

Meeting minutes: Rehabilitation Review Panel

Date: July 11, 2019

Minutes prepared by: Executive secretary of the Rehabilitation Review Panel

Location: Minnesota Room, Minnesota Department of Labor and Industry

Attendance

RRP members present

Duane Butorac (chairman)
Russell Gelfman (vice chairman)
Roslyn Robertson
Carl Crimmins
David Dubovich
Steve Hollander
Margaret Kasting
Steve Patton
Mary Wells
Ken Askew
Richard Hills
Alissa O'Hara
Paul Osterbauer

Visitors, DLI staff members present

Tom Kieselbach, CWK Law Offices
Rob Otos, Paradigm
Chris Leifeld, DLI
Mike Hill, DLI
Patty Rutz, DLI
Brad Morse, DLI
Valerie Brophy, CapTech
Mike A. Anderson, QRC
Kate Berger, DLI

Call to order

Chairman Duane Butorac called the meeting to order at 1 p.m.

Approval of minutes

Butorac asked for a motion to approve the minutes from the April 4, 2019 meeting. Carl Crimmins made a motion and Steve Patton seconded the motion. A verbal vote was taken and the motion carried to approve the minutes.

Approval of agenda

Butorac asked for a motion to approve today's agenda. Crimmins made a motion to approve the agenda and Paul Osterbauer seconded the motion. A vote was taken and the motion carried to approve today's agenda.

Deputy commissioner's update – Roslyn Robertson

Legislation and department updates

Deputy Commissioner Roslyn Robertson said there are three significant outcomes of the legislative session pertaining to the Department of Labor and Industry (DLI).

- 1) There was action on the Workers' Compensation Advisory Council (WCAC) legislative proposal that resulted in funding to complete the Workers' Compensation Modernization Program (WCMP). For next year, the commissioner indicated the WCAC's discussions and agreements about legislative proposals must be prepared by the end of the calendar year. The commissioner's objective is to present the matters to the Legislature before the beginning of the session. WCAC has a number of meetings scheduled before the session to have a bill package ready to go for the next session.
- 2) The other outcome of the legislative session was the enactment of the wage-theft legislation. There are significant penalties for employers that fail to comply. There is also a criminal enforcement piece of the law that will be handled by the Attorney General's Office.
- 3) The department received \$1.2 million for the Youth Skills Training Program to address the worker shortage in Minnesota. It focuses on providing young workers an opportunity to get experience working in different environments.

The one significant item that did not pass during this legislative session was the Minnesota OSHA (MNOSHA) conformity language. Currently, the state of Minnesota is not in line with federal OSHA; the Minnesota penalty amount structure is less than the federal penalty amount structure. We have been directed to bring the penalties in line. It does not mean we have to go up as high as federal OSHA, but it does mean it has to be within a range. That will be part of our legislative agenda next year because it was approved by the governor's office already. Benefits of having the MNOSHA program versus the federal program are we are better positioned to respond to concerns raised in Minnesota and able to work with Minnesota employers more effectively than with a federal program. We also have additional resources because the federal government only pays for 50% of our MNOSHA program.

Another initiative is the commissioner is asking for identification of opportunities and challenges for each work unit within the department. Some of those questions are: Do we have the correct data to make good decisions; do we have the correct technology in place; are we being inclusive; do all citizens have access to the resources of the department; and do all stakeholders know the department exists? Each work unit is examining its work to look for the challenges and identify where there are opportunities. This will include reaching out to stakeholders to get input about our next legislative initiative during the next month or so, and starting to discuss next year's legislative agenda.

Video conferencing for the Rehabilitation Review Panel (RRP)

Unfortunately, the Minnesota Room does not support video conferencing while sharing presentations. Members can continue to phone in to meetings, but will not be able to view the presentations that are on the screen. We recognize we will have to explore this feature in the future.

Robertson said Kate Berger, DLI Office of General Counsel, was present to answer any questions about rulemaking updates. If there are any issues that need to be addressed immediately, about the rules interacting with DLI's Work Comp Campus project, we will prioritize them to ensure they keep pace with WCMP.

Agenda items

1) **Qualified rehabilitation consultant (QRC) decline – continued guest discussion: Thomas Kieselbach, of Cousineau, Waldhauser and Kieselbach; Rob Otos, Paradigm; and Mike Hill, moderator**

Mike Hill explained this is a continuation of the discussion that was begun at the April meeting to look at the 30% decline in the number of QRCs since 2003. Today, RRP is hearing from parties who represent the defense side of the issue. He introduced Rob Otos, vice president of operations, Paradigm. Otos' firm employs 60 QRCs and has a case management company. Also on the guest panel is attorney Thomas Kieselbach, who has been practicing in the area of workers' compensation. Kieselbach's firm represents employers, self-insured employers and insurance companies. Hill asked the panelists to talk about what their experience has been with the decrease in QRCs and offer an explanations of the movement in their opinion.

Otos said that since his company had merged two QRC firms, they had taken on three new QRCs. His firm has seen a slight increase in the number of rehabilitation after the 2013 law change, with more files going into statutory rehabilitation rather than disability case management, because the insurer does not want to lose the QRC-RN on the file. He now sees several of the firm's QRCs nearing retirement and leadership is on a hiring path to get some interns in place who can help as people are exiting their career. The need for QRCs is more in northern Minnesota than the metro area.

Otos indicated their preferential hiring requirement is for QRCs who are registered nurses (RNs). His firm serves national contracts and the larger insurance companies' contracts mandate they have a QRC-RN as the case manager. He indicated almost every state other than Minnesota requires an RN as a case manager. Registered nurses are a bit more difficult to recruit because they are already in their chosen field. There are exceptions, such as occupational therapists and vocational rehabilitation specialists with experience that they will hire. Otos indicated recruiting in his firm is done by word of mouth, so they are dependent on employees in the field to spread the word about recruitment.

Hill asked about the smaller QRC firms and what Otos sees regarding this movement. Otos indicated there are many solo practitioners who will be approaching retirement in the coming years and will face this same predicament. Otos did not believe pay is a prohibitive factor because salaries for case managers in Minnesota are pretty high in comparison to other states. He said stress is probably a bigger negative than anything in recruiting and retaining people in the industry. He said the future of the QRC industry is not a crisis now, but it is something that will have to be addressed eventually.

Otos indicated the term QRC "intern" does not spark confidence in their clients. Perhaps changing the title of those in training from "intern" to "conditional approval," which is not printed on every piece of documentation. Those who come in as interns often have master's degrees in vocational rehabilitation or occupational therapy,

or are a four-year RN. Most of the people are highly educated but, because they are labeled an intern, this sets them back in how they are perceived. He also explained younger people are used to more modern means of technology, such as sending documentation electronically. Perhaps as the department's modernization system changes, some of the technology issues can be resolved.

Kieselbach indicated he was not aware of a decline of QRCs, but, perhaps, the marketplace is driving the movement. Because there are only two referral sources, insurance companies and the plaintiff's bar, the marketplace stays stable. He said when there are complicated files or a catastrophic injury, he encourages insurers to assign a QRC. He feels a QRC represents all parties, is better able to see a wider picture and gets the injured worker back to work more quickly. Overall, Kieselbach said he believed Minnesota has a very good workers' compensation system.

Kieselbach also thought the label of "intern" could change, because it does have the connotation of someone who is not experienced and, therefore, not competent on their own. Maybe cutting back on the required number of hours interns need or scaling back the length of time before entering the field as a fully licensed QRC is what the industry needs to change.

2. WCMP update – Brad Morse, DLI, and Valerie Brophy, CapTech

Brad Morse and Valerie Brophy presented a slide presentation (attached as official record). Some key highlights of the presentation with Morse included the following.

- The project is on task to complete deployment for summer 2020.
- The project is on budget and entering the phase of engagement with stakeholders.
- Meetings with the Rehabilitation Provider Advisory Committee (RPAC) are ongoing every one to two months; some of this will include testing the system. Panel members were asked to invite rehabilitation providers to join RPAC to assist with the process.
- Morse explained the Work Comp Campus team is willing to present to any stakeholder group and answer questions regarding the new system.
- The main focus continues to be the injured worker and care has been given to make sure the system meets the needs of this group.
- Examples were shown of what the actual screen will show and how it will be interactive for users. The dashboard will also have a calendar feature for reminders.
- How the feedback feature will work and how problems will be resolved for users was explained.
- The system will be fully tested multiple times before going live.

3. 2020 RRP meeting dates

Butorac announced the proposed meeting dates for 2020: Jan. 9, April 2, July 9 and Oct. 1. Plus Jan. 7, 2021. Margaret Kasting made a motion to approve the meeting dates and Crimmins seconded the motion. A vote was taken and approved.

4. Annual chair and vice chair election

Butorac announced it is time for election of the RRP chair and vice chair. He asked for nominations from the members. Kasting made a motion that Butorac and Russell Gelfman maintain their positions for the next term as chairman and vice chairman, respectively. Crimmins seconded the motion. A vote was taken and all approved the motion.

5. Agenda items for next meeting

Butorac asked the panel if there were any other agenda items for the next meeting. Gelfman asked if there can be further discussion at the next meeting about the QRC decline and to discuss changing the name "intern" to identify the length of internship training needed and cost involved in training an intern. There was also some discussion suggesting RRP ask either QRC interns or QRCs at the beginning stages of their career to come to talk about some of the challenges and opportunities they have faced after entering this career field.

Butorac asked panel members with any other topics for discussion to contact either him or Hill.

Other

Next meeting date

Butorac announced the next meeting is Oct. 3, 2019.

Adjournment

Crimmins made a motion to adjourn the meeting and it was seconded by Patton. A verbal vote was taken, all voted in favor and the meeting was adjourned.

Respectfully submitted,
Executive secretary
Rehabilitation Review Panel