

Board Jurisdiction over
Nurse Case Managers
and other issues arising
with NCMs

What is a Nurse Case Manager?

**GUIDANCE REGARDING THE ROLE OF THE NURSE CASE MANAGER IN THE
INDIANA WORKER'S COMPENSATION ARENA**

All NCMs working in the field of worker's compensation in Indiana must hold a professional degree as well as credentials through an approved certification organization, or be actively working toward credentials. Examples are a Certified Case Manager (CCM) certification through the Case Management Certification Commission (CMCC). URAC recognizes 9 different case management certifications. The Board will also accept these.

Any NCM who is not yet certified must work under the supervision of one who is. All NCMs must follow the *Standards of Practice for Case Managers* put forth by the Case Management Society of America (CMSA) as well as the CMCC's *Code of Conduct*.

Case Management Society of America (CMSA) definition

II. Definition of Case Management

The basic concept of case management involves the timely coordination of quality services to address a client's specific needs cost-effectively and safely to promote optimal outcomes. This can occur in a single health care setting or during the client's transitions of care throughout the care continuum. In addition, the professional case manager serves as an essential facilitator among the client, family or caregiver, the interprofessional health care team, the payer, and the community. The definition has evolved since first drafted in 1993. More information can be found in the Reference section of this document.

In 2016, the CMSA Board of Directors included client safety in the updated definition, and this definition is still relevant:

"Case Management is a collaborative process of assessment, planning, facilitation, care coordination, evaluation, and advocacy for options and services to meet an individual's and family's comprehensive health needs through communication and available resources to promote patient safety, quality of care, and cost-effective outcomes."

Explaining case management to clients and the public can sometimes be challenging. The following is a definition that can be used for clients and the public:

"Case managers are healthcare professionals who serve as patient advocates to support, guide and coordinate care for patients, families, and caregivers as they navigate their health and wellness journeys."

Commission for Case Manager Certification definition

II. DEFINITION OF CASE MANAGEMENT

The practice of case management is a professional and collaborative process that assesses, plans, implements, coordinates, monitors, and evaluates the options and services required to meet an individual's health needs. It uses communication and available resources to promote health, quality, and cost-effective outcomes in support of the "Triple Aim," of improving the experience of care, improving the health of populations, and reducing per capita costs of health care.

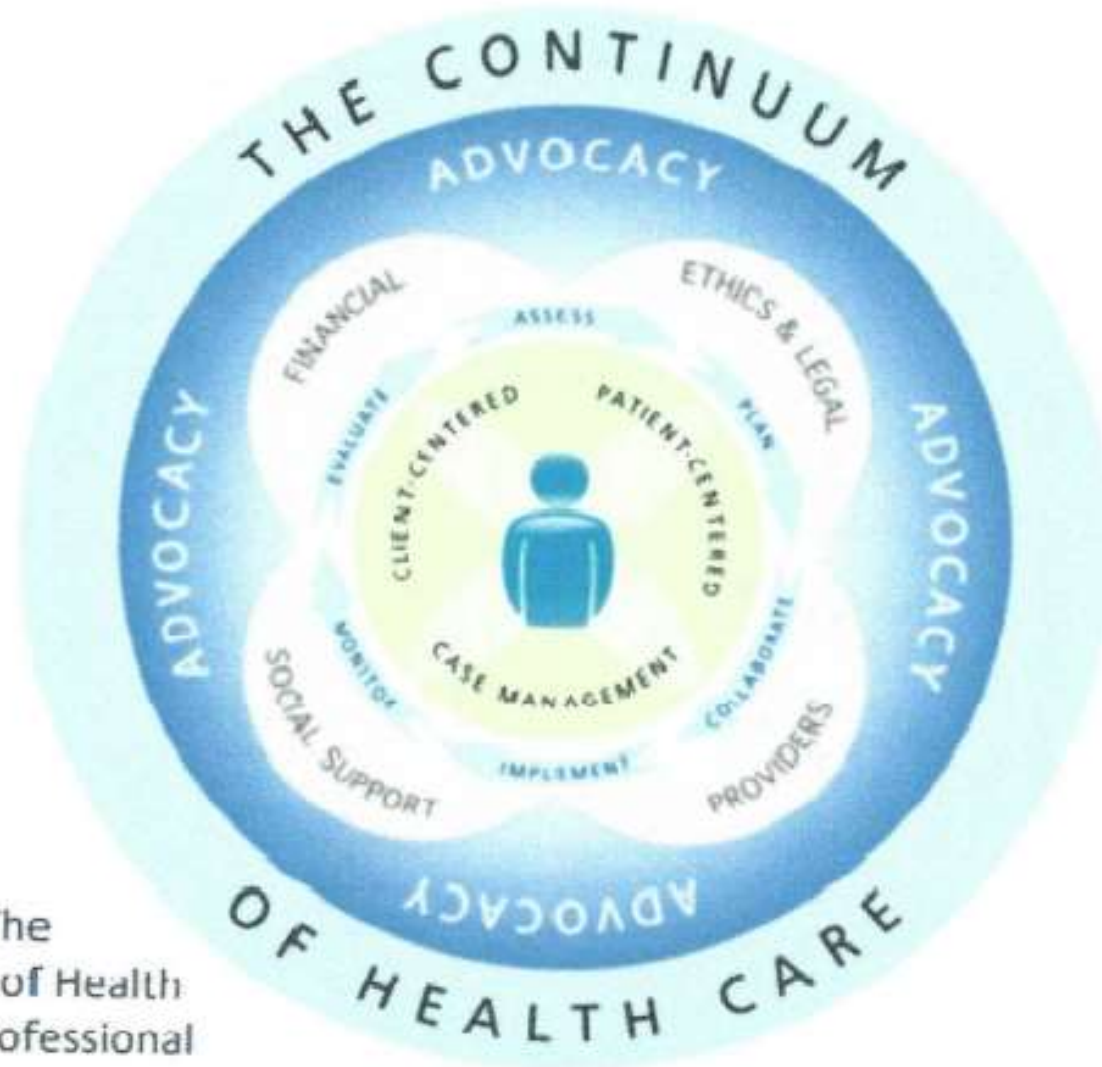


FIGURE 1: The Continuum of Health Care and Professional Case Management

What is the Board's Jurisdiction over NCMs?

1. WCA does not specifically address NCMs
2. No Administrative Rule in 631 IAC
3. Guidelines
 - a. Professional Degree/Credentials
 - b. Follow the CMSA SOPs and CMCC's Code of Conduct
 - c. Written notes/reports made available to injured worker upon request
 - d. NCM communication limited to details of workplace/injury/treatment/history/pertinent history
 - e. Cannot determine compensability/decide benefits/direct treatment/provide medical opinions regarding appropriate medical care – however- can make inquiries about treatment/options from the medical provider

Issues arise over claims the NCM is directing medical care or acting improperly to change the provider's mind about what needs to be done

- remember cost effective treatment is one of their responsibilities
- asking about taking a least expensive alternative first is not necessarily interference
- ultimately it is the doctor's responsibility to direct treatment

Can the Board sanction a NCM?

Bad Faith?

Sec. 12.1. (a) The worker's compensation board, upon hearing a claim for benefits, has the exclusive jurisdiction to determine whether the employer, the employer's worker's compensation administrator, or the worker's compensation insurance carrier has acted with a lack of diligence, in bad faith, or has committed an independent tort in adjusting or settling the claim for compensation.

(b) If the board finds that the employer, the employer's worker's compensation administrator, or the worker's compensation insurance carrier has acted with a lack of diligence, in bad faith, or has committed an independent tort in adjusting or settling the claim for compensation, the board may award the worker's compensation benefits for the claim for compensation, plus interest, and may award the worker's compensation benefits for the claim for compensation, plus interest, and may award the worker's compensation benefits for the claim for compensation, plus interest.

- No mention of NCM in the bad faith statute
- The NCM is an agent of the insurance carrier/administrator/employer so they may be subject to a bad faith penalty for NCM misconduct

Can the NCM be added as a Defendant?

WORKER'S COMPENSATION BOARD OF INDIANA

631 IAC 1-1-7 Defendants

Authority: IC 22-3-1-3

Affected: IC 22-3-4-2; IC 22-3-7-24

Sec. 7. All persons should be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative, and the board at any time, upon a proper showing, or of its own motion, may order that any additional party be joined, when it deems the presence of the party necessary. (*Worker's Compensation Board of Indiana; Rule 8; filed Aug 2, 1949, 3:50 p.m.; Rules and Regs. 1950, p. 73; filed May 12, 1983, 10:15 a.m.; 6 IR 1241, eff Sep 1, 1983; readopted filed Nov 13, 2001, 12:20 p.m.; 25 IR 1305; readopted filed Oct 12, 2007, 1:09 p.m.; 20071031-IR-631070472RFA; filed May 4, 2012, 10:15 a.m.; 20120530-IR-631110357FRA; readopted filed Sep 10, 2013, 12:41 p.m.; 20131009-IR-631130349RFA; readopted filed Dec 2, 2019, 2:48 p.m.; 20200101-IR-631190175RFA*) NOTE: Transferred from the Industrial Board of Indiana (630 IAC 1-1-8) to the *Worker's Compensation Board of Indiana (631 IAC 1-1-7) by P.L.28-1988, SECTION 121, effective July 1, 1988.*

-“any relief”

-WCB jurisdiction is to implement and interpret WCA

Other Jurisdictions

California

- Jennifer Patterson v. The Oaks Farm - WCAB
- NCM is a form of medical treatment

“Medical, surgical, chiropractic, acupuncture, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatuses, including orthotic and prosthetic devices and services, that is reasonably required to cure or relieve the injured worker from the effects of his or her injury shall be provided by the employer. In the case of his or her neglect or refusal reasonably to do so, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing treatment.”

Are there any remedies against a NCM?

A third party action requires the NCM have a duty toward the injured worker

1. Campbell v. Eckman/Freeman & Associates, 670 N.E.2d 925 (I.C.A. 1996)
2. Same Holding today?
 - a. Guidelines
 - b. Dual Relationships
 - i. CMSA
 - ii. CCMC

Dual Relationships: Occur when a case manager has multiple relationships with a client, whether professional, social, or business. It is understood across interprofessional codes of ethics that dual relationships can and will occur; at times they are unavoidable. The onus is always on involved professionals to act in accordance with state laws and professional codes for their discipline, as well as organizational policies. It might be acceptable for the case manager to maintain the assignment, but a contract and/or plan should be put in place to ensure appropriate professional boundaries are maintained.

Examples:

S 19 – DUAL RELATIONSHIPS

Dual relationships can exist between the Board-Certified Case Manager and the client, payor, employer, friend, relative, research study and/or other entities. All dual relationships and the nature of those relationships must be disclosed by describing the role and responsibilities of the Board-Certified Case Manager (CCM).

CCMC Complaint

COMMISSION FOR CASE MANAGER CERTIFICATION

COMPLAINT FORM

This complaint form ("Complaint" or "Form") is supplied by the Commission for Case Manager Certification ("CCMC") to those who wish to file a complaint against a person certified by CCMC for alleged violation of the CCMC Code of Professional Conduct for Case Managers ("Code"). In order to file a complaint, you must complete this Form and mail it in an envelope marked "Confidential" to: Ethics & Professional Conduct Committee, CCMC, 1120 Route 73, Suite 200, Mt. Laurel, New Jersey 08054. Capitalized terms not defined in this Form shall have the meanings contained in the CCMC Procedures for Processing Complaints ("Procedures").

This Complaint is an official document and must be completed in its entirety, signed, notarized and submitted to CCMC along with appropriate documentation to support the alleged violations of the Code and any other forms required by the Procedures as set forth herein below on page 3. Upon receipt, the Ethics and Professional Conduct Committee ("Committee") will determine whether to accept the Complaint in accordance with its authority as set forth in the Procedures.

PLEASE TYPE OR PRINT LEGIBLY

SECTION I

Your Name: _____
Hereinafter referred to as "Complainant"

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ E-mail: _____

Name of Client (if different from Complainant): _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ E-mail: _____

SECTION II

Name of CCM against whom you are making this claim: _____
Hereinafter referred to as "Board-Certified Case Manager (CCM)"

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ E-mail: _____

Please respond to each of the following:

Discovery Issues

Guidelines – notes/reports but not billing reports

What about correspondence to/from medical provider/adjustor/defense counsel?

1. Attorney Work Product? - prepared in anticipation of litigation?

2. Attorney Client Privilege?

- dual relationship between insurance company and patient

- Board Guidance- must communicate with both

- SOP/Code of Ethics- recognize duty to patient and that can have a dual relationship

