

## Meeting minutes: Workers' Compensation Insurers' Task Force

Date: Sept. 18, 2019

Minutes prepared by: Carrie Rohling

Location: Minnesota Department of Labor and Industry

### Members present

Natalie Haefner  
Lee Ingrassia (via phone)  
Michael Johns (via phone)  
Meg Kasting  
Stacy Kohlhofer – Bethany Kriesler  
Steve Patton  
Rob Rangel  
Michael Schneider (via phone)  
Cheryl Tabbert  
Gary Westman  
John Wiatros

### Members absent

Mary Abraham  
Sean Curran  
Robert Johnson  
Michael Joyce  
Bobbi Pearson  
Cindy Van Eyll

### Visitors and staff members present

Jon Brothen  
Valerie Brophy  
Pam Carlson  
Ralph Hapness  
Karen Kask-Meinke  
Ethan Landy  
Nancy Leppink  
Chris Leifeld  
Brad Morse  
Donna Olson  
Melissa Parrish  
Roslyn Robertson  
Lisa Smith  
Julie Soderlund  
Jeanne Vogel  
Lisa Wichterman  
Brian Zaidman  
Laura Zajac

### Call to order

The meeting was called to order at 9:02 a.m. by co-chairman Rob Rangel. Announcements and introductions were made.

### Approval of the agenda

The agenda was approved by all.

## Approval of the minutes

Meg Kasting moved to accept the May 22, 2019, meeting minutes. Cheryl Tabbert seconded. All approved. Motion passed.

## Department and legislative update

Deputy Commissioner Roslyn Robertson introduced herself and provided safety announcements, including the building layout and reminding visitors to park in the front lot or the visitor lot. The Department of Labor and Industry (DLI) may make future renovations with security in mind.

Commissioner Nancy Leppink appointed two members to her cabinet: Nicole Blissenbach is the assistant commissioner of enforcement and compliance strategies; and Naheeda Hirji-Walji is the assistant to the commissioner for public engagement and outreach. Another important introduction is that the Office of Administrative Hearings (OAH) appointed Chief Administrative Law Judge Jenny Starr. Leppink met with Starr and discussed the agency's vision. DLI will continue to work with OAH. Robertson shared the highlights of the Workers' Compensation Advisory Council with the group. When proposed legislation is ready, DLI will share it with the Workers' Compensation Insurers' Task Force (WCITF). The medical fee schedules have been updated and should be on the DLI website Sept. 18.

A legislative summary was included in the June/July edition of *COMPACT*.

## Workers' Compensation Modernization Program update

Brad Morse provided a presentation and update about the Workers' Compensation Modernization Program (WCMP). The program is a year from its go-live date. February and March will begin trading partner electronic data interchange (EDI) testing. It will be similar to the first report of injury (FROI) testing conducted for new trading partners that report via EDI. Regular DLI training is on hold until after the go-live date. Jon Brothen can provide more information about the training schedules and EDI. System training will be done three months before we go live. Robertson asked about the go-live date and Morse confirmed it is set for no later than Aug. 31, 2020. There will be a mix of training options, including in person, webinars and more. There will be materials available after training. John Wiatros asked what kind of support services DLI will have. Morse said DLI will have resources and contacts available. Morse shared that the top stakeholder feedback has led to forms changes, system login requirements and the entity group management model.

## Post-traumatic stress disorder (PTSD) rulemaking update

Ethan Landy provided the group with an update about PTSD rulemaking. A draft can be found at [www.dli.mn.gov/about-department/rulemaking/rulemaking-docket-minnesota-rules-chapter-52216700-2019](http://www.dli.mn.gov/about-department/rulemaking/rulemaking-docket-minnesota-rules-chapter-52216700-2019). The goal is that by late October or early November, DLI will publish in the *State Register*. Landy briefly explained the rulemaking process and indicated the group should feel free to contact him or Laura Zajac if they have any questions.

Robertson asked if there is anything significant that stands out. Landy said the new rules and treatment parameters do include mental injuries. The rules may look a little different and he recommended stakeholder review. Wiatros asked if there were differences of opinion. Landy indicated there were some discussions in front of the Medical Services Review Board (MSRB) pertaining to how long treatment can last and requirements for people to get additional treatment and the duration of psychotherapy treatment. Wiatros asked if there are provisional exceptions to the rules – or departures – or if merit of the rules on cases that are litigated or denied. Landy confirmed that is correct. Natalie Haefner asked when the statement of needs and reasonableness (SONAR) will be published. Landy explained an expediated rulemaking process does not require a SONAR, but that the rules will be reviewed by OAH.

## Concussions – Trends

Brian Zaidman discussed concussion trends and shared situations in which concussions occur. Indemnity claims have increased in 2018; concussion claims are 2% of all indemnity claims. A fall on the same level was the leading event of concussions. Occupations with the most concussions are transportation and material moving, followed by education, training and library. Industries with the most concussions are health care and social assistance, followed by education services. The report is only for indemnity claims. Concussions appeared in more of the younger workers, with highest from ages 25 through 34. Women had higher indemnity claims for concussions only. Robertson ask how Minnesota compares with other states; Zaidman said nationally, Minnesota is consistent with the increase.

## Case law

Landy provided a case law update and a handout was provided about the Supreme Court decision Smith v. Carver County pertaining to the diagnosis of PTSD. Diagnosis must be made by a licensed psychiatrist or psychologist. Landy also reviewed Noga v. Minnesota Vikings that involved dementia. This case involved more of a notice and an employer's inferred understanding of having notice of an injury. Landy commented that Noga is a very complicated case. The actual decision that was made was less about a concussion and more about the actual injury. Noga was a football player when the injury happened and concussion awareness was not as prevalent. WCITF can talk about the case more during the November meeting.

## Other business

Wiatros requested to review the membership status and have a general inquiry to all members to gauge their interest. Robertson agreed.

Robertson asked for agenda items. Tabbert would like to see more information about Work Comp Campus and R3.1 (such as who is doing what and what the differences are). Kasting would like to go through a business scenario regarding R3.1. The group would like to hear from Compliance, Records and Training and what the questions are that it is getting. Ralph Hapness could provide a compliance update. Haefner would like an ombudsman update and any calls or trends. Wiatros asked about the new OAH system and how it's working. Robertson said maybe Starr could be on the agenda for November; she will send her an invitation.

## **Adjournment**

The meeting was adjourned at 10:27 a.m.