BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

GREGORY SCHONHOFF, Claimant, vs. JOHN DEERE DUBUQUE WORKS, OF DEERE & COMPANY, Employer, Self-Insured, Defendant.	:	File No. 5061818 ARBITRATION DECISION Head Note Nos.: 1402.40, 1803, 2907

STATEMENT OF THE CASE

Claimant Gregory D. Schonhoff filed a petition in arbitration seeking worker's compensation benefits against John Deere Dubuque Works of Deere & Company, self-insured employer, for an accepted work injury date of August 22, 2014. The case came before the undersigned for an arbitration hearing on October 27, 2021. This case was scheduled to be an in-person hearing occurring in Des Moines. However, due to the ongoing COVID-19 pandemic, the Iowa Workers' Compensation Commissioner ordered all hearings to occur via video means, using CourtCall. Accordingly, this case proceeded to a live video hearing via Court Call with all parties and the court reporter appearing remotely. The hearing proceeded without significant difficulties.

The parties filed a hearing report prior to the commencement of the hearing. On the hearing report, the parties entered into numerous stipulations. Those stipulations were accepted and no factual or legal issues relative to the parties' stipulations will be made or discussed. The parties are now bound by their stipulations.

The evidentiary record includes Joint Exhibits 1 through 5, Claimant's Exhibits 1 through 6, and Defendants' Exhibits A through I.

Claimant testified on his own behalf. Claimant's wife, Peggy Schonhoff, also testified. John Hefel testified on behalf of the employer. The evidentiary record closed at the conclusion of the evidentiary hearing on October 27, 2021. The parties submitted post-hearing briefs on December 14, 2021, and the case was considered fully submitted on that date.

ISSUES[1]

1. Whether claimant has sustained permanent mental health sequelae related to the accepted work injury;
2. The extent of claimant's permanent disability related to the accepted work injury;
3. Payment of claimant's independent medical and psychological examinations under Iowa Code section 85.39; and,
4. Taxation of costs.

FINDINGS OF FACT

The undersigned, having considered all of the evidence and testimony in the record, finds:

Claimant's testimony was consistent as compared to the evidentiary record, and his demeanor at the time of hearing gave the undersigned no reason to doubt his veracity. Claimant is found credible.

At the time of hearing, claimant was a 52-year old person. (Hearing Transcript, p. 19) He is married and has an 18-year-old son. Claimant graduated from high school in 1987, after which he joined the United States Navy. (Tr., p. 21) Claimant served in the Navy for 6 years, working as a nuclear designated engine room mechanic and operator.

After leaving the Navy, claimant worked at the University of Northern Iowa's power plant for about a year and a half. (Tr., p. 22) He also attended two years of college. (Tr., p. 20) Claimant did not obtain a college degree, but studied industrial technology and mechanical engineer technology. (Tr., p. 21) On May 15, 1995, claimant began working for John Deere, and has worked there ever since. (Tr., p. 23) In 2007, in addition to his job at John Deere, claimant started working part time at Walmart as a tire technician. (Tr., pp. 78-79) His job duties included mounting and dismounting tires, replacing tires, and fixing flat tires. (Tr., p. 79) Claimant left that part-time job in 2020, once the COVID-19 pandemic began. (Tr., p. 78)

Over claimant's 26 years of employment with John Deere, he has been in the same position: power house maintenance and/or operator. (Tr., p. 23) Claimant has always worked full-time, and works overtime when available. (Tr., p. 24) Claimant's job as a power plant operator involves operating equipment, and monitoring gauges on air compressors and boilers in order to provide electricity, steam, and air to the John Deere factory services. (Tr., pp. 24-25) Claimant is responsible for five air compressors and three boilers. (Tr., p. 25) Claimant testified that he either works alone or with one other person, who he may or may not see during his shift. Claimant is able to perform all of the duties of his job, and had not had any issues struggling with his job duties. (Tr., p. 26)

[1] The parties included a dispute on the hearing report regarding certain medical expenses, but defendants indicated at hearing those expenses were in the process of being paid. (Hearing Transcript, pp. 7-8) The parties were to include the issue in their briefs if not resolved. As the parties did not brief the issue, it is presumed resolved and will not be addressed in this decision.

In the past, claimant sustained a head injury resulting in a concussion due to a motorcycle accident. (Tr., p. 27) He had a second motorcycle accident that resulted in a knee injury. While claimant has recovered from those injuries, he still has occasional headaches that may be related to the concussion, and chronic pain in his right knee. (Tr., pp. 27-28) Claimant also had a prior workers' compensation injury to his back, which resulted in surgery. (Tr., p. 28) Claimant testified that surgery was over 20 years ago, and he only has mild continuing back issues today.

Claimant has previously been treated for depression, in the late 1990s. (Tr., pp. 28-29) He testified that he was prescribed Wellbutrin, which he took for 2 or 3 years. (Tr., p. 29) However, prior to the subject work injury, claimant had not taken any medication related to his mental health for over 10 years.

Claimant was injured while working at John Deere on August 22, 2014. (Tr., p. 30) Claimant explained that at the power plant, there are "backup field generators" that are the size of locomotive engines. At certain times, John Deere is cut off from Alliant energy, and has to supply its own electricity. During those times the generators are turned on. (Tr., pp. 30-31) The generators are located in a closed room, with two doors that claimant described as "three times the size of a normal door." (Tr., p. 31) When the generators are engaged, they become hot, so the large doors are propped open to create air circulation in the room.

On August 22, 2014, claimant was propping open the doors to the generator room. He opened the first door and used the kickstand-type stopper on the door to prop it open. As he was going to open the second door, the rubber on the stopper gave out, and the large, heavy door swung shut, slamming into claimant and knocking him to the ground. (Tr., p. 31) The door hit claimant in the head, the forearm, the knee, and essentially the entire right side of his body from the chest down. (Tr., pp. 31-32) Claimant testified that he remembers pain in his arm, lower abdomen, and groin area, and also felt like his head was "racked." (Tr., p. 32) He went to sit down, and felt as though he might black out, but did not. Eventually, he went to the John Deere nurses' station. (Tr., pp. 32-33) At the nurses' station, he reported that his right forearm took the brunt of the force, and was his most severe pain at that time. (Joint Exhibit 1, pp. 1, 3) He was sent to Unity Point occupational health for evaluation.

At Unity Point, claimant reported pain and swelling in his right forearm and the right side of his head. (Jt. Ex. 2, p. 45) After examination, claimant was found to have contusions to his right forearm, head, and knee, and mild concussion symptoms. He was sent for x-ray of his right arm and given a 2-pound lifting restriction until August 25, 2014, at which time he was to follow up at the nurses' station at John Deere. (Jt. Ex. 2, pp. 45-46) Claimant testified that the x-ray of his arm did not show any fractures. (Tr., pp. 33-34)

Claimant followed up at the nurses' station on August 25, 2014, which was a Monday. (Jt. Ex. 1, p. 3) At that time he reported he was improving, and that his right arm was no longer swollen and had minimal pain. He continued to have some pain in his right knee. However, he reported having achiness in his penis since the injury. The

record notes that he recalled initially having "core body achiness and pain," but that was improving. He continued to demonstrate mild concussion symptoms as well. He was to follow up again the following Friday. (Jt. Ex. 1, p. 3)

On August 29, 2014, claimant again followed up at the nurses' station. (Jt. Ex. 1, p. 4) He reported no longer having pain in the right arm or right knee. He was still having headaches, but fewer. However, his main concern was the blow to his groin area. He indicated that he was not feeling pressure in the groin, but that urinating "felt different" and he had noticed pain in the shaft of the penis and a curve in the penis that was not previously present. He was referred to a urologist for evaluation of his penile complaints, and released to work full duty. [2] (Jt. Ex. 1, p. 3)

Claimant saw urologist Alex Horchak, M.D., on September 8, 2014. (Jt. Ex. 2, p. 47) He reported pain in the shaft of his penis, as well as an indentation at the base of his penis. On physical examination, Dr. Horchak noted that there appeared to be a plaque in the left proximal corpora cavernosum, which is where he noted the deformity. At that time claimant was not reporting angulation or pain with erection. Dr. Horchak diagnosed Peyronie's disease, and recommended vitamin E capsules and "a little bit of physical therapy to the area in hopes of breaking up some scar tissue." (Jt. Ex. 2, pp. 47-48) He was to follow up in three months.

Claimant followed up with the John Deere nurses on September 9, 2014, and reported his diagnosis of Peyronie's disease. (Jt. Ex. 1, p. 5) He further reported that his right arm was 100 percent resolved, and his knee had returned to baseline. He still had occasional headaches, but his other concussion symptoms had resolved.

Claimant followed up with Dr. Horchak on December 19, 2014. (Jt. Ex. 2, p. 49) At that time his condition was about the same or even a little worse. He was prescribed an oral medication in addition to continuing the vitamin E, and told to follow up in three months. (Jt. Ex. 2, p. 50) At his next appointment with Dr. Horchak on March 23, 2015, he reported no change, but no worsening of the condition. (Jt. Ex. 2, p. 51) On physical examination, Dr. Horchak noted the plaque was a bit softer and flatter than previous. (Jt. Ex. 2, p. 52) Claimant was to continue with his current regimen and follow up in six months.

Claimant next saw Dr. Horchak on September 28, 2015. (Jt. Ex. 2, p. 53) Dr. Horchak noted that claimant's condition had worsened, as he was having increase angulation and discomfort. (Jt. Ex. 2, pp. 53-54) His impression was that the Peyronie's was starting to progress. (Jt. Ex. 2, p. 55) He prescribed a topical transdermal gel called verapamil, and told claimant to follow up in six months.

Claimant followed up sooner, next seeing Dr. Horchak on December 28, 2015. (Jt. Ex. 2, p. 56) He noted the diagnosis of Peyronie's disease as a result of a traumatic injury to the phallus. The medications claimant had tried had provided some improvement of the plaque, but no straightening of the erection. He had also began to

[2] Although claimant had work restrictions for a short time, he was still able to complete his job duties and did not miss any work as a result of his work injuries.

notice some pain with intercourse. Dr. Horchak noted no signs of progression of the Peyronie's disease, but also no significant improvement. (Jt. Ex. 2, p. 57) They elected to continue the verapamil for an additional three months.

At his next follow up on March 29, 2016, claimant reported increasing pain, but no change in curvature. (Jt. Ex. 2, p. 58) Dr. Horchak discussed possible injection therapy. After physical examination, he noted that claimant's Peyronie's disease was progressing despite aggressive medical therapy, and referred claimant to the University of Iowa for collagen inhibitor injection therapy. (Jt. Ex. 2, p. 60) Claimant followed up with the John Deere nurses after this appointment, and also noted that he was being told by his family that he was beginning to demonstrate "unusual anger" and was using alcohol more. (Jt. Ex. 1, p. 10) As a result, claimant was concerned he may be depressed, and requested a referral to be evaluated for depression.

The John Deere clinic records demonstrate that claimant went through a period of intense mental struggle during this time. (Jt. Ex. 1, pp. 12-13) Claimant was concerned that his appointment for mental health care was not soon enough, as his anxiety, paranoia, and anger had increased. (Jt. Ex. 1, p. 12) On April 18, 2016, he advised the nurse that his anger issues were spilling into his work, and he had been "talked to" about it. (Jt. Ex. 1, p. 12) He stated that he had called in sick to work the prior Sunday due to anxiety, and had a lot of trouble coming in to work on that day as well. He denied suicidal thoughts, but stated he had the desire to hurt others due to his anger about his Peyronie's condition. He further stated he was sleeping poorly, his appetite was poor, and he had increased his consumption of alcohol in an attempt to stop thinking about his anxiety and paranoia. Based on her concerns, the John Deere nurse made attempts to get claimant into a mental health provider earlier.

Claimant was seen by Mark Mittauer, M.D., on April 21, 2016, for an intake psychiatric evaluation. (Jt. Ex. 3, p. 63) Dr. Mittauer noted that claimant's chief complaint was anxiety, depression, and anger, and that others at work had noticed his anger and he feared losing his job. He discussed having "episodic" depressive episodes over the prior ten years, but noted that recently his depression had become severe. He was having difficulty sleeping and nightmares, was feeling somewhat hopeless, and had low self-esteem. He also endorsed auditory hallucinations, as well as potential visual hallucinations. He had paranoid thoughts that he was being watched, but not to the extent of being delusional.

Dr. Mittauer noted claimant had "episodic" fleeting suicidal thoughts, but had not made any attempts or plan. He also noted fantasies about mass killings, but did not think it would ever actually occur. (Jt. Ex. 3, pp. 63-64) Claimant complained of panic attacks if he is stressed, such as if he misplaces something. (Jt. Ex. 3, p. 64) With respect to his past psychiatric history, Dr. Mittauer noted that claimant was treated for depression and anger in the past, and was on medication for a period of time. It is also noted that the day prior to seeing Dr. Mittauer, claimant saw Claire Hunt, LMSW, but that particular record is not in evidence. However, Dr. Mittauer noted that Ms. Hunt diagnosed major depressive disorder and other specified anxiety disorder, and would be seeing claimant for ongoing therapy.

Dr. Mittauer's mental status examination revealed illogical thought process and psychotic symptoms. (Jt. Ex. 3, p. 65) Claimant's thought content was notable for auditory hallucinations, possible visual hallucinations, paranoid ideation, and illusions. While his insight into need for treatment was good, his impulse control and social judgement were poor when he is angry. Dr. Mittauer noted claimant had verbal outbursts when angry, and occasionally throws a tool but does not assault others.

Dr. Mittauer's diagnoses were major depressive disorder, recurrent, severe, with psychotic features, disruptive mood dysregulation disorder (anger), other specified anxiety disorder (panic attacks, excessive worry), and "rule out" alcohol use disorder. (Jt. Ex. 3, p. 65) He noted that claimant's suicide risk was moderate, but he did not meet commitment criteria or desire psychiatric hospitalization. He further noted his risk for harming others is low, although he had experienced fantasies of killing multiple people, had access to weapons, and had served in the military so was presumably trained in using weapons. However, claimant's psychotherapist, Ms. Hunt, was aware of claimant's homicidal thoughts and would work with him in therapy. Dr. Mittauer prescribed psychotropic medications, recommended he continue to see Ms. Hunt for therapy, recommended he get rid of his weapons, and recommended he cease or significantly reduce his alcohol consumption. (Jt. Ex. 3, pp. 65-66)

Claimant continued to attend therapy with Ms. Hunt. On May 6, 2016, he reported his anxiety had been reduced with medication, but he was still struggling with depression. (Jt. Ex. 3, p. 67) Much of his therapy focused on his anger and depression connected to his work injury and the lack of successful treatment options so far. He saw Dr. Mittauer again on May 16, 2016, and again expressed that his anxiety had improved, he still felt depressed, and his anger persisted, but had lessened. (Jt. Ex. 3, p. 68) Dr. Mittauer made some medication adjustments, and claimant continued with therapy. (Jt. Ex. 3, p. 69)

Claimant was seen by Bradley Erickson, M.D., at University of Iowa Urology Clinic on May 20, 2016. (Jt. Ex. 4, p. 126) In reviewing his history, Dr. Erickson noted that claimant reported an approximate 30 degree curvature of his penis, which was causing pain and discomfort during intercourse to that point that it precludes ejaculation. He continued to report a palpable nodule on the left midshaft of his penis. He also reported that since the accident he has had to strain to urinate and has a weaker stream. On physical examination, Dr. Erickson noted a palpable 1.5 centimeter long by 1 centimeter wide plaque on the left penile midshaft. (Jt. Ex. 4, p. 127) He prescribed pentoxifylline and recommended manual manipulation of the plaque, and recommended a plication procedure if the curvature stabilizes and the pain resolves. (Jt. Ex. 4, p. 128)

After seeing Dr. Erickson, claimant reported to Ms. Hunt during therapy that he was struggling with acceptance and was left with mostly anger regarding his penile condition. (Jt. Ex. 3, p. 70) He noted his feelings were closely related to his injury becoming worse, and the fact that the plication surgery would result in a loss of size to his penis, which was upsetting to him. He expressed the same concerns to Dr. Mittauer at his next follow up with him on June 13, 2016. (Jt. Ex. 3, p. 71) He continued to receive medication adjustments with Dr. Mittauer, and therapy with Ms. Hunt. (Jt. Ex. 3,

pp. 71-75) By August 15, 2016, claimant reported to Dr. Mittauer that things were worse, and he was feeling very depressed and hopeless. (Jt. Ex. 3, p. 76) He had reduced his alcohol intake, but had been angry with verbal outbursts. Dr. Mittauer again adjusted claimant's medications. (Jt. Ex. 3, p. 77)

Claimant's next follow up with Dr. Erickson took place on August 29, 2016. (Jt. Ex. 4, p. 129) Claimant reported significant improvement after starting the pentoxifylline and manual manipulation of the plaque. On physical examination, Dr. Erickson agreed that the plaque had improved from his prior evaluation. (Jt. Ex. 4, p. 130) Claimant was to stop the pentoxifylline and follow up in three months. In the meantime, claimant continued with mental health therapy. (Jt. Ex. 3, p. 78) The next time he saw Dr. Erickson was December 2, 2016. (Jt. Ex. 4, p. 131) At that time, he reported significant improvement with the curvature of his penis, which was now approximately 15 degrees. However, he reported recently experiencing difficulty maintaining an erection during intercourse. As such, Dr. Erickson prescribed Cialis. (Jt. Ex. 4, p. 132) Dr. Erickson felt claimant's condition was stable from his prior exam, and recommended continued observation and conservative treatment at that time.

Claimant again saw Dr. Mittauer a few days later, on December 6, 2016. (Jt. Ex. 3, p. 79) He noted that while his penile condition had somewhat improved, his anxiety and depression had increased, and his anger persisted. At his next follow up on January 31, 2017, his anger had worsened, as his Peyronie's disease had also worsened. (Jt. Ex. 3, p. 81) He reported to Dr. Mittauer that he had persistent pain with erections, causing a lack of libido. He continued to experience episodic panic attacks, but they had been mild in severity. He continued to consume alcohol, typically up to 12 beers per week. His medication was adjusted, and he was to continue psychotherapy with Ms. Hunt. (Jt. Ex. 3, p. 82)

Claimant next saw Dr. Erickson on March 17, 2017. (Jt. Ex. 4, p. 133) He reported his penile curvature had changed about one month prior, from the left to an upward curve of about 45 degrees. He continued to experience some discomfort with intercourse, but not the pain he had described previously. On physical exam, he was found to have palpable plaque along the dorsal shaft, as well as additional plaque along the left mid-shaft. (Jt. Ex. 4, p. 134) Dr. Erickson and claimant discussed penile plication surgery, and claimant elected to proceed. (Jt. Ex. 4, p. 135) The surgery was scheduled for several months in the future, "to ensure that the curvature is stable and not further evolving at the time of the operation." (Jt. Ex. 4, p. 135)

Claimant saw Dr. Mittauer on March 21, 2017. (Jt. Ex. 3, p. 83) He reported feeling angry that his condition had worsened, and upset because he knew the surgery would shorten the length of his penis. He continued to have severe depression and mild panic attacks. He was also having some paranoid thoughts. His medications were again adjusted and he was to continue with psychotherapy. (Jt. Ex. 3, p. 84) At his next follow up on May 8, 2017, he noted that things had been "fair," and he was getting married soon. (Jt. Ex. 3, p. 85) His therapist, Ms. Hunt, had left the practice, and Dr. Mittauer noted he would arrange therapy with someone else if claimant desired. When claimant next saw Dr. Mittauer on June 19, 2017, he noted he had been "doing alright," and that

his surgery had been postponed. (Jt. Ex. 3, p. 87) His depression had been mild to moderate, but his anger had increased. He had not been in any physical altercations, but had come close. He continued to follow up with Dr. Mittauer regularly. (Jt. Ex. 3, pp. 88-90)

Claimant returned to Dr. Erickson on August 8, 2017. (Jt. Ex. 4, p. 136) At that time, he reported the plaque had been unstable, and he had changes in character and curvature and with pain. (Jt. Ex. 4, p. 137) The curvature remained at 45 degrees but was changing to a rightward direction. Dr. Erickson noted that he also appeared to possibly be developing an "hourglass deformity." (Jt. Ex. 4, p. 138) Given the "active remodeling," Dr. Erickson determined that surgical correction was not indicated at that time, and they would have to wait until there was plaque stability. He prescribed NSAIDS and pentoxifylline.

At claimant's next visit with Dr. Mittauer on August 21, 2017, he conducted a homicide risk assessment. (Jt. Ex. 3, pp. 91-93) With claimant's permission, Dr. Mittauer also called and spoke to claimant's wife. (Jt. Ex. 3, p. 92) Ultimately he concluded that claimant's risk of harming others was reduced after their visit, and recommended additional medication changes and that claimant resume psychotherapy. (Jt. Ex. 3, p. 93) He continued to follow up with Dr. Mittauer regularly. (Jt. Ex. 3, pp. 94-95)

Claimant followed up with Dr. Erickson on October 11, 2017. (Jt. Ex. 4, pp. 139-140) After physical examination, Dr. Erickson concluded that claimant's curvature was stable, and he was again scheduled for the plication surgery. (Jt. Ex. 4, p. 142) At the next visit with Dr. Mittauer on October 23, 2017, claimant noted that he was angry he had to have surgery and upset that he would be "disfigured" post-surgery. (Jt. Ex. 3, p. 96) His medications were again adjusted. (Jt. Ex. 3, p. 97)

On November 30, 2017, claimant presented for the plication procedure with Dr. Erickson. (Jt. Ex. 4, p. 145) The procedure was completed, and Dr. Erickson's note indicated the penis was straight at the end of the case. (Jt. Ex. 4, p. 148) Claimant was discharged home. Claimant saw Dr. Mittauer on December 18, 2017, and noted he was somewhat unhappy with the results of his surgery. (Jt. Ex. 3, p. 98) He noted feeling very angry after the surgery, but his anger had since lessened. His most recent medication change had been helpful, as his depression and anger had improved. However, by February 22, 2018, he reported his anger and anxiety had increased. (Jt. Ex. 3, p. 100) He stated he was angry about the results of his surgery, because his penis had started to curve in the other direction, and he had pain with intercourse. He stated that when angry, he tends to isolate and become "short" in what he says. He did have a fishing trip to South Dakota planned. At his next visit on March 20, 2018, he reported that his anger and depression had increased due to his frustration with his surgery. (Jt. Ex. 3, p. 102) His anger led him to have verbal outbursts, and on one occasion he threw a dish, but he had not been physically violent toward others.

Claimant returned to Dr. Erickson on April 25, 2018. (Jt. Ex. 4, p. 149) He reported that two months prior he had started to notice pain and recurrent curvature, this time to the right. He reported his erection was shorter, which had significantly

impacted his mood and psychological state. He continued to have pain with erections, and the pain and curvature were both bad enough to effect intercourse. On physical examination, Dr. Erickson noted his prior incision had healed well, and there was a plaque felt at the dorsal aspect of the base of the penis, which was the cause of the prior upward curvature. (Jt. Ex. 4, p. 151) However, there was another plaque felt at the right lateral aspect near the base of the penis almost surrounding the urethra that was tender to palpation. Dr. Erickson's assessment was recurrent Peyronie's disease at a different location with a different curvature. He prescribed pentoxifylline and Mobic, and recommended penile stretch and massage of the plaque at least daily.

At his July 2, 2018 visit with Dr. Mittauer, claimant reported that his anger had been "sky high." (Jt. Ex. 3, p. 104) He had slammed doors but was not otherwise physically violent. He had been drinking more due to anger. He then followed up with Dr. Erickson on August 29, 2018. (Jt. Ex. 4, p. 152) He continued to experience right-sided curvature, which caused him difficulty during intercourse, as well as intermittent pain with erections. On physical exam, there was a large palpable dorsal plaque at the mid shaft just to the right of midline. (Jt. Ex. 4, p. 153) Dr. Erickson recommended VED (vacuum erection device) stretching therapy. (Jt. Ex. 4, p. 154)

At claimant's next visit with Dr. Mittauer on November 5, 2018, he stated his anger had been worse. (Jt. Ex. 3, p. 106) He explained that he had been given the vacuum pump to stretch the scar tissues, but was uncertain if it had been helpful. He continued to have mild depression. (Jt. Ex. 3, p. 107) He returned to Dr. Erickson on December 26, 2018, and reported improvement in his symptoms. (Jt. Ex. 4, p. 155) He was to continue with the VED and manual massage. (Jt. Ex. 4, p. 156)

Claimant saw Dr. Mittauer on March 25, 2019. (Jt. Ex. 3, p. 108) He had increased anxiety due to work stress with a coworker who may have stolen from him. He still had some depression, but felt he had been handling his anger better. (Jt. Ex. 3, p. 109) He returned to Dr. Erickson on April 17, 2019. (Jt. Ex. 4, p. 157) He reported that the curvature was getting worse, and he was feeling a great deal of pain with erections. Dr. Erickson performed a cavernosal injection, and noted significant curve of approximately 30 degrees with full erection. (Jt. Ex. 4, pp. 158-159) He discussed the possibility of another plication, or possibly Xiaflex injections. (Jt. Ex. 4, p. 159) However, as claimant was likely still in an "active phase," it would not be ideal to intervene at that time. As such claimant was to continue to monitor and contact Dr. Erickson when he felt the symptoms had stabilized. Dr. Erickson also noted he would discuss the case with Amy Pearlman, M.D.

Claimant saw Dr. Pearlman in urology on May 22, 2019. (Jt. Ex. 4, p. 160) She reviewed claimant's history and noted his current symptoms included ongoing pain with erection, and continued curvature of approximately 30 degrees to the right and upward. After physical examination, Dr. Pearlman discussed that claimant's pain could possibly be related to some pelvic floor dysfunction. (Jt. Ex. 4, p. 162) As such, she referred claimant for pelvic floor therapy. With respect to the curvature, Dr. Pearlman discussed options for repair, including Xiaflex injections, traction device, another plication, plaque incision vs excision with grafting, inflatable penile prosthesis, and adjunctive curvature

correction procedure. As claimant was more bothered by the pain than the curvature at that time, the decision was made to refer to pelvic floor therapy and wait on other options. (Jt. Ex. 4, p. 163)

Claimant saw Cari Everhart, PT, on June 25, 2019, for pelvic floor therapy. (Jt. Ex. 4, p. 164) He continued to see PT Everhart for pelvic floor therapy through the remainder of 2019, and perform the exercises and therapies she taught him at home. (Jt. Ex. 4, pp. 165-168) At his follow up appointment with Dr. Pearlman on January 22, 2020, he reported that his penile pain had significantly improved with the therapy, but his curvature had gotten worse. (Jt. Ex. 4, p. 169) As such, he was interested in pursuing Xiaflex injections at that time. Dr. Pearlman reviewed pictures claimant provided, and noted a maximal penile curvature of 50 degrees to the right at the proximal one-third of the penile shaft. Dr. Pearlman's notes indicate a "benefits investigation" for Xiaflex was completed, and claimant would be contacted with the results and injections started if appropriate. (Jt. Ex. 4, p. 170)

At claimant's March 27, 2020 visit with Dr. Mittauer, it is noted that the service was provided via telehealth due to the COVID-19 pandemic. (Jt. Ex. 3, p. 110) Claimant continued to have anger issues, and reported he was having conflicts with a coworker, but he was trying to avoid him and not let him upset him as much. (Jt. Ex. 3, p. 111) He told Dr. Mittauer that the pelvic floor therapy had been helpful with respect to his pain, but it had been discontinued due to the pandemic. In addition, his Xiaflex injections were also put on hold. Dr. Mittauer again adjusted claimant's medications, and recommended claimant resume psychotherapy. (Jt. Ex. 3, p. 112) Claimant said he would consider it, but did not find it helpful in the past.

Claimant was seen at the John Deere health clinic on April 20, 2020. (Jt. Ex. 1, p. 31) At that time, his physical therapy continued to be on hold due to COVID-19. The Xiaflex injections had been ordered for four cycles, with two injections one to three days apart and six weeks between each cycle. However, the injections could not be started until the pandemic was "stabilized." Claimant reported that since physical therapy had been put on hold his pain with erections had gotten mildly worse.

Claimant had his first injection of the first cycle on July 16, 2020. (Jt. Ex. 4, p. 171) The procedure involves first injecting claimant's penis with EDEX to obtain an artificial erection and mark the plaque. Then phenylephrine is injected to resolve the erection, and when the penis is nearly completely flaccid, the Xiaflex is injected into the plaque. (Jt. Ex. 4, pp. 171-172) During the artificial erection, Dr. Pearlman noted a 70 percent rigid erection with a 60-degree dorsal curvature centered at the distal one-third of the penile shaft. (Jt. Ex. 4, p. 171) Claimant tolerated the first two injections well, and Dr. Pearlman also instructed claimant in penile modeling procedure, which he was to perform at home daily for six weeks. (Jt. Ex. 4, p. 173)

Claimant continued to follow up with Dr. Mittauer as well. On July 23, 2020, he reported that he was overall doing better than when they last met. (Jt. Ex. 3, p. 115) The same was true at his appointment on September 18, 2020, although he was a little more depressed. (Jt. Ex. 3, pp. 116-117)

By October 29, 2020, claimant was on his third cycle of Xiaflex injections. (Jt. Ex. 4, p. 175) At that time Dr. Pearlman noted a 45-degree curvature. While his curvature was improving somewhat, he continued to have depression, and some suicidal thoughts. (Jt. Ex. 3, pp. 119-120) On November 18, 2020, Dr. Mittauer noted he had some complications with his third round of injections, and was feeling depressed about the loss of his penile function. He was referred to a psychologist to help deal with the loss of function. (Jt. Ex. 3, p. 120)

On December 9, 2020, Dr. Pearlman noted claimant had missed an injection due to mons bruising. (Jt. Ex. 4, p. 177) He received another injection on that date, and was instructed to continue using his Restorex device. (Jt. Ex. 4, p. 178) Claimant provided a picture of the Restorex device and the manner in which it used in evidence, along with pictures of the curvature. (Claimant's Exhibit 6, pp. 39-40)

Claimant began psychotherapy with Valerie Keffala, PhD, on December 14, 2020. (Jt. Ex. 4, p. 179) At that time, he reported that his primary struggle related to psychological adjustment to the changed size and appearance of his penis following surgery. He also stated that he had recently been told by his care provider that surgery may not have been needed, which added to his anger and frustration. Dr. Keffala's diagnosis was adjustment disorder with mixed anxiety and depressed mood. (Jt. Ex. 4, p. 184) She recommended continued psychotherapy to help him move through his distress.

Claimant continued to follow up with both Dr. Mittauer and Dr. Keffala for his mental health. (Jt. Ex. 3, pp. 122-125; Jt. Ex. 4, pp. 186-187) He saw Dr. Pearlman on January 20, 2021, at which point he had completed the fourth and final cycle of Xiaflex injections. (Jt. Ex. 4, p. 188) Dr. Pearlman noted his curvature improved overall from about 65 degrees to 50 degrees, and he was happy with the result. He was not interested in another plication. He continued to use the Restorex device, but had not been using the vacuum pump. Dr. Pearlman prescribed low-dose daily Cialis to help improve his erections, encouraged him to use the vacuum pump daily, and continue to use the Restorex device daily. He was to follow up in six months. (Jt. Ex. 4, p. 189)

Claimant continued to receive therapy every one to two weeks with Dr. Keffala. (Jt. Ex. 4, pp. 191-193) At his visit on February 8, 2021, claimant noted that he had worked 16-hours per day for the past 4 days, which had elevated his mental health complaints. (Jt. Ex. 4, pp. 194-195) Dr. Keffala noted that his concerns may have felt weightier due to his level of exhaustion from working so much. (Jt. Ex. 4, p. 195) At his next visit on February 16, 2021, Dr. Keffala noted his affect appeared distressed, and he was able to process that he was feeling more irritable, agitated, and angry over the prior two weeks. (Jt. Ex. 4, p. 197) He attributed this to a significant increase in his work hours due to the cold weather. He explained that he would often work a 16-hour shift, be released for 8-hours, and then return for another 16-hour shift. Claimant also noted feeling angry most of the time, especially about his injury and the permanent disfigurement he experienced.

By his March 23, 2021 appointment with Dr. Keffala, claimant had again been working increased hours, and not getting much sleep as a result. (Jt. Ex. 4, p. 199) Dr. Keffala noted the relationship between his mood and the amount of sleep he gets, as well as his use of alcohol. (Jt. Ex. 4, p. 199) At the end of the visit, claimant reported finding it difficult to wait two weeks between appointments, and asked to return to seeing her on a weekly basis. (Jt. Ex. 4, p. 200)

Dr. Mittauer relocated to Associates for Behavior Healthcare in Hiawatha, Iowa, but claimant was able to continue seeing him. At his March 30, 2021 visit, he reported at times only sleeping five hours per night due to the overtime he was working. (Jt. Ex. 5, p. 230) He continued to feel depressed, angry, and overly worried. In reviewing his medications, claimant noted he will skip certain medications if he does not have enough sleep, as they make him sleepy. (Jt. Ex. 5, p. 231) Dr. Mittauer recommended claimant continue with therapy and follow up with him in three months. (Jt. Ex. 5, p. 233)

Claimant continued to see Dr. Keffala regularly. On April 30, 2021, at his attorney's request, he attended an independent psychological evaluation with Mark Poeppe, Psy.D., L.P., H.S.P. (Cl. Ex. 2, p. 13) Dr. Poeppe reviewed claimant's medical records and performed several psychological tests. He noted that claimant presented as pleasant, cooperative, and engaging, but was visibly distressed while discussing the accident and resulting physical and psychological effects. While providing his account of events to Dr. Poeppe, claimant advised that he continued to wake from pain about two to three times per week. (Cl. Ex. 2, p. 14) He also described "significant mood disturbance and negative changes in self-concept" since the penile injury.

With respect to his prior mental health condition, claimant advised that he had previously been diagnosed with depression and anxiety in the early 2000s. (Cl. Ex. 2, p. 15) However, he had not been on any medications related to mental health for over ten years prior to his work injury, and had not received any therapy related to the prior depressive episode. He reported his mood had recently been poor, but improving with the help of Dr. Keffala. He denied ever attempting suicide, but admitted to passive suicidal thoughts over the past two years. Claimant indicated that most days over the past month, his primary mood had been depressed. (Cl. Ex. 2, p. 16) He noted irritability and physical aggression toward objects, such as punching things or throwing things, but not toward people. He noted feelings of hopelessness, and a significant change in self-esteem due to his lost penis size from the plication. He further indicated feeling excessive anxiety most days, and difficulty controlling his worry.

Dr. Poeppe conducted several psychological evaluations. With respect to the Minnesota Multiphasic Personality Inventory – Second Edition – Restructured Form (MMPI-2-RF), claimant's responses produced "a valid and interpretable profile without significant concerns for malingering, exaggeration, inconsistency, etc." (Cl. Ex. 2, p. 17) Dr. Poeppe stated that claimant's results showed significant emotional and psychological distress. His results indicated he experiences a sense of debilitating physical health and wellness that includes a number of "diffuse complaints," and he subsequently exhibits downtrodden, demoralized attitudes and behaviors. In response to his perceptions or experiences of physical debilitation, claimant has begun to

experience negative self-perceptions that include feelings of self-doubt and a lack of confidence. Dr. Poeppe noted his results further suggest he is experiencing "statistically significant concerns associated with pervasive anxiety, feeling frightened, and being preoccupied with disappointment." (Cl. Ex. 2, pp. 17-18)

As for interpersonal functioning, claimant's result showed a significant disturbance in his desire to be around people, and a lack of enjoyment when doing so. (Cl. Ex. 1, p. 18) As such, he feels "interpersonally disconnected or detached from others" and may view others as posing a threat. His results also demonstrated elevated levels of anxiety, insecurity, social disengagement, and negative affect. Dr. Poeppe noted that often, these experiences are representative of "interpersonal hypervigilance, distrust, and detachment that is commonly observed in individuals suffering from PTSD [post-traumatic stress disorder]." (Cl. Ex. 2, p. 18)

Dr. Poeppe also administered the Personality Assessment Inventory, Plus (PAI+). He found claimant's profile to be valid and interpretable. The PAI+ suggested that claimant is unhappy, pessimistic, and has a history of drinking problems. His depressed mood includes sadness, loss of interest in normal activities, and loss of pleasure in things he used to enjoy. In addition to his depressed mood, claimant's profile suggested he experiences some level of anxiety and stress with particular concerns regarding physical functioning and health matters. He was indicated to be someone who is easily insulted, slighted, and may be prone to holding grudges, which Dr. Poeppe suggested was possibly related to negative self-esteem due to his physical changes. He was also indicated to be self-critical, internally troubled by self-doubt, and come across as cold or unfeeling.

Dr. Poeppe administered the Trauma Symptom Inventory – Second Edition (TSI-2), which was found to be valid and interpretable. (Cl. Ex. 2, p. 19) His score indicated heightened anxiety and autonomic hyperarousal symptoms associated with PTSD. His results indicated he experiences a high level of irrational fears, worrying, hypervigilance, jumpiness, sleep disturbance, and irritability. His anxiety seemed to be compounded or influenced by an extremely elevated depressed mood that presents in the form of worthlessness, feeling inadequate, and have a bleak view of the future. As a result, he appeared to be prone to secluding himself or isolation. Additionally, Dr. Poeppe found that claimant's results suggested that he experiences recurring and significant expression of anger that he does not feel is entirely within his control. This often leads to angry reactions or behaviors that are inappropriate or do not fit the situation.

In addition to mood and physiological disturbance, claimant's responses indicated sexual disturbance, as he reported extensive sexual distress and dysfunction. He also reported suicidal thoughts or behaviors at a level to "significantly elevate the suicidality scale." His suicidal ideation was elevated, but suicidal behavior was within normal limits, meaning he cognitively experiences suicidal thoughts without intent or meaningful planning.

Finally, Dr. Poeppe administered cognitive screening tests, which resulted in scores well within normal limits. (Cl. Ex. 2, p. 19) As such, no objective cognitive impairments were identified.

In his summary, Dr. Poeppe noted that as a result of his work injury, claimant has experienced "significant physical limitations and subsequent emotional distress, deteriorating self-concept, and isolation." As a result of his injuries, claimant developed depressed mood and anxiety, which resulted in him seeking psychotherapy and psychopharmacological treatment. (Cl. Ex. 2, p. 19-20) Objective measures during Dr. Poeppe's evaluation identified claimant as a credible and valid reporter of his symptoms. Objective assessment identified ongoing and continued severe mood disturbance and autonomic hyperarousal associated with posttraumatic stress. Claimant endorsed a significant level of passive suicidal thoughts due to a loss of identity or self-esteem, physical functioning, and relationship disruption. As a result, Dr. Poeppe found that claimant's posttraumatic stress and emotional disturbance as a result of the work injury resulted in increasing and recurring thoughts to end his life.

Overall, Dr. Poeppe opined that claimant met DSM-5 criteria for posttraumatic stress disorder (PTSD), major depressive disorder, severe, recurrent episode, and alcohol use disorder, mild. (Cl. Ex. 2, p. 20) In terms of future prognosis, Dr. Poeppe stated that claimant's condition "appears to place him at high-risk for long-term emotional disturbance." He noted a lack of available treatment to improve his physical condition any further, which appeared "almost, if not entirely, tied to his emotional disturbance." Therefore, Dr. Poeppe opined that given the lack of options for physical improvement, connection between physical impairment and emotional health, and the objective identification of perceptions of hopeless, claimant was likely to "continue to experience severe mood challenges long-term."

With respect to treatment, Dr. Poeppe opined that claimant will likely require "long-term therapy and psychopharmacological management that may be needed for several years." He also noted that despite recently reducing his alcohol use, claimant may need specific treatment for substance use in the future. He noted that claimant was receiving acceptance and commitment therapy (ACT) from Dr. Keffala, which would likely continue to be effective treatment for some of claimant's symptoms, but suggested he may require some additional forms of therapy to target the PTSD symptoms. In that regard, he noted that claimant is recommended to receive "long-term therapy (>12 month)" and have access to additional therapy modalities he suggested once his ACT treatment with Dr. Keffala has been completed. (Cl. Ex. 2, p. 20)

The next record in evidence reflects that claimant saw Dr. Keffala on May 11, 2021, at which time he reported having lost his self-confidence and self-esteem, and having difficulty getting motivated to engage in exercise he used to enjoy. (Jt. Ex. 4, p. 201) Dr. Keffala encouraged him to engage in self-care, and they discussed leisure activities he could engage in such as golf and softball. They also discussed his psychological evaluation with Dr. Poeppe, and his anxiety about the future, as he wanted to be sure he could continue getting the care he needed. (Jt. Ex. 4, p. 202)

At his next appointment with Dr. Keffala on June 15, 2021, claimant noted he had just returned from vacation with his family, but he found it stressful. (Jt. Ex. 4, p. 204) He felt detached from the fun others were having, and chose not to engage in activities he would normally enjoy. He indicated he felt tense and irritable most of the time. Dr. Keffala observed that claimant had continuing and potentially worsening low mood of the past several sessions, and claimant admitted having passive suicidal thoughts, as well as passive thoughts of hurting another. Dr. Keffala shared her concern about his mood becoming worse, and claimant indicated he had not been taking his medications every night, so she asked him to call Dr. Mittauer to discuss. Dr. Keffala did not have a release to speak with Dr. Mittauer, but did contact the nurse at the John Deere clinic to voice her concerns about the level of his depression. (Jt. Ex. 4, pp. 205-206; Jt. Ex. 1, pp. 41-42)

The nurse at John Deere, Janelle Garriott, RN, documented that Dr. Keffala had concerns about claimant's decreasing mood the past few weeks, and that he had not been taking his medications correctly. (Jt. Ex. 1, p. 41) While she did not feel he was an imminent danger to himself or others, she wanted the nurse to be aware. Nurse Garriott was able to speak with Dr. Mittauer's office to get claimant's appointment moved up, and let claimant know about their concerns. (Jt. Ex. 1, p. 41; Jt. Ex. 5, p. 234)

Claimant saw Dr. Mittauer on June 22, 2021. (Jt. Ex. 5, p. 235) His chief complaint that day was that he was "quite depressed." He noted increased depression over the past months, with increased suicidal thoughts, especially when drinking, and thoughts of harming others. However, he had no intention of acting on those thoughts, and was not feeling suicidal during his appointment. He continued to experience occasional panic attacks and episodic anger. (Jt. Ex. 5, p. 236) Dr. Mittauer discussed his recent phone conversation with Nurse Garriott, and discussed how alcohol could worsen his depression. Dr. Mittauer's diagnoses were major depressive disorder, single episode, generalized anxiety disorder, other specified anxiety disorder (stress induced panic attacks), ADHD, combined type, insomnia disorder, and alcohol use disorder. He noted that claimant's suicide risk at that time was moderate, in the context of worsening depression and significant alcohol intake. However he did not meet commitment criteria, and Dr. Mittauer recommended he continue therapy. Additionally, Dr. Mittauer found his risk of harming others to be low. Dr. Mittauer again adjusted claimant's medications, and got permission from claimant to contact his wife, and speak to Dr. Keffala. (Jt. Ex. 5, p. 237)

The following day, June 23, 2021, Dr. Mittauer documented a telephone consult with claimant's wife, in which they discussed his mood swings, anger, and suicidal thoughts. (Jt. Ex. 5, p. 238) He then spoke with a nurse at the John Deere clinic, and noted he felt it was safe for claimant to go to work and he was not at risk of harming people at work. Finally, he spoke to Dr. Keffala, and they discussed concerns regarding claimant's alcohol intake and level of depression, along with his recent suicidal thoughts. They also discussed that claimant's Peyronie's disease makes him feel less masculine.

On June 23, 2021, claimant underwent an independent medical evaluation (IME) with Mark Taylor, M.D., at his attorney's request. (Cl. Ex. 1, p. 1) Dr. Taylor's report is dated July 21, 2021. Dr. Taylor reviewed claimant's medical records and current treatment. (Cl. Ex. 1, pp. 1-6) Claimant reported that he continued to have pain with every erection, which fluctuated between level 4 and 6 out of 10. (Cl. Ex. 1, p. 6) He reported the curvature was still present, but had remained stable at about 50 degrees. He was able to ejaculate, but then experienced immediate pain for a couple of minutes. (Cl. Ex. 1, pp. 6-7) He still required use of Cialis in order to maintain an erection due to the pain. (Cl. Ex. 1, p. 7) With respect to his other injuries, he described slight discomfort over the proximal volar forearm, near the distal bicep tendon. He reported his right knee had remained stable and there was no significant or lasting change due to the work injury.

Claimant reported that he was able to tolerate his job functions, but noted difficulties with intimacy due to his work injury. On physical examination, claimant's right arm was essentially normal, with some slight tenderness noted over the distal bicep tendon. (Cl. Ex. 1, p. 8) Dr. Taylor noted a palpable plaque on claimant's penis, as well as palpable sutures related to the plication. There was a scar noted consistent with surgery. Dr. Taylor's diagnoses were Peyronie's disease with secondary erectile dysfunction, right forearm contusion with possible mild tendinitis of unclear etiology, and right knee contusion. With respect to the mental health conditions, Dr. Taylor deferred to Dr. Poeppe and/or Dr. Keffala. He also noted claimant's prior history of left hip and femur fractures, and prior right knee injuries.

Dr. Taylor found that claimant's Peyronie's disease was directly and causally related to the August 22, 2014 injury at work. (Cl. Ex. 1, p. 9) He noted that claimant will require the ability to maintain care and follow-up as needed with Dr. Erickson and/or Dr. Pearlman. Again he deferred to Dr. Keffala and Dr. Poeppe regarding additional mental health treatment. With respect to the Peyronie's disease, Dr. Taylor recommended maximum medical improvement (MMI) as of January 20, 2021. With respect to the mental health injury, he deferred to Dr. Keffala and/or Dr. Poeppe, and noted that claimant was still seeing Dr. Keffala as of the date of the IME.

Using the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, Dr. Taylor used Table 7-5 on page 156. (Cl. Ex. 1, pp. 9-10) He noted there are three potential classifications under that table, and because claimant is able to achieve an erection and ejaculate, he does not fit in Class 2 or 3. (Cl. Ex. 1, p. 10) He explained that claimant is able to function from a sexual standpoint, but with varying degrees and difficulties of obtaining an erection. He requires medication, and has pain with every erection and immediately following ejaculation. He has undergone surgery and has received multiple sets of injections, and uses a traction device and a vacuum device. As such, Dr. Taylor recommended the maximum rating for Class 1, which is 10 percent of the whole person. He did not recommend any work restrictions related to the Peyronie's disease. Again, with respect to the mental health condition, Dr. Taylor deferred any opinion regarding impairment or restrictions to Dr. Keffala or Dr. Poeppe. (Cl. Ex. 1, pp. 9-10)

Claimant continued to see Dr. Keffala regularly for therapy. At his appointment on July 13, 2021, he reported felling "all right. Decent, I guess." (Jt. Ex. 4, p. 207) His anger continued to be the primary emotion he struggled to manage, but he noted he had been better able to let things go, and was feeling more optimistic. He also noted that he had been spending more time golfing after work, and recently hit a hole-in-one, which made him feel elated. Finally, he had been spending more time at the gym at work.

Claimant attributed his shift in his mood to the support he received from Dr. Mittauer, Dr. Keffala, and Nurse Garriott recently. (Jt. Ex. 4, p. 208) He had also been taking his medications more consistently, and Dr. Keffala pointed out that he appeared to be on a more consistent sleep schedule. She specifically noted that claimant's sleep schedule appears to have a significant impact on his mood, and when he works more overtime and gets less sleep, he appears to experience more depressed mood. Claimant was encouraged to consider this, and did note that he had considered changing to a different shift, but was not sure if that would work if his wife got another job. Overall, claimant's mood had improved at this visit, he was not feeling suicidal, and was feeling more satisfied with his life.

On July 14, 2021, claimant had a follow-up with Dr. Pearlman. (Jt. Ex. 4, p. 210) At that time, claimant reported his symptoms were stable, with about 50 degrees of curvature. He continued to take daily Cialis, with resolution of pre-penetration pain and improvement in his erections. He continued to have pain in the shaft of his penis upon ejaculation, which lasted about one minute and then resolves. He had continued to use the vacuum device and the Restorex device, but had discontinued use about two to three months prior as he did not believe they were providing any benefit. Dr. Pearlman recommended that claimant resume long-term use of the Restorex and vacuum devices, and refilled his Cialis. (Jt. Ex. 4, p. 211) She noted that claimant was happy with the current degree of curvature, able to have intercourse, and was not interested in another plication at that time. As such, claimant was released to follow up yearly. (Jt. Ex. 4, p. 212)

Claimant had another therapy session with Dr. Keffala on July 27, 2021. (Jt. Ex. 4, p. 213) At that time, he continued to experience feelings of frustration, anger, and shame related to his changed physical appearance due to the work injury. He was having difficulty feeling compassion toward himself and sharing vulnerability with others. He reported that he had not shared about his injury with anyone other than his wife. He noted feelings of fear and shame about his changed appearance, despite that others generally do not see that part of his body, and reported that his feelings negatively impact his ability to be at ease with others. He also reported feeling more mentally stable at that time, and feeling supported by his medical and mental health care team, including his case manager, psychiatrist, and Dr. Keffala. (Jt. Ex. 4, p. 214)

However, by August 10, 2021, claimant reported to Dr. Keffala that he was feeling more irritable over the past two weeks, and had been self-isolating. (Jt. Ex. 4, p. 215) He noted that this behavior tends to appear following days when he has worked a double shift with little time to rest in between. This had been noted on prior occasions, and Dr. Keffala suggested he find ways to engage in self-care if he chooses or is

required to work overtime. He again reported feeling more stable despite his increased irritability. (Jt. Ex. 4, p. 216)

On August 13, 2021, Dr. Pearlman provided an impairment rating related to claimant's penis injury. It appears that Dr. Pearlman is not particularly familiar with issuing impairment ratings, as one might expect given her area of medicine is not one commonly seen in workers' compensation cases. However, she was provided with a copy of chapter 7 of the AMA Guides, which covers male reproductive organs. (Jt. Ex. 4, pp. 220-222) She placed him in Class 1, and later assigned a permanent impairment rating of 5 percent of the body as a whole. (Jt. Ex. 4, pp. 217-220)

I find Dr. Taylor's impairment rating with respect to claimant's Peyronie's disease to carry greater weight. While Dr. Pearlman is a board-certified urologist and clearly an expert in her field, it appears she is not familiar with the AMA Guides and issuing impairment ratings. (See Def. Ex. A; Jt. Ex. 4, pp. 217-222) Further, she did not provide any explanation or basis for her 5 percent rating. (Jt. Ex. 4, p. 217) Dr. Taylor, while not a urologist, is board certified in occupational medicine, and very familiar with the AMA Guides and their proper application, and he provided an explanation for his rating. (See Cl. Ex. 1, p. 10) Claimant continues to take daily Cialis and use the Restorex device in order to improve his function. Considering that, along with the number of years claimant had to continue with treatment for his Peyronie's disease, the nature of the treatment, including surgery and multiple injections, as well as his ongoing problems with pain and curvature, the maximum rating from Class 1 is more appropriate, as Dr. Taylor opined.

With respect to his mental health, claimant continued to follow up with Dr. Mittauer and Dr. Keffala. (Jt. Ex. 5, pp. 239-240) At his appointment with Dr. Keffala on August 25, 2021, he reported still feeling anxiety, along with anger and shame. (Jt. Ex. 4, pp. 223-224) However, it appears his condition began to improve with therapy. At his appointment on September 14, 2021, he noted that he was "getting better," but still experienced "significant lows." (Jt. Ex. 4, pp. 225-226) He again noted that the "lows" occur when he has had less sleep, which results in him feeling more anger, withdrawing from others, and engaging in behavior such as gambling and drinking that "feed his distress." (Jt. Ex. 4, p. 226) He also noted that if he skips his afternoon medication, he is more likely to get into a downward spiral, but sleep helps end the low mood and reset him for a new day. At his last appointment prior to the hearing on this matter, he reported his mood was better and he was hopeful for the future. (Jt. Ex. 4, pp. 228-229)

At hearing, claimant testified that he continues to see Dr. Keffala every two weeks for therapy, and sees Dr. Mittauer regularly for his medications. (Tr., p. 51) He continues to experience anger, depression, and anxiety on a daily basis. (Tr., pp. 51-52) There are times he does not want to go in to work because of his symptoms, and he has called in and used sick days a couple of times because of his mental health. (Tr., p. 52) Claimant continues to take four separate medications related to his mental health conditions, none of which were prescribed prior to the work injury.[3] (Tr., pp. 54-55; Cl.

[3] Claimant was prescribed bupropion for a period of time in the late 1990s, but had not taken it for at least ten years prior to the work injury. (Tr., p. 55)

Ex. 1, p. 7) Claimant testified that Dr. Mittauer has suggested he might never be able to be completely medication-free, although he might be able to reduce some medications at some point. (Tr., p. 56) Finally, claimant testified that the medication and counseling help with his mental health, and he believes if he stopped the medication and/or counseling, there is a chance of "falling back into the river." (Tr., p. 56) In other words, he continues to struggle with keeping his depression, anxiety, and anger under control, but the therapy and medications help him. (Tr., pp. 62-63)

Claimant's wife, Peggy Schonhoff, also testified at hearing. (Tr., p. 85) Mrs. Schonhoff's testimony was consistent, and her demeanor gave the undersigned no reason to doubt her veracity. She was a credible witness. Mrs. Schonhoff's testimony mainly focused on the impact his physical and mental health injuries have had on his personal life and their marriage. She agreed that mentally, he has times when he gets into a "downward spiral," and during those times he will isolate himself. (Tr., p. 89) She also noted that she is grateful that he is able to see Dr. Keffala so he has someone to talk to about his mental health. (Tr., pp. 89-90) She testified that she believes seeing Dr. Keffala has helped, because she notices his mood changes in a good way after his therapy sessions. (Tr., p. 90) She stated that he has been "a lot better" since he has been seeing Dr. Keffala, and she hopes to continue to see progress. (Tr., p. 93)

John Hefel testified on behalf of the defendant. (Tr., p. 95) Mr. Hefel's testimony was consistent, and his demeanor gave the undersigned no reason to doubt his veracity. He was a credible witness. Mr. Hefel has worked at John Deere Dubuque Works since June of 2019, although he has worked for the company in other locations since 2012. (Tr., pp. 96-97) At the time of hearing, he was the full-time facility supervisor, and supervised claimant. (Tr., p. 96) Mr. Hefel testified that claimant is the most senior employee in the power house. (Tr., pp. 101-102) He also testified that claimant accepts overtime when it is offered, and all overtime is voluntary. (Tr., p. 103) He testified that claimant is a good worker, and the best worker in the power house. (Tr., p. 107) Given that he has the highest seniority, he could choose to work a different shift and bump a lower-seniority employee. (Tr., pp. 107-108) Finally, Mr. Hefel testified that since he has become claimant's supervisor, claimant has never told him that he cannot perform his job tasks due to any physical or mental condition, or that he needs any type of accommodations to perform his job duties. (Tr., pp. 108-109) Additionally, prior to hearing, Mr. Hefel was not aware of the nature of claimant's injury. (Tr., p. 109) He agreed that based on observing claimant in performing his job duties, his injury had not had any apparent ill-effect as far as performing his job. (Tr., pp. 109-110)

The injury to claimant's penis did not result in any lost earning capacity on its own, although he has sustained permanent functional disability, as discussed above. However, the mental sequela that claimant has experienced as a result of his physical injury has resulted in permanent disability. Dr. Poeppe's unrebutted opinion is that claimant will likely continue to experience severe mood challenges long-term. (Cl. Ex. 2, p. 20) He will likely require long-term therapy and psychopharmacological management. This supports claimant's testimony that Dr. Mittauer has advised he may never be medication-free with respect to his mental health. (Tr., p. 56) At his last session with Dr. Keffala prior to hearing, she again scheduled follow-up for two weeks, and claimant

testified he continues to see her every two weeks. (Jt. Ex. 4, p. 229; Tr., p. 51) The unrebutted evidence supports claimant's argument that his mental health injury is permanent in nature.

With respect to permanent disability, while claimant has continued to work in the same position at John Deere, his mental health condition has affected his ability to function in the workplace. Claimant credibly testified that since his mental health problems arose, he has problems working around people. (Tr., pp. 58-59) In his job at John Deere, he works alone most of the time, or with only one or two coworkers. Part of the reason he has been able to continue working at John Deere is because he is comfortable in the job, and he is used to it. (Tr., p. 59) Additionally, as reflected in his therapy records with Dr. Keffala, when claimant works overtime, he gets less sleep, which has an adverse effect on his mood. While she has not assigned permanent restrictions, she has recommended he work less overtime. (Jt. Ex. 4, p. 208) Finally, claimant has called in sick to work on occasion due to his anxiety. Considering all the factors of industrial disability, as explained in detail below, I find that claimant's mental health injury has resulted in industrial disability. When combined with the functional disability related to his physical injury, claimant's total industrial disability is 25 percent, which is equal to 125 weeks of benefits.

CONCLUSIONS OF LAW

The legislature enacted amendments to Iowa Code chapter 85 in 2017. See 2017 Iowa Acts ch. 23. The amendments included changing the language of Iowa Code section 85.34. See Id. at § 13. The amendments apply to injuries that occur on or after July 1, 2017, so they do not apply to this particular file. See Id. at § 24.

Claimant argues that his accepted mental health sequelae condition is permanent in nature, and his August 22, 2014 work injury resulted in industrial disability. He further seeks reimbursement for expert reports and costs. Defendant argues that claimant has not proven the mental injury is permanent in nature, nor that any permanent industrial disability has resulted from his work injuries. Defendant further argues that claimant is not entitled to reimbursement of expert reports or costs.

The party who would suffer loss if an issue were not established has the burden of proving that issue by a preponderance of the evidence. Iowa R. App. P. 6.904(3). The claimant has the burden of proving by a preponderance of the evidence that the injury is a proximate cause of the disability on which the claim is based. A cause is proximate if it is a substantial factor in bringing about the result; it need not be the only cause. A preponderance of the evidence exists when the causal connection is probable rather than merely possible. George A. Hormel & Co. v. Jordan, 569 N.W.2d 148 (Iowa 1997); Frye v. Smith-Doyle Contractors, 569 N.W.2d 154 (Iowa App. 1997); Sanchez v. Blue Bird Midwest, 554 N.W.2d 283 (Iowa App. 1996).

The question of causal connection is essentially within the domain of expert testimony. The expert medical evidence must be considered with all other evidence introduced bearing on the causal connection between the injury and the disability.

Supportive lay testimony may be used to buttress the expert testimony and, therefore, is also relevant and material to the causation question. The weight to be given to an expert opinion is determined by the finder of fact and may be affected by the accuracy of the facts the expert relied upon as well as other surrounding circumstances. The expert opinion may be accepted or rejected, in whole or in part. St. Luke's Hosp. v. Gray, 604 N.W.2d 646 (Iowa 2000); IBP, Inc. v. Harpole, 621 N.W.2d 410 (Iowa 2001); Dunlavey v. Economy Fire and Cas. Co., 526 N.W.2d 845 (Iowa 1995); Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417 (Iowa 1994). Unrebutted expert medical testimony cannot be summarily rejected. Poula v. Siouxland Wall & Ceiling, Inc., 516 N.W.2d 910 (Iowa App. 1994).

Defendant argues that no physician has found claimant's mental health condition is permanent in nature. Defendant argues that Dr. Poeppe's opinion that claimant's condition is "long-term," simply means "a minimum of twelve months," which does not mean the same as permanent. Defendant further argues that no treating physician has specifically opined that claimant's mental health condition is permanent, and no physician has provided an impairment rating related to claimant's mental health condition.

An impairment rating by a physician is not always necessary to establish a permanent disability. Haynes v. Second Injury Fund, 547 N.W.2d 11, 13-14 (Iowa App. 1996) (citing Daniels v. Bloomquist, 138 N.W.2d 868, 873 (Iowa 1965)). Rather, in some cases, permanency may be inferred from the nature of the injury. Id. In this case, claimant has been consistently and regularly treating for his mental health conditions since 2016. The parties provided voluminous records related to his extensive mental health treatment, and it is noted that not every record was produced in evidence. There is no indication from any treating provider that claimant's treatment is coming to an end, or even becoming less frequent. He continues to see Dr. Keffala every two weeks. He continues to see Dr. Mittauer regularly for medication management. Dr. Mittauer has indicated he may require some level of medication for the rest of his life. Dr. Poeppe's unrebutted opinion is that claimant will likely continue to experience symptoms long-term. While he does not specifically use the word "permanent," it is clear from the evidence as a whole that claimant's mental health condition is permanent in nature.

Since claimant has an impairment to the body as a whole, an industrial disability has been sustained. Industrial disability was defined in Diederich v. Tri-City Ry. Co. of Iowa, 219 Iowa 587, 258 N.W. 899 (1935) as follows: "It is therefore plain that the Legislature intended the term 'disability' to mean 'industrial disability' or loss of earning capacity and not a mere 'functional disability' to be computed in terms of percentages of the total physical and mental ability of a normal [person]." Assessments of industrial disability involve viewing a loss of earning capacity in terms of the injured workers' present ability to earn in the competitive labor market, without regard to any accommodation furnished by one's present employer. Quaker Oats Co. v. Ciha, 552 N.W.2d 143, 158 (Iowa 1996).

Functional impairment is an element to be considered in determining industrial disability, but consideration must also be given to the injured employee's age, education, qualifications, experience, motivation, loss of earnings, severity and situs of the injury, work restrictions, inability to engage in employment for which the employee is fitted and the employer's offer of work or failure to so offer. McSpadden v. Big Ben Coal Co., 288 N.W.2d 181 (Iowa 1980); Olson v. Goodyear Service Stores, 255 Iowa 1112, 125 N.W.2d 251 (1963); Barton v. Nevada Poultry Co., 253 Iowa 285, 110 N.W.2d 660 (1961).

Iowa's workers' compensation laws were adopted for the benefit of the worker, and should be, within reason, liberally construed. Waldinger Corp. v. Mettler, 817 N.W.2d 1, 9 (Iowa 2012) (citing Barton, 253 Iowa at 289, 110 N.W.2d at 662) The law's beneficent purpose should not be defeated by a narrow or strained construction. Disbrow v. Derring Implement Co., 233 Iowa 380, 9 N.W.2d 378 (1943) While an actual reduction in earnings may be important in establishing industrial disability, it is not essential to a determination that an employee has sustained a loss of earning capacity. Oscar Mayer Foods Corp. v. Tasler, 483 N.W.2d 824, 831 (Iowa 1992).

As the Iowa Supreme Court held in Tasler, the fact that a claimant did not have a loss of income is not dispositive as to whether the claimant has an industrial disability:

> Oscar Mayer, nevertheless, urges us to adopt a definition of disability that would require an actual diminution in earning capacity as of time of injury. As we have noted above, the Commissioner is entitled to draw reasonable inferences based upon the evidence presented and thus conclude that Tasler is currently foreclosed from full participation in manual labor of the sort she was accustomed to while in the employ of Oscar Mayer. Thus, it can be said that Tasler has suffered a loss of earning capacity even though she did not suffer an actual diminution in her earnings while in the employ of Oscar Mayer.
>
> Requiring a claimant to also demonstrate an actual diminution in earnings would place a premium on missing work-often unnecessarily-merely to establish an actual diminution in earnings and thereby penalize devoted employees who faithfully perform job duties despite bodily discomfort and damage. *See* Bellwood Nursing Home, 106 Ill. Dec. at 237, 505 N.E.2d at 1028. This is not to say, however, that an actual diminution in earnings is unimportant in establishing an industrial disability; we only decide that in this age of insidious work place injuries, compensable disabilities will often be present despite the fact that the employee has not, as yet, suffered any actual diminution in earning capacity. Thus, a showing of actual diminution in earnings will not always be necessary to demonstrate an injury-induced reduction in earning capacity.

Tasler, 483 N.W.2d at 831.

In this case, the fact that claimant continues to work in his regular job does not preclude an award of industrial disability. Industrial disability may be awarded when the employee returns to the same job post-injury with no loss of income and no physician-imposed work restrictions. ABF Freight System, Inc. v. Veenendaal, 819 N.W.2d 426 (Iowa App. 2012). When determining industrial disability, the operative phrase is loss of earning capacity, not loss of actual earnings. Ver Steegh v. Rolscreen Co., 4 Iowa Indus. Comm'r Rep. 377 (1984).

As noted above, claimant's mental health condition has affected his ability to function in the workplace. Claimant credibly testified that since his mental health problems arose, he has difficulty working around people. In his job at John Deere, he works alone most of the time, or with only one or two coworkers. His level of comfort there, because he has been there so long and generally works alone, is a major contributor to his ability to continue working despite his mental health condition. Additionally, as reflected in his therapy records with Dr. Keffala, when claimant works overtime, he gets less sleep, which has an adverse effect on his mood. While she has not assigned permanent restrictions, she has recommended he work less overtime. Claimant has called in sick on occasion due to his anxiety. His mental health records reflect in great detail the difficulties claimant has experienced in continuing to work, yet claimant has managed to persevere. The function of workers' compensation is not to penalize employees such as claimant, who continue working despite the discomfort it may cause. Given the severity of both claimant's physical and mental injuries, along with the other factors of industrial disability, I find claimant is entitled to 25 percent industrial disability, which is equal to 125 weeks of benefits.

The remaining issue to determine is whether claimant is entitled to reimbursement for the reports of Dr. Poeppe and Dr. Taylor, either as costs or pursuant to Iowa Code section 85.39, and reimbursement of the filing fee as a cost.

With respect to the medical reports, claimant fist asserts entitlement to both reports pursuant to Iowa Code section 85.39. The Iowa Workers' Compensation Commissioner has noted that the Iowa Supreme Court adopted a strict and literal interpretation of Iowa Code section 85.39 in Des Moines Area Regional Transit Authority v. Young, 867 N.W.2d 839 (Iowa 2015) (hereinafter "DART"). See Cortez v. Tyson Fresh Meats. Inc., File No. 5044716 (Appeal December 2015). If an injured worker wants to be reimbursed for the expenses associated with a disability evaluation by a physician selected by the worker, the process established by the legislature must be followed. This process permits the employer, who must pay the benefits, to make the initial arrangements for the evaluation and only allows the employee to obtain an independent evaluation at the employer's expense if dissatisfied with the evaluation arranged by the employer. DART, 867 N.W.2d at 847 (citing Iowa Code § 85.39).

In this case, the employer sought an impairment rating from Dr. Pearlman, which was received on August 13, 2021. (Jt. Ex. 4, p. 217) However, claimant's IME with Dr. Taylor took place on June 23, 2021, and his report was issued July 21, 2021, prior to Dr. Pearlman's rating. Additionally, defendants did not seek a rating with respect to the mental health claim. Iowa Code section 85.39 only permits an employee to be

reimbursed for a subsequent examination by a physician of the employee's choice. Unless a claimant can establish the prerequisites of Iowa Code section 85.39, the defendants are not obligated to pay for the claimant's evaluation. DART, 867 N.W.2d at 843-844. Under the circumstances of this case, claimant is not able to establish the prerequisites of Iowa Code section 85.39 to qualify for an evaluation at defendants' expense. Therefore, I conclude that claimant's request for reimbursement of both Dr. Taylor's and Dr. Poeppe's evaluations under Iowa Code section 85.39 must be denied.

That being said, the Supreme Court in DART noted that in cases where Iowa Code section 85.39 is not triggered to allow for reimbursement of an IME, a claimant can still be reimbursed at hearing for the costs associated with the preparation of the written report as a cost under rule 876 IAC 4.33. DART, 867 N.W.2d at 846-847. Assessment of costs is a discretionary function of this agency. Iowa Code § 86.40. Costs are to be assessed at the discretion of the deputy commissioner or workers' compensation commissioner hearing the case. 876 IAC 4.33.

Under the rule, the reasonable cost of obtaining no more than two doctors' or practitioners' reports may be awarded as costs. 876 IAC 4.33(6). Claimant has provided itemized invoices for each report. The report portion of Dr. Taylor's IME was $2,045.00. (Cl. Ex. 5, p. 35) The report portion of Dr. Poeppe's IME was $700.00. (Cl. Ex. 5, p. 37) As claimant was generally successful in his claim, I find that the cost of each report is reimbursable under 876 IAC 4.33(6).

Claimant also seeks reimbursement of his filing fee. (Cl. Ex. 5, p. 34) Again, as claimant was successful in his claim, I exercise my discretion and award claimant the additional cost of the $100.00 filing fee.

ORDER

THEREFORE, IT IS ORDERED:

Defendants shall pay claimant one hundred twenty-five (125) weeks of permanent partial disability benefits, commencing on the stipulated date of January 22, 2021, at the stipulated rate of seven hundred eighteen and 47/100 dollars ($718.47).

Defendants shall be entitled to a credit for all permanent partial disability benefits previously paid, as stipulated on the hearing report.

Defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall be payable at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent. See Gamble v. AG Leader Technology File No. 5054686 (App. Apr. 24, 2018).

Defendants shall reimburse claimant's costs in the total amount of two thousand eight hundred forty-five and 00/100 dollars ($2,845.00), which represents Dr. Taylor's report ($2,045.00), Dr. Poeppe's report ($700.00), and the filing fee ($100.00).

Defendants shall file subsequent reports of injury (SROI) as required by this agency pursuant to rules 876 IAC 3.1(2) and 876 IAC 11.7.

Signed and filed this _21st_ day of March, 2022.

JESSICA L. CLEEREMAN
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Valerie Foote (via WCES)

Arthur Gilloon (via WCES)

Right to Appeal: This decision shall become final unless you or another interested party appeals within 20 days from the date above, pursuant to rule 876-4.27 (17A, 86) of the Iowa Administrative Code. The notice of appeal must be filed via Workers' Compensation Electronic System (WCES) unless the filing party has been granted permission by the Division of Workers' Compensation to file documents in paper form. If such permission has been granted, the notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 150 Des Moines Street, Des Moines, Iowa 50309-1836. The notice of appeal must be received by the Division of Workers' Compensation within 20 days from the date of the decision. The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or legal holiday.