#### Children & Youth with Brain Injuries: Practical Strategies | June 7, 2018







# Catastrophic Designation for Children with ABI: The New Tests, New Rehab Prospects and Reporting Tips

#### Presented by:

DAVID F. MACDONALD, Partner 1-888-223-0448 416-868-3155 | 647-290-7291 (Cell) dmacdonald@thomsonrogers.com









### **Getting to CAT Sooner: Overview**

- 1. More Children ABI survivors can be CAT
- 2. Definition Keys
- 3. Look at New Technology re Dx TBI
- 4. Look at the KOSCHI test re AC
- 5. How do pre-accident problems fit in?
- 6. How Attendant Care Assessment help CAT
- 7. Writing reports with KOSCHI in mind

#### WHAT ARE KEY TIMES?

Hospitalization

One Month

Six Months

Nine Months

Two Years



# WHO WILL ENSURE CAT CONSIDERED AT EACH INTERVAL?









# Criterion No. 1: Hospitalization and Imaging

# CRITERION NO. 1: HOSPITALIZATION AND IMAGING

"accepted for admission, on an in-patient basis, to a public hospital named in a Guideline with positive findings on CT, MRI or any other medically recognized brain diagnostic technology indicating intracranial pathology that is a result of the accident, including, but not limited to intracranial contusions or hemmorrhages, diffuse axonal injury, cerebral edema, midline shift or pneumocephaly."



# CRITERION NO. 1: HOSPITALIZATION AND IMAGING

In-patient admission to public hospital;

Positive findings of intracranial pathology;

Findings must be from medically recognized brain diagnostic technology.

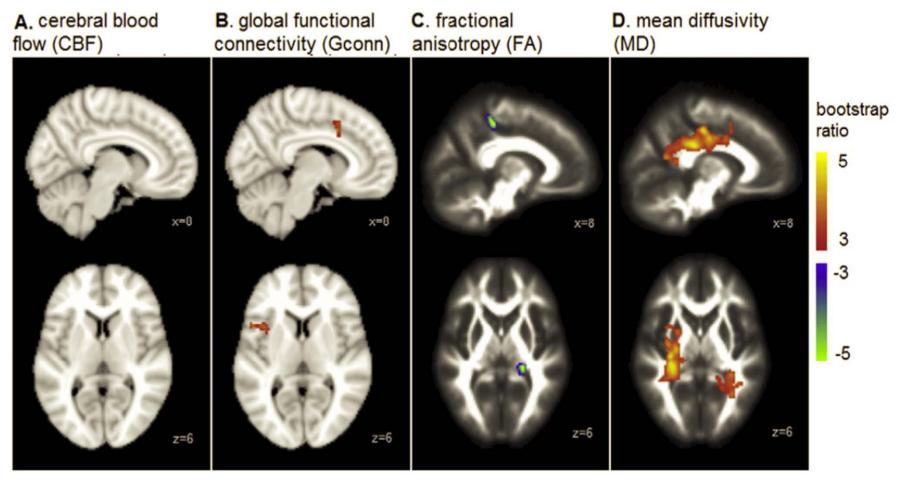


#### **KEY POINTS: CAT ABI DEFINITION**

- 1. June 1/16 CAT Definition for TBI
- 2. First, need positive findings showing TBI
- 3. Looking at:
- CT
- MRI
- fMRI
- Neuropsych testing



# fMRI Shows Positive Finding of TBI: Within One Week of Trauma



N.W. Churchill et al. / NeuroImage: Clinical 14 (2017) 480–489

# Criterion No. 2: Admission to Pediatric Rehabilitation Facility

# CRITERION NO. 2: ADMISSION TO PEDIATRIC REHAB

- "accepted for admission, on an in-patient basis, to a program of neurological rehabilitation facility that is a member of the Ontario Association of Children's Rehabilitation Services" (OACRS)
- = HSN Children's Treatment Centre
- = NEO Kids



# CRITERION NO. 2: ADMISSION TO PEDIATRIC REHAB

What is OACRS?









































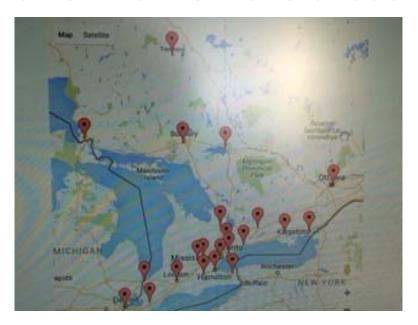




# CRITERION NO. 2: ADMISSION TO PEDIATRIC REHAB

### Five Concerns:

1. Discrimination re: remote areas



### CAT ABI re under 18, CAT if:

Brain injury diagnostic technology reveals TBI, OR

Admitted as in-patient to recognized neuro - rehab facility (Bloorview)\*, OR

KOSCHI 2 (1 month post) Vegetative

\*Discuss creation of Northern Rehab beds in Sudbury, Thunder Bay and the Soo.



# CRITERION NO. 2: ADMISSION TO PEDIATRIC REHAB

### Five Concerns: cont'd

- 2. Wait lists
- 3. Community-based rehab
- 4. In-patient admission requirements
- 5. "Program of neurological rehabilitation"

**Solution**: Funding source for neuro rehab = CAT Accident Benefits of \$935,000 per child, max



# Criterion No. 3: King's Outcome Scale (1 to 5 months)

# CRITERION NO. 3: King's Outcome Scale (1-5 months)

- King's Outcome Scale for Childhood Head injury ("KOSCHI")
- Studies have found KOSCHI to be of limited use in predicting long-term outcome
- No guidance on who will do assessments



# CRITERION NO. 3: King's Outcome Scale (1-5 months)

- KOSCHI rates impairment on following scale:
  - 1) Death
  - 2) Vegetative
  - 3) Severe Disability
  - 4) Moderate Disability
  - 5) Good Recovery



# Criterion No. 4: King's Outcome Scale (6 months)

# CRITERION NO. 4: King's Outcome Scale (6+ months)

#### 6 months +

"level of neurological function does not exceed category 3 (Severe Disability) on the KOSCHI."

# CRITERION NO. 4: King's Outcome Scale (6 months)

#### Severe disability:

"The child is at least intermittently able to move part of the body/eyes to command or make purposeful spontaneous movements."

For Example: Confused child pulling at nasogastric tube, lashing out at carers, rolling over in bed.

Such a child is fully conscious and able to communicate but not yet able to carry out any self-care activities eg. feeding.



# CRITERION NO. 4: King's Outcome Scale (6+ months)

### **Severe Disability = CAT**

Implies a continuing <u>high level of dependence</u>, [=AC]but the child can assist in daily activities.

**For Example:** Child can feed self or walk with assistance or help to place items of clothing.

Such a child is fully conscious but may still have a degree of post-traumatic amnesia.



### CAT ABI re under 18, CAT if:

**KOSCHI 3** (6 months post) = severe disability = predominantly dependant = limited self care abilities = requires specialized education or rehab, OR

- Not age-appropriately independent and requires supervision for more than half of waking day, then s/he is CAT
- IEP, IPRC



# CRITERION NO. 4: King's Outcome Scale (6+ months)

"High Level of Dependence" vs "Degree of Supervision

Clinical Judgment helps open door

Pre-morbid Problems help open doors

Remedial approach

What if pre-morbid worsened?



# Bottom Line in SABS: Accident Injury Worsening Premorbid Problem

- If accident caused an injury that more than minimally worsens premorbid problem, accident is responsible for the entire resulting impaired health condition
- Must determine CAT based on whole person, including accident injury, premorbid problems <u>and</u> potential future deterioration.

If premorbid problems

More likely to be CAT



### What about post-accident problems?

 If post accident problem occurs in part as a result of accident injury, accident injury is responsible for entire result of post accident problem.

#### **Examples:**

- Late onset depression, anxiety, fatigue following accident injury related loss of function
- Fall occurs as a result of balance or self-cuing impairment from brain injury



#### **KOSCHI AT SIX MONTHS**

Findings of KOSCHI at six and nine months are highly dependent on:

- Earlier attendant care, social worker/psychology assessments, and;
- Speech cognitive communication disorder assessments.

AC and CCD assessments in the first six months which include assessment of KOSCHI criteria will inform KOSCHI six month assessment re CAT>



# Criterion No. 5: Level of Function After 9 Months

### CRITERION NO. 5: POST 9 MONTHS

"Nine months or more after the accident, the insured person's level of function remains seriously impaired such that the insured person is not age appropriately independent and requires in-person supervision or assistance for physical, cognitive or behavioural impairments for the majority of the insured person's waking day."



### CRITERION NO. 5: POST 9 MONTHS

Breaking down the test

#### Areas of focus:

"age appropriately independent"? See OSOT Guides

"in-person supervision or assistance"

"waking day"?



# CAT AT 3 MONTHS – 2 YEARS DUE TO WHOLE PERSON IMPAIRMENT

- 55% WPI due to physical injuries, including brain impairment.
  - includes fractures, brain injury, nerve injury, bony and joint injuries (every injury except mental or behavioural impairments)
  - Can be done at 3 months if physician states
     "unlikely to cease to be less than 55%" if not: 2yrs



### OTHER CAT CRITERIA

- Paraplegia or Tetraplegia
- Severe mobility impairment or use of arm or amputation
- Loss of vision both eyes



#### OT/SLP/SW/Psych & ATTENDANT CARE REPORTS:

**USE OBJECTIVE TESTS** 

REFERENCE OBJECTIVE DATA

LIST INJURY AND IMPACT ON FUNCTION

**MULTIPLE ATTENDANCES** 

NARRATE INSTANCES OF SUPPORT FROM CYW, FAMILY AND TEACHERS/EA's

**INTERVIEW FAMILY MEMBERS** 



#### OT/SLP/SW/Psych & ATTENDANT CARE REPORTS:

"EXPLANATION" SECTION SHOULD SUMMARIZE OBJECTIVE TEST DATA, LIST IMPAIRMENTS AND PROVIDE DAILY EXAMPLES OF DEPENDENCY AND/OR DECOMPENSATION

DISCUSS RESPONSE IN UNEXPECTED/CHALLENGING/ UNPREDICTABLE SITUATIONS



#### OT/SLP/SW/Psych & ATTENDANT CARE REPORTS:

ADDRESS AND COMPARE PRE-ACCIDENT FUNCTION AND POST-ACCIDENT FUNCTION IN "EXPLANATION" SECTIONS

INCLUDE BULLET POINT LIST OF ALL IMPAIRMENTS AFFECTING FUNCTION



#### OT/SLP/SW/Psych & ATTENDANT CARE REPORTS:

IDENTIFY PRE-ACCIDENT IMPAIRMENTS THAT IMPACT ON RECOVERY

IF STILL REQUIRE AC AND HAVE <u>RETURNED</u> <u>TO SCHOOL</u>, AC WILL IMPACT UPON WHETHER ARE KOSCHI LEVEL 3



#### OT/SLP/SW/Psych & ATTENDANT CARE REPORTS EXECUTIVE SUMMARY:

LIST ALL PHYSICAL, COGNITIVE AND PSYCHOSOCIAL IMPAIRMENTS

NOTE CARE NEEDS AND SAFETY ISSUES

NOTE DEGREE OF CHANGE IN PRE- VS POST FUNCTION, GIVE MANY EXAMPLES OF PRE AND POST ACCIDENT FUNCTIONAL SPHERES

LIST ALL TESTING



### OT/SLP/SW/Psych REPORTS:

INDICATE PROBABLE EFFECT OF WITHDRAWAL OF SUPPORTS ON FUNCTION

IDENTIFY POTENTIAL DETERIORATION CONCERNS, if any:

• Isolation, depression, risk taking

IDENTIFY SAFETY CONCERNS UNLESS CARE IN PLACE



#### **SLP REPORTS:**

COGNITIVE-COMMUNICATION DISORDERS

IDENTIFY, DISCUSS PROMPTING, SUPERVISION, RELATE TO SOCIAL SITUATIONS OBSERVED

ROLE OF SUPPORTS IN COMMUNICATION

**CUEING** 

NOTE WITHDRAWING SUPPORTS > DETERIORATE

**CONVERSATION IMPAIRMENTS > ISOLATION** 

IMPACT OF COGNITIVE FATIGUE ON CCD



#### **PSYCH/SOCIAL WORKER & SLP REPORTS:**

ADDRESS CHANGED/LOSS OF RELATIONSHIP, SOCIAL WITHDRAWAL

ROLE CHANGE IN CLASS, WITH SIBLINGS

ABILITY TO COMMUNICATE IN MULTIPLE PERSON CONVERSATION

EMERGENCY AND MULTIPLE STIMULUS HIGH STRESS IMPACT ON COMMUNICATION

**IMPACT ON SAFETY DUE TO CCD** 



#### **PSYCH/SOCIAL WORKER & SLP REPORTS:**

AT SCHOOL

IDENTIFY LEVEL OF ACCOMMODATIONS AND SUPPORT REQUIRED IN ORDER TO COPE

AT HOME + SCHOOL (IEP, IPRC)

ADDITIONAL BREAKS, QUIET LEARNING ENV.

FALLOUT AT HOME DUE TO SCHOOL OVERLOAD



## **THANK YOU**

#### **QUESTIONS?**

Call or email me at:

DAVID F. MACDONALD, Partner 1-888-223-0448 416-868-3155 | 647-290-7291 (Cell) dmacdonald@thomsonrogers.com







YOUR ADVANTAGE, in and out of the courtroom.







