

Issues Related to Medication Management in Chronic Pain Claims

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Chronic pain is a complex problem often associated with psychological and social dysfunction, chronic disability and large health care costs. Medication management is an integral part of chronic pain management, and a variety of medications are prescribed for pain relief. Medications for which there is well established evidence of analgesic efficacy include acetaminophen and non-steroidal anti-inflammatories, tricyclic antidepressants, specific anticonvulsants and opioids. Other adjunctive medications for chronic pain include antipsychotics, centrally-acting muscle relaxants and benzodiazepines. Opioids are commonly prescribed for pain management. Although the role of opioids for the treatment of acute pain and cancer-related pain is well established, the long-term use of opioids for chronic non-cancer pain is more controversial. Support for the use of opioids in chronic pain appears to have gained momentum, particularly in the late 1990s.¹ In the new millennium, there has been much speculation about problems associated with medication (and in particular opioids) used for chronic pain. Most of the concerns expressed relate to opioid-associated addiction, diversion to inappropriate sources, inappropriate opioid prescribing by physicians, and death associated with opioid poisoning.²⁻³

Prompted by these issues and an apparent increase in the role of medication management in anesthesia chronic pain liability from 2 percent of chronic pain claims prior to 1994 to 8 percent of chronic pain claims between 1995-99,⁴ we began collecting additional detailed information on medication management claims in 2005. We used this new data to investigate characteristics of chronic pain malpractice claims collected from

2005-08 and compared medication management claims to other chronic pain claims from the ASA Closed Claims Database of 8,962 claims. Specifically, we reviewed information relating to patient characteristics, treatment details, sequence of events, critical incidents, mechanism of injury, clinical manifestations of injury, outcomes and standard of care, and we performed in-depth analysis of claims resulting in death.

Medication management represented 17 percent of the 295 chronic non-cancer pain claims collected between 2005 and 2009. Most chronic pain management claims cited events that occurred in the year 2000 or later, with 82 percent of medication management claims occurring between 2000 and 2006. Compared to other chronic pain claims, medication management patients tended to be younger males [Figure 1] with complaints of back pain. Most patients were prescribed opioids (94 percent) with or without additional psychoactive medications (58 percent). Psychoactive medications (e.g., sedatives, hypnotics or muscle relaxants) tended to have sedating qualities.

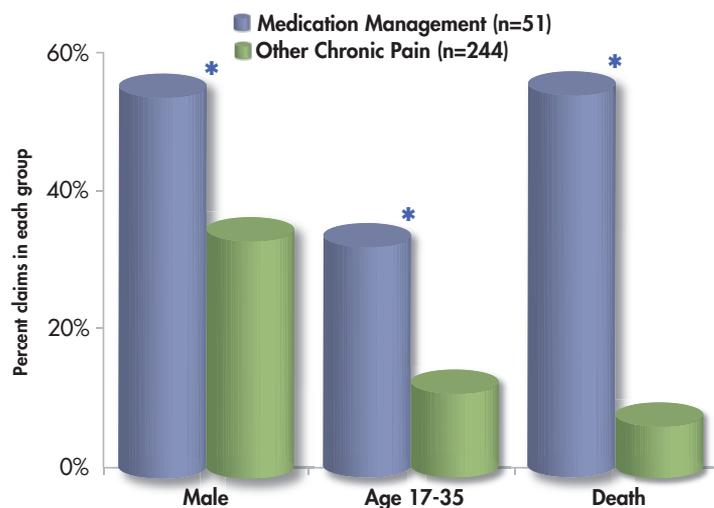


Figure 1: Chronic Pain Medication Management Liability
*p<0.01 medication management vs. other chronic pain

Most claims involved patients who did not cooperate in their care (69 percent) and/or inappropriate medication management by physicians (59 percent). In 45 percent of medication management claims, both inappropriate medication management and a lack of patient cooperation occurred



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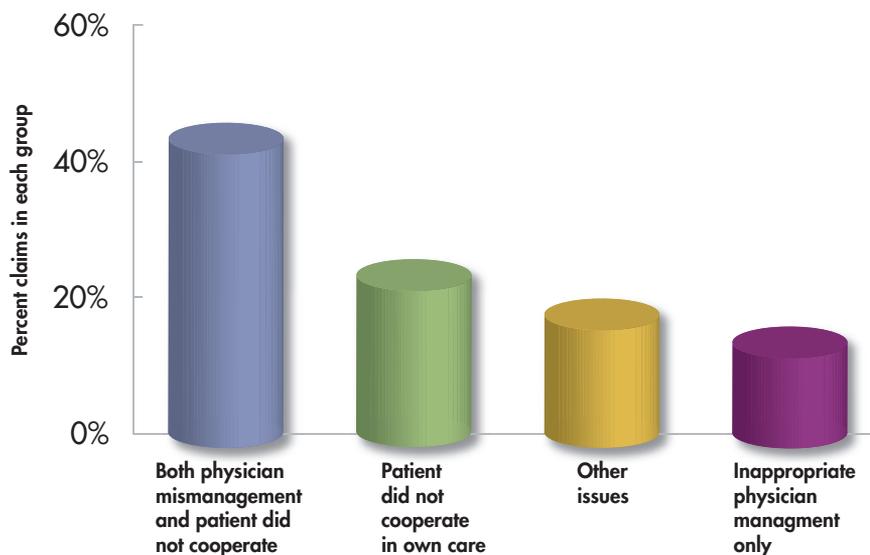


Figure 2: Issues in Medication Management (n=51)

[Figure 2]. In an additional 14 percent of claims, there was inappropriate medication management only, and in 24 percent there was a lack of patient cooperation only [Figure 2]. Certain behaviors by patients were commonly associated with medication misuse or addiction. The most common forms of non-cooperation in care by patients included obtaining prescriptions from multiple providers, abusing alcohol or illicit drugs, and escalating doses of prescribed pain medications without permission [Figure 3]. Eighty percent of patients had at least one of these factors, and 24 percent had more than three factors.

The most common forms of inappropriate medication management by physicians were inadequate communication with other prescribing physicians, inadequate monitoring of medication compliance and prescribing inappropriately high doses of opioids.

- History of depression,* suicide attempt, or drug/alcohol problems*
- Medications from multiple providers*
- Concurrent use of illicit drugs/alcohol
- Escalating doses without permission
- Losing prescriptions
- Taking medications prescribed for others
- Failed screening tests
- Early refill requests

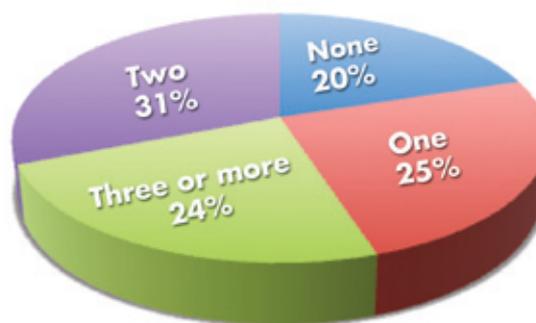


Figure 3: Patient Factors Commonly Associated With Medication Misuse or Addiction

*Indicates the most common factors

Death was the most common outcome, occurring in over half of the medication management claims, compared to less than 10 percent in other chronic pain care [Figure 1]. Factors associated with death included the use of long-acting opioids (such as OxyContin® and methadone), additional psychoactive medications, and more than three factors or behaviors commonly associated with misuse of medications. Alleged addiction from prescribed opioids was the complaint in 24 percent of medication management claims. Liability characteristics and outcomes were similar between medication management claims and other chronic pain claims.

Claims related to medication management by anesthesiologists specializing in pain management for chronic non-cancer pain are increasing. The most common problems were patients not cooperating in their care plan and inappropriate medication management by physicians.

This has implications for medical practice. It provides a unique insight into chronic pain management and identifies factors in chronic pain medication management that should be addressed to improve patient safety.

References:

1. Federation of State Medical Boards of the United States, Inc.: Model Guidelines for the Use of Controlled Substances for the Treatment of Pain. Adopted May 1998. Available at <http://www.nsmadocs.org/pdf/ModelGuidelines.pdf>.
2. Paulozzi LJ, DS Budnitz, et al. Increasing deaths from opioid analgesics in the United States. *Pharmacoepidemiol Drug Saf.* 2006; 15(9):618-627.
3. Hall AJ, JE Logan, et al. Patterns of abuse among unintentional pharmaceutical overdose fatalities. *JAMA.* 2008; 300(22):2613-2620.
4. Fitzgibbon DR, KL Posner KL, et al. Chronic Pain Management: American Society of Anesthesiologists Closed Claims Project. *Anesthesiology.* 2004; 100(1):98-105.