



CEU SEMINARS

11/17/15:
**“Medicare/MSA
 2015 Annual
 Updates”** by
 GENEX. 11:30 AM
 – 12:30 PM,
 Holiday Inn
 Lakewood Ranch,
 6231 Lake Osprey
 Drive.

1/28/16:
**“Successful
 Subrogation 2.0”**
 by Linda Farrell with
 Boyd & Jenerette,
 P.A. 11:30 AM –
 2:00 PM, Holiday
 Inn Lakewood
 Ranch.

**For more details,
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JOHNS EASTERN COMPANY, INC.

Claim Adjusters & Third Party Administrators

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FIREFIGHTER CANCER PRESUMPTION PROPOSED

Florida Senate Bill Would Create Statutory Presumption for Cancer

Those who handle claims involving first responders are all too familiar with what are commonly referred to as “presumption claims.”

Currently, section 112.18 of the Florida Statute provides a presumption for hypertension, heart disease, and tuberculosis. Section 112.181 covers hepatitis, meningococcal meningitis and tuberculosis. Now, a proposed Florida Senate bill would create a statutory presumption for cancer in Florida for firefighters.

Currently, more than 30 states have some form of a cancer presumption.¹ Some state presumptive laws apply to all cancers, while others are more limited. For example, California has a rebuttable presumption for all forms of cancer, including leukemia.² Colorado’s statute provides for a rebuttable presumption for firefighters who have been employed for five or more years, but limits the coverage to cancer of

the brain, skin, digestive system, hematological system or genitourinary system.³ In the state of Washington, firefighters who have at least 10 years of



service are entitled to a presumption for prostate cancer (diagnosed before age 50), primary brain cancer, malignant melanoma, leukemia, non-Hodgkin lymphoma, bladder cancer, ureter cancer, colorectal cancer, multiple myeloma, testicular cancer and kidney cancer.⁴

Florida Senate Bill 456,

sponsored by Senator Jack Latvala (R-District 20), proposes the enactment of section 112.1816, which would create a presumption that *any* type of cancer suffered by a firefighter is suffered in the line of duty and therefore compensable under Chapter 440. Similar to Florida Statute section 112.18, section 112.1816 requires the firefighter to have suffered disability (total or partial). Like section 112.18, section 112.1816 has a pre-employment physical requirement, but unlike 112.18, section 112.1816 requires specific tests be completed as part of the pre-employment physical. If the agency decides not to administer a pre-employment physical, a post-employment physical can be utilized. The standard for rebutting the presumption is the same as that set forth in 112.18, “competent evidence.”

See <http://www.flsenate.gov/Session/Bill/2016/0456/BillText/Filed/PDF> for the full text of the bill.

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EXERCISE CAUTION WITH PRIVATE-LABEL TOPICALS

A number of over-hyped, private-label gels, creams, ointments and lotions claiming to relieve muscle aches and arthritis pain are driving up costs in the workers' compensation system. These copycat products mimic well-known, moderately priced brands, but often come with inflated claims and exorbitant price tags. Physician prescribing of these private-label topical analgesics has increased in workers' compensation, with prescribing rates doubling since 2012.¹ Awareness of these expensive and clinically unproven products is becoming increasingly important due to their potential safety and cost implications.

From a clinical perspective, private-label topicals offer no greater benefit to the patient than over-the-counter (OTC) alternatives found in national retail chains.

While these products typically represent a very small portion of prescriptions written, the potential cost per prescription is disproportionately high. Prices associated with private-label topicals often exceed \$500.¹ Common examples of some of these products are Medrox, Dendracin, Terocin, Medi-Derm, and Xoten-C. Meanwhile, therapeutically comparable OTC alternatives, which include brands such as BenGay® or IcyHot®, typically retail for less than \$10.



What are Private-Label Topical Analgesics?

- Independently manufactured OTC products
- Contain similar ingredients as OTC products
- Significantly higher average whole sale price (AWP) vs OTC products
- Pose an increased risk of skin burns due to high concentrations of specific ingredients (menthol, methyl salicylate, capsaicin)
- Prescribed for temporary relief of minor pain associated with injury, including back & shoulder
- Most commonly dispensed by physicians or smaller, independent pharmacies

What are They NOT?

- Not FDA-approved
- Not clinically tested for safety or efficacy
- Not cost-effective
- Not compounds
- Not available OTC at retail chains

Prescribing and Patient Safety

So why are these products being prescribed? In some cases, it is based on misperception. Prescribers may believe they are recommending a superior product, without fully realizing the safety or cost implications. In reality, the active ingredients in these products – which frequently include methyl salicylate, menthol, and capsaicin – commonly overlap with inexpensive and widely accessible OTC alternatives. However, the concentrations of ingredients found in private-label products are often much higher than FDA-recommended safety thresholds,² which can put patients at increased risk for skin burns without offering any clinically proven benefit. It is important for physicians to recognize that there are suitable alternatives available.

Education and Awareness

As prescribing of private-label topical analgesics continues to trend upwards, there is a greater need for oversight of these products. Further education is needed, including familiarity with product names, an understanding of the safety and cost implications for these products, and the channels through which private label topicals are being dispensed; in the majority of cases, by the physician or smaller, independent pharmacies.

¹ Healthsystems data, 2015.

² FDA Drug Safety Communication: *Rare cases of serious burns with use of over-the-counter topical muscle and joint pain relievers*. September 2012. Rockville, MD: US Food and Drug Administration. <http://www.fda.gov/drugs/drugsafety/ucm318858.htm>. Accessed February 27, 2015.

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PROMOTE HEARING HEALTH FOR YOUR EMPLOYEES

Noise-induced hearing loss is one of the most common work-related illnesses in the United States. Each year, an estimated 22 million U.S. workers encounter noise exposures loud enough to be potentially hazardous. In addition to hearing loss and other hearing disorders, prolonged exposure to noise can increase cardiovascular health risks, affect workers' quality of life, and carry a high economic price to society.

Are My Employees at Risk?

Occupational hearing loss occurs as a result of workers' exposure to loud noise. Noise levels over 85 decibels can be hazardous to hearing. If you have to raise your voice to speak to someone an arm's length away, the noise levels may be loud enough to damage your hearing. If you are concerned about noise levels at your workplace, consider using a smartphone sound level meter app to get a rough estimate of noise levels.

Several factors that can increase risk include:

- Noise level – as noise level increases, the risk also increases



- Duration of exposure – the longer the noise lasts, the more hazardous it becomes
- Impulsiveness – noises that have very abrupt starts and stops (such as hammering, gunfire, or fireworks) are more dangerous than constant noise of the same overall level

The ear does not experience pain in the same way the rest of the body does. If your ears feel stuffy or full, your ears may be telling you that you have potentially harmed them. Ringing or roaring in your ears could indicate a serious noise exposure, which if allowed to continue, could lead to permanent damage and hearing loss.

How Can I Protect Myself and My Employees?

The best practice for hearing safety is to eliminate or reduce noise in the workplace. If it is not possible to eliminate noise exposure, employees should wear hearing protectors in situations where there are dangerous noise levels. A few easy steps can help eliminate hearing damage and loss for your employees.

Centers for Disease Control and Prevention

JOHNS EASTERN DONATES TO READING PALS PROGRAM



Johns Eastern has finished our 3rd quarter fundraising activity by providing books and funds for the United Way of Manatee County's Reading Pals Program. This program pairs volunteers with kindergarten students from the School District of Manatee County for an extra hour of reading help every week.

Our goal was to contribute 75 books and \$1,500 to Reading Pals. Thanks to the generosity of our great employees, we donated 213 books and \$985. Johns Eastern matched our employee donations, so

we donated a total of \$1970 to Reading Pals.

As the holiday season approaches, the Johns Eastern Charity Committee is looking forward to the 4th quarter events that will benefit the Manatee County School District's ESOL/Migrant Department and a program we call *Our little Angels*. The aim of this program is to give support to families who would otherwise be unable to provide gifts to their little ones during the holidays.



NEW MEDICAL BILLING CODES IMPLEMENTED

On October 1, 2015, the Centers for Medicare & Medicaid Services (CMS) introduced the International Classification of Diseases, 10th Revision – ICD-10. The International Classification of Diseases is a set of standardized codes that identify conditions and procedures in medical billings.

With this change, medical providers will need to switch from ICD-9, which includes about 17,000 diagnosis and procedure codes, to ICD-10, which includes more than 155,000 diagnosis and procedure codes. The change to ICD-10 allows more details about the health status of patients to be captured and sets the stage for improved patient care and public health surveillance. Providers and insurers subject to the Health Insurance Portability and Accountability Act (HIPAA) are required to begin using ICD-10 codes, according to the U.S. Department of Health and Human Services (HHS) in its final rule published in 2014.

While the HIPAA law says workers' compensation programs are exempt from medical privacy compliance, the HHS acknowledged in its rule that the new codes were likely to affect workers' compensation. The new codes will likely have the largest impact on workers'

compensation payers who deal with Medicare Secondary Payer Compliance.

The Medicare Secondary Payer Act requires insurers and self-insured employers to notify CMS of any workers compensation or liability claim settlement involving a Medicare-eligible individual. CMS can issue liens requiring that settlements be used to reimburse the agency for medical care it paid on a claimant's behalf, or that payers set aside money to pay for future medical care related to a compensable injury.

Medicare Secondary Payer experts say workers' compensation insurers and self-insured employers often are asked to reimburse

Medicare for injuries or illnesses unrelated to a workers' compensation claim because those conditions are lumped in with the claimant's occupational injury in medical records. The new ICD-10 codes will be particularly helpful in allowing workers' compensation insurers and self-insured employers to specify which injuries they accept responsibility for and which should be paid for by Medicare.

Business Insurance and the Centers for Medicare and Medicaid Services



LIABILITY QA MANAGER JAMES BOELTER TO RETIRE



After 27 years with Johns Eastern, our Liability Quality Assurance Manager, James Boelter, has announced he will retire at the end of 2015.

Mr. Boelter joined Johns Eastern in early 1988 with a background in law enforcement and in accident investigation. He was promoted to Branch Manager in 1990 and in 2008 he transitioned to the Liability Quality Assurance Manager. Mr. Boelter has been active in the liability fields, both personal and commercial lines and has handled general liability, automobile, workers' compensation, medical malpractice, public officials, and errors and omission claims. As Quality Assurance Manager, Mr.

Boelter oversees liability subrogation and excess recoveries and is also responsible for the overall operational production of Medicare Reporting. His replacement as Liability QA Manager will be John Powers who is currently a legal adjuster in our Sarasota TPA Liability Office.

Mr. Boelter will certainly be missed and we wish him all the best in his upcoming retirement!

STUDENTS EXPLORE CAREERS IN MIDDLE SCHOOL

Apprenticeship opportunities at the high school level have been commonplace for quite some time, but now even middle schools are starting to get involved. Middle schools across the country are exposing students to different career opportunities so they can appreciate and understand the relevance of what they are learning today and how it can be applied at their future jobs. Organizations, such as the United Way, are backing the programs by issuing grants worth thousands of dollars to middle school communities that help place students with different companies.

EDUCATION UPDATE



There are hurdles, however, that must be overcome. While many believe middle school-aged children are too immature to benefit from a work experience, others believe it is important to start the process in

middle school so that students will have an idea of the types of jobs that they want to pursue by the time they reach high school.

Look for the middle school participation to trend upwards in the coming years. Research shows 60 to 70 percent of students in 7th and 8th grades become “chronically disengaged,” so it is important to provide an early sense of career opportunities. As more and more organizations and businesses get involved, the overarching hope is to reduce dropout rates and get children excited about their future.

Sniffen & Spellman, P.A.

Continued from page 1

This is not the first time that a proposed cancer bill has been before the Florida Legislature. If the bill were to pass and become law, the financial impact on governmental entities would be staggering.

As your trusted partner in third party claims adjusting, Johns Eastern intends to closely monitor the status of this bill and advise our clients of any new developments. Governmental entities are encouraged to contact their legislative

delegation, lobbyist, or other agency capable of expressing concerns to the Legislative Branch.

¹David B. Torrey, National Association of Workers' Compensation Judiciary, Firefighter Cancer Presumption Statutes in Workers' Compensation and Related Laws: An Introduction and a Statutory/Regulatory/Case Law Table.

²California Labor Code section 3212.1.

³C.R.S. 8-41-209.

⁴Rev. Code Wash. (ARCW) section 51.32.185.

Karen Cullen, Esq.
Broussard & Cullen, P.A.

CONFERENCE CONNECTION

Plan now to join us at one of the following upcoming conferences:

National Workers' Compensation and Disability Conference

November 11 - 13, 2015
Las Vegas, NV

Palm Beach RIMS Educational Meeting

November 12, 2015
West Palm Beach, FL

Virginia Self-Insurers Association

Annual Meeting
December 2 - 3, 2015
Williamsburg, VA

IT'S FLU SEASON! ACT NOW TO PROTECT YOURSELF



The Centers for Disease Control and Prevention (CDC) recommends a yearly flu vaccine for all people 6 months and older.

Flu shots are now available for 2015-2016.

The vaccine is available as a traditional shot or a nasal spray. If you have questions about which vaccine is best for you, talk to your doctor or other health care professional.

Centers for Disease Control and Prevention



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IN THE SPOTLIGHT



This month we're proud to feature Liability Claims Supervisor **Javier Melendez** in our **Staff Spotlight**. Mr. Melendez joined Johns Eastern in 2006 as a Senior Adjuster and Team Leader and by 2008 he was promoted to Liability Supervisor.

Mr. Melendez has worked in the insurance industry for over 15 years and has handled claims in Commercial General Liability, Commercial Crime, Products Liability, Automobile Liability, Automobile Physical Damage, Property, Garage Liability, Garage Operations, Fidelity, Errors & Omissions, Directors & Officers, Employment Practices Liability, and Bonds and Bankers Liability claims, as well as personal lines.

He currently oversees adjusters handling claims for Collier County Public Schools, the City of Coral Gables, the City of Dunedin, the Florida Conference of The United Methodist Church, Manatee County Public Schools, the Monroe County School District, the Panhandle Area Educational Consortium, the Pasco County Board of County Commissioners, Polk County Public Schools and Sarasota County Public Schools.