

Meeting minutes: Rehabilitation Review Panel

Date: Feb. 14, 2019

Location: Minnesota Department of Labor and Industry

Attendance

Members present

Ken Askew
Duane Butorac (chairman)
Carl Crimmins
David Dubovich
Russell Gelfman (vice-chairman)
Steve Hollander
Richard Hills
Margaret Kasting
Alissa O'Hara
Paul Osterbauer
Scott Parker

Members excused

Dan McConnell
Laura Jerde
Steve Patton
Mary Wells

Visitors, DLI staff members present

Jon Brothen, DLI
Chris Leifeld, DLI
Mike Hill, DLI
Brad Morse, DLI
Brian Zaidman, DLI

Call to order

Chairman Duane Butorac called the meeting to order at 1:05 p.m. A quorum was present.

Approval of minutes

Butorac asked for a motion to approve the minutes from the Oct. 11, 2018 meeting. Scott Parker moved and Alissa O'Hara seconded to approve the minutes. A verbal vote was taken and the motion carried.

Approval of agenda

Butorac requested a revision to the agenda for Jon Brothen to give an update in conjunction with Minnesota Rules 5220.1900. Parker moved and Carl Crimmins seconded to approve the change; the agenda was then approved by verbal vote.

The chairman introduced Paul Osterbauer, D.C., to the group as the chiropractor representative who attended the most recent meeting by telephone. Today was his first in-person meeting with the group. The chairman announced several members have been reappointed to the Rehabilitation Review Panel (RRP) including: Laura Jerde, Mary Wells, Crimmins and Ken Askew.

Deputy commissioner's update – Chris Leifeld

Legislation and department updates

Deputy Commissioner Chris Leifeld announced the department's new commissioner, Nancy Leppink, officially began working Feb. 13. She was appointed by Governor Tim Walz and previously represented the department as an assistant attorney general and general counsel for 10 years. She is very familiar with the department's issues and goals. In addition, she served at the national level with the U.S. Department of Labor and, most recently, served as a branch chief for the International Labour Organization in Geneva, Switzerland.

In terms of a legislative update, the Workers' Compensation Advisory Council (WCAC) was scheduled to meet Feb. 13, but has been rescheduled to March 6. The department's focus for this year will be related to the Workers' Compensation Modernization Program. The other piece is related to the integration with the Office of Administrative Hearings' (OAHs') C-Track system and ensuring the Workers' Compensation Court of Appeals is part of that one system. Other than that, there are no other workers' compensation bills we have seen as yet from the Legislature.

Safety

Leifeld reminded the panel to take precautions while walking in the parking lot during the winter months because of icy conditions.

RRP member Richard Hills asked to speak to the panel. Hills reported that former longtime RRP Chairman Dr. Joseph Sweere has been diagnosed with brain cancer, is receiving treatment and is expected to recover. Hills asked for everyone's thoughts and prayers for Sweere and noted Sweere had granted him permission to speak about his illness.

Agenda Items

1. Minnesota Rules 5220.1900 – Jon Brothen

Brothen, the Compliance, Records and Training (CRT) director, discussed the department's plan to penalize insurers for late or nonpayment of rehabilitation provider invoices. This additional language was added at the end of 5200.1900, subpart 1g, to understand there are penalties under Minnesota Statutes §176.102 and Minn. Stat. §176.221, up to \$2,000 for each occurrence.

Crimmins asked where the penalty money comes from and if the money could be shifted to another area or purpose. Brothen responded that penalty monies are from insurance companies and go into the assigned safety risk account (ASRA). Margaret Kasting responded the ARSA money goes to workplace safety grants and are distributed to employers. She indicated SFM policyholders have used safety account money and, in her estimation, this account works the way it was designed.

With respect to the penalty process, O'Hara asked if at a settlement conference, and a provider asked for penalties, the mediator would make the decision about an invoice penalty or it would go to CRT for a decision. Brothen responded the request will be referred to CRT after the conference.

A rough draft of the process is attached to these minutes.

2. Workers' Compensation Modernization Program update – Brad Morse

Brad Morse, Workers' Compensation Modernization Program (WCMP) program director, was introduced and gave an update about WCMP for stakeholders that will be most impacted by the new system. Morse went through his slide presentation and explained some of the benefits of modernizing, which include being a single filing system for users, creating a self-service online system for claims, securing identification and documents for all stakeholders, and creating a single calendaring system for use by all parties.

Morse then asked CapTech representative Valerie Brophy to finish the presentation. Brophy indicated the system will go live in late July 2020, with several implementation phases to test the features prior to going live. During the implementation phase there will be an opportunity to engage different stakeholder groups to see what functions need more support and require training. Stakeholder groups, such as health care providers, qualified rehabilitation consultants (QRCs) and insurers will be invited to come in and test the system during live sessions. This phase will most likely occur later in 2019, depending on the feedback.

The slide presentation is attached to these minutes.

3. The 2017 Workers' Compensation System Report – Brian Zaidman

The chairman introduced Brian Zaidman, Research and Statistics, who presented a report concerning vocational rehabilitation statistics for the year 2017. He explained there has been a small decrease in the number of claims since 2009 and that medical benefits continue to be the largest expense overall since 2010. Zaidman indicated injured workers' wages are not keeping up with the statewide average weekly wage. With respect to registered QRCs and vendors, Zaidman reported a 30 percent reduction in the number providing services to injured

workers since 2003, while the number of indemnity claims and vocational rehabilitation claims since 2009 have been stable.

Leifeld asked if the decrease in the number of registered rehabilitation providers is of concern. There was discussion about that the overall age of QRCs is increasing and there needs to be younger workers entering the field to replace them. Some of the factors raised included: the number of hours spent training interns and associated costs; and the reduced enrollment of students in rehabilitation programs at Minnesota colleges.

The question came up about what can be done to encourage people to go into this field. Perhaps apprenticeship programs (as practiced in the trades) could be instituted to get more people into this field? Leifeld said that at the next meeting, the group could perhaps explore some of these options further. A suggestion was made to ask someone from the department's Apprenticeship unit to address the panel at the next or a future meeting.

The slide presentation detailing the *2017 Workers' Compensation System Report* is attached to these minutes.

4. Professional conduct complaint outcomes 2018 – Mike Hill

Mike Hill addressed the group regarding professional conduct complaints, reporting there were 14 complaints in 2018. Twelve of the complaints were for rehabilitation providers who didn't attend the mandatory QRC rehabilitation provider update in September. The training was made available via YouTube videos for three weeks, 24 hours a day and seven days a week. For 2018, there were 15 complaints reviewed and completed, which included seven letters of instruction, four stipulated agreements, three providers becoming inactive before the complaints could be resolved and one unsubstantiated complaint.

Attached is a report of the complaint outcomes from 2013 through 2018.

5. Retraining plan outcomes 2018 – Mike Hill

Hill reported that for 2018 retraining plan outcomes, there were 29 retraining plans submitted to DLI. Of the 29 plans, 10 were approved/ordered. Breaking this number down: seven of them were agreed upon plans that were approved; Alternative Dispute Resolution approved two plans; and OAH approved one plan. There were 15 settled files, plus one of the 10 approved files settled a month later, and the withdrawn plan settled. Based on this, a majority (17) of the 29 retraining plans settled.

Attached is a report of the retraining plan outcomes from 2013 through 2018.

Other

Butorac asked the panel if there were any agenda items for the April meeting in addition to further discussion about the reduction of registered rehabilitation providers and the possibility of someone from the Apprenticeship unit coming to a future meeting. Leifeld asked that Leppink be added so she might be introduced to the panel and discuss her vision for the department.

Next meeting dates

Butorac asked about the October meeting being switched back to Oct. 3, rather than Oct. 11, because there was no longer a workers' compensation conference conflict for the employer and insurer members. Parker made a motion to switch the October meeting to Oct. 3. Crimmins seconded the motion. A vote was taken and the motion carried.

Butorac announced the future meeting dates: **April 4, July 11, Oct. 3, 2019, and Jan. 9, 2020.**

Adjournment

Parker made a motion to adjourn the meeting at 2:35 p.m. and it was seconded by Crimmins. All voted in favor of the motion and the meeting was adjourned.

Respectfully submitted,
Patricia Rutz, executive secretary
Rehabilitation Review Panel