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Address.

MEDICAL ASPECTS OF THE WORKMAN'S COMPENSATION LAWS.*

By JAMES WARREN SEVER, M.D., BOSTON.

*Mr. President and Gentlemen of the Middlesex
South District Medical Society:*

It was with a feeling of great responsibility that I accepted this honor of being your duly elected orator for this occasion. When one speaks of orators one's mind unconsciously wanders back to Cicero, Demosthenes, and others of even later days. The title of orator is most awe-inspiring and the duty equally urgent. To have attempted this task, however welcome, now seems to me most presumptuous on my part and I trust that you will all bear with me, for the burden is bound to fall on each of you in turn sooner or later, and it will be my turn then to forbear.

The subject on which I wish to speak to you today is one of the greatest importance to us all as physicians. Probably not many of us have stopped to realize just what is being accomplished by the various industrial accident boards of the several states throughout the country, and that soon practically everyone engaged

in an industrial occupation of any kind will be subject to the control of these boards, if he should need compensation for an injury received. This control will not only be a medical control, not always direct but generally supervised, but the control will also be a quasi-legal one.

The importance of the physician as a factor in the administration of these Industrial Accident or Compensation Boards cannot and should not be overestimated for the following reasons: First, that in any accident the presence and report of a physician is necessary to assist in the recovery of the patient and to complete the operation of the law. In thirty-nine of the forty-two states having enacted compensation legislation it is directed that medical aid be furnished. In one state, Wyoming,¹ "there is a negative sort of notice taken inasmuch as the employee is to be denied compensation if he refuses to submit to suitable medical treatment." Second, another point is that many compensation boards now employ or designate physicians, recognized specialists in their own lines, to act as impartial examiners in disputed cases, to examine the injured workman, and to make an impartial report to the Board, and on his findings many cases are settled. In Massachusetts, according to the 5th Annual Report of the Industrial Accident Board, two hundred

*Oration delivered before the annual meeting of the Middlesex South District, Massachusetts Medical Society, April 16, 1919.

and forty cases were referred to impartial physicians for examination in regard to discontinuance of compensation. In 56% approval was granted and in 44% it was not. In the cases referred to the Supreme Court² of Massachusetts by the Industrial Accident Board for decision, fifteen were decided largely on medical testimony and sixteen on points of law. Two others had to do with the legality of the collection of physicians' fees. This gives one approximately a 50% average on these decisions and again supports my statement of the importance of the physician in these affairs.

HISTORY OF THE COMPENSATION LAWS IN GENERAL.

³The original compensation law is of German Socialistic origin and was adopted in 1871. It was adopted on an experimental basis and made applicable only to the more hazardous occupations because of its radical departure from hitherto legal procedures. It led later to a general compulsory accident law in 1884. Following this, other European countries adopted laws compensating workmen for injuries as follows: Austria, 1887; Hungary, 1891; Norway, 1894; Finland, 1895; France, Italy, 1898; Spain, 1900; Holland, 1901; Russia, 1904; and Belgium, Switzerland, Sweden, Denmark, Greece, Serbia, Bulgaria, Peru, and even Iceland, have adopted and are enforcing such laws.

England passed the Employer's Liability Act in 1880 and the Workman's Compensation Act in 1897. All the British colonies soon followed suit. Maryland, in 1902, was the first state in this country to pass a compensation law, which was later declared unconstitutional because it deprived parties of the right of trial by jury and conferred on an executive judicial, or at least quasi-judicial, function. It was of restricted application and included only mining, quarrying, railways, and municipal construction work. Now more than forty states, territories, and insular possessions have followed and passed such acts. These acts all vary somewhat, according to the various local ideas and conditions, but all have the basic idea of compensating the workman for an injury received as a result of and in the course of his employment, and furnishing him with some medical, surgical, or hospital treatment, not always adequate, however, for at least a ten-day or two-week period in most cases. The first compensation laws were enacted by Washington and Kansas on March 14, 1911. The first to become effective was one en-

acted by Wisconsin May 3, 1911, which took effect immediately on its passage. The first Employer's Liability law in the United States was passed by Massachusetts in 1887. This act had for its purpose the modification of the idea of negligence of a fellow servant, then operative under the common law. In 1904 an attempt was made to pass a Compensation Act in this state but it failed, and not until July 1, 1912, was a law made effective in this State. The parts of this Massachusetts law, as amended, and of interest to physicians, I will quote as follows:

Medical and Hospital Services. Section 5 (as amended by Section 1 of Chapter 708, Acts of 1914, and Chapter 198, General Acts of 1917.) During the first two weeks after the injury, and, if the employee is not immediately incapacitated thereby from earning full wages, then from the time of such incapacity, and in unusual cases, in the discretion of the board, for a longer period, the association shall furnish adequate and reasonable medical and hospital services, and medicines, when they are needed.

Right of Employee to Select Physician other than One Provided by Association. The employee shall have the right to select a physician other than the one provided by the association, and in case he shall be treated by a physician of his own selection, or whether in case of emergency or for other justifiable cause, a physician other than the one provided by the association is called in to treat the injured employee, the reasonable cost of his services shall be paid by the association, subject to the approval of the industrial accident board. Such approval shall be granted only if the board finds that the employee was so treated by such physician, or that there was such emergency or justifiable cause, and in all cases, that the services were adequate and reasonable and the charges reasonable. (In effect May 23, 1917.)

Section 8 (as amended by Section 12 of Chapter 708, Acts of 1914, and Chapter 72, General Acts of 1916). The Industrial Accident Board or any member thereof may appoint a duly qualified impartial physician to examine the injured employee and to report. The fee for this service shall be five dollars and travelling expenses, and the Board may allow additional reasonable amounts in extraordinary cases, and the association shall reimburse the board for the amount so paid. The report of the physician shall be admissible as evidence in any proceeding before the Industrial Accident Board or a committee of arbitration, provided that the employee and insurer have seasonably been furnished with copies thereof. (In effect March 23, 1916.)

Fees Subject to Approval of Board. Section 13 (as amended by Section 12 of Chapter 708, Acts of 1914, and Section 12 of Chapter 297, General Acts of 1917.) Fees of attorneys and physicians and charges of hospitals for services under this act shall be subject to the approval of the Industrial Accident Board.

Hearing by a Member if no Agreement is Reached. If the association and any physician or hospital, or the employee and any attorney, fail to reach an agreement as to the amount to be paid for such services, either party may notify the board, which may thereupon assign the case for hearing by a member of the board in accordance with the provisions of this act. The member shall report the facts to the industrial accident board for decision, and the decision shall be enforceable as provided by Part 3 of Section 11. (Approved May 24, 1917; in effect June 23, 1917.)

'Workman's Compensation Laws are now enforced in different ways in different states. Twenty-four states have industrial boards or commissions, six states each have a single commissioner, and in ten states the act is administered by the courts. In Connecticut, each district has its own industrial commissioner, who is supreme in his own district. Five states have a monopolistic state insurance fund from which the compensation is paid. In the other states there are different methods of insurance, competitive in character, which furnish the means of compensation and which are broadly divided as follows into four groups:

1. State monopoly.
2. Competitive state fund.
3. Private insurance—either stock or mutual.
4. Self-insurance, or where employers are permitted to carry their own risks.

In the states having the monopolistic state insurance, that is the only form permitted. There are various laws throughout the states, differing a great deal in character and method of procedure and means of procuring insurance, but the four ways outlined above will give one a good working knowledge of the general scheme.

In thirty-five states only is insurance obligatory or compulsory under one of the four methods previously outlined. In the other states the act is elective, but if the employer does not accept the act, he loses his several common law defenses and is so penalized. Three states now have the so-called state mutual insurance companies, of which Massachusetts was

the first. The original purpose of this type of insurance was to create an insurance monopoly conducted by an Employer's Mutual Company and supervised by the State. Before the law was enacted in this State, however, private companies were given practically the same privileges as the so-called State company. In Massachusetts carrying so-called self-insurance is not permitted.

Under these various laws administered by the courts, the State Funds, and the Industrial Commissions, there is a distinct difference in the status of the medical adviser. In the states where the act is administered by the courts, the medical testimony is determined by expert medical witnesses, with all the usual faults that we all know go with this method. In the states which have a monopolistic insurance fund, the medical testimony and report of the accident is submitted to the board, with the bills for attendance, and the compensation is paid by the State. In the other states where the compensation is paid direct by the insurance companies, duplicate receipts are sent to the industrial boards. Disputed medical questions are determined in these states generally by an examination by an impartial physician appointed by the board, whose testimony goes a long way towards determining the necessity for the continuation of or the cessation of the compensation payments. This impartial examination is paid for by the insurance company through the state treasurer. In some states this work of impartial examination is carried out by the State through a physician who holds the post of medical director of a state medical department, created by the board for its own use.

Medical Service. In regard to medical service under the various state acts, most of the different legislatures and compensation boards have at last recognized the fact that adequate medical and hospital treatment is absolutely essential for the economic rehabilitation of the injured workman. There is also a close state supervision of the type of service rendered, as I have before mentioned, but only in some states. Massachusetts, Rhode Island, and Washington give the employee the right to select his own physician. This factor alone, while seemingly constitutionally right, will tend in the end to be a boomerang unless the medical profession awakes in time and gives these in-

jured people adequate and proper treatment. Insurance companies are not in business for pleasure or on a charity basis. They are primarily to make money and pay dividends. When they see the cost of medical benefits varying from 10% to 30% of the total cost of compensation, with the various restrictions as to medical services as applied in the different states, as well as the equally marked variation in medical results, they are not going to stand idle long, and be content to pay out these large sums without adequate results.

I have received on rather good authority the statement that the total cost per capita of compensation in this state, by practically all the private insurance companies, amounts to \$1.40 as against \$1.00 taken in, leaving a deficit, as you see, of 40 cents per case. The insurance companies cannot stand this sort of thing, and will either have to raise their rates, provide a better checking up system of their cases from a medical point of view, or else get out of the compensation business altogether. I believe that this per capita cost can be reduced considerably by having an adequate medical follow-up system, and it certainly will be worth their while to try it.

When you stop to think that in Massachusetts alone, industrial accidents have risen in number from 90,631 in 1912-1913, to 174,372 in 1916-1917, covering about 88.8% of the employees of the State, you can see what a problem you have before you. If you will forgive me for quoting statistics, I shall endeavor to give you an idea of just what these figures mean, first from the point of view of disability and then from the standpoint of medical payments.

In the great majority of the cases, 96,054⁵, the duration of total disability did not extend beyond the day on which the injury occurred. This figure represents 55.1 per cent. of the total cases reported.

In 11,697 cases, or 6.7 per cent., total disability extended from one to three days.

In 19,421, or 11.1 per cent., total disability extended from four to seven days.

In 6,885 cases, or 4 per cent., total disability extended from eight to ten days.

In 7,341 cases, or 4.2 per cent., total disability extended from eleven to fourteen days.

That is, 45,344 lasted only the two weeks,

for which they are entitled to the medical benefits.

In 14,166 cases, or 8.1 per cent., incapacity extended from fifteen to twenty-eight days.

In 11,167 cases, or 6.4 per cent., incapacity extended from twenty-nine to fifty-six days.

In 4,118 cases, or 2.4 per cent., incapacity extended from fifty-seven to ninety-one days.

In 2,194 cases, or 1.3 per cent., incapacity extended from ninety-two to one hundred and eighty-two days.

In 744 cases, or .4 per cent., incapacity extended from one hundred and eighty-three to three hundred and fifty-seven days.

In 576 cases, or .3 per cent., incapacity extended beyond this period, or over a year.

The following facts in regard to the medical benefits under the Massachusetts Workman's Compensation Act are presented for your consideration:

The first table (Table 1) shows medical payments made on the injuries that occurred each year, the number of medical benefit cases, and the average cost per case. These figures cover treatment cost only. There may be some additional contract cost, cost of plant hospitals run by employers, etc.,—the expense cost per case, you should note, is a simple average based on the cases shown and is undoubtedly depressed considerably by the volume of treatment in cases which require only a small amount of attention.

TABLE I.—MEDICAL PAYMENTS UNDER THE COMPENSATION ACT, JULY 1, 1912-JUNE 30, 1918.

YEAR	PAYMENTS	NO. OF MEDICAL PAYMENT CASES	NO. OF ACCIDENT REPORTS RECEIVED	AVE. COST PER MEDICAL BENEFIT CASE
1912-1913	\$414,195.42	37,523	90,631	\$11.04
1913-1914	556,250.45	56,827	98,729	9.79
1914-1915	587,769.99	62,814	95,769	9.36
1915-1916	834,804.52	89,598	137,695	9.32
1916-1917	1,053,303.72	104,357	174,372	10.09
1917-1918	1,019,518.84	86,387		11.80
Totals	\$4,465,842.94	437,506		\$10.20

In the six-year period for which figures are here shown, there was paid on account of all benefits under the Workman's Compensation Act, \$20,252,915.81; as shown by the preceding table for the same period, there was paid on account of medical benefits, \$4,465,842.94. Thus, medical payments in this period represented 22% of the total compensation benefits.

Medical attendance was given on more than 50% of the total accidents in Massachusetts.

MEDICAL PAYMENTS

Increase in 2nd year over 1st year	34.3%
Increase in 3d year over 2nd year	5.7%
Increase in 4th year over 3rd year	42.0%
Increase in 5th year over 4th year	26.2%

July 1, 1916 to June 30, 1917

Number of employees received medical services only	76,904
Number of employees received both medical services and compensation	27,453

You must remember that in Massachusetts the compensation period begins at the eleventh day, instead of at the 14th, as formerly, thus giving the injured workman a shorter wait for his money than he formerly had.

In all cases of injury which require medical attention, proper and reasonable medical bills are paid for a period of two weeks from the date of injury, or if the employee is not immediately incapacitated by the injury, then for a period of two weeks from the time when incapacity began. In unusual cases, so decided by the board, the medical fees may be continued to be paid by the insurer, provided the board agrees.

In 1917, in the United States, there were 300,000 men disabled and 3,000,000 minor accidents in industry. "Taking the State of Pennsylvania as an example of a state having a large body of industrial workers and many accidents, it will be of interest to make some comparison between industrial accidents and war casualties. The population of Pennsylvania is approximately the same as Canada, 8,000,000, and if Pennsylvania raised an army approximately the same size as Canada raised, 400,000 to 500,000 men, which it was expected Pennsylvania would do, the army of employees remaining in Pennsylvania would be six times as great as the army sent to war. The number of industrial workers injured in two and one-half years in Pennsylvania is greater than the army that either Canada or Pennsylvania is sending to war against Germany. There were, on an average, 3,000,000 Pennsylvania workers at work continuously during the two and one-half years from January, 1916 to July, 1918, and the injuries amounted to 577,053 in that time. In other words, if the number of Pennsylvanians injured in the war equals in two and one-half years the number injured in the industries of Pennsylvania during the same

period, every man in an army of 500,000 will be injured once, and more than 75,000 in that army will be twice wounded during these two and one-half years.

Question of Medical Benefits. Compensation boards in general are beginning to recognize the fact that adequate surgical or hospital treatment is essential in restoring the injured workman to his position. Six states, enacting these law in 1917-1918, all provided medical and surgical aid at the expense of the employer, while of five older laws which had omitted such provisions, two were amended in 1917 so as to grant assistance of this nature. There are still three states which provide no medical treatment in these cases, namely, Alaska, Arizona, and Wyoming. It is to be presumed that these will soon come into line with adequate amendments of their laws.

"In three states the provision for medical aid is limited only by the necessities of the case or the discretion of the Administrative Board. These are California, Connecticut, and Idaho. Medical aid varies from a definite time limit of two weeks in nine states to ninety days in four, or there is a limitation on the amount that is required to be expended, ranging from \$150 to \$250, or again, both restrictions may be employed. Two of the states, which have a two weeks' limitation, also restrict the employers' liability for medical expense to \$25."

These last low limits furnish a certain amount of financial and medical relief in minor injury cases, but take into no account the cases whose disability extends over a longer period, who constitute about 35% to 40% of the industrial accidents. Does this seem reasonable or fair, either for the injured workman or the doctor who has to treat him?

In Argentine, the law there states that the employer furnish medical and pharmaceutical aid until the occurrence of one of the following events:

- a. The death of the injured man.
- b. The restoration of conditions enabling him to return to work.
- c. The determination of permanent incapacity.

I know of no law which goes so far as this in the United States.

"No state, with the single exception of Massachusetts, looks beyond the healing of the

wound, with perhaps some supply of artificial limbs, and compensation more or less adequate for the resultant disability, the matter of rehabilitation being as yet generally unprovided for."

Selection of Physician. This right is now in the hands of the employee in Massachusetts, Rhode Island, and Washington, at the expense of the employer. In three other states, Connecticut, Idaho, and Illinois, the employee has the right to furnish his own medical service at his own expense. Sixteen states provide that in the case of the employer's neglect, inability, or refusal to furnish adequate treatment, the employee may provide it at the expense of the employer. In three states, the board is authorized to order a change of physicians if it finds such action necessary, while in California, the employer must change physicians if requested by the employee, but only to such as are vouched for by the Board, and shall nominate at least three additional physicians competent to treat his particular case, from whom the employer may choose. I understand that also in California there is in vogue an adequate medical supervision by the State of the treatment rendered the patient and that unless the treatment is adequate and properly carried out by competent men, the State steps in and orders a change of physicians. This may seem a bit arbitrary, but who can deny its justice and propriety? The arrangement there has not raised the average per capita cost of medical treatments greatly, as in the year 1916-1917 it was \$11.69, including all cases, fatal, permanent, or temporary, which contrasted with the average compensation paid each case of \$16.52 does not seem large.

California has brought to the front the question of having poorly equipped medical men accept the treatment of industrial accidents, and feels that only the best equipped men, who can and do give the best medical service, should treat these cases. It is obvious that service of this latter type would reduce to its minimum the untoward results and long-continued periods of compensation. In regard to contract practice on the part of insurance companies, they feel, and I am sure everyone who has thought much about contract practice in general feels the same way, that the results are not apt to be good. Many poorly

equipped men are acquired for comparatively little financial remuneration, and consequently the product is bad. There is no definite checking up of results and no real personal responsibility, and the result is inevitably poor.

Osteopathy, chiropractics, neuropaths, and various other "paths," are engaged in this type of work, even in Massachusetts, under the apparent cognizance and pay of the insurance companies. Several of these instances are known to me and so far the results are about as one would expect from the type of service rendered. It does not help a crush fracture of the spine to manipulate it three or four times a week and leave the fracture unsupported, neither does it help the insurance companies. They seem to think that medical men are all cut from the same piece, and apparently are quite as willing to class the various "paths" with the better-trained and educated physicians. The medical profession has really only itself to blame for this situation. They can give pills and liniments, but when the mechanical treatment begins, they are at a loss which way to turn, and as a result often do nothing, or at best, talk osteopathy, which is fatal. The time is coming when either the State or insurance companies, or both, will select the medical men best qualified to treat these industrial accidents, and when that time comes, the patient will lose through legislative amendment, the right to choose his own physician.

The right to choose one's own physician is really the decision on the part of the injured workman to treat his own case, as he sees fit. If he goes to one doctor and asks for treatment, which is outlined to him, he can accept it or not as he pleases. If he does not like it, especially if it implies a splint, crutches, cast or what-not, he goes to another and another until he gets what he wants and is willing perhaps to carry out. This may seem to be an exaggeration, but is literally true. Under the plan where the physician is supplied by the insurer, he has an acceptable, somewhat standardized treatment by qualified men, and if he does not choose to accept it, he is likely to have to pay for his own medical advice, as well as to lose his compensation. From the point of view of the injured workman, this latter plan is really the only sensible method of procedure. From

the point of view of the medical fraternity, they lose their patients and a means of livelihood. What is to be the final stand?

To go a little further in this argument, I will discuss the problem first from the point of view of selection of the physician by the employer, and secondly, the selection of the physician by the employee.

Selection by the Employer. First, the burden of paying the medical costs generally falls on the insurance company, and through it on the employer, and on the public through the cost of the goods manufactured. Therefore, it seems only reasonable and just that he should have a voice in and a choice of the selection of the physician to treat the injured workman. As I have before stated, it is only by adequate medical services, and I mean that in its fullest sense, that these compensation costs can be reduced, for these costs depend wholly on, not only the number of accidents in his plant, but the total weekly compensation benefits paid. Good medical treatment, however, is, as you have seen by previous statements in regard to the regulations imposed by the various state laws, not always in the control of the employer, who is generally better able to judge of a medical man's ability than the workman himself. Workmen often turn to their family physician who may or may not be able and competent to treat their injury, and there is always, especially in the more serious cases, the reasonable question if he is so competent. Again, it is not an unknown condition and practice for certain physicians to string out the treatment, make many uncalled for and frequent visits, and pad their bills accordingly, for the first two weeks. It is not a rare occurrence for the board to find that an injured workman received as many as three visits a day for the first two weeks, with frequent change of prescriptions, the medicines supplied by the physician himself, but upon the arrival of the fifteenth day, all need for such careful attention immediately ceased, and no more visits were made. There is a reason, and happily this practice is being stamped out by the rule in Section 13 of the Act above quoted, that all physicians' bills shall be approved by the Board. The Board knows pretty well by now the men who have done this sort of thing, and it can be safely predicted that they can no longer do it and get away with it. Cases

which should have expert hospital care are often cared for at home during the first two weeks and then unloaded on the hospitals, too late often for good results. All these above mentioned facts have led and are leading large manufacturing interests and insurance companies to insist on their legal rights to select their own physician for the treatment of these cases, and many of them have established hospitals in connection with their plants, for it is maintained that better medical service can be so furnished with better results at less cost. They should be in a position to judge, and surely they are not doing it on a philanthropic basis. Early attention to minor injuries, which they require reported at once, often cuts down the danger of sepsis and leads to an early recovery. If not reported, and a septic hand resulted from an injury and the man went, after a few days, to his own physician, the result might be long deferred, due to lack of immediate aid and treatment, the compensation cost and medical cost increased, and probably the ultimate earning capacity of the man reduced on account of a partially disabled hand. Do you wonder they want to control the medical treatment? And, on the whole, apart from the physician's point of view, is it not better for the man who is injured?

Finally, in cases where employees are attended by their own physicians, the employer should have the legal right to make periodic examination of the injured party to check up the treatment and results. This is fair, legally equitable and just, and should cause no obvious objection if everything is as it should be.

Selection by the Employee. We now turn to the second point of view, namely, the choice of the physician by the employee. There is and has been a reaction against the system by which the employer furnishes the medical treatment, and three reasons are generally advanced in favor of free choice on the part of the employee. In the first place, as I have mentioned before, it is nearly a constitutional right for an individual to have the right to choose his own physician. He prefers a man to treat him whom he knows and in whom he has confidence, and with whom he can discuss his case without the fear that he is telling something he should not to an agent of an insurance company, and which later may be used against him. Again, the employee has to accept treat-

ment from men either doing the work on a contract basis, or in plant hospitals, generally under young and inexperienced men. There are a number of exceptions, of course, to this statement, but in the main it holds true. The contract work is attended with all the evils usually associated with that type of work, namely, incompetence, lack of time on the part of the physician on account of having too much to do, and consequently, inadequate treatment. There is another factor of great importance in connection with contract and plant hospital treatment, which is the question of disability. There is often a wide variance between the opinions of the family physician and the medical man from the company, as to the injured man's ability to go to work, and as to the degree and duration of his disability.

Naturally the contract surgeon wants to make as good a showing as possible in regard to his results and is again often unconsciously forced, perhaps, by his employer to state that men are able to go back to work and are no longer disabled, when, under other circumstances he would probably not do so. Naturally the workmen are aware of this condition and prefer to be cared for by someone who will not try to make them work when they are really not able to do so.

Now, the third factor, in the idea that the employee should be able to choose his own physician, is the question of medical fees. Here we are treading on delicate and much harrowed ground which is still being turned. Before the enactment of any of these compensation laws, there was no distinction as regards the method by which a man was hurt, either by accident arising out of or in the course of his employment. He chose his own physician, was treated by him, and paid him, if possible. Generally the medical man was not paid. If the case went to a hospital, the loss was on the institution, and the physician there did the work necessary without pay, as a part of his usual routine. The enactment of the compensation laws, however, made the employer liable for adequate medical and hospital services, for a while at least, but the laws made and have made no provision as to fees. They state only that they should be reasonable. In thirteen states they state they should be limited to such charges as prevail in the same community for similar treatment of injured

persons of a like standard of living. Once the employer became liable for the financial end of the case, the physicians maintained that these cases being no longer on a charity basis, they should pay regular fees, medical and hospital, for services rendered. They also objected, and reasonably I believe, to adopting a sliding scale for these cases, when they knew that the factories where these men were injured were not operating on any such basis, nor were the insurance companies in business for their health or charity.

At first, under the law, when the physicians' bills were submitted many disputes arose, and still arise, but the general tendency now is to make the best of things and to work the whole thing out on the basis of a compromise—only, bear this in mind, it is the physician who does the work, has the worry, trouble, expense, and responsibility, and who also compromises,—not the insurance companies. To be sure, perhaps we get paid in part now for what we do, when before we got nothing. That does not make the matter any more equitable, however. In regard to this point, the English experience, as a result of the enactment of compulsory insurance against illness of workman, in 1911, may be noted. The passage of this Act was, as you may remember, followed by a veritable strike of the British Medical Association. In spite of that, the law was enforced, differences were adjusted and compromised, and the loss of income, feared by the British physician, did not materialize. Under the operation of the law, the incomes of a great body of the medical men of great Britain have increased and better services have been rendered the workingman. If that is the result there, it will probably be the result here under this fee regulation régime in accident work, and will probably hold true in health or sickness insurance, when it comes, as it is bound to, sooner or later.

The compensation boards try to settle claims on physicians' bills as well as they can, and their word is generally final with both the insurance companies and the physicians.

As a result of all this discussion on medical fees, employers and insurance companies are beginning to employ surgeons, establish hospitals, and engage nurses to make home to home visits on the injured man. This all because a number of men have refused to treat

industrial accidents unless paid their regular fees. This idea broadly carried out will eventually lead to the elimination of the general medical man from seeing or treating such accidents, and there will be established industrial hospitals and industrial surgeons, who are a goodly number now, and who will increase in number without fail. Many men, I believe, have definitely come into the army medical corps, in the orthopedic section, with the idea that when they are discharged, they will be better equipped than ever, because of their army orthopedic training, to do such industrial work. A number of these men were doing this type of work before, but have wished to broaden their horizon. The field looms large, and it looks bad for the inalienable rights of men and their own physicians. War has brought about many new things, among which is the reborn and revived idea of reconstruction and rehabilitation. This can be accomplished only in hospitals or definitely established centers, properly equipped with apparatus and personnel. The idea of treating a man for two weeks after a severe and disabling accident belongs to a past geologic age, and now the individual must be made fit to go back to work of some kind, if not to his old job, then some other, and his medical expenses during this period should be covered, and eventually in all cases will be. At present it is hard for the insurance companies to grasp the idea that adequate medical attention is necessary, and that any kind of non-supervised treatment will not do. They apparently had much rather go on paying weekly compensations indefinitely than to get into something they know not of. For one, I can assure them that they will save money in the end, get better results, and pay less weekly compensation benefits, also pay larger medical bills, but get larger dividends, financial as well as moral, if they will adopt this course. It is bound, like woman's suffrage, to come, and they might just as well accept it now and say they thought of it first, as to have to swallow it later. After they have had it for a while you could never get them to give it up, on a financial basis, at any rate. Massachusetts, to her credit last year, established a vocational department for the rehabilitation and reëducation of injured workmen. As far as I am aware, this is the only state which has so far done so.

I have been wandering a bit and will now get back to my subject of medical fees. As a solution of the fee problem, it has been suggested that the injured man be allowed to select the physician, but that his choice be limited only to those who are competent and experienced in industrial surgery, which is really a field by itself, but closely allied to orthopedics. This plan at once raises the question as to who is qualified, and who is to determine who is so qualified? Selection of these men might be determined by the Legislature and Compensation Boards, acting upon and with the advice of the State Medical Society, like the Massachusetts Medical Society, through a committee appointed by the Society for that purpose. In some states, I believe, this practice is carried out to a modified extent, but only from physicians nominated by the insurance companies or employer. This would give free choice, but not the individual choice always desired.

The laws of several states provide a medical adviser, Massachusetts being one of them, to advise the boards in regard to medical decisions. Some states have also provided medical committees, composed of representatives from the medical societies and insurance companies, to study and report on the fee question. In Massachusetts we have a medical advisory committee appointed by the Governor to which certain definite medical and fee questions are submitted by the industrial accident board for advice.

They have no real power. They act only in an advisory way. This committee, however, has been of great use and value and I will quote from a report made by them on the question of medical fees under the Compensation Act, to refresh your memory as to what the situation is in this Commonwealth. They say:⁹ "There has been a tendency on the part of some physicians, not many of them members of our societies, but still physicians ostensibly respectable, to pad bills and raise their rates; in other words, to treat this law as an opportunity for medical graft. In many of these matters the medical advisory board has been able to help the Industrial Accident Board towards a solution The board reached, before we came into this matter at all, a sort of working agreement with the insurance men that the company should pay reasonable

charges for work actually rendered. . . . It has been necessary, to keep peace under this agreement, to adopt an "industrial rate," as to bills, not a fixed rate, but an understanding that services paid for under this act shall be at a rate not less than the average minimum rate in the localities where such services were rendered." "It seems to us that the whole intent of the law is not charity, but rather to lift the injured workman out of the pauper class and, at least for the fortnight following the injury, to furnish him with the best care, to give him the best possible chance for complete and early recovery and return to working power. Some of the insurance men regard the whole matter, seemingly, as a partially charitable service, and argue that cut rates and charity were granted the sufferers by doctors and hospitals before this Act went into effect, therefore this sort of thing should continue. This committee believe that the law has worked out well so far, for a new law, and that on the whole, the medical profession has lost nothing by it."

¹⁰The State of Washington in 1917 tried a notable medical administrative experiment. "This State, which had previously not required employers to furnish any medical aid whatever, amended its law so as to provide for practically unlimited medical and hospital service." The law then provides for a State Medical Board, composed of the medical advisor of the Industrial Insurance Department, and one representative each of the employers and employees. The Board is also authorized to promulgate rules, issue a maximum fee table, approve physicians' and hospitals' bills. The administration of this work was carried out by the organization of these local medical boards, who had to provide care and treatment for the injured workman, report the beginning and termination of the disability, cause of injury, and certify medical bills.

In order to organize properly, the State was divided into districts, where a physician doing industrial work lived. This scheme has not worked very well, however, for the employer was too busy to serve on the board, the workman representative was making more than the three dollars a day allowed for such service and did not want to give up a larger wage for a smaller, and inasmuch as the injured workman was allowed free choice of physician, the

accidents were not always reported, and the local board was not aware of them until the physician's bill was presented on certification. Steps have been taken to work out the various details, and the plan may work well eventually.

Hospital Fees. In this connection it should be stated that the board allows hospitals to charge only \$15 a week for the care of a patient who is receiving compensation. In a recent decision they allowed the Massachusetts General Hospital \$17.50 a week, when they were shown that it was not a discriminatory rate, but was the standard rate charged by the hospital to all patients able to pay. If one—why not another? Few, if any, hospitals today can lodge and board a patient, much less take medical and surgical care of him, for \$15 a week. Most hospitals find that they are losing money even at \$18 to \$22 a week. Why should not the board recognize this fact and allow the hospitals to receive this non-discriminatory rate for their industrial cases, as they do for their other cases? To my mind it certainly puts the insurance companies on the defense as recipients of charity to which they are not entitled and should not be allowed to receive. They should, to my mind, pay cost, and the board should see to it that they should do so. I understand that in Philadelphia some, if not all, of the hospitals have joined in refusing to accept the industrial accident cases, except as emergencies, unless a flat rate of \$20 a week is paid to cover cost.

Another much disputed point is the advisability of allowing physicians connected with hospitals to charge fees for industrial accident cases which come under their care in that particular hospital. The ruling of the board is that they should not do so. If they took care of them outside of the hospital they would be entitled to a fee, but on the inside of the hospital they are not. The board feels, I believe, that a physician on the staff of a hospital is in a peculiar and favored position, and that to allow him to charge for his services in these cases would be discriminatory and unfair to the rest of the medical profession in that they did not have the same opportunities. This may seem off hand a reasonable attitude, but to my mind is no defense for the board or insurance companies in asking the physicians connected with hospitals, who have enough to do anyway,

to take care of the cases, who should pay for their medical services as the law requires, for nothing. This attitude will inevitably prevent the hospitals in general from accepting these cases for treatment unless they pay full rates as private patients, or they will open wards for these cases, to be treated at ward rates as private cases, the wards to be private ones, and for whose treatment the physician in charge may then properly collect a fee.

Gentlemen, you have now had put before you a general statement of the medical aspects of the various compensation laws of the several states of our Union. I have neglected to state that there is also a Federal Compensation law which covers railroad employees and those engaged in interstate commerce. We have been fortunate in our state in our industrial accident board and in its administration of the workman's compensation law. It has certainly tried to play fair, to one and all, the insurance companies, the workman, and the physician. Its lot has not been an easy one. We have also been fortunate in having as a medical adviser to our board a skillful organizer, and a man whose ability has certainly found a welcome outlet in the development of the medical work of the Compensation Law in this State. I firmly believe that he has had a most difficult and arduous job, which was started with no guide posts and has been developed along broad and constructive lines. The work of our medical adviser has been followed and copied in many respects by other states, as has also certain other aspects of our compensation laws, for the mutual benefit of all concerned.

It is fitting in closing that I should quote the following sentence from Dr. Francis Donoghue's paper in regard to medical fees, and the question of the establishment of fee tables. He states that, "Fee tables are simply makeshifts. The great principle underlying all compensation is adequate treatment from start to finish, and the measure of medical services should not be the measure of medical costs, but the measure of medical results."

That is most excellent advice, Gentlemen, and until we can show better results, and more adequate care in these cases, let us be careful about asking for larger fees.

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Original Articles.

THE PHYSICAL CONDITION OF NEW ENGLAND MEN BETWEEN THE AGES OF 21 AND 31 YEARS OF AGE AS SHOWN BY THE EXAMINATIONS MADE FOR THE ARMY UNDER THE SELECTIVE SERVICE LAW DURING THE YEARS 1917 AND 1918.

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THE physical examinations made under the selective service law by the local boards and the surgeons at the mobilization camps are a cross section of the physical condition of the whole population of the country between the ages of 21 and 31 years of age. When they shall have been tabulated and studied they will form a reliable basis upon which to build plans for better health throughout the country. Until the reports shall be so published we will have to be content with the summaries found in the two annual reports of the Provost Marshal General.

From his first report, which covers the period from June 5th to December 15th, 1917, we find that 2,510,706 were examined and that 29.11% were rejected as unfit for military duty. At the mobilization camp an additional 4% were rejected, making a total of 33.1% unfit for service. In addition 2% must be added for men who had venereal disease when they arrived at the camp.

In Table 1 are shown the percentages of men rejected in the several New England States to include December 15, 1917.

TABLE 1.—PERCENTAGE OF MEN REJECTED BY THE LOCAL DRAFT BOARDS IN THE SEVERAL NEW ENGLAND STATES TO INCLUDE DEC. 15, 1918.

STATE	PERCENTAGE REJECTED
Connecticut	46.30
Vermont	43.82
Maine	42.57
New Hampshire	38.70
Massachusetts	35.48
Rhode Island	32.73
Average for the United States	29.11