

Minutes: Workers' Compensation Advisory Council

Date: Jan. 13, 2021

Minutes prepared by: Executive secretary to the Workers' Compensation Advisory Council

Location: Webex meeting

Attendance

Members attended

Jason Bartlett
Colin Beere
Walt Frederickson
Maggie Hobbs
Doug Loon
Bill McCarthy
Ed Reynoso
Robert Ryan
Joel Smith
Gary Thaden

Legislative liaisons attended

Senator Paul Utke
Representative Mike Sundin

DLI staff members attended

Kate Berger
Pam Carlson
Richard Davis
Mike Hill
Karen Kask-Meinke
Ethan Landy
Brad Morse
Jessica Stimac
Lisa Wichterman
Laura Zajac

Visitors attended

Liam Bieber
Jonathan Boesche

Kathy Bray
Joel Carlson, MAJ
Thomas Coccia, MCIT
Aaron Cocking, IFM
Debra Driver
Karen Ebert, MCIT
Andrew Essling, MCIT
Jeremy Estenson
Carla Ferrucci, MAJ
Karen Johnson
Meg Kasting, SFMIC
Suzanna Kennedy, Stinson
John Kysylczyn
Brad Lehto, AFL-CIO
Patty Milun, WCCA
Branden Miller, MWCA
Phil Moosbrugger, Department of Commerce
Laura Mundt, Mayo Clinic
Deb Norsten, SFM
Kim Olson
Patty Prentice, LMCIT
John Reich
Joe Schindler, Minnesota Hospitals
Lauren Schothorst, Minnesota Chamber of
Commerce
Deb Sundquist
Jenny Starr
Lauren Weaver, Stinson
Gary Westman
Tom Wiatros
Adam Wolkoff

Call to Order and roll call

Commissioner Roslyn Robertson called the meeting to order at 10:05 a.m. A verbal roll call was taken and a quorum was present.

Approval of the minutes and agenda

Robertson asked for approval of the minutes from the Dec. 16, 2020 meeting. Doug Loon moved and Bill McCarthy seconded the motion to approve the minutes. A verbal vote was taken and the motion passed.

Robertson asked for a change to today's agenda. She requested item three (legislator proposal) be removed. Representative Ryan Winkler and Rep. John Huot were not available due to scheduling conflicts. She asked for a motion to amend today's agenda. McCarthy moved and Gary Thaden seconded the motion to approve today's amended agenda. A verbal vote was taken and the motion passed.

Agenda items

1. Robertson gave a department update. She indicated one of the responsibilities of the agency is to provide feedback to the Workers' Compensation Advisory Council (WCAC) about improvements to Work Comp Campus and C-Track. The department is not prepared at this time to make recommendations to the council concerning the systems. She asked WCAC to delay this recommendation until January 2022.

A motion was made by Loon and seconded by Robert Ryan that WCAC acknowledges and supports that the department will submit its recommendations to the council in January 2022. This also allows the members of WCAC to ask for updates during the year. A vote was taken and the motion passed. The minutes will reflect that the department has the support of WCAC that the Department of Labor and Industry's (DLI's) recommendations will be brought back to the council in January 2022.

Other updates included the following.

- The commissioner explained there are four main legislative initiatives this year. These are not directly related to WCAC, but are relevant to the department:
 - o adopt language for the Minnesota apprenticeship program to conform to the federal apprenticeship program;
 - o request a provision that would classify OSHA citations as public information as soon as the citation is received, currently Minnesota data privacy laws prevent the state OSHA website from publishing the citation until the citation is resolved;
 - o request a provision for the Construction Code Advisory Council to expand, adding two members to the advisory group representing energy and accessibility; and
 - o request a provision in child labor law asking that child labor data be regarded as private information.

2. Campus update – Brad Morse, DLI Workers' Compensation Modernization Program

Brad Morse reported the Work Comp Campus rollout was Nov. 2, 2020. It involved much training with stakeholders and interactive activities. Since the rollout, there have been some successes and challenges. The Campus staff continues to work with stakeholders who have challenges.

He went through the completed objectives, those in progress and future objectives.

A survey will go out next week to stakeholders to find their main topics of concern. Campus staff members can then start ranking the importance and priorities of the concerns.

Loon thanked the department for its efforts and indicated the Minnesota Chamber of Commerce is available to assist in any way, in terms of getting stakeholder feedback.

The presentation is attached to the minutes.

3. Legislator proposal – this was taken off the agenda due to the presenters not able to attend the meeting today.
4. Stakeholder proposals

Cost of medical records – Jerry Sisk and Joel Carlson, Minnesota Association for Justice (MAJ)

Jerry Sisk presented slides concerning the cost of medical records and the suggested amendments. The law has not been updated since 1990. Sisk said the cost of requesting medical records has gone up considerably since that time; this can become very expensive and this amendment is requesting that it be amended to include a \$10 retrieval fee and not a per-page fee. The cost has become a deterrent for representing injured workers. This is not only a deterrent to the attorneys, but it gets passed on to the injured worker and, in some cases, the employer and the insurance companies.

Loon indicated he would like to review this information further before making a decision about this proposal. Because some of this proposal deals with privacy with medical records, there are some items to consider and also look to what other states are doing in this regard.

The full report is attached to the minutes.

North Dakota exclusive remedy – Jerry Sisk and Joel Carlson, MAJ; Anne Green, North Dakota Workforce Safety and Insurance; and Steve Novak, Novak Consulting

Sisk is proposing that Minnesota Statutes 176.041, subdivision 5b, be repealed. He indicated that due to this statute, Minnesota workers have unfairly been denied Minnesota-based benefits for their injuries. He compared the benefits of Minnesota to North Dakota and showed how the North Dakota benefits can adversely affect a Minnesota worker.

Anne Green spoke about how this law has worked well for both states. Employers in both states have been able to employ workers and buy coverage in the state where work was being done. Commerce has continued to work well. Claims are being paid where the coverage has been purchased. There was full support when this law was passed in Minnesota.

Steve Novak said there was a need for this law when it was passed and felt it has continued to work well for both North Dakota and Minnesota. The current law allows a business from North Dakota to operate in Minnesota on a temporary basis and without full insurance coverage in Minnesota.

Maggie Hobbs asked if Green could provide the number of claims from North Dakota that could become Minnesota claims. Green said she could provide that data to the commissioner. Loon said seeing more data could help determine how this affects Minnesota workers. Also, Loon expressed his concern that harmony between Minnesota and North Dakota is important in terms of commerce. The commissioner said she would forward any material from Green to WCAC members to evaluate this further.

Minnesota Nurses Association – Mary Turner, president

Mary Turner spoke about the difficulty for nurses to receive workers' compensation benefits under the COVID-19 presumption law. Because some hospitals are not strictly isolating COVID-19 patients from the other units or COVID-19 patients are not diagnosed immediately, nurses are still getting exposed to COVID-19. She asked that WCAC keep nurses in mind and remember many health care professionals are still getting denied benefits from workers' compensation. She said she felt the presumption law for nurses contracting the virus is not sufficient.

Several WCAC members felt they need more information from those parties that are involved in these decisions of benefits. As WCAC moves forward with this issue, the department will try to provide information as it relates to the claims denied from COVID-19 exposure and from those workers exposed to COVID-19.

COVID-19 claims report – Brian Zaidman, DLI Research and Statistics

Brian Zaidman highlighted some items in his report, including:

- the number of COVID-19 claims surged in November and carried through December 2020;
- the presumption group workers accounted for 82% of COVID-19 claims; and
- health care worker claims dominate the trend.

Thaden asked for a full report of this presentation since the presumption alters the workers' compensation statistics. The commissioner said the full report will be sent to WCAC members Friday when it is sent to the Legislature.

The presentation is attached to the minutes.

ASC and HOFs study reports – David Berry, DLI Research and Statistics

David Berry briefly went through the slide presentation about the Ambulatory Surgical Center Payment System study and Hospital Outpatient Fee Schedule study reports and explained that the 80% compliance standard was not met. The commissioner said she would like the discussion to continue further and the department will work with providers to get to the 80% compliance. This discussion will continue.

The presentation is attached to the minutes.

DLI proposals – because the time of the meeting ran out, this item will be postponed.

Other business

The commissioner announced the next meeting is Feb. 10, 2021. In addition, there will be a meeting March 10. She proposed discussing the 2021 proposed legislation during the next meeting.

Adjournment

McCarthy moved and Colin Beere seconded a motion to adjourn the meeting. A verbal vote was taken and the meeting adjourned at 12:32 p.m.

Respectfully submitted,
Executive secretary