

Rehabilitation Review Panel meeting minutes

Jan. 4, 2018

RRP members present

Duane Butorac (chairman)
Russell Gelfman, M.D. (vice chairman)
Ken Askew
Steve Hollander
Carl Crimmins
Richard Hills, DC
Nicole Kilgo (via phone)
Alissa O'Hara
Steve Patton
Bobbi Pearson
Mary Wells (via phone)
Chris Leifeld
Patricia Rutz
Mike Hill

RRP members absent

Margaret Kasting
Lisa Weed

Visitors/DLI staff members present

Jon Brothen, DLI
Amanda Clark, IOC
Matt Jobe, DLI
Mark McCrea, DLI
David Musielewicz, DLI
Rob Otos, Alaris
Jeanne Vogel, DLI
Darci Wing, DLI

Call to order

Chairman Duane Butorac called the meeting to order at 1:03 p.m. A quorum was met. The chairman reminded the group there are two members (Nicole Kilgo and Mary Wells) in attendance via telephone. For voting purposes, those present and on the phone, should voice their vote.

Approval of minutes

Alissa O'Hara moved and Carl Crimmins seconded to approve the Oct. 12, 2017, meeting minutes as printed. The motion carried.

Approval of agenda

Scott Parker moved and Crimmins seconded to approve the Jan. 4, 2018, meeting agenda as printed. The motion carried.

Deputy commissioner's update – Chris Leifeld

Deputy Commissioner Chris Leifeld explained that the practice of discussing safety concerns will be a regular agenda item. During the winter months, the parking lot and sidewalks around the building can become slippery and he urged everyone to take caution. He asked that any safety concerns be brought to the attention of the panel.

Commissioner Ken Peterson has reappointed Crimmins, Laura Jerde and Lisa Weed as panel members. As alternates to the panel, the commissioner reappointed Daniel McConnell, Mary Wells and Ken Askew. Leifeld indicated the reappointment letters have been signed and the members should receive them in the next couple of days. He informed the panel that Dr. Kilgo, a chiropractor member, has decided not to reapply for her position and the opening will be advertised through the Secretary of State's office and in the *COMPACT* newsletter.

The IRS mileage rate has changed from 53.5 cents to 54.5 cents as of Jan. 1, 2018.

Legislative update – The Workers' Compensation Advisory Council (WCAC) bill is going forward and it allows for retired judges to serve on the Workers' Compensation Court of Appeals when needed. The main focus of the recent WCAC meetings was related to post-traumatic stress disorder (PTSD) and the presumption language for first responders. WCAC will have this on its Jan. 24 agenda for a possible vote, knowing Minnesota's legislative session begins Feb. 20. Additionally, there are ongoing conversations about reform of the payment system for outpatient hospital care and ambulatory surgery centers, but this still needs to be negotiated by the parties.

DLI's website is undergoing changes to make navigating easier and the building itself is being renovated. We expect there will be some technology changes to the Minnesota Room, plus updating building offices and cubicles. Recent leadership changes: Deputy Commissioner Jessica Looman was appointed as the commissioner of the Department of Commerce; Scott McClellan, who oversees the Construction Codes and Licensing Division and the Labor Standards unit, is now an assistant commissioner; Heather McGannon was appointed as an assistant commissioner, as well; and Leifeld is now the deputy commissioner.

Lastly, as part of a larger initiative of the governor's office for more sustainable work practices, "green meetings" are being introduced to reduce the amount of paper generated. For RRP meetings, more information will be presented on the large screens and handouts will be sent electronically for you to decide whether to print them or bring them to meetings on your electronic devices. Also, as part of our technology update, more forms will need to be filed electronically.

Agenda items

1. **Role of DLI's Office of General Counsel** – Matt Jobe, attorney from DLI's Office of General Counsel, addressed the panel members and presented slides explaining work done by that unit.

Some of the takeaways from the presentation:

- the Office of General Counsel's purpose is to deliver quality legal advice and representation to the department in an effective and timely manner;
- there are 12 attorneys, one chief general counsel and five support staff members;
- the main tasks include developing and adopting rules, representing the Workers' Compensation Division in litigation and representing the Special Compensation Fund and Minnesota OSHA settlement negotiations;
- the Office of General Counsel assists in the data management and data practices issues, including how information is collected, how it is maintained and who has access to it; and
- professional conduct and accountability cases and denied provider registration applications that are contested are sent to the Attorney General's office.

2. Proposed rehabilitation rule revisions – Jon Brothen discussed the handouts concerning the proposed rehabilitation rule revisions. A draft of the rules are attached to these minutes.

Minnesota Rules 5220.1410, 5220.1510, 5220.1610 and 5220.1710: QRC intern registration (5220.0410) – The major change in this section is clarifying the requirements for initial registration, plus renewal. The department would require one 36-month period for the internship registration with the individual needing to meet all the requirements within that time period to become a full-fledged qualified rehabilitation consultant (QRC).

While most of the requirements remain the same, one change includes having the intern work on at least 12 or more rehabilitation plans. As full-time work can be interpreted in different ways, the department has clarified it as working 2,000 hours. Of that, at least 200 hours are to be in job-seeking-skills training, job development and job placement. The remaining 1,800 hours are to be in rehabilitation services, including medical management, return-to-work coordination, vocational counseling, vocational testing, labor-market surveys, etc. Lastly, while continuing the CRC and CDMS requirements, a third option of possessing a master's degree in vocational rehabilitation or vocational rehabilitation counseling, along with maintaining 20 continuing education units (CEUs) a year, is being considered. The department is seeking comments.

O'Hara questioned how the department is tracking the 2,000 hours, if it is straight work-time or by billable hour. Brothen responded it is thought to be number of work hours. O'Hara then sought clarification that an individual might technically finish earlier than a year. Brothen agreed that within this draft it would be possible.

O'Hara asked why QRCs are required to renew their DLI registration every year, when other professions are only required to renew every three years or five years. Brothen said the annual renewal had been discussed, but the major reason was to keep the provider lists up to date. O'Hara said she understands from a firm perspective why annual registration is necessary to list all the firms' employees, but not as an individual QRC to renew annually. Brothen indicated comments would be welcomed.

Brothen concluded the discussion by stating DLI will send a mass public email message indicating the rulemaking docket page is updated and drafts are available. The department will update RRP with another draft in April.

- 3. Professional conduct complaint outcomes, 2017** – Mike Hill presented data to RRP concerning outcomes for 2017. He explained that because the department regulates QRCs and job-placement vendors, it is responsible for receiving and investigating complaints. There were a total of eight complaints for 2017, which is quite a bit lower from past reporting.

He explained the different outcomes, which will be more fully covered in the next edition of the *COMPACT* newsletter.

- The first one is an unsubstantiated complaint.
- The next level is a letter of instruction and considered to be private in the provider's registration file.
- The next area is a stipulated agreement. This indicates there was a violation and agreement to terms of a fine amount. This document is considered to be a public document.
- There are situations where the parties do not agree to the terms and then this goes to a contested hearing. An Office of Administrative Hearings (OAH) civil judge will issue a recommendation. That recommendation then goes to RRP; at that point, RRP is represented by the Attorney General's office. RRP will then make its findings and issue a decision and order. After that, if there is still a dispute, the next step is going to the Workers' Compensation Court of Appeals. If a party is not happy with the outcome, it can then go to the state Supreme Court, but this is rare.

Overall, for the 2017 outcomes, the department had no jurisdiction on one of the complaints, one was unsubstantiated, there were six letters of instruction, there were two stipulated agreements and there was one rehabilitation provider that became inactive before an outcome could be reached. In the case of an inactive provider, the complaint is kept in the file and must be dealt with before the provider can be re-registered.

Retraining plan outcomes – Hill reported on the retraining plans agreed upon and disputed. For 2017, the department is on the average for the number of retraining plans that have been submitted.

Other business

Butorac asked the panel if there were any agenda items for the next meeting. None were offered, so panel members were reminded to contact Butorac or Hill if they wanted items placed on the April agenda.

RRP meeting dates

Butorac announced the next meeting dates are: **April 5, July 12 and Oct. 11, 2018, and Jan. 10, 2019.**

Adjournment

Parker made a motion to adjourn the meeting at 2:20 p.m. and Crimmins seconded the motion. All voted in favor to adjourn and the meeting was closed.

Respectfully submitted,
Patricia Rutz, executive secretary
Rehabilitation Review Panel