

CHALLENGES FOR VOCATIONAL SPECIALISTS UNDER THE DEFENSE BASE ACT

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Learning Objectives:

- ❑ What is a vocational rehabilitation counselor?
- ❑ What are the designations and which are relevant?
- ❑ When is appropriate to request vocational rehabilitation services?
- ❑ What are the specific skills a vocational rehabilitation specialist brings to the team to assist in evaluation and resolution?
- ❑ What are some of the optional services vocational specialists may offer to claims and legal professionals?
- ❑ What are some of the challenges vocational rehabilitation specialists are seeing in Defense Base Act claims?
- ❑ Discussion and answer session.

What Is A Vocational Rehabilitation Counselor?

- A Vocational Rehabilitation Counselor helps people deal with personal, social and vocational effects of disabilities. They evaluate strengths and limitations of the individual, provide personal and vocational counseling, offer case management support, and assist with vocational testing, training and actual job placement. This specialist often meets with the injured individual, physicians, psychologists, employers and other professionals to develop an individual program to facilitate an individual's return to employment.



Certifications A Vocational Specialist May Obtain:

- CRC** is a Certified Rehabilitation Counselor. To sit for this national examination, the specialist must have a Master's or Doctoral Degree in a Vocational Rehabilitation setting, and worked in the field a specified length of time.
- CDMS** is a Certified Disability Management Specialist. To sit for this national examination, the specialist must have a Bachelor's Degree or current state license as a Registered Nurse, and a minimum of twelve (12) months full time employment providing disability management services to individuals with disabilities receiving benefits from a disability compensation system.
- CCM** is a Certified Case Manager. To sit for this national examination, the specialist must have license or certification based on requirements of a post secondary degree that promotes physical, psychosocial or vocational well being of the persons serviced. The specialist must be able to practice independently (without supervision).
- CLCP** is a Certified Life Care Planner. To sit for this national examination, the specialist must hold an academic degree, certificate or diploma in the profession, complete additional post graduate hours of training in life care planning that is approved by the commission and is specific.
- MSCC** is a Medicare Set Aside Consultant – Certified. To sit for this national examination, the specialist must complete required post secondary degree pre-certification program and minimum of 12 months acceptable full time employment within past three years in specific disciplines.
- ABVE** is the American Board of Vocational Experts. To sit for this national examination, the specialist must hold a Master's or Doctorate degree specializing in vocational rehabilitation, psychology or vocational counseling. They must have training in specific vocational rehabilitation arenas and have provided testimony in these areas and display knowledge within a submitted peer reviewed work product.

<http://www.crccertification.com/> <http://www.cdms.org/> <http://www.ccmcertification.org/>
<http://ichcc.org/> <http://www.abve.net/default.asp>

Suitable Alternative Employment

New Orleans (Gulfwide) Stevedores v. Turner, 661 F.2d 1931, 1038 (5th Cir. 1981); *P & M Crane Co. v. Hayes*, 930 F.2d 424, 431 (5th Cir. 1991); *Avondale Shipyards, Inc. v. Guidry*, 967 F.2d 1039, 1044 (5th Cir. 1992).

Once the claimant has established a prima facie case of disability, the burden shifts to the employer to show available suitable alternative employment. To properly show this, the employer must prove existence of available jobs.

The vocational counsel should note: **claimant's age, education, employment history and physical capabilities have been considered. The employer must demonstrate the claimant could obtain employment with diligent effort. Jobs should be included for which the claimant is qualified, and capable of performing, in his/her geographical area. The jobs should outline terms, nature, availability, distance from claimant's residence and physical requirements of the position. Salary and location should be specific.**

How do I know an injured employee will not be able to resume pre-injury employment?



Vocational tools used to assist in evaluations:

- Classification of Physical Demands of Jobs
- Specific Vocational Preparation
- Unskilled, Semi Skilled and Skilled Job Classifications

Classification of Physical Demands



Physical Demands are relative to strength required to perform a job. These strengths are classified as:

Sedentary, Light, Medium, Heavy and Very Heavy

<i>Sedentary</i>	Lifting up to 10 lbs. occasionally
<i>Light</i>	Lifting up to 20 lbs. occasionally, up to 10 lbs. frequently
<i>Medium</i>	Lifting 20-50 lbs. occasionally, 10-25 lbs. frequently and up to 10 lbs. constantly
<i>Heavy</i>	Lifting 50-100 lbs. occasionally, 20-50 lbs. frequently and 10-20 lbs. constantly
<i>Very Heavy</i>	Lifting over 100 lbs. occasionally, over 50 lbs. frequently, over 20 lbs. constantly

Specific Vocational Preparation (SVP)

Specific Vocational Preparation (SVP) is an important component used in vocational evaluations found in the *Dictionary of Occupational Titles*. SVP indicates the amount of time required by a typical employee to learn job techniques, acquire job information and develop as a worker capable of average performance in a job.

Levels of Specific Vocational Preparation:

SVP 1	Short Demonstration
SVP 2	Short Demonstration and 1 month
SVP 3	Over 1 month up to 3 months
SVP 4	Over 3 months up to 6 months
SVP 5	Over 6 months up to 1 year
SVP 6	Over 1 year up to 2 years
SVP 7	Over 2 years up to 4 years
SVP 8	Over 4 years up to 10 years
SVP 9	Over 10 years

Unskilled, Semi Skilled and Skilled Work...

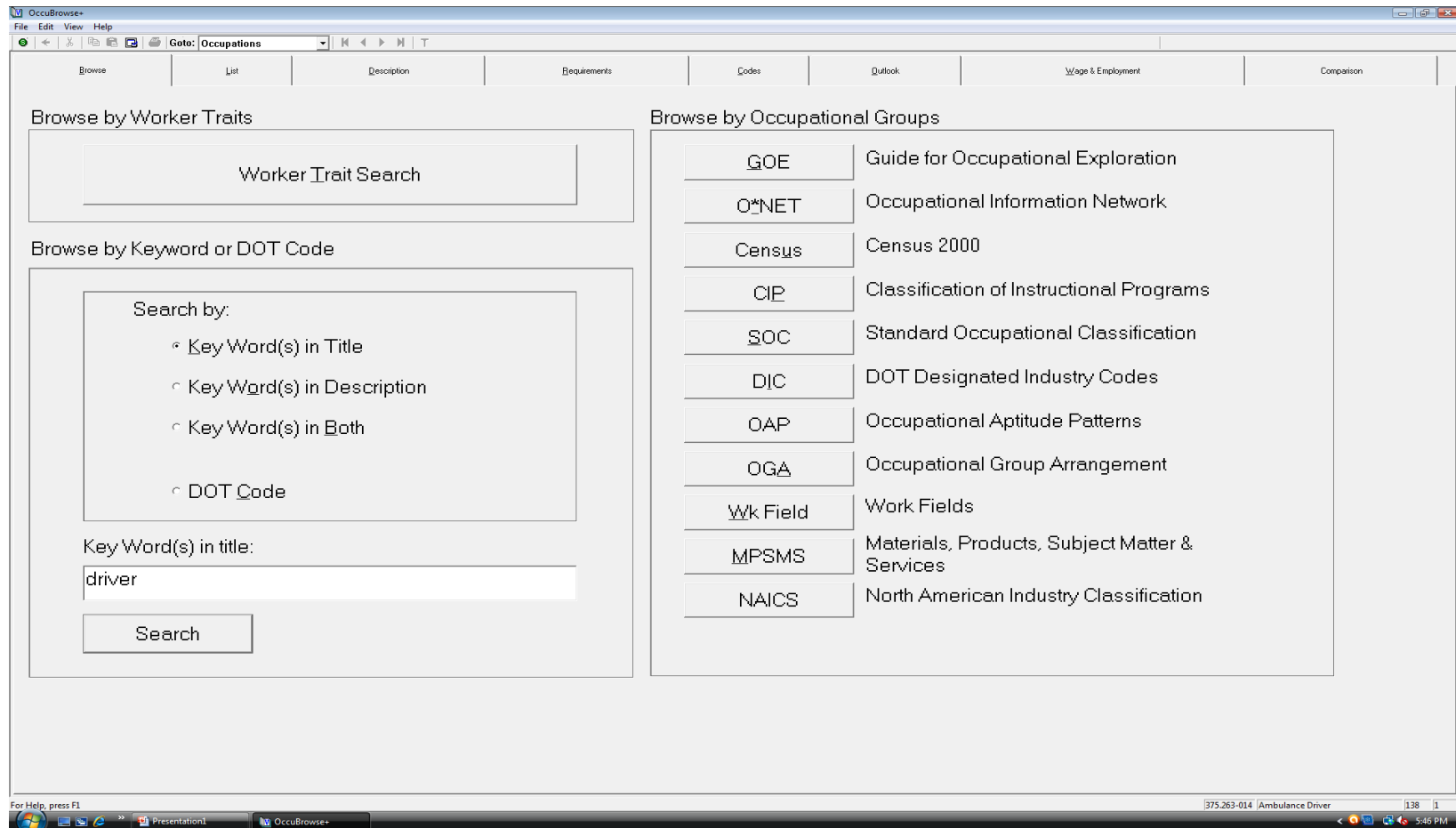
Unskilled work – Occupations that are typically learned in 30 days and the least complex to learn by an average individual. Examples are a surveillance system monitor, hand packer, restaurant dishwasher, laundry attendant.

Semi Skilled work – Occupations that require more than 30 days to learn, and require more skills than unskilled, but are not complex. Examples are carpenter, truck driver, painters, cooks, and forklift operators.

Skilled work – Occupations that require more training time and often higher education (college, university or technical school) or advanced on the job training. Duties are more varied and require more complex and abstract thinking, as well as decision making. Examples are nurses, chemists, airline pilots and engineers.

Tools Used In Transferable Skills Analysis

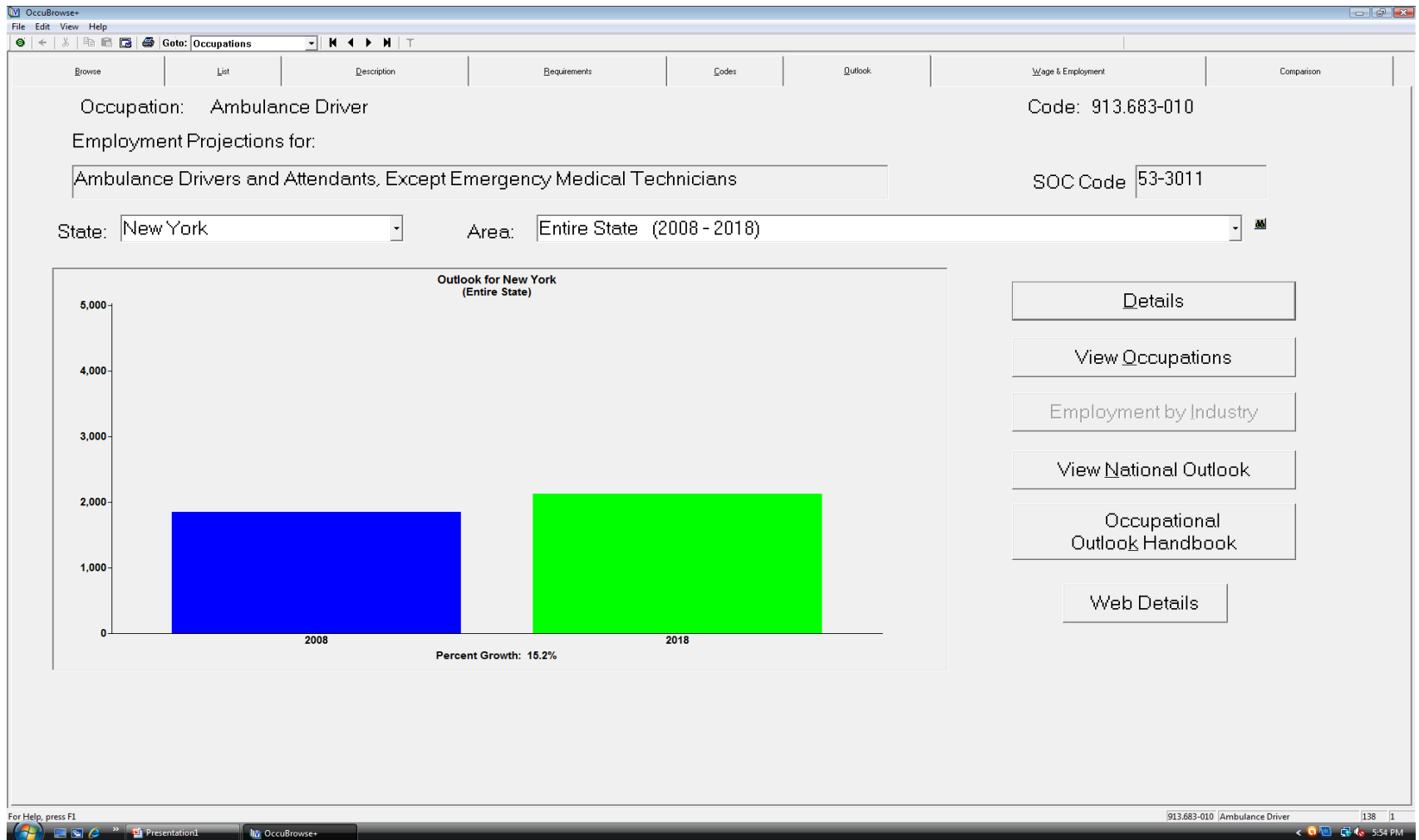
From: OccuBrowse+™



Results for “Driver” from OccuBrowse+™

DOT Code	DOT Title	Industry	SVP	Str	O*NET
375.263-014	Ambulance Driver	Government Services	6	M	33-3051.01
913.683-010	Ambulance Driver	Medical Services	4	V	53-3011.00
372.563-010	Armored-Car Guard and Driver	Business Services	3	M	33-9032.00
900.683-010	Batch-Mixing-Truck Driver	Construction	3	M	53-3032.00
249.363-010	Bookmobile Driver	Library	3	L	25-4031.00
669.685-022	Bottom-Hoop Driver	Wooden Container	3	M	51-7042.00
904.363-010	Bulk Driver	Motor Vehicle Transportation	4	V	53-3032.00
764.687-042	Bung Driver	Wooden Container	1	L	51-9199.00
913.463-010	Bus Driver	Motor Vehicle Transportation	4	M	53-3021.00
913.363-010	Bus Driver, Day-Haul or Farm Charter	Agriculture	3	M	53-3021.00
909.663-010	Bus Driver, Garage	Motor Vehicle Transportation	4	M	53-3032.00
913.463-010	Bus Driver, School	Motor Vehicle Transportation	4	M	53-3021.00
913.463-018	Cab Driver	Motor Vehicle Transportation	3	M	53-3041.00
919.683-014	Car Driver	Automobile Manufacturing	2	L	53-3041.00
919.664-010	Cart Driver	Any Industry	3	M	53-7199.00
806.283-014	Chassis Driver	Automobile Manufacturing	6	L	51-9061.00
349.677-014	Coach Driver	Business Services	3	L	39-3091.00
859.682-018	Compressed-Air-Pile-Driver Operator	Construction	5	M	47-2072.00
900.683-010	Concrete-Mixing-Truck Driver	Construction	3	M	53-3032.00
859.682-018	Concrete-Pile-Driver Operator	Construction	5	M	47-2072.00
669.685-042	Corrugated-Fastener Driver	Woodworking	2	M	51-7042.00

Additional Information for “Driver” From OccuBrowse+™



Additional Information for “Driver” From OccuBrowse+™

The screenshot displays the OccuBrowse+ web application interface. At the top, there is a navigation bar with tabs for 'Browse', 'List', 'Description', 'Requirements', 'Codes', 'Outlook', 'Wage & Employment', and 'Comparison'. The 'Description' tab is currently selected. The main content area shows the following information:

Title: Bus **Driver**

DOT Code: 913.463-010

JOB DESCRIPTION

Drives bus to transport passengers over specified routes to local or distant points according to time schedule:

Tasks

1. Assists passengers with baggage and collects tickets or cash fares.
2. Regulates heating, lighting, and ventilating systems for passenger comfort.
3. Complies with local traffic regulations.
4. Reports delays or accidents.
5. Records cash receipts and ticket fares.

May Also Include:

Task Format Paragraph Format Job Analysis Format Highlight Keywords

The application window title is 'OccuBrowse+' and the address bar shows 'Goto: Occupations'. The Windows taskbar at the bottom shows the system clock as 8:57 AM and several open applications including 'Inbox in Shaunaulti...', 'AOL.com - News, S...', 'Documents', 'Microsoft PowerPoi...', and 'OccuBrowse+'.

Putting It All Together

Typical Indicators of Referral to Vocational Rehabilitation:

- If the injured individual has a job classification of medium to very heavy, has a high average weekly wage and has lost extensive time from work.
- If the injured individual has had prior injuries that may now render him/her as challenges seeking alternative employment.
- If the injured individual has an SVP 4 or less, or Unskilled work classification, there may be less investment in the individual's "career" that may be a motivating variable.
- If the injured individual has a Traumatic Brain Injury.
- If the injured individual has a catastrophic injury, injury involving amputation or severe extremity injury.
- If the injured individual (or their representative) has indicated the party is permanent and totally disabled.

The Vocational Rehabilitation Specialist Assists the Defense Base Act Team:

- ❑ By primarily focusing on return to work of the injured individual as early in the process as possible.
- ❑ By vocational evaluation and testing to confirm the individual is functioning at or above an employable level.
- ❑ By using tools and interview of injured individual to assess skills an individual has acquired in prior employment.
- ❑ By counseling injured employee in the return to work process and discussing options available.
- ❑ By completing labor market work and verifying actual employment is available to an individual within medical restrictions.
- ❑ By offering empirical and valid statistical data to support labor market research and employability of an injured individual.
- ❑ By offering expert witness testimony as to employability in the present labor market and availability of jobs.

Optional Services a Vocational Specialist May Offer:

- ❑ Review of medical and employment records for initial evaluation of employability with counsel or the claims professional. This may assist with initial reserving in catastrophic claims.
- ❑ Labor market survey for scheduled injury losses for employees who have not returned to work.
- ❑ In claims that warrant retraining, vocational interest and aptitude testing may be used to verify the individual will likely succeed. The specialist could also research various programs as to cost and length of training. The specialist should be familiar with financial assistance available to assist with expense.

Challenges for Vocational Rehabilitation Specialists In the Labor Market Process

➤ Most Employers Offer Positions By Internet Application ONLY!

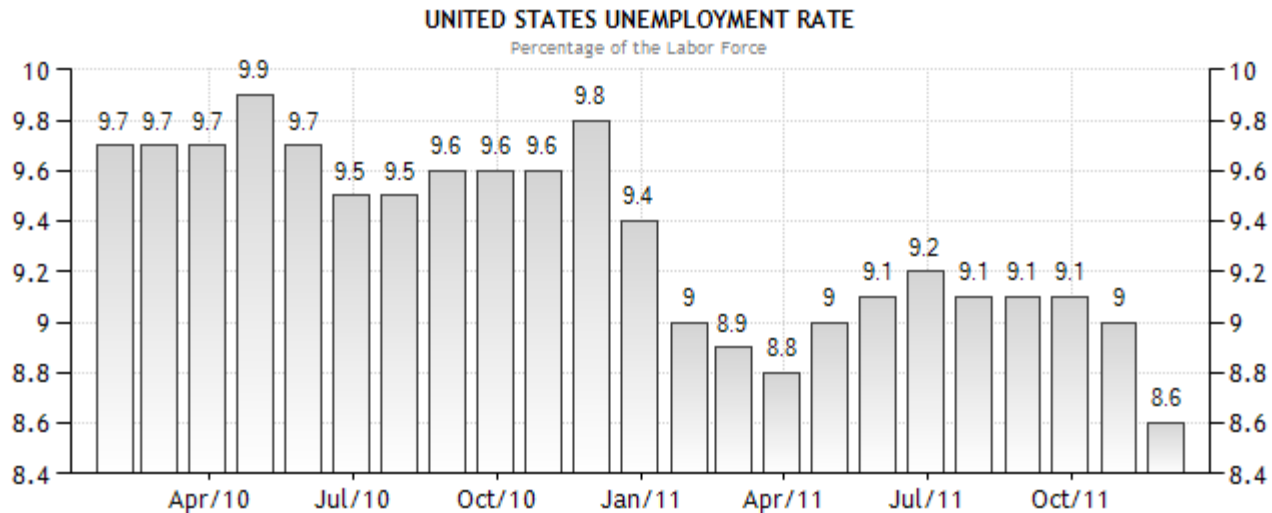
The screenshot shows a web browser window displaying a job listing for "Independent Life Insurance Agents (NO PROSPECTING)" at "The Hartford". The browser's address bar shows the URL: http://www.careerbuilder.com/JobSeeker/JobDetails.aspx?pf=true&JOB_DID=JBC6CV61Q4JLKGRNXXM. The job details are as follows:

Job Snapshot	
Location:	Fort Lauderdale, FL (Map It!)
Commission:	\$30,000.00
Bonus:	\$5,000.00
Employee Type:	Full-Time
Industry:	Sales - Marketing Insurance Other Great Industries
Manages Others:	No
Job Type:	Insurance Other Sales
Experience:	Not Specified
Relocation Covered:	No
Post Date:	6/20/2011
Contact Information	
Contact:	Mark Goldstein
Phone:	954-961-6442
Ref ID:	IPP
Fax:	954-961-6443 (instantly fax your resume >>)
Description	
<p>Are you looking for a sales opportunity that gets you in front of prospective clients without the hassle of cold calling? Do you want to be recognized and rewarded for the results you produce? Are you looking for a team atmosphere with the right balance of flexibility, independence, and freedom? Do you want to be your own boss and succeed based upon your work and the results you produce?</p> <p><i>This may be the opportunity you've been looking for.</i></p> <p>A general agency in your area is looking for independent insurance agents who can be appointed to represent Hartford Life and Annuity Insurance Company. As an independent insurance sales agent, you will be an independent contractor (not an employee of The Hartford), able to fully enjoy the rewards of your hard work. The Middle America life insurance marketing program positions you for success by offering:</p> <ul style="list-style-type: none">• Quality sales leads with no cold calling required• Weekly commission advance program• Competitive life insurance products• Bonuses and rewards programs for agents who qualify	

Continued Challenges For Vocational Rehabilitation Counselors

➤ Rate of Unemployment in the United States

There are many individuals competing for the same job. Most individuals competing are not injured, have a developed resume and good interviewing skills. The specialist should be familiar with the employment statistics and overall job availability in the area of the injured individual's residence.



SOURCE: WWW.TRADINGECONOMICS.COM | BUREAU OF LABOR STATISTICS

Continued Challenges for Vocational Rehabilitation Counselors

➤ **Increase in prescription of addictive opiate based analgesics medications for chronic pain create a true challenge.**

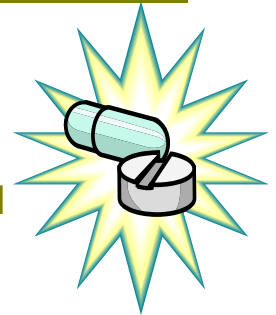
Many employers will drug test prospective employees. There could be a need for the individual to undergo detox before returning to the labor market.

In Florida, there has been extensive debate where the media (*Time, Sun Sentinel*) indicate "Pill Mills" outnumber "McDonald's". Florida Pain Clinic Society indicates this statement is not factual.

The Centers for Disease Control (CDC) has noted an increase in drug overdose mortality due to prescription medication, particularly opiate analgesics. The CDC data indicates deaths from prescription drugs is higher than from illicit drugs, such as heroin and cocaine. With the introduction of opiate analgesics, drug overdose mortality doubled in the south and Midwestern states. In West Virginia, the rate increased over 500%. Rates in Oklahoma, Montana and Arkansas tripled.

http://www.cdc.gov/HomeandRecreationalSafety/pubs/RXReport_web-a.pdf

Common opiate pain relievers prescribed for chronic pain are Fentanyl, Duragesic, Hydrocodone, Norco, Vicodin, Dilaudid, Exalgo, Avinza, OxyContin and Percocet.



Continued Challenges for Vocational Rehabilitation Counselors

➤ **Challenges of lifestyle, such as tobacco use.**

Many organizations will NOT CONSIDER HIRING an applicant who uses tobacco products. Organizations noted with this policy are hospitals, insurance companies, and municipalities.

In addition to drug testing, some organizations test for trace of Cotinine, the principle metabolite in nicotine. This urine test advertises to detect cigarette, cigar, pipe smoking and chewing tobacco up to 3 days after use. Most tests are 99% accurate and provide immediate results.



Summary of Vocational Rehabilitation Under the Defense Base Act

- A Vocational Rehabilitation Counselor helps people deal with personal, social and vocational effects of disabilities. They evaluate strengths and limitations of the individual, provide personal and vocational counseling, offer case management support, and assist with vocational testing, training and actual job placement. A Vocational Rehabilitation Counselor has many designations that may/may not be relevant to DBA Claims.
- There are specific factors relative to the claimant that must be covered in the Vocational Rehabilitation Counselor's report.
- There should be a specific scientific methodology to conclusions by the Vocational Rehabilitation Counselor.
- There are many services the Vocational Rehabilitation Counselor may offer the Defense Base Act team.
- There are challenges in locating jobs for injured employees, such as verification of salary and availability, unemployment, narcotic and tobacco use.

Thank You!

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