



Workers' Compensation Advisory Council  
Jan. 14, 2015 – minutes

**Members attended**

Gary Thaden  
Jason Bartlett  
Bill Blazar  
Walter Fredrickson  
Russell Hess  
Julia Donnelly  
Shar Knutson  
Bobbi Pearson  
Ed Reynoso  
Robert Ryan  
Robert Lux

**Members excused**

Elaine Garry

**Nonvoting members attended**

Rep. Tony Albright  
Rep. Tim Mahoney  
Sen. Dan Sparks

**DLI staff members attended**

Commissioner Ken Peterson  
Sandy Barnes  
Cheryl Eliason  
Kate Berger  
Jon Brothen  
Deb Hesick  
Mike Hill  
Lorelei Hoyer  
Karen Kask-Meinke  
Wendy Legge  
Chris Leifeld  
Dr. Bill Lohman  
Mark McCrea  
David Musielewicz  
Donna Olson  
Clayton Overmire  
Jessica Stimac  
Jim Vogel  
Lisa Wichterman  
Laura Zajac  
Patty Rutz  
John Rajkowski

Karen Ryba  
Kathy Hanson  
Christine Wojdyla  
Darci Wing

**Nonvoting members absent**

Sen. John Pederson

**Visitors attended**

Ray Bohn – WERA  
Kathryn Berg – MICA  
Dawn Carlson – Almeida PA  
Evan Cordes – MCIT  
Amy Dellwo – DHS  
Eric Dick – MMA  
Carla Ferricci – MNAJ  
Susan Gigiere – MAPS  
Britt Graupner – DHS  
James Heer – WCRA  
Erin Huppert – Allina  
Bob Johnson – Insurance Federation of Minnesota  
Suzanna Kennedy – Stinson Leonard Street  
Mary Krinkie – MHA  
Meg Kushing – SFM  
Brad Lehto – AFL-CIO  
Bob Lund – SFM  
Brian Martinson – Minnesota Senate  
James McClean – Health Partners  
Brandon Miller – MWCHA  
Philip Moosbrugger – Department of Commerce  
Laura Mundt – Mayo Clinic  
John O'Loughlin – MARP  
Ros Otos – Alovis  
Tom Poul – MASCA  
Tammy Pust – OAH  
Joe Schindler – MHA  
Greg Schmidt – MICA  
D. Sullivan – Minnesota House of Representatives  
Deb Sundquist – MDLA  
Joe Twomey – MDLA  
Dan Wolfe – MN APTA

**I. Call to order and roll call**

Commissioner Ken Peterson called the meeting to order at 10:05 a.m. Roll call was taken and a quorum was present.

## II. Announcements

Commissioner Peterson announced there will be a DLI Workers' Compensation Summit on June 17 and 18, 2015. The summit will be at Cragun's Conference Center in Gull Lake, Minnesota. One of the keynote speakers at the conference will be Dick Beardsley, the marathon runner and inspirational speaker. He will be speaking about overcoming obstacles with perseverance.

Commissioner Peterson stated we have a lengthy agenda today, mainly addressing legislative proposals. An additional item, if time allows, is a legislative proposal from the Minnesota Association of Rehabilitation Providers (MARP). If there is time at the end of the meeting, they can present their proposal. There are also some issues that may be coming up at the next meeting. A letter was sent to all of you from Bob Falsani, an attorney in Duluth, Minnesota. He wants to come before the council with his proposal. Additionally, Rep. Ben Lien would like to be on February's agenda to address the North-Dakota-related legislative proposal the WCAC had previously discussed. We will send more information to remind you of that issue.

The commissioner spoke about the proposed DRG system and explained that, last year, Rep. Mahoney authored legislation that provides for grants to be given to hospitals and insurers to develop their DRG systems. We now have \$1.3 million in the account for help in making that conversion.

## III. Approval of the agenda

Robert Lux moved to approve the agenda and Russell Hess seconded the motion. All voted in favor and the motion carried.

## IV. Approval of the minutes

Ed Reynoso moved to approve the minutes from the Nov. 19, 2014 meeting. Gary Thaden seconded the motion. All voted in favor and the motion carried.

## V. Agenda items

- a. Legislative proposal – Repeal Minnesota Rules, Chapter 5228: workers' compensation; fraud unit

John Rajkowski spoke about the repeal of this rule, because DLI does not have a fraud unit. The workers' compensation fraud unit was moved to the Department of Commerce under Gov. Pawlenty's first administration. Shar Knutson asked who is doing this fraud investigation now. Rajkowski explained funding from the Special Compensation Fund goes to the Department of Commerce to pay for its fraud unit. Knutson asked if we can get a report from the Department of Commerce to review the cases, look at statistics, etc. The commissioner agreed and said we'll request a report and it will be distributed to WCAC in the near future. Thaden said he recalls when there were two fraud units, one at the Department of Labor and Industry and one at the Department of Commerce. To save money, the units were combined into one, which is now at the Department of Commerce. Thaden suggested we should find out if this is working. Knutson asked if there are implications to this repeal if we want to bring this work back to the Department of Labor and Industry. The commissioner explained we would have to get legislative approval. Bill Blazer suggested we are only approving the elimination of the obsolete language in

the Minnesota Rules. By asking the Department of Commerce to report to us about what it has been doing the past few years, allows for a discussion about whether it is a good idea. We may even have suggestions about how they could do a better job. Thaden said if we don't get rid of these rules and we decide to move the money over here or keep it at the Department of Commerce, we may be in a better position if we keep the rule as written. He suggested we wait to remove the language.

The commissioner said he will withdraw the proposal for now until we have the information needed from the Department of Commerce.

**b. Update about the workers' compensation computer system modernization planning process**

Todd Bosch, project manager with MN.IT Services, gave an update about the modernization project and how the work with the outside consultant is progressing. The project is underway and current efforts are focused on discovery and planning. The vendor will produce a final report with the costs, feasible next steps, recommendations, etc. That is expected to be delivered to us by late spring 2015. The consultant team is on-site conducting meetings with various DLI groups, ensuring they understand all stakeholders' goals while moving forward. The commissioner said we should have an update about the cost of the project before going to the Legislature to request funding. If there is no cost estimate by the end of March, we'll have to wait until the next session. Thaden asked if the project team has looked at the other 48 states to see what systems are working in other places. Bosch answered they have identified several states to contact to see if their systems can be incorporated into Minnesota's system.

**c. Review of diagnosis related group (DRG) hospital inpatient payment methodology**

The commissioner began the discussion by explaining we have had early negotiations and we put out a proposal to insurers and hospitals. We met with them yesterday to help them understand what we have proposed. We do not have an agreement yet, but we will be meeting with both sides in the near future.

Eric Anderson, Optum consultant, introduced himself and gave the group a high-level overview of DRG methodology. In Minnesota, we have a Medicare-based system in hospitals where Medicare calculates costs as a percentage of the hospital cost of providing a service. The advantage of using this system for workers' compensation is that Medicare's system helps make the facility costs more predictable and the information from Medicare is readily available and less expensive to obtain. There are also other DRG systems, including Optum APS-DRG and the 3M APR-DRG system. These other systems look a little more deeply at clinical cohesiveness and mortality adjustments than the Medicare DRG system.

Thaden asked if the system we have for fixed rates for physicians is the same as the ambulatory service centers. He wants to make sure any discussion regarding hospital charges have ambulatory surgical centers included. The commissioner noted he is meeting with representatives from that group after this meeting. He pointed out the problem lies in that the hospitals and ambulatory surgical centers have two different DRG systems. The insurance companies have also requested that the ambulatory surgery centers also be involved. The commissioner stated that Minnesota hopes to first deal with the hospitals and then – a year or two later – work on the outpatient centers.

Anderson pointed out the Medicare system is in the process of revamping the outpatient system. Medicare has made some changes, with more to come; so he cautioned that changes Minnesota makes now will have to be altered again when Medicare adopts new policies. The commissioner added that any new legislation will have to include the surgical centers with the hospitals.

Thaden asked if the hospitals and insurers have been able to provide the data needed to go forward with a new system. The commissioner said the information has been difficult to gather because of the complexity of the data we are requesting. Rep. Mahoney expressed his frustration that the data has not been provided by the insurers and hospitals. He said it was his understanding the proposal was to be completed by Jan. 15, so it could be addressed during this legislative session. By implementing a DRG system in Minnesota, he believes the injured worker will be treated better and faster. He went on to say the employer will get the 10 percent reduction in workers' compensation costs. Thaden also expressed his concern that the current workers' compensation system just does not work and he feels many employers would rather work with the regular health care system.

Knutson asked if there was a possible date in mind, as far as getting the needed information; Blazar suggested we use the next WCAC meeting in February as a checkpoint for knowing where the process is at that point. He said if we have the data by then, we would still have a couple of weeks to negotiate. If we still haven't reached some agreement by then, we can come up with an alternate strategy. The commissioner agreed February could be the deadline and said we would have to have something by then for the Legislature to have time to consider the matter. The commissioner indicated that, in the meantime, the department will also consider and possibly start the rulemaking process to address the DRG issue and also the cost of implants.

The commissioner noted the next three agenda items are legislative proposals for discussion only, with possible votes on them at the February WCAC meeting.

- d. Legislative proposal – Response to WCCA Sumner decision: allow for DHS, DLI and DEED to opt out of appearances as interveners at workers' compensation proceedings

Amy Dellwo, Department of Human Services, legislative director, introduced the proposal to allow certain state agencies to opt out of appearances at workers' compensation proceedings. Because of Minnesota Supreme Court case, Sumner v. Jim Lupient, which is pending before the court, this proposal was tabled until the court

makes its decision. Dellwo said it will depend on this court case whether they will come before the WCAC again with their proposal. If the court decision turns out to be problematic for the agencies, the proposal may be brought back to the WCAC.

e. Legislative proposal – Electronic billing and payment transactions

Kate Berger and Lisa Wichterman introduced the e-billing proposal and provided answers to some of the questions that had been posed at a recent symposium. Wichterman pointed out there is a lack of needed information for health care providers to submit their bill electronically to a payer. Berger explained DLI will be drafting legislation requiring payers to put the needed information on their websites and make that information readily available to the providers. The general suggestion was that if electronic transmission replaced the paper transactions, the system would be more efficient and standardized.

f. Legislative proposal – Minnesota Association of Rehabilitation Providers (MARP)

Elizabeth Wefel, John O'Loughlin and Steve Hollander, from MARP, presented a proposal to change the current law concerning rehabilitation services and job development services. Currently, the law prohibits further job development services beyond 26 weeks and there are occasions when more than 26 weeks are needed for injured workers. Thaden asked whether these services could continue under a private contract as long as both the employer/insurer and injured worker want to continue. This question will be answered after further study.

The second MARP proposal had to do with current law prohibiting a qualified rehabilitation consultant (QRC) from providing both rehabilitation services and case management services for an injured worker. MARP believes it is in the injured worker's best interest and the employer/insurer's best interest to allow this relationship to continue for both services. It allows the worker to continue with the same QRC and decreases paperwork and, thus, costs for the employer.

The commissioner said these proposals, along with the prior issues, will be voted on at the next WCAC meeting. He said the next meeting will be Feb. 11, 2015.

The meeting was adjourned at 11:10 a.m.

Respectfully submitted,  
*Patty Rutz*  
Executive Secretary