

WORKERS' COMPENSATION (C) TASK FORCE

Workers' Compensation (C) Task Force, Nov. 16, 2020, Minutes

Workers' Compensation (C) Task Force, Oct. 26, 2020, Conference Call Minutes (Attachment One)
2021 Charges (Attachment One-A)

W:\National Meetings\2020\Fall\TF\WC\Contents.docx

Workers' Compensation (C) Task Force
Virtual Meeting (*in lieu of meeting at the 2020 Fall National Meeting*)
November 16, 2020

The Workers' Compensation (C) Task Force met Nov. 16, 2020. The following Working Group members participated: James J. Donelon, Chair, Warren Byrd and Tom Travis (LA); Jim L. Ridling, Vice Chair, represented by Gina Hunt (AL); Lori K. Wing-Heier represented by Katie Hegland, Anna Latham and Michael Ricker (AK); Alan McClain and William Lacy (AR); Evan G. Daniels represented by Vanessa Darrah and Tom Zuppan (AZ); Ricardo Lara represented by Patricia Hein and Mitra Sanandajifar (CA); Trinidad Navarro represented by Christina Miller (DE); Colin M. Hayashida represented by Kathleen Nakasone (HI); Dean L. Cameron represented by Michele MacKenzie and Randy Pipal (ID); Vicki Schmidt represented by Heather Droge and Brenda Johnson (KS); Grace Arnold represented by Tammy Lohmann and Phil Vigliaturo (MN); Chlora Lindley-Myers, Cynthia Amann and Rebecca Shavers (MO); Mike Causey represented by Wilhelmina Muhaimin (NC); Marlene Caride represented by Mark McGill (NJ); Barbara D. Richardson represented by Gennady Stolyarov (NV); Glen Mulready represented by Cuc Nguyen (OK); Jessica K. Altman represented by Michael McKenney (PA); Elizabeth Kelleher Dwyer represented by Beth Vollucci (RI); Larry D. Deiter and Maggie Dell (SD); Tanji J. Northrup represented by Tracy Klausmeier (UT); and James A. Dodrill represented by Tonya Gillespie (WV). Also participating was: Amanda Harlow-Felder and John Wells (MS).

1. Adopted its Oct. 26 and Summer National Meeting Minutes

The Task Force met Oct. 26 to adopt its 2021 proposed charges.

Mr. McKinney made a motion, seconded by Ms. Nakasone, to adopt the Task Force's Oct. 26 (Attachment One) and Aug. 5 (*see NAIC Proceedings–Summer 2020, Workers' Compensation (C) Task Force*) minutes. The motion passed.

2. Heard a Follow-Up Presentation Regarding Workers' Compensation Treatment Guidelines and Formularies

Commissioner Donelon said the Task Force heard a presentation regarding treatment guidelines and formularies during the Summer National Meeting. The presentation summarized the premium rates and reductions that occurred as a result of the implementation of formularies and medical guidelines in California, as well as addressed the improvement of health care quality and delivery, the reductions of over-care and the elimination of litigation over issues that belong to health care experts.

Commissioner Donelon said today's presentation would provide detail on: 1) what uniquely qualifies as an evidence-based guideline and the criteria used to determine what is evidence-based; 2) the reasons why the formulary was developed to include the patient's condition and phase of care; and 3) discussion on the similarities and differences between the American College of Occupational and Environmental Medicine (ACOEM) guidelines and the Official Disability Guidelines (ODG) that are used in Texas.

Lucy Shannon (Reed Group) said the methodology is what makes a guideline evidence-based. She said with the ACOEM guidelines, there is a strong methodology, and the guidelines are a living document that are kept up to date. Ms. Shannon said the ACOEM practice guidelines are available on the internet for anyone to access. The guidelines are published in the *Journal of Occupational and Environmental Medicine* as well.

Ms. Shannon said the ACOEM practice guidelines are developed with a meticulous strength-of-evidence rating methodology, incorporating the latest criteria from the Institute of Medicine (IOM); Grading of Recommendations, Assessment, Development and Evaluation (GRADE); Appraisal of Guidelines Research and Evaluation (AGREE); and Assessing the Methodological Quality of Systematic Reviews (AMSTAR 2). These criteria all help to explain the strength of the guideline. Each of these standards are listed, and it is explained how the ACOEM adheres to each of the standards. Ms. Shannon said the goal behind the methodology is to produce the most rigorous, reproducible and transparent guidelines available.

Ms. Shannon said there are some questions to be asked when deciding if guidelines are evidence-based, including: 1) Is there a published, detailed and understandable methodology? 2) Are the conclusions scientifically verifiable? 3) Were the reviews and recommendations developed by professionals with proper training and credentials? and 4) Were findings made by individuals or by broad-based physician panels?

Draft Pending Adoption

Ms. Shannon said there are many steps in creating a new guideline. She said creating a new guideline takes about 18 months and updating a guideline in a comprehensive manner takes about 12 months. Ms. Shannon said after a guideline is created or updated, it is sent out for an extensive external peer review.

Dr. Kurt Hegmann (Reed Group) said if he did not know much about guidelines, he would potentially not understand why a detailed methodology document is needed. He said this is an issue because it is the road map of how to get from the beginning to the guidance. Dr. Hegmann said if there is not a detailed map and detailed steps, the result may provide inadvertent and/or inappropriate guidance. He said it is important to follow a process to provide verifiable steps. Dr. Hegmann said it is also critical that an independent peer review process is followed. He said this is one area where the AEOCM and the ODG differ. The ODG has an internal advisory board and not an independent peer review process. The independent peer review process provides a more robust review and catches things that might otherwise get missed. Ms. Shannon said as new standards are added, the methodology is also updated to reflect any changes that they may make to the process.

Ms. Shannon said the formulary used by the AEOCM is unique, as it is condition-specific. She said the formulary provides information regarding the right medication at the right time for a specific condition. Ms. Shannon said because the guidelines are the basis for the formulary, the guidelines set out all the underpinnings for the formulary. She said the interdisciplinary panels of doctors are looking at the recommendations when everything that is finalized has gone through the external review process and is published. Then the formulary is reviewed with a group of clinical pharmacologists. The pharmacologists are reading the guideline that has been published and are helping to provide the specificity that the guideline may not have included.

Ms. Shannon said the evidence-based formulary for workers' compensation treatment follows the guideline. She said the formulary uses the strength of the ACOEM Occupational Medicine Practice Guidelines. Ms. Shannon said the formularies also use state-of-the-art guidance that is used by physicians to help injured workers, the claims professionals, the legal and regulatory community, and all other stakeholders in the workers' compensation treatment.

Ms. Shannon said they have a development team of clinical pharmacologists. The formulary also has an external review board that review the information in the formulary. The guidelines are the basis for the methodology for the formulary, as the ACOEM Practice Guidelines are the primary source. The ACOEM recommendations are based on literature review and evaluation for bias and strength, class of medications, and specific medications. When needed, they go out to other leading sources of information to help supplement information in the formulary.

The formulary is specific to conditions and body parts. The formulary shows diagnostic coding and provides information regarding whether a medication is best suited for the acute or chronic phases of treatment. This really comes into play when discussing a medication such as an opioid. While an opioid may be appropriate during the acute phase of a condition, it may not be appropriate in the chronic phase of the same condition. The classification of specific medications is listed, and generic medications are listed as well, which allows individuals different ways to look up the guidelines. The guidelines list whether the medication is recommended, not recommended or has no recommendations. The guidelines do provide some recommendations that have the ranking of no recommendation. The ranking of no recommendation does not mean that this medication should not be used; it just means when the literature was reviewed, they were unable to find anything that supported the medication one way or another. Some medications will provide information regarding circumstances when the medication might want to be considered for use. Dr. Hegmann said there may be some medications that have a limited utility for one condition but may not provide utility for another condition.

Ms. Shannon said the formulary provides national cost data, so if all things are equal, there is cost data as well to help make some of the medication choices. She said the process begins with the reading of the guidelines. Ms. Shannon said comments are added as specific recommendations are made in the formulary to guide the physician and claims professional. She said some of the comments might be recommendations regarding the number of days the medication should be used—for example, the medication type and the number of days it might be used.

Ms. Shannon said external review is conducted, and input is considered. She said the final decisions were ultimately made by Dr. Robert Goldberg, who represents the clinical pharmacologist's side of the house, and Dr. Hegmann, who represents the guideline's side of the house.

Ms. Shannon said the formulary includes everything from mental and behavioral health information to muscular, skeletal, asthma and COVID-19 guidelines. She said the medication information associated with the COVID-19 guidelines will be published in 2021. Dr. Hegmann said one of the things that will be included in the next COVID-19 update is information regarding vaccination efficacy, adverse effects and the controversies. He said the COVID-19 guidelines have been well received

Draft Pending Adoption

and widely used. However, he said he anticipates that there will likely be a few more updates because the pandemic is unlikely to just disappear.

Ms. Shannon said each quarter, updates to the formulary are performed, and as guidelines and updates are completed, the information is sent to the pharmacologist to review. She said the formulary additionally provides information regarding benefits, as well as harmfulness, so the clinicians can provide the information to their patients for shared decision-making. Ms. Shannon said the formulary was needed because in some cases, the guidelines are general. She said the formularies recommend the safest and most effective medications for particular conditions.

Ms. Shannon said California has adopted all of the ACOEM guidelines to be used by its workers' compensation providers. She said California also adopted the formulary.

Dr. Hegmann said the formularies and guidelines were designed the way they were to get the best outcome for the injured worker. He said if the injured worker receives the wrong treatment at the wrong point of time, or something does not prove to be effective, he or she will end up with worse outcomes. Dr. Hegmann said California is having positive outcomes with the use of the ACOEM formulary and guidelines in the way of decreased claims costs, which has not always been the case in California. Ms. Shannon said it was important to be sure the guidelines and formulary provided for the most appropriate and effective treatment for the conditions being treated.

Dr. Hegmann said it is necessary to include a detailed methodology document when developing guidelines and formularies. He said the methodology document should result in guidelines that have detailed evidence tables. He said those evidence tables should have the evidence in support of, or against, a treatment, and the tables should be detailed like a journal article; the criteria should be scored and critically appraised. He said the methodology should be reviewed using external peer reviews with experts across the country to get detailed feedback. Dr. Hegmann said they have also conducted research studies with a large workers' compensation insurer to review the impact of the guidelines, as well as the impacts in terms of adherence to the guidelines. He said there is a significant difference in the cost and duration of a claim when the guidelines are not adhered to.

Ms. Shannon said as there are more device manufacturers and pharmaceuticals coming into play, there is a process they follow, which includes stakeholder input. She said the guidelines do not often cover specific medical devices. Instead, they cover treatments. Dr. Hegmann said if something comes up in a publication that needs to be reviewed or something is brought to their attention, they will put it into process. He said the review process at the Federal Drug Administration (FDA) is not the same for appliances as it is for drugs, as drugs require a placebo-controlled trial.

Having no further business, the Workers' Compensation (C) Task Force adjourned.

W:\National Meetings\2020\Fall\TF\WC\12-WCTF Minutes.docx

Draft: 11/4/20

Workers' Compensation (C) Task Force
Virtual Meeting
October 26, 2020

The Workers' Compensation (C) Task Force met Oct. 26, 2020. The following Working Group members participated: James J. Donelon, Chair, represented by Warren Byrd and Tom Travis (LA); Jim L. Ridling, Vice Chair represented by Gina Hunt (AL); Lori K. Wing-Heier represented by Michael Ricker (AK); Alan McClain and William Lacy (AR); Ricardo Lara represented by Patricia Hein and Mitra Sanandajifar (CA); Andrew N. Mais represented by George Bradner (CT); Karima M. Woods represented by Angela King (DC); John F. King represented by Steve Manders (GA); Colin M. Hayashida represented by Kathleen Nakasone (HI); Dean L. Cameron represented by Michele MacKenzie (ID); Robert H. Muriel represented by Reid McClintock (IL); Vicki Schmidt represented by Heather Droge (KS); Sharon P. Clark represented by Michael Staley (KY); Eric A. Cioppa represented by Sandra Darby (ME); Grace Arnold represented by Tammy Lohmann and Phil Vigliaturo (MN); Chlora Lindley-Myers and Cynthia Amann (MO); Mike Causey represented by Wilhelmina Muhaimin (NC); Marlene Caride represented by Mark McGill (NJ); Russell Toal represented by Robert Doucette (NM); Barbara D. Richardson represented by Gennady Stolyarov (NV); Glen Mulready represented by Cuc Nguyen (OK); Andrew R. Stolfi represented by Brian Fordham (OR); Elizabeth Kelleher Dwyer represented by Beth Vollucci (RI); Larry D. Deiter represented by Maggie Dell (SD); Tanji J. Northrup represented by Tracy Klausmeier (UT); Michael S. Pieciak represented by Kevin Gaffney, Pat Murray and Rosemary Raszka (VT); and James A. Dodrill represented by Tonya Gillespie (WV). Also participating were: Rebecca Nichols (VA); and Mike Shinnick (TN).

1. Adopted its 2021 Proposed Charges

Mr. Doucette made a motion, seconded by Ms. Muhaimin, to adopt the Task Force's 2021 proposed charges (Attachment One-A). The motion passed.

Having no further business, the Workers' Compensation (C) Task Force adjourned.

W:\National Meetings\2020\Fall\TF\WC\1026 WCTF Minutes.docx

Draft: 10/13/20

Adopted by the Executive (EX) Committee and Plenary, TBD

Adopted by the Property and Casualty Insurance (C) Committee, TBD

Adopted by the Workers' Compensation (C) Task Force, Oct. 26, 2020

2021 Proposed Charges

WORKERS' COMPENSATION (C) TASK FORCE

The mission of the Workers' Compensation (C) Task Force is to study the nature and effectiveness of state approaches to workers' compensation and related issues, including, but not limited to: assigned risk plans; safety in the workplace; treatment of investment income in rating; occupational disease; cost containment; and the relevance of adopted NAIC model laws, regulations and/or guidelines pertaining to workers' compensation.

Ongoing Support of NAIC Programs, Products or Services

1. The **Workers' Compensation (C) Task Force** will:
 - A. Oversee the activities of the NAIC/International Association of Industrial Accident Boards and Commissions (IAIABC) Joint (C) Working Group.
 - B. Discuss issues with respect to advisory organizations, rating organizations, statistical agents and insurance companies in the workers' compensation arena.
 - C. Monitor the movement of business from the standard markets to the assigned risk pools. Alert state insurance department representatives if the growth of assigned risk pools changes dramatically.
 - D. Follow workers' compensation issues regarding cannabis in coordination with the Cannabis Insurance (C) Working Group.
 - E. Discuss workers' compensation issues related to COVID-19.
2. The **NAIC/IAIABC Joint (C) Working Group** will:
 - A. Study issues of mutual concern to state insurance regulators and the IAIABC. Review relevant IAIABC model laws and white papers and consider possible charges in light of the Working Group's recommendations.

NAIC Support Staff: Sara Robben/Aaron Brandenburg

W:\National Meetings\2020\Fall\TF\WC\2021 Charges.docx