



- "Since most events are the result of a complex set of causes, there will frequently be [noncompensable] contributing causes. ... As long as a defendant is part of the cause of an injury, the defendant is liable, even though his act alone was not enough to create the injury."
 - Athey v. Leonati, Supreme Court of Canada

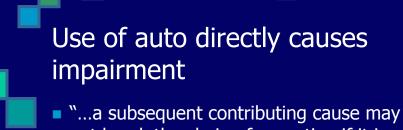
A. Proof 1. Of Cause In Auto benefit cases Multiple causes "use...of automobile...directly causes...impairment"



- "...the accident must significantly or materially contribute to the Applicant's impairment..."
 - Hearn and Allianz
- "Even a 25% amount [of responsibility] is more than minimal or trivial and is therefore material or significant"
 - Saliba and Allstate

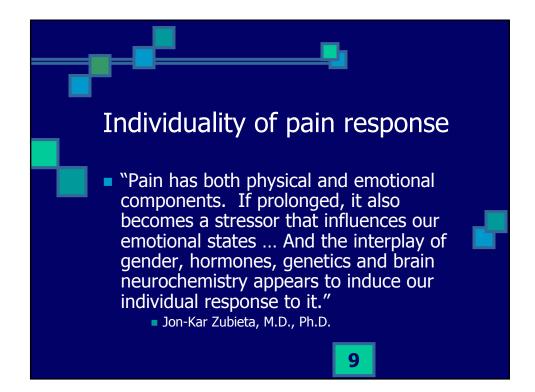
Use of auto directly causes impairment

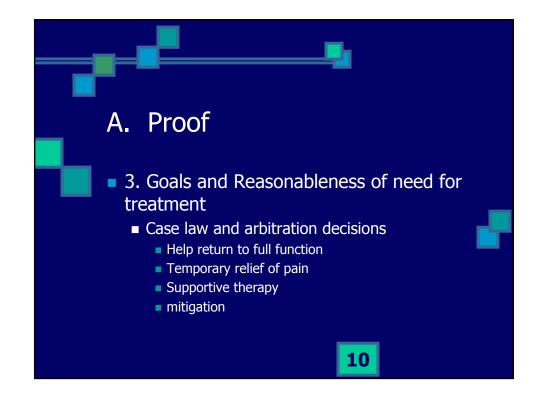
- "If injury...results from treatment necessitated by an accident, providing there is no intervening cause, the accident remains the direct or proximate cause. Direct cause does not mean the only cause or the most immediate cause"
 - Correia and TTC



- "...a subsequent contributing cause may not break the chain of causation if it is 'part of the ordinary course of things."
 - Belair and Seale, Saad and Federation

A. Proof 2. Of "existence" of chronic pain In lawsuits or benefit claims from mva's: Impairment Consistency Individuality of response to pain The importance of the attempt to return to function





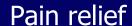
Is it reasonable only if it helps "to promote recovery"?

- Where injured person suffers ongoing pain but has reached maximum level of recovery, ongoing treatment is reasonable if it provides temporary relief of pain – "The relief of pain is, at many levels from aspirin to palliative care of terminal patients, a valid and recognized mandate of the health care professions."
 - Cubello v. Guidolin

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Pain relief

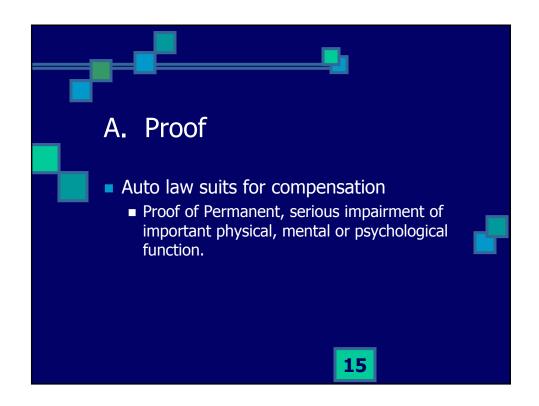
- "It is now well-accepted that the relief of pain is, in and of itself, a legitimate medical and rehabilitative goal. This idea has been endorsed in several arbitration decisions. The courts have recently recognized this as well."
 - Violi and General Accident, Amoa-Williams and Allstate, Wong and Allstate, Kolonjari and Cumis

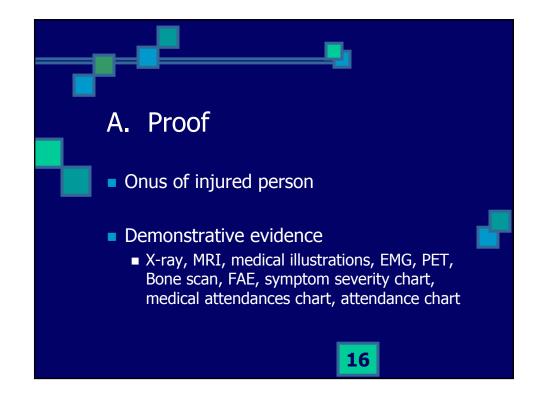


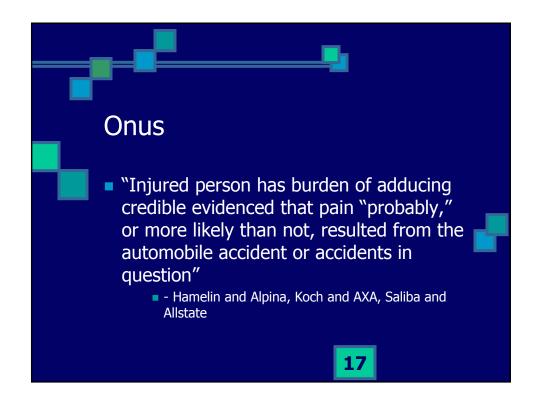
- Treatment provides injured person with pain relief but evidence points to person having developed a dependence on the treatments. Treatment still reasonable "as there is no evidence to suggest it is interfering with her rehabilitation efforts."
 - Kolonjari and Cumis, Amoa-Williams and Allstate

Qualifying for prolonged treatment

- "...to qualify for prolonged treatment, an insured person must establish, at a minimum that:
 - (a) The treatment goals, as identified, are reasonable;
 - (b) These goals have been met to a reasonable degree; and
 - (c) The overall cost (not just financial but investment of time, etc.) of achieving these goals is reasonable...".
 - Violi and General Accident, Rashid and S.F

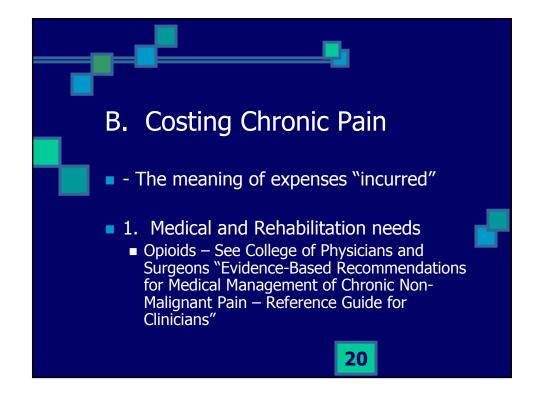














- In order to incur an expense:
 - a person "need not actually receive the items or services or spend the money to become legally obliged to do so." ...
 - "a person who was unable or unwilling to promise payment in exchange for [services] because of financial hardship, and who did not in fact make any promise, could nevertheless 'incur' an implied obligation to pay"
 - Stargratt and Zurich, S.D. and TTC

Medical and Rehabilitation Needs

- CPSO suggested management:
 - Multimodal therapy
 - Cognitive behavioural and behavioural therapies
 - Education
 - Tens and Acupuncture if consistent benefits
 - Manual therapy or manipulation,
 - Sustained release Opioids,
 - NSAIDs
 - ?Injection therapy

