (2009) also found the following:
 - "(It's) hard to believe when certain students say they have disabilities" (9% negative, 18% neutral)
 - "students use disability as an excuse" (8% negative, 16% neutral)

Does Documentation Assist and Protect You?

- Without documentation, how much discretion do you have in deciding on accommodations?
- Doesn't the student then get to call the shots as to what s/he gets, since you have no anchor for the decision?

Example: A student describes problems with attention, can you deny their request for double time on an exam, even if you believe that a 50% extension is most appropriate?

Denial of Accommodations

- Protection: without documentation, what is your basis for denials?
 - You can't rely on general standards of accommodations for certain disabilities, since every analysis must be case-by-case.
 - Your only protection may reside in the fact that certain accommodations violate essential functions.
- Documentation allows for reliance on the professional's opinion.

How Documentation Helps the Client

Per AHEAD's own guidance, documentation should include the following seven elements, which include much helpful data:

1. **Credentials of the evaluator**
2. **A diagnostic statement identifying the disability.** "Quality documentation includes a clear diagnostic statement that describes how the condition was diagnosed, provides information on the functional impact, and details the typical progression or prognosis of the condition."
3. **A description of the diagnostic methodology used.**
4. **A description of the current functional limitations.** "Information on how the disabling condition(s) currently impacts the individual provides useful information for both establishing a disability and identifying possible accommodations."

Documentation Helps, Cont.

5. **A description of the expected progression or stability of the disability.** "It is helpful when documentation provides information on expected changes in the functional impact of the disability over time and context. Information on the cyclical or episodic nature of the disability and known or suspected environmental triggers to episodes provides opportunities to anticipate and plan for varying functional impacts."
6. **A description of current and past accommodations, services, and/or medications.**
7. **Recommendations for accommodations, adaptive devices, assistive services, compensatory strategies, and/or collateral support services.** "Recommendations from professionals with a history of working with the individual provide valuable information for review and the planning process."

Source: <http://www.ahead.org/resources/best-practices-resources/elements>

Common Concerns Regarding Documentation

- **Concern:** Asking for documentation creates a barrier to rights for a protected civil rights group (i.e. individuals with disabilities).

BUT, individuals in other protected groups must meet certain criteria

- *"The rights, protections, and services provided by the United States to individual American Indians and Alaska Natives flow not from a person's identity as such in an ethnological sense, but because he or she is a member of a federally recognized tribe."* (source: bia.gov)

- **Concern:** Obtaining documentation requires a great deal of money, excluding individuals without means from the accommodation process.

BUT, many DS offices offer LD and associated testing (Harbour, 2009) and Vocational Rehabilitation and student health centers/counseling centers can also provide documentation.

** also, 80% of college students have health insurance to help offset costs (GAO-08-389, March 2008)*

Concerns Regarding Documentation, Cont.

- **Concern:** the Americans with Disabilities Act-Amendments Act has broadened the definition of who is an individual with a disability. Requiring documentation may go against this mandate.

BUT, the thrust of the ADAAA was not to remove the documentation requirement, but to eliminate the "demanding standard for qualifying as disabled." (Toyota case)

Concerns, Cont.

- Per Shaw, Keenan, Madaus, & Banerjee (2010):
"as always, assessment of functional impact and residual functional capacity must be documented. Objective documentation is necessary to evaluate functional deficit to assist in determining appropriate accommodations."
- Also, per AHEAD's *Best Practices Resources* on *"The Use and Purposes of Documentation,"* it states that documentation "serves two primary purposes in postsecondary education":
 1. To establish protection from discrimination ["Documentation needed only for protection from discrimination based on disability can be quite brief...even self-identification...could suffice. "]
 2. To determine the accommodations to which the individual may be entitled. **"Disability documentation for the purpose of providing accommodations must both establish disability and provide adequate information on the functional impact of the disability so that effective accommodations can be identified."** (emphasis in the original).

To Whom Do We Owe Duties?

- This brings up a question. While we want to provide equal access to educational opportunities and eliminate discrimination, we also need to help our institutions maintain academic integrity.
- We have a fiduciary duty to our employers and our clients.
- Ideally, documentation allows you to balance both.

Partial Summary

- Students may misrepresent their conditions intentionally or through sub-optimal effort on testing.
- College may just be a traumatic experience. Students have very high self-endorsement rates of problems. We don't want to treat these as disabilities.
- We can't see most of the disabilities we work with now.
- We need to work productively with faculty and have their buy-in.
- We could use as much information as possible to help our students and protect us from discrimination claims.
- We need to balance our duties to clients with duties to our institutions.

Documentation helps address all of these concerns.

**Social Welfare vs.
Social Justice**

Social Welfare Concept

- Social welfare is about how people, communities and institutions in a society take action to provide certain minimum standards and certain opportunities.
 - > It is generally about helping people facing contingencies.
- Provision of assistance to persons in need
- Actions or procedures striving to promote the basic well-being of individuals in need

The Social Welfare Model as Seen in DS Field

- Sort, label, and determine need eligibility
- Retrofit activities to fit needs
- Offer segregated or parallel services
- Disabled students are the needy clients
- Disabled students ask to be included in a system (such as classroom) or society that does not fit the individual otherwise

Documentation as a Reflection of Social Welfare

- Social welfare models use a functional definition to qualify for services and to identify the category of persons that can be treated apart (segregated) from the mainstream of society
- Social welfare models require people to disclose their inabilities or problems in order to gain access to special services

Social Justice Concept

- Based on the concepts of human rights and equality
- Demands that people have equal rights and opportunities
 - > Everyone, from the poorest person on the margins of society to the wealthiest deserves an even playing field.
- Full inclusion, participation
- Freedom from discrimination

How the DS Field Could Incorporate the Social Justice Model

- Open doors, include everyone
- Inclusive design reduces retrofiting
- Inclusive strategies minimize segregation
- Best practices for inclusive design
- Designers of environments are clients
- Disabled students included by design

Documentation as a Reflection of the Social Justice Model

- How might the role of documentation change in a DS field that operates the social justice philosophy?

Fishing for Documentation

You Never Know What You Are Going to Catch

- While our field and our institutions often have documentation guidelines, what we get varies greatly due to:
 - > Quality of practitioners in the field
 - > Practitioners commitment to the documentation process
 - > Hesitation to share information due to HIPAA
 - > Financial means of the student/family
- How much energy do we spend catching what we want per policy?

The Documentation Cafeteria Line

Students and DS Often Pick and Choose within the Doc

- Students often want certain listed accommodations but not others
- DS offices may not accept functional limitation information or recommendations that would create unreasonable accommodations

Who is receiving the DS resources?

The student is one primary recipient

- What is our goal in providing access to students?
- What role should students play in the process?
- How can the use of documentation potentially interfere with these goals and roles?

The Documentation Effect on Students

- Documentation often requires money to obtain ...those with money get documentation
- Documentation is the gateway to access...no documentation, no service
- Documentation may become the student's story when policy applied rigidly...the paper is more important than the student

Student as "the expert"

- Students often have the info that we need to coordinate accommodations
 - > We just need to ask the right questions
 - > The trial-and-error process can actually enhance the student's buy-in and use of accommodations because they were actively involved in the outcome

Who is in charge around here?

Is it DS or the 3rd Party Provider?

- When we place a premium focus on documentation as a critical component in the decision making process, how does that influence the perceived role of the DS professional in the eyes of...
 - > The student and the family?
 - > The faculty?
 - > Other campus stakeholders?

Remember when the winds blew and the water flooded the documentation away?

In response to Hurricane Katrina's displacement of students...

- The DS field through the efforts of AHEAD created informational interview processes to collect the necessary data that affected students could not otherwise provide

- We did it before and said it was okay...so why not do it now?

What about the stigma associated with disability?

Barriers to Student Use of DS Resources

- Identity issues
 - > Desire to shed high school identity
 - > Do not want disability to be part of identity
- Desire to avoid negative social reactions
 - > Not wanting to be singled out
- Insufficient knowledge
 - > Question fairness of accommodation process

More Barriers

- Perceived quality and usefulness of services
- Negative experiences with professors regarding disability and accommodations

Marshak, L. et al. (2010). Exploring barriers to college student use of disability services and accommodations. *Journal of Postsecondary Education and Disability*, 22(3), 151-165.

As stated in Section 504 and the ADA

Regarding documentation...

- Nothing...there are no documentation requirements
- Midwest OCR representative during Michigan AHEAD 2010 conference stated that documentation was not a necessary component to coordinate academic accommodations

The ADA

Shifting the Focus

- The ADAAA thus restores the original intent of the ADA that the focus should be whether an individual with a disability, which was intended to be a very broad category, is being granted equal access through reasonable accommodations and modifications.

- The broad standard is demonstrating that the person has a disability... Once disability is established, it is incumbent on the entity to consider reasonable accommodations and modifications to ensure equal access.
- The new ADAAA has made adherence to rigid documentation guidelines no longer legally defensible.

Shaw, S. F. et al. (2010). Disability documentation, the americans with disabilities act, and the summary of performance: How are they linked? *Journal of Postsecondary Education and Disability*, 22(3), 142-150.

As a final point...

If nothing else makes sense...

- Maybe, just maybe less documentation is just the logical, appropriate, RIGHT thing to do

Office Experience with this Approach During Past Year

What We Learned

- Refreshing to go through initial discussion without focus on documentation
 - > Allowed focus to be on the student
- Students were immediately more relaxed about the process
- Eye-opening to see parent responses during this new student registration period
- See students in a different way without so much focus on the label and their needs

- Our energies are not being wasted on documentation collection and critical scrutiny
 - › Focus is on students, accommodations, and quality resources
- We have the individual and collective expertise to make decisions regarding reasonable accommodations
- Working with students without history were the most challenging

Conclusion

QUESTIONS?
