

## Meeting minutes: Medical Services Review Board

Date: July 18, 2019

Minutes prepared by: Anita Hess

Location: DLI Minnesota Room

### Attendance

**Members present**

Beth Baker, chairwoman  
Russell Gelfman  
Dan Wolfe  
Joseph J. Schulte  
Todd Ginkel  
Lisa Hanselman  
Bradley Kuzel (phone)

**Members absent**

Jeffrey Bonsell  
Reed Pollack  
Buck McAlpin  
Erica Kuhlmann  
Matthew Monsein  
Elizabeth Alm  
Elisha Harris

**Alternates present**

Kimberly Olson  
Natalie Haefner  
Courtney Mitchell

**Alternates absent**

Robin Peterson  
Kathleen Gomez  
Laura Breeher

**Visitors present**

Debra Anger, LMCIT  
Dan Greensweig, LMCIT  
JoAnn White, CorVel  
Ceil Jung, SFM  
Karen Ebert, MCIT

**Staff members present**

Roslyn Robertson  
Brian Zaidman  
Anita Hess  
Ernest Lampe  
Chris Leifeld  
Ann Tart  
Laura Zajac  
Lisa Wichterman  
Ethan Landy  
Pam Carlson  
Jessica Stimac

### Call to order

- The meeting of the Medical Services Review Board (MSRB) was called to order at 4:05 p.m. by Dr. Beth Baker. There was not a quorum of members when the meeting was initially called to order. Baker asked for introductions around the table.

### Department update

- Deputy Commissioner Roslyn Robertson introduced herself to the board. She previously worked for the Department of Labor and Industry (DLI) for 30 years, until her retirement in 2015, and is grateful for the opportunity to serve as deputy commissioner. She rejoined DLI in March 2019.
- Robertson reviewed the results of the legislative session. DLI was successful in securing legislation and an additional monetary appropriation needed to complete the Workers' Compensation Modernization Program (WCMP), which will go live in 2020. WCMP is being built incrementally and tested every step of the way. Also passed this session was wage theft legislation. Minnesota is the second state in the nation to criminalize an employer failing to pay wages that are owed. There is information for employers and the

public available on the department's website. Finally, legislation was passed regarding DLI's Youth Skills Training (YST) Program grants. Legislation proposed by DLI to align Minnesota OSHA's penalty structure with federal OSHA was not successful this year, but will continue to be pursued next session.

- Robertson relayed that Commissioner Nancy Leppink has tasked each unit in the department to identify current challenges and opportunities faced, through a number of different lenses, including technology, data, legislation, and diversity and inclusion. Robertson welcomed board members to provide input at any time.

## Business – Overview of the expedited rulemaking process

- Ethan Landy, DLI Office of General Counsel, explained what happens with the draft post-traumatic stress disorder (PTSD) treatment rules after the board gives its approval. When that happens, the board's work is largely complete and the work transfers to the department to complete the rulemaking steps. Landy provided a checklist of steps in the expedited rulemaking process for the board's information.
- DLI will publish a notice of intent to adopt the rules without a hearing in the *State Register*, which will then trigger a 30-day period during which the public can submit comments and request a hearing. If 100 or more people request a hearing, there must be a hearing about the rules unless a sufficient number of requests for hearing are withdrawn. The rules then go through the regular rulemaking process, including preparing a statement of need and reasonableness (SONAR). If fewer than 100 hearing requests are received, the rules are submitted to an administrative law judge for review and approval.

## Approval of minutes

- Baker confirmed a quorum of members was now in attendance at the meeting; Dr. Bradley Kuzel is on the phone. A motion to approve the board's June 26, 2019, special meeting minutes was made by Dan Wolfe and seconded by Kim Olson. The board voted all in favor. The motion carried.

## Approval of agenda

- A motion to approve the July 18, 2019, meeting agenda was made by Olson and seconded by Russell Gelfman. The board voted all in favor. The motion carried.

## Business – Treatment of PTSD

- Laura Zajac, DLI Office of General Counsel, gave a high-level overview of the most recent draft of the proposed PTSD treatment rules. She reviewed that the rules establish standards and procedures for outpatient treatment of compensable PTSD claims when primary liability has been admitted or established. The proposed rules would cover all dates of injury and all occupations. Certain provisions of the general treatment parameters are incorporated by reference in the proposed rules.
- Zajac explained there is a statutory requirement that diagnosis of PTSD be made according to the most recent version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) by a licensed psychologist or psychiatrist. She said the proposed rules require that an initial evaluation and any psychotherapy treatment be done by a trained mental health care provider.

- Zajac reviewed that the proposed rules require the mental health care provider to collaborate with and engage the patient in the creation of a treatment plan, including setting functional goals. The proposed rules state which trauma-focused psychotherapy treatment modalities are indicated for treatment of PTSD. The modalities are those that had strong or conditional strength of evidence in the American Psychological Association's (APA's) Clinical Practice Guideline for treatment of PTSD. The proposed rules allow the provider to use a treatment modality not listed if it is an evidence-based, trauma-focused psychotherapy treatment modality and prior notice is given. The proposed rules state psychotherapy treatment is indicated no more than two times a week, except for emergency treatment. The psychotherapy provider must assess the patient's progress biweekly.
- The proposed rules define a period of psychotherapy treatment as 16 weeks. Zajac said the proposed rules do not limit the number of periods of psychotherapy treatment a patient may receive. Additional periods are indicated only if the provider determines the patient continues to meet DSM criteria for PTSD. After the initial period of psychotherapy treatment, a complete psychological assessment is indicated (if one has not been done within the past year) to identify co-morbidities. There are circumstances listed in the proposed rules where a psychological assessment is not required. Prior notice is required for additional periods of psychotherapy treatment.
- A patient may change his or her psychotherapy provider once within the first 60 days of treatment and a change restarts the 16-week period. A patient may change his or her psychotherapy provider at any time with prior approval.
- If a patient is not being treated with psychotherapy, the proposed rules indicate a provider prescribing medication for PTSD should consider whether psychotherapy treatment would benefit the patient. The proposed rules state certain anti-depressants and anti-hypertensive medications are indicated for initial treatment of PTSD. If those medications are not effective, are contra-indicated for the patient or produce side effects, the proposed rules state SARIs are indicated, or other medication as prescribed or recommended by a psychiatrist or PMH-APRN (or any other provider after consulting with a psychiatrist or PMH-APRN). Benzodiazepines are not indicated for treatment of PTSD. Initial prescriptions are limited to three months, with subsequent refills limited to six months. Prescriptions are not to exceed the manufacturers' maximum daily dosage.
- The proposed rules state that for patients currently receiving treatment for PTSD, payers may not deny payment based on the rules until 90 days after they have provided written notice.
- The proposed rules specify what must be documented in the patient's medical record.
- Baker noted recent changes were highlighted in yellow on the handout given to the board members and were discussed at the most recent meeting. Baker asked if the board was ready to vote on the draft rules or if more discussion was needed. Olson made the motion to recommend the draft rules dated July 5, 2019, to the commissioner. The motion was seconded by Todd Ginkel. The board conducted a roll call vote because one member was attending by phone. Natalie Haefner, Ginkel, Wolfe, Baker, Gelfman, Olson, Lisa Hanselman, Joseph Schulte and Kuzel voted in favor of the motion. Courtney Mitchell did not vote because she is an alternate for Hanselman. There were no votes in opposition. The motion carried.

## **Business – Changes to opioid statutes**

- Lisa Wichterman, DLI medical policy specialist, reviewed the handout about the comparison between the Opiate Epidemic Response/Board of Pharmacy 2019 Amendments to Minnesota Statutes chapter 152 and the DLI treatment parameters, Minnesota Rules 6221.6110 and 5221.6105. Wichterman noted the 2019

amendments include fee increases for drug manufacturers and wholesalers, and establish the Opiate Epidemic Response Advisory Council. The council has \$20 million in grant money to distribute to fight the opioid epidemic in Minnesota. The legislation also expands who can administer opioid-antagonists (such as Narcan).

- Wichterman explained the differences between the Board of Pharmacy's time, quantity and other limitations on opioid prescriptions compared with the current workers' compensation treatment parameters.
- Baker noted that when the board wrote these parameters, it was before the Centers for Disease Control and Prevention (CDC) guidelines came out. Baker said 120 morphine milligram equivalents (MME) daily is way too high. She noted the board wrote this a long time ago and inquired whether the board wanted to consider changing its previous work.
- The board members discussed that they could put benefits versus risks of updating the current opioid treatment rules on the October meeting agenda. The changes made by the Board of Pharmacy are in the statute, so they govern if there is a conflict between the statutes and rules. If the board does want to update the rules, the department would go through the rulemaking process.
- The board agreed the current workers' compensation treatment parameters for opioid medications are out of date and it is worth opening it up for discussion again.
- Robertson will work with Wichterman and DLI Medical Consultant Dr. Ernest Lampe, to bring this issue back and prioritize the list.

## **Business – Potential opportunities with the University of Minnesota**

- Lampe told the board about a very successful meeting with the University of Minnesota's School of Public Health. The meeting was chaired by Leppink, Robertson and Minnesota OSHA. Three divisions in the School of Public Health's epidemiology and sciences and management environmental sciences deal with worker injuries. There was a good discussion about the prevention of injuries. The School of Public Health website shows projects done by graduate students concerning chronic low back pain, PTSD, workers' compensation claims and stress in the workplace.
- Lampe noted DLI and the School of Public Health have many mutual interests. They are a good resource and we can look to them for an academic viewpoint. The School of Public Health wants to understand workers' compensation issues. Both DLI and the School of Public Health are interested in learning more about injuries to firefighters; so, hopefully, we can develop this discussion using them as a resource.

## **Business – WCMP update**

- Brad Morse, WCMP program director, gave an update about the modernization program. It is on time and on budget. They are working with stakeholders to build the system, called Work Comp Campus. They are testing the code and functionality, as well as getting feedback from attorneys and insurance companies that will be doing electronic filing. Campus will go live in 2020.

## **New business**

- There was board discussion about where things were left with injections and the need to look for evidence-based reviews. Baker noted the board did not do that systematically and asked if they should have a work group taskforce meet. Gelfman noted all the injections are different and asked how that should be addressed. There was some debate in January 2018 about that, whether to split by type of injection or lump them together.

## **Adjournment – Baker and board**

- Baker thanked everyone for coming. Ginkel moved to adjourn the meeting, which was seconded by Wolfe. All voted in favor and the motion carried. The meeting adjourned at 5:50 p.m.

## **Next meeting dates**

- Oct. 10, 2019
- Jan. 16, 2020
- April 16, 2020
- July 16, 2020