Countering the New Playbook: A Collaborative Deep Dive into CAAA 2026 Emerging Trends

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Jonathan Liff, Partner - Sacramento
Laughlin, Falbo, Levy & Moresi, LLP

John Orman, Partner - Fresno
Laughlin, Falbo, Levy & Moresi, LLP

Michael Pisani, CSRM
Schools Insurance Authority

Agenda

- How to Get MPN Doctors to Write Reports That are Substantial Medical Evidence
- Strategies for TTD
- Allostatic Load
- Chapters 1 and 2 of AMA Guides
- Commissioner Panel
- CMS
- Regulations
- Case Law Update

- Regulatory Requirements for Medical Reports
- Role of Primary Treating Physicians in Med-Legal Disputes
- Common Pitfalls That Undermine Treating Physician Reports
- WHAT CONSTITUTES SUBSTANTIAL MEDICAL EVIDENCE? - 10682
  - Reasonable in nature, credible
  - Based on reasonable medical probability
  - Adequate history, examination and review of records

How To Get MPN Doctors To Write Reports That Are Substantial Medical Evidence And Of Equal Weight/Value To PQME Reporting

- How Judges Weigh Medical Evidence
- When To Depose a PTP
- Process of how they will attempt to procure a substantial report
  - •Preparation of applicant
  - •Sending all records
  - •9767.7 (2nd and 3rd opinions)
- AME Given More Weight

How To Get MPN Doctors To Write Reports That Are Substantial Medical Evidence And Of Equal Weight/Value To PQME Reporting

How To Get MPN Doctors To Write Reports That Are Substantial Medical Evidence And Of Equal Weight/Value To PQME Reporting

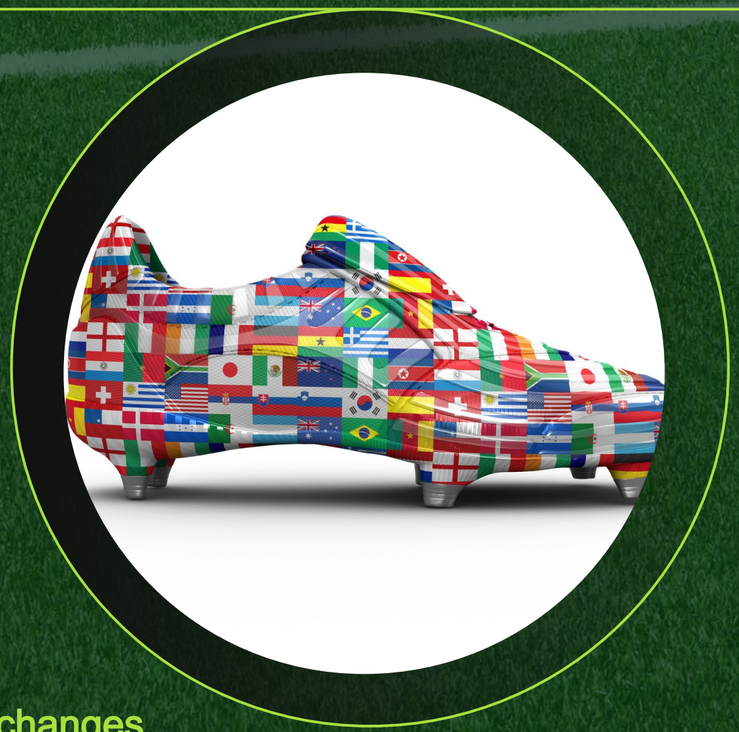
What Constitutes Substantial Medical Evidence? - 10682	•Reasonable in nature, credible •Based on reasonable medical probability •Adequate history, examination and review of records
Academies	Offer structured environments where young players receive intensive training, education, and mentorship to prepare them for professional careers.
Scouting	Talent scouts regularly attend youth tournaments and local matches to discover promising players who show technical skill and potential.

Efficient Case Handling Strategies To Address The 104 Week Ticking TTD Clock

- Failure To Investigate
- Failure To Produce
- Records to AME/QME

How Does Allostatic Load Affect A Worker's Injuries And What Impairment May Result

- What Is Allostatic Load?
- Causation of Disability/ Escobedo Standard
- Rating Implications – Using Allostatic Load in Practice
- Sleep, hormonal changes, diabetes, HBP, etc.



- Essentially how chronic stress cumulatively affects organs and tissues
- Links to hypertension
- Mock deposition with sample questions for doctors

Doctor’s Session: Chapters 1 And 2 Of AMA Guides

Influx of New QMEs into System This Year: 1,000 new QMEs this year

Attacking the CVC: Mathematical myth, unfair, fiction

Utilizing Different ADL Questionnaires

Impairment vs. disability

Apportionment

Unique sets of ADL questionnaires

Commissioner Panel: A Look Behind The Scenes

What Happens When a Removal/ Reconsideration Is Filed

AI Sanctions and Cases

Once filed, how cases are assigned – 120 new cases per month

Criteria for en banc decisions

- Looking at facts, how it will affect global picture and other cases

Removals

- Lot of removals filed because additional discovery is needed
- Suggested that argument be made at Trial, rather than removal

DiFusco – identification of all parties

5500.5 – last year of injurious exposure

CT DOI 5412

REMOTE HEARINGS AND TESTIMONY

- Perez v. Chicago Dogs – permitting Trial testimony to be remote – good cause standard

Commissioner Panel: A Look Behi
The Scenes

CAAA'S Got Talent

"I'd Rather Have My Toenails Removed With a Blowtorch and a Pair of Rusty Pliers"

Breaking News: What Applicant's Attorneys Need To Know In The New CMS Environment

Mandatory Reporting By Payor For Any Settlement With a Medicare Recipient

- Medicare recipient
- $1k per day penalty for failure to report

Amended Review Requests

- Sent in docs, requested approval, CMS comes back with their number
- NOW, you can get a one-time shot at second CMS approval

At least 10% difference in projected care, OR more than $10k difference in previously approved total, whichever is greater

- No More CMS Review of $0 MSAs

50 Shades Of Regulations:
What You Need To Know To Protect Injured Workers' Rights And Benefits

Priority # 1: Attorney Fees - in excess of 15%

Priority # 2: Attorney Fees

- •CCR 10842 – request for increase of fees

Signed waiver, applicant has right to seek independent counsel

- Rule 10109

Duty to investigate

- Reasonable investigation must attempt to obtain the information needed to determine and timely provide each benefit which may be due to the IW

Applies to each benefit

Judge Petty Loves Sanctions

Both ways

- 5813 & CCR 10421

Sanctions and examples in 10421

- Presented by Judge Petty, the self-proclaimed sanction queen

Sanctions and examples in 10421

New 5710 Fee Reg – 9795.6

50 Shades Of Regulations: What You Need To Know To Protect Injured Workers' Rights And Benefits

Illinois Midwest V. Rodriguez ADJ11532204 (2nd District Court Of Appeals) UR/ Patterson Doctrine

Facts: Applicant sustained significant head and brain injures while working as a mechanic in November of 2016. Liability was accepted. In 2018, PTP Dr. Lee began requesting home health care in 6-week increments. From 9/27/18 to 8/15/19 Defendants authorized at least 8 different requests for home health care. Some were approved directly, some via UR. Defendants sent a 9/12/19 RFA for home health to UR, and UR denied. Decision was mailed and faxed to all parties.

Applicant challenged UR denial at Expedited hearing, and on 3/2/20 the WCJ found that applicant was entitled to ongoing home health care per Dr. Lee's request. Based decision on "ongoing and constant need for home health care" and that care could not be terminated without "a showing of substantive medical evidence" that showed there was a change in applicant's condition. Even though decision was timely, WCJ said it was "moot" because need for HHC was ongoing.

Procedural History: On Recon, WCAB affirmed WCJ, relying on Patterson. WCAB agreed with WCJ that Defendants failed to show a change in applicant's condition or circumstances.

Illinois Midwest V. Rodriguez ADJ11532204 (2nd District Court Of Appeals) UR/ Patterson Doctrine

Analysis: The Court of Appeals opined that the WCAB did not have jurisdiction to resolve the dispute based on the language in 4610.5, which holds that for DOIs after 1/1/13, UR decisions may be appealed or reviewed via IMR.

The WCAB misapplied Patterson, by believing that it meant that the WCAB had jurisdiction to review an adverse medical necessity determination concerning ongoing treatment, even when that determination is the result of UR or IMR. They also misapplied Patterson by concluding that it proposed that when an employer authorizes treatment that will be "ongoing" or "continual" no further requests are necessary.

Purporting to create an "ongoing treatment" exception to UR is inconsistent with the law. Patterson is factually distinguishable from Rodriguez, most importantly because it was before IMR became the exclusive path for challenging UR decisions post 1/1/13.

Holding: WCAB did not have jurisdiction to review the UR determination. Applicant's only recourse was IMR, which he failed to utilize.

DiFusco V. Hands On Spa 80 Cal. Comp. Cases 1007 – En Banc

Facts: Applicant had open medical Awards that included ongoing permanent total disability and home health care – except the provider was not being paid. Citing Coldiron, AA made a demand for disclosure of the insurance coverage information, including policy limits, excess carriers (and their policy limits), "any other actual or potential payor on this claim, any stakeholder with actual or potential financial responsibility, and to identify the contact information for each excess carrier or other stakeholder."

Defendant refused to disclose this information and dismissed the request as inapplicable to a workers compensation case – asserting there to be no legal authority requiring disclosure of the requested information.

Procedural History : At trial, judge held that defendants only needed to disclose the name of the insurance carrier. AA sought reconsideration – asserting that Coldiron required greater disclosures.

DiFusco V. Hands On Spa 80 Cal. Comp. Cases 1007 – En Banc

Holding: En Banc court affirmed and expanded Coldiron and held that the Regs (10390 etc.) require that the parties, their representatives, and their insurance companies be fully identified – and not just when there was a third-party administrator involved.

"Coldiron's holdings require disclosure of a high self-insured retention, a large deductible, or any other provision that affects the identity of the entity actually liable for the payment of compensation by a third-party administrator."

Analysis: Coldiron involved a case where an Award was issued against an employed believed to have been self-insured – where instead there was an insurance company that was the correct responsible party. This decision takes the obligation to reveal coverage to an entirely new level. How often these situations realistically come into play may not be significant – but the duty to disclose upon demand has been clearly established now.

Those AAs who have a reasonable working knowledge of the concepts of coverage – and enjoy being difficult for difficulty's sake – will certainly latch onto this decision as a way of flexing their legal powers. CAAA is recommending their members demand "full insurance liability disclosure, including carrier name, policy limits, excess layers, retention/deductible terms, TPA status, and any reinsurers or affiliated stakeholders" – at the very outset of the case.

It's not enough to simply confirm the carrier. So, if you do get a demand for this type of coverage information, don't dismiss it – comply. Aggressive AAs will put the threat of sanctions behind their demands (and this was recommended by the presenting attorney at CAAA).

Pollard V Lemstra Cattle Co 2025 Cal.Wrk.Comp. Pd Lexis 219 – Sub Rosa Service

Facts: Applicant sustained an accepted injury on 10/20/16 while working for Lemstra Cattle Co. QME was Oehlschlaeger. Defendants obtained sub rosa on 12/1/22 and 2/22/23. On 3/6/23 the deposition of Oehlschlaeger was taken and completed. On 4/14/23 Defendants sent AA a letter providing them with the sub rosa and a supplemental report request. On 4/18/23 AA objected to the sub rosa. On 5/23/23 the PTP issued a report in response to a request that he review the sub rosa.

Applicant's deposition never occurred, despite having been scheduled and re-scheduled multiple times.

On 9/27/23 the parties proceeded to Trial on the issue of whether Defendants were precluded from sending the sub rosa to the QME.

Procedural History: At Trial, WCJ concluded that Defendants were precluded from sending the sub rosa to the QME, and that the 5/23/23 report was excluded from evidence. Defendants appealed.

Pollard VLemstra Cattle Co 2025 Cal.Wrk.Comp. Pd Lexis 219 – Sub Rosa Service

Analysis: WCAB held that the sub rosa was properly served per 4062.3(b). When deposition of applicant is pending, sub rosa can be withheld, but once deposition is completed, prompt and continuing service of sub rosa is required.

Holding: When properly served, sub rosa can be provided to QME or AME. No requirement that video has to be served prior to the deposition of the QME.

Ukbamichael V. WCAB 90 CCC 1033 (2025) – 2ND Appellate District – Writ Denied

Facts: Applicant had an injury to the spine, gastrointestinal, and hypertension – and due to chronic pain from the orthopedic injury, developed psychiatric injury.

Procedural History: At trial, WCJ awarded permanent disability only for the physical injury with nothing for the psych. The WCAB granted Applicant's Recon and sent the case back to the trial level to address the applicability of Wilson and whether the injury was "catastrophic" per LC 4660.1(c)(2)(B).

Ukbamichael V. WCAB 90 CCC 1033 (2025) – 2ND Appellate District – Writ Denied

At Trial #2, the same result was issued – no psychiatric PD rating. The WCAB adopted and incorporated the trial judge's opinions. AA filed a Writ, which was denied.

Analysis: In citing Wilson, the WCJ set forth the criteria for deciding whether an injury is "catastrophic": 1) the intensity and seriousness of treatment received for the injury, 2) the ultimate outcome when the physical injury was deemed P&S, 3) the severity of the physical injury and its impact on the ability to perform ADLs, 4) whether the physical injury was closely analogous to those listed in the statute (e.g., loss of limb, paralysis, severe head injury, etc.), and 5) if the physical injury was an incurable and progressive disease.

Gurrola Martinez V. H&H Wallboard, Inc. (2025) 90 CCC 1060 (Panel Decision)

Facts: Defendant filed a Petition for Replacement QME Panel to replace QME Dr. Lorenzo Hughes, alleging violation of Labor Code §4628(a) by allowing the use of a third party to summarize medical records.

Section 4628 requires that the taking of patient history and excerpting of medical records must be completed by the physician, or if done by others, the physician must "disclose the name and qualification of each person who performed any services in connection with the report…," must review the history and excerpts of medical records prepared by those individuals, and "make additional inquires and examinations" as necessary to determine the relevant medical issues. (Lab. Code, § 4628(b), (c).)

Failure to comply with the requirements of section 4628 shall make the report inadmissible and shall eliminate any liability for payment of any medical-legal expenses. (Lab. Code, § 4628(e)) .

Gurrola Martinez V. H&H Wallboard, Inc. (2025) 90 CCC 1060 (Panel Decision)

Procedural History:

- Trial Judge granted the Petition for a Replacement QME Panel.
- Applicant filed a Petition for Recon.
- Recon granted.

Principles of due process require notice to the reporting physician that their report may be deemed inadmissible because of the significant financial and legal consequences for the physician that may result from a finding of inadmissibility under section 4628.

Gurrola Martinez V. H&H Wallboard, Inc. (2025) 90 CCC 1060 (Panel Decision)

Holding: A QME's report cannot be stricken for violating LC 4628 without first providing the QME with notice and an opportunity to be heard as required by due process.

Analysis: If a medical-legal report does not appear to comply with the requirements in section 4628, notice must be provided to the parties and to the reporting physician of the deficiencies in the reporting, before the WCJ may decline to receive that report in evidence. (Cal. Code Regs., tit. 8, § 10670(b)(4).)

After notice, the WCJ has discretion to allow the physician to address those deficiencies within a "reasonable" time period.

Note, a medical lien holder is a "party in interest," and thus is entitled to "full due process rights," including notice and an opportunity to be heard prior to a claim being disallowed

Gurrola Martinez V. H&H Wallboard, Inc. (2025) 90 CCC 1060 (Panel Decision)

Practice Tip:

- Before setting a violation of Labor Code section 4628 for trial, the AME/QME should be provided with an opportunity to prepare a supplemental report.
- Compliance with Labor Code section 4628 must also be raised timely.

If raised later in the case such as on appeal, the issue has been found to be waived.

Sedano v. Live Action 2025 Cal Wrk Comp PD Lexis 193 (panel decision)

THE CRIME: In a Petition for Reconsideration after a trial addressing issues including temporary disability and apportionment, Defendant's Petition was found by the WCAB to have a number of significant misstatements and errors – giving the appearance that it had not been reviewed before filing. And despite the trial judge's Report and Recommendations describing the errors, the Defendant neglected to fix their errors or withdraw the Petition. The judge also pointed out the suspicious format and syntax in the Petition as causing suspicion for the involvement of AI, including: 1) confusing a 15% attorney fee with a 15% PD award, 2) the inclusion of an unrelated issue, and 3) citations to legal authority that were irrelevant, did not exit, and/or were not citable.

THE PUNISHMENT: $2,500.00 sanctions issued jointly and severally against the employer, the insurance carrier, the TPA, the defense firm, and the defense attorney individually.

Chase v. Southern Implants of North America 2025 Cal. Wrk. Comp. PD Lexis 282 (panel decision)

THE CRIME: In a Petition for Reconsideration after a trial on multiple issues, Applicant's attorney cited a number of legal authorities which appeared to be entirely fabricated or were associated with an unrelated issue. The WCAB noted that the issue wasn't so much how the Petition itself was written (e.g., whether AI was involved), but rather how it could have been signed and submitted under penalty of perjury by a licensed attorney (OUCH).

THE PUNISHMENT: Notice of Intention to impose sanctions up to $2,500.00 jointly and severally against AA and his firm.

Lopez Mendoza v. SWI Finishing - 2025 Cal Wrk. Comp. PD Lexis 389 (panel decision)

THE CRIME: In a Petition for Reconsideration after a trial that included issues of a Statute of Limitations defense, Defendants included cites to certain cases in support of their position. The Board noted that one of the cases cited does not exist – and another one does not stand for the argument being made. The Board noted that in one of the citations, the case did exist but the description of the case's holding was not accurate and was "improper and a bad faith action."

In a supplemental response, the defense attorney blamed Sullivan on Comp's AI "Chatbot" for the errors.

THE PUNISHMENT: Notice of Intention to impose sanctions up to $2,500.00 jointly and severally against the employer, insurance carrier, TPA, and defense attorney and their law firm.

Crail V. Amtrust North America (2025) 90 CCC 1049 (Panel Decision)

Facts:

- QME evaluated the injured worker on 7/17/24
- Report served 8/6/24 on only the insurance company
- On 10/28/24, Defense counsel served the report on Applicant's Attorney
- 10/28/24 – DOR filed by AA seeking to replace QME Panel
- WCJ found the QME should be replaced
- Defendant filed a Petition for Removal

Crail V. Amtrust North America (2025) 90 CCC 1049 (Panel Decision)

Analysis: The Appeals Board determined that service of the QME report on only the insurance carrier resulted in defective service. The Board referenced Vazquez v. Inocensio Renteria (2025) 90 CCC 514, which held that parties have the right to replace a QME in cases of ex parte communication or failure to timely complete a formal medical evaluation. The Board held in Vasquez that a party may seek to replace a QME under Section 4062.5 where an evaluation takes place and the report prepared from that evaluation is untimely served.

The Board noted that the Regulation 36(a)(1) ensures the appearance of neutrality on the party of the QME and afford each party the same opportunity to respond to a report as it arrived.

Holding: Appeals Board affirmed the WCJ's order to replace the QME. When the QME failed to timely serve the applicant with his reporting, he not only failed to timely complete the evaluation, he also engaged in an ex parte communication.

Questions?

Jonathan Liff - Partner, Sacramento
Laughlin, Falbo, Levy & Moresi LLP
(916) 329-3661 | JLiff@lflm.com

Michael Pisani, CSRM
Claims Manager
Schools Insurance Authority
916-369-4029 | MPisani@sia-jpa.com

John Orman - Partner, Fresno
Laughlin, Falbo, Levy & Moresi LLP
(559) 451 -2223 | JOrman@lflm.com