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ABVE Invades The City By The Bay

G. Michael Graham, Ed.D., 1999 Spring Conference Chair

The 1999 ABVE Spring Conference was held in the old Gold Rush city of San Francisco California during May 3-5. ABVE spring conference tradition was maintained as the first six hours of the day were set aside for learning sessions after which there were opportunities in the latter part of the afternoon and evenings for participants to play in a great city. The California weather lived up to its reputation, and while raining some mornings, the sun greeted participants most afternoons. Conference attendees visited the famous Fisherman's Wharf, the new San Francisco Art Museum, bustling Chinatown, the hip Pier 39 commercial district, and other spots cited in materials provided by the SF Chamber of Conference.

Highlights of the conference's learning sessions included:

- (1) Dr. Jerrold Petroffsky providing an informative and exciting session of research that offers new hope for the spinal cord injured. With cutting edge advancements pioneered by Dr. Petroffsky and his Southern California's research center, most recent efforts are directed to neuro re-connectivity following spinal cord trauma contributing to those who are spinal cord injured walking with the assistance of computer interfaces.
- (2) Dr. Robert Hall, a leader in disability management models, and a faculty member of the University of San Diego Graduate School of Rehabilitation Counseling, demonstrated a variety of emerging specialty disability management models for enhancing one's practice.
- (3) Attorney Michael Lotito dealt with the issues of the *Americans with Disabilities Act* and its impact, or lack thereof, on both employers and persons with disabilities. Recent court cases were reviewed as illustrations of today's reality in this realm of interaction between employers and those persons seeking employment despite disabling conditions.
- (4) Attorneys Phil Horowitz and Lucinda Storm, both San Francisco employment law litigators, provided strong presentations of issues of wrongful termination, and how vocational experts should be utilized in this arena. Reasonableness of job search efforts, labor market conditions, comparative earning capacity analysis, and related topics were covered.
- (5) Drs. John Williams and Patricia Murphy focused upon both the conceptual framework of the "Quality of Life" process and conceptual issues related to Functional Capacities. These two presenters concluded their session by melding these two concepts together as a methodology for demonstrating a scientific rationale for their opinions in the litigation arena.
- (6) The employment issues for people living with HIV and AIDS were addressed by Jeff Monford of the National AIDS Fund. His knowledge of the issues surrounding the HIV problem, and the swirl that is Washington, D.C., enlightened the conference participants about current policy developments, grants and, nation-wide efforts to de-mystify the concept of employers and employees living with HIV. His presentation's visual aids drew upon his skills as a designer of HIV and AIDS educational programs and were very effective in highlighting his points of interest.
- (7) Family law cases, probably, one of the most



Pictured are Dr. G. Michael Graham (Spring Conference Chair), Dr. Lindette L. Mayer (Recipient of Presidential Citation), and Dr. Ronald A. Peterson (Recipient of David S. Frank Lifetime Achievement Award)."

accessible arenas for the beginning expert, were discussed in a "view from the bench" by Commissioner and Judge Susan King. Judge King explored the role of the vocational expert in Family Law cases especially focusing on instances when the expectations of the various participants are on a collision course. The subtle and overt differences and similarities between working as an expert in Family Law as opposed to other civil litigation matters were discussed.

(8) ABVE's own vocational expert and economist Dr. Everett Dillman wrapped up the last Spring Conference of ABVE for this century discussing the need for effective inter-communication among the disciplines in the development of case theories and developing opinions in litigated matters. Dr. Dillman spoke about troubling semantics and definitions that tend to develop into idiomatic specialties resulting in confusion among parties of the various disciplines encountered in litigation matters. Dr. Dillman concluded his presentation with a "visionary prospective" for the role of the expert in the new millennium.

During the business meeting of the organization, several awards and commendations were presented. Dr. Ronald A. Peterson's contributions to ABVE were applauded by the David S. Frank Lifetime Achievement Award. Dr. Peterson, a former President of ABVE, has been recognized for his continuing support of the organization, his efforts to publish the first Monograph of ABVE and continuation of contributions to publications, his work and chairmanship of the Credentials Committee, acquisition of APA approval for ABVE's continuing education credits, and his various contributions as a Member At Large. Dr. Mayer was cited for her contributions to publications and other volunteer efforts on behalf of ABVE. Dr. B. J. McCroskey an addi-

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From the Publications Chair

Lindette L. Mayer, Ph.D.

There have been several modifications to our publications area within the last year and months. As we are moving into a new era, the present membership has seen the emergence of a professional journal and recently a renewed approach to a more functional Website for the organization.

Currently, we are in the process of revamping the Website, and we ask for your patience in the attempt to have ABVE's Website updated and user friendly for our members and others who find an interest in our organization and the skills of its membership. Costs and time are always critical in developing and implementing certain features of on-line communication and we can assure you that all roads are being explored as we move forward in a fiscally and pragmatic manner to implement a Website for your convenience. Volunteer efforts and moneys are essential. It is hoped that we will soon have an on-line Membership Directory that can be automatically updated when receipt of changes of membership data occur. As we are continuously aware that we are a small and unique organization with specific skills, we must focus our efforts as an organization on what we can do and also do well. As you are aware the Journal is in constant need of articles from your practices and experiences as a vocational expert, and with an increased emphasis on competency in the litigation area, it is a necessity to hone one's skills as never before.

Within the last several months, the ABVE Board of Directors has moved to publish the Newsletter three times a year. There will be a Summer/Fall Edition, Winter and Spring. The Newsletter will be published on ABVE's Website and also with a hard copy mailing in a modified format to all members. The Board also moved to publish the Journal once per year. This is due to the size of our organization and financial costs of producing such a journal. There have also been changes in the Editorial staffing that were not reflected in the Special Issue of the Journal and will occur with the year 2000 Edition. We are extremely fortunate to have such a journal as many organizations of our size, or larger, that deal with the forensic area, do not publish a professional journal. We are determined for our membership to have such a publication particularly in view of recent judicial decisions and the necessity of focusing on competency issues in argumentative areas.

The Journal and the Newsletter are always in need of your expertise. It is imperative as a practitioner that you continue to draw upon your wealth of backgrounds and perhaps network with other colleagues for producing publishable materials for our organization and the benefit of all who function in the forensic area.

As the Holiday Season approaches, I wish all a Happy and Joyous time and the Very Best for the ensuing New Year and the new millennium

ABVE Welcomes New Members

We wish to welcome the following new members as ABVE Fellows and those achieving Diplomate status.

Fellow Status

Joanne Latham, M.A.
Sharon Shou, M.A.
Stephanie Sleister, Ph.D.
Scott Whitmer, M.A.

Diplomate Status

Herman Axelrod, Ph.D.
Lindette L. Mayer, Ph.D.

Dr. Ronald A. Peterson – Second Recipient of the David S. Frank Lifetime Achievement Award

Dr. Ronald A. Peterson of Payson, Arizona has been recognized as the second recipient of the David S. Frank Lifetime Achievement Award. Having not only served as a former President of ABVE, a past member of the Credentials Committee, and its Chairman, Dr. Peterson has been instrumental in producing and editing the first Monograph of ABVE, has contributed to the newly established journal of ABVE, and has participated in arrangements of ABVE conferences. He has worked diligently on acquiring approval from the American Psychological Association for ABVE's continuing education credits. He continued to serve on the Board of Directors these last two years as an elected Member at Large and officially left the Board at the conclusion of his term this spring 1999. As with David S. Frank, Ron has continuously strives to uphold the standards of ABVE through his inputs and services not only when participating in an official capacity for the organization, but quietly serving ABVE on his own initiative or when called upon to render volunteer efforts

Pittsburgh Hosts ABVE Annual Fall Conference - 1999

Richard J. Baine, M.A. ABVE Conference Chair

Pittsburgh, Pennsylvania, the “Steel City,” is a town having a reputation of being able to deal with tough issues. It was an appropriate backdrop for ABVE’s annual fall conference as participants were confronted with the impact of the court decisions of Daubert and Kumho Tire.

Over 90 registrants were in attendance at the conference. Fourteen individuals participated in ABVE’s certification examination prior to the meeting and are now anxiously awaiting results of their efforts and the awarding of Diplomate or Fellow status.

Friday morning’s sessions opened with a lively address to the membership by Joseph Weimer, Esquire, a former vocational expert and Director of Crawford Rehabilitation Services’ Pittsburgh office in the late 1970s and early 1980s, and currently lead trial lawyer for Travelers Insurance Company in Pittsburgh. Attorney Weimer presented an interesting perspective of the role of the vocational expert in today’s litigation setting including comments on the *Daubert* and *Kumho Tire* rulings. In addition, Mr. Weimer emphasized the importance of communication between the vocational expert and counsel, and the necessity of pretrial preparation as key components in the vocational expert’s work product.

Samuel H. Osipow, Ph.D. presented an enlightening session about the impact of occupational stress on the worker and its role in the selection of placement for individuals within the workplace. Dr. Osipow provided a detailed explanation of the Occupational Stress Inventory – Revised (OSI-R) directing the conference participants through the instrument itself and demonstrating its role and impact in the vocational assessment process. Following Dr. Osipow’s presentation, a business meeting was held during which several items of importance were discussed with the membership

The afternoon sessions got off with a bang as Lindette Mayer, Ph.D., and Izabela Schultz, Ph.D., combined their talents to present a thoroughly interesting session on the issue of chronic pain and its impact in the work of the vocational expert. Dr. Mayer issued a strong “wake up” call by taking the audience through the history of the Daubert and Kumho Tire decisions and their ramifications on the role of the vocational expert in the forensic arena. Guidance was provided as to how ABVE should address the Daubert and Kumho standards. This was followed by a discussion of pain assessment instruments emphasizing the importance of providing the appropriate evaluative tool and the necessity of being familiar with the instrument in light of recent judicial decisions. Dr. Schultz provided the audience with an informative discussion of research being conducted in the area of chronic pain’s role in the determination of future occupational disability and a return to competitive employment of the chronic pain patient. Dr. Schultz provided a series of suggestions to the vocational expert in the preparation of reports:



Cathy & Michael Brethauer (Spring Conference Chair) toast the success of the Fall Conference with Elizabeth & Dick Baine (Fall Conference Chair)

- 1) exercising caution when reviewing physical examinations on individuals with chronic pain conditions
- 2) ensuring availability of a complete psychological/neuropsychological assessment with clear findings
- 3) paying attention to the patient self report of, and prediction, of disability
- 4) reviewing emotional, cognitive and related findings

Dr. Schultz concluded by warning the vocational expert to review the workplace factors predictive of disability and consideration of the impact of rehabilitation and treatment, medication, socio/cultural demographics, compensation factors, the natural course of chronic pain disability, and motivational and coping factors.

Eugene Van de Bittner provided an excellent presentation on “Ethics and the Vocational Expert.” Conference participants were presented with an interesting discussion regarding the role of the vocational expert in the forensic setting. Audience participation led to lively discussions of concerns with emphasis upon billing and payments, credentials, and the relationship between the vocational expert and the client.

The first day of the conference concluded with a discussion of practice management and the role of the Vocational Expert as a Disability Manager by Jasen Walker, Ed.D. Provided was insight into the role of the corporate disability manager and the use of the skills of the vocational expert in this particular setting of which the net result is a savings for the company and a new source of income for the vocational expert.

Day two of the conference began with a presentation and discussion of one of the 11 new hot topics in litigation – Latex Allergies. Barney Freiberg-Dale, M.A. discussed the far-reaching impact in peoples’ daily lives of the use of products containing latex. The use of various

latex products has given rise to a class action law suit involving manufacturer and distributors with a high profile in areas of the medical profession. Mr. Freiberg-Dale emphasized that there is much unknown about the latex phenomenon; however, the litigation process is in-place, and we, as vocational experts, should be aware of its potential impact on our practices.

Jess Leventhal, Esquire, provided a lively discussion of the role of the vocational expert in Social Security Disability in the present and for the future. His presentation inspired a lively interaction between the speaker and the audience, resulting in much being learned by all. The emphasis of Mr. Leventhal’s presentation appeared to be that vocational experts should be more involved with the organization of Social Security Representatives (NOSCAR) and be more involved with ABVE in the future.

Following a brief break, Larry L. Sinsabaugh, Ph.D. provided an entertaining yet useful presentation on the use of the Work Environment Scale (WES) for diagnosing and addressing work related problems in rehabilitation and spousal support issues. Dr. Sinsabaugh administered the WES to the conference participants who then scored and profiled their results. Volunteers offered their profiles for assessment by the entire audience. Everyone appeared to enjoy the exercise and walked away with insight into another tool to be used in their practices

Following lunch, the Honorable David B. Torrey, Workers Compensation Judge from Allegheny and Erie Counties in Pennsylvania, presented “Employability Issues: Miscellaneous Observations of an Administrative Law Judge.” Judge Torrey’s comments regarding vocational expert testimony and the role of the vocational expert in judicial proceedings, though related primarily to the Commonwealth of Pennsylvania’s Workers Compensation Law, provided sufficient merit for consideration by all vocational

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tional recipient of a Presidential Citation was cited for his knowledge, work and expertise to validate our credentialing examination, as Dr. McCroskey expended many hours and much effort applying his knowledge and expertise in statistics and testing on behalf of ABVE.

Of interest and value, disbursed throughout the conference, was a series of "Round Table" discussions directed toward varied topics of which all attendees could select their areas of interests in which to participate.

Ninety-nine persons, were in attendance at the spring conference, the majority from California. For the first time, an 80 page printed and bound "*Syllabus of Speakers*" was provided to each conference attendee. The "*Syllabus*" contained a concise paper submitted by each speaker directed toward the content of their presentation accompanied by a contact listing, and spaces for session notes to supplement any oral presented materials. For those individuals not being able to attend this spring conference, there are several additional copies of this *Syllabus* available at a cost of \$25.00 plus shipping. For your copy, contact Dr. Michael Graham at P.O. Box 1577, Capitola, CA 95010.

As a final comment, I wish to give a big "*THANK YOU*" to my conference committee especially Tom Yankowski, Betty Kohlenberg, and Rachel Hawk for all their time and efforts in making the 1999 spring conference one that was educationally enlightening and fun.

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experts as they prepare a vocational assessment. Judge Torrey referenced the Daubert and Kumho decisions noting the impact of these decisions and how they will be felt in all levels of the judicial arena now and in the future.

A panel of three attorneys, Mary Kathleen Coleman, Esquire, M.B.A., Rob Benzel, Esquire, and Carol McCarthy, addressed the subject of meeting attorney needs in litigation. Ms. Coleman provided a detailed assessment of the Daubert and Kumho decisions from the perspective of the trial lawyer, a session strongly supporting the previous warnings of Lindette Mayer, Ph.D., just twenty four hours earlier. Mr. Benzel emphasized the need for careful preparation of reports in light of the two decisions of note while Carol McCarthy, a noted litigator in domestic issues, conducted an energetic session discussing the merits of vocational evaluations in this area of practice. Ms. McCarthy, who is known for her direct approach at trial, went out into the audience and started a lively debate of reports rendered by vocational experts..

The fall conference program was concluded as Jasen Walker, Ed.D. provided a brief discussion of the role of the vocational expert in disability management.

It is hoped that this fall conference, in conjunction with the excellent Spring Conference in San Francisco has provided the membership with the impetus needed to make Spring 2000 New Orleans a rousing success. See you there.

**Join Us in New Orleans
American Board of Vocational
Experts**

Spring Conference

April 7 -- 9, 2000

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New Orleans, LA

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ABVE Membership Survey

Thanks to everyone for the serious and thoughtfully considered responses. Watch the ABVE Web Site for a full report on the survey results.

www.abve.org



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