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February 1, 2019



COA Report

California Orthopaedic Association

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Ortho News This Week

ABOS launches web-based 'open book' MOC pathway



AAOS

With the new year comes the implementation of the new Knowledge Assessment pathway in Maintenance of Certification (MOC) from the American Board of Orthopaedic Surgery (ABOS). The Web-based Longitudinal Assessment (ABOS WLA) program allows currently ABOS Board-Certified orthopaedic surgeons (Diplomates) to pursue and fulfill MOC Part III requirements through completion of a single annual assessment using a web-based interface to answer questions on a computer or laptop. [READ MORE](#)

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More pharmaceutical news for 2019



Another caution for physicians prescribing a controlled substance

CMA

AB 2760 by Assemblyman Jim Wood was passed and signed into law effective January 1, 2019. AB 2760 requires physicians to offer a prescription for naloxone hydrochloride or another drug approved by the FDA for the complete or partial reversal of opioid depression to a patient when one or more of the following conditions are present:

- The prescription dosage for the patient is 90 or more morphine milligram equivalents of an opioid medication per day.
- An opioid medication is prescribed concurrently with a prescription for benzodiazepine.
- The patient presents with an increased risk for overdose, including a patient with a history of overdose, a patient with a history of substance use disorder, or a patient at risk for returning to a high dose of opioid medication to which the patient is no longer tolerant.
- Consistent with the existing standard of care, provide education to patients receiving a prescription under paragraph (1) on overdose prevention and the use of naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression.
- Consistent with the existing standard of care, provide education on overdose prevention and the use of naloxone hydrochloride or another drug approved by the FDA for the complete or partial reversal of opioid depression to one or more persons designated by the patient, or, for a patient who is a minor, to the minor's parent or guardian.

This section does not apply to a prescriber when prescribing to an inmate or a youth under the jurisdiction of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice within the Department of Corrections and Rehabilitation. No documentation of the offer

is required in the patient's medical record, however, it would be advisable to document that you had the conversation with the at-risk patient. Text of AB 2760 can be found at: http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB2760

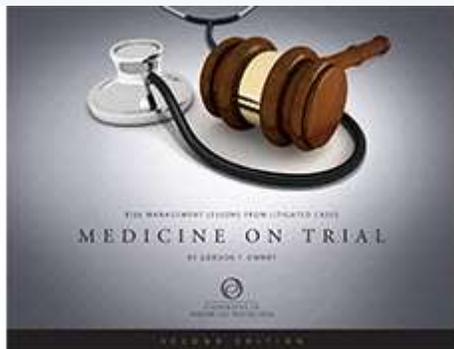
5 companies now control health insurance and drug coverage for 125 million people



Axios

Starting this spring, five corporate giants — Anthem, Cigna, CVS Health, Humana and UnitedHealth Group — will control health insurance and pharmacy benefits for more than 125 million Americans. Most of this happened through rapid consolidation, and now the pressure is on these companies to prove they can better control both medical and drug spending with everything under the same roof. Driving the news: Anthem has been working for over a year to create its own pharmacy benefit manager, called IngenioRx, so it could sever ties with Express Scripts. [READ MORE](#)

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The Hip Society and the Knee Society acquire current concepts in joint replacement



Orthopedic Design and Technology

The Hip Society and The Knee Society, in partnership, have signed an agreement to acquire Current Concepts in Joint Replacement (CCJR). This is the culmination of 18 months of feasibility study, due diligence and negotiations and the dedication of volunteer leaders appointed by both organizations to spearhead this project. For nearly 40 years, the CCJR course has remained the largest of its kind anywhere in the world. Created by A. Seth Greenwald, DPhil(Oxon), and presented by the Current Concepts Institute, this prestigious program has taken place each December and May and includes faculty, extensive exhibitor participation and educational curriculum. These two live events have consistently attracted over 3,000 delegates from more than 60 countries on an annual basis. [READ MORE](#)

Another apportionment win for defendants — *Lindh v. WCAB*



The Hanna Brophy Bulletin

On December 1, 2018, the First District Court of Appeal issued its decision in *City of Petaluma v. WCAB (Lindh)* taking the breadth of Labor Code § 4663 apportionment one step further than it did in *City of Jackson v. WCAB (2017)*, 11 Cal.App. 5th 109. It has now been confirmed that apportionment to "risk factors" are valid when supported by substantial medical evidence because they are among the "asymptomatic prior conditions" contemplated by Escobedo (70 Cal. Comp. Cases 604).

Here are the facts: Aaron Lindh was a Law Enforcement Officer that sustained an injury to the left eye while engaged in a canine training course. He took three to six blows to the left side of his head. He started having headaches and a month later he lost most of the vision in the left eye. He was evaluated by two physicians and a neuro-ophthalmologist Qualified Medical Evaluator ("QME"), who all concluded that the blood circulation to Mr. Lindh's left eye was defective. The QME determined that Applicant had a rare non-industrial underlying condition that placed him at high risk for damage to the left eye. He ultimately apportioned 85% of Mr. Lindh's disability to that condition and 15% to the industrial injury. Unsurprisingly, both the Workers' Compensation Judge ("WCJ") and the Workers' Compensation Appeals Board ("WCAB") rejected the apportionment opinion and awarded 40% permanent disability, un-apportioned. They reasoned that the QME had improperly apportioned causation, not disability.

The Court of Appeal in *Lindh*, did not dispute the long-standing principal that apportionment of causation is improper. Rather, it explained why the QME had in fact apportioned disability in this case. It cited an excerpt of the QME's deposition where he demonstrated that he understood the difference between apportionment of causation and apportionment of disability. In that same excerpt the QME explained that the underlying condition caused a portion of the disability because he could have lost his vision (or a part of it) even without the industrial blows to his head.

The Court of Appeal likened "risk factors" to *asymptomatic* underlying conditions, which are valid bases for apportionment. The Court emphasized that an asymptomatic condition by virtue of its definition may not have manifested in any prior disability, may not have required any prior treatment or work restrictions, and possibly may have not been previously known. Most importantly, the Court of Appeal indicated that it is immaterial whether the asymptomatic condition alone would have inevitably resulted in disability had the industrial injury not occurred.

Moving forward claims adjusters and defense attorneys should be on the lookout for these kinds of apportionment opportunities in their own cases. If a pre-existing condition is noted in the medical reports or subpoenaed medical records bring it to the attention of the med-legal evaluator. If there is no note of one in prior medicals, ask the med-legal evaluator if the injured worker has a condition that he or she may not be aware of, but that may be playing a role in his or her disability. This should be done carefully and intentionally to ensure the med-legal evaluator does not confuse apportionment of causation with apportionment of disability. Ask pointed questions in the advocacy letters and even more pointed questions in depositions. If your facts align with *Lindh*, there is now binding precedent to lean on in arguing for apportionment to a "risk factor" that amounts to a "pre-existing asymptomatic condition."



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Trump administration proposes to lower drug costs by targeting backdoor rebates and encouraging direct discounts to patients



HHS.gov

On Thursday, Health and Human Services Secretary Alex Azar and Inspector General Daniel Levinson proposed a rule to lower prescription drug prices and out-of-pocket costs by encouraging manufacturers to pass discounts directly on to patients and bringing new transparency to prescription drug markets. "Every day, Americans—particularly our seniors—pay more than they need to for their prescription drugs because of a hidden system of kickbacks to middlemen. President Trump is proposing to end this era of backdoor deals in the drug industry, bring real transparency to drug markets, and deliver savings directly to patients when they walk into the pharmacy," said Secretary Azar. [READ MORE](#)

Antimicrobial stewardship in orthopaedics



AAOS

Antimicrobial resistance (AMR) is responsible for two million infections and 23,000 deaths annually in the United States alone. Globally, more than 700,000 people die each year of antibiotic-resistant infections. By the year 2050, AMR infections are predicted to be a larger killer than cancer and heart disease. The primary drivers for resistance are overuse and inappropriate use of antimicrobials. As much as half of all antibiotic use may be misuse. AMR is a global public health crisis by any measure. [READ MORE](#)

New study: Telerehab helps injured workers return to work 10 weeks sooner



WorkCompWire

When used alongside clinic-based physical therapy (PT), telerehab can accelerate workers' return to work for modified duty by as much as 10 weeks, according to a study presented at the American Physical Therapy Association/ Combined Sections Meeting (APTA/CSM) conference. The conference, which was held in Washington D.C., attracts the largest gathering of physical therapists (PTs) nationwide, attracting more than 17,000 attendees annually. [READ MORE](#)

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