



WORKERS' COMPENSATION
ADVISORY COUNCIL MEETING
February 27, 2020

Members Present:

Sheral Kellar
Vincent Forte, MD
Marc Zimmermann, Ph.D.
Mark Kruse, D.C.
Shannon Dartez
Julie Cherry
Maria Losavio

Members Absent:

Charles Davoli
Larry Stokes, Ph.D.
Shannon Lindsey
Michael Morris
Kevin Darr, MD
"Bray" Williams
Edwin Murray
Philip Hunter
Alejandro Perkins

MINUTES

- I. WELCOME** start at 10:00 am
- II. MINUTES**
 - a. Passed due to no quorum
- III. REVIEW OF PRE-FILED BILLS AFFECTING LOUISIANA WORKERS' COMPENSATION**
 - a. Pre-file due Friday, Feb. 28th @ 5pm
 - b. HB170
 1. Proposed by Representative Hollis
 2. DOI can revoke license if doesn't maintain LA office or adjuster
 3. **Maria Losavio**- What's purpose?
 - **Chairman Sheral Kellar**- specify licensed WC adjuster.
Residence vs Domicile. Invited bill authors to March meeting
 - c. **HB 217 & HB218
 1. Proposed by Representative Frieman
 2. HB218
 - Employer doesn't have to pay until compensability is decided by court
 - No expedited hearing
 - **Maria Losavio**- there's no expedited process. There's already a process in place
 - **Shannon Dartez**- agree. Injured Worker would be unfairly disadvantaged if not allowed initial visit.

- **Chairman Sheral Kellar**- given Employer cover if denied upfront in regard to attorney fees & penalties. Currently allowing visit doesn't mean admission of liability.
 - **Mark Kruse**- equal slow care. Seems to be an attack on choice.
 - **Marc Zimmerman**- literature says quicker assessed & treated sooner means Injured Worker gets better. Not good for carrier in long term.
- 3. HB 218
 - Additional medical opinions at trial
 - Clear & convincing evidence is high bar
 - **Maria Losavio**- Statewide canceling of IME?
 - **Shannon Dartez**- haven't seen widespread abuse
 - **Chairman Sheral Kellar**- pretrial conference language is an issue.
- d. SB133
 1. Proposed by Senator Carter
 2. Change prescriptive period for presumption of cancer in firefighter
 3. **Julie Cherry**- presumption already in law since still get cancer with respirators
 - **Mark Kruse**- may be based on how long it takes to develop
 4. **Shannon Dartez**- support
- e. SB160
 1. Proposed by Senator Talbot
 2. Formulary- defines it, sets date to have, self-updating, choose from current products of three
 3. **Marc Zimmerman**- no issue but need to see details. Seen group health formularies.
 - **Chairman Sheral Kellar**- may have people preset their formularies
 4. **Mark Kruse**- want MAC to look at formularies and make sure guidelines add up.
 - **Chairman Sheral Kellar**- amends 1203.1
 5. **Maria Losavio**- circulate formulary before meeting. Let new guidelines play out 1st; have chronic pain explain by MAC or MD director.
 6. **Vincent Forte**- MAC should make comments.
 7. **Joe Jolissaint** [*audience*]- big issue is tacit denial while other states have tacit approval. Limit opioid script to 30 days- runs out before the 4 weeks are completed.
 - All these bills allow ER have advantage
 - **Chairman Sheral Kellar**- which report
 - i. **Joe Jolissaint**- LLA
 - ii. **Chairman Sheral Kellar**- they looked at 5th edition, WCRI report. Send to Joe Jolissaint & Maria Losavio

8. **Robin Krumholt** [audience]- problem in TX ODG doesn't follow law about being credential & updated. Not based on evidence; restrictive on antibiotics on cost alone. Formulary will circumvent guidelines update. Ties doctors hands.
9. **Steve Wanko** [audience]- Cost saving & cost shifting in these bills. If opioid problem just address opioid. Fee schedule not addressed in years. Practice has to get documentation to get treatment approved – burden.

V. REVIEW OF INHOUSE LEGISLATION

- a. 23:1123
 - 1.Remove IME from MD Director to court
 - 2.Merges with 1123.1
 - 3.**Chairman Sheral Kellar**- resend language
- b. 23:1226
 - 1.**Shannon Dartez**- taskforce presented language at previous meetings
- c. 23:1292
 - 1.**Andre de la Fuente**- repeal a provision.
 - Eliminate the 1017A form that collected the OSHA 300 log data
 - Going to collect electronically with FROI
 - a. **Chairman Sheral Kellar**- will be moving SROI to electronic only as well.
- d. 23:1306
 1. **Andre de la Fuente**- Add “medical only”
 2. **Vincent Forte**- why limit to only that?
 - **Chairman Sheral Kellar**- already electronically filing others
- e. 40:978
 - 1.**Shana Veade**- Based on CMS rules. Opioid Naïve means hasn't gotten opioid script in last 60 days; then get 7 days script. This is monitored by PMP.
 - 2.Add opioid care coordination alert so provider can't just claim it's 7 day script.
 - 3.Out-of-state provider only allowed 10 day script since they may not be part of Louisiana PMP.
 4. Provider review every 90 days. Added “outpatient adult with acute conditions” except cancer diagnosis or other overriding reason.
 - 5.**Chairman Sheral Kellar**- important because 2017 Act 76 gave use to PMP so this strengthens it by saying when to prescribe next script. Chronic Pain guidelines didn't specify either. This bill applies to everyone not just WC.
 - 6.**Maria Losavio**- glad explained where 60 days came from

IV. NEED FOR FORMULARY

- a. Proposed by Representative Larry Frieman
- b. “Trey” Mustian, esq.
- c. Louisiana Legislative Auditors
 - 1. *Evaluation of Controls Over the Prescribing of Opioids in the Workers’ Compensation Program- 2019*
 - 2. **Chairman Sheral Kellar**- LLA report finds 7 controls needed to be added. However, this was before Chronic Pain was issued.

VI. OTHER BUSINESS

- a. None

VII. PUBLIC COMMENT

- a. **Cindy Bishop** *[audience]*- [40:978]
 - 1.Surgery needs more than 7 days
 - 2.Some insurance companies not following

VIII. NEXT MEETING DATE

- a. Wednesday, March 25, 2020
 - 1.Moved to Poydras Building (Dept. of Insurance)
- b. **Chairman Sheral Kellar**- updating Fee schedule with Fair Health. Will invite several stakeholders to assist.
- c. **Cindy Bishop** *[audience]* - on HB571: invoicing of implants

IX. ADJOURNMENT at 11:09am