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WCRI: 14 States Have Moved to Limit Repackaged Drug Prices: Top [2013-09-13]

[By Michael Whiteley](#), Eastern Bureau Chief

Fourteen states have passed laws or regulations to cap the price of physician-dispensed drugs, while states that have tried but failed to pass restrictions have seen increasing costs and a growing percentage of the drugs used by injured workers dispensed out of physician offices instead of pharmacies, the Workers Compensation Research Institute reported Thursday.

WCRI released a 53-page reference book, titled, "The Prevalence and Costs of Physician-Dispensed Drugs," that examines physician-dispensed drugs in the workers' compensation systems of 24 states representing 70% of the workers' compensation benefits paid in the U.S.

The report tracks 600,000 workers' compensation claims and 4.8 million prescriptions covering claims with injuries occurring between Oct. 1, 2007, and Sept. 30, 2011. The data includes prescriptions filled through March 31, 2012.

The study does not reach specific conclusions, although previous studies published by the Cambridge, Mass.-based research group concluded that the prices for repackaged drugs – which are primarily dispensed by physicians – are significantly higher than those charged by pharmacies. The WCRI studies conclude the share of drugs dispensed by physicians has been steadily increasing.

In March 2007, California became the first state to cap the price on repackaged drugs when the state Division of Workers' Compensation adopted regulations requiring that maximum fees for physician-dispensed drugs be the same as caps imposed on pharmacies.

Since then, WCRI reported, Alabama, Arizona, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Michigan, Mississippi, Oklahoma, South Carolina and Tennessee have passed laws or adopted regulations limiting the prices of repackaged drugs.

In addition, Florida lawmakers passed a "pill mill" crackdown in 2011 that banned Florida physicians from dispensing drugs on Schedules II and III of the U.S. Drug Enforcement Administration's controlled substances list.

The WCRI study did not include Delaware, which imposed regulations this week that cap workers' compensation drug prices at 88% of the original manufacturer's AWP, plus a \$4 dispensing fee, for brand-name drugs and 80% of the AWP, plus a \$5 dispensing fee, for generic drugs.

The WCRI study examines physician dispensing in Arkansas, California, Connecticut, Florida, Georgia,

Illinois, Indiana, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia and Wisconsin.

As of July 2013, three of those states – Massachusetts, New York and Texas – ban physicians from dispensing drugs.

Massachusetts allows physicians to dispense drugs only when necessary to provide immediate treatment until a patient can fill a prescription at a pharmacy. New York doctors are limited to dispense up to a 72-hour supply of prescription drugs in medical emergencies or in an office that is 10 miles or more from a registered pharmacy at no charge to the patient. Texas limits physician dispensing to counties with populations of no more than 5,000 in which there is no pharmacy within 15 miles of a doctor's office.

WCRI reported that physician dispensing is "common and growing" in three others states – Hawaii, Maryland and Pennsylvania – where policy makers have debated imposing caps on the price of repackaged drugs but have taken no final action.

The WCRI report notes:

- In Illinois, which capped the price of repackaged drugs at the average wholesale price set by the original manufacturer, plus a \$4.18 dispensing fee, last November, the share of workers' compensation payments for physician dispensing was the highest of any state in the study. WCRI said 59% of all money spent on drugs in the Illinois workers' compensation system went to physicians, who accounted for 41% of the prescriptions. The study does not track physician dispensing since the reform took effect.
- Florida placed second, with 59% of all drug money spent in the workers' compensation system going to physicians. Legislation that took effect this July capped the price of repackaged drugs at 112.5% of the AWP, plus an \$8 dispensing fee.
- In California, the first state to cap repackaged drug prices, physician dispensing continued to account for 55% of all money spent on workers' compensation prescriptions for the 2011-2012 time period in the study. WCRI noted that the share of prescriptions dispensed by physicians declined from 58% in 2008/2009 to 51% in 2011/2012.
- In Georgia, which capped the price of repackaged drugs at the original manufacturer's AWP in April 2011, the share of money paid to physicians for drugs dispensed to injured workers dropped by 13% between 2010/2011 and 2011/2012. In all, Georgia physicians collected 35% of all money spent on workers' compensation prescriptions in 2011/2012 and dispensed 29% of all prescriptions.
- In Connecticut, which in July 2012 capped the price of repackaged drugs at the lesser of the AWP of the underlying National Drug Code of the therapeutic equivalent drug product, physicians collected 45% of all money spent on workers' compensation drugs in 2011/2012 and dispensed 30% of all workers' compensation prescriptions. WCRI noted its Connecticut data also is limited to the pre-reform period.
- Hydrocodone-acetaminophen, marketed under the brand name Vicodin, accounted for the greatest share of physician-dispensed drugs at 14%. Ibuprofen, sold under the brand name Motrin, accounted for 13% of all physician-dispensed drugs, followed by tramadol, marketed as Ultram, and cyclobenzaprine, marketed as Flexeril, at 10% each.

Lawmakers in Hawaii failed to take action on four bills during the 2013 session of the Hawaii State

Legislature that would have capped the price of repackaged drugs at 140% to 160% of the original manufacturer's AWP, depending on the bill.

The Maryland Workers' Compensation Commission adopted a regulation in 2011 to cap the price of repackaged drugs at 90% of the original manufacturer's AWP for brand-name drugs and 85% of the AWP for generic drugs, but withdrew the regulation in 2012. The rule was disapproved by the Maryland General Assembly's Joint Committee on Administrative, Executive and Legislative Review.

Bills that would have limited physician dispensing to the first 72 hours following an injury and would have capped repackaged drug prices at 100% of the original manufacturer's AWP died during the 2013 session of the Maryland General Assembly.

WCRI reported that Maryland physicians collected 55% of all money spent on workers' compensation drugs in 2011/2012 – a 4% increase from 2010/2011.

The Pennsylvania Chamber of Business and Industry last year proposed limiting physicians to the "first fill" of any workers' compensation prescription, but the legislation was never filed because of bipartisan opposition in the Pennsylvania General Assembly. The state currently caps the price of all drugs in the workers' compensation system at 110% of the AWP, but does not tie the AWP to the price set by the original manufacturer.

WCRI reported that the share of prescription payments going to workers' compensation physicians in Pennsylvania increased from 18% in 2008/2009 to 38% in 2011/2012.

Alex Halper, vice president of government affairs for the Pennsylvania Chamber of Business and Industry, said Thursday the chamber will push for passage of legislation this fall to require injured workers to use coordinate-care organizations for the duration of their injuries. The CCOs could include pharmacy benefit management programs, Halper said.

"We think that legislation could help mitigate the prescription drug issue," Halper said.

Mark Pew, senior vice president for business development for Prium, a Georgia-based medical cost-containment firm, said the new WCRI report underscores a growing concern among states about physician dispensing because of drug prices that are often three to four times those charged by pharmacies.

"Doctors are going to write those prescriptions because they are going to make money on them," Pew said. "Physician dispensing is not going to fix itself, because the motivation is money."

The American Medical Association did not respond Thursday to a request for comment on the WCRI report.

An abstract of the WCRI report and a link to purchase it are [here](#).