

**Workers' Compensation Advisory Council  
March 2, 2009  
Minutes**

**Voting members**

Wayne Ellefson  
Jim Gander  
Don Gerdesmeier  
Ryan Holmes  
Glen Johnson  
Bob Lux  
David Olson  
Susan Olson  
Peter Lewon for Elizabeth Shogren  
Gary Thaden  
Ray Waldron

**Nonvoting members**

Senator Joe Gimse

**Voting members excused**

Mike Bredeck

**Nonvoting members excused**

Representative Bob Gunther  
Representative Michael Nelson  
Senator Tom Bakk

**Staff members present**

Penny Grev  
Mike Hill  
Jayne Jones  
Julie Klejewski  
Donna Olson  
Carol Pankow  
Shawn Peterson  
John Rajkowski  
Steve Svinggum  
Patricia Todd  
Lisa Wichterman  
Jana Williams

**Visitors present**

Kathryn Berg, MNHLRP  
Randy Bradley, Alaris  
Doug Brown, Brown & Carlson  
Jeff Carlson, Brown & Carlson  
Chuck Cochrane, MNAJ  
Robert Capecchi, Cook Hill Girard  
Alexandra David, Winthrop & Weinstine  
Jeremy Estenson, MN Chamber  
Charlie Feenstra, MDLA  
Carla Ferrucci, MNAJ  
Kevin Gregerson, UCWCP  
Tom Hesse, MN Chamber  
Steve Hollander, MARP  
Angie Hunter, QRC  
Roger Johnson, RGN  
Judge William Johnson, OAH  
Judge Ray Krause, OAH  
Nancy Larson, MARP  
Carolyn Laviolette, Messerli & Kramer  
Brad Lehto, MN AFL-CIO  
Matthew Lemke, Winthrop & Weinstine  
Bob Lund, SFM  
Andy Morrison, Koll-Morrison  
Laura Mundt, Mayo Clinic  
Carol Norris, QRC  
Sara Noznesky, MMA  
Don Ostenson, VRS  
Rob Otos, Alaris  
Alissa O'Hara, QRC  
Ken Peterson, Fairpay Solutions  
Ray Peterson  
Jim Pikala, Arthur Chapman  
Kelly Rodieck, Attorney  
Greg Schmidt, MNHLRP  
Tim Searls, Searls &  
Erin Sexton, Medtronic  
Jerry Sisk, MNAJ  
David Sullivan, House DFL  
Dawn Marie VanHonse, QRC  
Elizabeth Wefel, MARP  
Mike Wilde, Local 49  
Melissa Williams, QRC  
Kelly Wolfe, LS&D

The meeting was called to order by Commissioner Steve Sviggum at 9:42 a.m. Roll was called and a quorum was present.

*Susan Olson made a motion to approve the minutes from the February 11, 2009, meeting. Jim Gander seconded the motion. All voted in favor of the motion and it passed on a voice vote.*

### **Opening:**

Sviggum began by announcing that the Office of the Legislative Auditor has completed their audit of the Workers' Compensation System and would be providing a brief overview. In addition, he had been contacted by two legislators and asked to allow a very brief presentation from the MN Natural Health Legal Reform Project. He reminded everyone of the WC Policy Conference that DLI is planning this summer in June and it will be held in the Brainerd area.

### **Legislative Auditor Presentation:**

Jim Nobles, Legislative Auditor, gave a brief overview of the Office of the Legislative Auditor and also the Legislative Audit Commission. The commission is a bipartisan commission of the legislature with equal representation from both the House and Senate Democrats and Republicans. Once topics are selected by the commission to be audited, the audit work is done independent of the legislature, and the report is solely the product of the OLA and their professional staff. He introduced Deborah Junod who gave a brief review of the Oversight of Workers' Compensation Report. You can access a full copy of the report by visiting the OLA's Web site at [www.auditor.leg.state.mn.us/PED/2009/workcomp.htm](http://www.auditor.leg.state.mn.us/PED/2009/workcomp.htm).

Thaden asked if at the WC Policy Conference this summer, members could get an update to the department's reaction to some of the OLA's recommendations. Sviggum agreed and stated the department is very much in harmony with the legislative auditor and their recommendations. He pointed out that some of the recommendations either made by the commissioner or the work group committees last summer, refer to some of the recommendations made by the legislative auditor in their report. He also added the department worked with the Office of Administrative Hearings on system reform of the dispute resolution process to make it simpler, more direct and more efficient for the injured worker, and a recommendation was brought forth. The department is currently working on creating a DVD for the injured worker as well.

### **MNHLRP Presentation:**

Kathryn Berg gave a brief presentation on the MNHLRP's support to repeal the 2008 language in the workers' compensation law that prohibits the payment of services rendered to injured workers by unlicensed healthcare providers in Minnesota. See Minn. Stat. § 176.135, subd 1b.

**Review of Draft Legislation for Discussion:**

Todd reviewed the draft legislation document dated March 2, 2009, and answered the members questions regarding the make up, membership and their alternates of the Medical Services Review Board and the Rehabilitation Review Panel. She also explained the expedited rulemaking in regards to the treatment parameters and clarified that this proposal would reduce the current 3 to 4 years it takes for the rulemaking process down to 1 to 2 years; it still needs approval by a judge; a hearing is still required if 100 comments are received; it does allow for new treatment options to be added or old treatment options to be removed in a more expeditious manner by reducing the time frame in half.

**Conclusion:**

Sviggum stated the department will draft and support the bill based upon what the members agreed upon today. If through the process there are agreed upon changes by the council, the council agreed those changes will be brought forth to the authors or the commissioner through members Waldron and D. Olson.

*David Olson made a motion that the 2009 legislation include items # 2 through 12 in Part I, and only #1 in Part II. Gary Thaden seconded the motion. All voted in favor of the motion and it passed on a voice vote.*

**Part I. Amendments recommended by the WCAC**

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| 2. Electronic medical bill and payment transactions and data.....      | 4    |
| 3. IMEs not to be performed in a hotel or motel .....                  | 6    |
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| 5. Incorporate court decision prohibiting credit against penalty ..... | 8    |
| 6. Workers compensation and OSHA injury reporting .....                | 9    |
| 7. Hearings must be held within 26 months .....                        | 10   |
| 8. Data sharing between state agencies .....                           | 11   |
| 9. Attendance at MSRB and RRP meetings by telephone.....               | 12   |
| 10. Education of compensation judges by DLI/OAH repealed .....         | 14   |
| 11. Recovery of costs by Special Compensation Fund .....               | 15   |
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**Part II. Proposals still under discussion by the WCAC**

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| 3. Treatment parameters statutorily enforced; expedited rulemaking .....       | 21 |
| 4. Unauthorized aliens.....  | 23 |
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| 6. Streamline dispute resolution and enhance ADR .....                         | 27 |
| 7. Occupational injury leave act and workers' compensation collaborative ..... | 38 |
| 8. Repealer and effective dates.....   | 50 |

It was discussed and agreed that the April WCAC meeting would be canceled unless any significant changes do come forth, then the commissioner would ask that the council meet.

***Glen Johnson made a motion to adjourn at 11:01 a.m. Gary Thaden seconded the motion. All voted in favor of the motion and it passed on a voice vote.***

Respectfully submitted,

*Julie Klejewski*

Julie Klejewski  
Executive Secretary