

## Meeting minutes: Medical Services Review Board

Date: July 16, 2020

Minutes prepared by: Anita Hess

Location: Online via Webex

### Attendance

#### Members present

Beth Baker, Chair  
Russell Gelfman  
Jeffrey Bonsell  
Joseph J. Schulte  
Erica Kuhlmann  
Todd Ginkel  
Natalie Haefner

#### Members absent

Dan Wolfe  
Lisa Hanselman  
Elisha Harris  
Buck McAlpin  
Bradley Kuzel  
Elizabeth Alm  
Matthew Monsein

#### Alternates present

Kimberly Olson  
Emily Bannister  
Tammy Bredahl  
Kevin Scott Wall

#### Alternates absent

Dave Nelson  
Laura Breeher  
Courtney Mitchell  
Keith Johnson  
Kathleen Gomez

#### Staff members present

Roslyn Robertson  
Ernest Lampe  
Anita Hess  
Lisa Wichterman  
Ethan Landy  
Kate Berger

#### Visitors present

None

### Call to order

The Webex meeting of the Medical Services Review Board (MSRB) was called to order at 4:10 p.m. by Dr. Beth Baker. Attendance was taken and Baker confirmed a quorum of members was met.

### Approval of minutes

A motion to approve the board's April 16, 2020, meeting minutes was made by Natalie Haefner and seconded by Todd Ginkel. The board voted all in favor. The motion carried.

### Approval of Agenda

A motion to approve the July 16, 2020, meeting agenda was made by Ginkel and seconded by Jeff Bonsell. The board voted all in favor. The motion carried.

## **Department update – Deputy Commissioner Roslyn Robertson**

Deputy Commissioner Roslyn Robertson thanked everyone for attending. She noted that following the governor's directive about COVID-19, Department of Labor and Industry (DLI) employees are still mostly working remotely, with approximately 30 people in the building. Construction Codes and Licensing Division testing has resumed at DLI. Mediations are being conducted remotely.

Robertson noted a second legislative special session has been called. DLI is continuing to negotiate areas of agreement to move a workers' compensation bill forward. No actions have been taken on the bill. Work Comp Campus is prepared to go live, and is on schedule and on budget.

## **Business**

### **Opioid prescribing work group – Dr. Ernest Lampe**

Dr. Ernest Lampe reviewed his presentation on the Opioid Prescribing Work Group at the Department of Human Services. It included: goals for 2020-2021; information about the process method of quality improvement; Institute for Clinical Improvement discussion; the Minnesota Hospital Association's Opioid Stewardship Program, Opioid Tapering Program and a review of current data.

### **COVID-19 statistics – Brian Zaidman**

Brian Zaidman reviewed his COVID-19 Workers' Compensation Claims Briefing PowerPoint presentation. In general terms, any first report of injury involving COVID-19 exposure as the nature of injury ignores what it is for, whether it is accepted or denied. There is a gap after the first report of injury is received, because it takes a few weeks for results to show up. Thirty percent of the claims have an initial denial. With health care workers and first responders, 90% of claims involve denied liability. One in three claims coming in were COVID-19 claims this summer.

The claims coming in, fall under the presumptive language. They were rebutted by the employer. Those who are being paid benefits who are not in the presumption had the employer say "we'll let it through." You must have testing done and be positive for COVID-19 to qualify for benefits. Presumption applies to diagnosis by a physician, since testing was difficult to get.

There are three or four fatalities in our system, but it's not accurate yet. We have a report for the Legislature due in mid-January about the results of the COVID-19 presumption law and workers' compensation denial and benefits; we will have a better idea then.

### **COVID-19 presumptive law overview – DLI Office of General Counsel**

Ethan Landy and Kate Berger, DLI Office of General Counsel, reviewed the recently enacted COVID-19 presumption law.

The presumptive law is effective on or after April 8. Listed occupations covered under the law are emergency response, corrections, health care, home care, long-term-care settings with direct COVID-19 care and, lastly,

child care providers for kids of first responders and health care workers. A worker must receive a positive lab test or a positive diagnosis by a licensed physician or registered nurse to fall under the presumption.

The date of injury will be the date employee was unable to work or was diagnosed. Berger explained this law shifts the burden of proof. This law says if the employee meets the requirements, the employer has to prove the employee's diagnosis of COVID-19 was not related to their job duties.

As noted in Zaidman's presentation, there have been a number of denials of presumption. DLI's Compliance, Records and Training is reviewing denials to make sure they meet the statute requirements.

DLI will provide a report to the Legislature in January. A special edition of *COMPACT*, about COVID-19, is coming out soon.

Zaidman noted claims from April are still open, so we do not have it all filed yet or seen any permanent disability. It will take a long time to get all the data. The insurance industry won't have any date for another year and a half. The same cases could come back with more illness.

## **New business**

The board would like to see traumatic brain injury (TBI) addressed more clearly in the treatment parameters. Discussion will be added to the October agenda.

## **Adjournment: Baker and board**

Baker thanked everyone for coming. Emily Bannister moved to adjourn the meeting. It was seconded by Kim Olson. All voted in favor. The motion carried and the meeting was adjourned at 5:26 p.m.

## **Next meeting dates**

- Oct. 8, 2020
- Jan. 21, 2021
- April 15, 2021