HB 709 - WORKERS' COMP REFORM LEGISLATION:

AN OVERVIEW FOR PHYSICIANS

Changes to Employee Benefits

- **Temp Partial** benefits cap increased from 300 to 500 weeks
- **Temp Total** benefits capped at 500 weeks
  - Can be extended after reaching 425 weeks and employee proves total loss of wage-earning capacity
- **Permanent Total** benefits available:
  - loss of both hands, arms, feet, legs, eyes, or any 2 thereof
  - Spinal injury with severe paralysis
  - Severe brain or closed head injury
  - 2nd or 3rd degree burns covering > 33% of the body
- NOTE: lifetime benefits for employee guaranteed under first criteria, only presumed under remaining ones. Employer can rebut the presumption by showing employee can return to suitable employment.
- **Burial Expenses** in the event of death increased to $10K

Employees Changing Doctors

- Employee may choose another doc to assume his/her care, subject to IC's approval.
- If parties disagree, the IC can order treatment.
- For IC to grant the request, employee must show by a preponderance of evidence that the change is reasonably necessary to effect a cure, provide relief, or lessen the period of disability.
- Emergency provision still in place.

Second Opinions

- Employee can request a second opinion from the employer.
- If refused or no agreement in 14 days, employee can seek an order from the IC.
- Exam expenses to be covered by employer.
- Note that there's no standard for the employee to meet.

Second Opinions on Disability Ratings

- If dissatisfied with the percentage of permanent disability, employee is entitled to a second opinion
- Scope of exam: “solely on the percentage”
- Employee chooses the doctor, employer pays the doctor.
- IC makes the decision on the disability rating.
  - Must disregard or give less weight to physician’s opinions/information beyond the percentage of disability.

Independent Medical Exams

- Employee must still submit to an IME if requested by an employer
- Much easier for employer to sever benefits if employee refuses the IME
- Employee still has the right to have present his/her own doctor
- No privilege with respect to facts or communications during the IME

Employer Communications with the Doctor and Practice Staff

- A primary objective for business community
  - *Salaam* Rule and MSQ inadequate
- NCMS concerned about:
  - Further erosion of the physician-patient relationship
  - Liability for disclosing sensitive medical information
  - Disruption of the daily functions of a practice
  - More uncompensated work
  - Another hassle factor to push doctors out of comp

Employer Communications (*cont.*)

- Starting point is "**Relevant Medical Information.**" Definition:

  Any medical record, report or information:
  - Restricted to evaluation, diagnosis, treatment of the injury for which compensation is sought, OR
  - Reasonably related to that injury, OR
  - Related to an assessment of employee's ability to return to work
- RMI can be shared without employee's consent
- Statutory exception to physician-patient confidentiality.

Employer Communications (*cont.*)

- Creates a hierarchy for the flow of RMI
  1. Employer can obtain **Medical Records** containing RMI without employee's authorization.
  2. Employer can make **written request** for RMI not contained in the medical records.
  3. Employer can **communicate orally** with the doctor to get RMI not available in step 1, step 2, "and not otherwise available."
     - Employer must give employee opportunity to join the conversation and schedule it at a mutually convenient time for all parties.
- NOTE: Where parties agree, you can still freely disclose patient's information.

Employer Communications (*cont.*)

- RMI Flows Both Ways!
  - Employers can send additional RMI to your office.
  - Before they do, they must communicate first with the employee, who can object.
  - Process designed to have run its course by the time the materials arrive at your office.
- Generally expected to be used by employers to share surveillance materials with the doctor.

Employer Communications (*cont.*)

- Other key provisions:
  - Employer may communicate with the practice to request medical bills or for other administrative matters.
  - No liability for a health care provider as a result of the release of medical records, reports, or information pursuant to this Article.
  - IC to establish a fee to compensate providers for time spent communicating with the employer or employee.

Administrative Simplification

- IC adopted E-billing Minutes before HB 709

North Carolina
Industrial Commission

MINUTES

REQUIREMENT OF ELECTRONIC MEDICAL BILLING AND PAYMENT PROCESSES IN THE NORTH CAROLINA WORKERS' COMPENSATION SYSTEM

The Industrial Commission hereby requires carriers and providers to develop and implement electronic billing and payment processes and will promulgate rules for the implementation of this requirement. The Industrial Commission is implementing an electronic data interchange (EDI) interface and will adopt a set of EDI protocols to standardize the submission, processing, and payment of electronic medical bills in workers' compensation consistent with 45 C.F.R. 162 . This requirement will improve access to care for workers' compensation patients, reduce administrative burdens on providers and payors, achieve consistency with national standards for electronic health care transactions and increase the overall efficiency of North Carolina's workers' compensation system.

This the 14 day of June, 2011.

Pamela T. Young

PAMELA T. YOUNG
CHAIR

Administrative Simplification (*cont.*)

- HB 709 directs IC to adopt rules that will:
  - Require electronic billing and payment
  - Standardize the documentation (i.e., surgical notes) that must accompany your claim to carriers
  - Require carriers to accept 5010 transactions and new code sets (i.e., ICD-10 diagnosis codes)
- 4th state in the nation to address this problem
- NCMS and NCMGM hope to work closely with IC on the coming rule.

Rulemaking

- IC added to the list of state agencies required to follow formal rulemaking process
- Sunsets all IC rules appearing in the NC Administrative Code on Dec. 31, 2012
  - Rehab rules
  - Forms
  - Deposition rules
  - Preauthorization & Utilization Review
  - Fee Schedules?