



NATIONAL WORKERS
COMPENSATION
AND DISABILITY
CONFERENCE

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Workers' Comp Regulatory and Legislative Trends that Belong on Your Radar for 2021

Presented by:

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Today's Speakers



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Pharmaceuticals

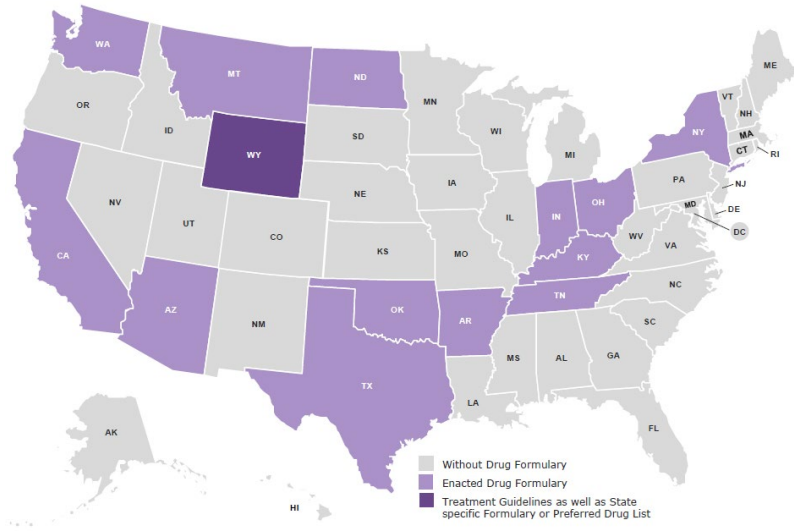
Prescribing Guidelines Chronology

- Texas with ODG in 2011 was the baseline (WA in 2004, OH in 2011 created their own)
- Started at 120mg MED now down to 50 / 90mg MME
- Comprehensive Addiction and Recovery Act (CARA) in 2016
- CDC Guideline for Prescribing Opioids for Chronic Pain in 2016
- AMA revokes pain as fifth vital sign in 2016
- VA/DoD Clinical Practice Guideline for Opioid Therapy for Chronic Pain in 2017
- Medicare Part D opioid overutilization policies in 2019



Pharmaceuticals

Formularies



- What happened in 2019/2020?
- What are the overall results?
- Are there any more coming in the near future?
- Will they go away?

Pharmaceuticals

Drug Pricing

- General pricing changes:
 - Lower cost generics (Lyrice), generic drug mandates
 - “Boutique” NCDs for topical medications as a cost driver
 - CA WC pricing and possible synchronization with Medi-Cal
- Presidential Executive Orders
- Prescription Drug Pricing Reduction Act (Grassley)
- State Transparency Legislation
 - Is transparency a buzzword or is it an expectation?



Pharmaceuticals

PBM Regulations

- Group Health PBM vs. Workers' Compensation PBM
 - Pricing Transparency
 - Rebate Calculation
- The cable package dilemma



Telehealth

Clinical

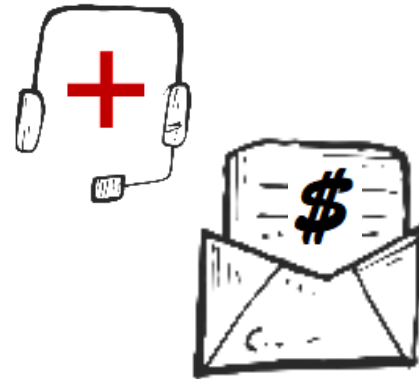
- Not all vendors created equally
- Psychotherapy and Tele-Rehab
- Embedded AI
- Integration of wearables
- COVID Adoption rates/performance



Telehealth

Payer Questions and Concerns

- Quantifying/measuring effectiveness of care – How do we know if it works?
- Resolving claims timely – What is the impact on return to work?
- Accessibility – How do we get telemedicine/telehealth to more people? Will states allow it?



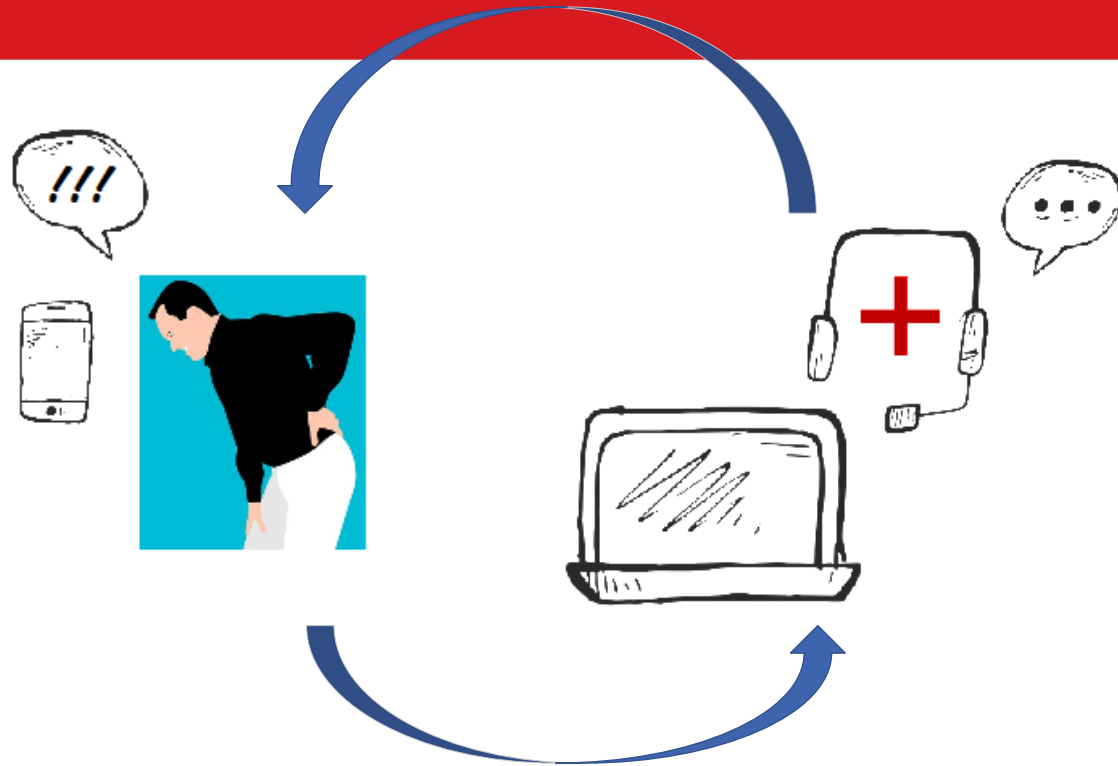
PPO Perspective

- Nurse triage partnership
- Abrupt transition for some providers
- Provider directory issues

Telehealth

Regulatory Considerations

- Telehealth vs. Telemedicine
- Interstate licensure
- CMS changes
- Work comp changes
- Temporary solution or paradigm shift?



Bio/Psycho/Social Model

History and Trends

- Initially defined by George Engel in 1977
- Accelerated due to COVID
- “Psych” isn’t as scary compensable in 2020 as in 2010
- Adoption is regional
- Advocacy model is at least a talking point everywhere

Bio/Psycho/Social Model

Administrative Complexities

- Clinical questions
 - Who is a candidate?
 - What treatment should be used?
 - Access to care?
- Administrative questions
 - What is required?
 - What is allowed?



Presumptions



California Presumptions

- Pre-COVID
- COVID-19
 - Governor's Exec Order
 - SB1159 (9/17/20)
 - ✓ Urgency statute
 - ✓ Covers all employees working at employer site
 - ✓ Presumption applies during statutorily-defined "outbreaks"



Presumptions

- **What this means**
 - Emotional subject
 - Different standards for different people
 - Unfunded liabilities for municipalities

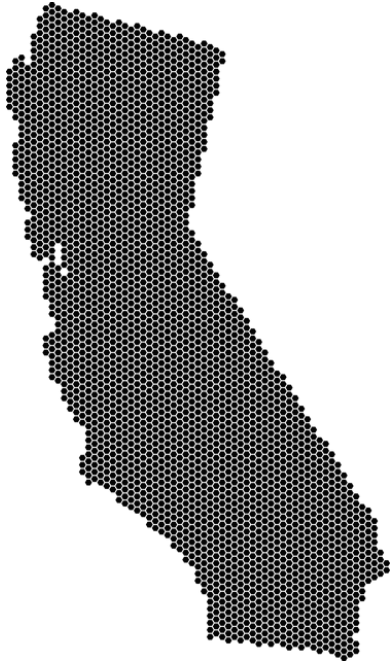


Presumptions

COVID-19

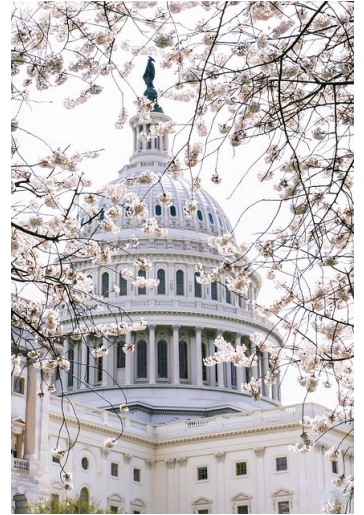
- What is consistent across states
- Uniqueness across states
- Burden of proof (employee or employer) makes a difference

Employee Classification



California Employee Classification Wrangling

- AB5 and the ABC test – who are “employees”?
- Carve-outs and “clean-up” legislation – AB2257
- Uber/Lyft litigation
- Prop 22



Employee Classification

- **Practical Implications**
 - Fundamental change to business models
 - New Work Comp service opportunities



Takeaways

- **Fewer formulary bills doesn't mean pharmacy reform is done**
- **Telehealth is here to stay**
- **Behavioral health is going to reshape work comp**
- **Presumptions are growing but the long-term implications are not yet known**
- **Employee classification rules will create new challenges but also new opportunities**

Questions & Answers

Thank you for your participation!

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