

# PRE-EXISTING CONDITIONS



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*Work Related Injuries Workshop*  
*June 2015*



# A Pre-Existing Injury or Disease

- May not be a bar to compensation
- A personal injury is defined in Section 1(7A) of the Massachusetts Workers' Compensation Statute
- Section 1(7A) establishes the burden of proof for an employee to obtain workers' compensation benefits



## 3 Must Ask Questions

- Is there a pre-existing injury or disease?
- Is the pre-existing injury or disease work-related or non-work-related?
- Does the pre-existing injury or disease combine with the work injury to cause or prolong incapacity and a need for treatment?



# No Pre-Existing Injury or Disease

- A simple causation standard applies.
- All the employee has to prove is that it is more probable than not that the work injury caused the incapacity and need for treatment.

# Pre-Existing Injury or Disease is Work-Related

- Is it an injury or disease that was compensable under the Massachusetts Workers' Compensation Statute?
- If yes, does the pre-existing injury or disease combine with the work injury to cause or prolong incapacity and a need for treatment?
- If yes, a simple causation standard applies.



# Pre-Existing Injury or Disease is Non-Work-Related

- Does it combine with the work injury to cause or prolong incapacity and a need for treatment?
- If yes, the employee must prove that the work injury is a **major** but not necessarily predominant contributing cause of the incapacity and need for treatment.
- A major cause is an important cause, a serious cause or a moderately significant cause.
- There can be multiple major causes.
- Defense: The work injury is no more than a minor or marginal cause.