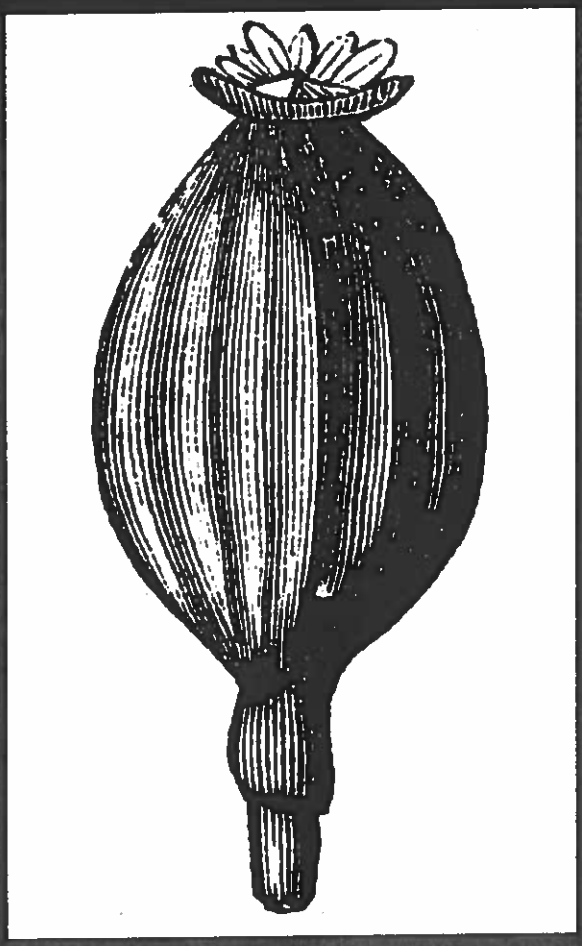
34TH ANNUAL MEDICAL SEMINAR ON WORKERS' COMPENSATION

NAVIGATING REGS FOR THE BEST OUTCOMES IN PAIN MANAGEMENT

MICHAEL GAVIN, CHIEF STRATEGY OFFICER
PRIUM



February 24 – 26, 2013 Francis Marion Hotel, Charleston, SC

Navigating Regs for the Best Outcomes in Pain Management

Agenda

- The Problem
- The Solutions
- Relevant Statutes / Regulations / Rules
- Summary and Conclusion

The Problem

- More than 50M Americans suffer from chronic pain [1]
- Pain reliever abuse more than tripled, from 6.8% in 1998 to 26.5% in 2008 (Treatment Episode Data Set)[1]
- 15,000+ Americans died in 2008 from prescription drug overdose [2]
- 12,000,000+ Americans (12 years or older) in 2010 reported non-medical use of prescription drugs within the past year [2]
- 500,000+ ER visits in 2009 from abuse or misuse of prescription drugs [2]
- $72,500,000,000+ in annual costs to health insurers for non-medical use of prescription drugs [2]
- Enough prescription drugs were prescribed in 2010 to medicate every American adult around-the-clock for one month [2]

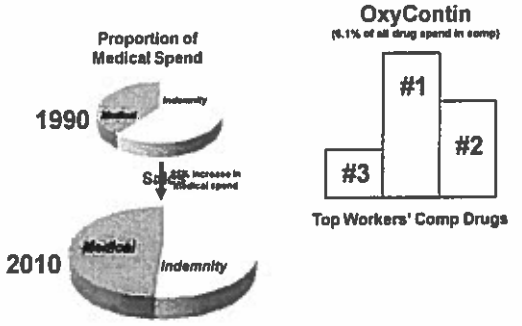
[1] Source: Substance Abuse and Mental Health Services Administration (SAMHSA)
[2] Source: CDC Vitalsigns publication, November 2011

The Problem (cont.)

A 2011 report from the Institute of Medicine estimated the total cost of dealing with chronic pain is between $560 and $635 billion per year.

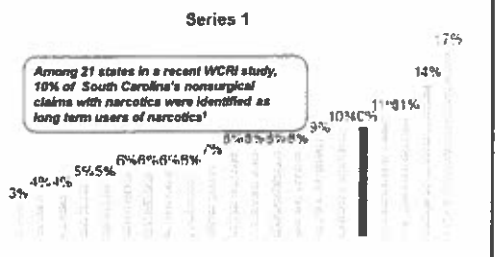
That same year, drug manufacturers generated $11 billion in revenue from opioids.

The Problem – Work Comp



Top Workers' Comp Drugs

The Problem in South Carolina



¹ Source: WCRI Study, Long Term Use of Opioids, 2012

How Did We Get Here?

- Culture of over-treatment
  - Reimbursement methodology favors treatment over prevention
  - Interventional procedures (vs. cognitive medicine) drive economics
- Influence of big pharma
  - Total sales of Oxycontin in 1996: $45 million
  - Total sales of Oxycontin in 2009: $3 billion
- Lack of predictability in claims management
  - Who can handle 90 days of hydrocodone without issues?
  - Who will end up dependent on the medication?
- Co-morbidities
  - Growing in number and complexity
  - Each one gets its own drug!

Solutions: Definitions

- **Statutes:** Laws passed by legislators and signed by governors
- **Regulations:** Rules developed by regulatory agencies
- **Case Law:** Judicial decisions resulting from challenges to either statutes or rules/regulations or from the dispute resolution process

Statutes/Rules That Matter Most

- Ex Parte Communication
- Medical Treatment Guidelines
- Utilization Review / IME
- Directed Care
- Physician Dispensing
- Prescription Drug Monitoring Programs (PDMPs)

Ex Parte Communication

- Prohibited: Mississippi, Illinois, New Mexico, Colorado, Connecticut, South Dakota
- Restricted: Nevada, New Hampshire, Alaska, Minnesota, North Carolina, South Carolina
- All other jurisdictions: No restrictions on interacting with treating physicians

- SC: S.C Code Ann. §42-15-95(B) – Employee has the right of notification, participation, and must be furnished a copy of the physician's responses to questions

Medical Treatment Guidelines

- Evidence-Based, Nationally Recognized (e.g., ODG, ACOEM)
  - Texas
  - California
  - Hawaii
  - Kansas
  - Missouri
  - Nevada
  - New Mexico
  - North Dakota
  - Ohio
  - Oklahoma
  - Utah
  - Vermont
  - Wyoming

Arizona, Tennessee: Under consideration

- Consensus-Based, Locally Developed:
  - Arkansas
  - Colorado
  - Connecticut
  - Delaware
  - Louisiana
  - Maryland
  - Maine
  - Massachusetts
  - Minnesota
  - Montana
  - New York
  - Oregon
  - Rhode Island
  - Washington
  - West Virginia

- SC: No mandated medical treatment guidelines; SC Board of Medical Examiners Pain Management Guidelines (2009) and Joint Position Statement on Pain Management for SC Board of Nursing and Board of Pharmacy (2009) do not represent balanced, contemporary, and enforceable guidelines

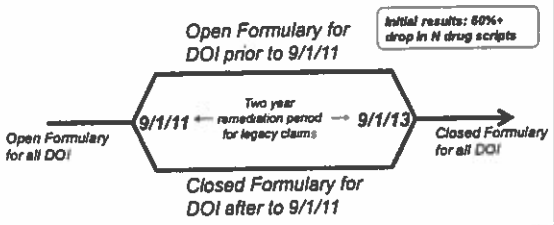
Utilization Review / IME

- Statutorily Required and/or Recognized: 22 states with 17 of those statutes lending some real authority for the payer
- Medication-specific: Texas, Tennessee, Washington, West Virginia, Ohio

- SC: No utilization review, but S.C Code Ann. §42-15-70(A) states that the employer can require IME's so long as the employee is claiming compensation.

Utilization Review

- Case Study: Texas
- Statute: HB 7 passed in 2005
- Rules: Texas Administrative Code Title 28, Part 2, Chapter 134, Subchapter F, Rule 134.500



Directed Care

- Considerations:
  - Claim life cycle
  - Networks
  - Panel-driven
  - Regulatory order of operations
- Fundamental Goal
  - Don't overlook an opportunity to remove an injured worker from the care of a physician that is failing to provide evidence-based care

- SC: S.C. Code Ann. §42-15-60 - Summary: The employer directs the employee to the initial treating physician. Medical treatment is provided for a period of ten weeks post-injury. Then, the employer/carrier reviews the treatment and determines if further care will lessen the period of disability. If so, the employer/carrier continues to provide payment for treatment. The employee is required to treat with the employer selected physician unless a change is ordered by the Commission.

Physician Dispensing

- Prohibited:
  - Massachusetts
  - New York
  - Texas
- Restricted:
  - Arkansas
  - Florida
  - Louisiana
  - Maryland
  - Minnesota
  - New Jersey
- Allowed:
  - Arizona
  - California
  - Georgia
  - Illinois
  - Maryland
  - Michigan
  - North Carolina
  - Pennsylvania
  - South Carolina
  - Tennessee
  - Virginia
  - Wisconsin
- Silent:
  - Connecticut
  - Indiana
  - Illinois

Recommendation: Focus on pricing, not practice

Source: WCRI Study, July 2012

- SC: Reimbursement set to AWP of underlying NDC with no dispensing fee, effective December 2011

PDMPs

- **Status:**
  - 43 states have programs up and running
  - 6 additional states have programs authorized, but not yet functional
- **No Program:**
  - Missouri
- **Mandatory Use of PDMP by Physician/Prescriber:**
  - Kentucky
  - Massachusetts (first script for schedule II or III drug only)

- **SC:** In 2008, the S. C. General Assembly authorized DHEC's Bureau of Drug Control (BDC) to establish and maintain SCRIPTS. Through the program the BDC monitors the prescribing and dispensing of all Schedule II, III, and IV controlled substances by professionals licensed to prescribe or dispense the substances in South Carolina.

Summary

Statute/Rule	Optimal for Limiting Rx Drug Overutilization	South Carolina
Ex Parte Communication	Allowed, no restrictions	Restricted
Medical Treatment Guidelines	Nationally recognized guidelines mandated	No mandated guidelines
Utilization Review	Mandatory UR	No UR
Direction of Care	Allowed	Allowed
Physician Dispensing	Restricted pricing	Restricted pricing
PDMP	Program in place; Mandatory search prior to Rx	SCRIPTS; no mandatory search prior to Rx

Guiding Principles

- **Physician Engagement:** Do not assume the treating physician is the enemy... until the treating physician is the enemy.
- **Follow up, follow up, follow up:** Engagement is not a "one time" event... treatment changes are difficult and must be monitored.
- **Leverage technology:** PBMs can help to closely monitor and customize medication regimens... use the technology available!
- **Have a Plan B:** Collegial engagement doesn't always work... know what your options are if voluntary engagement fails.

"Reform"

The grand bargain of work comp (a.k.a. the exclusive remedy) is not static. In fact, it is dynamic and its evolution is marked by legislative and regulatory measures designed to rebalance the bargain when economic realities demand it.

When a state engages in "work comp reform", what that state is essentially doing is "rebalancing the bargain" because the economics of the current system are, in some material way, out of whack.

- Evidence Based blog, 12/4/2012

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