

**MINUTES OF THE ILLINOIS WORKERS' COMPENSATION COMMISSION
MEDICAL FEE ADVISORY BOARD MEETING
100 WEST RANDOLPH STREET – ROOM 9-031 CHICAGO, IL
HELD ON JULY 24, 2012 at 2:00 PM**

Present at the meeting were:

Chairman Mitch Weisz
Mr. John Smolk, United Airlines
Mr. Bill McAndrew, Illinois Hospital Association
Mr. Jason Keller, Illinois AFL-CIO
Ms. Barb Molloy, Molloy Consulting
Ms. Dianne McGuire, College of DuPage Board of Trustees
Dr. Michael Vender, Hand Surgery Associates

Participating via telephone were:

Ms. Kimberly Moreland, Rising Medical Solutions
Dr. Avi Bernstein, The Spine Center

IWCC staff present were:

Mr. Ron Rascia, General Counsel
Ms. Susan Piha, Manager of Research and Education
Ms. Kim Janas, Secretary of the Commission
Ms. Lola Dada-Olley, Deputy General Counsel
Ms. Dennie Zankel, Deputy General Counsel

Also present at the meeting were:

Ms. Angela Jenkins, Progressive Medical
Ms. Sandy Shtab, Heathsystems
Mr. Adam Fowler, PMSI
Mr. DeJuan Kea, CSC Firm
Ms. Letitia Dewith-Anderson, Anderson Legislative Consulting – Concentra
Mr. Matt Hillison, Concentra
Ms. Susan Bigelow, Concentra
Mr. Greg Gilbert, Concentra
Mr. Michael Blixen, HFN
Mr. John O'Connell, Automated Healthcare Solutions
Mr. Tim O'Connell, Automated Healthcare Solutions
Ms. Jennifer Maurer, Automated Healthcare Solutions
Mr. Don Lipsy, Coventry Health Care
Mr. Steve Schneider, American Insurance Association
Ms. Amanda Attaway, Illinois State Medical Society
Mr. David B. Menchetti, Cullen, Haskins
Dr. Amit Mehta, Premier Pain Specialists
Ms. Deborah Sommesi, Injured Workers Pharmacy
Ms. Deirdre Manna, PSI
Ms. Karen Melchert, CNA
Ms. Terri Robinson, NCCI

Mr. Charles Burhan, Liberty Mutual
Ms. Rita Nowak, PCI
Mr. David Melvin, PSSD
Ms. Daniella Watson, Corvel
Mr. Darren Stahulak, Corvel
Mr. Matt Engels, Corvel
Mr. Jay Shattuck, Illinois Chamber of Commerce
Ms. Valerie McGregor, Stratacare
Mr. John Power, Power and Cronin
Ms. Ann Bresnen, Orthocentrix Solutions
J. Styj
Dr. Robert Bonner, The Hartford
Mr. Joe Paduda, Comp Pharm
Dr. Steve Schlamborg

Chairman Mitch Weisz called the meeting order and noted that a quorum was present. Dr. Bernstein, initially participating by phone, noted that he had to leave the call to go into surgery. The Workers' Compensation Commission was also called to order by Chairman Weisz, who explained that the meetings were posted as concurrent meetings of the Commission and the Medical Fee Advisory Board.

The Medical Fee Advisory Board and the Commission first heard testimony regarding a proposed rule addressing the National Drug Code (NDC) to be used for billing when a repackaged prescription is dispensed outside of a licensed pharmacy. Chairman Weisz noted that there were a large number of attendees at the joint meeting and to facilitate the discussion, he asked that the attendees complete witness slips registering their support or opposition to the proposed rule. A copy of these witness slips are appended to these minutes.

Chairman Weisz explained that both the Medical Fee Advisory Board and the Commission had discussed the proposed rule at their previous meetings. Thus, to ensure that the meeting moved along in a timely manner, Chairman Weisz asked for a limited number of proponents and opponents to speak to the proposed rule and to limit their comments to five minutes each. Speaking as proponents for the proposed rule was Greg Gilbert, Joe Paduda, Dr. Bonner, and Donald Lipsy. Speaking as opponents for the proposed rule was John O'Connell, Dr. Steve Schlamborg, and Amanda Attaway

Mr. Gilbert remarked on the need for cost controls to address rate abuse for physician-dispensed pharmaceuticals. He stated that Concentra dispenses pharmaceuticals and will still be able to do so if the proposed rule is adopted. The real issue in dispute is the business model between a repackaging organization and the provider. Repackagers often include a fee for the billing service in connection with its relationship with providers who actually dispense the repackaged drugs. A reduction in reimbursement for repackaged drugs could lead to a lower billing service fee. Mr. Gilbert concluded by noting that he is a member of the Medical Fee Advisory committee in Georgia and a similar regulation was implemented in April of 2011.

In opposition to the proposed rule, Dr. Schlamborg noted that from a provider's standpoint, physician-dispensing is critical to ensuring that injured workers are able to receive their prescribed medication. He noted that about two-thirds of his workers' compensation patients only speak Spanish. Oftentimes, they are unable to fill prescriptions for a variety of reason, such as the pharmacy not giving them the prescription or they cannot get to a pharmacy. Without proper medication usage, treatment is delayed, which in turn delays an employee's return to work.

Mr. Paduda next spoke in favor of the proposed rule. Mr. Paduda represents Comp Pharm, which is a consortium of worker's compensation pharmacy benefit managers. Mr. Paduda stated that the recently released report from the Workers' Compensation Research Institute ("WCRI") indicates that physician-dispensing grew the fastest in Illinois compared to other states over the latest study period. Mr. Paduda also described a similar rule enacted in California. Prior to the implementation that rule, 56% of workers' compensation prescriptions in California were dispensed by a physician. After the rule, 53% of drugs were physician-dispensed. Thus, dispensing continued in California even after price controls were implemented. Mr. Paduda concluded his remarks to the Board and the Commission by stating that there was no clear data indicating that physician dispensing shortened disability duration for patients.

Next, Mr. O'Connell, representing Automated Healthcare Solutions, spoke in opposition to the proposed rule. Mr. O'Connell presented two major point. First, Mr. O'Connell stressed that there was strong legislative intent to indicate that the manufacturer's wholesale price was not to be included in the reimbursement for prescription drugs dispensed outside of a licensed pharmacy, as that language was ultimately not included in the final version of HB 1698. Second, the WCRI report cited by previous speakers in support of the rule does not include per claim data, but rather only focuses on per-pill pricing. Because this report was released only a short time before the joint meeting of the Advisory Board and the Commission, there has been no time for any significant scrutiny of its findings.

Dr. Robert Bonner, International Medical Director at The Hartford, a workers' compensation carrier, spoke next in support of the proposed rule. Dr. Bonner opined that physician dispensing often circumvents the safety checks available through a retail pharmacy or a pharmacy benefit manager, such as drug interactions and incompatibilities. This lack of safety checks also factors heavily into the abuse of narcotics.

Ms. Attaway, assistant director of Health Policy Research and advocacy, spoke for the Illinois State Medical Society. She stated that the main concern of the Illinois State Medical Society is that Illinois physicians receive fair reimbursement for medically necessary care and treatment. Because of some question about the vagueness of the most recent WCRI report, Ms. Attaway stated that the proposed rule requires more consideration.

Mr. Lipsy of Coventry Healthcare was the final speaker in support of the proposed rule. He also stressed the lack of safety checks in place for physician dispensing, as well as internal data compiled by Coventry noting the significant mark-up for physician-dispensed drugs.

After the Medical Fee Advisory Board and the Commissioners asked several questions of the speakers, the Medical Fee Advisory Board engaged in a discussion regarding the rule. Mr. McAndrew noted that there may be an access-to-care issue for persons who are no longer able to fill prescriptions if physician-dispensing is reduced or eliminated. He also observed that current law allows for physician-dispensing in Illinois. Ms. Molloy commented that even with specifying that the manufacturer's average wholesale price be used, there is still a margin for these generic prescriptions dispensed by physicians. Thus, physician dispensing would still be able to occur in Illinois.

After the discussion concluded, there was a motion by Ms. Molloy and seconded by Mr. Smolk that the Medical Fee Advisory Board recommend to the Commission to advance the proposed rule specifying that the National Drug Code of the original labeler be used for the reimbursement of repackaged drugs to the Joint Committee on Administrative Rules. The following members voted "Yes": Ms. Molloy, Mr. Smolk, and Ms. Moreland. The

following voting members voted “No”: Mr. Keller, Ms. McGuire, Mr. McAndrew, and Dr. Vender. With three voting yes, four voting no, and none voting present, the motion failed.

Chairman Weisz noted that there was no other business before the Medical Fee Advisory Board, but the Commission meeting would still continue. There was a motion by Mr. Smolk, seconded by Mr. McAndrew, and unanimously carried to adjourn the Medical Fee Advisory Board Meeting. The Medical Fee Advisory Board adjourned at 3:23 pm.