



AMERICAN COLLEGE OF  
OCCUPATIONAL AND  
ENVIRONMENTAL MEDICINE

June 1, 2005

The Honorable Robert Bunda  
President  
Hawaii State Senate  
Hawaii State Capitol, Room 3  
415 South Beretania Street  
Honolulu, HI 96813

Dear Senator Bunda:

On behalf of the American College of Occupational and Environmental Medicine (ACOEM), I am writing to advise you that ACOEM does not endorse the Workers' Compensation Reform Rules recently issued by the Department of Labor and Industrial Relations (DLIR).

Specifically, we object to the decision by the DLIR to adopt by reference Chapters 1-7 (*Foundations of Occupational Medicine Practice*) of the ACOEM Practice Guidelines, as a preamble of sorts to the Official Disability Guidelines Treatment in Workers' Comp, 3rd edition, (ODG) issued by the Work Loss Data Institute.

The Division wrongly assumes that the ACOEM *Guidelines* and the ODG guidelines were intended to work in tandem. The ODG/WLDI parameters are not part of the ACOEM guidelines. ACOEM has had no involvement in, and does not support, the ODG treatment guidelines.

Essentially, the DLIR has overlaid a portion of the scientific-based ACOEM Practice Guidelines on top of the commercial-based ODG Treatment Guidelines to create a confusing amalgam of potentially conflicting guidelines. This is a clear misuse of the ACOEM Guidelines. Moreover, by taking the ACOEM Guidelines out of context in this way, the DLIR risks producing treatment decisions for workers that are in direct conflict with the principles of occupational medicine.

Chapters 1-7, which reflect the "Foundations of Occupational Medicine Practice, are an integral part of the Occupational Medicine Practice Guidelines, 2<sup>nd</sup> Edition, and are not intended to be selectively lifted from its original context and then joined with a fundamentally different set of treatment guidelines, as the DLIR has done. The potential for conflict between Chapters 1-7 and the ODG or any other set of commercial guidelines is great and creates confusion for providers, employers and insurers. To presume otherwise is a mistake.

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The ODG guidelines are generally considered to be "commercial" within the medical community and as a consequence it is highly unlikely that they will be generally accepted by practicing physicians as a truly scientific and evidence-based work on which to base individual patient care decisions. As a matter of policy ACOEM would not be able to recommend that our members follow the ODG guidelines for treating patients.

During the rulemaking, ACOEM advised the Director that the ACOEM guidelines and the ODG guidelines were not compatible and offered to meet with the Director to discuss our position (letter from Timothy Key, MD, to Nelson Befitel, February 4, 2005). Unfortunately, such a meeting did not occur.

In its report to Governor, DLIR notes that "California enacted guidelines as part of its major workers' comp reform package in 2004. A University of California-Berkeley study estimates that California will realize 36.7 percent, or \$3.1 billion, in cost savings to its system due to those guidelines." (*Recommendation to the Governor on Proposed Rules for Workers Compensation Reform 2005*, DLIR, April 25, 2005, page 2)

However, California's cost savings are the result of the ACOEM *Guidelines*. The ACOEM *Guidelines* are the only nationally recognized treatment guidelines adopted and being implemented in California in their entirety. To attribute California's cost saving to the ODG guidelines is wrong, as those guidelines have no role whatsoever in the California reform.

We urge the Legislature do take appropriate action is to address the regulations and the use of medical treatment guidelines.

Thank you for your consideration. If you have any questions, or if I can be of any assistance, please feel free to contact me.

Sincerely,



Barry S. Eisenberg  
Executive Director

Cc: Nelson Befitel, Director, DLIR  
Cheryl Barbanel, MD, ACOEM President  
Patrick O'Connor