



UTILIZATION REVIEW

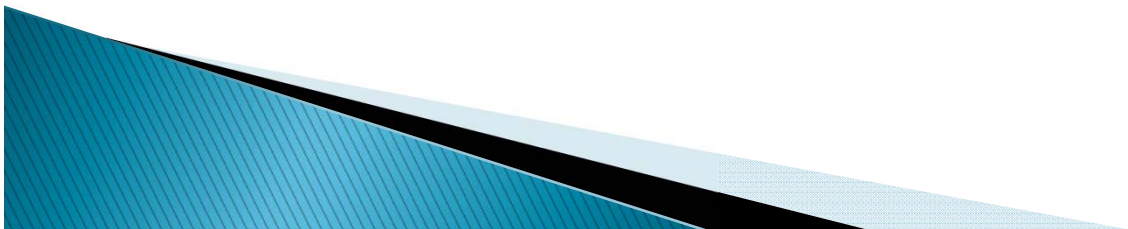
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GOALS OF PRESENTATION

Review and discuss:

Brief overview of utilization review (UR);

- ➔ The Board's historical position on UR;
- ➔ The complaint and investigation process relating to UR;
- ➔ The statutes and regulations impeding investigations relating to UR complaints; and
- ➔ Suggestions for changes in the law and in outreach.



Utilization Review Overview

Workers' Compensation System

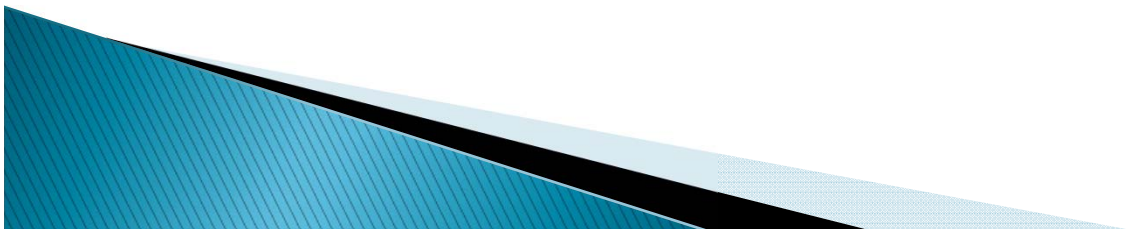
- ➔ UR functions to prospectively, retrospectively, or concurrently review and approve, modify, delay, or deny, treatment recommendations by physicians based in whole or in part on medical necessity to cure and relieve a patient's condition.
 - Labor Code section 4610.



Utilization Review Overview

Workers' Compensation System (cont.):

- ➔ “Medical necessity” means medical treatment that is reasonably required to cure or relieve the injured employee of the effects of his or her injury...
 - Labor Code section 4610.5(c)(2).



Utilization Review Overview

Workers' Compensation System (cont.):

- ➔ Treatment must be based on the following standards, which shall be applied in the order listed, allowing reliance on a lower ranked standard only if every higher ranked standard is inapplicable to the employee's medical condition:
 - A) The guidelines adopted by the administrative director pursuant Section 5307.27.
 - B) Peer-reviewed scientific and medical evidence regarding the effectiveness of the disputed service.
 - C) Nationally recognized professional standards.
 - D) Expert opinion.
 - E) Generally accepted standards of medical practice.
 - F) Treatments that are likely to provide a benefit to a patient for conditions for which other treatments are not clinically efficacious.
 - Labor Code section 4610.5(c)(2).

Utilization Review Overview

Managed Health Care System

- ➔ Insurance plans are required to define and disclose their utilization review process.
- ➔ The criteria used by plans to determine whether to authorize, modify, or deny health care services shall, among other things:
 - (1) Be developed with involvement from actively practicing health care providers.
 - (2) Be consistent with sound clinical principles and processes.
 - Health and Safety Code section 1363.5.

The Board's Historical Position on Utilization Review

- ➔ On May 9, 1998, the Board adopted a resolution declaring, among other things, that:
 - The making of a decision regarding the medical necessity or appropriateness, for an individual patient, of any treatment or other medical service, constitutes the practice of medicine.
- ➔ During the April 25, 2013 Quarterly Board Meeting, the Board reaffirmed that utilization review is the practice of medicine.



Complaints Involving UR Decisions

- ➔ The Board receives complaints from:
- Patients whose recommended treatments were delayed, modified, or denied;
 - Treating physicians whose recommended treatments for their patients were delayed, modified, or denied;
 - Representatives of managed care plans whose denial of benefit decisions have been overturned by UR reviewers.



Review of UR Complaints

- ➔ Where the complaint alleges that the UR physician's opinion resulted in the wrongful delay, modification, denial, or granting of treatment, the Central Complaint Unit treats this as a quality of care case.
- ➔ The patient's medical records are obtained from the treating providers, along with any correspondence relating to the UR review and findings.



Review of UR Complaints (Cont.)

- ➔ The UR physician, if known, is provided a summary of the complaint, is asked for a certified copy of any related records in his or her possession, including a copy of the report sent to the patient and treating physician, and is asked to provide a statement or explanation.
- ➔ The case is reviewed by a medical consultant.



Review of UR Complaints (Cont.)

- ➔ If the medical consultant determines that further investigation is required to determine whether deviations from the standard of care occurred in reaching the opinion that a patient's treatment should be delayed, modified, denied, or granted, the case is referred to the Health Quality Investigation Unit and the Attorney General's Office.



The Board's Jurisdiction in UR Cases

➔ When reviewing UR cases, it is important to distinguish:

1) A UR reviewer's decision regarding medical necessity of a treatment

FROM

2) An insurance provider's determination regarding benefits based on a UR reviewer's decision regarding medical necessity.



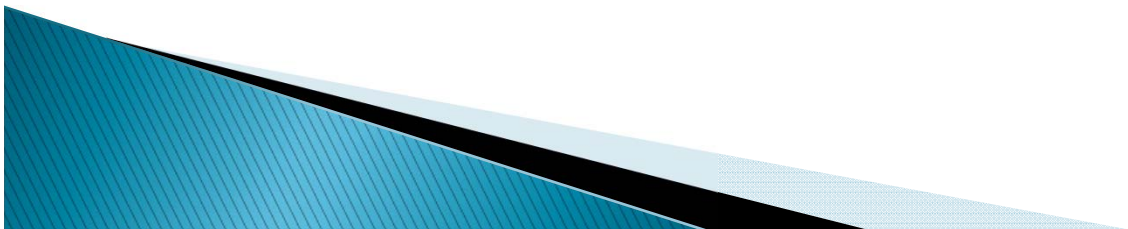
The Board's Jurisdiction in UR Cases (Cont.)

- ➔ The Board has jurisdiction over the known California-licensed physician determining medical necessity, but not over whether benefits will be provided.



Impediments to Board Oversight Workers' Compensation System

- ➔ An expert reviewer does NOT have to be licensed in California.
 - Labor Code section 4610(e).
- ➔ Once a workers comp matter is elevated to the independent medical review (IMR) level, the name of the expert reviewer is required to be kept confidential.
 - Labor Code section 4610.6(f).



Impediments to Board Oversight Health Plans

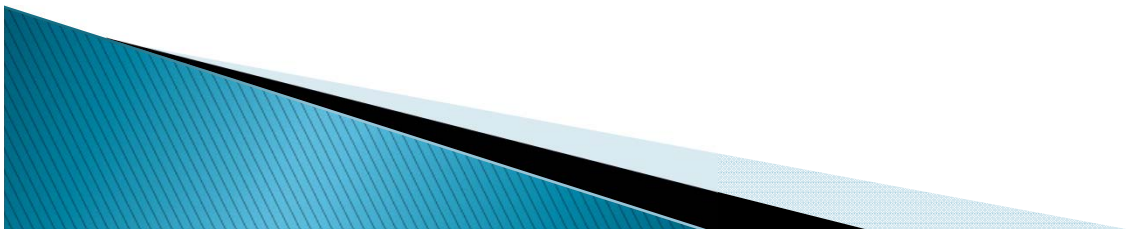
- ➔ Physicians providing an independent medical review do not have to be licensed in California, although the independent medical review organization (IMRO) is required to give preference to a California-licensed physician.
 - Health & Safety Code section 1374.32(d)(4)(B).
- ➔ The IMRO shall keep the name of the reviewing physician confidential except where the reviewer is called to testify and in response to court orders.
 - Health & Safety Code section 1374.33(e).



ATTENTION ALL MEDICAL DIRECTORS!!!

Workers' Compensation System

- ➔ The medical director for the insurance company has to hold an unrestricted license to practice medicine in California.
 - Labor Code section 4610(d).



ATTENTION ALL MEDICAL DIRECTORS!!!

Workers' Compensation System (Cont.)

- ➔ The medical director shall ensure that the process by which the employer or other entity reviews and approves, modifies, delays, or denies requests by physicians prior to, retrospectively, or concurrent with the provision of medical treatment services, complies with the requirements of this section. Nothing in this section shall be construed as restricting the existing authority of the Medical Board of California.
 - Labor Code section 4610(d).

ATTENTION ALL MEDICAL DIRECTORS!!!

Workers' Compensation System (Cont.)

- ➔ **“Medical Director” is the physician and surgeon licensed by the Medical Board of California or the Osteopathic Board of California who holds an unrestricted license to practice medicine in the State of California. The Medical Director is responsible for all decisions made in the utilization review process.**
 - 8 California Code of Regulations section 9792.6(m).



ATTENTION ALL MEDICAL DIRECTORS!!!

Health Plans

- ➔ Are required to employ or designate a medical director who holds an unrestricted license to practice medicine in California.
- ➔ The medical director shall ensure that the process by which the plan reviews and approves, modifies, or denies care based on medical necessity complies with the law.
 - Health and Safety Code section 1367.01(c).



ATTENTION ALL MEDICAL DIRECTORS!!!

Health Plans (Cont.)

➔ The criteria used by the plan to determine whether to approve, modify, or deny requests by providers shall be consistent with clinical principles and processes.

- Health and Safety Code section 1367.01(f).



Suggestions for Change:

- ➔ Support legislative changes to require UR/IMR physicians:
 1. To be licensed in California;
 2. To be actively practicing;
 3. To have similar board certification and/or training as the treating physician; and
 4. To identify themselves in their reports.

- ➔ Support outreach efforts to educate medical directors about the Board's oversight in the UR review process.



QUESTIONS???

