

## Rehabilitation Review Panel meeting minutes Jan. 5, 2017

### RRP members present

Duane Butorac (chairman)  
Russell Gelfman, M.D. (vice chairman)  
Chris Leifeld  
Steve Hollander  
Carol Norris  
Steve Patton  
Bobbi Pearson  
Mary Wells  
Carl Crimmins  
Laura Jerde  
Richard Hills, DC

### Members excused

Lisa Weed  
Alissa O'Hara  
Steve Jobe, DC  
Scott Parker

### Visitors and DLI staff members present

Sandy Barnes, DLI  
Jon Brothen, DLI  
Tom Ferring, QRC, DLI  
Mike Hill, business liaison, DLI  
Terry Henricksen, QRC, DCI of Minnesota  
Matt Jobe, DLI  
Kaylene Kickhafer, QRC, Kickhafer Consulting  
Nancy Kuntz, QRC, Encore Unlimited  
Rob Otis, QRC, Alaris Group  
Annette Schumer, QRC, DLI  
Jeanne Vogel, QRC, DLI  
Darci Wing, DLI  
Brian Zaidman, DLI

### Call to order

Chairman Duane Butorac called the meeting to order at 1 p.m. A quorum was met.

### Approval of minutes

Carl Crimmins moved and Bobbi Pearson seconded to approve the Oct. 14, 2016, meeting minutes. All voted in favor and the motion carried.

### Approval of agenda

Carl Crimmins moved and Mary Wells seconded to approve the Jan. 5, 2017, meeting agenda as printed. All voted in favor and the motion carried.

### Assistant commissioner's update – Chris Leifeld

Assistant Commissioner Chris Leifeld began by thanking the Rehabilitation Review Panel (RRP) members who reapplied to the panel. He announced the following reappointments: Bobbi Pearson, employer representative; Steve Patton, insurers' representative; Duane Butorac, labor representative; Alissa O'Hara and Steve Hollander, rehabilitation representatives; and Mary Wells, employer alternate. He also announced Carol Norris did not reapply, but is present today as a member of the panel. Her position (chiropractor/health care provider/rehabilitation provider) is now open, as is one for an alternate labor representative.

Chris Leifeld announced the IRS has changed the mileage rate from .54 cents a mile to 53.5 cents a mile beginning Jan. 1, 2017.

In terms of a legislative update, Chris Leifeld indicated the Workers' Compensation Advisory Council (WCAC) is meeting next week to discuss proposed legislation. The principal issue relates to creating a new reimbursement system for outpatient medical care at hospitals, to contain costs and create a more efficient payment system. It is hoped the insurers and hospital representatives will come to an agreement about this issue shortly. From there, the proposal will go to the WCAC for review and a final vote.

## **Agenda items**

### **I. Workers' Compensation Technology Modernization Project**

Brad Morse showed a presentation about the project and explained the basic project timeline. This project began as part of the department's strategic plan, setting a goal to update the department's workers' compensation technology system. He noted the important project goals of access and security, making it easier for the injured workers and other stakeholders to access the system. The new system will allow the injured worker or their attorney, the insurance companies, employers and providers to have ready electronic access to claim information.

### **II. Proposed rehabilitation rule revisions: 5220.1900 Rehabilitation service fees and costs**

Jon Brothen discussed the proposed rehabilitation rule revisions, Chapter 5220. DLI is planning to go through a complete review of the rehabilitation rules, some of which came from a recommendation from the RRP last April. He indicated that in the rule documents, members would see language was added or removed from the current rule. Chris Leifeld pointed out the panel is not voting on this today, but this is merely a first draft and the department is gathering comments. Jon Brothen said today's goal is to walk through the changes and answer questions. He reiterated this is a draft and members of the panel are always free to go on the DLI website docket page and include written comments, which are preferred. The comments will be logged and recorded as part of the rulemaking process.

Carol Norris questioned how these rule changes would support getting injured workers back to work and asked why there was a discount for some cases. She said there is no authority accompanying that responsibility that allows that to happen. She questioned the fee reduction in the first place, indicating many issues are outside the control of a qualified rehabilitation consultant (QRC). Jon Brothen said her comments, and all other comments, will be taken into consideration.

Steve Hollander, representing MARP, asked to distribute his handouts, with comments he prepared, and said he will also send in written comments. He said there were MARP members in the audience today who would like to make some comments. He explained he is concerned with some aspects of the proposed rules by the department, specifically subpart 1f, concerning the fee reduction for QRCs, which seems unfair because some of the issues that cause a fee reduction are not in the control of the QRC. Also of concern are the changes to subpart 6a regarding payment limitation on QRC services. He felt limiting the services to two hours of professional time is not sufficient and recommended simply increasing the number of hours to a six per 30 calendar-days period. Steve Hollander acknowledged today's comments were different than those MARP had requested the RRP recommend to the department at the April 2016 meeting.

Russell Gelfman indicated that different types of injuries affected how soon a patient's medical conditions are resolved and there was not just one time period for all of them. He asked if DLI

knew what the break points were on rehabilitation files. As an example, if a case lasts 52 weeks, which percentage of those people would eventually get re-employed versus a different number of weeks? He indicated the medical literature states that cases that go beyond 52 weeks have a very poor return-to-work rate in general. In other words, where does the value of vocational training diminish and when does it become cost-prohibitive to continue rehabilitation services?

Duane Butorac asked if members of the audience would like to speak. Two members of the audience, Kaylene Kickhafer, an independent QRC, and Rob Otos, a QRC from the Alaris Group, made comments concerning the proposed rule changes. Kaylene Kickhafer reported that as a small-business owner, jumping from six hours to two hours, and possibly back again, during job placement was administratively cumbersome. She requested that one number be used. She further indicated that determining fee reductions after “X” number of weeks or dollar amount was burdensome. Rob Otos asked for simplification of the rules. He indicated the proposed placement rule would cause an administrative burden on the providers *and* on the insurers when determining what should be paid and when. He said if there was a need for bill reduction, that one hourly rate be used to make the rules more simple and straightforward.

Duane Butorac asked for other comments concerning the proposed rule changes. There were no more comments. Jon Brothen said the department is still collecting comments and said everyone can submit written comments to the docket page on DLI’s website. He said all comments are reviewed and analyzed, and they become part of the record. The department is hopeful that by the April RRP meeting, a second draft will be available.

**III. The changing workforce: Do age, gender and culture affect safety**

Gary Robertson, trainer, Minnesota OSHA Compliance, gave a presentation demonstrating Minnesota and national trends about how construction worksites are changing and proposing better ways to protect employees at the worksite. His presentation pointed out that different cultures are represented as the workforce ages and there are now more women in the construction industry, so workplace safety has to change to reflect the changing workforce. Employers and safety professionals will need to train workers with a more individualized approach to be more effective with the workers. He emphasized safety must come first in all aspects of the construction worksite.

**IV. Professional conduct complaint outcomes, 2016; retraining plan outcomes, 2016**

Mike Hill described statistics concerning professional conduct and accountability complaints against rehabilitation providers and the outcomes of these cases. There were 15 internal complaints from DLI: 13 were due to rehabilitation providers not attending DLI’s mandatory update training. In 2014, there were 24 complaints and 21 of those were for rehabilitation providers who did not attend the mandatory update. With respect to overall substantiated professional conduct and accountability complaints, he said they were essentially the same as reported to the RRP in 2016.

Mike Hill’s second handout showed retraining plan outcomes in 2016. He explained the statistics and how the numbers were compiled.

**Other business**

Regarding agenda items for the next meeting, Duane Butorac asked agenda items be sent to either him or Mike Hill.

**Adjournment**

Carl Crimmins moved to adjourn the meeting and Steve Patton seconded. All voted in favor and the motion to adjourn was passed. The meeting adjourned at 3 p.m.

The next meeting is April 6, 2017, 1 to 3 p.m.

Respectfully submitted,  
Patricia Rutz  
Executive Secretary  
Rehabilitation Review Panel