

**SAVE
THE
DATE**
2019



JOHNS EASTERN

Claim Adjusters & Third Party Administrators

WHERE WILL THE FUTURE TAKE US?

**Johns Eastern's
Vision for 2020**

In 1946, Corydon Johns started Johns & Company in Tampa, Florida. In 1971, Johns & Company acquired Eastern Adjustment Company and developed into the Johns Eastern that exists today, offering services across the country.

Since July 26, 1946, we have been committed to excellence and surpassing the expectations of our clients, by maintaining the highest standard of ethics and integrity, and by delivering the best possible customer service.

Our 73rd anniversary had many of us contemplating the path that led us to this point, as well as the legacy we want to develop moving forward. None so much as President/CEO Don Lederer. For 35 years, Don has been a member of the Johns Eastern organization, and as we approach our diamond anniversary in 2021, he wanted to share

his unique perspective and vision of the future for this company.

Where has Johns Eastern's growth been focused in the past five years?

We are very grateful for the growth we have experienced in both our Third Party Administration (TPA) and Field Adjusting units.

We have seen growth in the areas of Workers' Compensation, Property, and Casualty. In particular, we have increased our number of public and government entity clients, as well as excess and surplus clients.

One of our major goals was to expand our geographical footprint for TPA services. We now provide Workers' Compensation TPA services to clients in Florida, North Carolina, Georgia and are pursuing additional opportunities throughout the Mid-Atlantic States. Our Property & Casualty TPA services now



Don Lederer
President/CEO

include clients in Florida, Virginia, Maryland as well as regional and national accounts.

Our field adjusting services have seen similar growth in recent years. Our well established locations in Florida, Virginia, Maryland, Pennsylvania, and Washington, D.C. continue to experience growth though the expansion of long-standing partnerships and the formation of new ones. Over the last five years, we have spread these services into areas of North Carolina, South Carolina, New Jersey, Delaware, and into the New England area.

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**CEU
SEMINARS**

August 26, 2019
10:30am - 12:30pm

"SIU Training"
Presenters:
Steve Cassell
& Larry Dodd,
Command
Investigations, LLC

Location:
EVEN Hotel
Sarasota/LWR
6231 Lake Osprey Dr.
Lakewood Ranch, FL
34240

September 23, 2019
11:30am - 2:00pm

**"Heart Attack,
Stroke and
Cardiovascular
Compensability"**
and **"Firefighter and
Law Enforcement
Presumption
Claims"**

Presenters:
Jonathan Cooley,
W. Rogers Turner,
Jr. and Nancy
Curry, Hurley,
Rogner, Miller, Cox,
& Waranach, &
Westcott P.A.

Location:
EVEN Hotel

**For more details,
contact:**
Rose Rome
at rrome@
johnseastern.com

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Damages Possible

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Insights

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JE Surpasses
Donation Goal

COURT APPROVES NON-ECONOMIC DAMAGES

A recent decision by one of Florida's intermediate Appellate Courts could blow open the availability of damages for employees and applicants suing under Florida's Public Whistle-blower Act. In *Iglesias v. City of Hialeah*, the Third District Court of Appeal (DCA) decided that, in spite of any language in the Act allowing for the recovery of non-economic, compensatory damages, that such damages are available under the statute.

There are many categories of damages which can be involved in civil litigation. Compensatory damages can be described as economic or non-economic. Economic damages are fairly easy to compute, and include wages, the value of benefits, and other actual, tangible amounts. Non-economic damages are imprecise, and compensate for things such as humiliation, mental anguish, and mental/physical pain and suffering.

In the subsection entitled "Relief" in the Florida Public Whistle-blower Act, the statute states that the relief "must" include reinstatement of the employee to the same position or an equivalent one, reinstatement of benefits, 'compensation, if appropriate, for lost wages, benefits, or other lost remuneration caused by the adverse action', injunctive relief, and attorney's fees and costs to a prevailing party. Nowhere in the Act is there any mention of non-economic damages.

In contrast, Florida's Private Whistle-blower Act provides the same relief as its public counterpart insofar as compensation, reinstatement, and injunctive relief; but additionally includes a provision for "any other compensatory damages allowable at law." Presumably, the legislature omitted this provision from the public act for a reason. As a matter of statutory construction, it is generally accepted that if a legislature uses one term in one part of a statute, but not in another, that such omission evidences the legislature's intentional act of intending a different meaning.

Prior to the decision in *Iglesias*, public employers had

been successful at the trial court level of excluding non-economic compensatory damages under the Public Whistle-blower Act. The two DCAs that had reviewed the statute had given contrary indications. For example, in *Amador v. Florida Board of Regents*, a case decided by the Third DCA in 2002, the Court implicitly held that non-economic compensatory damages were not available under the Act by reinforcing an interpretation that the remedies under the Act are equitable in nature. However, in 2008, in *O'Neal v. Florida A&M University*, the First DCA stated in a footnote that the availability of pain and suffering or other non-economic damages under the Act may be available.



Iglesias squarely addresses the issue to the detriment of public entities. In *Iglesias*, a unanimous panel of three judges concluded that the damages listed in the Act are "a floor, rather than a ceiling, on the types of relief that a party can seek." Citing with approval to the First DCA's decision in *O'Neal*, Judge Ivan Fernandez wrote that the Act "mandates that an award include the remedies explicitly identified within the statute, but does not expressly include other recoverable damages, therefore allowing other forms of relief as may be appropriate under applicable law."

The end result of this decision is that now employees and applicants suing under the Act may recover non-economic damages for humiliation, embarrassment and mental pain and suffering. Prior court decisions have ruled that the Act is not subject to the statutory cap on damages public entities enjoy in tort cases, nor any other cap on damages. The Act also provides for a prevailing party to be awarded attorney's fees.

At this point, it is not clear whether the City of Hialeah will attempt to seek review from the Florida Supreme Court or if there is even an opportunity to do so. In addition, there does not appear to be any movement in the Florida Legislature to amend the Act at this time.

Strategic Partner:
Michael Spellman, Sniffen & Spellman, P.A.

CLINICAL CORNER: WC TRENDS AND INSIGHTS

Rates of physician dispensing have continued to rise across the United States, despite state-enacted reforms aimed at discouraging the practice. Increased regulation has made some headway against select cost drivers traditionally associated with physician-dispensed medications, such as drug repackaging and inflated reimbursement rates. However, overall impact of these reforms has been offset by a shift in prescribing habits toward different medications that present new or increased opportunity for revenue. The practice of physician dispensing continues to be a specific challenge in workers' compensation and employers should continue to take note.



Current Trends in Physician-Dispensed Medications

New or Uncommon Tablet/Capsule Strengths

When new pill strengths are manufactured, the average wholesale price (AWP) is often higher than long standing strengths of the same medication, making them attractive from a profitability standpoint. For example, instead of prescribing the older and less expensive cyclobenzaprine 15mg tablet, a physician may choose to prescribe the new cyclobenzaprine 7.5mg tablets at double the quantity. The medication and combined dose are the same, but the price per pill may be several times the cost.

Prescription Products Despite OTC Availability

Some medications, such as proton pump inhibitors used to treat NSAID-related ulcers, are readily available to the patient over-the-counter (OTC) at local pharmacies. A few examples include Prilosec (omeprazole), Prevacid (lansoprazole) and Nexium (esomeprazole). However, when these medications are dispensed by a physician, they come at a much higher cost to the payer, despite the lack of corresponding patient benefit.

Private-Label Topical Analgesics

Common examples of some of these products are Medrox, Dendracin, Terocin, Medi-Derm, and Xoten-C. These expensive pain creams share many of the same ingredients as OTC products available on-the-shelf at retail stores, but with a significant price mark-up.

A Major Cost Driver

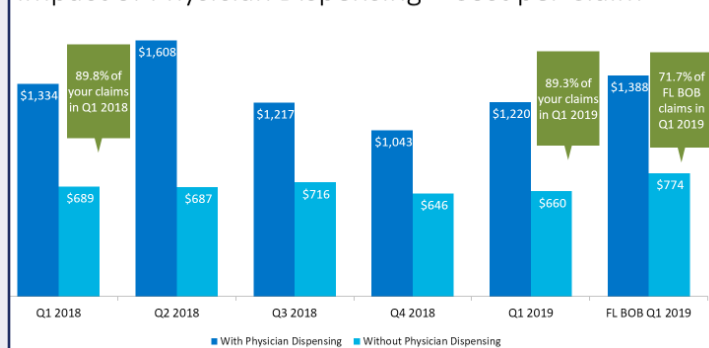
The rate of employer-reported workplace injuries and illnesses has continued to decline over the past decade.¹ Despite this, costs associated with workers' compensation continue to increase. Physician-dispensed medications are a key contributor to the rising costs, with a number of states experiencing rapid growth of physician dispensing in recent years, in some cases doubling or even tripling.² In one Workers Compensation Research Institute (WCRI) analysis, it was found that prices paid for physician-dispensed drugs were often 60% - 300% higher compared with the prices paid for the same drugs when dispensed by a retail pharmacy.²

Presence of a physician-dispensed medication within a claim also reflects a higher per-claim cost. And reimbursement is not the only factor driving the increased cost of individual claims. Many previous independent studies demonstrate that increased percentages of medical costs, indemnity costs, and lost time days were all associated with physician-dispensed medications.^{3,4}

Johns Eastern has been consistently working to educate and inform prescribers and patients of these concerns. 89% of claims in the first quarter of 2019 did not utilize any physician dispensers, compared to 72% of Florida claims held outside of Johns Eastern!

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Impact of Physician Dispensing – Cost per Claim



CLINICAL CORNER: WC TRENDS AND INSIGHTS

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Changes in Prescribing Trends

Increasing overall costs associated with physician dispensed medications can be attributed to a number of prescribing trends that are developing.

Compounded medications have always been among the ranks of physician-dispensed medications, but recent years have instead seen an uptick in private-label topical analgesics, with several of these products appearing among the top physician-dispensed medications. Unlike compounded medications, private-label topicals (such as Medrox, Dendracin, Terocin, and others) are manufactured and are assigned a National Drug Code (NDC). However, they are not FDA-approved and often contain similar ingredients to OTC pain creams found at local retail stores such as BenGay® or IcyHot®. AWP's for private-label topicals can be up to 500x higher than the cost of OTC products, which makes them a strong source of potential profit for the dispenser.

The Need for Multi-Stakeholder Oversight

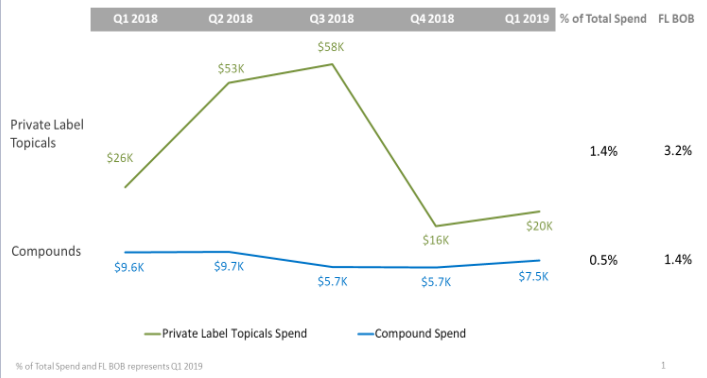
Physician-dispensed medications bypass the traditional drug utilization review process, which identifies patient safety concerns including drug- or disease-interactions, potential adverse events and incorrect dosage. Dispensing medication at the point-of-prescribing also eliminates the potential for a pharmacist to review the patient's electronic health record (EHR), an important tool for improving patient safety and reducing medication errors.⁵

Just as prescribers should not be solely responsible for patient access to medications, state regulation alone should not be expected to control physician dispensing of medication. Regardless of the strategies employed, oversight of drug utilization, prescribing trends, and patient safety requires vigilance on the part of the payer and the pharmacy benefits manager (PBM). While the

practice of physician dispensing remains legal in the vast majority of states, there are measures that can be taken to help reduce its financial impact.

Johns Eastern has continued its efforts to influence prescriber behavior and decrease this unnecessary prescribing, which improves patient safety while reducing costs. The hard work undertaken by employers, nurses, and claims staff has resulted in a significant drop in both spend and utilization of these compound and PLT drug classes over the past year.

Private Label Topicals/Compound Trend



- 1 -Bureau of Labor Statistics. Employer-reported workplace injury and illnesses—2013 [news release]; December 4, 2014. <http://www.bls.gov/news.release/pdf/osh.pdf> . Accessed March 13, 2015.
- 2 -Wang D. Physician dispensing in workers' compensation. Cambridge, MA: Workers Compensation Research Institute; July 2012.
- 3 -Swedlow A, Gardner LB, Ireland J. CWCI Research Brief: Differences in outcomes for injured workers receiving physician-dispensed repackaged drugs in the California workers' compensation system. Oakland, CA: California Workers' Compensation Institute; February 2013.
- 4 -White JA, Tao X, Artuso RD, et al. Effect of physician-dispensed medication on workers' compensation claim outcomes in the state of Illinois. J Occup Environ Med. 2014;56(5):459-64.
- 5 -American Pharmacists Association. Preventing medication errors: EHRs and the pharmacist's role. <http://www.pharmacist.com/preventing-medication-errors-ehrs-and-pharmacist-s-role> . Accessed March 13, 2015.

Strategic Partner:
Clinical Services Team
Healthsystems



FLORIDA EMA STATUTE UPHeld AS CONSTITUTIONAL

In a recent ruling by Florida's First District Court of Appeal, the Expert Medical Advisor (EMA) statute was upheld in *Teresita DeJesus Abreu v. Riverland Elementary School & Broward County School Board*. If this issue is heard by the Florida Supreme Court, we will keep you updated. Learn more at <https://www.johnseastern.com/news-events>.

WHERE WILL THE FUTURE TAKE US?

Continued from page 1

Our staff has done an excellent job providing customer service at a very high level which has facilitated our ability to grow and expand.

What is the goal for the next five years?

Our strategy for the next five years is to maintain our current path of strategic growth. However, it is vitally important that we do not sacrifice our ability to service our current client base in pursuit of expansion. We are focused on being 'big enough to provide the services our clients require, yet small enough to know our clients.' It is a priority for senior management to intimately understand the needs, goals, and objectives of our clients. Growth needs to take place at a pace that allows us to maintain that level of engagement.

How do we encourage personal growth in Johns Eastern employees and what effect does that have on the path the company plans to take?

For 73 years, Johns Eastern has maintained the philosophy of promoting from within. In fact, the majority of our management team joined Johns Eastern at entry level positions, received in-house training, gained experience, and moved from one career opportunity to another.

Our employees are provided with opportunities through The Institutes to pursue insurance-related designations and are encouraged to complete educational tracks that are a part of the Johns Eastern University, a curriculum developed and taught by Johns Eastern management. Employees are provided financial incentives to complete these training and educational opportunities.

It is important that our employees are provided opportunities to expand their knowledge and their understanding of matters related to the types of accounts and claims we handle. Providing access to this training is another priority of our management team.

Not only does a well-educated staff make it possible for us to maintain strong partnerships with our current clients, it also provides the quality staff necessary for

further expansion and growth.

How much do you see technology changing the industry? How does Johns Eastern plan to incorporate technology into our business?

Technology has disrupted our industry in many ways over the past five years. For the foreseeable future, we can continue to expect these technological changes to impact how we manage and handle our business. We have invested in state-of-the-art technology to keep up with the industry around us. A major investment was made into our AIM 2.0 claims system in 2013 and we have recently completed an upgrade to AIM 3.0 which is now being released to our clients.



Our industry has only scratched the surface of how to incorporate fields, such as Artificial Intelligence, Data Analytics, and Big Data. We expect advances in these areas will continue to shape the future of the daily adjusting of claims, while providing opportunities for improvement in the practices of reserving, subrogation, fraud detection, litigation management and settlements.

We are currently exploring ways that we can integrate technology to enhance the policy-holder, injured worker, and claimant experience. Mobile apps, video conferencing, and text messaging are tools that we believe can improve the overall experience and speed up the claims adjustment process.

We work closely with our clients to fully understand their goals and objectives, which allows us to develop specific technology strategies to best benefit both Johns Eastern and each of our clients.

Thank you to all of our clients and customers that have allowed us to work with and serve them for the past 73 years. We are also eternally grateful to each and every employee whose hard work and dedication has helped us become the organization that we are today. We are grateful for our 73 year history and look forward to what our future holds.

**Nick Hart, Digital Media Coordinator
Johns Eastern**



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INTEGRITY EXPERIENCE RESULTS

JE SURPASSES DONATION GOAL



Rose Rome
Executive Assistant

In the second quarter, the Johns Eastern Charity Committee devoted its efforts to collecting supplies and funds for Manasota Operation Troop Support (MOTS) in their quest to build and ship care packages for soldiers currently stationed overseas. We also committed to help MOTS send out their backlog of built care packages.

In support of our goal, the Charity

Committee sponsored a company-wide "Postage Drive." This event was the highlight of the 2nd quarter and we received overwhelming support from our JE Family.

Our goal was to collect \$500, 150 supply items, and two months of shipping costs. Thanks to the generosity of JE employees, we were able to surpass our goal and raise \$1,668 and 154 supplies. Johns Eastern also contributed \$1,500 donation, for a final donation of \$3,168 for MOTS! Thank you all for your contribution and your support!

CONFERENCE CORNER

Georgia State Board of Workers' Compensation Annual Educational Conference (GSBWC)
August 26 - 28 • Alpharetta, GA

Southeastern Risk Information Management Society (RIMS) Educational Conference
September 18 - 20 • Pinehurst, NC

Maryland Workers' Compensation Educational Association (MWCEA) Annual Conference
September 22 - 25 • Ocean City, MD

North Carolina Workers' Compensation Educational Conference
October 2 - 4 • Raleigh, NC

GET SOCIAL WITH US!



If you aren't already connected with Johns Eastern, what are you waiting for?

Join the conversation today at:

