



ALABAMA SELF-INSURERS

— A S S O C I A T I O N —

VOLUME 2

SUMMER 2013

ASIA Objectives

ASIA is committed to a workers' compensation program that:

- Adequately compensates the employee with a work-related injury
- Recognizes fair limitations on employer responsibility
- Provides for an appropriate distribution of the compensation dollar
- Reduces litigation
- Is dedicated to eliminating abuses within the system
- Operates within the bounds of reasonable and necessary regulations

ASIA Summer Conference

August 11-13, 2013
Hilton Sandestin Beach Golf Resort & Spa
Destin, Florida

ASIA Winter Workshop

January 16-17, 2014
Cahaba Grand Conference Center
Birmingham, Alabama

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RICO Reaches Workers' Compensation

W. Walker Moss
Carr Allison



Major League Baseball Commissioner Bud Selig and former Expos owner Jeffrey Loria. The Hells Angels Motorcycle Club. The Gambino crime family. Lance Armstrong and the USPS Pro Cycling Team. Employers, insurance carriers, TPA's, and authorized treating physicians.

Which of the above listed groups has not been charged under the Racketeer Influenced and Corrupt Organization Act, otherwise known as RICO? If your answer is Major League Baseball, strike one. If your answer is the Hells Angels Motorcycle Club, your answer isn't tough enough. If your answer is the Gambino crime family, forget-about-it. If your answer is Lance Armstrong and the USPS Pro Cycling Team, you're absolutely correct. Unfortunately, there is only one correct choice, meaning that employers, insurance carriers, TPA's, and authorized treating physicians have been and are being sued under RICO.

RICO, passed in 1970, is the United States federal law that was passed for the purpose of "the elimination of the infiltration of organized crime and racketeering into legitimate organizations operating in interstate commerce." At the time RICO was enacted, mob "bosses" in the upper echelons of Mafia organizations were escaping prosecution as their underlings, or "soldiers," were committing the actual crimes.

RICO made it possible to tie these bosses to crimes committed by their underlings by grouping the individuals together and classifying them as one criminal enterprise, or family. It allows prosecutors to piece together different and distinct criminal activities performed by one organization into one case, painting a broader picture for the jury, and allowing for extended criminal penalties.

RICO is not confined to the Mafia. The drafter of the bill, G. Robert Blakey, once commented in an interview that "[w]e don't want one set of rules for people whose collars are blue or whose names end in vowels, and another set for those whose collars are white and have Ivy League diplomas." Further commentary specifically notes that the statute is "sufficiently broad to encompass illegal activities relating to any enterprise affecting interstate or foreign commerce."

Over time, RICO broadened its reach, extending to businesses and other non-stereotypical criminal organizations. RICO allows for a private cause of action in civil cases. The difficulty of proving a civil RICO case is great, but so are the potential damages. Civil RICO cases authorize damages triple the amount of actual/compensatory damages, reasonable attorney's

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Alabama Self-Insurers Association

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A Word from the President...

Charles Hough

Summer is here in all its glory, heat and humidity. That's okay, because as a son of the deep South, I like it. I look forward to slowing down a bit this time every year. In this day of total access, it is hard to get away, but for our own good, we all need to schedule some down time to recharge our batteries. Otherwise, we will burn out.

This will be my last note to you as President of the Alabama Self Insurer's Association. The membership will elect new leadership at the Summer Conference in August. I have enjoyed my two years as your President and I want to thank all of the Board members who served with me for their time and effort on behalf of ASIA. A great deal of time and effort is put in each year by Karen and Larry Vinson. Thank both of you very much. I especially want to thank Marion McQueen, our Director Emeritus and Program Committee Chair. She has given so many hours to ASIA over the years and she is largely responsible for the success of our Winter and Summer conferences each year. Thank you Marion for making me look good.

ASIA survived another legislative session this year with no meaningful changes in Worker's Comp. I'm told that it was a very busy session for many associations, as there are so many groups competing with each other. The lines between different professions are getting less and less apparent. There is encroachment in the traditional scope of practice between different healthcare providers. As the Affordable Care Act goes into affect there will be additional burdens on the healthcare system. It will be interesting to see how the healthcare system can deliver all that has been promised. What effect will it have on workers comp and getting the care we need for our injured employees?

In closing, I want to encourage you to attend the ASIA meetings. Yes, it takes time and money to attend, but I guarantee you will benefit from our speakers, our exhibitors and networking with your peers. Business is changing so rapidly, attending these two meeting a year will help you stay abreast. It will help you do a better job for your company and be more productive.

Hope to see you in Destin. Thanks again for allowing me to steer the ASIA ship for the past two years. It has been a blast.

Charles

PLEASE NOTE:

ASIA extends our most sincere apologies to John Webb and Aaron Ashcraft of Lloyd, Gray, Whitehead & Monroe for the errors appearing in their article in the last newsletter. Their article was sent to ASIA correct and during the process of layout and print some mistakes occurred. A correct version of the article can be found on their website, www.lgwmlaw.com, at <http://www.lgwmlaw.com/strategy-for-defending-a-claim-for-unscheduled-benefits-under-the-graben-pain-exception.php>.

Carlisle Medical Awards Scholarship

Joe Hilley • Carlisle Medical

Carlisle Medical is pleased to announce Ms. Amber Stockman as the first recipient of the Carlisle Scholarship. Amber is a senior at Prattville High School in Prattville, Alabama. Ms. Stockman plans to attend the University of Alabama in the fall and pursue a career in Elementary Education. Amber is the daughter of Mike and Kathleen Stockman. Kathleen Stockman is employed with Employer's Claim Management in Montgomery, Alabama.

In November, Carlisle Medical announced its intention to award a five-thousand dollar scholarship for the support of an individual seeking a college education. Eligible recipients included employees of businesses engaged in the worker's compensation healthcare industry, their children, grandchildren, and other dependents. News of the scholarship was spread through flyers made available at regional and national conferences, notices in industry newsletters, and direct email. The three month application period brought responses from applicants in sixteen states located in every region of the country. Those applications were referred to an independent scholarship committee comprised of industry leaders tasked with the responsibility of sorting through the material and determining the winner.

"Our company slogan is Making A Difference. I wanted to make a difference in the lives of the people who help us do what we do," Donnie Carlisle explained. With Carlisle, making a difference isn't merely a motto. It's a way of life. "I've



Pictured L to R: Mike Stockman, Kathleen Stockman, Amber Stockman-Winner and Donnie Carlisle-President of Carlisle Medical

enjoyed giving to others from a very young age," Donnie Carlisle explained. "I think I got that from my father." One of the people Donnie's father helped the most was Donnie himself. "I was the first person in my family to earn a college degree and I hope this scholarship can make a difference in someone else's life, too."

Joe Hilley is a New York Times bestselling author. He grew up along the Alabama Gulf Coast and currently resides in Houston, Texas. Learn more about him at www.joehilley.com

ASIA Calendar of Events

AUGUST 11-13, 2013

ASIA Summer Conference

Hilton Sandestin Beach Golf Resort & Spa • Destin, FL

AUGUST 9-11, 2014

ASIA Summer Conference

Hilton Sandestin Beach Golf Resort & Spa • Destin, FL

JANUARY 16-17, 2014

ASIA Winter Workshop

Cahaba Grand Conference Center • Birmingham, AL

ASIA Membership Update

These companies have become members or renewed membership since the 2013 ASIA Directory went to press.

ACTIVE MEMBERSHIPS

AAA Cooper Transportation

Post Office Box 6827 • Dothan, AL 36302
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Pamela Morris • pam.morris@infirmaryhealth.org

Mobile Area Water & Sewer System

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2701 Navistar Drive • Lisle, IL 60532
Phone: 331.332.3193
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40 Inverness Center Parkway • Birmingham, AL 35242
Phone: 205.992.5270
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ASSOCIATE MEMBERSHIPS

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Amy Petruzelli • Community Liaison
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Phone: 251.478.3044
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mdepker@yahoo.com
Kyle Hoveland • Office Manager
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Northeast Orthopedic Clinic

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Phone: 256.547.7417
Virginia Fail • Workmen's Comp Coordinator
vfail@northeastorthopedics.com

NuQuest/Bridge Pointe

280 Wekiva Springs Road, Ste 3050 • Loongwoor, FL 32779
Phone: 504.491.0221
Greta LaBorde • Regional Account Representative
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ALABAMA SELF-INSURERS

— A S S O C I A T I O N —

SUMMER CONFERENCE

August 11-13, 2013

All systems are go for the Summer Conference. To date, we only have 5 booths left in the tradeshow. This event has become ASIA's signature conference, drawing over 600 people each year. Be there to see and hear the latest in workers compensation. The Hotel is approaching a sell-out situation, so book your room today. If you are interested in exhibiting, please call Karen in the ASIA office for availability of spaces.

For more information and to register online – go to www.asiaal.org.

COMP PAC Silent Auction!

The ASIA Summer Conference keeps getting bigger and better each year. Last year we had over 600 people attend the Conference to learn something new, meet at least one new industry contact, find at least one new supplier, vendor or product and to have fun.

This year our Program Committee has again planned a Silent Auction to help fund COMP PAC, our political action committee. *All attendees* are encouraged to bring a gift to be placed in the silent auction. The most popular items are home decorative pieces, power tools, recreational items like gold clubs, tennis rackets, fishing rods and reels.

Each vendor is also be asked to donate an item. Vendor items will be placed at the vendor's booths, so the more popular the item, the more traffic at their booth. It will be fun and should help COMP PAC rebuild its balance.

ASIA Sponsorship Opportunities

PLATINUM - \$5,000 (unlimited available)

- Includes your choice of exhibit space & 5 representatives
- 4 spouse/guest passes
- Full page ad in program
- Special recognition on signage, in program & newsletter

GOLD - \$3,000 (unlimited available)

- Includes exhibit space & 4 representatives
- 3 spouse/guest passes
- 1/2 page ad in program
- Special recognition on signage, in program & newsletter

SILVER - \$1,500 (unlimited available)

- Includes exhibit space & 3 representatives
- 2 spouse/guest passes
- Special recognition on signage, in program & newsletter

BRONZE - \$1,000 (unlimited available)

- 4 spouse/guest passes
- Special recognition on signage, in program & newsletter

GENERAL - \$500 (unlimited available)

- Special recognition on signage, in program & newsletter

GOLF SPONSOR - \$2,500 (1 available)

TENNIS SPONSOR - \$500 (Taken)

HOTEL KEY SPONSOR - \$2,000 (Taken)

PROGRAM BACK COVER - \$750.00 (Taken)

ASIA SUMMER CONFERENCE • TENTATIVE AGENDA

SUNDAY, AUGUST 11TH

11:30 – 1:00 p.m.
1:00 – 1:10 p.m.
1:10 – 2:00 p.m.
2:00 – 3:00 p.m.

Registration & Refreshments

Opening Remarks

Case Law Update: Charles Carr & Bo Kirkpatrick, Carr Allison

Cutting Edge Trends in Medicine

Mayfield Armstrong, Champion Sports Medicine
Glenn Crumpton, Alabama Artificial Limb & Orthopedic Service
Dr. Kenneth Jaffe, Alabama Orthopaedic Center
Dr. Colby Maher, Neurosurgical Associates

3:00 – 3:30 p.m.
3:00 – 5:00 p.m.
3:30 – 4:00 p.m.
4:00 – 4:30 p.m.

Refreshment Break

Exhibitor Move In

Medically Unexplained Symptoms: Dr. Carol Walker, NeuroLife

Factors in Successful Joint Replacement: Dr. David LeMak,
LeMak Sports Medicine

4:30 – 5:00 p.m.

Introduction of Appellate Court Judges: AL Supreme Court Justice Greg Shaw, AL Court of Civil Appeals Judge Bill Thompson & AL Court of Civil Appeals Judge Scott Donaldson

5:15 – 7:00 p.m.

Opening Reception in Tradeshow

MONDAY, AUGUST 12TH

7:30 – 8:30 a.m.
8:30 – 9:00 a.m.

Breakfast in the Tradeshow

Update on Affordable Care Act: Michael Patterson
Blue Cross Blue Shield of Alabama

9:00 – 10:00 a.m.

Case Studies

Carol Davenport, Genex
Dr. Spain Hodges, Alabama Orthopaedic Surgeons,
Davida McCloskey, MRM
Dr. Brian Scholl, The Orthopaedic Center
Dr. Todd Smith, St. Vincent's Orthopedics
Dr. Charlie Joe Talbert, Brookwood Medical Center

10:00 – 10:30 a.m.

Refreshment Break in the Tradeshow

10:30 – 11:00 a.m.

Difficult Cases in Workers Compensation: Dr. Clayton Lane,
Alabama Orthopaedic Clinic

11:00 – 11:30 a.m.

Effective Communications: Doug Kauffman, Balch & Bingham

12:30 p.m.

Golf Outing at Kelly Plantation (Shotgun Start)

2:00 p.m.

Tennis Round Robin Tournament

6:00 – 8:00 p.m.

Reception and Silent Auction in Tradeshow

TUESDAY, AUGUST 13TH

7:30 – 8:30 a.m.
8:30 – 9:00 a.m.
9:00 – 9:30 a.m.

Breakfast in the Tradeshow

Update from the Director: Tom Surtees, AL Department of Labor

9:30 – 10:00 a.m.

Medicare Compliance Updates: Being SMART When Handling Cases
Melisa Zwilling, Carr Alison

10:00 – 10:15 a.m.

Different Perspectives on Trying Workers Comp Cases:

10:15 – 11:15 a.m.

Madison County District Judge Claude Hunley

11:15 – 1:00 p.m.

Refreshment Break/Hotel Check Out

Ethics in Workers Comp: Phil Piggott, Starnes Davis Florie and
Terry Young, MRM

1:00 p.m.

The Wild and Wacky World of Workers' Comp: Robert Wilson
workerscompensation.com

Annual Membership Meeting

CONTINUED FROM PAGE 1

fees, and other penalties including, but not limited to, potential dissolution of the enterprise.

Brown v. Cassens Transp. Co., 546 F.3d 347 (6th Cir. 2008)

RICO has found its way into workers' compensation. Employers, insurance carriers, TPA's, and authorized treating physicians can now be sued under RICO for their participation in an alleged conspiracy to defraud employees of workers' compensation benefits. In *Brown v. Cassens Transport Co.*, the 6th Circuit Court of Appeals revived a group of trucker employees' RICO claims arising out of a mail and wire fraud scheme between the employer, insurance adjuster and doctors to deny employees workers' compensation. The employees claimed that their employer and the insurance adjuster "deliberately selected and paid unqualified doctors to give fraudulent medical opinions that would support the denial of workers' compensation benefits."

Initially, the claim was dismissed by the district court because the employees "fail[ed] to plead the key requirement of detrimental reliance." On appeal, the 6th Circuit agreed with the district court, holding that the employees' lack of detrimental reliance was "fatal to [their] RICO claims." However, upon remand from the U.S. Supreme Court, the 6th Circuit later reversed the dismissal under the ruling of *Bridge v. Phoenix Bond & Indemnity Co.*, 128 S. Ct. 2131 (2008), a recent U.S. Supreme Court case that removed the detrimental reliance requirement from RICO actions. As a result, employees were no longer required to prove that they relied on their employer's misrepresentations in order to assert a RICO claim.

Additionally, the presence of a state's workers' compensation act did not preclude the employees from bringing a RICO action against their employer. The *Brown* court held that Michigan's Workers' Disability Compensation Act (WDCA) did not reverse preempt RICO under the McCarron-Ferguson Act because the WDCA "govern[s] employers' obligations to their employees for workplace injuries," not the "business of insurance." In other words, the state law does not stop RICO from applying because the state law does not regulate insurance. The same rationale applies for self-insured employers "because there is no relationship between an insurer and an insured." Thus, an employee's civil action under RICO will survive despite the exclusive nature of a workers' compensation remedy.

Lewis v. Drouillard, 788 F. Supp. 2d 567 (E.D. Mich. 2011).

Employers won a short-lived victory following the 2008 *Brown* decision, arguing the employees lacked standing. In order to have standing under a RICO action, a plaintiff must allege an injury to their "business or property." Thus, if the plaintiff's injuries are "personal in nature, or derive from personal injuries [such as] medical costs, lost wages, etc. . . . [p]laintiff cannot prove a RICO claim." In *Lewis*, the court granted the defendants' Motion to Dismiss because the plaintiff employees' injuries were "intimately related to their personal injuries." The court reasoned that workers' compensation benefits "have never lost their characteristic as personal injuries. . . . being for accidental bodily injury, including medical expenses [and] work-loss benefits."

The *Lewis* court also shot down the plaintiffs' argument that they sustained a property injury. The plaintiffs alleged that their employment contracts "contain[ed] an implied property right given them by statute, i.e., workers' compensation benefits, and because of that, they had suffered a loss of "property."

The court held that "[p]laintiffs do not have a property interest in workers' compensation benefits until there has been a final administrative determination that such benefits are due." Thus, until a final determination of plaintiffs' rights under the compensation act has occurred, any injuries sustained are to a "mere expectancy interest...[and such injuries are] not cognizable under RICO."

Brown v. Cassens Transp. Co., 675 F.3d 946 (6th Cir. 2012)

The 6th Circuit recently reversed the district court's third dismissal of the plaintiffs' Complaint under RICO, striking another blow to employers. The district court held that the exclusive remedy of the administrative scheme set forth in Michigan's WDCA foreclosed employees' RICO claim, and that damages claimed by employees did not constitute injury to business or property under RICO and were too speculative to confer standing under RICO. On appeal, the 6th Circuit revived the plaintiffs' claims by holding that the Supremacy Clause of the U.S. Constitution prevents a state legislature from preempting a federal RICO claim, and that alleged devaluation of an employee's workers' compensation claim constitutes "injury to property" sufficient to state a claim under RICO.

First, in holding that a workers' compensation remedy is not exclusive to RICO claims, the Court noted that the defendants' liability "stems from RICO" and is not a matter of state law. The Court went on to say that "[t]he gravamen of a RICO cause of action is not [workers' compensation] violation, but rather certain conduct. . . [which] constitutes a violation of federal law," which in this case was mail and wire fraud. Overall, the Court took the viewpoint that "the relative importance to the State of its own law is not material when a valid federal law provides a cause of action based on overlapping facts." As a result, Michigan's WDCA did not prevent the employees from bringing a RICO action against their employers.

Second, the Court overruled *Lewis*, without addressing it, by holding that the devaluation of an employee's workers' compensation claim is "property" under RICO. The court recognized that property interests are typically a matter of state law, but reinforced that federal courts do not have to necessarily use those definitions. In fact, the Court held that "even if Michigan courts would not recognize an expectancy of benefits under the WDCA as property, the plaintiffs in this case may proceed by alleging injury to property in that their claim to benefits under the worker's compensation scheme was damaged by the defendants' actions." To come to this conclusion, the Court focused on the general issue of whether any legal entitlement had been harmed, rather than the personal nature of the employees' injuries. Instead of addressing precedent, the court looked to the plain meaning of the RICO statute and the U.S. Supreme Court's instruction to read the statute broadly, coupled with the potential for "inconsistent results" if *Lewis* was followed in finding for the plaintiffs.

The dissent pointed out the majority's choice "to ignore most of the case law supporting the result reached by the district court." The majority cited *Williams v. Hofley Manufacturing Co.* in support of its decision, which involved "an already-decided, legitimate claim of entitlement," whereas almost all of the plaintiffs in *Brown* had entered into settlements disposing their compensation claims. Such "resolved claims can hardly represent legitimate claims of future entitlement," the dissent argued.

Conclusion

The 6th Circuit's recent holding in *Brown* seriously impairs an employer's options to defend a RICO action. While employees have not won the war in these RICO actions, they have certainly won many significant battles. The argument that a workers' compensation statute, and its exclusive nature, should prohibit

RICO actions will not stand as the Court expressly held that the U.S. Constitution's Supremacy Clause prohibits such. The same argument would theoretically apply to the Alabama Workers' Compensation Act.

The holding also severely limits an employer's standing argument from Lewis. After the 2012 Brown decision, plaintiff employees will likely allege property injury to their claim for workers' compensation even if the state law does not recognize as property such expectancies.

The effects of this ruling could be significant for employers, insurance adjusters and doctors everywhere who might appear to systemically deny workers compensation claims. Employers in Alabama are expressly given the right to select the injured employee's authorized treating physician, and in doing so typically select the most qualified and efficient doctor in the appropriate field of medicine. Determining at what point these individuals' cooperation could constitute a "pattern of racketeering activity," however, may be difficult. If these cooperative actions are "related, and amount to or pose a threat of continued criminal activity," RICO liability may arise. As a result, employers may want to examine their own role in the claims process, as well as their adjuster's. At the

very least, employers after Brown should be careful and limit their role in the workers' compensation process to one of monitoring the claim after the initial authorized treating physician has been selected, and thereafter asserting their voice in the process when justifiable.

W. WALKER MOSS

Walker Moss is a shareholder with Carr Allison in Birmingham, Alabama. His practice focuses on defending employers in workers' compensation and other employment related matters, as well as general litigation matters.

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1. S.Rep. No. 617, 91st Cong., 1st Sess. 76 (1969).
 2. Sanders, Alain; Painton, Priscilla, Law: Show-down At Gucci, TIME, August 21, 1989.
 3. USAM 9-110.000 (RICO) (emphasis added).
 4. See 18 U.S.C. 1964(a)-(c).
 5. See Brown v. Cassens Transp. Co., 546 F.3d 347 (6th Cir. 2008).
 6. Brown, 546 F.3d at 351.
 7. Id. at 351.
 8. Brown v. Cassens Transp. Co., 409 F. Supp. 2d 793, 808 (E.D. Mich. 2005) aff'd, 492 F.3d 640 (6th Cir. 2007) cert. granted, judgment vacated, 554 U.S. 901, 128 S. Ct. 2936, 171 L. Ed. 2d 862 (2008) and aff'd in part, rev'd in part, 546 F.3d 347 (6th Cir. 2008).
 9. Brown v. Cassens Transp. Co., 492 F.3d 640, 646 (6th Cir. 2007) cert. granted, judgment vacated, 554 U.S. 901 (2008).
 10. See Brown, 546 F.3d at 357.
 11. See Brown 546 F.3d at 362.
 12. Brown, 546 F.3d. at 362.
 13. Id. at 361 (quoting U.S. Dept. of Treasury v. Fabe, 508 U.S. 491, 501 (1993)).
 14. See 18 U.S.C. § 1964(c).
 15. Lewis v. Drouillard, 788 F. Supp. 2d 567, 570 (E.D. Mich. 2011).
 16. Lewis, 788 F. Supp. at 570.
 17. Id. at 570 (emphasis in original).
 18. Lewis 788 F. Supp. at 570.
 19. Id. at 571.
 20. Id. at 571.
 21. See Brown v. Cassens Transp. Co., 675 F.3d 946 (6th Cir. 2012).
 22. Brown, 675 F.3d at 946.
 23. Id. at 954.
 24. Id.
 25. Id. at 953.
 26. See Id. at 965.
 27. Id. at 965 (emphasis in original).
 28. See Id. at 959-60.
 29. Id.
 30. Id. at 973.
 31. Id.
 32. Id.
 22. See Brown 546 F.3d at 354.

Perceptive Risk Managers Can Help Injured Workers Avoid Opioid Misuse

Noor Amara, RPh, PharmD • Progressive Medical, Inc.

With such great potential for harm and misuse, it's easy to forget that opioids do have a legitimate clinical application. They remain the most efficacious medications for controlling severe pain. In fact, studies have proven that effective pain control with opioids provides a means for returning to normal life activities, including work and recreation. The key with opioids – or really any prescription medication – is appropriate use to control pain while effectively addressing the individual's daily living needs, including physical, psychological, social and return-to-work factors.

It's important that safeguards be incorporated into prescribing practices along with a watchful eye for signs of aberrant behaviors. This can help to minimize the potential for abuse and keep the workplace safe from hazards, while still providing maximum pain relief. Equally as important, the injured worker must take a proactive and involved approach to their recovery. You can help injured workers better understand their condition by educating yourself and your team on what to look for as a claim progresses.

- **Initial visit.** At the prescriber's office, an initial medical history, prescription history and physical examination will be obtained. Generally, the following information is documented into the medical record: the diagnosis, nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, and history of substance abuse. The injured worker should be ready to tell the physician about all prescription or non-prescription drugs, vitamins, or supplements being taken. It may be helpful to take the actual pill bottles to the appointment.
- **Treatment plan.** The treatment plan states the goals for recovery and outlines the objective measurements, which will be used to determine treatment success, such as pain relief and improved physical and function status. It should also indicate whether any further diagnostic evaluations or other treatments are planned. After treatment begins, the drug therapy can be tailored to meet the needs of each injured worker. Other treatment options or a rehabilitation program may be

necessary depending on the cause of the pain and the extent to which the pain is associated with physical and psychosocial impairment.



- **Know the Risks and the Benefits.** Understand the risks and benefits of using opioids as part of the treatment plan. The more the injured worker knows about the medications being taken, the better equipped they are to understand the impacts, any potential side-effects and risks. Suggest note-taking to help remember prescriber instructions, as well as to track any effects (good and bad) from the medication.
- **One prescriber and one pharmacy is best practice.** Effective pain management is best achieved by using one prescriber and one pharmacy for all medications. This significantly decreases the potential for therapy duplications and drug-to-drug interactions. It also helps determine whether the treatment plan is appropriate. For example, early refills may indicate that a higher dose or frequency is needed than prescribed. This may be a sign of undertreated pain or possible development of abuse/addiction to the medication.
- **Talk with the prescriber and pharmacist.** Encourage injured workers to communicate with their prescriber and pharmacists. This may be done through follow-up visits or when refilling the prescription. Share information about how the recovery is going; any new information about the cause of the pain, side effects and your overall condition. During these visits the prescriber will determine whether continuation or modification of opioids for pain management therapy is appropriate. Adequate response to treatment may be indicated by decreased pain, increased level of function, or improved quality of life. Whereas, inadequate progress will require reassessment of the current treatment plan and consideration for the use of other

therapeutic modalities will be determined.

- Random urine drug monitoring (UDM).
When done for the right purpose, UDM can be a very useful tool to help monitor an injured worker's progress with a medication regimen, manage their chronic pain while helping them achieve better outcomes. Information from these tests help prescribers determine if the medication is being taken correctly and if the treatment plan is progressing as planned. It can also prevent harmful drug-to-drug interactions and identify ways to refine treatment plans, if necessary. It's important to keep in mind that urine drug monitoring is not an indication that there is suspicious behavior occurring, but rather standard protocol. When administered randomly as part of the organization's standard protocol, no injured worker is ever singled out or accidentally skipped over.

While the vast majority of injured workers take their pain medications as directed, being proactive, educating yourself and sharing this information with your work force is the best way to prevent opioid abuse and misuse. Nevertheless, when and if situations of misuse and abuse do occur, your pharmacy benefit manager can be a helpful resource as part of your overall risk management process.



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