

# Workers' Comp & Safety News

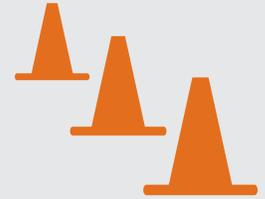


The Art  
of Hospitality

## Hospitality Insurance Specialist:

- Custom Tailored Insurance Programs
- Loss Control and Risk Management
- Safety Compliance and Training

13950 Cerritos Corporate Drive, Suite A • Cerritos, CA 90703  
800-466-8951 • 800-494-6829 fax  
www.petrarisksolutions.com • Lic# 0817715



Prevention

August/September 2013

Volume 11 • Number 4

## Preventing Opioid Abuse

Opioid drugs can provide short-term relief to individuals suffering from severe pain. But their high cost and high rates of misuse and abuse can create problems for employers.



### The Problem

Opioid pain relievers (also called narcotics) derive from opium and include morphine, heroin, oxycodone, and the synthetic opioid narcotics. Narcotics work by binding to receptors in the brain and blocking the feeling of pain.

The problem of opioid misuse starts in physicians' offices. Medical experts recommend using opioids only for short-term pain relief due to acute conditions such as cancer, when a patient does not respond to other therapies. According to the National Institutes of Health, "Almost always, you

*continued on next page*

## This Just In

If you thought workers' compensation medical bills seemed higher than those paid by your group health plan, you might be right.

A new study from the Workers' Compensation Research Institute (WCRI) compared hospital payments for the same surgical procedure when paid by group health insurers versus workers' compensation in 16 large states. These states represent 60 percent of the workers' compensation benefits paid in the U.S.

In half the study states, outpatient shoulder surgery cost at least \$2,000 (or 43 percent) more for workers' compensation patients than for patients covered by group health insurance. The study, *Comparing Workers' Com-*

*continued on next page*

should limit their use to no more than 3 to 4 months.” However, between 55 and 86 percent of all workers’ compensation claimants receive opioids for chronic pain relief, said Keith E. Rosenblum, a senior risk consultant with Lockton Companies.

Opioid drugs used in workers’ compensation cost employers \$1.4 billion in 2012, estimated Joseph Paduda, president of CompPharma, LLC, a consortium of workers’ compensation pharmacy benefit management (PBM) firms. Today, pharmaceuticals account for about 19 percent of all workers’ compensation medical costs, and opioid drugs about 21 percent of all drug costs, reports NCCI Holdings.

In a white paper called “Wasted Dollars, Wasted Lives—How Opioid Overprescribing and Physician Dispensing Are Harming Claimants and Employers,” Paduda also noted, “There’s very little credible evidence that long-term opioid use is appropriate treatment for workers comp injuries....there is ample evidence that long-term opioid use leads to longer claim duration, long-term disability, higher costs, and higher medical expenses.”

Other experts support that view. Ameritox, a drug-testing company, found that many workers’ compensation claimants taking opioids for more than three months are not taking their medication as prescribed. Misuse and abuse ranges from not taking their medication to “...taking too much medication because of inadequate pain control, abuse or addiction.”

Many studies show that after 90 days of continuous use, opioid treatment is more likely to

become lifelong. When used long-term, opioids can create changes in a person’s opioid receptors. This can diminish a person’s natural abilities to modulate pain and creates a tolerance for the drug. Over time, a person will require higher doses for effective pain relief, which can lead to abuse, addiction and increased risk of overdose.

The number of accidental deaths associated with the use of prescription opioids has increased dramatically since 1999. In fact, the number of accidental deaths resulting from prescription opioid use now exceeds the number of deaths from heroin and cocaine overdoses, reported the Centers for Disease Control. The misuse and abuse of prescription painkillers led to more than 475,000 emergency room visits in 2009, twice the figure for 2004.

Researchers have also linked long-term opioid use to poor workers’ compensation claim outcomes. A study published in the *Journal of Bone and Joint Surgery* in 2009 reported that chronic opioid use after a work-related injury predicted “less successful outcomes.” The researchers found that higher dose levels were associated with higher costs for indemnity and medical costs for disability. Opioid users were also less likely to return to work. Among injured workers completing a functional restoration program, those who were using opioids at the time of admission were half as likely as the non-users to return to work during the year after treatment. They were also more than 2.6 times as likely to not be working at the one-year follow-up point.

**compensation and Group Health Hospital Outpatient Payments, examined 2008 claims in California, Florida, Illinois, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Michigan, New Jersey, North Carolina, Pennsylvania, Tennessee, Texas, Virginia and Wisconsin.**

**“These are large differences in costs in many states. Policymakers looking to contain medical costs in these states may want to ask if the difference is necessary to induce hospital outpatient departments to treat injured workers,” said Richard Victor, WCRI’s executive director.**

**Employers seeking to control workers’ compensation costs might want to compare prices for common surgical procedures in their area and steer injured workers to lower-cost providers.**

## The Solutions

Promote the use of alternatives to opioids. The American College of Environmental and Occupational Medicine recommends that physicians treating occupational injuries consider other treatments before prescribing opioids. “Depending on the exact diagnosis, these treatments may include exercise, topical medications, distractants (e.g., heat), NSAIDs, low-dose heterocyclic anti-depressants, anti-convulsant agents, and self-applied palliative modalities such as transcutaneous electrical nerve stimulation (TENS).” It also stresses the importance of active exercise and return to work in conjunction with opioid use.

Although medical treatment guidelines recommend periodic drug testing and psychological evaluation for long-term users of opioid drugs, studies have found few physicians observe the guidelines. Only 24 percent of long-term opioid users in one study received at least one drug test.

Ideally, treating physicians should screen workers' compensation claimants for prior opioid use before prescribing, since prior use increases the risk of tolerance and addiction. Second, treating physicians should require drug testing at regular intervals to monitor patients for compliance. Are they using the drug, and at the level prescribed? Many opioid users will stop using the drug on their own initiative, while those who become dependent will “doctor shop” and obtain prescriptions from more than one physician.

Better management of prescription painkillers can lead to better coordination of care among multiple providers, earlier intervention with patients at risk of addiction or overdose, and better treatment outcomes. All of these can reduce unneeded costs for employers and make valued workers more likely to return to work after an injury.

If overuse or misuse of opioids might be a factor in your organization's workers' compensation costs, a third-party administrator or prescription benefit manager can help you evaluate and/or monitor drug use patterns among your injured workers. For more information, please contact us. ■

## Prevent Carbon Monoxide Poisoning

Carbon monoxide poisoning causes an estimated 15,200 people to visit an emergency room or miss at least one day of work per year. But because carbon monoxide exposure creates nonspecific effects that are easily misdiagnosed, the actual toll of carbon monoxide poisoning is probably much higher.



Carbon monoxide (CO) is a colorless, odorless, toxic gas that results from the incomplete combustion of fossil fuels such as natural or liquefied petroleum gas, oil, wood, and coal. It is one of the oldest documented poisons.

When breathed, carbon monoxide displaces oxygen in the blood and deprives the heart, brain, and other vital organs of oxygen. Large amounts of CO can overcome you in minutes without warning—causing you to lose consciousness and suffocate.

The symptoms and effects of CO exposure vary greatly from person to person depending on age, overall health and the concentration and length of exposure. For lower-level exposures (below 100 ppm), symptoms may include headache, dizziness, and nausea. People with heart problems may experience chest pain. Higher levels of exposure (above 150-200 ppm) may result in disorientation, unconsciousness, and death. In addition, a growing body of evidence has associated chronic low-level exposure to ambient air CO to higher incidence of cardiovascular disease, stroke and adverse birth outcomes.

*continued on next page*

The non-specific nature of the symptoms makes it easy to attribute CO poisoning symptoms to other causes, such as the flu. And because it is impossible to see, taste or smell the toxic fumes, CO can kill you before you are aware of it.

Potential sources of CO exposure exist in most workplaces in the U.S., including furnaces, motor vehicles, generators, gas heaters and other small-engine powered appliances. As the weather gets cooler and people move indoors and increase the use of heaters, the risk of CO exposure increases.

### To Prevent CO Poisoning:

- ✱ Install an effective ventilation system.
- ✱ Maintain equipment and appliances (e.g., water heaters, space heaters, cooking ranges) that can produce CO in good working order to promote their safe operation and to reduce CO formation.
- ✱ Consider switching from gasoline-powered equipment to equipment powered by electricity, batteries, or compressed air if it can be used safely.
- ✱ Prohibit the use of gasoline-powered engines or tools in poorly ventilated areas.
- ✱ Provide personal CO monitors with audible alarms if potential exposure to CO exists.
- ✱ Test air regularly in areas where CO may be present, including confined spaces.
- ✱ Install CO monitors with audible alarms.
- ✱ Use a full-facepiece pressure-demand self-contained breathing apparatus (SCBA) certified by the National Institute for Occupational Safety and Health (NIOSH), or a combination full-facepiece pressure de-

mand supplied-air respirator with auxiliary self-contained air supply in areas with high CO concentrations, i.e., those immediately dangerous to life and health atmospheres.

- ✱ Use respirators with appropriate canisters for short periods when CO levels are not exceedingly high.
- ✱ Educate workers about the sources and conditions that may result in CO poisoning as well as the symptoms and control of CO exposure.
- ✱ Ensure that workers test for oxygen sufficiency before entering confined spaces where the presence of CO is suspected.

When you suspect CO poisoning, promptly taking the following actions can save lives:

- ✱ Move the victim immediately to fresh air in an open area.
- ✱ Call 911 or another local emergency number for medical attention or assistance.
- ✱ Administer 100-percent oxygen using a tight-fitting mask if the victim is breathing.
- ✱ Administer cardiopulmonary resuscitation if the victim has stopped breathing.

Employers should make sure that rescuers are not exposed to dangerous CO levels when performing rescue operations. Rescuers should be skilled at performing recovery operations and using recovery equipment.

### CO Alarms Can Save Lives

Carbon monoxide alarms are designed to alarm before potentially life-threatening levels of CO are reached. CO alarms may be installed

into a plug-in receptacle or high on the wall. Hard wired or plug-in CO alarms should have battery backup. Avoid locations that are near heating vents or that can be covered by furniture or draperies. The Consumer Products Safety Commission does not recommend installing CO alarms in kitchens or above fuel-burning appliances.

After installing a CO alarm, test it to make sure it functions properly, following the manufacturer's instructions. And note the alarm's replacement in a tickler file—alarms have a recommended replacement age, which can be obtained from the product literature or from the manufacturer.

Currently marketed CO alarms are not as susceptible to nuisance alarms as earlier models. If a CO alarm sounds, do not ignore it!

- ✱ Move everyone in the area outside, to fresh air.
- ✱ Call your emergency services, fire department, or 911.
- ✱ After calling 911, do a head count to check that all persons are accounted for. DO NOT reenter the premises until the emergency services responders have given you permission.
- ✱ If malfunctioning equipment has created the CO, DO NOT operate that equipment until it has been properly serviced by trained personnel.

For more information on reducing the risks of CO poisoning and other indoor air hazards, please contact us. ■

# Subrogation and Your Workers' Compensation Costs

When an employee injured on the job successfully sues a third party in addition to collecting workers' compensation, the employer's workers' compensation insurer may be able to "subrogate" the claim. As dictionary.com defines it, subrogation is "to substitute (one person) for another with reference to a claim or right."



**W**hen a work-related injury occurs, the employer's workers' compensation has the responsibility of paying for the injured workers' medical treatment and lost time. But what happens if a third-party (someone besides the employer or a co-worker) causes or contributes to the injury? Examples include work-related auto accidents caused by a third party's negligence, injuries caused or contribut-

ed to by another company's faulty product, or injuries caused by the malpractice of a doctor or healthcare provider treating a workrelated injury.

Unlike the workers' compensation system, the tort system allows an injured person who prevails in a lawsuit to receive compensation for lost wages (past, present and future), pain and suffering, property damage, loss of monetary support, loss of consortium, disfigurement and sometimes punitive damages.

When an employee collects tort damages or other settlements in addition to workers' compensation payments, the employer's insurer or the employer has the right to "subrogate," or claim a credit against any settlement or recovery received. Subrogation prevents an injured worker from collecting for the same injury twice; it also helps lower workers' compensation costs. If the employee chooses not to sue a third party that might have caused or contributed to his/her injuries, the employer or the employer's insurer can sue this party to recover any claims it paid to the injured worker. "Black's Law Dictionary" calls this kind of subrogation "...the right to step into the shoes of the party whom

## Waiver of Subrogation

**M**ost workers' compensation contracts include subrogation provisions that give the insurer the right to recover claims paid from anyone liable for an injury covered by the policy. However, in some instances an insured might not want an insurer to go after a third party for recovery of a claim. This can happen when the injury takes place on a client's premises, or when the insured has a contract with a general contractor or government entity that requires the insured's carrier to waive its subrogation rights.

Employers can ask their workers' compensation underwriter to add a "waiver of subrogation" provision to their policy, which will waive the insurer's rights to pursue recovery from a third party. Expect to pay an extra premium if your policy includes this provision. ■

they compensate and sue any party whom the compensated party could have sued.”

Laws governing workers' compensation subrogation vary from state to state. Some states are “first dollar states,” which give employers priority in recouping their costs out of any verdict or settlement. Some states also allow the employer to recover any increase in workers' compensation premiums due to

the injury. Other states require the full rehabilitation of the worker, or that the employee be “made whole,” before the employer or insurer recover any of their costs.

If third-party negligence might have played a role in one of your workers' compensation claims, your claims coordinator can help increase the chances of a successful subrogation by thoroughly documenting the

accident or injury. This includes interviewing the victim and any witnesses, photographing the accident scene immediately following the accident and saving any evidence. If your insurer declines to subrogate, or if you self-insure for workers' compensation, we strongly recommend hiring an attorney with expertise in this area to help you with the subrogation process. ■

## NIOSH Announces a New Center for Workers' Compensation Studies

**N**IOSH, the National Institute of Occupational Safety and Health, recently established a Center for Workers' Compensation Studies (CWCS). The CWCS will act as a coordinator center to maximize the use of workers' compensation data for injury and illness research.

NIOSH says that, before the organization of the CWCS, coordinated workers' compensation research has been conducted mostly at large commercial insurers, state-based insurers or industry organizations, which have not always distributed their data or research findings widely. In addition, research using such data for prevention purposes has been limited. This may be due to the fact that agencies and insurers collecting data do so

within their mission of administering workers' compensation benefits, and research is not one of their traditional functions. There may also be reasons related to the proprietary nature of the data.

The CWCS will assist in research on occupational injury and illness by:

- \* Identifying trends in work-related injuries-illnesses.
- \* Understanding the use and limits of workers' compensation information.
- \* Integrating workers' compensation data with other health-related data.
- \* Understanding the total economic impact of work-related injury-illness.
- \* Identifying ways to prevent and reduce

the severity of work-related injury-illness.

- \* Developing best practices for prevention and disability management

The CWCS has already started a number of studies that are evaluating trends of claim incidence and costs across industries, the effectiveness of prevention approaches, the use of leading indicators for employer safety and health programs, and cost-sharing for work-related injuries-illnesses that are borne by workers' compensation and other social and health insurance programs. More information about the Center is available at <http://www.cdc.gov/niosh/topics/workercomp/cwcs/> ■

# Workers' Comp & Safety News



The information presented and conclusions within are based upon our best judgment and analysis. It is not guaranteed information and does not necessarily reflect all available data. Web addresses are current at time of publication but subject to change. This newsletter is FINRA-compliant; SmartsPro Marketing does not engage in the solicitation, sale or management of securities or investments, nor does it make any recommendations on securities or investments. This material may not be quoted or reproduced in any form without publisher's permission. All rights reserved. ©2013 SmartsPro Marketing. Tel. 877-762-7877. [www.smartspromarketing.com](http://www.smartspromarketing.com)