



**2018 CLM Annual Conference  
March 14-16, 2018  
Houston, TX**

## **The Uphill Battle in the War on Drugs: Navigating an Attack on the Opioid Minefield**

### **I. Current Report Card on Drug Abuse**

#### **Opioid Use in Workers' Compensation**

Since the 1990s, there has been an increasing epidemic of drug overdoses caused by prescription opioids. In our industry, we have been supporting reforms at the state and federal levels, but there is a question on how effective these efforts have been on curbing the problem. Workers are made vulnerable by the physicians and pharmacies who continue to over-prescribe, which has resulted in exorbitantly higher workers' compensation insurance costs for employers.

Recent studies performed on workers' compensation claims all over the country have been staggering. Over the years there are studies on lost time, correlating with the number of pain medicine prescriptions. These studies cover non-surgical claims, the opioids prescribed to the employees, and the death rates. For example, one study showed in 2015, oxycodone was prescribed in 1 to 2% of claims in California, Illinois, and Texas, while oxycodone was prescribed in 30% of claims in Massachusetts. These studies also illustrate the differences among state prescription drug monitoring programs and policy factors. However, there needs to be more research done to get to the heart of stopping this crisis. We will explore the loss of production time due to opioid abuse, the cost of substance abuse to employers and the continuing legislation and regulatory efforts to curb this epidemic.

### **II. Striking an Attack on the Drug Problem**

#### **Claim and Lawsuit Management**

A workers' compensation claim involving an employee who has long-term use of opioids or other narcotics is a costly challenge. The costs of opioid medications have increased, and claims managers have been handling the repercussions of long-term opioid use. Government officials in various states have been exploring new programs to assist the judicial system in dealing with the rising number of overdoses and deaths as the claim proceedings are playing out

in court. Pain management alternatives are being explored to help with injured workers understand the long-term repercussions as well.

From a litigation standpoint, many states have implemented prescription drug formularies, and judges are scrutinizing the use of prescription drugs that are not consistent with or recommended by the formularies.

It is imperative for everyone involved in the claims process to have insight on how to help injured employees avoid the dangers of opioid addiction and assist businesses reduce growing workers' compensation costs. Medical costs associated with pain care and economic costs related to disability days, lost wages and productivity costs are estimated to be over \$600 billion dollars each year. Brokers, insurers, and insureds can help avoid the slippery slope to possible opioid dependency by having a post-injury management strategy to handling these claims. This could entail a multidisciplinary initial assessment, a strategy meeting with the injured worker and the claims manager, and a proactive medical case management to prevent the development of chronic pain.

### **Alternatives to Opioids**

Opioids were not designed to be used chronically. To stop making opioids mandatory for treatment of chronic pain, alternative treatment such as medicinal marijuana, compound medication prescriptions, cognitive behavioral therapy, and even holistic treatments are being explored. These ideas have stemmed from the opioid crisis that is continuing to claim thousands of lives. The rise of opioid use has led to the increase of heroin users. This increasing drug problem has brought recent attention to medically supervised injection clinics that provide sterile equipment to individuals.

There is also the rising use and cost of compound medications in workers' compensation that has been a growing concern in the industry. The utilization of compound medications has increased fourfold, as well as the pricing. There are also inconsistent protocols on the dosages of such drugs, that has brought on safety concerns as injured workers could be receiving higher potencies than needed. Also compound medications can have more than a dozen active ingredients, and pharmacies are billing insurance carriers for each ingredient. There is also very little evidence on the effectiveness of these products.

In recent years, medicinal marijuana has gained recognition as a treatment option. Researchers are studying the impact of medical marijuana on opioid use. Twenty-nine states, plus the District of Columbia have legalized medical marijuana and chronic pain is a qualifying condition to use the drug.

### **View on Alternatives by the Industry**

Alternative measures have been researched and explored; however, there is resistance to these treatments. There are pain rehabilitation clinics offering in-patient chronic pain programs that guide the participants on how to taper off pain medications. However, some insurers feel these interdisciplinary approaches are not medically necessary and decline to cover

the treatments. Insurance companies often want to see the patients complete more conservative treatment approaches.

Our industry had to look at the overall picture on reducing the emotional, social and psychological aspects of pain to be able to reduce the reliance on addictive narcotic medications. Alternative treatment has been shown to save money over the long term in health care costs and reduced care utilization.

### **III. What needs to be done to get around the Minefield**

Recently, the White House Opioid Commission called out insurers, stating that they have “treated mental health and addiction as if it’s something other than the rest of medicine.” However, the insurance industry has been taking stronger action to address the nation’s opioid crisis and continues to make efforts to bring prescription practices in line with regulations, reduce the stigma surrounding substance abuse use disorder, and grow networks for delivering medication-assisted treatment.

Regulators, attorneys, insurance companies, and the medical industry are collaborating on the development of treatment, prevention and recovery services. However, there is a long road ahead of us as we navigate this minefield.