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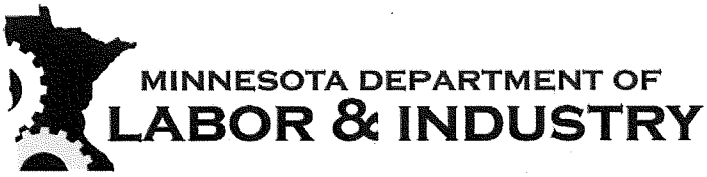

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Medical Services Review Board

Jan. 17, 2013 minutes

Members present
Aysel Atli, M.D.
Beth Baker, M.D.
Jeffrey Bonsell, D.C., Chairman
Russell Gelfman, M.D.
Michael Goertz, M.D.
Rose Hatmaker, R.N.
Ernest Lampe, M.D.
Brennan McAlpin
Matthew Monsein, M.D.
Eric Nelson
Kimberly Olson, R.N.
Reed Pollack
Jody Ruppert, OTR/L
James Samuelson
Margaret Spartz, M.D.

Visitors present
Maureen Anderson, Encore
Dawn Carlson, Almeida, P.A.
Buzz Cummins, WCRA
Colleen Gerlach, MCIT
Susan Giguire, MAPS
Natalie Haefner, WCRA
Heather Keenan, MAPS
Tara Mulloy, Park Nicollet
Joe Schindler, MHA
Janet Silversmith, MMA
Anna Thompson, Medtronic
David Wulff, MNAJ
Christine Zimmer, Winthrop & Weinstein

Members absent
Glenda Cartney, R.N.
Lisa Hanselman, OTR/L
Kathi Henrickson, R.N.
Gregory Hynan, D.C.
Brian Konowalchuk, M.D., M.P.H.
Robin Peterson, P.T.
Andrew Schmidt, M.D.
Cally Theisen, M.D., M.P.H.
Dan Wolfe, P.T., G.D.M.T.

Staff members present
Sandy Barnes
Kate Berger
Commissioner Ken Peterson
Deputy Commissioner Kris Eiden
Chris Leifeld
William Lohman, M.D.
Carrie Rohling
Jessica Stimac
Laura Zajac

Call to order and introductions
The meeting of the Medical Services Review Board (MSRB) was called to order at 4:05 p.m. by Chairman Dr. Jeffrey Bonsell. Members introduced themselves. A quorum was met.

Approval of the minutes
Dr. Beth Baker moved to approve the Oct. 11, 2012 meeting minutes. Dr. Atli seconded the motion. The motion passed unanimously.

Approval of the agenda
Dr. Bill Lohman proposed an addition to the agenda to include under "Business for discussion," a draft of the information sheet *What injured workers should know about lumbar fusion surgery as a treatment for*

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degenerative disc disease. Kim Olson moved to approve the agenda as presented and to include the addition. Dr. Baker seconded the motion. The motion passed unanimously.

Department announcements and updates
Commissioner Ken Peterson welcomed new members Dr. Ernest Lampke, Dr. Matthew Monsein, Eric Nelson and Brennan McAlpin, and congratulated all others on their reappointments.

Deputy Commissioner Kris Eiden announced the following.

- The department has released its *Strategic Plan, Fiscal Years 2013 through 2017*, which is online at www.dli.mn.gov/Pdf/strategic_plan.pdf.
- DLI will be remodeling the Minnesota Room this spring. Meetings scheduled during this time will be relocated accordingly.
- The CGI Federal Inc. document *Report on workers' compensation reimbursement methodologies* has been released. It is online at www.dli.mn.gov/WC/Pdf/cgi_federal_report2012.pdf. In summary, this report identifies, summarizes and reports other state's reimbursement methods pertaining to workers' compensation agencies, Medicare, Medicaid and group health insurers. Comments are encouraged and appreciated.

Business for discussion
Information sheet about spinal fusions – Dr. Bill Lohman
Dr. Lohman provided a handout of the final draft for discussion. This information sheet was compiled based on the feedback received from the series of questions DLI asked various stakeholders, targeting injured workers suffering from a degenerative disc disease. The information sheet was reviewed and discussed.

Board members shared their thoughts about the information sheet being a collaborative piece with DLI and listing MSRB on the document as well. Concerns were raised about whether it should have a formal acknowledgment (i.e. signature) that it was reviewed and received from the treating physician. After Dr. Lohman and Deputy Commissioner Eiden emphasized that incorporating this type of language would require rulemaking that could extend the release of the sheet up to a year and a half and that the information sheet was strictly to be used as an educational piece. The group concluded any improvements or changes to the document can always occur later and decided against requiring an acknowledgment.

With respect to distributing the form, members suggested it could be distributed by: certified managed care vendors, qualified rehabilitation consultants (QRCs), case managers, primary care physicians, surgeons, insurers, medical societies and associations, health care home organizations, chronic pain organziations, nurse practitioners, human resources groups of the employers, as well as being published on DLI's website.

A motion was made and seconded to be a collaborative body on this document. The board unanimously approved to be collaborative with DLI for this document.

A motion was made and seconded to approve the text. There was some discussion. An amendment was made to remove the word "need" in bullet point six, replaced with "use." The board unanimously approved the text with the amendment.

A motion was made and seconded to revisit language and incorporate new language based on new studies every two years. This motion was unanimously approved.

Lastly, there was some discussion regarding the format of the document. Dr. Lohman indicated our Communications staff will make cosmetic modifications prior to release on the website and in a printed version.

Rulemaking update: SCS/IDDS – Dr. Bill Lohman
The department is currently in the process of writing the Statement of Need and Reasonableness (SONAR). As soon as this is done, DLI will be proceeding with the formal rulemaking process.

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Rulemaking update: MSRB/RRP joint rules of procedure, Minnesota Rules, Chapter 5217 – Laura Zajac, General Counsel

- The rules are final.
- The Notice of Intent to Adopt Rules Without a Public Hearing was published in the *State Register* on Oct. 29, 2012. DLI did give notice as required by statute along with the additional notice plan. The period for public comment ended Dec. 5. DLI received zero comments and zero requests for hearing.
- The next step will be submitting the rules to the governor's office for their review and DLI doesn't anticipate any problems.
- Zajac will continue to work with Reed Pollack, rules liaison, because he has the authority to sign the Order Adopting Rules when this gets to that stage.
- The rulemaking record will be submitted to the administrative law judge to review the legality of everything that we've done.
- We expect the rules to be approved by the April meeting and, at that time, a copy of the amended rules will be distributed.

A rules report to the Legislature that was required to be submitted by the board by Jan. 15, 2013, was completed and filed by DLI. Copies are available upon request from Laura Zajac or Chairman Jeffrey Bonsell.

Fee schedule update – Kate Berger, General Counsel, and Dr. Bill Lohman
There were statutory changes made a few years ago that require the department to update the medical fee schedule every three years. The update involves migrating the most recent relative value units (RVUs) from the Medicare tables into DLI's tables. This requires checking all supporting rules for Medicare to ensure it hasn't changed anything about how the RVUs are used. The tables should be done by October.

Pursuant to statute DLI also adjusts the conversion factor to make the update of the RVUs revenue-neutral. Simultaneously, in October the department updates the conversion factor for any change in the producer place index.

Possible changes to spinal fusion treatment parameters – Dr. Bill Lohman
The current parameter for lumbar fusion surgery requires a person to have failed conservative treatment and have a positive discogram at one or two levels before they could proceed to a lumbar fusion surgery. There's a substantive question of whether discography is worthwhile, which is being researched. But there's also the question of whether there are other process type changes the board would want to recommend to the evaluation of patients who are candidates for lumbar fusion surgery. The board had looked at (many years ago) requiring psychological evaluation along the same lines as the board has recommended for spinal cord stimulators and interthecal drug delivery systems. Another process type of change was the notion that patients should not be candidates for fusion surgery unless they have not only failed to have typical conservative management but have also been through an interdisciplinary intensive rehabilitation/medical management program. Discussion occurred about whether to implement these diversions. Current procedures were compared and discussed, as were possible alternative approaches.

Dr. Lohman will draft changes to the current treatment parameters for discussion purposes.

Draft rules for chronic pain management – Dr. Bill Lohman
A copy of rules prepared by DLI in 2008 with respect to long-term opiate prescriptions was distributed. DLI would like to solicit the board's opinions about these draft rules. There was some concern because the department does not have the statutory authority to do this kind of rule. This rule as written requires the patient to enter into a treatment contract with the physician. It appears to DLI it may need specific statutory authority to adopt the rule, but it would like the board to review this draft rule and provide feedback. Members discussed the following:

- MMA is looking at opiate issue;
- IAIABC has come up with draft legislation for workers' compensation jurisdiction on long-term opioid use;
- issues of efficacy and functionality with use of these medications;
- tracking databases in place;

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- urine drug screens;
- standardized written tools for screening patients for risk of addiction and misuse prior to prescribing; and
- creating a daily dose ceiling beyond which patients cannot go without getting a mandatory specialist evaluation.

Any other suggestions or comments can be emailed directly to Dr. Bill Lohman at bill.lohman@state.mn.us.

Future agenda items
Board members wish to discuss the following topics at the next meeting, scheduled for April 18, 2013: possible changes to spinal fusion treatment parameters; rulemaking update: SCS/IDDS, joint rules of the RRP/MSRB; fee schedule update; and draft rules about chronic pain management.

2013 meeting schedule
April 18, July 18 and Oct. 10

Adjournment
A motion was made to adjourn the MSRB meeting and it was seconded. All approved and the motion passed.

Respectfully submitted,
Sandra Barnes
Medical Policy Analyst
Department of Labor and Industry
and
Carrie Rohling
Executive Secretary
Department of Labor and Industry

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