



Medical Services Review Board

July 19, 2007

Minutes

Members Present:

Philip Bachman, M.D.
Sharon Ellis, R.N.
Michael Goertz, M.D.
Rose Hatmaker
Charles Hipp, M.D.
Elizabeth Mangold, R.N.
Robert Meisterling, M.D.
Reed Pollack
Elizabeth Shogren, R.N.
Jon Talsness, M.D.

Members Excused:

Beth Baker, M.D.
Barbara Baum, MS PT
Jeffrey Bonsell, D.C.
Robin Peterson, PT
Andrea Trimble Hart

Members Absent:

Gregory Hynan, D.C.
Andrew Schmidt, M.D.

Staff:

Kate Berger
Penny Grev
William Lohman, M.D.
Julie Marquardt
Phil Moosbrugger
Patricia Todd

Visitors:

Chuck Cochrane; MNAJ
William Fehrenbach; Medtronic
Natalie Haefner; WCRA
Kathleen Picard; MN APTA
David C. Wulff; MNAJ

The meeting was called to order at 4:09 p.m. by William Lohman. Chairperson Beth Baker was not present. *Jon Talsness made a motion to suspend the meeting rules of order and asked Lohman to chair the meeting. The motion was seconded by Philip Bachman. All voted in favor of the motion and it passed.*

Announcements

Patricia Todd informed the Medical Services Review Board (MSRB) that the Workers' Compensation Advisory Council (WCAC) bill did not move forward this year. The department will have meetings with health-care providers and insurers to talk about operational issues regarding how bills are managed and policy questions over the summer. The recommendation that comes out of these meetings will go to the WCAC.

Todd announced that the department has a new commissioner, Steve Sviggum. Sviggum is a former legislator and has expressed interest in outreach to committees such as the MSRB. He was unable to attend this meeting but intends to attend in the future.

Charles Hipp made a motion to approve the minutes from the April 19, 2007, meeting as presented. Rose Hatmaker seconded the motion. All voted in favor of the motion and it passed.

Treatment Parameters
Draft Rules on Drugs

Lohman pointed out that the Department of Labor and Industry (DLI) had made changes to the draft rules on NSAIDs, muscle relaxants, and opioid analgesics pursuant to the recommendations made by the board at its last meetings. Those drafts are available online; he noted the web link was emailed to members. Copies are also in members' packets for this meeting. Members are asked to contact the Department of Labor and Industry (DLI) with any concerns regarding the changes.

Treatment Parameters
Long-term use of Opiates

Lohman pointed out that DLI had also made changes to the draft rules on the long-term use of opioid analgesics, again pursuant to the recommendations made by the board at its last meetings. This draft is also available online; and, copies were in members' packets for this meeting. There is still one outstanding issue to resolve. Discussion occurred regarding the length of time that a patient could receive opioid analgesics prior to triggering the requirements of the draft rule. Four favored six months and five favored three months. The legislature has directed the Board of Medical Practice to evaluate the long-term use of opiates. DLI has informed the Board of Medical Practice that we are in the process of drafting rules and has asked to have a representative on the task force. Lohman suggested that the MSRB delay final action on the rule in order to consider what the Board of Medical Practice does. The Board of Medical Practice report is due to the legislature by the end of this year or January.

Treatment Parameters
Spinal Cord Stimulators and Morphine Pumps

Lohman distributed a handout about draft rules for spinal cord stimulators and morphine pumps. Lohman noted that other states have seriously looked at Minnesota's Treatment Parameters as templates and that they have become a standard other states refer to. Medtronic has suggested changes in the current rules based on their experience working in other jurisdictions.

Lohman pointed out that so far he has only completed the background research needed on spinal cord stimulators. He will present information on morphine pumps at a later meeting. Lohman reviewed the comments made by Medtronic and the recommendations made by DLI for the proposed rules for spinal cord stimulators. The preliminary results of the literature review were distributed. The completed review will be available online as soon as it is completed and members will be e-mailed the web link. In preparation for the next meeting, the board opened a debate about whether these devices are an acceptable option when the patient is a candidate for palliative treatment for pain. The vote will not occur until the next meeting.

Lohman presented two more recommendations from the department for the MSRB's consideration:

- Should there be a definition of what constitutes an appropriate trial period?
- When is a trial judged to be successful?

The department did not have a recommendation at this time but asked members to review the information forthcoming from the literature review and be prepared to decide if it wants to make recommendations in these two areas at the next meeting.

Hipp asked if there were standards of practice or protocols out there at clinics that do interventional pain work that could make these determinations. Lohman noted that William Fehrenbach, the Director of Government Affairs for Medtronic Neuromodulation, was present at the meeting and introduced him to provide information. Fehrenbach noted others are using Minnesota as a model so they decided to request an update of Minnesota's Treatment Parameters. Medtronic believes that a spinal cord stimulator should be inserted only after more conservative treatments have been tried. In his experience, most physicians use a three to five day trial period, with some variations, and he suspected the literature would support that time period. The longer you do a trial, the higher the infection rate, so you need to strike a balance. In other states, he has not typically seen time frames prescribed because there really is not a right answer. He also noted that most states do not set the criteria used to judge if the trial is successful, although there are national official disability guidelines that are used in seventeen states. These guidelines define success as pain relief of 50% or more. There is new data in pain literature, unrelated to these devices that imply the medical standard of care is to consider it clinically significant to lower someone's pain 30%. Medtronic is fine with whatever the MSRB decides to use as a standard. Fehrenbach offered to poll the clinics they deal with to get information on their current practices.

Fehrenbach noted that Medtronic will be releasing a new study in the next 30 days. It is a Canadian and European study, a randomized control trial on spinal cord. He thinks it will demonstrate not only significant pain relief but also functional improvement in patients who have stimulators. He noted the population in their study is not related to workers' compensation specifically. Fehrenbach will send the study to Lohman to forward to the MSRB members. He noted that, because of these debates in other states, the issue of cost effectiveness was raised and insurance carriers are very interested in that information. He offered to provide an executive summary of an unpublished analysis they had an actuary perform that shows intrathecal drug delivery systems, with a seven-year reimplant when the battery dies, save \$15,000 every year and dramatically reduces PT, medication and other therapy costs. The analysis showed a savings of \$500 a year for spinal cord stimulators.

When asked for information about infection rates Fehrenbach responded that he did not know of anyone who has looked at infection rates but he offered to get anecdotal information.

Lohman stated that this data will be available online at DLI's website. A review of the ranges of trial periods will follow along with the criteria for success. The Medtronic information from

clinics regarding current practices will be available. This will be the major topic for discussion at the next meeting and Lohman hopes to wrap up the discussion at that time.

Old Business

Lohman stated that the commissioner has asked the MSRB to consider whether it would recommend any changes to the rating of permanent partial disability (PPD) for back injuries in the PPD schedule. The board developed a lot of PPD schedule changes several years ago. All the changes were to correct typos or misrepresentations except for two issues. One was the rating for radicular pain syndromes with an objective neurologic finding, such as a lost reflex, a nerve-root specific muscle weakness or a positive EMG, and a correlating abnormality on CT or MRI scan or myelogram. This gets the 9% rating if the abnormality is a herniated disc rating. Or, if it was spinal stenosis it gets 10%. The Statement of Need and Reasonableness (SONAR) was written to indicate that rating applied no matter when those factors were true, even if they were not true anymore at maximum medical improvement (MMI). There is case law supporting that interpretation. There continues to be a feeling among some constituents that if a person gets non-surgical treatment, and the pain has resolved and function is normal, there should not be any permanency. Before DLI can go forward with the rules, it would like the MSRB to make a recommendation on the appropriate rating in these cases. Lohman asked if members would like any background research in preparation for that discussion. Goertz asked for the basis of the original recommendation. Lohman responded that in 1993 there was a statutory requirement that any revision to the schedule pay out, in aggregate, about the same amount of permanency benefits as the previous schedule. When DLI did the actuarial study for the 1993 schedule changes, it became clear that in order to deliver the same aggregate amount of benefits you would have to give this rating. The statutory requirement has been removed so the commissioner's question to the board is: If you had to do it over again, would you do the same thing or is the medical thinking on how to rate permanency for the back different now than what it was then?

Discussion followed. Lohman was asked to provide literature on the risk of recurrence of disc herniation and information about what the American Medical Association has recommended for the rating of impairment due to back injuries. Members also asked for literature about the degeneration of the back related to a prior disc herniation.

Talsness asked for a review of the literature dealing with the prevalence of herniated discs in asymptomatic populations. Talsness also asked for information about the risk of future low back pain in a person who is completely recovered versus someone with similar anatomy who has never had an acute episode.

Lohman will gather information for neck and low back because the issues are the same. He noted the department initiated a number of studies of disputes including disputes about PPD so it will be able to give more quantitative as well as qualitative answers to what kind of PPD issues are argued.

Lohman also asked members to consider arthroplasty of the CMC joint. One can argue that there are two ratings available. There is one specifically for thumb arthroplasty which indicates that it

would be 100% of the value of the joint. The value of the CMC joint of the thumb is 17%. That rating is found in the part of the schedule dealing with impairment to the hand. In the part of the schedule dealing with impairment to the wrist, there is a rating for excision for a carpal bone, which is 3%. Thumb arthroplasty of the CMC joint is done by excising the carpal bone and then replacing it with a rolled tendon. This potential conflict is the other question the commissioner would like the MSRB to address. When the schedule was written, the arthroplasty techniques may not have been as good as they are now. The 100% of the value of the joint was taken from the AMA recommendations at the time, the board thought that was an appropriate value and the Minnesota Orthopedic Society endorsed it as an appropriate value. Some orthopedists are now arguing that 3% is the appropriate rating because this procedure works so well and you have a completely functional thumb. Lohman asked members if the 17% rating is still the appropriate rating and what information they would need to decide if 17% is excessive. The members asked to hear about functional improvements following surgery and whether there are other surgeries such as joint replacement. Lohman will also check what the AMA is recommending now.

Lohman opened a discussion of the schedule for what the MSRB will review and asked if the board had any issues to take up. Members asked if they would be looking at treatment parameters for pain injections. He said the schedule was pushed back to review spinal cord stimulators and intrathecal drug delivery systems.

Hipp made a motion to adjourn the meeting at 5:20 p.m. Sharon Ellis seconded the motion. All voted in favor of the motion and it passed.

Respectfully submitted,



Debbie Caswell
Executive Secretary