



Return to : [Journal Article Takes Aim at ACOEM](#)

California -- Journal Article Takes Aim at ACOEM: [Top \[11/14/07\]](#)

An article in the current edition of "The International Journal of Occupational and Environmental Health" launched a blistering attack on the American College of Occupational and Environmental Medicine (ACOEM), whose guidelines serve as an important basis for workers' compensation treatment in California and many other states.

The article cites what it calls "the conflict of interests inherent in the practice of occupational and environmental medicine" and details numerous instances in which it claims ACOEM and its predecessor organizations deliberately undermined government efforts to regulate workplace carcinogens and other potential on-the-job threats to American workers.

The article's lead author is the journal's editor, Joseph LaDou, a prominent occupational doctor who holds the emeritus title of director of the International Center for Occupational Medicine at the University of California, San Francisco (UCSF).

The title of the peer-reviewed article calls the Illinois-based ACOEM "a professional association in service to industry."

ACOEM "takes industry positions on virtually all issues," the article states. "ACOEM's answer to the serious deficiencies of workers' compensation medicine is to sponsor the development of a formulaic practice of medicine that is acceptable to the insurance industry."

A spokeswoman for ACOEM did not return a message left in her voicemail box. Representatives of medical associations said they needed time to review the article before commenting on it.

As part of its reform package in 2004, California required that utilization review in workers' compensation cases be consistent with ACOEM Practice Guidelines.

According to the journal article, however, The Rand Corporation performed a rigorous review of the ACOEM guidelines and concluded that "the evidence base for treatment recommendations were of uncertain validity and comprehensiveness." It went on to say that the majority of experts conducting the Rand study felt that "California could do a lot better by starting from scratch."

Since the ACOEM Practice Guidelines were implemented in California in March 2004, according to the article, "Rand reports that payers appear to be interpreting and applying the ACOEM guidelines inconsistently, suggesting that this allows cost savings, not quality of care, to be the primary result of its adoption."

Susan Gard, chief of policy and legislation and public information officer for the California Division of Workers' Compensation (DWC), could not be reached for comment.

While ACOEM guidelines form the basis for most workers' comp treatment in California, they aren't viewed as being specific or detailed enough for some ailments.

In June, a state appeals court ruled that ACOEM's guidelines for lower back pain cannot be used to address chronic back pain since they address only acute low back conditions. DWC since has decided to adopt national Official Disability Guidelines (ODG) for treatment of chronic pain; the ODG are published by Encinitas-based Work Loss Data Institute, a competitor of ACOEM. And earlier this year, the DWC augmented ACOEM guidelines by borrowing acupuncture treatment guidelines from Colorado.

The LaDou article also claims that physicians "who have been excluded from workers' compensation by competitors who also serve as enforcers of the ACOEM Practice Guidelines are considering legal action." It notes that many actions of professional associations – including those that tend to have the effect of excluding competitors or groups of competitors – are subject to antitrust scrutiny.

As a general proposition, it states, an association may be liable under Section 1 of the Sherman Act “for engaging in exclusionary conduct intended to harm providers of products or services that pose a potential competitive threat to its members. Indeed, courts have found professional associations or societies liable for unreasonable or exclusionary behavior, including behavior growing out of the adoption of standards, practice guidelines and the like.”

Dr. LaDou’s voicemail box at UCSF was full on Tuesday. He also did not return a message left on his telephone voicemail box at his listed address in Aspen, Co.

The article does not call for the ACOEM to disband. It does imply, however, that it might not be a bad idea.

“The specialty of occupational and environmental medicine has the opportunity to join the public health movement,” the article concludes. “If it does, ACOEM will have no further purpose, and specialists in occupational and environmental medicine will meet with and be represented by public health associations for the exclusive purpose of workers’ health and safety.”

You can read the full article by going to www.ijoe.com/pfds/IJOEH_1304_LaDou02.pdf.

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Return to : [Journal Article Takes Aim at ACOEM](#)

[Print News](#)