

Workers' Compensation Advisory Council
Jan. 18, 2012
Minutes

Members

David Olson
Glen Johnson
Larry Rice
Mike Bredeck
Rep. Andrea Kieffer
Rep. Tim Mahoney
Robert Lux
Ryan Holmes
Sen. Ken Kelash
Sen. Ted Lillie
Shar Knutson
Susan Olson
Walter Frederickson

Charlie Feenstra
Chris Leifeld
Cristine Aleveida
Dan Wolfe
Danielle Bird
David Berry
David Brown
David Sullivan
Dawn Carlson
Dee Torgerson
Dena Searce
Donna Olson
Doug Brown
Elizabeth Wefel
Gary Hall

Karen Ryba
Kate Berger
Kathryn Berg
Kathy Hanson
Kelly Rodieck
Kris Eiden
Lisa Smith
Lisa Wichterman
Lorelei Hoyer
Mark McCrea
Mary Bell
Mary Krinkie
Micki Mathiesen
Mike Hill
Nancy Larson
Peter Thrams
Phil Moosbrugger
Ray Bohn
Sandra Bodensteiner
Shem Giorgio
Steve Hauer
Tim O'Malley
Tom Hesse
Victor Johnson
Wendy Legge

Visitors and DLI staff members

Anna Thompson
Ben Weber
Bev Turner
Bill Boyer
Brad Lehto
Brian Zaidman
Brett Krumhartt
Buzz Cummins
Carol Pankow

Greg Schmidt
Heather Keenan
James Heer
Jason George
Jeremy Esfenson
Jessica Stimac
Joel Carlson
John Rajkowski
Karen Ebert
Karen Kaske-Meinke

I. Call to order and roll call

The meeting was called to order by Commissioner Ken Peterson at 9:40 a.m. Commissioner Peterson welcomed all and thanked the members for attending. A roll call was taken and a quorum was established. Commissioner Peterson introduced and welcomed new members: Walter Frederickson, executive director of the Minnesota Nurses Association (labor representative) and Larry Rice, Lakeland Nurseries/Stonefield Construction (business representative) appointed by Sen. Thomas Bakk.

II. Approval of previous meeting minutes

A motion was made by Shar Knutson to approve the June 8 and Sept. 14, 2011, meeting minutes, seconded by Mike Bredeck. All voted in favor and the motion was carried to approve the meeting minutes.

III. Approval of agenda

The topic of the proposed legislation (for the Amish) was removed from the agenda and was replaced with spinal procedure costs and practices. A motion was made, seconded and carried to approve the Jan. 18, 2012, agenda with changes.

IV. New business

- a. **Office of Administrative Hearings:** Assistant Chief Judge Tim O'Malley
 - i. **Repeal of age limit for Office of Administrative law judges** – Minnesota Statutes §14.48, subd.4, requires that administrative law judges and workers' compensation judges retire at age 70. Two administrative law judges filed a complaint with the Equal Employment Opportunity Commission (EEOC) alleging the statute is discriminatory under the federal Age Discrimination Act of 1975. EEOC determined Minnesota Statutes §14.48, subd.4, does, in fact, violate the federal Age Discrimination Act. After discussion with the Attorney General's Office, DLI, the governor's office and EEOC, the conclusion is to repeal Minnesota Statutes §14.48, subd.4. **Recommendation: Repeal Minnesota Statutes §14.48, subd.4.** A motion was made by Sen. Kelash and seconded by David Olson; all voted in favor and the motion was carried to support the repeal of Minnesota Statutes §14.48, subd.4.
 - ii. **Occupational diseases case scheduling** – A process was put in place within the past two years that has proved to be a very efficient method of handling these cases and has significantly improved the pace of occupational disease cases heard at the Office of Administrative Hearings (OAH). Two standing orders, supported by members of the bar and DLI, were reviewed by the council. **Recommendation:** Sen. Ken Kelash made a motion that the council members support the use of the orders, which was seconded by Robert Lux; all voted in favor and the motion was carried.
 - iii. **Case management system** – The status of OAH's new case management system was presented. A request for proposal (RFP) to customize the software (to link to DLI's imaging system) was made and the Macro Group has been identified as a vendor. The project is on track to be completed before June 2013 and is well under the \$600,000 budget. Project updates will continue to be provided to the council in the coming months.
- b. **Legislative proposal – Amish exemption:** Attorney Philip Villaume and his clients were not able to attend today's meeting.
- c. **Workers' compensation summit, June 12 and 13, 2012** – The conference is scheduled to be at Cragun's Resort and Hotel in Brainerd, Minn. Commissioner Peterson asked for a motion approving the costs of members who wish to attend. Mike Bredeck made a motion to approve member expenses at the workers' compensation summit, which was seconded by Sen. Kelash; all voted in favor and the motion carried. Members are to contact the commissioner's office if they wish to attend; more information will follow. Discussion topics during the summit are to be forwarded to the commissioner's office.
- d. **Research update:** Brian Zaidman and David Berry, DLI Research and Statistics
 - i. Brian Zaidman presented a 2009 report by the Office of the Legislative Auditor (OLA), *The oversight of workers' compensation report summary*, dated February 2008. A survey was taken of injured workers and how voluntary settlements affected them. Seven hundred surveys were distributed and approximately 171 responses were received. Based on their finding, a recommendation was made that DLI track outcomes for workers who have settled claims and how such agreements were approved to ensure voluntary settlements are in the workers' best interests. DLI is preparing its own survey to better understand what actions to take. The focus will be on voluntary aspects of settlements, the workers' understanding of the benefits they are able to receive and their understanding of the settlement terms. In addition, workers who took their settlement to a hearing will be surveyed. There will be 1,500 workers surveyed, who have had settlements and findings and orders within the past year. The results will be reported early in the summer 2012. Based on the findings, the department will develop educational material for injured workers, understand which workers to target for additional training, make adjustments to our dispute-resolution practices, mitigate issues identified by the workers and be

able to start asking informed questions about what criteria may need to be adjusted for approving settlements.

- ii. David Berry presented findings from the Workers' Compensation Research Institute's (WCRI) *CompScope* reports for Minnesota. WCRI conducts studies about the workers' compensation system performance in different states and analyzes workers' compensation cost drivers over time. Currently, there are 16 participating states, with Minnesota being a recent member. The data comes from insurers, self-insurers, the assigned risk plan and a few labor organizations, adjusted to represent total claims. Wage differences, indemnity benefits and differing system features have been adjusted. Two reports highlighted are: overall benchmarks and medical costs. The studies are copywrited, but members of the Workers' Compensation Advisory Council may have copies of the reports (contact David Berry at david.berry@state.mn.us or Brian Zaidman at brian.zaidman@state.mn.us).

V. Future agenda item

- a. Spinal procedure costs and practices – The Medical Services Review Board (MSRB) has been asked to review procedural costs, and the council will be talking about those statistics and procedures.

VI. Meeting schedule

March 14 will be scheduled for the WCAC to meet, unless any legislative issues arise, then Feb. 8 will be the next meeting date. An announcement will be sent to the council in advance.

VII. Adjournment

Commissioner Peterson asked for a motion to adjourn. Glen Johnson made the motion, which was seconded by David Olson; all voted in favor of the motion and it was passed on a voice vote. The meeting adjourned at 10:55 a.m.

Respectfully submitted,

Pamela McLaughlin

Pamela McLaughlin, executive secretary