

## Minutes: Workers' Compensation Advisory Council

Date: April 12, 2022

Minutes prepared by: Alyssa Westergard, executive secretary to the Workers' Compensation Advisory Council

Location: Webex meeting

### Attendance

#### Members attended

Bill Gschwind  
Maggie Hobbs  
Doug Loon  
Gary Thaden  
Kevin Yakes  
Colin Beere  
Bernie Burnham  
Edward Reynoso  
Robert Ryan  
John Thorson

#### Legislative liaisons attended

Rep. Tony Albright  
Sen. Paul Utke  
Sen. Jason Isaacson

#### DLI staff members attended

Commissioner Roslyn Robertson  
Assistant Commissioner Kate Daly  
Assistant Commissioner Kate Perushek  
Ethan Landy  
Jessica Stimac  
Chris Leifeld  
Gretchen Longbehn  
Laura Zajac  
Patricia Munkel-Olson  
Julie Klejewski  
Alyssa Westergard  
Karen Kask-Meinke  
Jeanne Vogel  
Jon Brothen

Pam Carlson  
Christopher Raymond  
Carey Wagner  
Brian Zaidman  
Hared Mah  
Josiah Moore  
Lisa Wichterman  
Ann Tart  
Sonya Herr

#### Visitors attended

Brad Lehto, AFL-CIO  
Lauryn Schothorst, Minnesota Chamber of Commerce  
Sophie Thaden  
Sen. Jeff Howe  
Lauren Weaver  
Rep. Jamie Long  
Rep. Debra Kiel  
Tyler Treichel, Stearns County  
Adam Wolkoff, Office of Administrative Hearings  
John Kysylczyn, K Solutions LLC  
Suzanna Kennedy, Stinson LLP  
Doug Anderson  
Jenny Starr  
Chris Parsons  
Patricia Milun  
Daniel Gillis  
Deb Norsten, SFM  
Mark Johnson, Minnesota Senate  
Patrick Hynes  
John Swenson, City of Lino Lakes  
Kathy Bray, SFM Mutual Insurance Company

John Pasowicz  
Sarah Hunter, SFM  
Katie Kottenbrock  
Gary Westman, Department of Administration  
Carla Ferrucci, MAJ  
Andrew Essling  
Karen Ebert, MCIT  
Laura Mundt  
Bridget Loser, Metropolitan Council  
Paul Nasvik, MICA  
Amy Strenge, PERA  
Darin Richardson  
Tiffany Grzybowski  
Joel Carlson  
Auntara De, MWCIA  
Bette Zerwas  
Jessica Stoeckman, SFM  
Denise Dittrich  
Bill Keller  
Jonathan Boesche  
Bruce Kleven, Kleven Law Office  
Brandon Miller  
Anne Finn, League of Minnesota Cities  
David Kaiser, SFM  
Craig Janezich  
Lora Setter, LMCIT  
Holly Dayton  
Amy Erving, Mackinaw Administrators LLC

Jessica Nyman  
Anna Shimanski  
Kara Huberty  
Andrew Morrison, Koll Morrison  
Frankie Johnson, Rice, Walther and Mosley, LLP  
Evan Cordes, Aafedt Forde Gray Monson and Hager,  
P.A.  
Carrie Jacobson, Brown and Carlson  
Liam Bieber, League of Minnesota Cities  
Nick Zerwas  
Lindsey Rowland, Meuser Law  
Shawna Holewinski, Hennepin County  
Kevin Etzler  
Helen Roberts, Minnesota House of Representatives  
Katie Kottenbrock  
Kari Schaffer, Anoka County  
Jim Mortenson, Law Enforcement Labor Services  
Elise Busse, Messerli Kramer P.A.  
Matt Hilgart  
Marta James, House Research Department  
Jennifer Wolf, MWCIA  
Stephanie Balmer  
Amy Nesemeier, Agrasure  
Randy Furst, Star Tribune  
Steve Scharfenberg, SFM  
Andrea Everling  
Dan Greensweig, League of Minnesota Cities  
Danny Ackert, Minnesota Hospital Association

## Call to order

Commissioner Roslyn Robertson called the meeting to order at 1:04 p.m. A roll call was taken and a quorum was present. Pursuant to Minnesota Statutes § 13D.021, the meeting was held remotely because an in-person meeting was “not practical or prudent” due to the ongoing COVID-19 health pandemic.

## Meeting minutes and agenda

The commissioner asked for approval of the Feb. 1, 2022 minutes and the April 12, 2022 meeting agenda. A verbal vote was taken and the motion passed.

## Agenda items

### 1. Overview discussion about Sen. Isaacson proposal: COVID-19 presumption – one-time worker payment establishment and appropriation.

Sen. Jason Isaacson provided the council with an overview of his proposed bill, which is a one-time payment to workers who fell within the “gap” of the presumption period, Jan. 1 through Feb. 3, 2022. He said he felt the Legislature was responsible for the gap in coverage and that something should be done for the workers in this gap.

Isaacson made clear his bill was funded from the General Fund and not by workers’ compensation.

Maggie Hobbs asked whether the bill was a reimbursement, which could then be considered a compensable workers’ compensation claim. She also inquired of the process and eligibility. Isaacson said the bill avoided workers’ compensation; therefore, no workers’ compensation claim would be made.

Isaacson noted the commissioner would be directed to send a letter to workers who fell within “the gap” and, if the worker met certain requirements, the worker would have the option of applying for the benefit. If the worker satisfied all of the requirements, the worker would receive a lump-sum payment to cover lost wages or vacation time used. The lump-sum payment would not be considered an admission of liability on behalf of the employer. The funds would come out of the General Fund.

### 2. Discussion about Rep. Long’s and Sen. Howe’s duty disability bill

Rep. Jamie Long provided the council with an overview of his bill. He said the number of claims among public safety officers in the past two years have tripled and 80% of those claims have been for post-traumatic stress disorder (“PTSD”). He also said the average age of PTSD claimants was 42, which meant a loss of many public safety employees in the prime of their work life. It also means employers face huge financial payouts for both ongoing medical insurance costs and the costs of backfilling the position openings.

Long pointed out the three main goals of the proposal. The first is to support PTSD prevention efforts. The second is to provide financial support for local governments to help cover benefit costs. The third is to prioritize treatment for employees who are struggling with PTSD. For the first goal, the proposal would require employers to provide wellness training or peer support programs. For the second goal, financial support would be contingent on local governments providing this required PTSD prevention support. The bill would also fully reimburse public employers for the costs of the continued health insurance benefits for disabled employees. For the third goal, the bill would put treatment first. A shared goal should be providing treatment that helps employees, who have invested so much in their career, to return to work whenever possible. It would require the individual seek up to 32 weeks of treatment before pursuing disability status. The bill does not take workers’ compensation benefits away from injured employees.

Dan Greensweig, administrator, League of Minnesota Cities Insurance Trust, addressed the council. He said PTSD is the single largest workers’ compensation cost for members across all job classes, with incurred costs

of more than \$37 million since it became compensable. He said the workers' compensation system isn't designed to adequately address injuries or diseases like PTSD.

Sen. Jeff Howe addressed the council. He said the 14-day timeline, from submitting a first report of injury (FROI) to receiving a PTSD diagnosis, was problematic. He said he felt every traumatic event should have a FROI filed. Howe said he felt preventive treatment would be extremely beneficial in reducing future costs and issues.

Bernie Burnham asked Howe if he wanted to change the 14-day filing deadline. Howe replied he believed the 14-day deadline for filing a PTSD claim should be extended to 45 days.

Edward Reynoso addressed the council. He said he believed a much broader and in-depth conversation was needed about the bill before the committee recommended this bill.

Lindsey Rowland, attorney, Meuser, Yackley and Rowland, addressed the council. She said there was no reason to presume employers and insurers would provide the additional benefits being proposed if they continued to deny PTSD claims.

Nick Zerwas, Jacobson Law Group, addressed the council. He asked about the high number of PTSD denials. Long responded to these concerns. Greensweig also commented about the denials and the statistics surrounding them.

### **3. Overview discussion about Rep. Kiel's and Sen. Johnson's proposal: Agriculture employees wage calculation modification.**

Rep. Debra Kiel asked Bruce Kleven to give an overview of the proposal. Kleven noted his proposal was for the harvest period for sugar beets. He explained the harvest period for sugar beets is only two weeks and, generally, people take two weeks of vacation from their regular jobs to go to work on the harvest. Kleven said the two-week harvesting period is added to an employee's regular pay, resulting in a much higher the employee's average weekly wage calculation. The bill would allow an employee to choose to exclude the two-week harvesting period wages from their average weekly wage calculation.

## **Other business**

The commissioner introduced and welcomed Bernie Burnham, the new president of the AFL-CIO, to the council. Burnham addressed the council and said she is enjoying her new position immensely and is happy to stand up for and with workers. She looks forward to the continued work and partnership with the other members of the council.

The next meeting is June 8.

## Adjournment

Robertson thanked the members for their input and service to the council. The meeting was adjourned at 2:34 p.m.

Respectfully submitted,  
Alyssa Westergard, executive secretary