

SAVE THE DATE

2018

UPCOMING CEU SEMINARS

May 21, 2018
12:00pm - 1:00pm

“5 Hour Law and Ethics Update Course”

Presented by:
Mary Frances Nelson with Eraclides, Gelman, Hall, Indek, Goodman & Waters, P.A.

Location:
Holiday Inn - LWR
6231 Lake Osprey Dr.
Lakewood Ranch, FL
34240

June 18, 2018
12:00pm - 1:00pm

“Social Security Offsets” and “Subrogation Claims in Florida”

Presented by:
Jonathan Cooley and Mark Hill with Hurley, Rogner, Miller, Cox, Waranach, P.A.

Location:
Holiday Inn - LWR

For more details, contact:

Rose Rome at
rrome@johnseastern.com



JOHNS EASTERN

Claim Adjusters & Third Party Administrators

GOING BEYOND THE RISK FACTORS

What are the Latest Trends in Presumption Claims?

Presumption or “Heart/Lung Bill” claims commonly involve a first responder who develops coronary artery disease and, unfortunately, suffers a heart attack. Assuming the employee can meet the elements of the presumption (they are a covered employee; they have been diagnosed with heart disease; they suffered disability as a result of heart disease; and they can prove a pre-employment physical “clean” for the condition at issue), the analysis turns to whether the employer/carrier can cite a cause of the heart disease and resulting heart attack.

Cardiologists generally recognize numerous “risk factors” associated with the development of blockages in the heart that can lead to heart attacks. These include smoking, obesity, family history, diabetes, hypertension, and high cholesterol. Often, the dispute among the cardiologists is the “strength”

of the risk factors, or whether they can be cited as the cause of the heart attack. On many occasions, the claimant’s expert will acknowledge the presence of one or several risk factors which makes the development of heart disease more likely. Because these factors do not always result in the development of heart disease, however, most refuse to concede these conditions “caused” the heart disease.

The fact that “A” does not guarantee a result of “B” does not mean legal causation cannot be established, however. A claimant’s burden of proof (and an employer’s, in presumption cases) is only that “A” is most likely the major contributing cause of (or, at least 50% responsible for) “B.” This also does not need to be set forth with 100% certainty; rather, the case law has suggested that this need only be proved “within a reasonable degree of medical certainty” and, unless it is a repetitive



trauma or exposure case, by competent substantial evidence.

This is only one of many situations where learned physicians have a difficult time reconciling their medical expertise with our legal framework. There does seem to be a distinction in the medical (particularly cardiology) world between “risk factors” and “causes.”

Two recent cases demonstrate this discrepancy. Both involved relatively young claimants who seemed to be in good health when they suffered severe heart attacks. A close scrutiny of the medical records document years of markedly elevated cholesterol levels.

Continued on page 4

Page 2
WC & Marijuana:
Finding a Balance

Page 3
Keeping Your Costs
Down: RX Trends

Page 5
FL Schools Receive
Guidance on Safety



MEDICAL MARIJUANA: BALANCING THE BENEFITS

In workers' compensation it is important to understand the potential benefits and risks of marijuana as it relates to conditions commonly seen in injured workers, including acute and chronic pain. Physicians must also consider the implications of marijuana outside of the clinical setting (e.g., in the workplace) in order to make the most informed treatment decision.

Many physicians remain largely uncomfortable with recommending medical marijuana due to a low knowledge base regarding its benefits and risks for medicinal use, and its continuing DEA status as a Schedule 1 illicit substance.

Legal Status

Despite its federal Schedule 1 status, 31 states and the District of Columbia provide statutory language that allows for the comprehensive use of medical marijuana.¹

The Payer's Perspective

Although cases remain few and far between, payer reimbursement for medical marijuana has now become a reality. The majority of states do not require insurers to reimburse patients for medical marijuana costs or leave reimbursement to the insurer's discretion. To date there are only four states in which workers' compensation insurers have issued reimbursement for a medical marijuana claim.

Clinical Evidence

Since the DEA rescheduled marijuana as an illicit substance in 1970, there has been limited funding to support clinical studies to fully explore its efficacy as a treatment option for many conditions. Even so, there is a moderate level of emerging medical evidence regarding the benefits of marijuana to treat specific types of pain and as a viable alternative to opioid analgesic therapy.

- A 2015 systematic review of 79 trials published in the *Journal of the American Medical Association* found that use of cannabinoids was associated with a 37% reduction in pain.²
- A cross-sectional study of nearly 900 individuals receiving treatment for chronic pain demonstrated that "problematic use" was more than twice as prevalent among those using opioids compared with those using medical marijuana.³

The inclusion of medical marijuana as part of the

treatment plan may reduce or eliminate opioid use, which can help counteract some of the negative consequences of opioids.⁴

- In states where marijuana is legally recognized for medical treatment of select health conditions, prescription opioid overdose deaths are 25% lower than in states where medical marijuana is illegal.⁵

While a specific cause-and-effect cannot be determined, the consistent trend points to a very significant and potentially positive benefit.

Marijuana and the Workplace

If the opioid epidemic has taught us anything, it is that the risks of medication should not be underestimated. While medical marijuana offers some potential benefits, it also carries risks. Marijuana can cause neurocognitive impairment that lasts anywhere from hours to weeks, causing a potentially negative impact on attention, concentration and abstract thinking. Common side effects of marijuana use include dizziness, dry mouth, fatigue, euphoria, disorientation, somnolence, confusion, loss of balance and hallucination.

When considering marijuana as a treatment option for an injured worker, a more complete view of individual patient circumstances must be considered, such as:

- Is the patient working while receiving medical marijuana treatment?
- If so, what job tasks does the individual perform? Are the tasks safety-sensitive?
- What policies does the employer have in place regarding the use of medical marijuana during off-work hours?

These are all factors that go beyond the purely clinical setting, but must be included in the decision to recommend medical marijuana for the treatment of pain, as workplace safety and public health are still paramount.

1 State medical marijuana laws. National Conference of State Legislatures web site. <http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>. Published June 8, 2016. Accessed June 22, 2016.

2 Whiting PF, Wolff RF, Deshpande S, et al. Cannabinoids for medical use: a systematic review and meta-analysis. *JAMA*. 2015;313:2456-73.

3 Feingold D, Goor-Aryeh I, Brill S, et al. Problematic use of prescription opioids and medicinal cannabis among patients suffering from chronic pain. *Pain Med*. June 2016. [Epub ahead of print]. <http://www.ncbi.nlm.nih.gov/pubmed/27346885>

4 Nurmikko T, Serpell M, Hoggart B, et al. Sativex successfully treats neuropathic pain characterized by allodynia: A randomised, double-blind, placebo-controlled clinical trial. *Pain*. 2007; 133(1-3): 210-20.

5 Bachhuber MA, Saloner B, Cunningham CO, et al. Medical cannabis laws and opioid analgesic overdose mortality in the United States, 1999-2010. *JAMA Intern Med*. 2014;174(10):1668-73.

**Strategic Partner: Clinical Services
Team, Healthsystems**



RX COSTS TREND DOWN WITH JE & HEALTHSYSTEMS

For nearly 10 years, Johns Eastern and our strategic partner, Healthsystems, have been at the forefront of addressing the challenges associated with physician dispensing as prescription costs are consistently one of the costliest components of a workers' compensation program. In 2009, Healthsystems developed and deployed their initial iteration of an aggressive solution for managing physician dispensing. During this time, it was the industry's only bill adjudication tool capable of processing physician-dispensed script transactions of repackaged drugs using the allowable rules in states such as California (which allows for adjudicating to the AWP value of the lowest-cost therapeutic equivalent of the billed repackaged drug).

Since the physician dispensing trend began, Johns Eastern and Healthsystems have taken the approach of aggressively managing the process. As a result of our approach to controlling physician dispensing, our clients have seen consistently lower prescription drug costs. With our combined efforts, the net change in prescription count for our clients dropped by an impressive 25% in 2016-2017, while the total amount paid for prescriptions fell 24% in that same time period. Here's how we are doing it:

CLAIM ADJUSTER RESOURCE

Providing talking points & education around safety concerns; utilize during injured worker contact

PD Alert & Position Paper



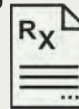
PATIENT SAFETY

Targeting physicians dispensing to patients

Encouraging use of network pharmacies

Highlighting safety concerns of physician dispensing

19% behavior change



PHARMACY AUTHORIZATION

Providing Authorization to Treat packages with instructions for doctors to give to injured workers and take to network pharmacies



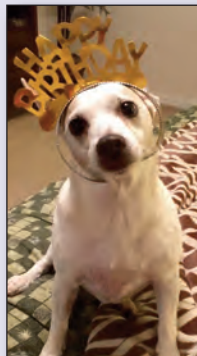
This is just one more way that Johns Eastern is working with you to manage your program and reduce your costs.

JE SURPASSES DONATION GOAL FOR HUMANE SOCIETY



Rose Rome
Executive Assistant

Our 1st quarter 2018 fundraising efforts have come to a close with the Cutest Pet Contest. This contest provided Johns Eastern employees with an opportunity to show off their pets and help the Humane Society at Lakewood Ranch (HSLWR) at the same time!



animals until they are placed in loving new homes. We surpassed our goal and were able to donate over 10,000 supply items and \$1,608. Johns Eastern matched the employee contribution for a total donation of \$3,108 to HSLWR!

For the 2nd quarter, we will focus our efforts on a new local non-profit organization - Manasota Operation Troop Support (MOTS). MOTS serves currently deployed military personnel with ties to Manatee and Sarasota Counties, as well as their families. We look forward to collecting supply donations and building care packages for troops serving abroad.



This year we had more than 63 entries in the contest and after an intense voting process, we are proud to announce that Bootsie, owned by TPA Liability Adjuster William Wuolo, is this year's Cutest Pet! We also collected supplies and funds to help HSLWR in their efforts to rescue and shelter at-risk companion

CHANGES ON THE WAY FOR FL'S FIRST RESPONDERS



Amanda Radcliffe
WC Quality
Assurance Manager

On March 5, 2018, the Florida House of Representatives unanimously passed Florida Senate Bill 376 to extend workers' compensation benefits to first responders being treated for Post-Traumatic Stress Disorder (PTSD) and require employers to educate new hires on mental health. Florida Governor Rick Scott signed the bill and the new law will go into effect on October 1, 2018.

What Does This Mean for Your WC Program?

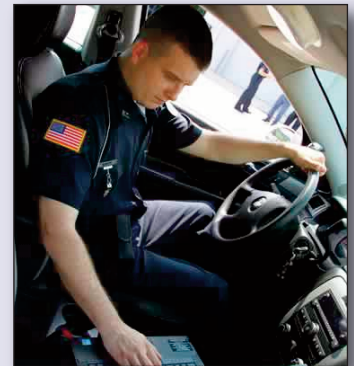
Under current Florida law, injured workers are not entitled to workers' compensation benefits for mental or nervous injuries, which include PTSD, unless physical trauma also occurs.

In 2007, first responders were granted medical benefits for PTSD without having the accompanying physical injuries, however, they were precluded from obtaining any lost wages for PTSD.

The new bill's purpose is to expand workers' compensation benefits for first responders to include wage benefits for compensable PTSD, even without an accompanying physical injury, as long as they meet all of the following criteria:

- Witness a sufficiently traumatic event
- Incident happened in the course and scope of their employment
- Diagnosed by an authorized treating psychiatrist
- Claim or provide notice of this manifestation of PTSD injury within one year of witnessing the qualifying event

This bill does **NOT** limit permanent psychiatric impairment benefits for first responders to 1% and it is not subject to apportionment relative to pre-existing conditions.



GOING BEYOND THE RISK FACTORS

Continued from page 1...

The authorized cardiologist in these cases rendered a diagnosis of familial hypercholesterolemia ("FH"), a genetic disorder that causes high cholesterol and cited this condition as the cause of the heart attacks. The claimant's expert disagreed, dismissing this condition as a mere "risk factor" because the presence of high cholesterol does not mean that a heart attack is inevitable. One case proceeded to trial, and the Judge of Compensation Claims accepted the testimony of the authorized doctor over that of the claimant's expert because of the latter's problematic opinion on causation. The other case proceeded to an Expert Medical Advisor, who also agreed with the authorized

doctor's diagnosis of FH and its causal relationship with heart disease.

The key in these cases (and even those outside of the presumption) is ensuring the expert understands the standard of causation at issue and testifies accordingly. In these instances, risk factors and causes are not mutually exclusive. As we learned in very recent practice, an expert who testifies to the contrary risks running afoul of the legal standard of causation.

Kristen Magana, Esq.
Broussard & Cullen, P.A.

HAVE YOU CONNECTED WITH JOHNS EASTERN?

Join us today on:



NEW LAW ADDRESSES PUBLIC AND SCHOOL SAFETY

EDUCATION LAW UPDATE

In light of recent safety scares, all Florida school boards, superintendents, and school staff are strongly encouraged to review the provisions of the new Marjory Stoneman Douglas High School Public Safety Act ("Act"). The Act was signed into law in March 2018 and contains numerous provisions directly related to addressing gun violence on school campuses. Among its many provisions, the Act provides the following:

- Creates the Office of Safe Schools within the Florida Department of Education which is required to, among other things, establish and update a school security risk assessment tool for use by school districts and charter schools;
- Establishes the non-mandatory Coach Aaron Feis Guardian Program, which includes provisions for the appointment of "school guardians;"
- Limitations on firearm possession and ownership for certain individuals with mental health issues;
- Increasing the minimum age to purchase a firearm from 18 to 21;
- Prohibitions on bump-fire stocks;
- Provisions for risk protection orders that may be filed by a law enforcement officer or law enforcement agency;
- Creation of the School Safety Awareness Program, which includes the creation of a mobile suspicious activity reporting tool that allows students and the community to relay information anonymously concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to public safety agencies and school officials;
- Creation of the Marjory Stoneman Douglas High School Public Safety Commission;
- Provisions requiring school districts to refer certain students for mental health services;
- Revisions to emergency drills and procedures requirements, including active shooter and hostage situations;
- Requirements that school districts establish policies and procedures for the prevention of violence on school grounds;
- Requirements that school districts adopt policies for the establishment of threat assessment teams at each school;
- Provisions requiring school districts to allow law enforcement agencies and agencies designated as first responders the opportunity to tour schools once every three years;
- Provisions requiring school districts to partner with law enforcement agencies to establish or assign one or more safe-school officers at each school;
- Creation of the Florida Safe Schools Assessment Tool (to be developed by the Office of Safe Schools).

Sniffen & Spellman, P.A.

CONFERENCE CONNECTION

Plan now to meet representatives from Johns Eastern at an upcoming conference:

Public Risk Management Association (PRIMA) Annual Conference

June 3 - 6 • Indianapolis, IN

Georgia Workers' Compensation Association (GWCA) Summer Conference

June 6 - 8 • Jekyll Island, GA

Workers' Compensation Claims Professionals Claims Management & Leadership Conference

June 10 - 13 • Bonita Springs, FL

Florida Risk Information Management Society (RIMS) Educational Conference

June 19 - 23 • Naples, FL

Florida Educational Risk Management Association (FERMA) Summer Conference

July 9 - 13 • Lido Beach, FL

Florida Association of Self Insureds (FASI) Summer Conference

July 15 - 18 • Sarasota, FL



JOHNS EASTERN

PO Box 110259
Lakewood Ranch, FL 34211-0004

Phone: 941-907-3100
Toll Free: 877-326-JECO
Fax: 813-402-7913

www.johnseastern.com

JOHNS EASTERN COMPANY Integrity. Experience. Results.

Publisher Beverly Adkins
Editor-In-Chief Alice Wells
Graphic Designer Deirdre Harris

Contributors:

- Healthsystems Clinical Services Team
- Kristen Magana, Esq. Broussard & Cullen, P.A.
- Amanda Radcliffe, Johns Eastern
- Rose Rome, Johns Eastern
- Sniffen & Spellman, P.A.



CONGRATULATIONS!

A special thank you to all of our TPA staff who celebrated a special anniversary in 2017!

- 5 years:** Kristin Brown, Jeff Lombardi and Ian Simpson
10 years: Fran Adams, Greg Burden, Jim Eicher, Chris Knudsen, Lynne Lichner, Kim Loos and Carole Necira
20 years: Stuart Bayer
25 years: Sean Downey, Brenda Goff, and Guy Helwege

We are also proud to recognize the winners of our Management Team awards:

JE Scholar:
Marjorie Kenol

Diamond Service:
Kristin Brown

Nurse Case Manager of the Year:
Eleana Neglia

TPA Liability Adjuster of the Year:
Ali King

IN THE SPOTLIGHT



Meet Nick Ungarelli, Johns Eastern's Workers' Compensation Adjuster of the Year for 2017!

Born and raised in Sarasota, FL, Nick joined Johns Eastern in early 2015. After completing our extensive training program, he was quickly promoted to Lost Time Adjuster and most recently to Legal Adjuster. He has an Associate of Arts degree from the State College of Florida and is currently pursuing his Bachelor's degree in Business Administration. Nick holds an All-Lines adjuster's license in Florida and has completed extensive training in presumption claims for first responders. He is currently pursuing his Associate in Claims (AIC) designation through The Institutes.

This past year our workers' compensation supervisors were invited to submit nominations for their choice for "Adjuster of the Year." Nick was described in these nominations as "always positive and willing to help the team" and "very inquisitive and wants to learn to ensure he is doing his very best at his job every day."

On behalf of everyone at Johns Eastern, we are proud to call Nick Ungarelli our "WC Adjuster of the Year"!