Colorado Medical Society Testimony to the Division of Workers’ Compensation
Nov. 18, 2013

As Chairman of the Colorado Medical Society’s Workers’ Compensation and Personal Injury Committee (WCPIC), I would like to thank the Division of Workers’ Compensation and Director Tauriello for the opportunity to present testimony today on behalf of the Colorado Medical Society, the voice of the physicians of the State of Colorado.

The Colorado Medical Society strongly endorses the use of evidence-based treatment Guidelines to help assure that injured workers have timely access to necessary medical treatment, and appreciates and applauds the work done by the Director, Medical Director Dr. Kathryn Mueller, Division staff, and the physicians and others who served on the advisory task forces.

The impact of the Colorado Workers’ Compensation Medical Treatment Guidelines has always been twofold—to outline specific care that has been recognized as medically necessary for specific conditions, and therefore will be reimbursed by payers without the need for extensive, time-consuming and expensive debate. In addition, the Guidelines have been an important force over the years in shaping physicians’ understanding of optimal evidence-based practice.

The Colorado Guidelines have been routinely adopted by other states, giving them a significant additional role in shaping treatment on a national basis.

The Colorado Medical Society also recognizes that overutilization of invasive procedures presents unnecessary risks to patients and is a source of significant unnecessary expenditure of resources. The CMS looks forward to the opportunity to work with the Division of Workers’ Compensation to assess the magnitude of this problem and to find effective approaches to improve the situation. We believe that identification of inappropriate medical practices and directly addressing the issue with the providers involved through education and/or appropriate sanctions is likely to be the most productive avenue to address this important concern.

The purpose of the Medical Treatment Guidelines is to model appropriate care. The CMS believes that over-emphasizing utilization concerns in the formulation of Medical Treatment Guidelines would have the potential to undermine the authority and the utility of the Guidelines, and yet would not significantly affect overutilization.

The CMS strongly supports evidenced-based medicine. As originally defined by Sackett, evidence-based medicine involves more than systematic reviews and randomized controlled studies.
As noted by Dr. Kathryn Mueller (Pearson Assessments, 2004; Evidence-Based Guidelines Help Create a Solid Foundation for Practice Decisions in Occupational Medicine) “In an ideal world, you would look at all the pertinent literature and select the highest quality, evidence-based studies that address a given guideline. In reality, you often find that there are not any high-quality studies in the specific area you are reviewing. Given these limitations, you need the involvement of all of the relevant specialists for each guideline. They can bring a well-rounded perspective to the discussion of the available evidence in order to make an appropriate recommendation.”

“Most important, the underlying principle in developing guidelines must be to determine what’s best for the patient…. If people have the impression that the goal is to cut costs, they aren’t going to trust the recommendations.”

The Colorado Medical Society is proud to play an important role in the development of the Guidelines through evaluation and public comment. The membership of WCPIC has been expanded this year to include physicians board certified in Occupational Medicine, Internal Medicine, Family Medicine, Neurosurgery, Orthopedic Surgery, Emergency Medicine, Physical Medicine and Rehabilitation, as well as specializing in Neurology. We believe the broad expertise and extensive clinical experience of this group can bring significant value to the Guidelines’ development process.

We are pleased that the recommendations we present today have the unanimous support of WCPIC members attending our Nov. 12 meeting (no opposing votes, one abstention).

In addition to the important observation of Dr. Mueller that experienced medical specialists “can bring a well-rounded perspective to the discussion of the available evidence in order to make an appropriate recommendation,” there is another reason that we believe our recommendations can be helpful.

Injured workers in Colorado are entitled to reasonable and necessary medical treatment for their occupational injuries. While the Medical Treatment Guidelines issued by the Division serve an important function by codifying reasonable and necessary care for specific conditions, treatment outside of the Guidelines, if it can be shown to be reasonable and medically necessary, remains a covered medical benefit.

Because of this regulatory formulation, it is especially important that the Guidelines do not too narrowly construe medical evidence. Absence of evidence of effectiveness is not the same thing as evidence of lack of effectiveness.

It is in this situation, where definitive proof of either effectiveness or ineffectiveness of particular treatments may be lacking that, as noted by Dr. Mueller, “the involvement of all relevant specialists” is critical. To date, our Guidelines have reflected a broad consensus of the medical community, which has been a key to the Guidelines’ effectiveness in serving as a reference that frequently resolves debates regarding the appropriateness of specific medical care in specific clinical situations. If at any time there were to be a significant gap between the standard of care generally accepted in the medical community and the care endorsed in the Guidelines, the Guidelines would become in many cases a way station in medical necessity disputes, rather than (in many cases) the end of the argument.
In that situation, disputes would increasingly turn more broadly toward the medical literature as the final authority—or possibly even the starting point of the discussion. Although references to medical literature to define medical necessity is always an option, the CMS believes that anything which undermines the authority or practical utility of the Medical Treatment Guidelines would be detrimental to the occupational health care system and would be likely to result in delay of care and to increase total costs.

For this reason as well, the CMS is pleased to provide its recommendations to the Division and believes our input reflecting the consensus of the medical community may be helpful both to the Division and to the Guidelines.

The CMS supports the proposed Medical Treatment Guidelines for the Cervical Spine and the proposed Medical Treatment Guidelines for the Lumbar Spine. Based upon a unanimous vote of members present at its Nov. 12 meeting (with one abstention), WCPIC also strongly endorses the recommendations of the International Spinal Injection Society (ISIS), which are appended to this testimony and which are also being presented directly by ISIS in testimony today.

The ISIS Guidelines are quoted extensively throughout the proposed Colorado Workers’ Compensation Lumbar Spine and Cervical Spine Medical Treatment Guidelines, testifying to the importance that the Division has accorded to ISIS recommendations.

ISIS members are among the world’s leading authority in research in the area of spinal injection procedures. The organization plays a leading role in educating physicians on indications and techniques for spinal injection procedures. ISIS also played the leading role in the Multi-Society Pain Workgroup, (“MSW”) the coalition of 14 specialty societies representing over 100,000 physicians which provided expert consensus recommendations which served as the basis for Medicare coverage determinations for spinal injection procedures.

The Colorado Medical Society wishes to express its appreciation to the International Spinal Injection Society and particularly its President, Dr. Jeff Summers, and to Dr. Paul Dreyfus; Marilyn Klyks, ISIS Director of Health Policy; and to local member Dr. Scott Bainbridge for their extraordinary willingness, at short notice, to review in depth the proposed Colorado Workers’ Compensation Medical Treatment Guidelines.

These individuals gave up personal time to produce in a few short weeks a balanced, detailed, and well-referenced review of the proposed Colorado Medical Treatment Guidelines that would generally require months. In addition, ISIS Standards Committee met and on remarkably short notice approved the recommendations as official ISIS policy.

The CMS believes that Colorado workers and employers will be better for the balanced, objective review produced by ISIS which integrates a review of the relevant world literature with the clinical experience of leading international authorities in the field.

One request that the CMS would make of the Division for the future is to have a minimum of 90 days to review future Guideline revisions. We recognize that the Division has no legal requirement to provide that time frame for public comment. However, CMS committee members and, in this case, ISIS members, have taken extensive time out from their practice obligations to provide the Division and the citizens of Colorado what we hope are quite valuable recommendations. While we are pleased to provide this information, we would be very grateful
in the future for the courtesy of sufficient time that we will not to need to include 3:00 AM in our reviewing schedule, as several of us have done more than once this time around.

In addition to highlighting a few specific aspects of the ISIS statement, the CMS would note that the Division has taken great pains to note that “evidence statements,” which review the state of the evidence, should not form the basis for determinations of coverage as reasonable and necessary care, but that reasonable and necessary care should be determined solely by the “Indications” sections. However, a great number of the “Indications” sections do have “evidence statements” included within the “Indications.” Based upon the Division guidance, it would appear that this evidence could be used as a basis for determination of coverage as reasonable and necessary care. As several of these evidence statements are broadly negative with respect to the utility of the procedures in which they are included in the “indications,” these statements could significantly interfere with patient access to care. For example, on page 47 of the Cervical Guidelines, Section d(iii) contains the statement “A high quality meta analysis provides good evidence against the use of lumbar facet or epidural injections for relief of non-radicular low back pain ([Cochran] Stall2008). Similar results can be expected in the cervical spine. All injections should be preceded by an MRI. Under the “Indications” section of the Cervical Guidelines for Epidural Steroids (Exhibit Page 45), it states “there is some evidence that ESI’s are associated with a less favorable clinical course in the setting of spinal stenosis, and that they may be detrimental (Radcliff, 2013).

In addition to the methodological and substantive objections made to these assertions by ISIS (with which the CMS concurs), the CMS recommends that, consistent with the Division’s position that “Evidence Statements” may not be used for coverage determinations, but that the “Indications” sections may, that all “evidence statements” be removed from all “indications” sections, including those for procedures in the Lumbar Spine Guidelines, the Cervical Spine Guidelines (including the section on Botox).

Second, there are several instances in which studies in the lumbar spine are assumed to apply to the analogous procedure in the cervical spine (ISIS has raised this issue as well). The CMS understands that the reason that these studies are included is that there is no applicable data specifically for the cervical spine in these cases.

The lumbar and cervical spine are dramatically different in biomechanics and mobility. It is not evidenced-based medicine to presume that lumbar studies provide useful data regarding the outcome of cervical procedures which have not been studied. If the lumbar studies represent the “best evidence available,” CMS recommends that the Division follow the recommendations of Dr. Mueller (ibid, 2004): “you often find that there are not any high-quality studies in the specific area you are reviewing. Given these limitations, you need the involvement of all of the relevant specialists for each guideline. They can bring a well-rounded perspective to the discussion of the available evidence in order to make an appropriate recommendation.” When applicable studies are not available, decisions should be made based upon clinical recommendations by the relevant specialists (such as the specialists and academic researchers who formulated the ISIS recommendations). Non applicable studies performed on other areas of the spine should not be cited in the Guidelines.

With respect specifically to the ISIS Nov. 14, 2013 evaluation of the proposed Colorado Workers’ Compensation Treatment Guidelines, the CMS appreciates the detailed, thoughtful and well-referenced report, and concurs in their recommendations. We appreciate the inclusion
in that group of world-renowned specialists in this area. While the CMS endorses the entire report, we have a few specific areas that we would like to emphasize.

We are particularly concerned that a single flawed study in the lumbar spine (ISIS Letter; Nov 14 2013, P 4-6) could form the basis for Guideline recommendations that would result, if followed, in patients with both lumbar and cervical spinal stenosis being denied access to epidural injections unless they first refused surgery.

ISIS has reviewed both the deficits in the study (Radcliff, K, Kepler, C et al Spine 2013; 38:279-91) which was used as a basis for this recommendation, as well as other research which demonstrates the value of epidural injection in avoiding surgery.

This perspective was strongly echoed by Dr. Michael Rauzzino, neurosurgery, a member of the CMS’s Workers’ Compensation and Personal Injury Committee. Dr. Rauzzino articulated both his clinical experience (consistent with the ISIS recommendations) that he has many patients with spinal stenosis who are managed very well with both functional improvement and decreased pain levels with epidural injections, and his concern that if the requirement for epidural injection for stenosis is that patients decline surgery, many unnecessary surgeries would result. Dr. Rauzzino indicated that standard of care in his specialty requires a trial of appropriate conservative care (which in the vast majority of cases includes epidural injection) prior to proceeding to surgery for spinal stenosis patients without evidence of myelopathy or progressive neurologic deficit. As they are currently formulated, the proposed Colorado Workers’ Compensation Treatment Guidelines are not consistent with this standard of care.

Additionally, the CMS strongly concurs with the ISIS observations and recommendations regarding both the state of the evidence and the clinical indications for epidural steroid injection and facet procedures in the cervical and in the lumbar spine.

In addition, it remains the position of the CMS, as set forth in our original testimony on Aug. 6 that we oppose the dramatic fee schedule cuts made despite unanimous opposing testimony, for the reasons detailed in my written testimony submission.

We appreciate the opportunity to present testimony today, and I would be happy to answer any questions.

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We are concerned that these fee schedule reductions were made despite unanimous testimony in opposition at the original Hearing. The current Colorado fee schedule for injection procedures (prior to the 40% or more fee schedule cuts) is quite similar to other regional RVP states including Arizona and South Dakota, and Nebraska (which are also relatively low total cost states).

As expressed in our letter of Sept. 13, 2013 to Attorney General Suthers, the CMS position is that the 40% fee schedule cuts for procedures “will negatively impact access to care for injured workers and potentially damage the workers’ compensation system.”