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ORTHOPAEDIC SURGERY TOTAL JOINT REPLACEMENT  
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May 14, 2024

Good morning.

Thank you for the opportunity to address you today. I am a Board Certified orthopedic surgeon who began my practice in July 1981 in Mount Vernon, New York. For the past 42 years, I have been caring for injured workers. Beginning in 1990, I began to consult with various Worker's Compensation Insurance Carriers as an independent medical examiner. Today, I continue providing this service. My combined experience of 42 years of treating injured workers and 34 years as an independent medical examinee provides me with the insight to speak today concerning of the current status New York State Worker's Compensation System.

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The system fails to address the patient's needs adequately and promptly, the delay in treatment thwarts a prompt return to the workplace and secondarily alienates or angers the injured patient. The PAR system was established to overcome these delays. Unfortunately, this is not working as anticipated. The level 1 PAR is performed many times by a nurse who is not invested with the authority to allow appropriate treatment. For example, I had a patient with displaced shoulder fracture. I petitioned for surgery. Surgical authorization was denied and after repeatedly petitioning the Board eventually after three months the surgery was granted. Unfortunately, by this time the fracture had united in an improper position. A second case, the patient's meniscal repair had failed requiring a repeat arthroscopy. Again, the Carrier denied the level 1 request for surgery and after six months the surgery was finally granted delaying the patient's return to workplace by over six months.

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The treating physician is discouraged from treating injured workers as it is extremely difficult to be paid. The Carrier ignores the bills, does not reimburse the physician at the accepted fee schedules, denies the claim for erroneous reasons. When a physician seeks to get paid by the prescribed methodology and the Workers' Compensation Board provides him/her with an administrative award, many times the Carriers ignores this award.

With the extreme difficulty of getting reimbursed, tertiary medical centers shy away from accepting treatment of Workers' Compensation individuals. This diminishes the overall standard of care of injured Worker's Compensation patients. The payment system is opaque. The treating physician is unable to confirm if their bills for services rendered are received by the WCB or the Carrier. The established body parts are not always appropriately established at the time of opening of the case. As a result, appropriate treatment is delayed. When this error is corrected, the Carrier does not automatically reimburse the treating physician for prior services rendered.

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The payment modules and authorization for treatment modules need to be overhauled to provide for rapid appropriate treatment to return the injured party to the workplace as soon as possible in good health and to reimburse the treating physician fully in accordance with the fee schedule in an unencumbered manner.

Mark Kramer, M.D.

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***Dictated but not verified, subject to dictation/transcription variance.***