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ELECTRONIC PUBLICATION:

In an effort to save money under state government budgetary constraints, the NM WCA is no longer printing/mailing the Quarterly Bulletin. We will continue with **electronic distribution only**. In order to continue receiving the Bulletin electronically, send your e-mail address to Diana.Sandoval@state.nm.us

National Council on Compensation Insurance Study Examines Impact of Prescription Drug Costs in Workers' Compensation Claims

By Diana Sandoval

Prescription drugs make up some 19 percent of all workers compensation medical costs, according to an August 2011 study released by the National Council on Compensation Insurance (NCCI). The study looked at data for medical services provided between 1996 and 2009 on both lost-time and medical-only claims that occurred between 1994 and 2009, and defined "prescription drug" as a drug identified with a National Drug Code (NDC) or carrier-specialized drug code.

While the study found that per-claim drug costs vary significantly from state to state, one key finding was a growing trend in the use of heavy narcotics in workers compensation injuries nationwide. OxyContin climbed from the number three prescribed drug in service year 2008, and number eight in 2007, to the number one prescribed drug in 2009, while Hydrocodone-Acetaminophen dropped from the top spot down to number three during the same period. OxyContin is a controlled-release narcotic painkiller prescribed for around-the-clock relief of moderate to severe pain. It is classified by the U.S. Drug Enforcement Administration (DEA) as a Schedule II narcotic, meaning it has a "high potential for abuse which may lead to severe psychological or physical dependence." Hydrocodone-Acetaminophen – generically available as Vicodin – is a narcotic analgesic used to relieve moderate to severe pain. The U.S. DEA classifies Hydrocodone-Acetaminophen as a Schedule III narcotic, meaning it has "a potential for abuse less than substances in schedules I or II and abuse may lead to moderate or low physical dependence or high psychological dependence."

Another key finding of the NCCI study is that utilization continues to be a major cost driver and that physician dispensing is on the increase in every state.

Typically, patients are given a written script for medication that has to be filled at a pharmacy, but sometimes the physician can fill the prescription in his or her office, which is referred to as "physician dispensing." There are several reasons why a doctor may issue the drug directly to the patient. Perhaps the doctor wants for the patient to begin the drug regimen immediately and dispenses enough of the medication to the patient for consumption during the time it takes for the patient to get to the pharmacy to fill the entire script. Or, perhaps the patient is unable to get to the pharmacy for various reasons.

According to the NCCI study, physician dispensing in workers' compensation remained relatively constant during service years 2003 through 2006. But beginning in service year 2007, the percentage grew slightly, from 10 percent over the prior three-year period (2004, 2005, 2006), to 12 percent in 2007, 18 percent in 2008 and then jumped to 23 percent in 2009. In data collected by NCCI, a comparison of shares of workers' compensation prescription drug costs associated with physician dispensing in service year 2009 shows that 30 states – including New Mexico – have physician-dispensed shares of more than 15.5 percent. (*Statistics are based on at least \$150,000 paid Rx for each state service year combination.*) Only four states – Hawaii, Idaho, Oregon, and Rhode Island – showed a decrease in shares of physician dispensing.

Impact on Dependency and Return to Work

With the use of heavy narcotics to manage injured workers' pain, and the growth in physician dispensing directly to claimants, is there a potential problem brewing in opioid dependency? And how, if at all, does the increase in opioid use

NMWCA Welcomes Two New Judges

By Van Cravens

Shanon S. Riley and David L. Skinner were appointed to serve as workers' compensation judges for the New Mexico Workers' Compensation Administration, and will hear and decide disputes over benefits due to injured workers. Agency Director Ned Fuller announced Aug. 8.



Shanon S. Riley

Riley had been practicing law in New Mexico for the last 10 years and brings a great amount of courtroom experience to her new position. She had been serving as assistant district attorney in the First Judicial Court District in Santa Fe, and spent three years as the general counsel for the Department of Military Affairs. Previous to that she was an analyst for the House Judiciary Committee, an associate attorney for the Albuquerque law firm of Sheehan, Sheehan & Stelzner, P.A., and associate trial attorney for the Second Judicial District Attorney's office. She earned her

bachelor of arts degree in criminal justice in 1993 from the University of New Mexico, and her juris doctorate degree from UNM School of Law in 2001.



David L. Skinner

the New Mexico Board of Legal Specialization. Skinner has taught New Mexico workers' compensation law at numerous accredited Continuing Legal Education seminars. He graduated from Mesa State College, Grand Junction, Colo., in 1981 with a bachelor of science degree in agronomy, the science and technology of producing and using plants for food, fuel,

feed, fiber, and reclamation; and received his juris doctorate degree from UNM School of Law in 1987.

With the new appointments, there will be five workers' compensation judges in the Dispute Resolution Bureau based out of Albuquerque, who hear workers' compensation cases throughout New Mexico. By law, workers' compensation judges are appointed for an initial one-year term, which may be followed by subsequent five-year appointments. Riley officially assumed her duties as a workers' compensation judge on Aug. 22, Skinner on Aug. 15. Both were officially sworn in on Sept. 16.



NMWCA Judges, from left to right: Greg Griego, Victor Lopez, Shanon Riley, David Skinner and Terry Kramer

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Ned S. Fuller, Director
Diana Sandoval, Editor/Designer

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Suggestions for articles are welcome; call Diana Sandoval at (505) 841-6052.

Recent issues of the Quarterly Bulletin can be viewed on the Internet at <http://workerscomp.state.nm.us/research/index.php>.

EVENTS & HOLIDAY CALENDAR

The Workers' Compensation Offices in Albuquerque and all its field offices will be closed on the following upcoming holiday(s):

Veterans' Day, Friday, November 11
Thanksgiving holiday, Thursday and Friday, November 24-25
Christmas Day (observed), Monday, December 26
New Year's Day (2012 observed), Monday, January 2, 2012
Martin Luther King Jr. Day, Monday, January 16, 2012

NOTICE

The Advisory Council on Workers' Compensation and Occupational Disease Disablement is a task force created by statute, comprised of six members, three representing workers and three representing employers. The primary role of the Council is to advise the governor and legislature on the status of the workers' compensation system in New Mexico. The Advisory Council meets several times a year on an irregular schedule. Scheduled meetings of the Council are announced on a special telephone number, (505) 841-6011, and on the WCA website, <http://workerscomp.state.nm.us/council/index.php>.

NCCI Prescription Drug Costs Study in WC

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among injured workers affect their return to work, post injury?

Joseph Paduda, co-owner of CompPharma, a consortium of pharmacy benefit managers, and owner of Health Strategy Associates, a Connecticut-based employer consulting firm, recently conducted a webinar sponsored by the online publication, "WorkCompCentral," in which he addressed these issues.

Paduda explains that by the late 1990s changes in legislation across the country, which relaxed regulation in prescribing narcotics, may have led to the increase in prescription of such heavy narcotics – once mainly used to treat chronic cancer pain – in the treatment of more minor injuries. Paduda cites data from the DEA on opioid sales showing an increase in the strength of milligrams per person (of morphine equivalent drugs), which went from 96 mg/person in 1997 to 698 mg/person in 2007. He then draws a correlation between that increase and a significant jump in the incident of opioid overdose deaths, from 2,901 in 1999, to 11,499 in 2007 (*citing multiple cause of death data set, National Vital Statistics System*).

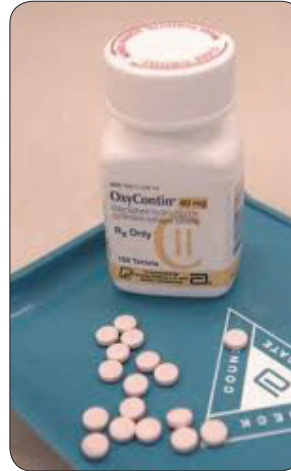
So, just how are these high-level narcotics being used in workers' comp injuries? A California Workers Compensation Institute (CWCI) study in June 2008 found that doctors there prescribed opioids in 25 percent of all back injury cases, even those without spinal cord involvement – mainly sprains and strains of the back. This means

that more than 44 percent of dollars paid and 32 percent of prescriptions written (in California for service year 2007) for narcotics were for claims involving back injuries. (*Narcotics in Workers Compensation, NCCI, © 2009*)

Again citing the CWCI 2008 study, Paduda notes: "Average claim costs of workers receiving seven or more opioid prescriptions were three times more expensive than those of workers who receive zero or one opioid prescription, and these workers were 2.7 times more likely to be off work, and had 4.7 times as many days off work. These findings suggest that greater use of opioid pain medication is associated with adverse outcomes among workers with occupational back conditions that do not involve the spinal cord."

While strong opioid drugs like OxyContin can be extremely effective in reducing pain, Paduda suggests that prescribing such narcotics for sprains and strains may be equivalent to "using nuclear weapons to kill a fly."

OxyContin, like all opioids, carries significant side effects such as constipation and, at higher doses, a potential slowdown in breathing, which can lead to death. Long-term users eventually become tolerant, which means higher doses are needed to achieve the same effect. The danger for abuse isn't limited to the world of work-



ers compensation. Federal investigators from the U.S. Government Accountability Office recently discovered that about 170,000 Medicare beneficiaries received prescriptions from five or more health care providers for 14 frequently abused drugs, and that Medicare officials were slow to recognize patterns of abuse (*"Report on Medicare Cites Prescription Drug Abuse," Robert Pear, The New York Times, Oct. 3, 2011*).

There is a current effort among federal law makers to tighten rules to regulate prescribers of narcotics. The Obama administration announced in April 2011 it wants legislation requiring doctors to undergo training before being permitted to prescribe powerful painkillers like OxyContin. Those in favor of increased training for prescribers say it may not only help doctors to better identify patients who could benefit from treatment with long-acting narcotics, it could also help them to detect when a patient may simply be shopping for drugs they then abuse. Opponents argue that stiffer requirements placed on prescribers can hinder patient care by reducing the number of doctors prescribing pain medication.

In either case, whether tougher regulations regarding OxyContin and other prescription narcotics will be passed or not remains to be seen. The discussion – and debate – will, no doubt, continue.

A graphic with a red banner containing white text. The background shows several US coins, including a quarter and a dollar coin. The text on the banner reads: "An injured worker given early return to work opportunities: -dramatically reduces accident related expenses -productive work routine becomes part of therapy -allows faster, healthier recovery -saves on your 'bottom line'". Below the banner, the text "Stay at Work / Return to Work Programs WORK!" is written in white on a black background.

An injured worker given early return to work opportunities:
-dramatically reduces accident related expenses
-productive work routine becomes part of therapy
-allows faster, healthier recovery
-saves on your "bottom line"

Stay at Work / Return to Work Programs WORK!

NM WCA Celebrates 25th Anniversary

By Van Cravens

The Workers' Compensation Administration held its annual "All Hands Meeting / Employee Recognition Luncheon on July 29 to celebrate 25 years of service to New Mexico workers and employers. As part of the celebration the agency used the occasion to recognize individuals for outstanding performance and employees for their time in service with the WCA.

Created in 1986 in a time of a highly adversarial and costly court administered workers' compensation claims resolution process, the WCA was created to regulate an administrative benefits process that reduced the adversarial nature of workers' compensation, and to help reduce overall claims settlement costs.

"We look forward to building on our past success and improving our ability to provide quick and efficient delivery of indemnity and medical benefits to injured workers at a reasonable cost to employers," said Ned Fuller, WCA director.

The annual meeting is also a time for training to be conducted for agency's staff that is normally spread across the state at the

various WCA field offices. Diana Speakman, deputy fire marshal and public relations coordinator for the Bernalillo County Fire Department, instructed employees on current fire safety practices and public safety information.

The keynote presentation was given by John Freisinger, president and CEO of Technology Ventures Corporation and a noted local "Toastmaster" speaker and communications mentor.

This year 35 employees were honored for three, five, eight, 10, 15, 20 and 25 years of service with the Workers' Compensation Administration. Each employee received a certificate or plaque.



Janet Jaramillo

In special recognition, Fuller presented the following special achievement awards:

Employee of the Year award – Janet Jaramillo, human resource specialist-payroll and benefits

Bureau of the Year award – WCA Self-Insurance and Regulatory Audit Bureau

Service awards were presented to:

- Greg Griego, Cecilia Spinks and Gina Torres for 25 years;
- Roger Ma, Pauline Pacheco, Andy Romero, Carmen Sanchez, Elaine Trujillo and Ellen Voss for 20 years;
- Sally Valdez for 15 years;
- Annette Griego, Salvador Lopez, Elizabeth Peralta and Janice Roberson for 10 years;
- Justine Andrews, Shannon Aragon, Margaret Carrillo, Michael Crawford, Juanita Roibal-Bradley and Tom Tanner for eight years;
- Joyce Casias, Charlene Cde Baca, Barbara Garcia, Scott Goold, Glenda Grossetete, Sarah Karni, Kathy Louer, Richard McClarkin and Brenda Zamora for five years; and
- Yvonne Guerin, Gillian Hubka, Victor Lopez, Mary Lovato, Israel Olivas and Jennifer Romero for three years.

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