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Lee Beyer, Chair

Bruce Starr, Vice-Chair

Members of the Senate Committee on Business and Transportation

Re: Testimony on SB 533

Dear Committee Chairs and Members,

Thank you for the opportunity to testify by phone to your Committee. I regret that I cannot appear in person as I am out of the state.

The OMA Workers' Compensation Committee has discussed SB 533. The Committee opposes it because it was written to improve access for workers to medical providers but it does not do that. Under current Oregon law, both nurse practitioners and chiropractic physicians have the right to see and treat injured workers. Lengthening the time of treatment by nurse practitioners and chiropractors without addressing the reasons that treatment is prolonged beyond 90 days does not provide the injured worker the best and most cost-effective care.

I read through the October 12, 2012 testimony of the ONA and a number of nurse practitioners to the MLAC Access to Medical Treatment Subcommittee. My conclusion is that what is needed is a more comprehensive discussion of access which includes medical and osteopathic physicians, particularly those who specialize in treating injuries which would include occupational medicine specialists, physiatrists, primary care physicians, orthopedic surgeons and neurosurgeons.

My concern, as a neurosurgeon that treats injured workers and as a physician with a long interest in improving the Oregon Workers' Compensation process, is that workers receive the correct diagnosis and treatment which is necessary, reasonable, appropriate, and not unnecessarily prolonged.

I agree that it is silly and unnecessary for a nurse practitioner to transfer care of a worker to a primary care physician to perform follow up lab studies for HIV after a needle stick at the end of 90 days. However, I do not agree that management of a worker who suffered a dislocated knee and torn ligaments should be done by a nurse practitioner. The practitioner obtained an orthopedic consult with a physician who saw the worker three times. In my opinion, appropriate care would involve a joint effort between the orthopedic surgeon and the nurse practitioner with an agreed-upon treatment plan, and further consultation and a new treatment plan if the injury did not resolve within the expected time frame.

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I also do not agree with the testimony that fractured bones, low back injuries, "minor" head concussions and internal derangement of the knee are injuries that should be managed by any non-specialist for more than 90 days without consultation and a written treatment plan which includes length of treatment. These "minor" injuries, and I speak from extensive personal experience about concussions and low back injuries, may lead to prolonged treatment, extensive evaluations and claims of severe disability.

I also disagree with the conclusion that a patient with a less than ideal outcome from back surgery needs to be managed with long-term or chronic pain medication. In my opinion, that decision, which may be appropriate, requires an evaluation by a pain psychologist and input from a physiatrist involved with a back rehabilitation program. No doubt continuing care could be managed by a nurse practitioner with consultation as necessary.

Patients whose injuries are covered by workers' compensation take longer to heal. In the case of chronic low back pain, both personal experience and excellent prospective scientific studies conclude that non-physical factors are the risk factors for prolonged recovery. These risk factors include job dissatisfaction and poor worker-employer or supervisor relationships. For some of these workers there is no accommodation for aging and diminished ability to do heavy work. Fear-avoidance, which is the perception that an activity which is painful is going to worsen a condition is also a factor and may need to be addressed in a comprehensive rehabilitation program that includes other things besides physical therapy. In a few words, these are complicated issues and not addressing them early will prolong treatment, increase cost and worsen outcome. Addressing them requires consultation with one or more specialists.

In my opinion, extending the treatment period for nurse practitioners to 180 days will make it more difficult for the nurse practitioners to find an occupational or physical medicine specialist willing to assume the care of that patient.

In conclusion, I believe we need a broader conversation about the issue of access which includes medical doctors. We need to focus on shared treatment to provide injured workers additional expertise with less inconvenience due to travel issues, and we need to do it without increasing time loss and treatment costs by recognizing that a chronic problem may be developing which needs input from specialists.

Thank you,

David J. Silver

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