

Medical Issues from the Montana Workers' Compensation Court's Perspective

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Judge, Montana Workers' Compensation
Court



Medical Causation in Injury Claims

■ History

- Burden of Proof
- Evidence required to prove causation before 1995

- *Plainbull and Prillaman*

- *Johnson v. MHA Workers' Comp Trust*, 2007 MTWCC 17

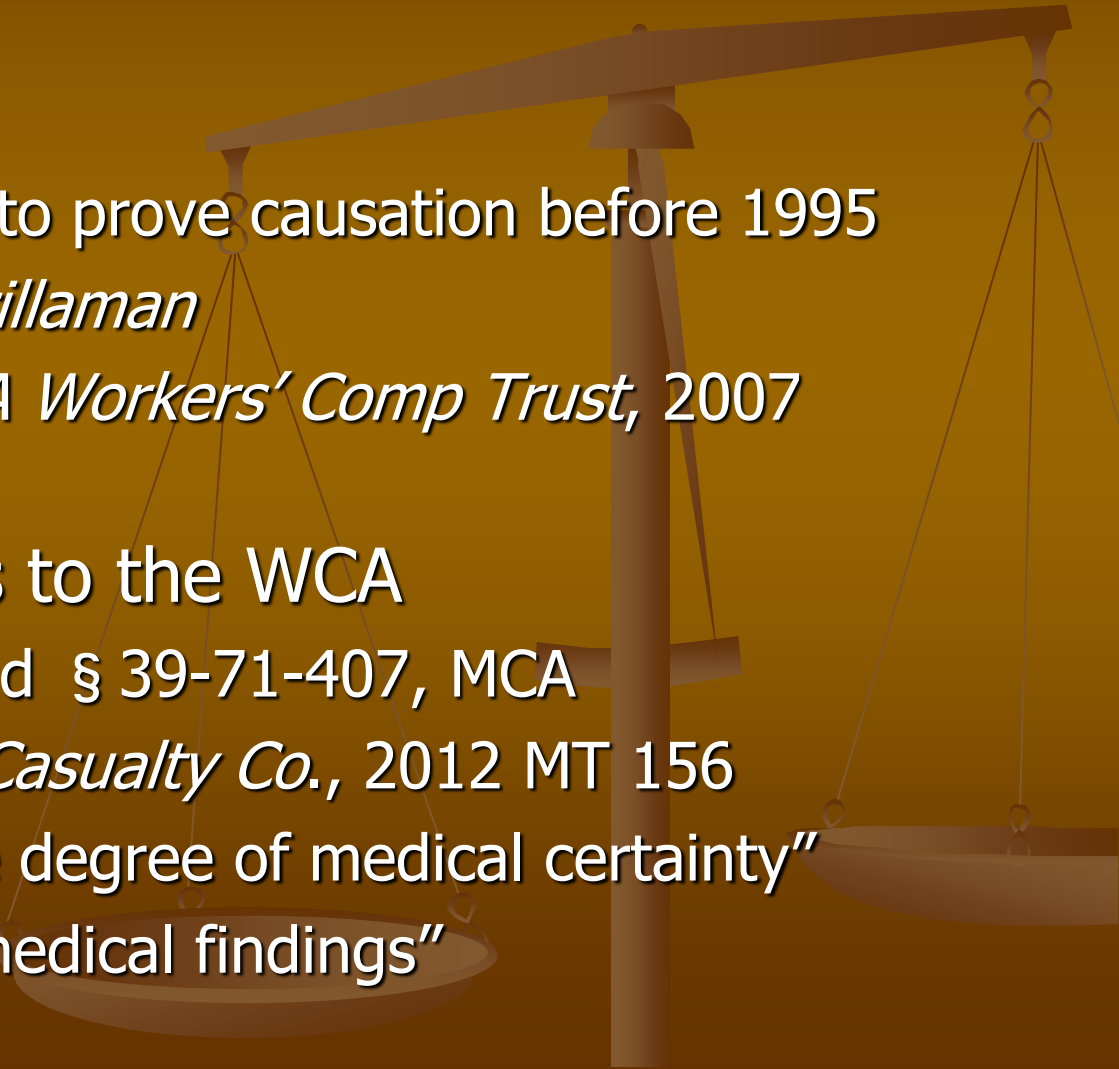
■ 1995 Amendments to the WCA

- § 39-71-119 and § 39-71-407, MCA

- *Ford v. Sentry Casualty Co.*, 2012 MT 156

- "Reasonable degree of medical certainty"

- "Objective medical findings"



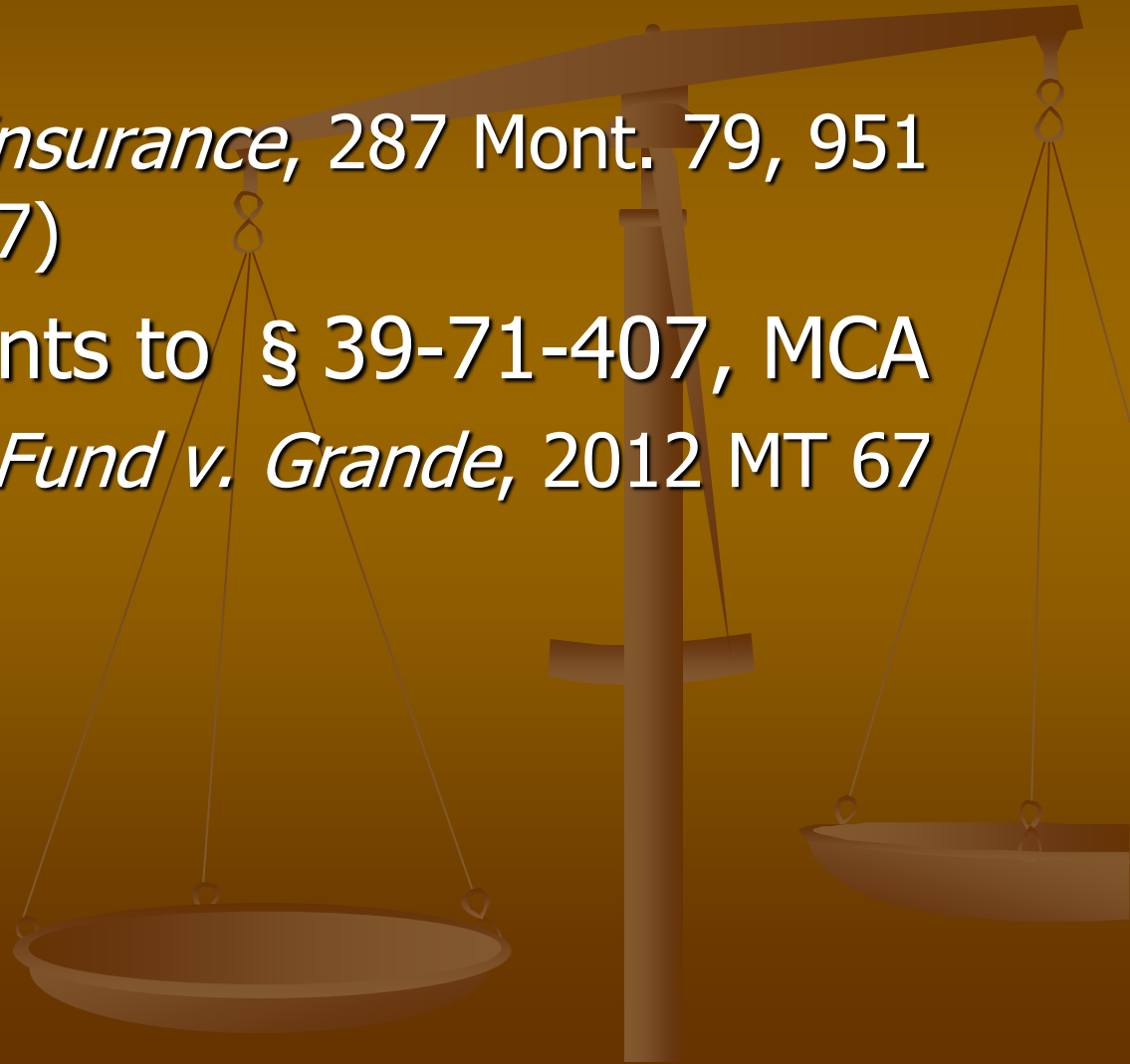
Medical Causation in Occupational Disease Claims

- History

- *Polk v. Planet Insurance*, 287 Mont. 79, 951 P.2d 1015 (1997)

- 2005 Amendments to § 39-71-407, MCA

- *Montana State Fund v. Grande*, 2012 MT 67

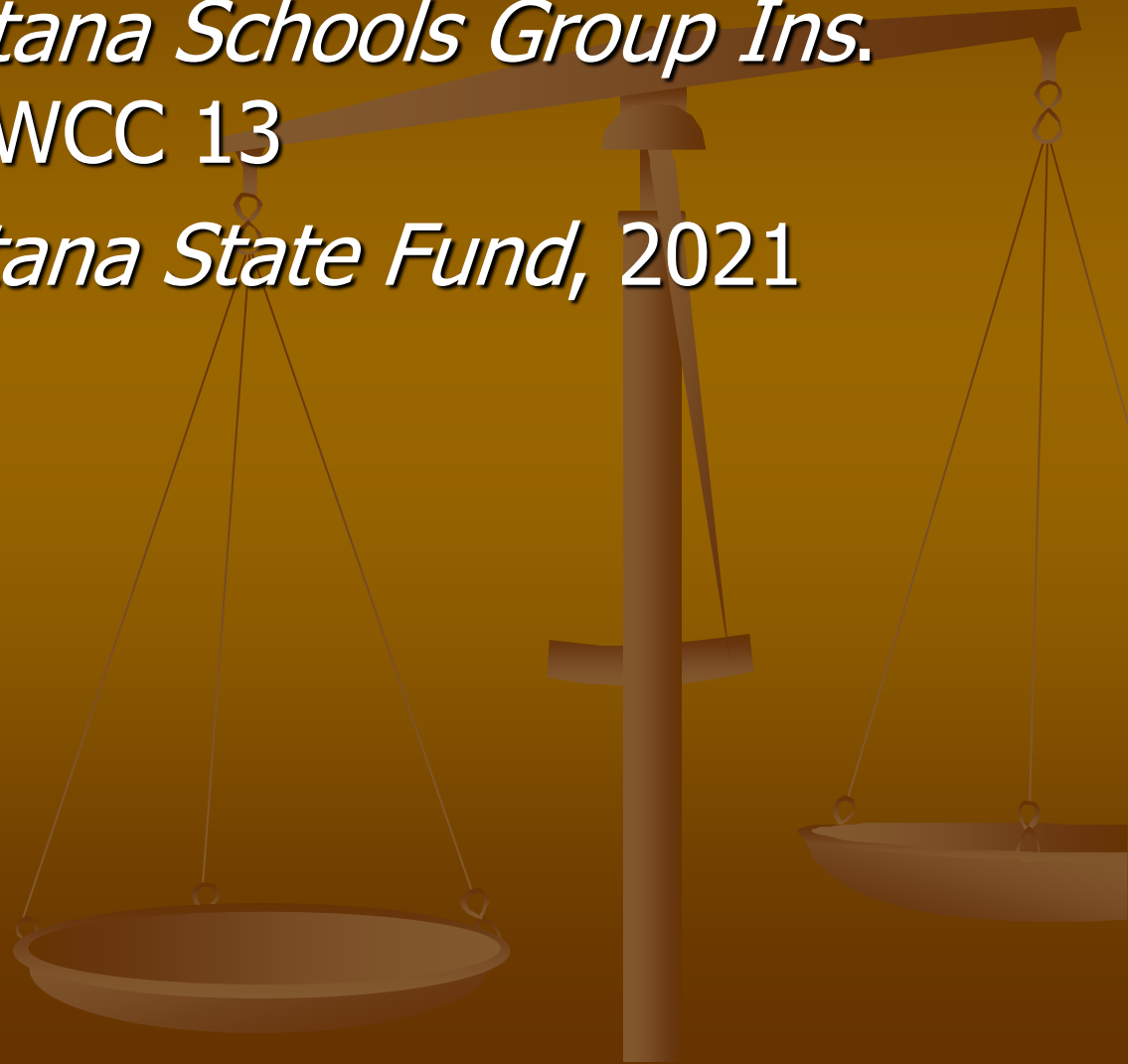


Last Injurious Exposure

- *Caekaert v. State Compensation Mut. Ins. Fund*, 268 Mont. 105, 885 P.2d 495 (1994) and *Lanes v. Mont. State Fund*, 2008 MT 306
- *Liberty Northwest Ins. Corp. v. Montana State Fund (In re Mitchell)*, 2009 MT 386
 - *Wommack v. National Farmers Property & Casualty Co., et al.*, 2017 MTWCC 8
- *Montana State Fund v. Liberty Nw. Ins. Corp. (In re Wiard)*, 2018 MT 188

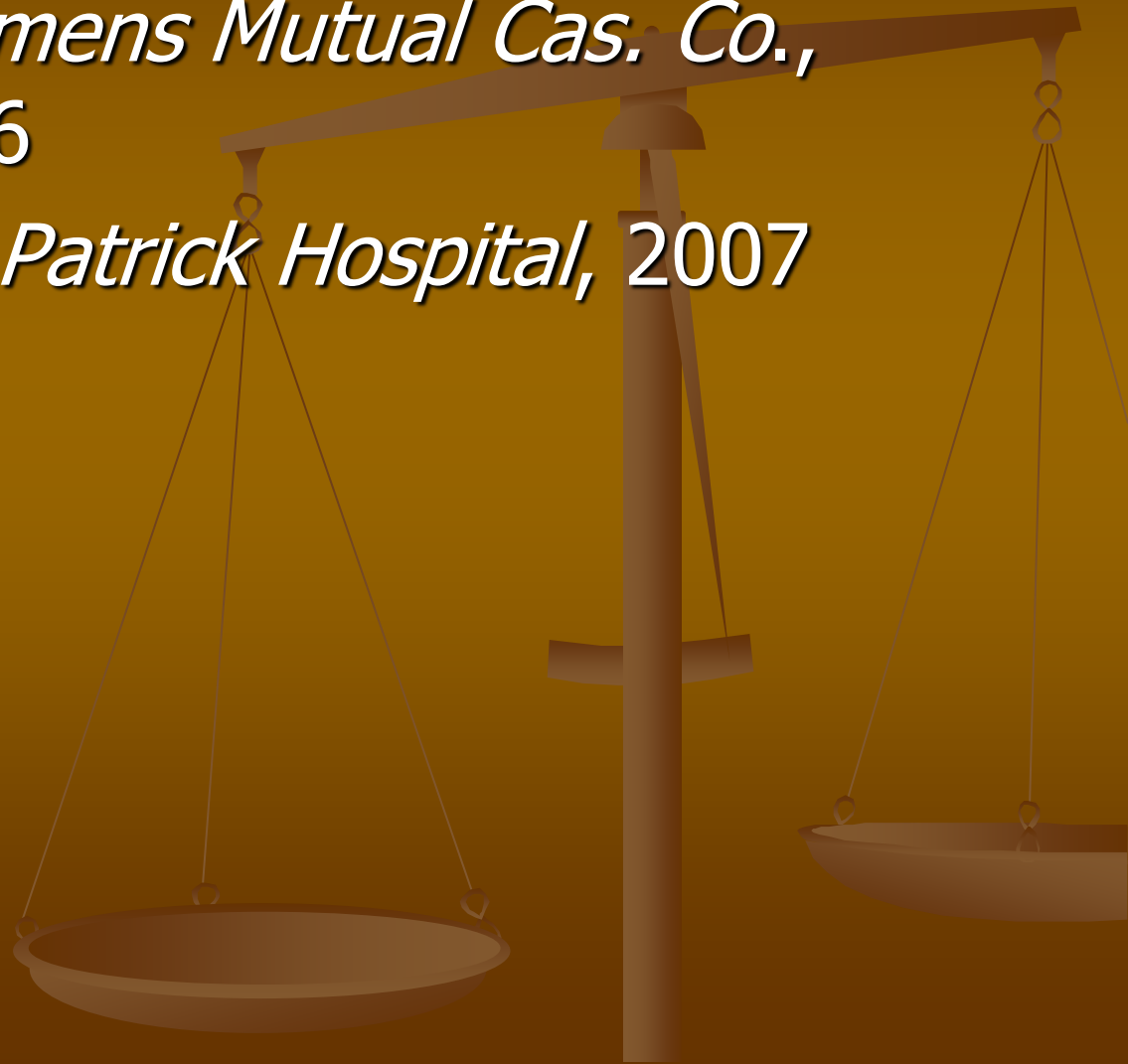
Aggravation of Preexisting Condition

- *Fleming v. Montana Schools Group Ins. Auth.*, 2010 MTWCC 13
- *Walund v. Montana State Fund*, 2021 MTWCC 2



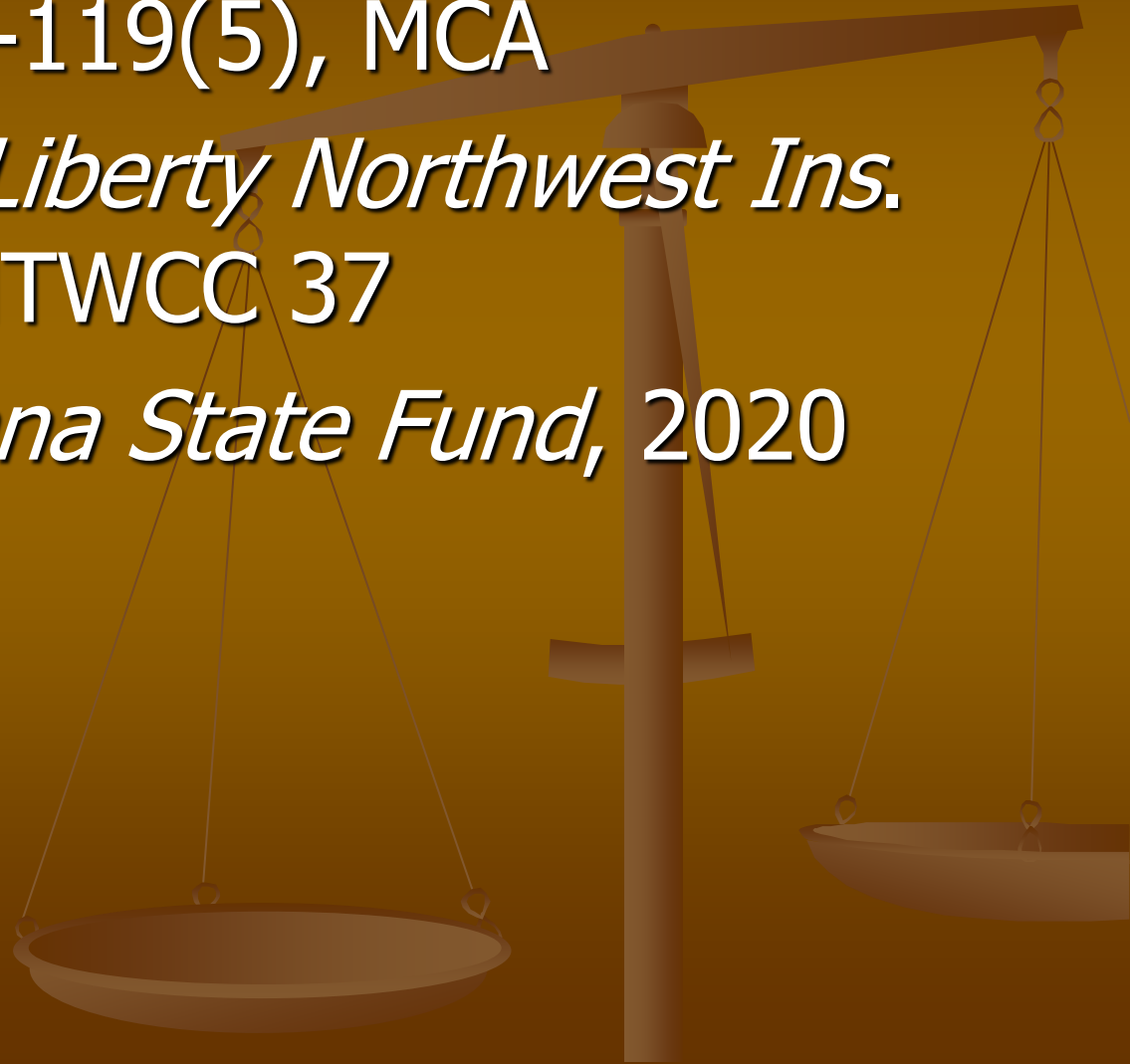
Impact of Nonwork-related Incident

- *Cary v. Lumbermens Mutual Cas. Co.*, 1995 MTWCC 56
- *Uffalussy v. St. Patrick Hospital*, 2007 MTWCC 45



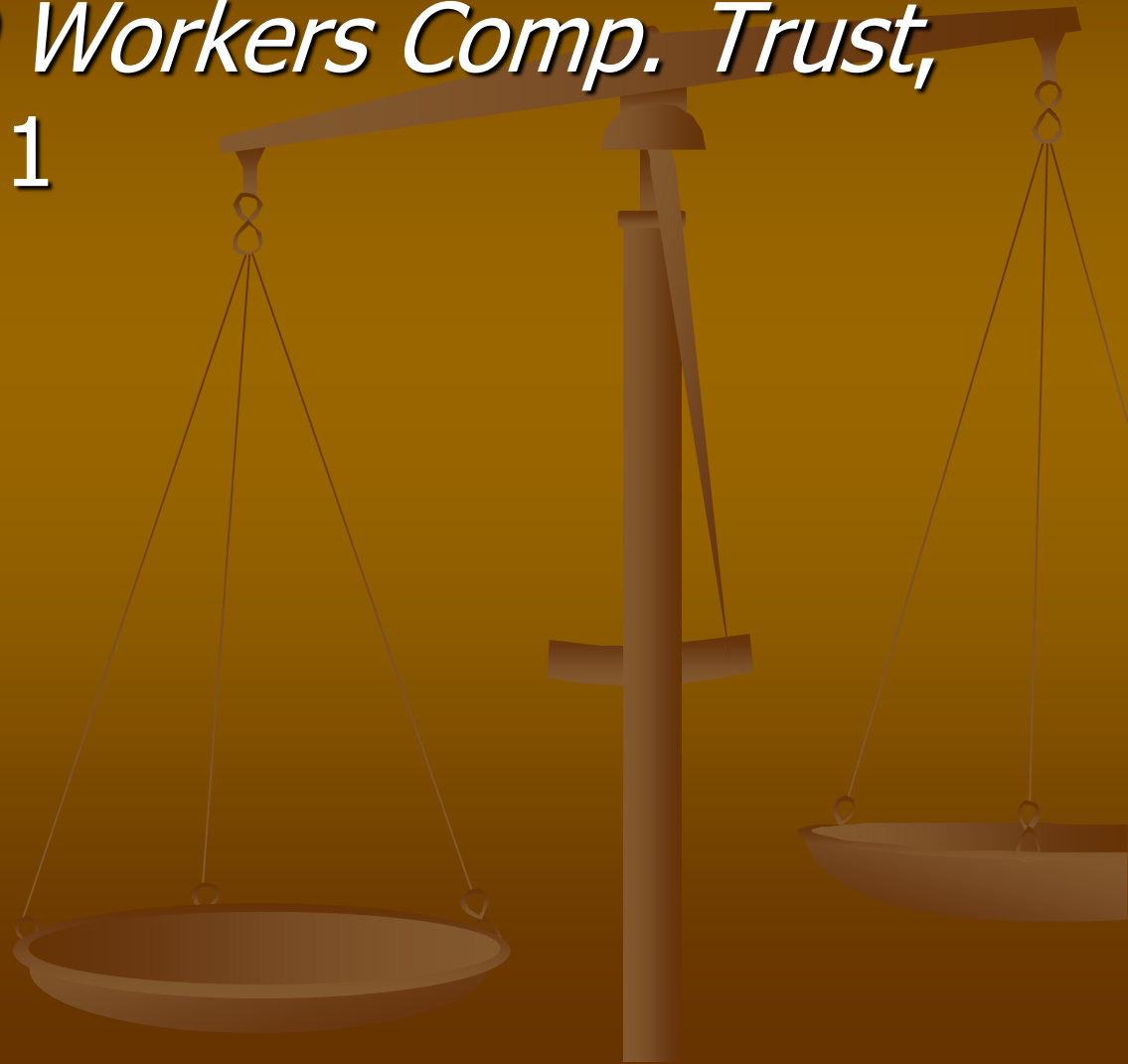
Heart and Lung claims

- Section 39-71-119(5), MCA
- *Cheetham v. Liberty Northwest Ins. Corp.*, 1997 MTWCC 37
- *Mize v. Montana State Fund*, 2020 MTWCC 7



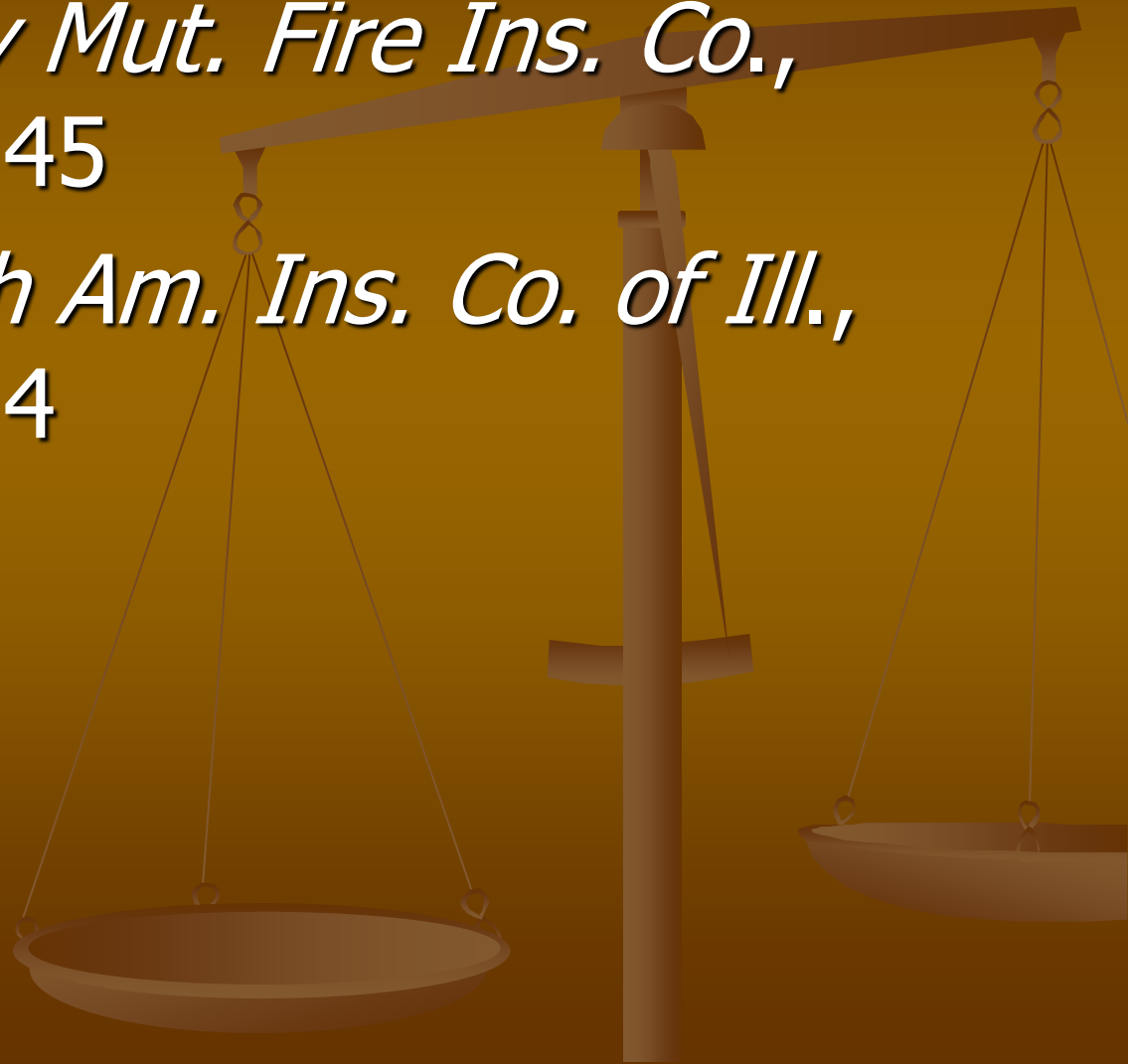
Dem Bones

- *York v. MACO Workers Comp. Trust*,
2019 MTWCC 1



Weighing medical opinions

- *Bain v. Liberty Mut. Fire Ins. Co.*,
2004 MTWCC 45
- *Floyd v. Zurich Am. Ins. Co. of Ill.*,
2017 MTWCC 4

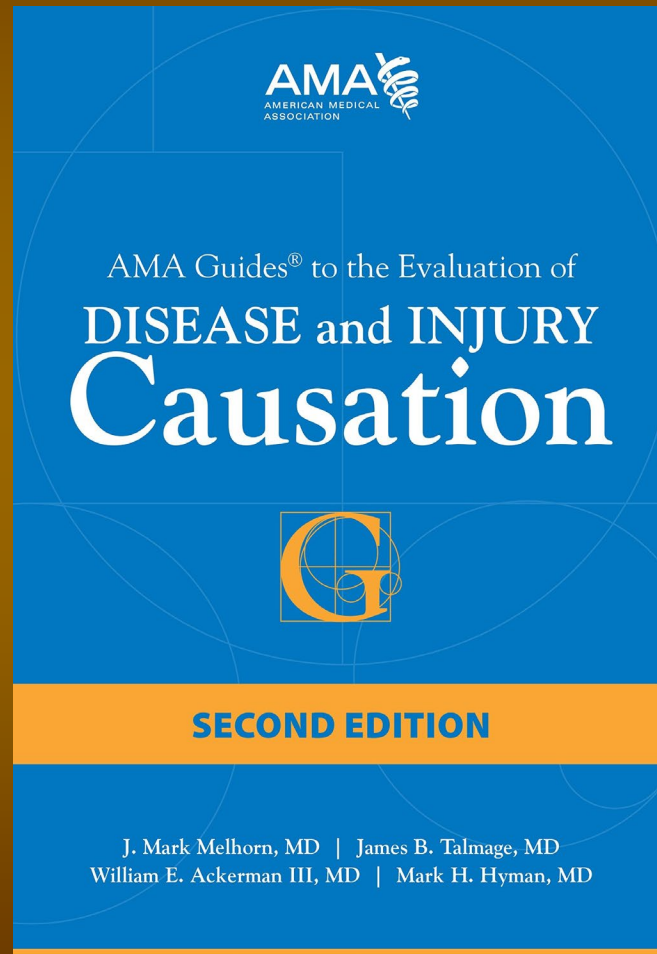


Weighing medical opinions, examples



- *Krezelac v. Indemnity Co. of North America*, 2021 MTWCC 16
- *Mize v. Montana State Fund*, 2020 MTWCC 7
- *Neisinger v. New Hampshire Insur. Co.*, 2020 MTWCC 4
- *Leys v. Liberty Mutual*, 2019 MTWCC 10

AMA Guides to the Evaluation of Disease and Injury Causation



J. Mark Melhorn, MD | James B. Talmage, MD
William E. Ackerman III, MD | Mark H. Hyman, MD

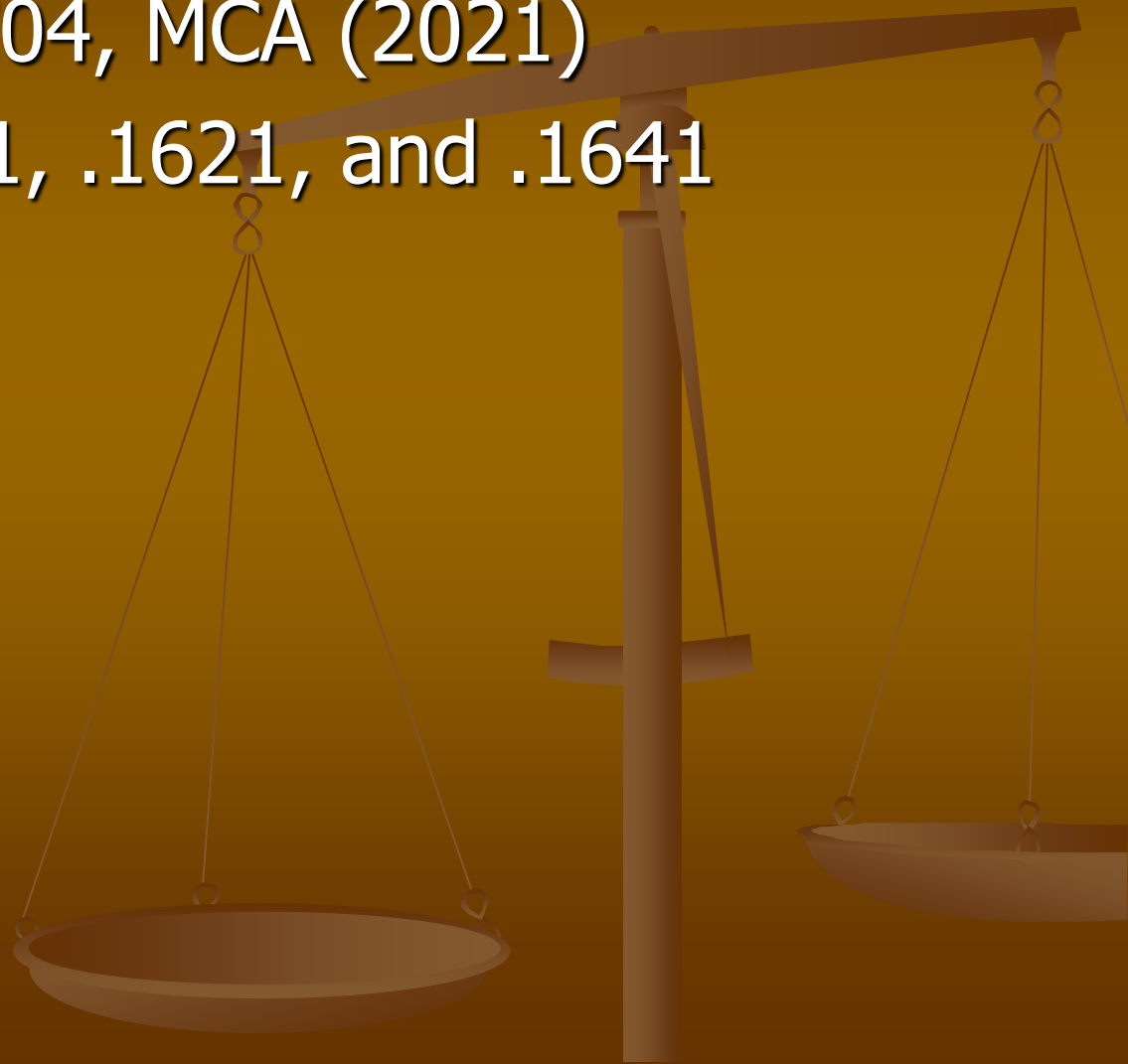
Idiopathic fall doctrine

- *McLeish v. Rochdale Ins. Co.*, 2011
MTWCC 18
- *Dargin v. XL Insurance of America*, 2020
MTWCC 9



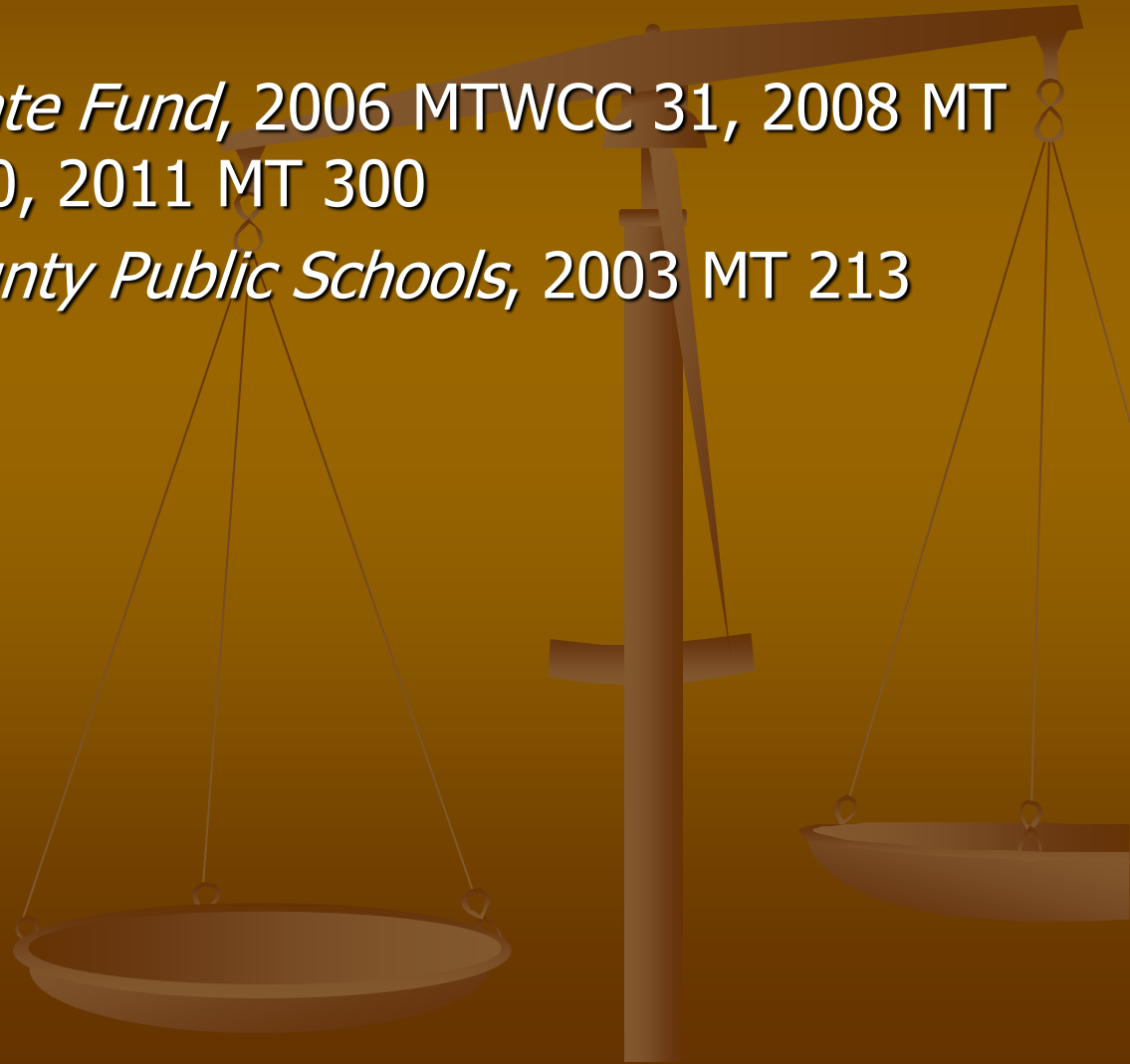
Section 39-71-704, MCA and the Montana Utilization and Treatment Guidelines

- Section 39-71-704, MCA (2021)
- ARM 24.29.1611, .1621, and .1641



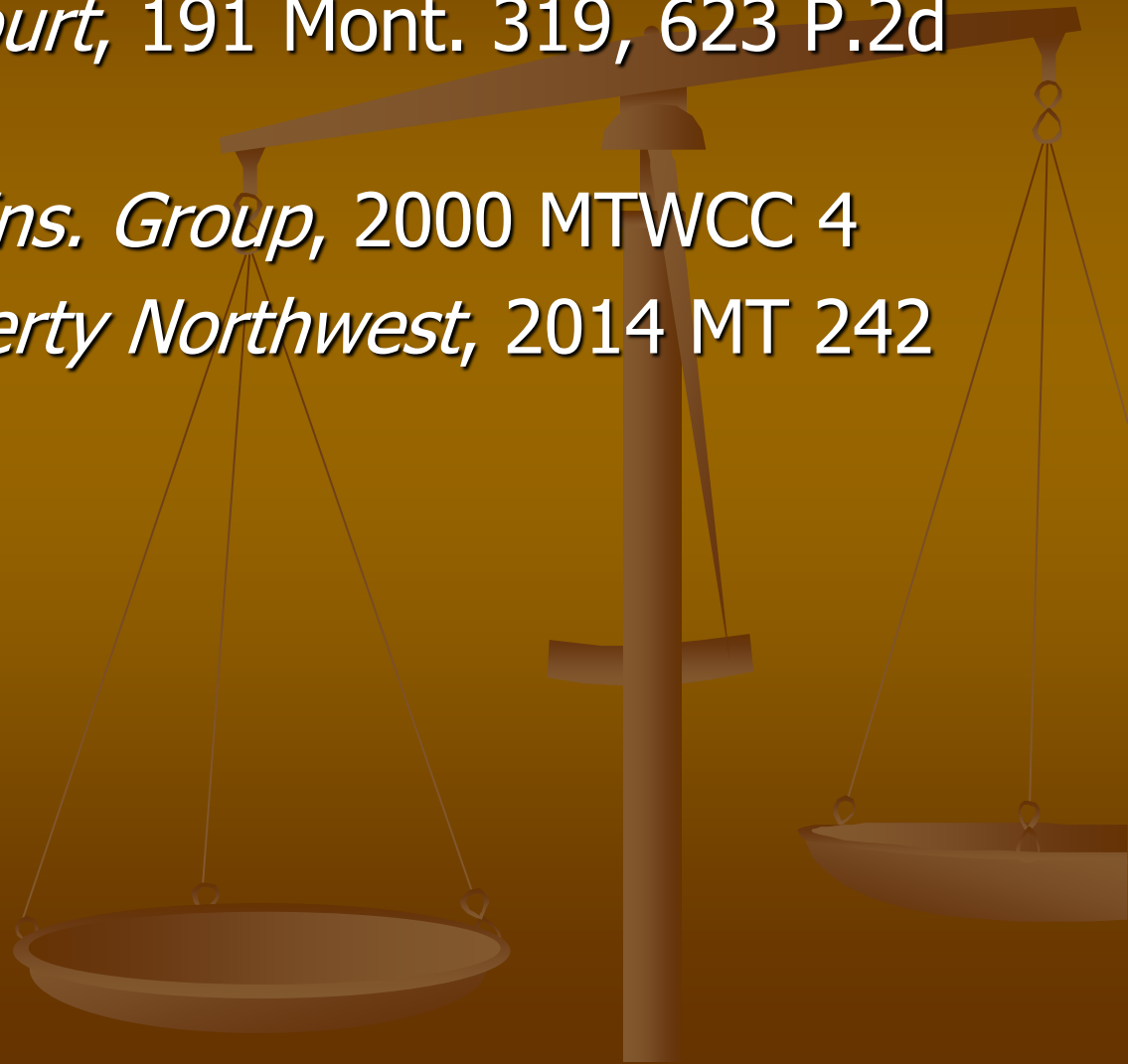
“Per Dr. Buckley, you have reached MMI and your claim is therefore closed.”

- *Flynn v. Montana State Fund*, 2006 MTWCC 31, 2008 MT 394, 2010 MTWCC 20, 2011 MT 300
- *Hiatt v. Missoula County Public Schools*, 2003 MT 213



Contacts with physicians

- *Jaap v. District Court*, 191 Mont. 319, 623 P.2d 1389 (1981)
- *Kline v. Farmers Ins. Group*, 2000 MTWCC 4
- *Malcomson v. Liberty Northwest*, 2014 MT 242



Questions?

