

**CONSIDERATIONS IN THE WORKERS' COMP PATIENT**



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**I have nothing to disclose except...**

- I do a fair amount of WC
- I never received any formal training in dealing with the whole WC "system"
- Most WC patients are reasonable and want to return to work in a timely fashion
- Some are clearly gaming the system and the key is to figure out who you're dealing with
- The difficult WC patients do suck the life out of me

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**WORKERS' COMPENSATION**

- Each state requires a place of business with more than a specified number of employees provide WC benefits to their employees
- Businesses can be "self insured" or can be insured by an insurance carrier (i.e. PMA, Zurich, Travelers)

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**WORKERS' COMPENSATION**

- In some cases, a “third party administrator” (TPA) is involved with self insured companies to oversee and administrate the WC plan
- Federal workers are under federal jurisdiction rather than state jurisdiction
  - Different fee schedule
  - Causation/aggravation issues may differ from state

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**WORKERS' COMPENSATION**

- Often an excellent payer when compared to HMO's and other insurance plans
- Office visits can be coded fairly aggressively due to the increased time it takes to evaluate and care for the injured worker as well as the time it takes to deal with the extra paper work

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**WORKERS' COMPENSATION**

- If you develop a reputation for excellent patient care and timely RTW, carriers & adjustors will take notice and send patients
- Communicate with occ med docs, rehab nurses, health and safety officers, plant nurses and even adjusters
- Make it a routine to give out work notes and fax proper forms on day of visit

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### WC PATIENT TREATMENT GOALS

- Provide proper medical & surgical treatment
- Return patient to work in a timely fashion
- Get the patient to MMI (maximum medical benefit) as soon as possible
- Provide appropriate work restrictions when injured worker reaches MMI

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### RTW STRATEGIES

- Low ball time out of work when patients ask about out of work time following surgery
- Speak with employers regarding restricted duty programs
- Many employers will allow injured workers to RTW one handed
- Understand that some patients are not going back to work

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### WC PATIENT PRIVACY ISSUES

- All records and chart notes must be released to WC carrier
- The same confidentiality rules are not applicable in WC
- Rehab nurses are entitled to patient information, but the patient may request that the rehab nurse not be present for the encounter

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### “PANEL PHYSICIAN”

- Every company is required to have a “panel” of physicians to offer a worker following an injury (PA)
- Varies by state, with some states (NJ) permitted to direct care throughout
- Other states can only direct care for a specified period of time (PA: 90 days)
- Other states allow workers to go where they please immediately (DE)

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### NEW PATIENT EVALUATION

- Patient evaluated
- Arrive at diagnosis
- Formulate treatment plan
- Expeditious diagnostic testing prior to intervention
- Address work restrictions
- Causation not addressed

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### SECOND OPINION EVALUATION

- Causation is not addressed
- Work restrictions are not addressed
- Is surgery indicated?
- Address risks/benefits of surgery and recovery time

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## INDEPENDENT MEDICAL EXAMINATION

- Prepaid
- “No show” fee
- Legal document
- Employer is entitled to a certain number per year within a specialty (PA: one every 6 months)

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## IME QUESTIONS TO ANSWER

- Diagnosis
- Causation
- Is patient at MMI
- Work restrictions
- “Fully recovered?”
- “Specific loss?”

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## CAUSATION/AGGRAVATION

- Most states are “aggravation” states
- Activity does not have to cause a particular diagnosis, but rather aggravate it
- “Material aggravation”: “but not for the work activities”
- Some states are much more “employer friendly” (VA) when compared to other more “employee friendly” states (PA)

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### MMI

- “Maximum medical improvement”
- A patient who has completed a course of treatment and no longer requires medical care has reached MMI
- A patient can reach MMI and not be “fully recovered”
- A patient can reach MMI and require work restrictions

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### MMI

- Once a patient has reached MMI, a permanent restriction is issued if appropriate
- Some states require a permanent impairment rating
- AMA guides to the evaluation of permanent impairment used

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### WORK RESTRICTIONS

- Categories of work include sedentary, light, medium, heavy and very heavy
- Restrictions can be determined empirically (educated guess), or by using an FCE as an aid

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### FCE

- “Functional capacity evaluation”
- Test of varying quality used to help determine work restrictions
- A proper FCE should include validity criteria
- All FCE’s are not created equal

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### FULL RECOVERY

- Patient is felt to have “fully recovered”
- No significant sequelae following an injury or treatment for an “occupational injury” (i.e. CTS and CTR)
- By saying that a patient has “fully recovered,” it implies that the individual has no work restrictions

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### SPECIFIC LOSS/LOSS OF USE

- Loss of appendage (amputation)
- “Permanent loss of use”
  - “Permanently lost for all practical intents and purposes”
  - Made on a common-sense basis based upon considerations both of what the injured worker testifies to as to the nature of his limitations and usage and of expert medical testimony

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### IME SPECIFICS

- Scrutinize and summarize relevant records
- Complete physical examination
- In appropriate cases x-rays of both sides
- Volumetrics for patients who report swelling

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### IME PHYSICAL EXAM

- Height/weight (BMI)
- Gown patient for neck/shoulder girdle complaints
- Measure wrist, forearm & arm circumference
- Waddell's signs for upper extremity
- Jamar, including REG simultaneous
- Key pinch in full view, then turned over

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### INDEPENDENT MEDICAL EXAMINATION

- Document time of history and physical examination
- Interpreter for those with marginal English speaking skills
- Attorney is permitted to be present, but cannot speak or answer for patient

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## DEPOSITIONS

- Take time to think before you answer
- Don't argue or get visibly pissed off
- Don't deviate from report unless new information warrants it
- An organized report helps a lot
- Review report prior to depo
- Read updated records prior to depo, including patient's depo transcript

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## THANK YOU



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*Philadelphia Hand to Shoulder Center*

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