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BROADEN THE PERSPECTIVE

BY: SCOTT A. O'MARA

The California's Workers' Compensation Institute was established in 1964. This entity also known as CWCI, provides data regarding the cost and results of medical problems and treatments of same in the workers' compensation arena.

The regular members of CWCI are limited to insurers licensed to write workers' compensation insurance, and there is an associate membership in CWCI which limits the participants to private or public employers who are self-insured through the workers' compensation system.

There is a segment allowing subscribers access to the CWCI publications.

CWCI issued a press release study on January 31, 2024. The study revealed that the number of patients who had been hospitalized under the Modified California Workers' Compensation System declined 51.1% between the year 2012 and 2022.

The perspective that CWCI developed is that the decline in hospitalization in workers' compensation has been impacted by a mandatory usage of Utilization Review (UR) and Independent Medical Review (IMR) (THE WALL).

This wall has discouraged many injured workers to go through the process and use their own private health insurance for their work injury. The wall of UR and IMR discourages many treating doctors from participating in the UR and IMR process because UR/IMR force the treating doctors to spend additional time to demonstrate the need for the medical care to cure or relieve the injured worker for his/her work injury. The treating doctor may not be compensated for this work.

The study shows that the reduction in hospitalization did not impact spinal fusions. In the summary of the study, it reflects that in the year 2022 diseases and disorders of muscular skeletal systems and connective tissues were the predominant area of approximately 60.3% of injured workers and patient care. The second factor was the nervous system amounting to 6.2%

The study performed by CWCI, again, underscores the mandatory obligations many employers follow in evaluating and granting or denying the medical care by use of the fence of UR and IMR.

It is significant to recognize there are other elements in this decline of 51.1% between 2012 and 2022. Some of that is reflected in the report in advances in technology and science.

The cautious view is to recognize a strong representation of the regular members of CWCI are limited to insurers licensed to write workers' compensation insurance, and there is an associate membership in CWCI which limits the participants to private or public employers who are self-insured through the workers' compensation system. The membership that CWCI has and the direction of motivation of those members are to contain and control cost and move the cost of care to the injured worker or the worker's private insurance.

There remains a significant problem with the UR and IMR which goes back to the lack of accountability. The UR and IMR doctors should be required to have a license in California and they must function in the same level of accountability as the treating doctors. UR doctors and IMR doctors do not have to be licensed in California and have a ghost like appearance the IMR doctors have because their names are not released, this must be changed and release the names of all IMR doctors. With the removal of the wall the evaluation that is done by UR and IMR doctors creates accountability. There continues to remain a case in [Law1199 2018 Issue #10 \(https://law1199.com/wp-content/uploads/2020/01/2018-issue-10A-01-14-2020.pdf\)](https://law1199.com/wp-content/uploads/2020/01/2018-issue-10A-01-14-2020.pdf) where the UR doctor improperly determined a termination of medication which caused seizures in the patient. In the adopted legislation that was created very cleverly by the insurance industry, that UR doctor had a cloak of protection and could not be sued for malpractice because of the way legislation had been drafted.

The change in the number of hospitalizations could be considered positive if there was upgrade or improvement in the type and style of medical care. If the lowering of hospitalization is the result of the wall of UR and IMR this is harmful and does not allow for a strong recovery of the job injury.

The decline in patient hospitalization between 2012 and 2022 of 51.1% needs to be considered and reviewed, with the recognition there has been a change with improved technology and science is a reality which is good. However, the other side is the current system dissuades, discourages and takes away some ability of the worker obtaining medical care to cure and relieve. Therefore, results of the decline must be looked at with a very broad perspective; it is not just cost but also results, and the shift of cost on the injured worker.



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