

## EMPLOYMENT SERVICES ALERT

1/24/18

### Ohio Imposes New Rules on Back Surgeries in Workers' Compensation Cases

By **Marcus Pringle**, Associate

The Ohio Bureau of Workers' Compensation (BWC) has instituted a new rule regarding back surgeries and opioid use in workers' compensation cases. Under the rule, which became effective January 1, 2018, a worker suffering from a low back injury must first undergo at least 60-days of comprehensive conservative care before surgery is considered. This comprehensive care plan can include chiropractic treatment, use of anti-inflammatories, and injections. This care plan must also place an emphasis on avoiding the use of opioid painkillers.

Additionally, the requesting surgeon must meet with the injured worker at least twice prior to requesting the surgery, and must work with the worker's treating physician to extensively document the worker's condition (including a comprehensive orthopedic/ neurological examination, assessment of co-morbidities, and diagnostic testing). Failing to follow these requirements could result in a denial of reimbursement for the surgery. The 60-day timeframe can be waived in the event of a severe medical condition, such as a spinal fracture, tumor, or "other catastrophic spinal pathology." It also outlines the specific steps for workers who have previously undergone a fusion.

The new rule, which was approved by a bipartisan panel of state lawmakers, is designed to return workers to the job quicker while limiting the potential for opioid addiction. Studies by the BWC indicated that workers who underwent spinal fusion surgery did significantly worse long-term than those who had not. One study indicated that nearly 77% of fusion patients did not return to work within 2 years. Further, per the BWC, low back injuries are among the most common injuries to Ohio workers.

Please direct questions related to the implementation of this new rule to any of the listed Roetzel attorneys.

**Doug Spiker**  
Practice Group Manager,  
Employment Services  
216.696.7125 | [dspiker@ralaw.com](mailto:dspiker@ralaw.com)

**Robert Blackham**  
216.615.4839 | [rblackham@ralaw.com](mailto:rblackham@ralaw.com)

**Eric Bruestle**  
513.361.8292 | [ebruestle@ralaw.com](mailto:ebruestle@ralaw.com)

**Phil Heebsh**  
419.254.5277 | [pheebsh@ralaw.com](mailto:pheebsh@ralaw.com)

**Doug Kennedy**  
614.723.2004 | [dkennedy@ralaw.com](mailto:dkennedy@ralaw.com)

**Jonathan Miller**  
419.254.5273 | [JDMiller@ralaw.com](mailto:JDMiller@ralaw.com)

**Stephanie Olivera**  
330.849.6671 | [solivera@ralaw.com](mailto:solivera@ralaw.com)

**Marcus Pringle**  
216.696.7077 | [mpringle@ralaw.com](mailto:mpringle@ralaw.com)

**Lauren Smith**  
419.254.5258 | [LaurenSmith@ralaw.com](mailto:LaurenSmith@ralaw.com)

**Brian Tarian**  
614.723.2028 | [btarian@ralaw.com](mailto:btarian@ralaw.com)

**Tim Webster**  
216.696.7795 | [twebster@ralaw.com](mailto:twebster@ralaw.com)

**Madison Whalen**  
614.723.2025 | [mwhalen@ralaw.com](mailto:mwhalen@ralaw.com)

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