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OPIOID MEDICALLY-CORRECT CUTBACK OR CUTOFF OR CONTINUATION

By Scott A. O'Mara

There are injuries and medical conditions of such a significant degree that the only methodology available at one time was thought to be the usage of opioids to mitigate or minimize the pain and discomfort emanating from injury or condition. As a result, opioid medication became a vehicle to deal with these problems for many years.

Eventually, however, it was learned that opioid medications can lead to dysfunction and other medical issues. Once this became apparent, subsequent studies did additional reviews regarding the usage of opioids. Medical providers, insurance carriers and adjusters therefore responded by denying this form of treatment. This blanket approach then brought to life not only the possible risk of taking opioids, but also the great risk and harm of improperly reducing or weaning people off these medications.

On 8/3/21, the University of California at Davis issued a study which examined some of the templates used to decrease opioid medication and determined that the pain management methodology of the medication and the cutback or complete removal of same in certain situations increases the risk of mental health issues, such as suicidal ideation which in some cases leads to actual suicide. In some cases, individuals who have used opioids have done so because the practitioner prescribing the medication has not considered the full range of non-opioid options designed to increase an individual's functionality without the use of opioids, and in other cases opioids are the only possible method of care.

The cutback on the usage of opioid medications has very much impacted the Centers for Disease Control and Prevention. While they have a focus on the dangers of opioids, they have not fully examined the dangers of ceasing or cutting back on the medication if it is not done in a proper medical manner.

Even though opioids can have a strong negative impact, some patients actually benefit from such usage. The long-term risk of using this form of treatment is indeed present; but there is also a high level of risk with inappropriate cessation or reduction of opioid intake when the proper template for weaning is not followed. Some patients whose opioid usage is cut off in a rapid manner experience "overdose withdrawals", characterized by a high level of anxiety and depression and, in some cases, suicide attempts which result in actual suicide.

The study issued by the University of California at Davis addresses the risk, reality and potential impact of overdose withdrawals and attempts to curtail or cut back opioid usage.

Therefore, it is imperative that doctors prescribing opioids recognize at least the following two aspects -- first, the addictive nature of opioids and their side-effects; and secondly, the necessity of following the proper protocol issued by the U.S. Food & Drug Administration when weaning long-term patients off these drugs or cutting back their usage. The University of California at Davis study specifically addresses this subject, stating that a gradual reduction in opiate doses is required, coupled with careful patient monitoring. This clearly reflects that getting off opioids is not simply a matter of curtailing them. Instead, what is necessary is a medical plan designed according to the specific needs of the specific patient based on the specific problems the patient has. If there is a reduction protocol, the methodology utilized should be designed to minimize or remove the patient's risk of facing additional medical problems, suicidal ideation, and/or depression.

This is a reflection of the inadequacies of the current protocol in the Workers' Compensation system with regard to setting forth a request for authorization of opioid medication or a reduction protocol for the use of opioids. Such matters are currently being reviewed by Utilization Review doctors, and there is no requirement for these doctors to have the same credentials and understanding as the patient's treater. Utilization Review doctors can increase their revenue by engaging in a "catch-and-release program" -- quickly reviewing and not seeing the patient and issuing their opinion so they can then move on to the next patient's records. Of significance is the fact that a UR doctor's opinion is *not* an opinion of substance because their interaction with all patients is on a one-time basis of record review – again, not seeing the patient. It is not day-to-day, week-to-week, month-to-month or year-to-year. Therefore, they never have the opportunity to really know the patient, which is a clear disadvantage.

The reduction program is complex and needs to be individually designed for each patient. If the Utilization Review doctor (who, once again, does not see the patient) curtails or precludes certain treatment – such as the medication or its extent of usage, and this is harmful to the patient – the right to appeal, as the parties know, is restricted to Independent Medical Review (IMR). However, IMR doctors also never see the patient; therefore, as is the case with UR doctors, the opinions of IMR doctors lack substance because of their lack of familiarity with the injured workers for whom they are making important medical decisions.

Unfortunately, when it comes to UR and IMR doctors and their opinions, there are no checks and balances. As medical professionals, they have the responsibility to make appropriate decisions. If they fail to do so because of a lack of education, poor judgment or a catch-and-release program, they cannot be subject to medical malpractice.

In the Law1199.com newsletter 2019 Issue #10, there is a review of the King v. CompPartners case, which found the UR/IMR doctors not liable for their medical malpractice. In the *King* case, Supreme Court Justice Goodwin H. Liu, after reviewing this subject in great depth, made this finding: "But the undisputed facts in this case suggest that the workers' compensation system, and the utilization review process in particular, may not be working as the Legislature intended." Justice Goodwin H. Liu reflected: "The Legislature may wish to examine whether the existing safeguards provide sufficient incentives for competent and careful Utilization Review."

The recent study and the concern regarding opioid addiction and complications reflects the ongoing changes which continue to occur in the medical world. Therefore, a protocol which might have been embraced in 2010 may have been modified in 2015, and again in 2020. Each modification is dependent upon the uniqueness of each patient and new medical studies.

Unfortunately, there will be a continuation of workers who sustain serious injuries necessitating a high level of care through medication, surgery, physical therapy and other modalities. The current opioid side-effects are there, but the path to make the changes needed must be based on medical probability and reflect the current state of the art in medicine based on recent studies, such as the one submitted by the University of California at Davis on 8/3/21.

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