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REPORT: WORKERS' COMP LAWS HINDER TREATMENT

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BYLINE: MARY FRICKER

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A package of laws adopted last year to reduce the cost of treating injured workers in California have created a system that is hostile to doctors and harmful to patients, according to a new report by a state doctors' group.

Similar complaints are being echoed in Sonoma County, where some doctors said insurance companies are challenging many of their treatment recommendations and often delaying care.

“It is very difficult to get authorization to do the surgeries we think are appropriate, and some treatments we just can't get authorized,” said Michael Star, an orthopaedic surgeon at Santa Rosa Orthopaedic Medical Group.

Star's comments follow reports from two state medical associations that describe difficulties doctors are having practicing occupational medicine in California since the new workers' compensation laws went into effect last year.

The laws were passed to counter double-digit increases in workers' compensation costs for employers between 2000 and 2003. The rising cost of medical care was the main force driving up costs.

The regulations require doctors to use more scientific standards to justify treatments. In addition, the laws give insurance companies authority to hire other physicians to second-guess the treatments doctors recommend.

The purpose is to stop what the Legislature felt was widespread overuse of medical treatments not proven to be effective.

The restructuring was supported by the California Medical Association, the state's largest doctors' trade group. The group agreed that **workers' comp** costs needed to be reduced, noting that doctors are also employers.

But many of the association's members now say the second-guessing is often capricious, the paperwork is onerous and the delays are harmful to patients.

Sixty-three percent of 250 doctors responding to a CMA survey said they intend to cut back on the number of injured workers they treat or stop treating injured workers altogether.

Of those, one-third are leaving the practice entirely. The survey was conducted in July and released last month.

“Eighteen months into the reform effort, a CMA survey finds physicians filled with despair,” the report said.

The California Society of Industrial Medicine & Surgery, a group representing doctors that specialize in treating injured workers, said earlier this month its members have similar concerns.

Insurance industry officials disagreed with the findings. Nicole Mahrt, a spokeswoman for the American Insurance Association, said the complaints arise from “growing pains being felt by doctors used to the old system.”

Star believes workers' compensation in California needed to be restructured, because costs were far too high compared to the care workers were getting.

He's hopeful the problems with the new program will ease. But at this time getting treatment for injured workers can be difficult, he said.

“Our patients will still be taken care of, but it's a real issue for us. The pendulum has swung too far the other way,” Star said.

Two new provisions especially represent a fundamental shift in the way medical treatment is provided injured workers:

- * Doctors are supposed to base their treatment recommendations on evidence-based, peer-reviewed, nationally recognized guidelines, rather than on whatever the doctor feels is best.

- * Insurance companies may refer any treatment recommendations for review by experienced doctors who have 14 days to approve or deny treatment. No longer will the treating doctor's decisions be presumed to be correct.

These and other new workers' compensation provisions have brought employers' costs down an average of 32 percent since 2003.

It's not easy to make such big changes, said Susan Gard, a spokeswoman for the state Division of Workers' Compensation. Doctors need time to learn how to select the approved treatments, and insurance companies need time to learn how to use the review process effectively.

Early next year the division will conduct its first annual access-to-medical-care study of 1,200 doctors, in conjunction with UCLA.

The study is designed to find out if injured workers have access to care and, if not, why.

Next year the division will also authorize up to \$400,000 in penalties for review violations.

“The DWC wants good doctors to stay in the system and treat injured workers,” Nevans said.

The California Medical Association is calling for the division to audit the way insurance companies are running their treatment review programs.

Based on survey responses, it claims review doctors often go far beyond the 14-day deadline and don't document their decisions. They're often in other states and sometimes are not qualified in the specialty they're reviewing.

William Kivett, a Santa Rosa plastic surgeon, said he believes the system needed to be reformed, and at the end of the day his patients get the care they need. But the paperwork and the delays are daunting.

“I get MDs in Texas who are internists evaluating my having written on paper that a patient needs hand therapy. Tons of correspondence goes back and forth. By the time you get it worked out, they needed hand therapy a month ago,” Kivett said.

The Sacramento Bee contributed to this report. You can reach Staff Writer Mary Fricker at 521-5241 or mfricker@pressdemocrat.com.

PHOTO: 1 by CHRISTOPHER CHUNG / The Press Democrat

Dr. Mark Schakel places a cast on workers' compensation patient Wayne Cook 's foot Monday at Santa Rosa Orthopaedics .

Infobox: WHAT'S DIFFERENT?

Key changes in workers' compensation medical care, effective last year:

- * Doctors must base their treatment recommendations on evidence-based, peer-reviewed, nationally recognized guidelines.

- * Insurance companies may refer any doctor's recommendations to another physician for review. The review doctor is supposed to be experienced in the specialty, to reply in 14 days and to document his or her decision.

Online: The California Medical Association study on workers' compensation is at www.cmanet.org.

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