

THE FIFTH ANNUAL OKLAHOMA WORKERS' COMPENSATION CONFERENCE



OCTOBER 4-5, 2018

Sheraton Midwest City Hotel at the Reed
Conference Center

5750 Will Rogers Rd., Midwest City, OK 73110

PRESENTED BY THE OKLAHOMA WORKERS' COMPENSATION
COMMISSION



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5TH ANNUAL WCC CONFERENCE 2018



DAY 1

Thursday, October 4, 8am-5pm

7am Registration and Breakfast

8:00 am

CHAIRMAN MARK LIOTTA

Results of the 2013 Reform

This presentation gives an overview of how the Workers' Compensation Commission has progressed since the reform measures of 2013 that brought the commission into being. Participants will come away with a better understanding of the Commission's measurements of success. Participants will also gain a better understanding of all of the functions of the Workers' Compensation Commission.

9:00 am

DR. JASON BEAMAN

Opioid Epidemic

This presentation by Dr. Jason Beaman looks to shed light on the current opioid epidemic by looking at four main objectives:

- Understand the history of opioid epidemics in the US
- Understand the severity of the current opioid epidemic
- Understand facts/statistics surrounding the opioid epidemic
- Understand treatment efforts to combat the opioid epidemic

5TH ANNUAL WCC CONFERENCE 2018



DAY 1

Thursday, October 4, 8am-5pm

10:00 am **JUDGE SHANE CURTAIN**
COMMISSIONER JORDAN RUSSELL
ERIC RUSSELL

Judicial Update / Legislative Update / CMS Update

Members of the Oklahoma Workers' Compensation Commission will give updates about Oklahoma legislation, judicial news, and an update on the transition to Case Management System (CMS).

11:00 am **KAREN RIEGER**
CECIL RUDD
DR. FRANK TOMECEK
JUDGE MIKE EGAN

Telemedicine Panel

With today's health care delivery challenges, telemedicine is one of the ways to address these challenges. While telemedicine has been around for years, it is very new in the workers' compensation arena. This Panel will offer three different perspectives of Telemedicine from Legal, Insurance, and Medical. The panel will show how telemedicine is approached from all facets of the workers' compensation system.

12 pm Break for Lunch

5TH ANNUAL WCC CONFERENCE 2018



DAY 1

Thursday, October 4, 8am-5pm

1:30 pm **JERRY WHORTON**
DR. JOSEPH V. FIORAZO

Worker's Compensation "Just the Basics"

This presentation will cover the basics of Workers' Compensation and provide the following information:

- Overview of where to find forms, law, fee schedule, and other tools on the Commission website.
- Best practices for helping an injured worker: A TPA's perspective.
- How Oklahoma handles an injury: start-to-finish.

2:30pm **MICHAEL ANTKOWIAK**
ROBERT POWELL

Disputed Claims: Respondents and Claimants

This presentation offers the basics of disputed claims and will cover from the onset of an accident and the process to document it, to intent to dispute a claim, the discovery process, and the process of developing a defense. This presentation will offer a perspective of what goes into both sides of a disputed claim from the perspective of the claimants and respondents.

3:30pm Break and Vendor Visitation

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DAY 1

Thursday, October 4, 8am-5pm

4:00 pm **JUDGE TARA INHOFE**
JUDGE BLAIR MCMILLIN
JUDGE MOLLY LAWYER

Case Law Update

This presentation will be a discussion of the most up to date case law concerning the areas of compensability, cumulative trauma, statute of limitations, TTD/PTD limits and dismissals.

4:30 pm **DR. JAY CANNON**
JUDGE TARA INHOFE
JUDGE BLAIR MCMILLIN
JUDGE MOLLY LAWYER

Medical Evidence Panel

A panel of medical evidence experts will discuss the presentation of evidence in trials and the do's and don'ts for medical evidence required to support their positions.

5 p m - 7 p m R e c e p t i o n

5TH ANNUAL WCC CONFERENCE 2018



DAY 2

Friday, October 5, 8am-12:15pm

7 a m B r e a k f a s t

8:00 am

JIM MCBRIDE

Workplace Violence

Oklahoma Office of Homeland Security offers this presentation to Oklahoma businesses and other organizations, to help both prevent and respond to an active shooter event. We have taken some basic law enforcement and military tactics and adapted them for all to use at the workplace. This presentation teaches: What is a Secure Workplace? Who Commits Workplace Violence? The Five Stages of a Shooter. What is Managements Roll? Are You Ready?

9:00 am

BRYAN CONNER

American Airlines "Validate The Trust"

The goals of this presentation are to provide the tools to:

- Have a working knowledge of trust concepts which serve as the basis for an understanding building and validating trust for an injured worker.
- To apply organizational communication principles to make an organization a compelling place to work even when injured.
- To describe how Trust Busters affect communication patterns within an organization.
- Understand how implementation of policies related to trust affects the injured worker

5TH ANNUAL WCC CONFERENCE 2018



DAY 2

Friday, October 5, 8am-12:15pm

10am Break and Vendor Awards

10:15 am **DR. SHANE HUME**
SI Joint- The missed diagnosis that leads to long term pain management

Dr. Hume presents the causes and diagnosis and treatment of lower back pain that is common in many workers' compensation claims. Attendees will come away with a better understanding of diagnosis and treatment of this ailment.

11:15 am **DR. GARY ANDERSON**
Ethics

This presentation will define "ethics" in a context applicable to the various industry professionals involved in workers' compensation and discuss guidelines and requirements for making ethical decisions.

12:15pm Adjournment

Presenters



Chairman Mark Liotta is the Chairman of the Oklahoma Workers' Compensation Commission. Mark Liotta was appointed to the Oklahoma Workers' Compensation Commission (WCC) effective May 27, 2015, and was appointed Chairman of the WCC effective August 25, 2017. Before his appointment to the Workers' Compensation Commission, he most recently served as the Chief Deputy to the Tulsa Board of County Commissioners. Commissioner Liotta served seven years in Oklahoma's 45th Infantry Brigade as an Infantry Platoon Leader, earning two Oklahoma Commendation medals. He graduated first in his class from officer candidate school, Oklahoma Class 32, 1987. He earned a bachelor of science from Southern Nazarene University in management of human Resources. Mark worked 18 years in the private sector for a pipeline services company as a field technician and crew leader, construction and manufacturing worker, quality manager, warehouse shipping clerk, and as human resources manager. Here he managed all aspects of workers' compensation administration and insurance, safety training and risk management. From 1996 to 2006, Mark was elected to five terms in the Oklahoma House of Representatives, where he served in six different leadership positions, including Chairman of the Republican Caucus, Presiding Officer of the House floor, and on the Speaker's senior leadership team. He also served as Chairman of the House Appropriations Subcommittee on General Government and Transportation where he was responsible for 20 state agency budgets, totaling \$490 million.

Dr. Jason Beaman graduated medical school from Oklahoma State University Center for Health Sciences. He then completed two simultaneous residencies in psychiatry and family medicine. After residency, Dr. Beaman completed a fellowship in forensic psychiatry at Case Western Reserve University in Cleveland, Ohio. He holds board certifications in family medicine, psychiatry, forensic psychiatry, and addiction medicine. After fellowship, Dr. Beaman completed a Master's Degree in pharmacology with an emphasis in forensics at the University of Florida. He also obtained a master's in public health from Johns Hopkins University. Dr. Beaman currently serves as the Chair of Psychiatry and Behavioral Sciences at Oklahoma State University Center for Health Sciences.

Presenters



Commissioner Jordan Russell is an attorney who joined the Commission after serving three legislative sessions as policy director and counsel to Oklahoma Speaker of the House Jeffrey W. Hickman. Prior to his time at the State Capitol, Jordan had a successful law practice in the downtown Oklahoma City office of Gungoll, Jackson, Box & Devoll, P.C. Jordan also previously worked as a legislative assistant to Oklahoma's U.S. Congressman Frank D. Lucas in his Washington, D.C. office where he worked on issues involving healthcare, labor, social security and disability and ERISA. Commissioner Russell graduated from Oklahoma State University in agricultural economics, magna cum laude. He earned his JD from the University of Oklahoma College of Law.

Eric Russell, J.D. is the Director of legal operations and of the Counselor Division of the Workers' Compensation Commission. He graduated from the University of Central Oklahoma with a bachelor of arts degree in 2007. He received his juris doctorate from Oklahoma City University School of Law in 2010. He is a member of the Oklahoma Bar Association. Mr. Russell leads operations for the Counselor Division which handles several hundred calls and visitors each month. He frequently represents the Commission as a public speaker to inform the public about the new system.

Judge T. Shane Curtin is the Chief Administrative Law Judge of the Workers' Compensation Commission. Prior to becoming an ALJ, Judge Curtin spent 23 years in private practice specializing in workers' compensation defense. Judge Curtin obtained his juris doctorate from the University of Oklahoma in 1991. Judge Curtin earned his undergraduate degree in human resource management from University of Central Oklahoma in 1988.

Judge Michael T. Egan is an Administrative Law Judge of the Oklahoma Workers' Compensation Commission. He graduated from the University of Oklahoma in 1980 with a bachelor of arts degree in journalism and from Oklahoma City University in 1984 with a juris doctorate. He is a former managing attorney of the Oklahoma State Insurance Fund. Judge Egan is a member of the Oklahoma Bar Association and the Oklahoma Bar Association Workers Compensation Section.

Presenters



Frank Tomecek is board certified in Neurosurgery. He has a degree from DePaw University in chemistry and received his medical degree from Indiana University. His surgical internship and neurological spine residency were completed at Henry Ford Hospital. Dr. Tomecek completed an additional neurosurgical spine fellowship at the University of Louisville Hospital. He has been practicing since January of 1994 at Oklahoma Spine and Brain Institute in Tulsa. He practices at numerous Tulsa hospitals and has satellite clinics that serve all of northeast Oklahoma. Dr. Tomecek is the first Neurosurgeon to receive the Risk and Insurance All Stars Award for his work with the Electro-diagnostic Functional Assessment. He has been doing telemedicine evaluations for the last 2.5 years.

Cecil A. Rudd, CWCP is a workers' compensation professional with more than 40 years of experience directly related to the claims sector of the workers' compensation industry. He currently serves as Director of Claims at CompSource Mutual Insurance Company. Prior to joining CompSource, Cecil served in a similar role with two previous insurance carriers. Cecil has a proven track record in strategic planning, budget analysis, loss prevention, and rate-making related to workers' compensation claims. Cecil holds a Certified Workers' Compensation Professional certificate.

Karen Rieger is recognized by her clients and peers throughout Oklahoma as an authority on healthcare legal issues. She joined Crowe & Dunlevy in 1981, and today, as a director and shareholder, serves as the chair of the firm's healthcare practice group. Her practice covers a broad range of health law issues including: the Affordable Care Act, the Anti-Kickback and Stark laws, HIPAA privacy and security requirements, EMTALA, Medicare reimbursement rules, medical staff issues and others. Ms. Rieger received a B.A. Degree in journalism (with distinction) and a J.D. degree (with honors) from the University of Oklahoma.

Jerry Whorton is the CEO of Consolidated Benefits Resources, an Oklahoma third party administrator for Workers' Compensation programs. CBR has worked for Oklahoma employers since 1968. He is a native of Oklahoma City and graduated from Mt. St. Mary's High School in Oklahoma City and St. Meinrad College in Indiana. After graduating from college, Jerry gained business, insurance, and financial experience by working in the private sector for several years. He spent three years as an assistant to the Oklahoma State Treasurer and three years as Director of Insurance at the Workers' Compensation Court. In 1992 he left the Court to become a partner in Oklahoma's oldest independently owned third party administration company. Today, Consolidated Benefits Resources provides workers' compensation claims management programs to over 1,500 Oklahoma employers. Approximately 250,000+ workers in Oklahoma have been entrusted to the care of CBR's staff. Jerry and his wife, Gloria, have four children.

Presenters



Dr. V. Joseph Fiorazo, M.D. is the director and center owner of AmeriWorks Occupational Health Center. He specializes in treatment of work related injuries. He has been practicing in Oklahoma since 1992. And is residency trained and board certified. He previously practiced at Tinker Air Force base while on active duty with the U.S. Air Force and other occupational health clinics in Oklahoma. He went on to open AmeriWorks Occupational Health Center in 2000.

Michael Antkowiak was born in Baltimore, Maryland. He moved to Oklahoma in 1983. He became an Eagle Scout in 1989 and joined the United States Army. He achieved the rank of sergeant and received many decorations including an Army Achievement Medal. After completing 13 years he was honorably discharged from The Oklahoma Army National Guard. He attended Oklahoma State University. He was a member of Pi Sigma Alpha Political Science Honor Fraternity. He was also the Command Sergeant Major 7th Regiment Pershing Rifles. He played trumpet in the Oklahoma State University Marching Band on scholarship. He graduated with a BA in political science with minors in sociology and corrections. He attended The University of Oklahoma College of Law. He served as a representative in student government and graduated in December of 1996 earning his juris doctorate and gaining admission to the Oklahoma Bar in 1997. He is a member of the Oklahoma Bar, the Oklahoma County Bar, and the American Bar Association. He has been a member of the Oklahoma Trial Lawyers Association, Lawyers for Working Oklahoman's and the Oklahoma Self-Insured Association. He has spoken all over the state for various plaintiff and defense organizations including the Oklahoma Bar Association. He is a mediator for the Workers' Compensation Court and Commission. He represented various insurance companies while working for defense firms for 15 years. He is the managing partner at the Morris Law Office representing injured persons in workers' compensation, personal injury, veterans disability and social security claims. He has been married for over 20 years and has 2 daughters.

Robert Powell is an attorney who specializes in workers' compensation law and insurance defense. He graduated from the University of Oklahoma in 1999 and went on to earn his juris doctorate from Oklahoma City University of Law in 2002. He is a member of Oklahoma County, Oklahoma and American Bar Associations, Workers' Compensation Defense Counsel and the Oklahoma Association of Defense Counsel, as well as the Oklahoma Bar Association Licensed Legal Intern Committee. He was born in Honolulu, Hawaii on October 21, 1975. Robert is married to Courtney Davis Powell, an attorney, and they have two children, Jack and Harper.

Presenters



Jay Cannon, M.D. Medical Director of the Workers' Compensation Commission, graduated from Oklahoma University's College of Medicine in 1970 and completed residency in general surgery at the OU Health Science Center in 1975. He served on the faculty in general surgery for nine years before going into private practice. While on the faculty he served as Interim Chief of Staff at the Oklahoma City Veterans Administration Hospital, Chair of the Board of the University Hospital and Medical Director of the University Hospital. Dr. Cannon practiced general surgery in Oklahoma City for forty years with an interest in endocrine surgery. He spent the last six years prior to becoming Medical Director of the Commission as the Chief of Staff of Integris Baptist Medical Center.

Judge Tara A. Inhofe is an Administrative Law Judge of the Oklahoma Workers' Compensation Commission. Judge Inhofe graduated from Tulsa University with a bachelor of arts in 1988. She attended Tulsa University Law School and obtained her juris doctorate in 1991. Judge Inhofe's primary practice area since graduating from law school has been workers' compensation. She has worked both as a claimant attorney and respondent attorney. Before being appointed in May 2014, she was as Staff Counsel for The Hartford.

Judge P. Blair McMillin is an Administrative Law Judge of the Oklahoma Workers' Compensation Commission. She received her bachelor's degree in journalism and public relations from Oklahoma State University with honors. She graduated from Oklahoma City University School of Law, cum laude. Judge McMillin has been practicing law since 2006. For the past six years, her experience has been focused on workers' compensation, both in general litigation and in claimant practice. Judge McMillin is a member of the Oklahoma Trial Lawyers Association, Oklahoma County Bar Association, and Workers' Compensation Section. Her professional licenses include the Oklahoma State Bar, the United States District Court, Western District of Oklahoma, the Supreme Court and all other Courts of the Chickasaw Nation.

Molly H. Lawyer is an Administrative Law Judge of the Oklahoma Workers' Compensation Commission. She received her bachelor of science in political science from the University of Oklahoma in 2005. She then attended the University of Tulsa Law School and received her juris doctorate in 2008. She practiced as a workers' compensation defense attorney representing insurance companies and self-insured employers in Oklahoma from 2008 until 2017. She served as an executive board member and Chairperson for 2012-2013 of the Oklahoma Bar Association Workers' Compensation Section. She was also the 2010-2011 Chairperson of the Tulsa County Bar Association Young Lawyers Division as well as a previous executive board member for The Tulsa Women Lawyers Association. She was appointed an Administrative Law Judge for the Oklahoma Workers' Compensation Commission in September of 2017 and currently resides in Tulsa and Oklahoma City.

Presenters



Jim McBride was in Law Enforcement for almost 35 years, most of which was with the Oklahoma Highway Patrol, before retiring as a Captain in 2008. He worked various road assignments with the OHP and was also assigned to the Bomb Squad and the Tactical Team. It was as a member of the Tactical Team that Jim was one of the first responders to the Oklahoma City Bombing in April 1995. Later he spent ten years in the Special Operations Unit, six as the Troop Commander. He also served 26 years as a member of the Oklahoma Army National Guard retiring as a Lieutenant Colonel. Jim now serves as an adjunct instructor for the Oklahoma Office of Homeland Security, Southern Nazarene University, and FEMA's Emergency Management Institute in Emmitsburg, MD.

Bryan Conner has over 20 years aviation management and workers' compensation administration experience. Most recently, he played a significant role in the overhaul and restructuring of the American Airlines Worker' Compensation program following the merger of US Airways and American Airlines. The award-winning program has received national attention and covers over 125,000 employees. Bryan leads an extraordinary team of Workers' Compensation Professionals for the entire American Airlines Western Region. He has both a Bachelors and Master's degree from Marshall University and specializes in creating an environment of coordinated, collaborative teamwork to move workers' compensation claims to closure.

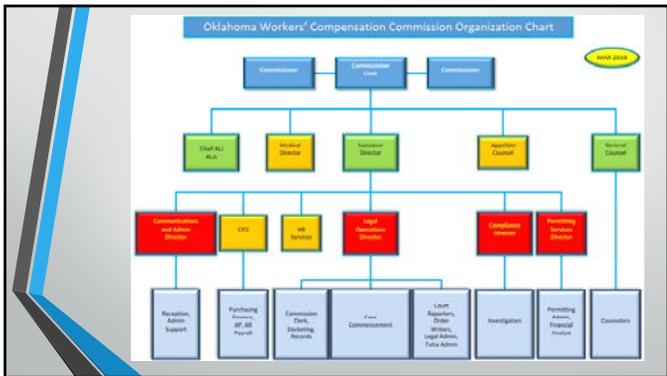
Dr. C. Shane Hume, D.O. is a board-certified, fellowship-trained orthopedic spine surgeon specializing in adult cervical, thoracic, and lumbar spinal disorders. His philosophy is to use a multi-disciplinary approach to treat spinal conditions. Proper diagnosis leads to a comprehensive treatment plan first utilizing proven non-surgical treatment options. Surgery is reserved to address specific pathology in those who do not respond to proper conservative treatment. Minimally invasive techniques are utilized with the goal being to address the problem using the smallest surgery possible to achieve the desired goals. Each patient and condition is unique and surgery is individualized to meet the specific goal of getting the patient back to their life.

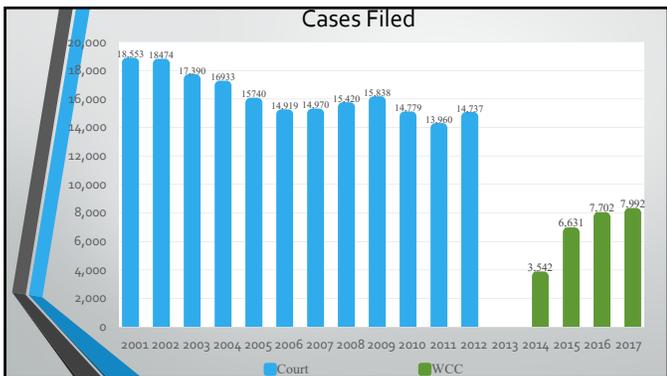
Gary B. Anderson, M.D. completed a sports medicine fellowship under the direction of Dr. James Andrews and Dr. William Clancy, pioneers in the development of arthroscopic and sports medicine surgery. He earned his M.D. from Ohio State University. He is a member of the American Academy of Orthopedic Surgeons, American Orthopedic Society of Sports Medicine, Rocky Mountain Trauma Society, Oklahoma State Medical Association, and Oklahoma State Orthopedic Society (President 2002). He has an interest in knee, shoulder and elbow arthroscopy and reconstructive techniques for athletes of all ages and ability levels. Dr. Anderson served as a clinical instructor at the University of Pittsburg in 1995 with a particular emphasis on care of the multiple injury trauma patient. He is a member of the Jim Thorpe executive council and currently serving as team physician for Langston University since 2006.

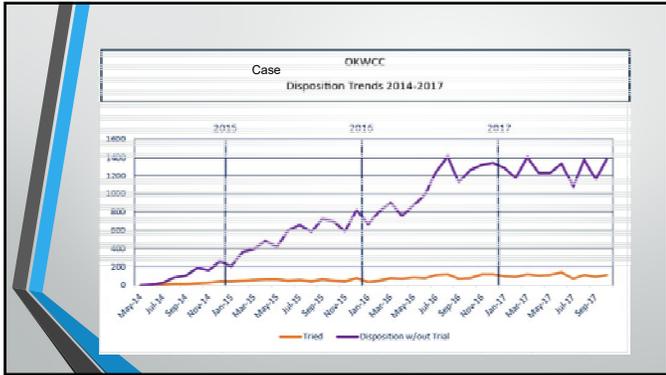
Workers' Compensation Commission

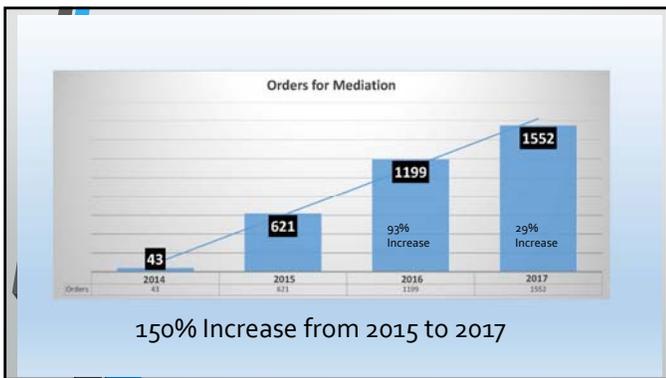


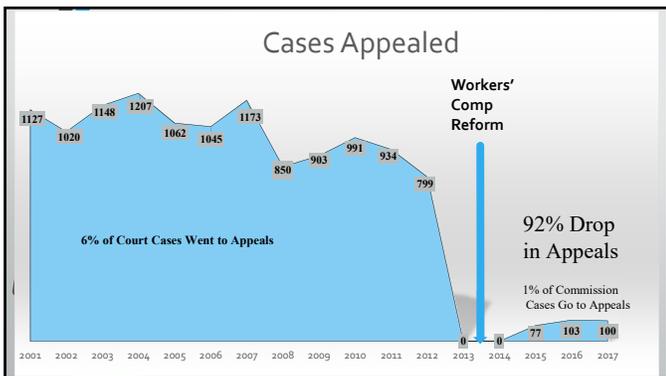
Results of the 2013 Reforms

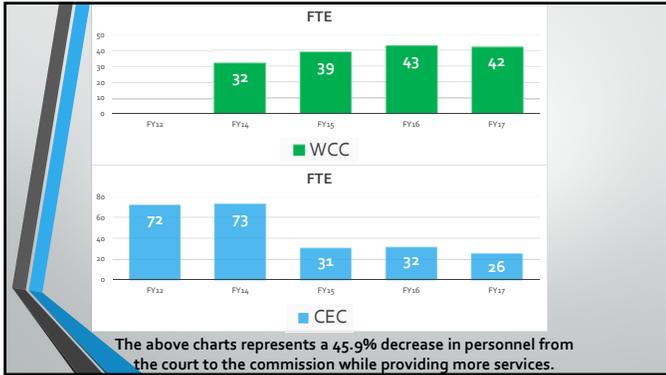








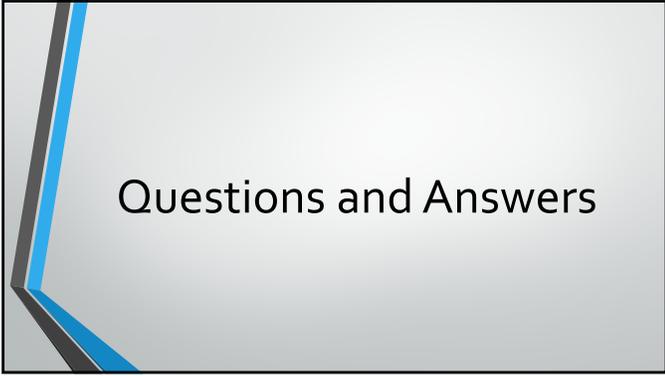






Expenditures Comparison

EXPENDITURES	CEC (FY 2011-2012)	WCC (FY2017)	Percentage Decrease
Personal Services (Salaries, Benefits, Prof. Services)	\$5,742,000	\$3,782,798	34.1%
Travel	\$50,000	\$19,245	61.5%
Equipment	\$50,000	\$21,341	57.3%
Other Operating Expenses	\$506,000	\$411,687	18.6%
Total Expenditures	\$6,351,000	\$4,235,071	33.3%
# of Employees	Approx. 74	40	45.9%





Opioid Epidemic

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 Oklahoma State University Center for Health Sciences
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Objectives

- Understand the history of opioid epidemics in the US
- Understand the severity of the current opioid epidemic
- Understand facts/statistics surrounding the opioid epidemic
- Understand treatment efforts to combat the opioid epidemic

History of Opioid Epidemics

History of Opioid Treatment In The United States

- Opium extracts used in medications during the 18th century
- First apparent concern of an “opiate problem” in the U.S. began in the early 19th century
- Physicians began to recognize the habit-forming behaviors associated with morphine in 1870

History of Opioid Treatment In The United States

- By 1900 there were an estimated 250,000 opiate addicts in the U.S.
- Morphine maintenance clinics were established in 44 cities across the United States
- Importation of smoking opium prohibited in 1909
- Harrison Narcotics Tax Act of 1914 made it illegal to prescribe opioids for maintenance of addiction
- Dr. Vincent Dole published a paper on the efficacy of methadone maintenance in 1965 which led to the legalization of methadone maintenance treatment by the FDA in 1972

The Current Epidemic

The Beginning



Reasons for Prescription Opioid Epidemic

- Aggressive Industry Marketing of Opioid Products in the late 1990s and early 2000s
 - Opioidphobia and the needless suffering of patients
 - Opioid addiction is rare if pain is managed appropriately
 - Opioids can be easily discontinued
- Pain as the 5th Vital Sign (1996)
 - Adopted by professional societies, the Joint Commission, and the Federation of State Medical Boards

5th Vital Sign



5th Vital Sign

I. Recognize and Treat Pain Promptly
IX. Chart and Display Patients' Self-report of Pain—A measure of pain intensity should be recorded in a way that makes it highly visible and facilitates regular review by members of the health care team. This information should be incorporated in the patient's permanent record. The data can be recorded on a vital sign sheet at the patient's bedside (Figure), a page at the front of the patient's record, or a chart in the nursing station or outpatient clinic, depending on the routine work flow of the health care team. Unrelieved pain should be a "red flag" that prompts the team attention to this problem.

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The Clinical Journal of Pain, 18(3):6-8, MAR 1997
PMID: 9259427
MEDLINE STATUS: MEDLINE
ISSN PRINT: 0898-0101

The use of opioids for the treatment of chronic pain. A consensus statement from the American Academy of Pain Medicine and the American Pain Society.

• Author Information

Abstract

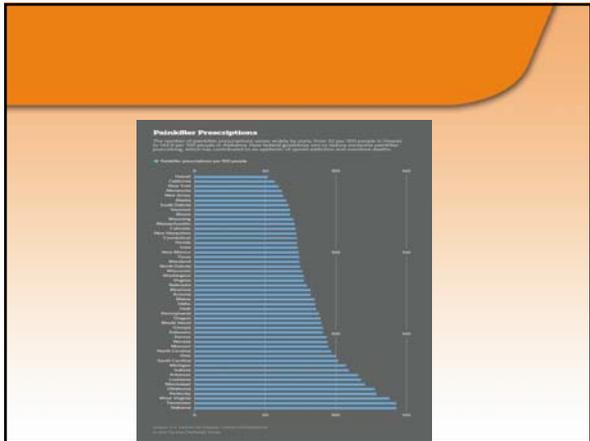
Abstract unavailable for this article.

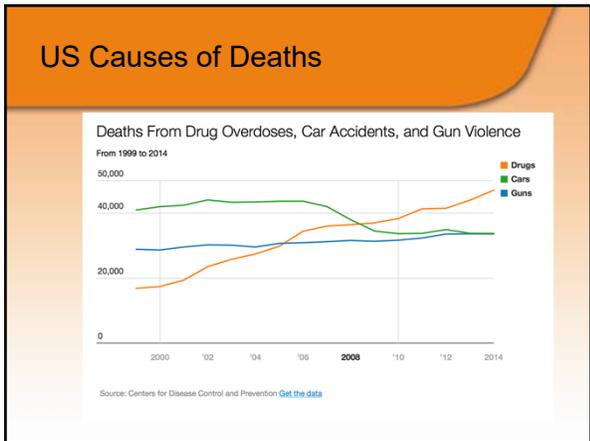
78 APS NEWS

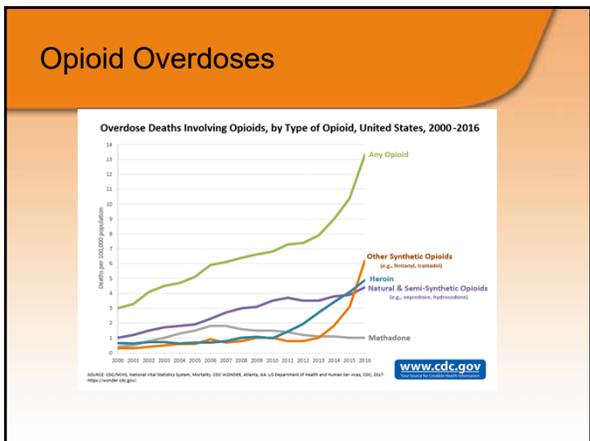
IV. Current information and experience suggest that many commonly held assumptions need modification

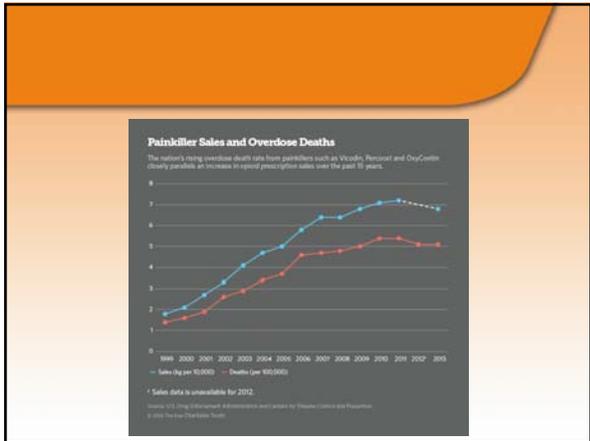
Addiction
Misunderstanding of addiction and mislabeling of patterns as addicts result in unnecessary withholding of opioid medications. Addiction is a complex disorder in which an individual becomes preoccupied with obtaining and using a substance, the continued use of which results in a decreased quality of life. Studies indicate that the development of addiction when opioids are used for the relief of pain is low. Furthermore, experience has shown that those addicts can benefit from the carefully supervised, judicious use of opioids for the treatment of pain due to cancer, surgery, or recurrent painful illnesses such as sickle cell disease.

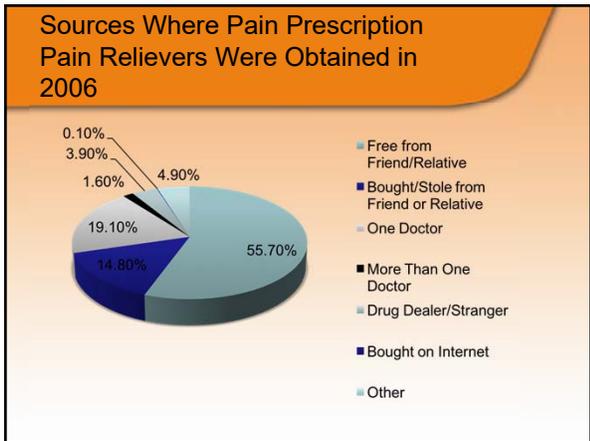
Associative Depression and Other Side Effects

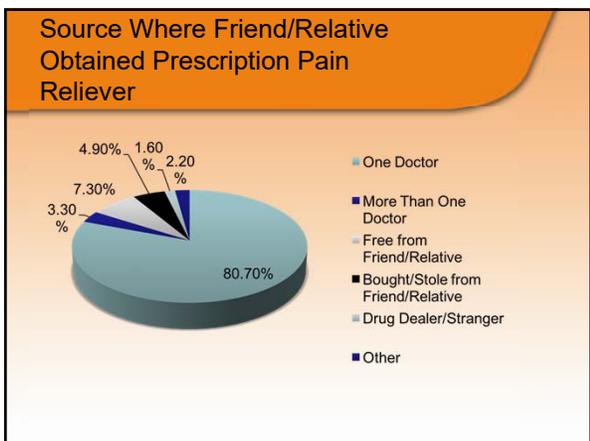




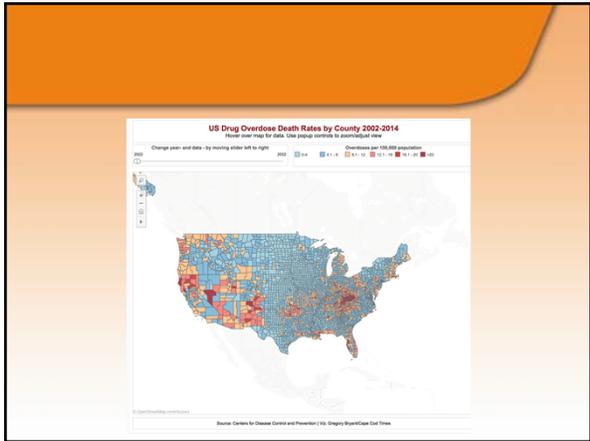


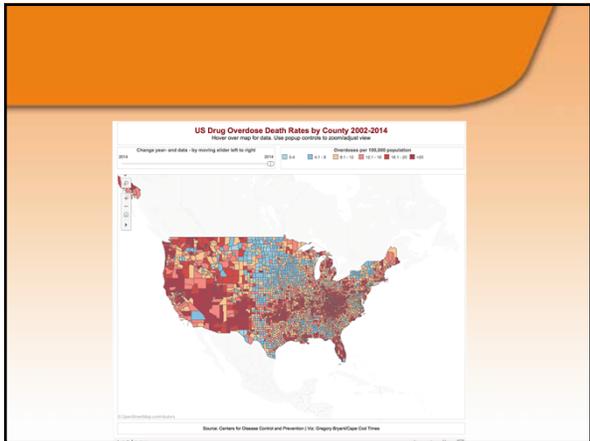




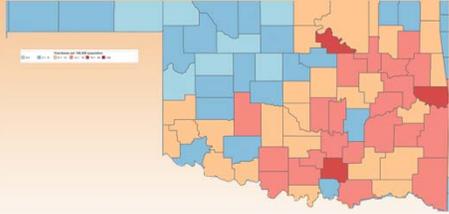




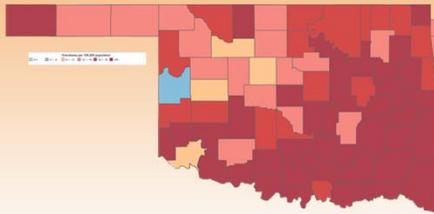




Oklahoma Overdose 2002



Oklahoma Overdose 2014



Response to the Epidemic

CDC Guidelines



CDC Guideline for Prescribing Opioids for Chronic Pain — United States, 2016



CDC Guidelines

1. OPIOIDS ARE NOT FIRST-LINE THERAPY

Nonpharmacologic therapy and **nonopioid pharmacologic therapy** are preferred for chronic pain. Clinicians should consider opioid therapy only if expected benefits for both pain and function are anticipated to outweigh risks to the patient. If opioids are used, they should be combined with nonpharmacologic therapy and nonopioid pharmacologic therapy, as appropriate.

CDC Guidelines

2. ESTABLISH GOALS FOR PAIN AND FUNCTION

Before starting opioid therapy for chronic pain, clinicians should establish treatment goals with all patients, including realistic goals for pain and function, and should consider how opioid therapy will be discontinued if benefits do not outweigh risks. Clinicians should continue opioid therapy only if there is clinically meaningful improvement in pain and function that outweighs risks to patient safety.

CDC Guidelines

3. DISCUSS RISKS AND BENEFITS

Before starting and periodically during opioid therapy, clinicians should discuss with patients known risks and realistic benefits of opioid therapy and patient and clinician responsibilities for managing therapy.

CDC Guidelines

4. USE IMMEDIATE-RELEASE OPIOIDS WHEN STARTING

When starting opioid therapy for chronic pain, clinicians should prescribe **immediate-release opioids** instead of extended-release/ long-acting (ER/LA) opioids.

CDC Guidelines

5. USE THE LOWEST EFFECTIVE DOSE

When opioids are started, clinicians should prescribe the lowest effective dosage. Clinicians should use caution when prescribing opioids at any dosage, should carefully reassess evidence of individual benefits and risks when considering increasing dosage to ≥ 50 **morphine milligram equivalents (MME)/day**, and should avoid increasing dosage to ≥ 90 MME/day or carefully justify a decision to titrate dosage to ≥ 90 MME/day.

CDC Guidelines

6. PRESCRIBE SHORT DURATIONS FOR ACUTE PAIN

Long-term opioid use often begins with treatment of acute pain. When opioids are used for acute pain, clinicians should prescribe the lowest effective dose of immediate-release opioids and should prescribe no greater quantity than needed for the expected duration of pain severe enough to require opioids. **Three days** or less will often be sufficient; more than seven days will rarely be needed.

CDC Guidelines

7. EVALUATE BENEFITS AND HARMS FREQUENTLY

Clinicians should evaluate benefits and harms with patients within 1 to 4 weeks of starting opioid therapy for chronic pain or of dose escalation. Clinicians should evaluate benefits and harms of continued therapy with patients every 3 months or more frequently. If benefits do not outweigh harms of continued opioid therapy, clinicians should optimize other therapies and work with patients to taper opioids to lower dosages or to taper and discontinue opioids.

CDC Guidelines

8. USE STRATEGIES TO MITIGATE RISK

Before starting and periodically during continuation of opioid therapy, clinicians should evaluate risk factors for opioid-related harms. Clinicians should incorporate into the management plan strategies to mitigate risk, including considering offering **naloxone** when factors that increase risk for opioid overdose, such as history of overdose, history of substance use disorder, higher opioid dosages (≥ 50 MME/day), or concurrent **benzodiazepine** use, are present.

CDC Guidelines

9. REVIEW PDMP DATA

Clinicians should review the patient's history of controlled substance prescriptions using state **prescription drug monitoring program (PDMP)** data to determine whether the patient is receiving opioid dosages or dangerous combinations that put him or her at high risk for overdose. Clinicians should review PDMP data when starting opioid therapy for chronic pain and periodically during opioid therapy for chronic pain, ranging from every prescription to every 3 months.

CDC Guidelines

10. USE URINE DRUG TESTING

When prescribing opioids for chronic pain, clinicians should use urine drug testing before starting opioid therapy and consider urine drug testing at least annually to assess for prescribed medications as well as other controlled prescription drugs and illicit drugs.

CDC Guidelines

11. AVOID CONCURRENT OPIOID AND BENZODIAZEPINE PRESCRIBING

Clinicians should avoid prescribing opioid pain medication and benzodiazepines concurrently whenever possible.

CDC Guidelines

12. OFFER TREATMENT FOR OPIOID USE DISORDER

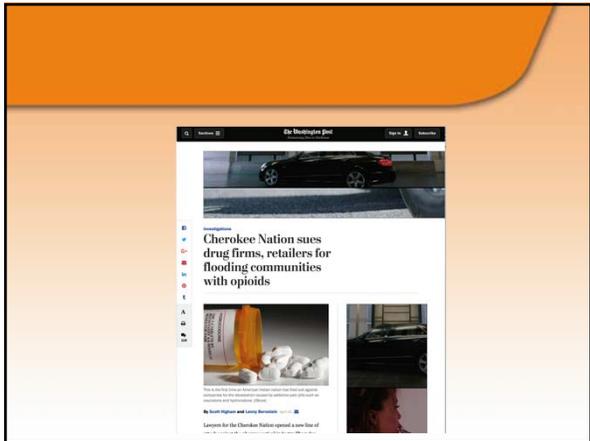
Clinicians should offer or arrange evidence-based treatment (usually **medication-assisted treatment** with buprenorphine or methadone in combination with behavioral therapies) for patients with opioid use disorder.

LAWSUITS



LAWSUITS

- MUNICIPALITIES
 - Kermit, WV
 - Chicago, IL
 - Everett, WA
- COUNTIES
 - Mingo in WV
 - Nassau in NY
 - Orange in California
- STATES
 - Mississippi
 - Ohio
 - New Mexico





Regan Nichols

- "Prosecutors say ten patients of Nichols died of overdoses over the span of four years"
- "Each one of the individuals was prescribed an excessive amount of medication the same months of their deaths which were all the result of multi-drug toxicity, according to the Oklahoma Examiner's reports" (Atty General Mike Hunter)
- According to court documents, prosecutors allege that between January 2010 and October 2014, Nichols prescribed more than three million doses of controlled dangerous substances. Five people who died were prescribed more than 1,800 opioid pills in the same months of their deaths.

<http://kfor.com/2017/06/23/former-patient-of-midwest-city-doctor-charged-with-murder-says-arrest-a-relief/>

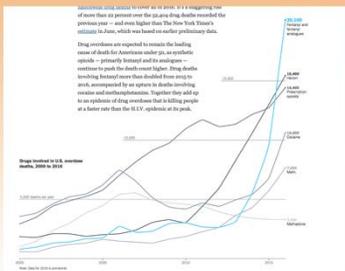
Regulation

- Because of a supply and demand, there will continue to be efforts to limit supply
 - Increased use of PMP
 - More insurance oversight
 - Pharmacy's will not fill

Alternative Opiates

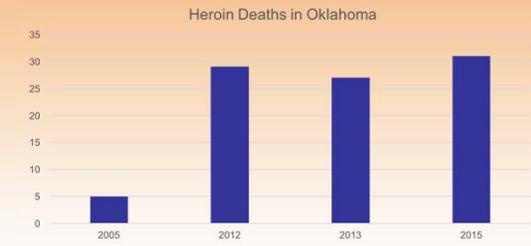
- As prescriptions become more scarce
 - Proper prescribing
 - Regulation
- Individuals move to Alternative Opiates
 - Fentanyl
 - Opana
 - Heroin

Fentanyl



John J. The First Count of Fentanyl Deaths in 2016: Up 546% in Three Years. The New York Times, Sept. 2, 2017

Heroin



Reported: All Oklahoma March 18 Obituaries: a week died of drug overdose in 2016, the highest rate on record. March 30, 2017.

Treatment Strategies Medication Assisted Treatment

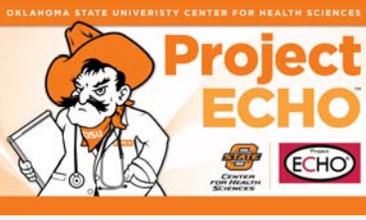
- CDC and many other government agencies are recommending the use of buprenorphine (and methadone) for treatment
- Limit increased from 100 to 275 (with certain requirements)

Naloxone

- Expanded use of Naloxone
- Recommendation for Rx in chronic opioid patients
- Available without RX in 41 states
- Training for police/teachers etc.

Project ECHO





OSU Psychiatry ECHO



OSU Psychiatry ECHO



OSU Psychiatry ECHO



OSU Center for Wellness and Recovery

OSU Center for Health Sciences announces initiative to combat opioids

Talia center to boost research, open addiction and pain clinics, improve training

By Nancy Anderson/Staff Writer | Nov 3, 2017 | Updated 11:41 a.m. |



The Oklahoma State University Center for Health Sciences is establishing additional research, education and treatment initiatives in an effort to combat opioid abuse and other forms of addiction, state and university officials said Friday.



Rowan and Dr. James Rowan, head of the OSU-COHS psychiatry and behavior sciences department, said the school will open an addiction clinic in cooperation with OSU's Tulsa addiction treatment program, and a pain management clinic, probably at the OSU Medical Center downtown.



Latest Headlines

- OSU's newest eight-story science building can be used for research, education and training
- OSU-COHS research team receives funding



OSU-COHS will also get additional resources into researching addiction and addiction treatment, and in the training of incoming professionals.

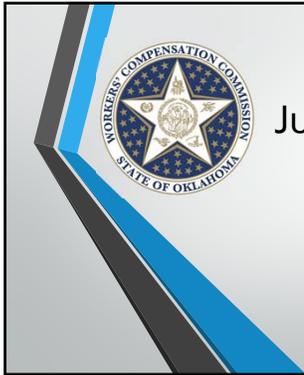
The entire initiative is under the OSU Center for Wellness and Recovery banner.

OSU-COHS also has added several additional Patient Care to help addiction information and treatment and pain management.

OSU CHS Center for Wellness
and Recovery

- Addiction Medicine Clinic
- Comprehensive Pain Management Clinic
- Addiction Medicine Fellowship
- Research in Pain and Addiction

Questions?



Judge T. Shane Curtin

Judicial Update



**Commissioner
Jordan Russell**
Legislative Update

LEGISLATIVE ENACTMENTS (2018)

Presented by Commissioner Jordan K. Russell

The following workers' compensation related bills were enacted in 2018:

- **SB 1249 (Affidavit of Exempt Status)** becomes effective on August 2, 2018 (i.e. 90 days after sine die adjournment per Okla. Const., Art. 5, Section 58).

Summary:

The bill allows individuals and business entities exempt from being covered under the Administrative Workers' Compensation Act (AWCA) to execute an Affidavit of Exempt Status. If filed with the Workers' Compensation Commission (WCC), the executed affidavit creates a conclusive presumption that the a subcontractor and any person who works with the subcontractor but is not considered an employee of the subcontractor is excluded from workers' compensation coverage for the term of the affidavit. In general, this operates to insulate the entity for whom work was done (i.e. prime contractor, homeowner, etc.) from liability for work-related injuries sustained by the affidavit executor. The bill also establishes a misdemeanor punishable by a fine up to \$1,000 for knowingly providing false information on an executed affidavit.

The WCC is responsible for processing the affidavits and may charge up to \$50 per individual or business entity for filing an affidavit, which is valid for two years. Should the affidavit holder's circumstances change such that securing compensation is required, the individual or business entity shall execute and file a Cancellation of Affidavit of Exempt Status with the WCC. The WCC shall prescribe the affidavit and cancellation forms.

- Emergency Rules: 810:1-1-2; 810:25-1-1; 810:25-5-1; 810:1-1-3; 810:25-1-2; 810:25-5-2; 810:10-5-105; 810:25-1-3; and 810:25-5-3
- CC-Form 36A (Affidavit of Exempt Status) and CC-Form 36C (Cancellation of Affidavit of Exempt Status)

SB 1249 amends section 85A-36 of the Oklahoma Administrative Workers' Compensation Act as follows:

85A O.S., §36. Liability other than immediate employer.

A. If a subcontractor fails to secure compensation required by ~~this act~~ the Administrative Workers' Compensation Act, the prime contractor shall be liable for compensation to the employees of the subcontractor unless there is an intermediate subcontractor who has workers' compensation coverage.

B. 1. Any contractor or the contractor's insurance carrier who shall become liable for the payment of compensation on account of injury to or death of an employee of his or her subcontractor may recover from the subcontractor the amount of the compensation paid or for which liability is incurred. 2. The claim for the recovery shall constitute a lien against any monies due or to become due to the subcontractor from the prime contractor. 3. A claim for recovery shall not affect the right of the injured employee or the dependents of the deceased employee to recover compensation due from the prime contractor or his or her insurance carrier.

C. 1. a. ~~When a sole proprietorship or partnership fails to elect to cover the sole proprietor or partners under this act~~ a subcontractor elects not to secure compensation and is not required to secure compensation pursuant to this title, the prime contractor is not liable under this act the Administrative Workers' Compensation Act for injuries sustained by the sole proprietor or partners subcontractor or any person working with the subcontractor who is not considered an employee of the subcontractor pursuant to Section 2 of this title, and if the sole proprietor or partners are injured person is not employees an employee of the prime contractor.

b. (1) ~~A sole proprietor or the partners of a partnership who do not elect to be covered by this act and be deemed employees thereunder and who deliver to the prime contractor a current certification of noncoverage issued by the Commission~~ If a subcontractor has filed with the Commission an unexpired Affidavit of Exempt Status, the subcontractor and any person who works with the subcontractor but is not considered an employee of the subcontractor pursuant to Section 2 of this title shall be conclusively presumed not to be covered by the law or to be employees of the prime contractor during the term of his or her certification or any renewals thereof the affidavit.

~~(2) A certificate of noncoverage may not be presented to a subcontractor who does not have workers' compensation coverage.~~

~~(3) This provision shall not affect the rights or coverage of any employees of the sole proprietor or of the partnership employee of a subcontractor employee of a subcontractor.~~

2. The prime contractor's insurance carrier shall not be liable for injuries to the ~~sole proprietor or partners~~ subcontractor described in this section who have ~~provided a current certification of noncoverage~~ filed an unexpired Affidavit of Exempt Status, and the carrier shall not include compensation paid by the ~~prime contractor to the sole proprietor or partners~~ subcontractor described above in computing the insurance premium for the prime contractor.

~~3. a. Any prime contractor who after being presented with a current certification of noncoverage by a sole proprietor or partnership compels the sole proprietor or partnership to pay or contribute to workers' compensation coverage of that sole proprietor or partnership shall be guilty of a misdemeanor.~~

~~b. Any prime contractor who compels a sole proprietor or partnership to obtain a certification of noncoverage when the sole proprietor or partnership does not desire to do so shall be guilty of a misdemeanor.~~

~~c. Any applicant who makes a false statement when applying for a certification of noncoverage or any renewals thereof shall be guilty of a felony.~~

D. 1. ~~A certification of noncoverage issued by the Commission shall be valid for two (2) years after the effective date stated thereon. Both the effective date and the expiration date shall be~~

~~listed on the face of the certificate by the Commission. The certificate~~ Any individual or business entity that is not required to secure compensation pursuant to the requirements of the Administrative Workers' Compensation Act may execute an Affidavit of Exempt Status. The "Affidavit of Exempt Status" shall be a form prescribed by the Workers' Compensation Commission available on the Commission's website. The Commission may assess a nonrefundable fee not to exceed Fifty Dollars (\$50.00) per individual or business entity for filing of an Affidavit of Exempt Status at the Commission. An Affidavit of Exempt Status executed and filed with the Commission shall expire at midnight two (2) years from its issue date, as noted on the face of the certificate the date filed. A new Affidavit of Exempt Status may be filed prior to expiration to renew an existing Affidavit of Exempt Status.

~~2. The Commission may assess a fee not to exceed Fifty Dollars (\$50.00) with each application for a certification of noncoverage or any renewals thereof.~~

~~3. Any certification of noncoverage issued by the Commission shall contain the social security number and notarized signature of the applicant. The notarization shall be in a form and manner prescribed by the Commission.~~

~~4. The Commission may prescribe by rule forms and procedures for issuing or renewing a certification of noncoverage~~

~~a. Knowingly providing false information on an executed affidavit shall constitute a misdemeanor punishable by a fine not to exceed One Thousand Dollars (\$1,000.00).~~

~~b. In the event changed circumstances make securing compensation pursuant to the requirements of the Administrative Workers' Compensation Act necessary, the individual or business entity on whose behalf the affidavit was executed shall execute and file a Cancellation of Affidavit of Exempt Status. The Commission shall prescribe a form for cancellation of an affidavit which shall be available on the Commission's website.~~

~~c. Affidavits shall conspicuously state on the front thereof in at least ten-point, bold-faced print that it is a crime to falsify information on the form.~~

~~d. The Commission shall immediately notify the Workers' Compensation Fraud Unit in the Office of the Attorney General of any violations or suspected violations of this section. The Commission shall cooperate with the Fraud Unit in any investigation involving affidavits executed pursuant to this section. The execution or filing of an affidavit shall not affect the rights or coverage of any employee of the affiant or business entity on whose behalf the affiant executes or files an affidavit.~~

~~3. Fees collected pursuant to this section shall be deposited in the State Treasury to the credit of the Workers' Compensation Commission Revolving Fund.~~

~~E. If work is performed by an independent contractor on a single-family residential dwelling occupied by the owner, or the premises of such dwelling, or for a farmer whose cash payroll for wages, excluding supplies, materials and equipment, for the preceding calendar year did not exceed One Hundred Thousand Dollars (\$100,000.00), such owner or farmer shall not be liable for compensation under ~~this act~~ the Administrative Workers' Compensation Act for injuries to the independent contractor or his or her employees.~~

~~F. If an owner of a project or job enters a contract with a contractor, and the owner of the project or job does not substantively form an employment relationship with its contractor, then~~

the owner of the project or job shall not be liable for compensation for a compensable injury to any contractor or subcontractor in any tier or employee of any contractor or subcontractor in any tier.

- **SB 1411 (OSHA tax)** becomes effective on August 2, 2018 (i.e. 90 days after sine die adjournment per Okla. Const., Art. 5, § 58).

SB 1411 amends section 40-418 of the Oklahoma Labor Code as follows:

40 O.S., §418. Payments to Commission - Refunds-Collections of payments-Disposition of funds.

...

(5) The Except as otherwise provided in paragraph (7) of this section, the Oklahoma Tax Commission shall, monthly, as the same are collected, pay to the State Treasurer of this state, to the credit of the Special Occupational Health and Safety Fund, all monies collected under the provisions of this section. Monies shall be paid out of said Fund exclusively for the operation and administration of the Oklahoma Occupational Health and Safety Standards Act and for other necessary expenses of the Department of Labor pursuant to appropriations by the Oklahoma Legislature. ...

(7) In no event shall the total fiscal year amount paid to the credit of the Special Occupational Health and Safety Fund pursuant to this section exceed the 3-year average of the total fiscal year amounts apportioned fiscal years 2015, 2016 and 2017. Any amount in excess of the 3-year average shall be placed to the credit of the General Revenue Fund.

- **HB 2722 (agricultural exemption)** becomes effective November 1, 2018.

HB 2722 amends section 85A-2 of the Oklahoma Administrative Workers' Compensation Act, in part, as follows:

85A O.S., §2. Definitions. As used in the Administrative Workers' Compensation Act:

...

18...

b. The term "employee" shall not include: ...

(2) any person who is employed in agriculture, ranching or horticulture by an employer who had a gross annual payroll in the preceding calendar year of less than One Hundred Thousand Dollars (\$100,000.00) wages for agricultural, ranching or horticultural

workers, or any person who is employed in agriculture, ranching or horticulture who is not engaged in operation of motorized machines. This exemption applies to any period of time for which such employment exists, irrespective of whether or not the person is employed in other activities for which the exemption does not apply. If the person is employed for part of a year in exempt activities and for part of a year in nonexempt activities, the employer shall be responsible for providing workers' compensation only for the period of time for which the person is employed in nonexempt activities, ...

- **HB 2993 (transfer of surplus monies to the Self-insurance Guaranty Fund)** becomes effective November 1, 2018.

HB 2993 amends sections 85A-97, 85A-98, and 85A-99 of the Oklahoma Administrative Workers' Compensation Act as follows:

85A O.S., §97. Self-insurance Guaranty Fund.

A. The Self-insurance Guaranty Fund shall be for the purpose of continuation of workers' compensation benefits due and unpaid or interrupted due to the inability of a self-insurer to meet its compensation obligations because its financial resources, security deposit, guaranty agreements, surety agreements and excess insurance are either inadequate or not immediately accessible for the payment of benefits. Monies in the fund, including interest, are not subject to appropriation and shall be expended to compensate employees for eligible benefits for a compensable injury under the Administrative Workers' Compensation Act, pay outstanding workers' compensation obligations of the impaired self-insurer, and for all claims for related administrative fees, operating costs of the Self-insurance Guaranty Fund Board, attorney fees, and other costs reasonably incurred by the Board in the performance of its duties.

B. Monies transferred pursuant to Section 99 of this title may be expended by the Board to provide a credit against the assessment required to be paid by each private self-insurer and group self-insurer association pursuant to Section 98 of this title. C. Expenditures from the fund shall be made on warrants issued by the State Treasurer against claims as prescribed by law. The fund shall be subject to audit in the same manner as state funds and accounts, the cost for which shall be paid for from the fund.

85A O.S., §98. Funds to be transferred to Self insurance Guaranty Fund.

The Self insurance Guaranty Fund shall be derived from the following sources:

...

(2)...

c. Failure of a self-insurer to pay, or timely pay, an assessment required by this paragraph, or to report payment of the same to the Commission within ten (10) days of payment, shall be grounds for revocation by the Commission of the self-insurer's permit to self-insure in this state, after notice and hearing. A former self-insurer failing to make payments required by this paragraph promptly and correctly, or failing to report payment of the same to the Commission within ten (10) days of payment, shall be subject to administrative penalties as allowed by law, including but not limited to, a fine in the amount of Five Hundred Dollars (\$500.00) or an amount equal to one percent (1%) of the unpaid amount, whichever is greater, to be paid and deposited to the credit of the Workers' Compensation Commission Revolving Fund created in Section ~~28~~ 28.1 of this title. It shall be the duty of the Tax Commission to collect the assessment provided for in this paragraph. The Tax Commission is authorized to bring an action for recovery of any delinquent or unpaid assessments, and may enforce payment of the assessment by proceeding in accordance with Section 79 of this title.

...

e. The Tax Commission shall determine the fund balance as of March 1 and September 1 of each year, and when otherwise requested by the Workers' Compensation Commission, and shall advise the Workers' Compensation Commission in writing within thirty (30) days of each such determination; ~~and~~ 3. Any interest accruing on monies paid into the fund; and

4. Monies transferred pursuant to Section 99 of this title.

85A O.S., §99. Impaired self insurer.

A. On determination by the Workers' Compensation Commission that a self-insurer has become an impaired self-insurer, the Commission shall secure release of the security required by Section 38 of this title and advise the Self-insurance Guaranty Fund Board of the impairment. Claims administration, including processing, investigating and paying valid claims against an impaired self-insurer under the Administrative Workers' Compensation Act, may include payment by the surety that issued the surety bond or be under a contract between the Commission and an insurance carrier, appropriate state governmental entity or an approved service organization, as approved by the Commission.

B. Excess proceeds from the security remaining after each claim for benefits of an impaired self-insurer has been paid, settled or lapsed, and associated costs of administration of such claim have been paid, shall be transferred to the Self-insurance Guaranty Fund and may be used as a credit against the assessment required to be paid by each private self-insurer and group self-insurer association pursuant to Section 98 of this title, as determined by the Self-insurance Guaranty Fund Board.



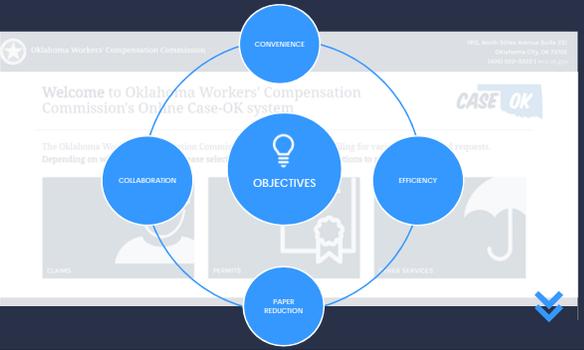
The graphic banner features a grey background with a blue and black diagonal design on the left side. It includes the official seal of the Oklahoma Workers' Compensation Commission, which is a circular emblem with a five-pointed star in the center and the text "WORKERS' COMPENSATION COMMISSION" and "STATE OF OKLAHOMA" around the perimeter. To the right of the seal, the name "Eric Russell" is displayed in a large, black, sans-serif font. Below the name, the text "Case Management System" and "With Special Guests" is written in a smaller, black, sans-serif font. At the bottom right of the banner is the "objectstream" logo, where "objectstream" is in a bold, blue, lowercase sans-serif font and "TECHNOLOGY CONSULTING COMPANY" is in a smaller, blue, uppercase sans-serif font below it.




objectstream

- 01. Case OK – Commission's commitment to digitalization
- 02. Roadmap - Case OK roll out schedule
- 03. Feature preview & announcements
- 04. Q&A

1



2



- CLAIMS**
 - Accidental Injury
 - Occupational Disease
 - Death
 - Discrimination or Retaliation
- PERMITS**
 - Third Party Administrators
 - Individual Own Risk
 - Group Own Risk
- OTHER SERVICES**
 - Affidavit of Exempt Status
 - Request a Hearing
 - Attorney Registrations
 - IME, CCM Registrations etc.

3

ROADMAP

August 2 nd , 2018	Online filing for Affidavit of Exempt Status (replaced Certificate of Non-Coverage CC-36).
September 1 st , 2018	Online filing of FROI and SROI via ISO Portal. Replaces Forms 2/ 2A / 2A Extension / 4 paper filings
October 4 th , 2018	TPA Permits (New & Renewal) , Individual Own Risk (New only) online filing.
December, 2018	Individual Own Risk (Renewal), Group Own Risk (New & Renewal) online filing.
Q1, 2019	Integration with external data sources for Insurance Proof of Coverage & Compliance
Q2, 2020	Online claims filing, Request for hearing and docket scheduling, public search kiosk
Phase 2	TBD

CLAIMS PREVIEW

Online Filing



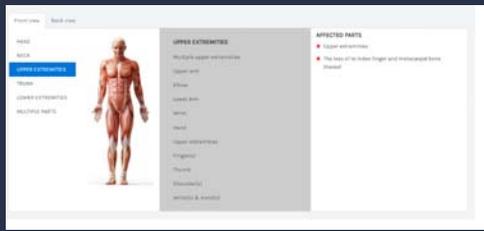
CLAIMS

Keeping it simple.



Standardize
Adhering to WCIO standards for referencing Injured Body Parts, Nature of Injury and Cause of Injury

Interactive
Clickable body parts to minimize errors and misinterpretations



7

Convenience
Sign online, file online using your touchscreen monitor or tablet

Email Confirmation
Receive instant email confirmation of filing. * Case is created subject to Commission review



8

LOOKING FOWARD

1 Collaboration with stakeholders on system integrations and automations

2 Enhanced & Secure Case data search capabilities

3 Integrated & secure payment and account management

And much more...

9





Oklahoma Workers Compensation Commission

Telemedicine Panel



Karen S. Rieger
October 4, 2018



Access To Care - Telemedicine Developments



CROWE & DUNLEVY
ATTORNEYS AND COUNSELORS AT LAW

New Oklahoma Telemedicine Law

- 59 O.S. Section 478; effective 11/1/17
- Telemedicine means "the practice of healthcare delivery, diagnosis, consultation, evaluation and treatment, transfer of medical data or exchange of medical education information, by means of a two-way, real-time interactive communication, not to exclude store and forward technologies, between a patient and a physician with access to and reviewing the patient's relevant clinical information prior to the telemedicine visit."
- Affects self-pay patients and some private insurance payments
 - Additional requirements for Medicare/Medicaid

CROWE & DUNLEVY
ATTORNEYS AND COUNSELORS AT LAW

New Oklahoma Telemedicine Law

- Valid physician-patient relationship can be established between patient in Oklahoma and physicians (MDs and DOs) located within or outside of Oklahoma if all requirements are met
 - No face to face initial encounter required
- Physician providing services remotely must:
 - Be licensed in Oklahoma
 - Confirm with patient his/her identity and physical location
 - Provide the patient with the physician's identity and professional credentials

New Oklahoma Telemedicine Law

- Technology must comply with Health Insurance Portability and Accountability Act (HIPAA) requirements
- Does not permit consultations provided by:
 - Telephone audio-only communication or fax transmission
 - Email
 - Text message
 - Instant messaging conversation
 - Website questionnaire
 - Nonsecure video conference

New Oklahoma Telemedicine Law

- Telemedicine encounters cannot be used to establish a valid physician-patient relationship for the purpose of prescribing opiates, synthetic opiates, semisynthetic opiates, benzodiazepine or carisprodol
 - May be used to prescribe opioid antagonists or partial agonists per 63 O.S. Sections 1-2506.1 and 1-2506.2
- Physician-patient relationship not established solely by receipt of patient health information; also requires physician to:
 - Undertake to diagnose and treat patient; or
 - Participate in the diagnosis and treatment of the patient

New Oklahoma Telemedicine Law

- Comparison to prior Oklahoma laws and regulations
- Application to Midlevel Practitioners
- Inconsistencies among states regarding definitions and permitted technologies
- Impact of federal law

New Oklahoma Telemedicine Law

- Reimbursement issues:
 - No change in reimbursement by Medicare, Medicaid or third-party payers
 - Telemedicine reimbursement can be different than reimbursement for the same face to face encounter
 - Self-pay is permitted
 - Some private insurers may cover telemedicine provided consistent with new Oklahoma law

Telemedicine Reimbursement Under Medicare and Medicaid

- Medicare:
 - Pays for a limited number of Part B services
 - Provider must use interactive audio/video telecommunication systems that support real-time communication
 - Patient must be present and participating in the telehealth visit

Telemedicine Reimbursement Under Medicare and Medicaid

- Medicare:
 - Originating site – location of the Medicare beneficiary
 - Must be located in:
 - (1) Rural Health Professional Shortage Area; or
 - (2) A county outside of a Metropolitan Statistical Area
 - Eligible for originating site facility fee
 - Distant site – location of the practitioner providing medical services
 - Provider must submit claims using appropriate Current Procedural Terminology (CPT) code and telehealth modifier GT

Telemedicine Reimbursement Under Medicare and Medicaid

- Medicaid:
 - Oklahoma Health Care Authority (OHCA)
 - Reimburses for certain and limited services
 - Telemedicine covered services is not an expansion of SoonerCare covered services
 - Providers must:
 - Use interactive audio and video
 - Ensure that the telecommunication service and location are secure
 - Provide and maintain appropriate documentation

Telemedicine Federal Legislative Update

- Balance Budget Act of 2018 (February 9, 2018)
 - (2019) Medicare expansion of eligible originating site requirements for stroke and end stage renal disease (ESRD)
 - (2020) Medicare Advantage plans will be allowed to offer additional telehealth benefits in their annual bid amount
 - (2020) A patient's home is an eligible originating site for Accountable Care Organizations (ACOs)

Presented by:

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The material presented in this forum is for informational purposes only and is not intended to be legal advice. If you have a specific question regarding legal matters, please contact the attorney with whom you regularly work.

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**COMPSOURCE
MUTUAL**
INSURANCE COMPANY

Telemedicine

Who Needs It?



Here's What the Research Shows

- "Telemedicine" is often discussed as an important way to help manage and reduce health care costs.
- Employers are hoping employees will avoid more expensive alternatives such as hospital emergency rooms (ERs).
- So far, however, relatively few employees have shown a willingness to use telemedicine services.





National Center for Health Statistics Reporting CDC Numbers Related to ER for 2015 Results

- Number of visits: 136.9 million
- Number of injury-related visits: 39.0 million (28%)
- Number of emergency department visits resulting in hospital admission: 12.3 million (31%)
- Number of emergency department visits resulting in admission to critical care unit: 1.5 million (16%)

• 2015 numbers





Results from 2018 Study by National Business Group on Health (NBGH)

- 96 percent of large employers are making telemedicine services available to their employees.
- 56 percent of large employers plan to offer telemedicine that covers behavioral health services.
- Only about 20 percent of these employers report that at least 8 percent of their employees are using telemedicine services.



By Dennis Lammert, May 7, 2018



Why Telemedicine?

- Speed to Care.
- Convenience.
- Cost.





Barriers...

- Fear of Remote Exam...I don't know this doctor.
- Fear of Remote Exam...Will it be thorough?
- Fear of Remote Exam...What if I don't feel better?
- Fear of Remote Exam...What happens when I'm not at work?





Overcoming Roadblocks

- Communication!
- Credentials
- Most Providers are Going to be Expanding Access Through This Type of Service



Best Practices

- Create a room at the worksite where employees can access telehealth
- Choosing the right medical partner
- Coordinating communications among providers



What about Workers' Compensation Injuries?

- Benefits to This Service
 - Speed to Care
 - Convenience
 - Cost
- Barriers
 - Lack of Knowledge about Process
 - Lack of Confidence in Process
 - Compliance
- Overcoming Roadblocks
 - Communications!
 - Encouraging Participation
 - Assuring Consistency
- Best Practices
 - Location
 - Privacy
 - Continuity of Care



How We Think It Will Help

- Immediate Access to Preferred Providers
- Assuring Employees that Employers are Looking out for Them
- Keeping Lines of Communication Open
- Speeding Recovery Time



11



Presented By

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**COMPSOURCE
MUTUAL**
INSURANCE COMPANY

TELEMEDICINE IN WORKERS' COMPENSATION

- Frank Tomecek M.D.

Telemedicine in Workers' Compensation

Benefits of using Telemedicine for workplace injuries for employees, employers and payors include:

- Cost savings
- Better access to care
- Immediate triaging of injuries
- Faster claims closings
- Greater employee satisfaction

In addition, Telemedicine eliminates the drive time and office wait time for employees and others who may need to take them to appointments.

The Use of Telepresence & Telemedicine

- Telemedicine is one of the fastest growing industry in the U.S. today
- Telepresence combined with Telemedicine is delivering improved outcomes in the Workers' Compensation market, both in Direct and Indirect Costs



Office Physician Office Visit Facts

- The average total time for a medical visit: **121 minutes**
- Travel time: **37 minutes**
- Clinic time: **84 minutes** (this includes check in, wait time, seeing physician, etc.)
- The average total time for an emergency room visit: **2 hours**.
- The average time for the Televisit: **15 minutes**
- Adults in the U.S. spent **1.1 billion hours** of unnecessary time traveling to the doctor and waiting in the clinic, resulting in lost productivity and money spent

Telemedicine Facts

- Telemedicine is changing the way we experience healthcare
- Telemedicine makes up nearly **one-fourth** of the health IT market
- The number of patients using Telemedicine services will increase to **7 million in 2018**, up from **less than 350,000 in 2013**
- By 2020, it is estimated that about **70 percent** of employers plan to offer Telemedicine services as an employee benefit



**Emerge Diagnostics' Program: Directed by
Medical Professionals on each end**





Workers' Compensation

"Just the Basics"

Presentors:

Dr. Fiorazo, MD, Ameriworks

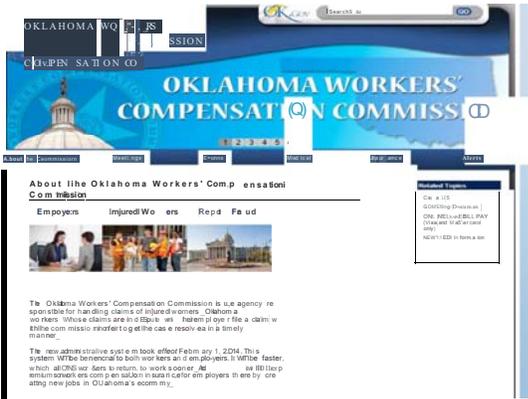
Jerry Whorton, Consolidated Benefits Resources

Title 85A established The Workers' Compensation Commission

www.ok.gov/wcc

- **Commissioners**
 - Mr. Mark Liotta, Chairman
 - Mr. Jordan K. Russell, Member
 - Ms. Megan Tilly, Member
- **Administrative Law Judges**

Judge T. Shane Curtin	Judge Blair McMillan
Judge Michael Eagan	Judge Molly Lawyer
Judge Tara Inhofe	
- **Chief Executive Officer-Hopper Smith**



OKLAHOMA WORKERS' COMPENSATION COMMISSION

OKLAHOMA WORKERS' COMPENSATION COMMISSION

About the Oklahoma Workers' Compensation Commission

Employers Injured Workers Rep & Fed

The Oklahoma Workers' Compensation Commission is the agency responsible for handling claims of injured workers in Oklahoma. Workers whose claims are not resolved through the workers' compensation system may file a claim with the Commission to resolve the case and resolve the claim in a timely manner.

The new administrative system took effect February 1, 2014. This system will be beneficial to both workers and employers as it will be faster, which allows workers to return to work sooner. Additionally, the new system will allow employers to pay claims more quickly and efficiently.

The Value of an Occupational Clinic

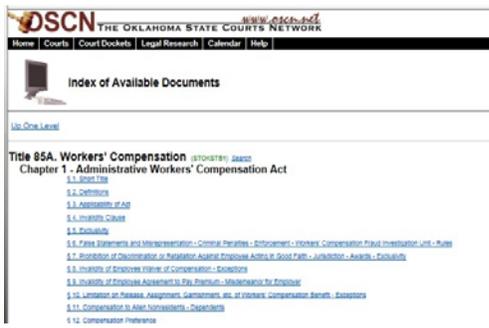
- Dr. Joe Fiorazo, MD
- Ameriworks-Del City

About the Commission



- Governing Documents
- Commissioner Biographies
- Administrative Law Judge Biographies
- Related Links
- Contact us
- News and Events
- Publications
- Employment Application
- Business Office

Governing Documents



Employers/Employees





Guide for Employers



- What is Workers' Compensation?
- Who is covered by the AWC Act?
- How to obtain coverage?
- Employers responsibilities prior to injury.
- What to do when an injury has occurred.
- Benefits owed to the injured worker
- Exceptions from the General Rule that coverage must be provided
- Who is an independent contractor?
- FAQs



Guide for Injured Workers



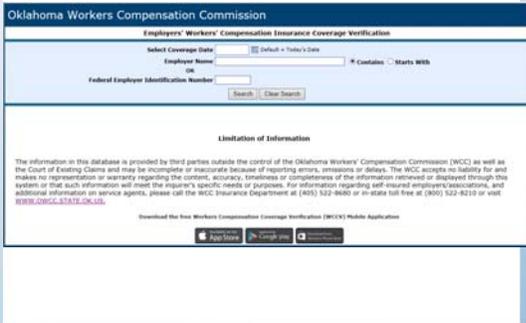
- What is Workers' Compensation?
- Is your injury covered?
- Your rights and responsibilities as an injured worker.
- Benefits
 - Medical Treatment
 - Temporary Disability
 - TTD
 - TPD
 - Permanent Disability
 - PPD
 - PTD
 - Vocational Rehabilitation
 - Continuing Medical Maintenance
 - Death Benefits
- The Claim Process

Insurance



- Certificate of Non-Coverage Instructions
- Listings
 - Group Self Insurance Associations
 - Service Agents for WC Insurance Carriers
 - Third Party Administrators
 - Individual Own Risk Employers
- WC Insurance Coverage Lookup
- NAICS Assistance & Information

WC Insurance Coverage Look Up



Basic WC Terms

- TTD-Temporary Total Disability
- PPD-Permanent Partial Disability
- PTD- Permanent Total Disability
- MMI- Maximum Medical Improvement
- RTW- Return to Work
- Light Duty- Doctor allows a modified return to work but places temporary restrictions such as no lifting more than 3 pounds, no stooping, etc.

Best Practices

'No-Fault' system

Oklahoma is a no-fault system for workers' compensation and a witness is not required.

We cannot deny a claim based on the worker's stupidity.



The *magic formula* to prevent injuries is to train workers to work "**safely**".

After the injury, your adjuster is in "cost control".



File Claims Immediately – Same Day Reporting (24 Hour Notice)

Critical



Fact: If the claims adjuster can talk to the injured worker within 24 hours of the incident, the claim cost is reduced significantly.

Filing Incident-only claims is also beneficial to document the facts of the claim. Filing the claim will have no adverse effect on premiums.

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Accident and Injury Program “Best Practices”

Be Proactive

1. Train to “prevent” claims.

Employees with unsafe work habits require repetitive training and supervision to train away the poor habits.

2. Offer medical treatment the day of the incident. Do not try to decide if an injury is a Workers’ Compensation or a health claim-- Allow the doctor and adjuster decide.



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Accident and Injury Program “Best Practices” (cont.)

3. Provide payroll/contact information with the Form 2.

This will speed up getting TTD benefits started timely.

4. Stay in touch with the injured worker. Let them know you care about them and their recovery and to expect a call from an adjuster.



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Accident and Injury Program "Best Practices" (cont.)

- 5. **Develop a Modified (Light) Duty program.** This is a win-win the Employer and the worker.
- 6. **You are the eyes and ears,** so share any and all information you have on the injured worker and their activities with your adjuster.



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Accident and Injury Program "Best Practices" (cont.)

- 7. **Double check Personal information for the injured workers on the Form 2** (SS#, correct spelling of name, DOB, address, cell phone number).
- 8. **If a worker sues the company, a representative at trial is critical.** Not all trials require attendance so your attorney or adjuster will advise which ones to attend.



Match name to SS Card

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Accident and Injury Program "Best Practices" (cont.)

- 9. **If an injury involves a third party (vehicle accident, slip/fall on property not owned by the Employer) provide all information that you have regarding the third party and any contact information you may receive from the Third party's insurance carrier.**



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Accident and Injury Program "Best Practices" (cont.)

10. The Employer has the right to question the validity of a claim.

- ▶ Provide statements of why you are questioning the incident.
- ▶ What are the extenuating circumstances?
- ▶ Provide cell phone photographs of building/grounds where accident occurred.
- ▶ Review the premises security video and secure if available.



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Train your Employees on Your Process

- **Encourage** employees to promptly report a workplace injury.
- **Send them to a pre-designated doctor/clinic.** Emergency Rooms for treatment is covered but can be costly, so if the injured worker can wait for the clinic to open, that is preferred.
- **Develop a Modified Duty Program** to get employees back to work while they heal

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DISPUTED CLAIMS
A Claimant's Attorney Perspective

By: Michael D. Antkowiak
Partner The Morris Law Office



Disputed Claim –



Anytime an employer or their insurance carrier refuse or decline to provide benefits.

This can be the entire claim or any benefits involved in the claim.

Initial Interview With Client/Claimant

1. Initial Interview

a. Questions we ask:

- i. How did the accident happen? (Be specific)
- ii. Date of accident? (has the Statute of Limitations run)
- iii. Old Law vs Commission?
- iv. Is the accident admitted?
- v. What Treatment have you had? (ER, PCP) Did you tell them it happened at work?
- vi. Is there insurance?
- vii. Any issues regarding contract labor or are you an independent contractor?
- viii. Has the employer been notified?
- ix. Was a report done?
- x. Were there witnesses?
- xi. Have you ever had any workers comp injuries?
- xii. Have you ever injured the body parts before in anyway?
- xiii. Any other potential cases or claims?





Affirmative Defenses

- a. Look at the case from a Defense Perspective.
- b. Are there priors or Pre- existing Conditions?
- c. Was Horseplay or goofing around involved?
- d. Is the injury related to the work being done?
- e. Was Claimant working or on the clock at the time of the incident?
- f. Is there anyway this could be interpreted as a personal mission?
- g. Did worker deviate from work related tasks?
- h. Was the claimant hurt while furthering the employer's interests?
- i. Independent Contractor, Partner or other "employment" issues?
- j. Intervening accidents?
- k. Any other reason the claim could be disputed or denied?





Keep It Simple

The Golden Rule – Don't over complicate or over argue the case

In the end the only thing you must prove is that the claimant was injured within the course and scope of their employment.

All other concerns are secondary

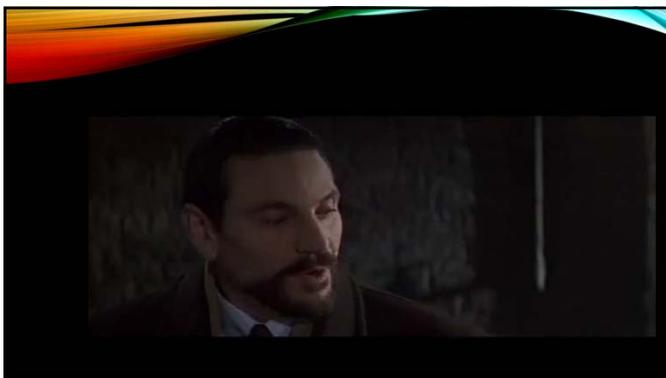




Determine if the Issue is Factual, Legal or Medical

- a. This evaluation of your case will determine how to proceed.
- b. Double check the law involved (Commission vs Court)
- c. Review and double check all medical and body parts.
- d. Get witness statements from all adverse witnesses and determine if depositions are warranted of any doctors or witnesses.
- e. Prepare claimant for inevitable deposition





Claimant's Interrogat.....I Mean Deposition

- a. Prep Claimant again the day of the deposition.
- b. NEVER LIE!!!
- c. Answer Yes or No.
- d. Keep it short and don't elaborate.
- e. Be Consistent.
- f. Pay Attention.
- g. Answer the question that is asked.
- h. Never answer a question you don't understand.
- i. Ask for clarification if necessary.
- j. NEVER Argue with the other attorney.
- k. Be polite, calm and respectful.





Determine if the case will go to Trial or Settlement

- a. Who is your Judge?
- b. What is the status of treatment to date?
- c. What is the status of future treatment ?
- d. Is there Continuing Medical Treatment?
- e. Is there Vocational Retraining?
- f. Are there 3rd party issues, or additional cases?
- g. Multiple Injury Trust Fund?
- h. Joint Petition vs Order?
- i. Mediation?
- j. Case Value?





Robert Powell

Disputed Claims
Respondents

ADMINISTRATIVE WORKERS' COMPENSATION ACT

OKLAHOMA STATUTES – TITLE 85A

(COMMISSION)

Definitions (85A OS §2)

"Compensable injury":

Damage or harm to the physical structure of the body or prosthetic appliances caused solely from an accident, cumulative trauma or occupational disease in the course and scope of employment. *An "accident" means an event involving unintended, unanticipated, unforeseen, unplanned and unexpected.*

DOES NOT INCLUDE:

- Injuries due to horseplay/assault (except for innocent victims), and recreational/social activities engaged in for the employee's pleasure;
- Injuries occurring before hire date, after termination or when work services were not being performed;
- Injuries caused by use of alcohol, illegal drugs or misuse of prescription drugs. If within 24 hours of injury, or reporting the injury, the employee tests positive or refuses to test, there is a rebuttable presumption that the injury was caused by use/misuse. This can be overcome only by clear and convincing evidence that the use/misuse was not related to the injury.);
- Strain, degeneration, damage/harm, or disease/condition resulting from aging, arthritis or degenerative processes; or
- Any preexisting condition except when the treating physician clearly confirms an identifiable and significant aggravation occurred within the course and scope.

Definition of compensable injury is not construed to limit mental injuries, which are covered by §13

A mental injury is not compensable unless caused by:

- physical injury (unless a victim of a violent crime) and
- proven by a preponderance of the evidence.

A mental injury must be diagnosed by a licensed psychiatrist or psychologist and must meet criteria in the most current issue of Diagnostic and Statistical Manual of Mental Disorders.

Mental injuries are limited to 26 weeks of TTD unless shown by clear and convincing evidence that benefits should continue to 52 weeks.

"Permanent Total Disability"

Based on objective findings, incapacity, based upon accidental injury or occupational

disease, to earn wages in any employment for which the employee may become physically suited and reasonably fitted by education, training, experience or vocational rehabilitation provided under this act.

- Loss of both hands, both feet, both legs, or both eyes, or any two thereof, shall constitute permanent total disability.
-

Primary Contractor Liability (85A OS §36)

Primary contractors will be held liable for subcontractor's employees if:

- Subcontractor fails to secure compensation
- UNLESS an intermediate subcontractor has workers' compensation coverage.

Primary contractor can bring claim for recovery against subcontractor for lien against monies owed to the subcontractor from the primary contractor for work completed.

Subrogation (85A OS §43)

Liability Unaffected: Claimants are entitled to maintain an action in District Court against a third party for any injury or death in addition to the making of a claim against an Employer or Carrier. The Employer or Carrier is entitled to reasonable notice and opportunity to join the action. If the Employer or Carrier joins in the action against a third party, they are entitled to a first lien on the two-thirds of the next proceed recovered after reasonable costs are deducted.

Subrogation: An Employer or Carrier has the right to maintain an action in tort against any third party responsible for injury or death. Claimant must notified in writing that they have the right to hire a private attorney to pursue benefits to which they are entitled.

Temporary Total Disability (TTD) (85A OS §45)

Maximum TTD Benefit: 70% of the injured employee's average weekly wage, not to exceed 70% of the state average weekly wage for 104 weeks, plus up to an additional 52 weeks if an ALJ finds, based on a showing of medical necessity by clear and convincing evidence, that a consequential injury occurred and additional time is needed to reach maximum medical improvement.

Commencement: No payment for the first 3 days of the initial period of TTD. There is no retroactive period under the new law.

Terminating TTD: The employer may terminate TTD upon notice of termination to the employee (or the employee's attorney if represented) when the employee is released to full duty by the treating physician for all body parts found by the Commission to be injured, or if the employee, without valid excuse, misses 3 consecutive medical treatment appointments, is noncompliant with the treating physician's orders, or otherwise abandons care. The employee may object within 10 days and request a hearing on reinstatement before an ALJ. The employee must prove there was a valid excuse for noncompliance or

abandonment of care. The ALJ may appoint an IME to determine if further medical treatment is needed. The IME is not allowed to treat the employee unless agreed to by the parties.

Permanent Partial Disability (PPD) (85A OS §45)

Maximum PPD Benefit: 70% of the employee's average weekly wage, not to exceed \$323 per week, up to 350 weeks for the body as a whole. For amputation or permanent total loss of use of a scheduled member, 70% of the employee's average weekly wage, not to exceed \$323, multiplied by the number of weeks in the schedule of compensation for the member set forth in 85A O.S. §46, regardless whether the employee is able to return to the employee's pre-injury or equivalent job. The combination of PPD awards granted may not exceed 100% to any body part or to the body as a whole. There is no minimum weekly benefit for PPD. The PPD award is deferred and reduced weekly if the employee refuses light duty work or returns to work at the pre-injury wages. If the employee is terminated other than for misconduct or the light duty offer is not the pre-injury or equivalent job, the remaining PPD award shall be paid in lump-sum. PPD for amputation or permanent loss of use is awarded regardless whether the employee is able to return to the pre-injury or an equivalent job. The employer is allowed a reduction or credit against a PPD award for preexisting disability depending upon whether or not the preexisting disability was with the same employer.

Evidentiary Requirements: The Commission is responsible for determining PPD through its ALJ's Opinions addressing compensability and permanent disability must be stated within a reasonable degree of medical certainty. PPD must be supported by competent medical testimony of an "MD, DO or DC" and shall be supported by objective medical findings as defined in 85A. O.S., §2. The medical testimony must include the employee's percentage of PPD and whether or not the disability is job-related and caused by the accidental injury or occupational disease. A determination of PPD which is not supported by objective medical findings provided by a treating physician who is an "MD, DO or qualified independent medical examiner" shall be considered an abuse of discretion. Evaluations of PPD to parts of the body, other than scheduled members, must be based solely on criteria established by the current edition of the AMA Guides.

Permanent Total Disability (PTD) (85A OS §45)

Maximum PTD Benefit: 70% of the employee's average weekly wage, not to exceed the state average weekly wage, for the continuance of the disability until the employee reaches the age of maximum Social Security retirement benefits or for 15 years, whichever is longer.

Early Benefits: PTD may be awarded upon exhaustion of TTD even though the employee

has not reached MMI, if the employee is otherwise qualified.

Death from Unrelated Causes - Revivor. PTD benefits cease of the date of death from unrelated causes. A one-time lump sum payment equal to 26 weeks of weekly PTD benefits awarded the claimant is payable to eligible beneficiaries upon reviver, to share and share alike.

Limitations Affecting PTD Award - Annual Review of PTD Status: If the Commission awards PPD and PTD benefits, the PTD award is due after the PPD award is paid in full. The Commission shall review the status of a PTD recipient annually. PTD recipients shall file an affidavit annually, under penalty of perjury, regarding ongoing eligibility. Benefits may be suspended for failure to file the affidavit but may be reinstated after a Commission hearing.

Amputation, Loss of Vision, Loss of Hearing, Scheduled Members (85A OS §46)

PPD rate of compensation for amputation or scheduled member is seventy percent (70%) of the employee's average weekly wage, not to exceed Three Hundred Twenty-three Dollars (\$323.00), multiplied by the number of weeks as set forth in this section, regardless of whether or not the injured employee is able to return to his or her pre-injury job.

The sum of all permanent partial disability awards, excluding awards against the Multiple Injury Trust Fund, shall not exceed three hundred fifty (350) weeks.

Illegally Employed Minors (85A OS §48)

Illegally employed minors' injury or death benefits are doubled unless the minor misrepresents his or her age in writing to the employer.

Unemployment Benefits (85A OS §49)

No temporary total disability compensation is due an injured employee who receives unemployment benefits unless

- the temporary total disability rate exceeds that of the unemployment rate
- if so, you only pay temporary total disability rate minus unemployment rate.

Medical Treatment, Examination and Reimbursement (85A OS §50)

The Employer shall promptly provide an injured Employee with medical care. Employer shall have the right to choose the treating physician. If, after five days of actual

knowledge of the injury, and the Employer failed or neglected to provide medical treatment, the injured employer may obtain emergency treatment at the expense of the employer when emergency treatment is not provided by the Employer. Diagnostic testing is not be repeated for six months of the test unless agreed or ordered. Continuing Medical Maintenance shall not be provided unless recommended by the treating physician. The employer shall reimburse for actual mileage in excess of (20) roundtrip miles between the employee's home and location of a medical service provider for all reasonable and necessary medical treatment or IME for the employer. The trip shall not exceed (600) miles round trip.

Provisions of Medical Care- Change of Treating Physician (85A OS §56)

The employer has the initial choice of treating physician. The injured employee has the right to change the treating physician. The process differs depending upon whether the employer participates in a CWMP. If the employer participates in a CWMP, the employee may seek to change the treating physician using the plan's dispute resolution process. If the employer does not participate in a CWMP, the Commission on application of the employee shall order one change of treating physician. **(The ALJ's are interpreting as one change of physician per body part.)** Upon the Commission's granting of the application, the employer shall provide a list of 3 physicians from whom the employee may select the replacement.

Employee Absence from Scheduled Treatment Appointment (85A OS §57)

If an injured employee misses two or more scheduled appointment for treatment, he or she shall no longer be eligible to receive benefits under the act unless:

- It was caused by extraordinary circumstances beyond the employee's control
- Employee gave employer at least (2) hours notice of absence with valid excuse.
-

This section is has been held unconstitutional by the Oklahoma Supreme Court.

Hernia (85A OS §61)

Generally, an injured employee with a compensable hernia injury is entitled to:

- Medical Treatment,
- 6 weeks of TTD benefits,
- 13 weeks TTD benefits and appropriate medical care if the Employee refuses to

permit the hernia operation.

Limitation on Temporary Total Disability (85A OS §62)

Generally, an injured employee is entitled to:

- 8 weeks of TTD for soft-tissue injury,
- 8 additional weeks TTD for injection,
- 16 weeks extension of TTD for surgery.

However, Court of Civil Appeals in *Atwell* found once claimant has surgery, it is no longer "nonsurgical" as required by limitations of §62. So, ALJs are awarding "gap period" TTD in surgical cases.

Notice - Rebuttable Presumption (85A OS §68)

The following are rebuttable presumptions that must be overcome by a preponderance of the evidence:

Single-event injuries: An injury is not work-related unless oral or written notice is given to the employer within 30 days of the injury.

Occupational Disease of Cumulative Trauma: An occupational disease or cumulative trauma injury did not arise out of or in the course of employment unless oral or written notice is given to the employer within 30 days of the employee's separation of employment.

Statute of Limitations (85A OS §69)

Other than an occupational disease, a claimant's claim for compensation is barred if not filed within one year from the date of injury. Occupational disease or infection claims shall be filed within two years of the last injurious exposure to the hazards of the disease or infection. Death claims must be filed within two years of the date of such a death. If, within six months, the claimant has not filed for a bona fide hearing, the claim may, on motion and after hearing, be dismissed with prejudice. In cases where benefits have been provided, either medical benefits or disability, a claim for additional compensation shall be barred unless filed within the Commission within one year of the past payment of disability compensation, or two years from the date of the injury, whichever is greater.

Appeal (85A OS §78)

An appeal to the Commission in banc, of a judgment or award of an ALJ, must be filed within 10 days. The Commission's determination is final unless appealed to the Oklahoma Supreme Court within 20 days of being sent to the parties.

Incarcerated Employees 85A OS §94

An employee who is incarcerated shall not be eligible to receive medical or disability benefits while incarcerated.

Dismissal Before Final Submission 85A OS §108

Any claimant may dismiss a claim before final submission of the case to the Commission for decision. Such dismissal shall be without prejudice unless otherwise stated. If dismissed without prejudice, a new claim may be filed within (1) year after the entry of the order dismissing the first claim even if the statutory time for filing has expired.

Court IME (85A OS §112)

An ALJ may appoint an IME to assist in determining any issue before the Commission. In the event surgery is recommended by a treating physician, upon request of the employer, an IME shall be appointed to determine the reasonableness and necessity of surgery. Such IME shall be qualified to perform the type of surgery recommended.

CASE LAW UPDATE

ADMINISTRATIVE LAW JUDGES
TARA INHOFE
BLAIR MCMILLIN
MOLLY LAWYER

COMPENSABILITY

- 2(13)(c) - Course and scope, parking lot
 - Bober v. Oklahoma State University, 2016 OK 78
 - Claimant slipped and fell on ice stepping onto a curb
 - Supreme Court reversed ALJ and found claim compensable
 - Focused on parking lot and sidewalk were part of Employers' premises

COMPENSABILITY

- Title 85A O.S. 2(13)(a) - Course and scope, travel
 - Robinson Medical Resources v. True, 2015 OK CIV APP 94
 - Claimant was involved in MVA after completing shift
 - Claim was compensable as Claimant was paid mileage and acting in furtherance of his employer
 - Discussion of exceptions to "coming and going rule" after enactment of AWCA

COMPENSABILITY

- **Course and Scope Travel Cont.**
 - Pina v. American Piping Inspection, 2018 OK 40.
 - Claimant was a pipeline fitter who was working at an oil rig site 130 miles from his home. He traveled weekly to a hotel, then frequently met his supervisor at a designated-gas station. A company credit card was used to provide gasoline for the worker's vehicle.
 - The ALJ, the Commission, and the Court of Civil Appeals denied the claim on the basis that the injury occurred while the worker was driving from his permanent residence to the job site, and that the stop at the service station made it a dual purpose trip, excluded from workers' comp coverage by 85A O.S. Sec. 2(13).
 - The Court found that the travel of the claimant was "for the sole benefit of his employer" and that "his actions at the time of the injury were related to and in furtherance of the business of the employer."

COMPENSABILITY

- **Title 85A O.S. §2(31) - Objective medical evidence**
 - Gillispie v. Estes Express Lines, 2015 OK CIV APP 93
 - Claim for benefits to the neck was denied as ALJ found no objective medical evidence of injury was offered
 - Denial was reversed and remanded for appointment of treating physician to the neck
 - Discussion of standard of review
 - 104 week limitation to TTD and PTD heard by ALJ and by Commission En Banc

COMPENSABILITY

- **Title 85A O.S. §2(14) - Cumulative trauma**
 - Torres v. Seaboard Foods, LLC - 2016 OK 20
 - Claim was denied as Claimant did not have 180 days of employment
 - Court held said statute violates Due Process as it makes "over inclusive and under inclusive classifications"

CUMULATIVE TRAUMA - SOL

- Title 85A O.S. §67 and 69
 - Rolled Alloys v Wilson, Release for Publication COCA, Case No. 115,930
 - The statute of limitations is triggered by the date of last exposure in cumulative trauma cases.

STATUTE OF LIMITATIONS

- Title 85A O.S. Sec. 69(B)(1)
 - Green Country Physical Therapy v. Anthony Sylvester
 - COCA determined that the statute of limitations for filing a claim begins running from the last date EITHER indemnity or medical benefits are paid. The ALJ found that "payment of disability compensation" meant only TTD. However, the Commission en banc opined that "disability compensation" meant indemnity OR medical.
 - Claimant was provided medical treatments long after his TTD ended. He filed the CC-Form 3 within one year of the last authorized medical, but not within one year when the TTD ended.
 - COCA said, "This Court does not find the use of the word "disability" to be a limitation excluding medical services...nothing in the plain meaning of the phrase "disability compensation" limits it to monetary compensation paid directly to an injured employee."

DISMISSAL

- Title 85A O.S. Sec. 69
 - Thomas Williams v. Fitness Together
 - COCA determined that any party requesting a bona fide hearing tolls the six month dismissal option found in Section 69 of the AWCA.
 - In this case, two different insurance companies had duplicate coverage and one requested a hearing within six months of the filing of the CC-Form 3 to determine that issue.

DISMISSAL

- Title 85A O.S. Sec. 69
 - Chad Jackson v. Bjs Restaurant
 - At issue were two parts of Section 69:
 - "If during the one-year period following the filing of the claim the employee receives no weekly benefit compensation and receives no medical treatment resulting from the alleged injury, the claim shall be barred thereafter." and
 - "If within six months after the filing of a claim for compensation no bona fide request for a hearing has been made with respect to the claim, the claim may, on motion and after hearing, be dismissed with prejudice."
 - The ALJ dismissed the claim with prejudice stating "Since the statute uses mandatory language, with no noted exceptions, the Commission has no choice but to grant Respondent's motion to dismiss." citing the first part of Section 69 that bars any recovery if a claimant receives no indemnity or medical benefits in the year following the filing of the Form 3.
 - The Commission reversed the decision and wrote, "When read in conjunction, we find the Legislature intended these provisions to replace the former limitation period for want of prosecution." (Statute of Repose)

COMPENSABILITY

- Title 85A O.S. §2(9)(b)(5)
 - Degenerative condition, CCA of Tennessee v. Woolf, Unpublished COCA, Case No. 114,958
 - Degenerative condition, Sequel v Ayisi, Released for Publication COCA, Case No. 116,109
 - Major Cause?

COMPENSABILITY

- Title 85A O.S. §2(9)(b)(6)
 - Preexisting condition, Estenson Logistics v. Hopson, 2015 OK CIV APP 71
 - How does Sequel v Ayisi opinion fit in?

TTD LIMITS AND PTD

- Title 85A O.S. § 45(D)(1)
 - Gillispie v. Estes Express Lines
 - The ALJ found that the claimant totally disabled and awarded PTD benefits as the claimant had exhausted the 104 week TTD limit and was still TTD and under active medical treatment.
 - The Judge used the term "total disability" to distinguish between TTD and PTD and rejected the employer's contention that any award of PTD, although the Claimant has not reached MMI, must be based upon a finding that Claimant will be PTD after MMI. The Judge wrote, "Interpreting the phrase in that manner would create a gap in benefits that would promote disparity in the way disabled workers are treated."
 - The Commission agreed and the respondent did not appeal any further

QUESTIONS?

MEDICAL EVIDENCE
DR. JAY CANNON, JUDGE MCMILLIN, JUDGE INHOFE & JUDGE LAWYER



CAUSATION

- **LEGAL – FACT DETERMINATION**
- **MEDICAL – SOLE CAUSE & MAJOR CAUSE**

EVIDENCE BASED MEDICINE
DEFINITION OF "SCIENTIFICALLY BASED" FOUND AT 85A O.S. SECTION 2(41)



ODG'S

● OFFICIAL DISABILITY GUIDELINES

DEFINITION AT 85A O.S. SECTION 2(32)

APPLICATION DISCUSSED AT 85A O.S. SECTION 16

INTOXICATION

1. 85A O.S. section 2(9)(b)(4): 'compensable injury' does not include: injury where the accident was caused by the use of alcohol, illegal drugs or prescription drugs used in contravention of physician's orders.

2. Rebuttable presumption requires positive test within 24 hours of claimant "being injured or reporting an injury..."[emphasis added]



PREEXISTING CONDITION



85A O.S. section 2(9)(b)(5) - 85A O.S. section 2(36)



PREEXISTING CONDITION

85A O.S. section 2(9)(b)(6)

EXCEPTS FROM COMPENSABILITY "ANY PREEXISTING CONDITION EXCEPT WHEN THE TREATING PHYSICIAN CLEARLY CONFIRMS AN IDENTIFIABLE AND SIGNIFICANT AGGRAVATION INCURRED IN THE COURSE AND SCOPE OF EMPLOYMENT."

85A O.S. section 2(36)

"PREEXISTING CONDITION" DEFINED AT 85A O.S. SECTION 2(36) REQUIRES PRIOR MEDICAL "ADVICE, DIAGNOSIS, CARE OR TREATMENT..."



DEGENERATIVE CONDITION

TITLE 85A SECTION 2(9)(B)(5)

- * OSTEOARTHRITIS
- * ARTHRITIS
- * DEGENERATIVE DISC DISEASE
- * DEGENERATIVE JOINT DISEASE
- * DEGENERATIVE SPONDYLOSIS/SPONDYLOLISTHESIS
- * SPINAL STENOSIS



PHYSICIANS

- **IME**

DISCRETIONARY VS NON-DISCRETIONARY



- **TREATING**

DESIGNATED & FORM A

PHYSICIANS

- **IME**
DISCRETIONARY VS NON-DISCRETIONARY
- **TREATING**
DESIGNATED & FORM A



TREATING PHYSICIANS

- **FORM A**

- **CWMP**

TREATING PHYSICIANS

- **FORM A**
- **CWMP**

IME

COMMUNICATION



ORDERS



REPORTS



IME

COMMUNICATION

ORDERS

REPORTS



MEDICAL EVIDENCE AT HEARING

EXPERT MEDICAL REPORTS
HISTORICAL MEDICAL RECORDS



PROBATIVE & COMPETENCY REQUIREMENTS

THANK YOU FOR YOUR TIME

Questions and comments



Validate the Trust

2018 Oklahoma Workers Compensation Commission Conference



Workers' Compensation Program

- American Airlines Group includes 5 entities: American Airlines, US Airways, Envoy, Piedmont & PSA 125,000 employees with over 15 union contracts
- Annual budget of \$215M
- Outstanding workers compensation unpaid liabilities \$660,561,342
- In 2017, we had 11471 new claims reported to Sedgwick
 - 221 injuries per week
 - 32 injuries per day
 - One injury every 45 minutes



Resolution of Claims

- Shifted focus on settling workers' compensation claims
- Introduction of settlement conferences in several major jurisdictions as well as collaborating with our vendor partners to find creative ways to resolve aged claims in a cost-effective manner
- Legacy AA has experienced a 44% reduction in open claims from 2013 to 2016 (After Merger-combined). Currently, maintaining about 22% for 2017.



Accomplishments

- Merger Synergy of \$40M
 - Due to improved claims management and claims processes
- Pending Reduction
 - Decreased overall pending by 45%
- Total Incurred
 - Decreased total incurred by 23%
- Reserves
 - Decreased total outstanding reserves by 28%
- Current Year Closures
 - Four (4) Consecutive years with 78% Current Year closing ratio
- Decreased Current Year durations YOY
- Aged Pending
 - Decreased aged pending by 40%
- Collateral requirements with AIG
 - Collateral Reduction by 40%

4

Exercise

Paper Exercise

5

Breaking someone's trust is like crumpling a perfect piece of paper. You can smooth it over, but its never going to be the same again.

DETRA ROMANCE

6

Mission

- Our mission is to validate trust in us, by:

- Team members
- Customers/Partners
- Investors



- To make American Airlines a:

- Compelling Place to Work
- Compelling Place to FLY
- Compelling Place to Invest

7

Validate the Trust Placed in us by our Team Members



- Build a more engaged and excited frontline team member workforce
 - Valued
 - Appreciated
 - Proud
- Focus the leadership team on servicing the frontline
 - Shared purpose
 - More collaborative, team approach

8



TRUST

9

TRUST TAKES YEARS TO

Build

SECONDS TO

Break

AND FOREVER TO

REPAIR



10

Team member Trust

- Trust doesn't happen by accident- It is planned and tended to
- Trust is informed and supportive but not blind



11

Know that.....



"Each one of our team members is somebody's son or daughter."
Doug Parker

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Team Member Compassionate Claims Management

- Seeking ways to positively surprise our team member
- Seeking ways to make our team members proud of American Airlines
- Best team member relations in the industry- Yes this includes Workers' Compensation



"Happy employees take care of customers and happy customers take care of shareholders by coming back."

Forbes Magazine*

Helen, Shep, "How Happy Employees Make Happy Customers," Forbes, Forbes Magazine, 30 May 2017, Web, 11 June 2017.

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HOWDY

- Help each injured team member
- Outstanding injured team member service
- Walk the Talk
- Discover their needs
- You can count on me! Commitment



BUILD
VALIDAT
E

14

Perceived Justice

- Perceived justice is based on team member perceptions that they are being treated in a fair and just manner



Komodromos, Marcos. Organizational Justice during Strategic Change. Routledge, 2015. [Bookshelf Online].

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Obstacles to Trust

Categories designed to build trust can also be obstacles to trust. They are broken down into three (3) categories:

- Professional expertise is an obstacle when **deficits exist**
- Administration **deficits**
- Communication (Especially Listening) **deficits**

Study conducted by Dr. Beth Kilgour, PHD Monash University & the Institute for Safety, Compensation and Recovery Research
Journal of occupational rehabilitation, ISSN: 1573-3688, Vol: 25, Issue: 1, Page: 160-81 Publication Year: 2015

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Trust Busters

“Getting hurt at work can be overwhelming, and this is before the forms, phone calls and questions. You can find yourself so lost in trying to know who to call, contact and what to do. When you forget a step, or where to turn, it can sometimes delay your treatment and paperwork.

Team Member American Airlines

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Trust Busters

- Professional expertise deficits
 - Injured workers complained that they were uninformed about system processes and work comp personnel demonstrated a lack of professionalism (e.g. inappropriate comments about claim status)
 - Disrespectful treatment (e.g. patronizing conversation, inappropriate comments etc.)
- Administration deficits
 - Injured workers complained that attempts to self manage their recovery were hampered by absent or incorrect information; were slow to arrange referrals or approve treatment request
 - Frequently lost paperwork, late payments, or examiners changed without notification

Journal of occupational rehabilitation, ISSN: 1573-3688, Vol. 25, Issue: 1, Page: 160-81, Publication Year: 2015

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Trust Busters

- Communication deficits
 - Workers' Compensation personnel difficult to contact or unhelpful when they need info about entitlements or responsibilities. Injured workers frustrated by the lack of personalized contact.
 - Long term injured workers complained they didn't hear from the employer or examiner for years
 - Written communication proved problematic
 - Impersonal form letters and hard to understand
 - Letters punitive
 - Not written to injured workers' with lower literacy skills
 - Legalist jargon aimed at intimidating them in to compliance

Journal of occupational rehabilitation, ISSN: 1573-3688, Vol. 25, Issue: 1, Page: 160-81, Publication Year: 2015

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Build the Trust

Moment of Truth

*We are never responsible for the actions of others.
But we are always responsible for our
reactions to their actions.*

22

Leadership and Empowerment

• Empowerment



- Do Something- A decision is better than no decision
- Don't be afraid to act
- Employers stand behind your Partners

Leadership

- Focus team on **servicing** the frontline injured team member
- Apply servant leadership principles to:
 - Professional expertise
 - Administration
 - Communication (Effective Listening)



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Set Partnership Expectations

When an employee is injured

- Our focus at American is to ensure the employee receives prompt medical care and to facilitate a safe return to work while, ensuring compliance with state law, company policy, and our collective bargaining agreements

Best in Class Partners actively strategize to Validate the Trust and deliver on the promise

Work collaboratively with Best in Class partners by serving as an advocate and resource for the team member as well as American Airlines

Demonstrate Active Listening (Remember listening is not waiting for your turn to talk)

We must fully support the team member while protecting American Airlines

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Best in Class Partners



Relationship Management

- Account Instructions written to promote collaboration between the Sedgwick adjusters and AAG
 - Annual partnership meetings with AAG & Sedgwick- Every Adjuster
 - Quarterly recognition includes 'traveling trophy'
 - Less than 10% voluntary adjuster turnover within Sedgwick
- Clinical Oversight with SPNet for Physical Therapy.
 - Saved over 6 Million dollars using the three (3) Gates Cost Containment Method
- Training is provided to all selected partners to better understand our core values and mission for the new workers' compensation program
 - Tours/Meet and Greets with local management
 - Day in life of Flight Attendant/Airport Training
 - Workers' Comp 101
 - Annual Partnership Summits



Relationship Management

- Accountability
- Monthly/Quarterly meetings with union groups
 - Quarterly claim reviews along with quarterly stewardship reviews
 - Annual legal summit for all defense attorneys includes discussion of legal scorecard
 - Legal Training for Medical Providers

Diplomacy and Tact

Diplomacy

- The ability to assert your ideas or opinions, knowing what to say and how to say it without damaging the relationship by causing offence.

TACT

- Skill and grace to deal with others
- Tact and diplomacy are skills centered around an understanding of other people and being sensitive to their opinions, beliefs, ideas and feelings. .

Tact is the art of making a point without making an enemy.
- Isaac Newton
Diplomacy is the art of letting somebody else have your way.
- David Frost

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Here is what your Team Members Want

Cooperative Relations

- Team members want workers' comp personnel who are respectful, understanding, and provide continuous contact and personalized service to them
- Clear explanations and answers to questions; timely payment of income benefits and payments to medical providers, and prompt referrals for medical services
- Team members who work with work comp personnel who provide a supportive problem-solving approach, respond by viewing workers' comp staff as an ally and hold the entire organization in high regard.

Journal of occupational rehabilitation, ISSN: 1573-3688, Vol. 25, Issue: 1, Page: 160-81 Publication Year: 2015

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Cooperative Relations

"I wanted to commend my claim examiner. He is attentive, timely, available, helpful and compassionate. He will pick up his phone most of the time, or if he is unable he returns my calls very fast... I don't have to play phone tag with him, NO long wait times or uncertainty. He answers all of my concerns, and questions and follows through on what he says quickly and efficiently. He is someone who truly cares, is empathetic, honest and forthright. It is a pleasure to work with him as he makes my difficult situation easier to bare."

Team Member American Airlines

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Conclusions

- Team member' general fairness perceptions are linked to claims filing and to their perceptions that the employer was supportive of their disability
- Results suggest that team members are more likely to file when they perceive their general treatment by their employer as interactively unfair
- You play an integral role supporting your team members through the injury on duty process. They develop their perception of the company and policies based on the quality of treatment they receive from direct supervisors, work comp staff, partners and managers
- Lack of compliance was seen by team members as a way to rebalance an inequitable relationship



OKLAHOMA OFFICE OF HOMELAND SECURITY

Oklahoma Office of Homeland Security

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OKLAHOMA OFFICE OF HOMELAND SECURITY

Planning and Response to an Active Shooter

- Three Parts:
 - Mindset
 - Emergency Operation Plan
 - Site Assessment



OKLAHOMA OFFICE OF HOMELAND SECURITY

Planning and Response to an Active Shooter

Course Outline

- Introduction
- What makes a Secure Workplace
- Historical Perspective
- Behavioral Considerations
- Law Enforcement Response



OKLAHOMA OFFICE OF HOMELAND SECURITY

What is a Secure Workplace?

- A climate focused on respect, acceptance of diversity and peaceful resolutions to conflicts
- Balanced, pro-active security measures that provide a safe environment
- **A staff trained to recognize early warning signs of and respond to potential violence**



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Workplace Violence....

- Is the second leading cause of death in the workplace for males
- Is the leading cause of death in the workplace for females



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Workplace Mindset





Fight, Flight, or Freeze Response

➤ **Trained vs. Untrained Response**

- The startle response will be present for the trained but will be greater for the untrained
- Responses of the untrained include confusion, hesitation or denial
- The trained defaults to their training and commits to an action (Fight or Flight)



Courses of Action

- It doesn't matter what you have to do, or how you have to do it, you have to stop the person that is trying to kill you.
- If you have to negotiate with a shooter,
 - Do So From A Safe Place!!**
 - Use persons name or nickname, if you know it.
 - What are the voices telling them?
 - Are the voices talking to them now?



Workplace Mindset

Color Codes of Mental Awareness:

- Condition **"WHITE"** – Unaware of your surroundings. An individual will have a slow response time or not respond at all.
- Condition **"YELLOW"** – Aware of your surroundings. Mentally ready in case something happens (looking around and processing information).



Workplace Mindset

Color Codes of Mental Awareness:

- Condition **“ORANGE”** – You have identified a potential threat. In addition to being mentally ready, you are physically ready as well.
- Condition **“RED”** – The threat is perceived to be deadly. Your course of action is being taken.



Workplace Mindset

- Active Shooter events can occur anytime, anywhere, to anyone
- Unlike any situation ever experienced
- You need to take direct responsibility for your personal safety
- Workplace Mindset consists of three components:
Awareness, Preparation, and Rehearsal



Workplace Mindset

- Active Shooter Event---***Homicide in Progress***
- Any action taken, or not taken, will involve life-threatening risk
- Workplace Mindset will provide a strong foundation upon which to base decisions and actions



Internal Violence

- When violence results from someone the employee knows, there is a much higher chance that warning signs will be observed





Five Stages of a Shooter

- Fantasy Stage
- Planning Stage
- Preparation Stage
- Approach Stage
- Implementation Stage



What Do You Do Now?

- Talk to local law enforcement about response
- Have an **EOP** for your workplace
- Create your own Personal Response Plan
 - Play the **If and Then** game
- Form a safety and security committee
- Conduct **Regular Security Assessments**

SI Joint-The missed diagnosis that leads to long term pain management



Causes of Low Back Pain

- Fracture
- Cancer or tumor
- Infection
- Muscle or ligament strain
- Osteoarthritis
- Deformity or instability
- Disc pathology



Common causes of Discogenic Back Pain

Degenerative disc:
Natural aging or injury

Bulging disc:
tear – inflammatory response
Pain from disc nerves
May irritate traversing nerve

Herniated disc:
Disc pain
Nerve compression

Thinning disc:
Arthritic joint



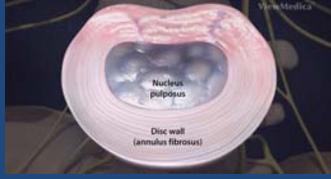
Lumbar Disc

Function:

- Shock absorbers
- Hold spine together
- Joints allow slight mobility

Composition:

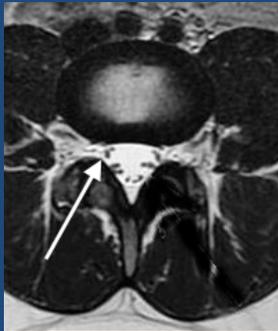
- Annulus – outer tough collagen fibers
- Nucleus – inner loose fibers suspended in mucoprotein gel



Lumbar Disc

Function:

- The outer annular fibers hydraulically seal the gelatinous nucleus and evenly distribute pressure and force



Lumbar Disc

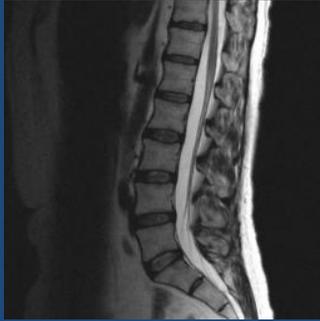
Composition:

- At birth approximately 80% of the disc is composed of water.



Lumbar Disc

Normal MRI in an older patient.
Natural aging process.
Over time discs dehydrate and become stiffer.
Less able to adjust to compression.
Not really a disease and not strictly degenerative.
Over time all people will exhibit changes consistent with more or less degeneration.



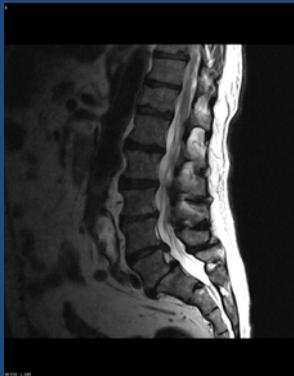
Degenerative disc

One of the most common causes of low back pain.
Also misunderstood.
Natural degeneration can produce micromotion instability and inflammatory proteins from the nucleus can leak out irritating nerve fibers in and around the disc.
Twisting, bending, or lifting injury can damage the disc starting a cascade of events leading to early degeneration.



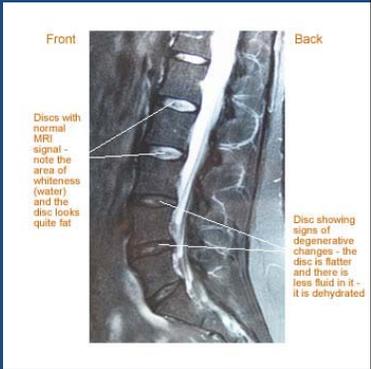
Degenerative disc

My back hurts.
Fix it.
Where to start.



Degenerative disc

This may be painful or it may not.



Degenerative disc

Disc injury?



Lumbar Disc Herniation

When pressure or stress is placed on the spine, the disc's outer ring may bulge, crack, or tear.

The protrusion may push against spinal nerve or begin inflammatory cascade.

Symptoms may start for no apparent reason or may occur after lifting or twisting putting added stress on the disc.



Lumbar disc herniation

Can be extremely painful but most people will improve by 6 weeks even without medical treatment.

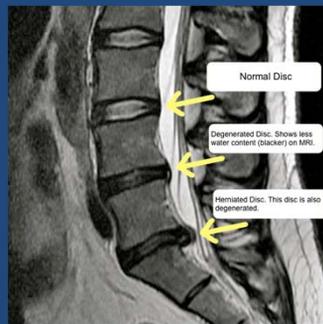
Body may attack the herniation as a foreign material shrinking and decreasing inflammatory proteins.

Over time some water in bulge is absorbed causing disc to shrink.



Common Causes of Discogenic Back Pain

This patient may only complain of radicular pain from nerve compression.



Degenerative disc

Common case seen in work related injury.



Work Injury

Malingering

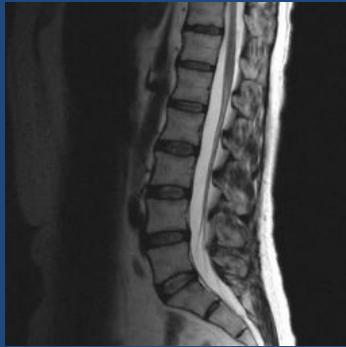
Secondary gain



Work Injury

There could be an injury here

Pre-existing condition



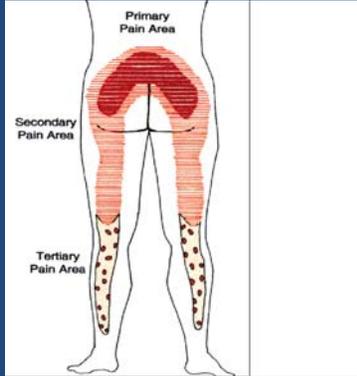
History of SI Joint Disorder

In 1934, a paper was published on the spinal disc as a source of pain in the back. As a result, disc treatment became the most common operation for orthopedic surgeons, and the sacroiliac (SI) joint was all but forgotten.¹ Now, over 80 years later, orthopedic and spine surgeons have recognized that the disc is not the only source of low back pain (LBP).



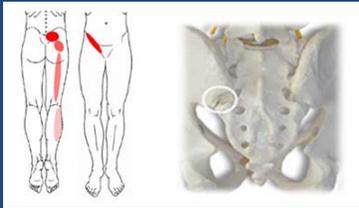
Current Concepts and Data

According to scientific data, it's common for pain from the SI joint to feel like disc or low back pain. To avoid unnecessary lumbar spine surgery, SI joint disorders should be strongly considered in low back pain diagnosis.²



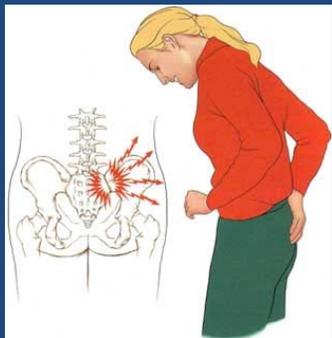
Current Concepts and Data

According to a study by Bernard and Kirkaldy-Willis (1987), over twenty two percent (22%) of individuals who presented with lower back complaints actually had problems in their sacroiliac (SI) joint.¹



Current Concepts and Data

There may be up to a million patients annually with low back complaints that have SI joint conditions like sacroiliac joint disruptions and degenerative sacroiliitis. Studies by Cohen show that up to 25% of low back pain is sacroiliac joint in origin and that the diagnosis of sacroiliac joint disease is frequently overlooked by physicians.²

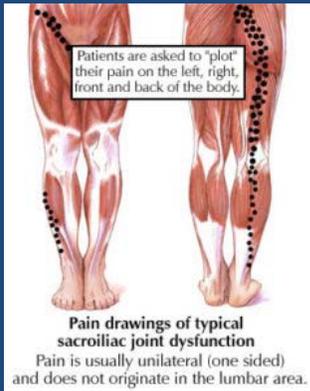


Current Concepts and Data

Weksler, et al., report that sacroiliac joint dysfunction can feel like discogenic or radicular low back pain.³

Many low back pain patients go on to receive lumbar fusion surgery instead of sacroiliac joint treatment.

Sacroiliac joint disease must be strongly considered in differential diagnosis of low back pain.



Current Concepts and Data

Continued pain after fusion surgery

Studies by Ha, et al., show that the incidence of SI joint degeneration in patients who had undergone lumbar fusion surgery is 75% at 5 years post-surgery, based on imaging.⁴



Current Concepts and Data

Studies by DePalma and Liliang, et al., demonstrate that 40-61% of post-lumbar fusion patients were symptomatic for SI joint disorders based on diagnostic blocks.^{5,6}



The Missed Diagnosis

Despite the large number of patients with SI joint symptoms, most of the treatment focus in the spine has been centered on the disc.

Medical residents are rarely taught to consider SI joint dysfunction as the cause of a patient's low back problems.

Lumbar MRIs are not very helpful in diagnosis.

There are a growing number of healthcare professionals that recognize the significance of the SI joint as a pain generator.

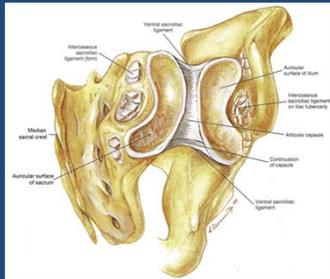


Anatomy and Function

The sacroiliac (SI) joint's primary responsibility is to transfer the weight of the upper body to the lower extremities.

The SI joint is a true diarthrodial joint. Maximum motion planes.

The articular surfaces are ear shaped, containing irregular ridges and depressions. Its concave sacral surface is covered with thick hyaline cartilage and its convex iliac surface lined with thin fibrocartilage.

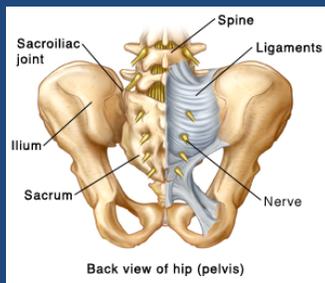


Anatomy and Function

In the upper portion of the joint, the sacrum and the ilium are not in contact but rather connected with powerful ligaments.

The anterior and the lower half of the joint is a typical synovial joint with hyaline cartilage on the joint surfaces. The SI joint is an axial joint with an approximate surface of 17.5 square cm. The joint surface is smooth in juveniles and becomes irregular over time.

Motion (primarily rotation) decreases with aging, and there is increased motion in pregnancy.



Anatomy and Function

The sacroiliac (SI) joint is stabilized by a network of ligaments and muscles, which also limit motion in all planes of movement.

The normal SI joint has a small amount of normal motion of approximately 2-4 mm of movement in any direction.

The sacroiliac ligaments in women are less stiff than men's, allowing the mobility necessary for childbirth.

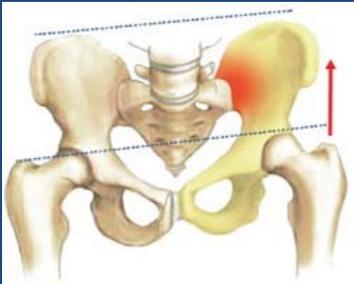


SI Joint Pathology

Mechanical strain and injury to the SI joint are produced by either a combination of vertical compression and rapid rotation (i.e. carrying a heavy object and twisting), or by falls on the backside.

Injuries of this type can produce ligamentous laxity and allow painful abnormal motion.

Instability can also arise from lumbar spine surgery in which a large portion of the ilio-lumbar ligament is injured.



SI Joint Pathology

SI joint pain can also be caused by leg length discrepancy, gait abnormalities, prolonged, vigorous exercise, trauma, traumatic birth, and long scoliosis fusions to the sacrum.

Painful sacroiliac joint arthritis can also arise from autoimmune disorders, such as ankylosing spondylitis, juvenile rheumatoid arthritis, Reiter's Syndrome, psoriatic arthritis, and infection.



Diagnosis

Rule out other possible causes:

- X-ray
- MRI
- Hip examination



Diagnosis

Physical Exam:

There are several provocative tests that can be used to reproduce the symptoms associated with sacroiliac joint dysfunction. As a rule, several positive tests that reproduce pain specifically located at the sacroiliac joint improves the probability of the diagnosis of sacroiliac joint dysfunction.



Fortin finger test

Diagnosis



Diagnosis

Therapeutic and diagnostic SI joint injections.

Decrease pain by 75% on two separate occasions



Conservative Treatment

Restore normal painless motion

Ice and rest 2-10 days followed by heat and gradual return to activities after inflammation is reduced.

Non-steroidal anti-inflammatory medications.

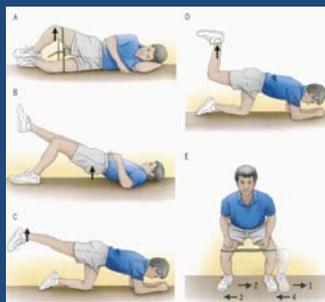
Sacroiliac belt may be helpful in hypermobile joints.



Conservative Treatment

SI joint injections: The primary reason for sacroiliac joint injections is to determine whether the sacroiliac joint is the cause of the pain. It is also useful in providing immediate pain relief. An anesthetic is typically injected along with a steroid to help reduce inflammation which will help alleviate the pain.

The immediate pain relief can help the patient start a physical therapy program and return to normal activity levels.

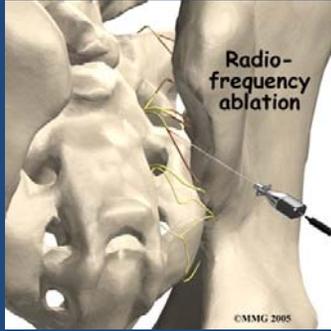


Physical therapy

Conservative Treatment

Sacroiliac joint radio-frequency ablation.

The procedure was thought to be ineffective for SIJ pain because the innervation to the joint is so diffuse. However, in a study by Gevarguez and colleagues, the authors reported that 3 months after the procedure, 13 patients (34.2%) were completely free of pain. Twelve patients (31.6%) reported substantial pain reduction, 7 patients (18.4%) had slight pain reduction, and 3 patients (7.9%) had no pain reduction.



Surgical Management

Patients who may be candidates for SI fusion...

- Failed combination of previous treatments
- Extreme chronic pain
- Trauma
- Postpartum
- Adjacent segment disease
- Motivated and capable of reasonable post-surgical expectations
- Failed required diagnostic exams

(provocative testing and fluoroscopic SI injection)



Surgical Management



Surgical Management



Outcomes

A randomized, controlled trial by Polly et al found that patients who underwent minimally invasive SIJ fusion with triangular titanium implants achieved greater pain and disability relief at 24-month follow-up than did those who underwent nonsurgical management. The rates of pain and disability improvement for the fusion patients (102 subjects) at 24 months were 82.0% and 65.9%, respectively, compared with less than 10% for both pain and disability in the nonsurgical patients (46 subjects).⁹



Outcomes

A randomized, controlled study by Stureson et al also found better alleviation of pain and disability with SIJ joint fusion with triangular titanium implants than with conservative management.

In the fusion patients (52 subjects), the mean lower back pain score had improved by 43.3 points at 6 months, compared with 5.7 points in the conservative treatment group, while the mean disability score had improved by 26 points in the fusion patients, compared with 6 points in the conservative management group.¹⁰



Outcomes

1. Minimally Invasive Sacroiliac Joint Fusion, Radiofrequency Denervation, and Conservative Management for Sacroiliac Joint Pain: 6-Year Comparative Case Series *Neurosurgery*. 2017 Apr 20. doi: 10.1093/neuros/hnx185.
2. Predictors of Outcome in Conservative and Minimally Invasive Surgical Management of Pain Originating from the Sacroiliac Joint: A Pooled Analysis. *Spine*. 2017 March 27
3. Surgical Revision after Sacroiliac Joint Fixation or Fusion Spain K, et al. *Int J Spine Surg*. 2017;11(1):24-30
4. Two-Year Outcomes from a Randomized Controlled Trial of Minimally Invasive Sacroiliac Joint Fusion vs. Non-Surgical Management for Sacroiliac Joint Dysfunction Polly DW, et al. *Int J Spine Surg*. 2016;10:Article 28.
5. Six-month outcomes from a randomized controlled trial of minimally invasive SI joint fusion with triangular titanium implants vs conservative management Sturesson B, et al. *Eur Spine J*. 2016 May 14 [Epub].

Outcomes

1. Triangular Titanium Implants for Minimally Invasive Sacroiliac Joint Fusion: 2-Year Follow-Up from a Prospective Multicenter Trial Duhon B, et al. *Int J Spine Surg*. 2016;10:Article 13.
2. Randomized Controlled Trial of Minimally Invasive Sacroiliac Joint Fusion Using Triangular Titanium Implants Vs Nonsurgical Management for Sacroiliac Joint Dysfunction: 12-Month Outcomes Polly DW, et al. *Neurosurgery*. 2015;77:674-691.
3. Minimally Invasive Versus Open Sacroiliac Joint Fusion - Are They Similarly Safe and Effective? Ledonio CG, et al. *Clinical Orthopaedics and Related Research*. 2014;472:1831-1838.
4. Sacroiliac Joint Fusion Using Triangular Titanium Implants vs. Non-Surgical Management: Six-Month Outcomes from a Prospective Randomized Controlled Trial Whang P, et al. on behalf of the INSITE Study Group. *International Journal of Spine Surgery*. *Int J Spine Surg*. 2015;9:Article 6.

Summary

Causes of low back pain are difficult to accurately diagnose and treat.

Sacroiliac dysfunction is commonly overlooked and not treated.

Possibly avoid a surgery with poor outcomes.

Possibly avoid untreated pain leading to long term pain management.



IS "THE ETHICIST" THE ANSWER?

Gary B. Anderson, M.D.

ETHICS

- The application of moral principles to everyday situations. A system to guide action based on judgement which respects the rights of others and that is separate from religious orthodoxy.

"The Ethicist"

- A "New York Times" writer (Randy Cohen), who from 1999 to 2011 wrote a weekly column for the "Times Magazine".
- His most famous achievement however was inventing David Letterman's "Top Ten List."

Is it ethical?

- To submit the same report twice in two different situations?
 - Does it harm anyone?
 - Does this gain unfair advantage?
 - Does this garner an unjustified reward?
- Does this action violate any rules?
 - This is a pragmatic or legal, not ethical consideration.

The ethicists answer:

- Yes.
- There is no harm to others.
- It is your own work to use as you choose.
- You may get expelled.

Is it ethical?

- To move to a better seat at a Thunder game?
 - Does it harm anyone?
 - Does this gain unfair advantage?
 - Does this garner an unjustified reward?
- Does this action violate any rules?
 - This is a pragmatic or legal, not ethical consideration.

The ethicists answer:

- Yes.
- There is no harm to other fans.
- It is wasteful to let the seats go unused.
- The team is a local monopoly, so you have no other alternative venue to choose.

Is it ethical?

- To buy an obviously (accidentally) mispriced item?
 - Does it harm anyone?
 - Does this gain unfair advantage?
 - Does this garner an unjustified reward?
- Does this action violate any rules?
 - This is a pragmatic or legal, not ethical consideration.

The ethicists answer:

- No
- This is not deceptive(bait and switch) mispricing. This is an accident and the vendor should be allowed to correct the error.

Is it ethical?

- To take hotel toiletries for donation to charity?
 - Does it harm anyone?
 - Does this gain unfair advantage?
 - Does this garner an unjustified reward?
- Does this action violate any rules?
 - This is a pragmatic or legal, not ethical consideration.

The ethicists answer:

- No
- Toiletries are provided for use by patrons on site
- If you desire to support a charity do it with your own resources.

Is it ethical?

- To refer patients to seek legal counsel?
- Does it harm anyone?
 - Does this gain unfair advantage?
 - Does this garner an unjustified reward?
- Does this action violate any rules?
 - This is a pragmatic or legal, not ethical consideration.

Is it ethical?

- To refer friends to seek medical care through workman's compensation
- Does it harm anyone?
 - Does this gain unfair advantage?
 - Does this garner an unjustified reward?
- Does this action violate any rules?
 - This is a pragmatic or legal, not ethical consideration.

New York Society for Ethical Culture

- Founded in 1877, by Felix Adler
- Their principles:
 - The belief that morality is independent of theology.
 - Moral problems have not been adequately addressed by religion.

New York Society for Ethical Culture

- Founded in 1877, by Felix Adler
- Their principles:
 - The duty to engage in philanthropy in the advancement of morality.
 - Self-reform should go in step with social reform.

New York Society for Ethical Culture

- Founded in 1877, by Felix Adler
- Their principles:
 - The establishment of republican rather than monarchical governments of ethical societies.
 - The agreement that educating the young is the most important aim.

Elbow Dislocation

Every ortho presentation needs an xray!



THANK YOU

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