

**LIFE CARE PLANNING
FOR MEDICOLEGAL EVALUATORS**

**IAIME MID-YEAR CONFERENCE
AUGUST 6, 2022**

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1

OVERVIEW

- Life care planning (LCP) is a process of determining medical and other requirements for people with catastrophic injuries or severe chronic medical conditions and formulating detailed, specific, and quantitative plans to meet these needs
- This activity is complex but provides an essential and highly beneficial service for these individuals, and an important medicolegal function similar to Independent Medical Evaluation (IME)
- LCP offers many opportunities for involvement by advanced health care practitioners (AHPs) – chiropractors, nurse practitioners, physicians, and psychologists – as consultants, expert witnesses, and planners

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2

MY BACKGROUND AND DISCLAIMER

- I am a board-certified occupational physician in independent consulting practice based in central Pennsylvania
- I perform medical direction in workers compensation and short-term disability and complex file and case review, provide clinical oversight of onsite worker health and wellness clinics, and serve as an expert witness in occupational medicine, life expectancy determination, and life care planning
- I have no conflicts of interest or commercial affiliations relevant to the material in this presentation to report

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3

OUTLINE

- What is LCP – Goals and Roles (IME ↔ LCP)
- Case Study
- Applications and Effectiveness of LCP
- The LCP Process
- Training and Certification
- Advantages, Opportunities, and Practical Considerations for AHPs/IMEs
- Sources of Information, Basic Library, References

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4

WHAT IS LIFE CARE PLANNING?

- Process of identifying and quantifying the lifetime medical and other needs of individual with substantial injury or chronic health condition and consequent disability
- Major areas of focus:
 - Traumatic brain injury (TBI)
 - Spinal cord injury (SCI)
 - Pediatric and developmental conditions, e.g., cerebral palsy, spina bifida
 - Traumatic or therapeutic amputation
 - Severe burns
 - Chronic pain

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5

WHAT IS LIFE CARE PLANNING?


- Like IME, LCP is an established and mature field with published standards of practice, training and national certification requirements, several professional organizations, and an extensive body of supporting research
- LCP has **applications** in both **clinical management** and **forensic and medicolegal settings**
 - Widely regarded as effective **case management** method in the healthcare industry, particularly in these complex and medically challenging cases
 - Commonly used as **medicolegal tool** in catastrophic and non-catastrophic cases

Johnson 2013 IAIME, Aug 6 2022 6

6

WHAT IS A LIFE CARE PLAN?

- An integrated strategy and structured, written design including:
 - Detailed analysis of the individual’s medical condition(s) and life situation
 - Items and services required for current and future care with specific costs
- A “dynamic document” intended for ongoing use as a blueprint and guide for the person’s medical care and rehabilitation throughout their lifetime, especially as their condition evolves and/or with aging



Weed 2019 IAIME, Aug 6 2022 7

7

MAJOR FOCUS AREAS OF LIFE CARE PLAN

- What do they **have** (medical diagnoses)
- What do they **need** (present and future medical and other care and support)
- **Why** do they need it (manage symptoms, prevent complications, ensure safe, independent function, enhance quality of life [QOL])
- **How often** do they need it (frequency and duration)
- **How much** will it cost (usually in present dollars; LCPs generally do not discount for future costs, which is the role of the forensic economist)


Giles 2020 IAIME, Aug 6 2022 8

8

GOALS OF THE LIFE CARE PLAN

- **Provide appropriate care** (medical, psychological, rehabilitative)
- **Prevent complications** to which the person may be predisposed by their condition(s) (e.g., contractures in spasticity, UTI in neurogenic bladder, pressure injuries)
- **Promote the highest level of function and QOL** attainable given their individual circumstances (may involve educational and/or vocational rehabilitation)

▶ The LCP allows the evaluator to intervene in impairment/disability and recommend necessary and constructive interventions



Gonzales 2017; Rose 2014 IAIME, Aug 6 2022 9

9

ROLES OF THE LIFE CARE PLANNER

Two major functions:

- **Comprehensive analysis of case** and determination of reasonable medical, psychological, rehabilitative, and vocational needs of the affected individual
- **Education of all stakeholders**, including triers of fact, on:
 - Medical aspects of the illness or injury
 - The physical, psychosocial, and medical consequences and sequelae of the condition(s) and potential comorbidities
 - The expected effects of the condition(s) and the aging process over time

Deutsch 2022 IAIME, Aug 6 2022 10

10

MEDICOLEGAL IME AND LIFE CARE PLANNING

IME	LCP
<ul style="list-style-type: none"> • Detailed review of records • Comprehensive examination of claimant • Determination and quantification of impairment(s) • Consultation/report to retaining entity • (May contribute to legal case) • Testimony as required 	<ul style="list-style-type: none"> • Detailed review of records • Examination of claimant and assessment of life situation • Determination (and quantification) of impairment(s) • Identification of consequent needs, and both sources and costing • Consultation/report to retaining entity • (May contribute to legal case) • Testimony as required

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11

MEDICOLEGAL IME AND LIFE CARE PLANNING

LCP is more complex activity, and stakes are much higher

- **Finance:** Settlements may run into tens of millions of dollars
- **Health and QOL:** Appropriate plan may substantially improve or optimize health and life quality and minimize morbidity for individual and others
- **Life expectancy:** May increase, but controversial

Caruso 2021; Fisher 2003; Krause 2013; Reid 2013; LaVela 2007 IAIME, Aug 6 2022 12

12

MEDICOLEGAL IME AND LIFE CARE PLANNING

Challenge is to determine optimum level of care for each person

- Both **inadequate and excessive** quantity and quality of medical care may have negative and iatrogenic effects
 - Inadequate ⇒ suboptimal treatment, preventable complications
 - Excessive ⇒ iatrogenic illness
- **Ethical responsibility to generate fair and medically reasonable plan** and avoid under- or over-provision of resources for the affected individual
 - Too few resources ⇒ inadequate care for individual needs
 - Too many resources ⇒ overall individual and societal waste

Caruso 2021; Fisher 2003; Krause 2013; Reid 2013; LaVela 2007 IAIME Aug 6 2022 13

13

OPTIMUM LEVEL OF CARE

Day 2015; Kush 2013; Plioplys 2012 IAIME Aug 6 2022 14

14

CASE STUDY

17-year-old Hispanic female with no significant pre-existing medical conditions

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15

CASE STUDY – MOTOR VEHICLE CRASH

Restrained operator – struck on driver’s side door at high speed by driver who ran red light (other operator did not survive)



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16

CASE STUDY – INITIAL INJURIES

- TBI with diffuse cerebral edema and axonal injury (DAI), cerebellar tonsillar herniation (possible anoxic/hypoxic encephalopathy)
- Bilateral occipital condyle fractures, occipito-atlantic dislocation and severe C6 ligamentous trauma with epidural hemorrhage and C4-T1 SCI
- Multiple high rib fractures, bilateral pulmonary contusions, hemothoraces, mediastinal hemorrhage
- Fractures of left clavicle, humeral neck, scapula; right distal humerus; sacrum; bilateral open midshaft femurs; left tibial plafond and fibula



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17

CASE STUDY – INTERVENTIONS


- Initial exploratory laparotomy with splenectomy and delayed closure; pancreatic tail injury; drainage of LUQ intraabdominal abscess
- Posterior occiput-C2 fusion and C6 ACDF and posterior fusion
- Tracheostomy and gastrostomy converted to gastrojejunostomy
- External fixation and ORIF multiple fractures

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18

CASE STUDY – PROLONGED CARE

- Hospitalized for 1 yr
 - Acute care hospital 8 mos
 - Intensive inpatient rehabilitation 2 mos
 - Long-term rehabilitation 2 mos
- Home with outpatient primary (Family Medicine) and wound care, and home health care by family
- Many hospital readmissions for infection with multidrug-resistant organisms (MDRO), e.g., skin abscess, PNA/UTI with Systemic Inflammatory Response Syndrome (SIRS)/sepsis, and sacral osteomyelitis



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19

APPLICATIONS OF LIFE CARE PLANNING

LCPs Have Major Role in Civil Litigation

- **Plaintiff**
 - Provide detailed analysis of medical, psychological, and rehabilitative needs
 - Help establish basis for other damage claims, e.g., pain and suffering
- **Defense**
 - Help to set insurance reserves and evaluate risk of large damage award
 - Rebut any or all aspects of plaintiff LCP, and may provide "alternate" LCP as counterpoint to unrealistic plaintiff plan
- **Both (and for court)**
 - Provide objective information to inform negotiations and serve as basis for mediation and settlement, or determinations by trier of fact

Brown-Henry 2019; Hurney 2017 IAIME Aug 6 2022 20

20

APPLICATIONS OF LIFE CARE PLANNING

Other applications:

- Workers' compensation claims, including Medicare Set-Asides (MSA)
- Disability, health (including managed care), life, and long-term care insurance, and life settlement claims
- Disability, Employment, and Family and Elder Care law
- Federal Vaccine Injury Fund cases
- Medical Cost Projection

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21

EFFECTIVENESS OF LIFE CARE PLANNING

- In Cook County (Illinois) 2008 to 2016, 33 jury verdicts for medical malpractice plaintiffs containing awards for future medical damages
- 11 plaintiff cases used LCP
 - Average **total verdict award** was 437% of those not involving LCPs
 - Average **future damages** were 937% of those not involving LCPs
- No details on case merit or defense use of LCPs, but presume latter was vigorous
- Illustrates **opportunity to serve both plaintiff and defense side in litigated cases** (I am currently 50:50)

22

THE LIFE CARE PLANNING PROCESS

Consistent procedure for gathering information and developing plan:

- **Detailed review of medical records and supporting documents** (depositions, day in the life videos, school/employment records)
- **Comprehensive evaluation of claimant**, including home visit, interview with client and significant others, examination, and assessment of family and life situation
- **Confer** with attending and treating clinicians (ATCs) and/or other experts (either consulting or testifying, including IMEs) for basic medical background and management recommendations (must be internally and externally consistent)

23

THE LIFE CARE PLANNING PROCESS

- **Utilize clinical practice guidelines**
- **Determine and quantify impairment(s) and medical and other needs**
 - Need to establish evidence basis using research literature
 - More detailed than IME
- **Identify costs and sources** for treatment and rehabilitation
- Verbal or written **report to retaining entity**
- **Testify** at deposition and/or trial as necessary
- **Follow up** for compliance and evolution of condition(s)

24

THE LIFE CARE PLANNING PROCESS

Major areas of intervention considered for inclusion in LCP:

- Medical care
- Surgery and procedures
- Therapeutic evaluations and modalities
- Laboratory and other diagnostic testing
- Prescription and nonprescription medications
- Medical supplies
- Orthoses and prostheses
- Durable medical equipment and aids for independent functioning
- Mobility aids
- Living arrangements and home or facility care
- Home/architectural modifications
- Transportation
- Educational and vocational needs
- Other needs

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25

THE TYPICAL LIFE CARE PLANNING REPORT

- Introduction, Overview, Assignment
- List and Chronological Summary of Reviewed Records
- In-Person Evaluation
- Summary of Current Condition(s) and Medical, Psychological, Rehabilitative, and Vocational management recommendations
- Anticipated Medical Treatment and Cost Grids
- References

Table of Contents	2
Referral Information	3
Introduction, Overview, and Assignment	4
List of Reviewed Records	4
List of Additional Records Requested	7
Chronological Summary of Reviewed Records	8
Independent Medical Evaluation (IME) Reports	13
My In-Person Evaluation of Mr. XXXX	14
Social, Family, Occupational, and Functional History	17
Diagnosis and Conditions Not Related To Injury Event	18
Diagnosis and Conditions Related To Injury Event	20
Potential Complications and Effects Of Aging	33
Conclusion	34
Summary of Mr. XXXX's Needs By Body System	36
Anticipated Medical Treatment and Cost Grids	38
Summary of Lifetime Costs	49
Appendix A: Qualifications	50
Appendix B: Assurances Used In This Report	51
References	52

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26

COST GRIDS IN LIFE CARE PLANNING

Typical Cost Grid for Surgeries and Procedures

RECOMMENDATION	BILLING CODE	FREQUENCY	DURATION	TOTAL UNITS	UNIT COST (\$)	TOTAL COST (\$)	COST RESOURCE
Spinal Cord Stimulator (SCS)							
Maintenance/Reprogramming	95972	2x/yr	47 yr	94	243.14	22855	C4H
Replacement	63663, 63668, 95972, and Facility Code	1x/9 yr	47 yr	5	43,976.35	219882	C4H
Cervical Spine Botox Injection	J0585	3x/yr	47 yr	141	1920.50 (avg)	272060	GoodRx
TOTAL						514,797	

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27

WHO DOES LIFE CARE PLANNING?

- Historically a diverse group of healthcare professionals including highly trained and experienced nurses, rehabilitation counselors, occupational and physical therapists, and social workers
- More recent trend towards AHPs, especially masters and doctoral level clinicians

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28

TRAINING IN LIFE CARE PLANNING

Formal training and certification are NOT required but are highly recommended from personal and professional perspective

- **SEAK** overview course – two days
- **Pre-approved** formal training programs (120+ hrs)
 - Institute of Rehabilitation Education and Training (IRET)
 - Capital University Law School
 - Thomas Jefferson University
 - AAACEUs (self-study on-demand)
- **Non pre-approved** formal training program (120 hrs)
 - FIG Education self-study on-demand and offers alternative certification

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29

CERTIFICATION IN LIFE CARE PLANNING

- **Certified Life Care Planner (CLCP)**
 - International Commission on Health Care Certification (ICHCC)
 - Qualified Health Care Professional (QHCP; primary specialty certification, e.g., CRC or CCM, or licensure, or Masters Degree in health-related field) with 3 yrs of practice experience
 - 120 hrs LCP training (e.g., pre-approved programs)
 - Submission of sample life care plan
 - Successful completion of Certified Life Care Planner examination



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30

CERTIFICATION IN LIFE CARE PLANNING

- **Life Care Planner - Certified (LCP-C)**
 - FIG Education
 - QHCP with 2 yrs practical experience
 - 120 hrs LCP training
 - Submission of sample life care plan
- **Certified Physician Life Care Planner (CPLCP)**
 - American Academy of Physician Life Care Planners (AAPLCP)
 - Board-certified physiatrists only
 - CLCP
 - Successful completion of Certified Physician Life Care Planner examination





FIG Education 2022; AAPLCP 2022a IAIME Aug 6 2022 31

31

ADVANTAGES TO AHP/IME IN LCP

- Goes back to first two major goals of LCP, i.e., what do they **have** (medical diagnoses) and what do they **need** (future medical care)
- LCPs may be dependent upon ATCs for medical foundation of LCP and input into specifics of plan, but ATCs may be:
 - *Unable* due to lack of knowledge or experience in dealing with severe or catastrophic illness or injury
 - *Unavailable*, e.g., due to time constraints
 - *Unconcerned* due to lack of understanding or valuation of LCP
 - *Unwilling* due to concerns about liability or medicolegal involvement

AAPLCP 2022b; Bonfiglio 2019 IAIME Aug 6 2022 32

32

ADVANTAGES TO AHP/IME IN LCP

Due to breadth and depth of medical knowledge, and skills and judgment, AHC/IME, whether serving as consultant or LCP, can provide autonomous opinions and have many potential functions and ways to add value:

- Analyze **injury mechanism** and **causation**
 - Recognize pre-existing and non-attributable conditions
 - Sort out complex causation, exacerbation and aggravation, and apportionment issues
- Identify **natural history**, **clinical course**, and **potential complications** of major conditions and related comorbidities

Gonzales 2017 IAIME Aug 6 2022 33

33

ADVANTAGES TO AHP/IME IN LCP

- Independently perform **comprehensive examination** and evaluation (IME)
- Opine on **diagnostics and treatment**, including **appropriateness, reasonableness, and duration and quality of care**
- Address **impairment and disability**, and **work capability and permanency** (IME)
- **Impartially formulate medical opinions** which may or may not agree with those of ATCs or may not have been considered, and effectively defend those opinions

Gonzales 2017 IAIME, Aug 6 2022 34

34

ADVANTAGES TO AHP/IME IN LCP

AHP/IME LCP may have greater (perceived) credibility than other LCPs, particularly in medicolegal context:

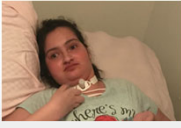
- **Plaintiff:** May provide more detailed, scientifically and medically sound foundation for any or all aspects of LCP
- **Defense:** May be able to perform more rational and evidence-based critique or deconstruction of plaintiff LCP
- LCP with less advanced qualifications may be subject to challenge due to exceeding scope of expertise and/or knowledge

Cowen 2015a; Cowen 2015b; Caragonne 2019; Essis 2020 IAIME, Aug 6 2022 35

35

CASE STUDY – MAJOR CONDITIONS/DISORDERS

- TBI: Rancho Los Amigos Level V-VI with emerging Level VI-VII attributes, with trismus and UE spasticity
- SCI: C5-6 ASIA A complete tetraplegia (modest extension R > L UEs), tracheostomy (capped), gastrojejunostomy, neurogenic bladder/bowel
- Behavioral Health: Major Neurocognitive Disorder, but with retained decision-making capability; depressive disorder; PTSD
- Psychosocial issues: Young adult conflict with parents (especially mother) over independence and personal decision-making



Centre for Neuro Skills 2022 IAIME, Aug 6 2022 36

36

CASE STUDY – OVERVIEW OF LCP

- Ongoing medical care and possible additional surgery
- Continued intermittent OT, PT, SLP
- Routine laboratory testing
- Medications (23 as of 03/17/22)
- Ongoing medical supplies (trach and GJ tube maintenance)
- UE Splints
- Equipment (hospital bed, suction, power wheelchair)
- Home health care (completely dependent)
- Transport needs

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37

CASE STUDY – MY ROLE(S)


- Collaborate with Nurse LCP and other experts
- Independently opine on life expectancy (only potential testifying role)
- May provide input into:
 - Injuries sustained and ongoing conditions requiring care (including possible future complications)
 - Reasonableness and necessity of present and proposed future medical care
 - Future care needs
 - Impairment and disability rating

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38

LCP OPPORTUNITIES FOR AHP/IME PROVIDERS

- As Expert Witness
 - **Contribute useful and needed service** to claimants – if done well may dramatically affect health, QOL, and perhaps life expectancy – and plaintiff, defense, and court in litigation
- As Primary LCP
 - **Expand scope of practice** and dramatically increase medical and other knowledge
 - **Cross-fertilization and synergy** with disability/IME practice
 - **Work collaboratively** with attorneys and other health care professionals involved in case



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39

POTENTIAL UPSIDES FOR AHP/IME PROVIDERS

- Generally does not require active clinical practice
- Not limited by specialty (although retaining counsel may have preference, e.g., neurologist or neurosurgeon for neurologic injury)
- Usually does not involve testifying against other physicians on issues like quality or standard of care
- Most of work done from home office
 - Site visit desirable, but may be done remotely, and telemedicine applications in LCP are growing both for initial and follow-up evaluation

Fricks 2020 IAIME, Aug 6 2022 40

40

POTENTIAL CONCERN FOR AHP/IME PROVIDERS

- Many physicians and other AHPs now getting into LCP
 - No real data, but anecdotally physicians "less than 1%"
- Major concern is variation in LCP quality from poor to excellent evaluations, reports, and testimony (similar to IME)

► Overall, there is strong need for and opportunity to provide high-quality work

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41

PRACTICAL CONSIDERATIONS IN LCP

- Associate with established and experienced NLCP
- Use coding and costing specialist
- Low/median/high hourly fees per most recent SEAK Expert Witness Compensation Survey (2021; n = 36)

	Low	Median	High
Case Review/ Preparation	165	275	740
Deposition	175	413	1500
Court Testimony	165	413	1300

- May require 40-50 hrs per case

Mangraviti 2021 IAIME, Aug 6 2022 42

42

SUMMARY


- LCP is natural extension of insurance and disability medicine, and AHPs/IMEs may contribute as expert witness or as LCP
- Experienced IMEs already have many necessary skills; LCP requires some additional training and certification (easily manageable for masters and doctoral level clinicians)
- Many advantages for AHPs as LCPs:
 - Provide necessary and highly valuable service
 - Expand scientific knowledge and scope of practice, and synergize with existing practice
 - Interact collegially with many medical and legal professionals

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43

SUMMARY

- LCP has many stakeholders – claimant and family, ATPs, insurers and payors, attorneys and court, expert witnesses and planners
- Overarching goal is to rationally define balance of reasonable and necessary care acceptable to all parties
- AHPs/IMEs can strongly contribute both as consulting or testifying experts and LCPs



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44

MORE INFORMATION

- Paul Deutsch website FAQs (<http://www.paulmdeutsch.com/index.htm>)
- IARP/IALCP website (<https://connect.rehabpro.org/lcp/home>)
 - Introductory webinar "Life Care Planning 101" (<https://www.pathlms.com/iarp/courses/1265>)
 - Life Care Planning FAQ (<https://connect.rehabpro.org/lcp/about/new-item/new-item>)
- FIG Education (<https://www.figeducation.com/>)
- ICHCC (<https://www.ichcc.org/>)
- AAPLCP (<https://aaplcp.org/Default.aspx>)
- SEAK (<https://www.supplementalincomeforphysicians.com/life-care-planning/>)

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45

THE BASIC LIBRARY

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46

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IAIME Aug 6 2022 47

47

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IAIME Aug 6 2022 48

48

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IAIME, Aug 6 2022 49

49

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IAIME, Aug 6 2022 50

50

QUESTIONS/CONTACT



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IAIME, Aug 6 2022 51

51
