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April 3, 2024

Jim Parker
British Columbia Nurses' Union
4060 Regent Street
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Re: Addendum - consultation on proposed ASTD Policy – Ergonomist perspective.

Background

An opinion letter regarding pending development of new policy for ASTD claims at WorkSafeBC was provided August 10, 2023 to BCNU, with the intent of providing constructive feedback that may assist BCNU and/or WorkSafeBC in efforts to improve ASTD policy and claims adjudication, and to address related recommendations contained within the Petrie Report and the Patterson Report. The proposed amendments to Policy in RSCM II have since been formalized and released for consultation, with a submission deadline of April 26, 2024. This letter provides an addendum to my August 10, 2023 letter, considering the current proposed amendments and explanation of intent that have been released for consultation.

The August 2023 letter is based on review of a Memo to BCNU that outlines proposed amendments to C4-27.10 and C4-27.20, which are indicated in the Memo as having an intent to address Petrie Report recommendations #36 and #37, as well as Patterson Report recommendations related to gender gaps in claims acceptance, treating ASTDs as personal injuries, and the integration of MSI prevention guidelines into compensation policy and practice. Key comments in the August 2023 letter address harmonizing terminology, interpretation of the Koes, Bart et al. systematic review conclusions, the application of epidemiological evidence to individual claim adjudication on a case-by-case basis, issues in the quality of assessment and interpretation of ASTD risk factor guidelines, issues with assessment of risk associated with computer work, challenges in interpreting imprecise or undefined terms within Policy ("generally", "more than a trivial or insignificant aspect"), issues with interpretation of individual characteristics versus occupational risk factors (e.g., female over 40 years of age as a risk factor), and lack of guidance for adjudication of soft tissue injuries of the neck or back that have similar risk factors as ASTDs of the limbs.

The opinion and recommendations contained within this addendum were informed by review of the documents listed in the August 2023 letter, in addition to the recent document "Activity-Related Soft Tissue Disorders of the Limbs: For Consultation" (undated, but with a submission deadline of April 26, 2024), including appendices. This is referred to as the Consultation Document below.

Opinion - Addendum

The Consultation Document provides an explanation of the intent of specific revisions to policy, and provides the proposed wording within Appendix B. The opinions and concerns outlined within my letter of August 2023 remain relevant. In addition to those considerations, the following are offered.

1. The addition to C4-27.10 A (page 5, Appendix B) of "…with consideration of risk factors set out in policy, and the current medical/scientific evidence" holds the potential to allow for divergent interpretation of medical/scientific evidence by different adjudicators. The Systematic Reviews (2019 and 2020, and supplementals) have indicated that the state of the scientific evidence is poor for many ASTDs, with limited clarity on which risk factors and at what level of exposure are associated with increased risk of specific ASTDs. This may be misinterpreted as indicative of a

lack of association when the real issue is a lack of consistency and quality in the available research. Discussion within the Consultation Document (page 10) regarding perceived differences between risk factor criteria for prevention (population/epidemiology based) and risk factor criteria for compensation for an individual case (individual employee characteristics) is relevant in the interpretation of medical/scientific evidence but is not clearly outlined in policy. This leaves interpretation of the available scientific evidence up to the adjudicator and has potential to result in less consistency in claims adjudication, and a requirement for an updated literature review in each claim to ensure that "current medical/scientific evidence" has been applied. In my opinion, risk factors set out in policy should be based on a combination of biological plausibility and available scientific evidence; however, that scientific evidence should not be reinterpreted for each claim. Recommend removing "and the current medical/scientific evidence" from policy and instead ensuring that risk factors set out in policy and/or practice directives are based on the current medical/scientific evidence and periodically updated to reflect new evidence.

2. The additional description of "causative significance" in C4-27.10 A (page 5, Appendix B) as meaning "more than a trivial or insignificant aspect" of employment, and the statement that "…employment (the employment-related exposure to risk factors) need not be the sole or even predominant cause…" are of potential value in clarifying the balance between occupational and non-occupational risk factors. In my opinion, this clause indicates that the presence of non-trivial occupational risk factors represents causative significance, even if there are other non-occupational risk factors that may have played a role in causation. This eliminates the need to interpret the relative balance between occupational and non-occupational risk factors. When occupational risk factors are present in a non-trivial manner, this presents causative significance even if there are other non-occupational risk factors. In my opinion, this could result in greater gender equity in claims acceptance. There remains poorly defined interpretation of what constitutes "more than a trivial or insignificant aspect".

3. It is unclear what "weighing the evidence… including the worker's individual characteristics" applies to in the adjudication of a claim. If the intent of the policy changes to the description of causative significance (see #2 above) are interpreted as indicating that non-trivial occupational risk factors represent causative significance, then the application of "including worker's individual characteristics" is intended to assist with the assessment of occupational risk factors rather than the identification of competing non-occupational risk factors. In my opinion, this could be further clarified by changing "in weighing the evidence" to "in assessing occupational risk factors". As currently stated, the interpretation could be that an assessment of an individual's non-occupational risk factors (personal characteristics) is required to determine a balance of causation between occupational and non-occupational risk factors. This is not consistent with the "causative significance" description that clearly indicates employment does not need to be the predominant cause but must be more than trivial or insignificant.

4. As per #2-3 above, the consideration of "whether the worker has pre-existing injuries, diseases or other conditions that may be associated with the onset of the ASTD at issue" should not detract from an assessment that non-trivial occupational risk factors exist in a worker's employment. Similarly, consideration of whether non-occupational risk factors within everyday life are present should not detract from an assessment that non-trivial occupational risk factors exist. It is rarely possible to clearly determine the balance between occupational and non-occupational risk factors. As written, policy accepts that the presence of non-trivial occupational risk factors is sufficient for

causative significance. In my opinion, reference to non-occupational risk factors is secondary to this and no longer necessary within policy.

5. The addition of a singular risk factor as being of causative significance is a positive change. It is unclear what "certain conditions" means. The current guidance thresholds within PD C4-2 are indicated as singular risk factor thresholds that may be lower when multiple risk factors are present. In my opinion, and in practice, these thresholds should apply in the assessment of exposure to singular risk factors. There will need to be clarity on what "certain conditions" are required for acceptance of a singular risk factor.

6. Accurate quantification and assessment of occupational risk factors is critical to the fair adjudication of claims, and a clear requirement in both current and proposed policy. In my opinion, the assessment of occupational risk factors needs to be performed by individuals with adequate education and experience to be able to identify and quantify relevant risk factors reliably and accurately. Professional expertise and education are required to reasonably interpret which risk factors are relevant, to quantify exposure and provide an opinion whether exposure is trivial or non-trivial for singular or multiple risk factors, and whether there is biological plausibility that the identified risk factors affect the tissues of interest. The addition of "generally" to policy statements regarding ASTD adjudication makes this professional expertise more important. In my opinion, Case Managers often do not have the education or expertise to perform this duty adequately or accurately. There is no requirement for Case Managers to be trained in biomechanics, anatomy, physiology, injury mechanisms, or methods of field measurement for posture, force, repetition rates or vibration. This training is required for selecting and adequately assessing relevant risk factors. Risk factors are often described by Case Managers in general or vague terms that cannot be compared directly with policy criteria or practice directive guidance. The resulting ASTD Risk Evaluation Reports do not represent the observable occupational risk factors accurately or adequately and fail to adequately inform the Board Medical Advisor who uses the ASTD Risk Evaluation Report to inform the presence of risk factors in determining causative significance or biological plausibility. In my experience, Board Medical Advisors tend to accept the risk assessment of the Case Manager as accurate rather than identifying gaps or inaccuracies in the risk factor descriptions or in the adequacy of video evidence. In my opinion, the use of Certified Professional Ergonomists (CCPE, CPE, or HFP) or other adequately trained professionals is more likely to ensure a fair and accurate assessment of occupational risk factors towards determining causative significance. This becomes more critical as policy aims to be more responsive to individual characteristics, and identifies thresholds for risk factors as "generally" applying but also requiring interpretation for singular exposures, combined exposures or specific individuals.

I remain available for further assistance or to provide clarification.

Sincerely,

Dan Robinson, Ph.D.
Canadian Certified Professional Ergonomist
Robinson Ergonomics Inc.