

## Meeting minutes: Workers' Compensation Advisory Council

Date: Jan. 10, 2024

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

Location: Department of Labor and Industry, Minnesota Room, 443 Lafayette Road N., St. Paul, MN

### Attendance

#### Members attended

Bill Gschwind  
Brad Lehto  
Burt Johnson  
Colin Beere  
David Henrich  
Doug Loon  
Ed Reynoso  
Gary Thaden  
John Thorson  
Maggie Hobbs  
Matthew Schmidt  
Robert Ryan  
Rep. Joe McDonald  
Sen. Jennifer McEwen  
Sen. Paul Utke

#### DLI staff members attended

Commissioner Nicole Blissenbach  
Assistant Commissioner Kate Daly  
Alyssa Westergard  
April DelCastillo  
Bretta Hines  
Brian Mak  
Carey Wagner  
Chris Leifeld  
Denise Holmes  
Donna Olson  
Emily Streier  
Ender Kavas  
Ethan Landy

Hared Mah  
Jeanne Vogel  
Jennifer Bucholz  
Jerrica Walker  
Jessica Stimac  
Jon Brothen  
Josiah Moore  
Karen Kask-Meinke  
Keith Rear  
Laura Zajac  
Lisa Wichterman  
Melissa Parish  
Mike Hill  
Nancy Wallrich  
Pam Carlson  
Peggy Charpentier  
Sharon Kirscher  
Yuri Jelokov

#### Visitors attended

Adam Wolkoff, Office of Administrative Hearings  
Alison Khan, WCRA  
Ames Gascoigne, Wilson McShane  
Andrea Everling, MWCIA  
Andrea Rau, Winthrop  
Andrew Essling, MCIT  
Andrew Morrison, SISF  
Auntara De, MWCIA  
Brandon Miller, SISF  
Claudia Brewington, MICA

Dana Gerber, Atkinson Gerber  
Daniel Gillis  
Deb Norsten, Hennepin County  
Gary Westman, ADM  
Hannah Alstead, Minnesota Teamsters  
James Heer, WCRA  
Jenny Starr, Office of Administrative Hearings  
Jerry Sisk, MAJ  
Jessica Stoeckman, SFM  
Joe Schindler, MHA  
John Hollick, SFM  
John Reynolds, NFIB  
John Wiatros, Mackinaw Administrators  
Kathy Bray, SFM  
Katie Storms, MDLA/Lind Jensen  
Laura Mundt, Mayo Clinic

Lauryn Schothorst, Minnesota Chamber of  
Commerce  
Mark Freeman, Teplinsky Law Group  
Michael Lewis, Workers' Compensation Court of  
Appeals  
Michael Tupy, Hennepin County  
Nicole Van Heel, Bauer Design Build  
Patricia Milun, Office of Administrative Hearings  
Peter Lindquist, SFM  
Rebecca Yang, WCRI  
Sophie Thaden  
Stacie Goodrich, CompRehab  
Suzanna Kennedy, Stinson LLP  
Thomas Peterson, LMC

## Call to order and roll call

Commissioner Nicole Blissenbach called the meeting to order at 9:34 a.m. A roll call was taken and a quorum was present.

## Approval of the minutes and agenda

Gary Thaden moved to accept today's agenda and Brad Lehto seconded the motion. A roll call vote was taken and the motion carried. Doug Loon moved to accept the minutes from Nov. 8, 2023, and Colin Beere seconded. Another roll call vote was taken and the motion carried.

## Announcements

Assistant Commissioner Kate Daly announced she is leaving the Department of Labor and Industry (DLI). Daly's last day with DLI will be Feb. 9, 2024.

Assistant Commissioner Daly updated the council about the post-traumatic stress disorder (PTSD) study. DLI has received feedback from stakeholders who want to be heard as part of this study. Daly noted DLI's website has been updated with information about how stakeholders can get involved with the study.

Assistant Commissioner Daly updated the council about the MAJ and MDLA proposals. DLI asked both entities to submit joint proposals to DLI by Jan. 31.

Commissioner Blissenbach thanked Assistant Commissioner Daly for her work on the council and with DLI. Council members voiced their appreciation for Daly's work as well and wished her well in her future endeavors.

## Agenda items

### 1. **Workers' Compensation Court of Appeals (WCCA) legislative proposals – Chief Judge Patricia Milun, WCCA**

Chief Judge Milun thanked the council for the opportunity to speak and introduced Michael Lewis, who also presented on behalf of WCCA.

WCCA presented two proposals to the council. The proposals allow WCCA to adopt more specific rules for electronic filing and service. The first proposed change is to Minnesota Statutes 176.2611, subdivision 7; the second proposed change is to Minn. Stat. 176.285, subd. 2(a). The proposed changes ensure the timeline outlined in Chapter 14 related to rulemaking authority do not apply to WCCA.

Both Thaden and Lehto asked for clarification regarding the 18-month timeline and the appropriation of funds. Lewis provided more information and noted WCCA had published a request for comments but had received no comments. Lewis anticipated receiving questions and comments when the WCCA published the notice of adoption.

### 2. **DLI legislative proposals – Ethan Landy, DLI Office of General Counsel**

Ethan Landy noted that most of DLI's proposals were technical and related to language the council recommended last session.

DLI's first technical proposal is to Minn. Stat. 176.101, subd. 2a, relating to permanent partial disability (PPD). DLI proposes removing language from section (b) to clarify and mirror language from prior versions for the law.

DLI proposes changing Minn. Stat. 176.104, which relates to the role of DLI's Vocational Rehabilitation unit (VRU). The change addresses claims where there is a dispute regarding the discontinuance of benefits. The proposed language would provide clarity for VRU about whether it should move forward with providing services to an injured worker when a discontinuance has been filed. A few council members had questions regarding the specificity of this proposal and how often this situation occurs.

DLI proposes changing Minn. Stat. 176.129, subd. 10, which relates to the Special Compensation Fund and its penalty assessment process. The change brings one provision of the assessment rules – the process of which is mostly spelled out in statute – into the statute. Council members asked for clarification about the obsolete statute and the rules.

DLI proposes changing Minn. Stat. 176.135, subd. 7, as it relates to the recent language concerning electronic medical records requests. DLI would like to include language that third-party agents must also follow the statute. DLI is also proposing adding language regarding penalties for not adhering to the statute. DLI believes it would be beneficial from a compliance standpoint for a penalty to be included. Council members questioned the amount of the penalty.

DLI proposes amending Minn. Stat. 176.231, subd. 9a, the number of years an attorney is authorized to review a file. The authorization is valid for access to division files when the request is made by an attorney. The purpose of this change is to provide more continuity and help make the authorization requirements easier to program in Work Comp Campus.

DLI proposes amending Minn. Stat. 176.238, subd. 10, to increase the fine assessed to an employer up to \$5,000 for each violation. The council questioned whether the fine should be up to \$5,000 or a flat fine of \$5,000 per violation. The department will gather additional information to respond to the council's questions.

Finally, DLI proposes amending Minn. Stat. 176.275, subd. 1, regarding electronic filing. The proposed change allows DLI to request additional information regarding an employee's identity when requested to assign a new identification number. Both DLI and the Office of Administrative Hearings (OAH) have had issues regarding certain files that have a worker identification (WID) number assigned by DLI after a claim petition is filed at OAH. The purpose of this proposed change is to help eliminate duplicate identification numbers being assigned to the same employee.

## **Other business**

The next Workers' Compensation Advisory Council meeting is scheduled for Feb. 7, 2024.

## **Adjournment**

Thaden moved to adjourn the meeting and Bob Ryan seconded. A roll call vote was taken and the meeting adjourned at 10:49 am.

Respectfully submitted,  
Alyssa Westergard, executive secretary