

Meeting minutes: Workers' Compensation Advisory Council

Date: 3/18/2026
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 55155

Attendance

Members Attended

Bill Gschwind
Bob Ryan
Colin Beere
David Henrich
Doug Loon
Gary Thaden
Maggie Hobbs
Matthew Schmidt
Melissa Hysing
Robb Nelson

DLI Staff

Commissioner Nicole Blissenbach
Assistant Commissioner Jessica Stimac
Abdi Takhal
Alyssa Westergard
Alexis Johnson
April DelCastillo
Bretta Hines
Brian Mak
Carey Wagner
Denise Holmes
Donna Olson
Ender Kavas
Ethan Landy
Hared Mah
Jeanne Vogel
Joe Lolich
Jon Brothen
Jordan Trumbo
Josiah Moore
Ken McGurran
Larry Farrar
Laura Zajac

Lisa Wichterman
Melissa Parish
Nathaniel Corcoran
Nicole Kue
Nichole Sorenson
Sandy Stoddard
Sharon Benkufsky
Tom Garza

Visitors

Aaron Cocking, IFM
Adam Wolkoff, CAH
Ames Gascoigne, Wilson McShane
Andrew Essling, MCIT
Andy Morrison, SISF
Anna Kim, LMC
Anne Green, ND Workforce Safety and Insurance
Auntara De, MWCA
Brandon Miller, SISF
Carla Ferrucci, MAJ
Christopher De La Forest, Lobbyist
Daniel Gillis, MN Senate
Darin Richard, LMC
Deb Norsten, Hennepin County
Esther Yang, LMC
James Heer, WCRA
Jerry Sisk, MAJ
Jessica Palmer Denig, CAH
Jill Gustafson, Ram Mutual
Joe Schindler, MNHA
Joel Carlson, MAJ
John Wiatros, Mack Admin
Kara Huberty, LMC
Karen Clayton-Ebert, MCIT
Kathy Carlson, WCCA

Katie Storms, MDLA
Lauren Reller, Stinson
Lauryn Schothorst, MN Chamber
Melissa Larocca, WNINS
Michael Lewis, WCCA
Michael Tupy, Hennepin County

Owen Wirth, LMC
Rebecca Scepaniak, LMC
Sarah Feist, ND Workforce Safety and Insurance
Stacie Goodrich, Comp Rehab
Steve Hollander, Voc Rehab Associates
Veronica Walther, CAH

Call to Order and Roll Call

Commissioner Blissenbach called the meeting to order at 9:51 a.m. A roll call was taken, and a quorum was present.

Approval of the Minutes and Agenda

Bob Ryan moved to accept today's agenda, and the minutes from February 11, 2026. Doug Loon seconded the motion. The motion carried.

Announcements

Commissioner Blissenbach drew the council's attention to two items in their packets for today's meeting. One was the 2026 report on workers' compensation rates in Minnesota from the Department of Commerce, as well as a letter from Commissioner Arnold. The second was a letter from the Minnesota Association for Justice in response to the intoxication defense claim presentation from the last WCAC meeting. She added that if there were any questions or comments about either item, to let her know and it could be added to the agenda of a future meeting. She also noted that a presentation could be requested for the 2026 report from Commerce.

Commissioner Blissenbach also let the council know that there would be a vote at the April meeting on the proposals that had already been presented. Those included the proposal from the WCRA, the WCCA and the technical proposal from the department. She also noted that unless there were any objections from the council, the language that has already been presented will be sent to the revisor's office so that they can begin drafting it. No objections were raised.

Agenda Items

1. Reflection on Claim Petition litigation processes post 2023 legislation

Deputy Chief Judge Veronica Walther gave an overview of the Court of Administrative Hearings' (CAH) perspective on issues related to IME timing and extensions, the statutes that govern them, and the process and requirements for requesting an IME extension.

From January 1 through March 11 of this year there have been:

- 205 Agreements to IME extension
- 75 motions to Extend Time for an IME—and of those only 4 had objections filed and
- 74 Orders Extending IME Deadline, with most Orders noting no objection by any party.

Judge Walther also gave an overview of Motions for Continuance filed so far in 2026.

- 481 Motions for Continuance have been filed from January 1st through March 11th, and
- One Objection to Motion for Continuance filed.
- 19% of proceedings scheduled in 2026 were continued.

Judge Walther stated that she had discussed the IME timeline and data she had collected with other workers' compensation judges, and their observations were as follows: the anecdotal evidence matches the data and there was a limited impact from the 2023 law changes.

Other considerations that they discussed included:

- that medical records are increasing in volume and complexity, therefore taking more time to review;
- injured workers may see multiple different specialists, which can then cause difficulties or delays in either finding the right specialist for an IME or actually scheduling it if there are a limited number of doctors in that specialization;
- litigation strategy can also come into play from both sides.
 - Cases are often filed before the employee, or any other party is ready to proceed to hearing, in order to get a hearing date on the calendar.
 - Some parties may also prefer to discuss settlement before obtaining an IME. The results of the IME or narrative report can also cause delays.
 - Incomplete or vague claim petitions are being filed, and authorizations are often not being executed and returned in a timely manner.

Katie Storms next presented to the council on behalf of the Minnesota Defense Lawyers Association.

Storms stated that in her practical experience, the recent legislative changes to Minn. Stat. § 176.291 have not had much of an impact.

- Defense attorneys were given a remedy in statute to file a Motion to Dismiss and have attempted to avail themselves of this a number of times, but CAH has been extremely hesitant, if not unwilling, to act on it or dismiss the Claim Petition for a lack of foundation or support.
- As an example, earlier this month she received an incomplete Claim Petition
 - the benefits were undetermined, or to be determined, there was no First Report of Injury on file for the claim, and the medical records included with the Claim Petition were just a discharge summary that didn't list the injury that the employee was claiming.
 - She filed an Answer and brought a Motion to Dismiss, which is set for a hearing in May. However, in the meantime, she will still have to incur defense costs, and her client will still have to pay her to investigate the claim, including obtaining an IME because the hearing on her Motion to Dismiss is after the 120-day deadline for an IME.

- Storms also noted that the statutory changes provided a mechanism to provide authorizations in a more prompt and expedient manner, but again she does not think that this has had a benefit or impact on defense counsel.
 - The statute indicates authorizations are to be returned in 14 days, but Storms states they typically receive them within 30 days or will receive a discovery response that says authorizations will be provided under separate cover or sent once they are received from the employee.
 - Storms notes the issue with this statute is that the employer and insurer are left with no remedy to enforce it.

Another issue noted is that the system has gotten away from Minn. Stat. § 176.021, which indicates that the employee bears the burden of proof in demonstrating and proving entitlement to workers' compensation benefits. Rather, the Claim Petitions are indicting a work injury occurred and it is the job of the defense counsel to prove that it didn't.

Storms went on to comment on the 120-day filing deadline for IMEs under Minn. Stat. § 176.155.

- She agreed with Judge Walther that claims are getting more complex, medical records are getting longer, and medical treatment is also increasing.
- One thing that hasn't changed, however, is the number of IME providers. That, coupled with not receiving executed authorizations back in a timely manner, makes the 120-day deadline the bare minimum that defense counsel needs.
- One of the proposals the MDLA has been discussing is eliminating the deadline and in the alternative, making a blanket rule indicating all expert reports must be filed within 15 days of a settlement conference for both plaintiff and defense.

Storms was also asked by MDLA to bring up the issues and delays defense counsels have encountered with witnesses at IMEs.

- In 2023, the statute was amended to indicate that a witness for the employee's personal physician could attend the IME.
- Since that time, Storms has heard stories where a police officer has attended at the request of the employee's attorney and other independent medical evaluators hired by plaintiff's counsel have attended the IME. The issue with this is that their IME doctors were not advised beforehand, or counsel was not given an opportunity to inform the IME providers that this was occurring.
- Currently there is nothing in the statute allowing defense counsel to limit this and they are having difficulty getting IME providers to agree to still perform the examination.
- The MDLA believes that the statute is being used in ways it was not intended, and in ways that are not in line with what their intentions were at the time.

Council members had questions for Storms, and additional discussion ensued.

Jerry Sisk addressed the Council as the chair of the workers' compensation section of the Minnesota Association for Justice (MAJ). He noted that he had two topics of discussion, the first being how the IME process is being used to delay resolution of claims even after the 2023 changes to the statute, and the

second being the petitioner attorney's perspective on how recent statutory changes have played out in practice.

Sisk noted that the 2023 changes added important structure so that any request for a good cause extension must now be made within the 120-day window. However, even with the tighter extension, the 120-day framework has significant remaining gaps.

- Sisk stated that the broader structural problem is the total lapsed time from filing of a Claim Petition to an actual hearing is too long.
- When a case takes 12 or 18 months to reach a hearing, the claim evolves during that time. What was a primary liability dispute becomes a multi-issue case. Every month that passes without a final IME report is another month to claim a change or new issues and for the insurer to generate supplemental examinations.
- Delays don't just merely inconvenience the injured worker; it actively multiplies the complexity and the cost of the case for everyone in the system.
- The denial problem is at the root of this. They are seeing an increase in denials at the outset of claims, often issued without any medical support whatsoever. This matters in the IME context because the denial without medical support creates the false impression that the insurer needs the full 120-days or more to gather the medical evidence to support a position it already took. Sisk stated that the IME process in these cases is not being used to evaluate the claim, but rather it is being used to manufacture a post-hoc justification of a denial that was never medically grounded.

Sisk went on to note that the legislature anticipated this problem, as Minn. Stat. § 176.221, subd. 1, expressly provides that the insurer who commences payment of benefits does not waive their defense to the claim or waive any rights to any defense the employer has, making the process pay first, investigate and deny later if the evidence supports it.

- The current practice is deny first, obtain an IME, and use the timeline to run out the clock.
- Workers under financial pressure don't wait for a hearing on the merits. They settle, often for far less than their claim is worth because they can't afford to wait for a system that moves this slowly.

Sisk went on to describe the issues that remain with the 120-day timeline.

- The extension standard lacks verification.
- The examination to report gap. Once the examination occurs, the insurer has additional time to produce and serve the final report.
- Multiple supplemental reports and there being no deadline for these supplemental reports.
- Hearing dates that are scheduled far out in the future remove urgency. Even if the IME deadlines are tightened, the problem is compounded by how long it takes to get a hearing.
- The 120-day rule only applies to Claim Petitions; many other disputes, such as medical requests and rehab requests, lack parallel structure.

Sisk also addressed is the cost dimension of IMEs and delays.

- IME physicians are paid by the examination, IME vendors charge for each report, defense attorneys charge for reviewing each report and drafting correspondence.
- Each supplemental report adds thousands of dollars to the system cost, and that cost is ultimately flowed back through insurance premiums.

Sisk shared proposed changes that MAJ would like to see for the process, including:

- doing away with the 120-day deadline and replacing it with a tiered structure;
- a 30-day deadline for supplemental or rebuttable exams, with a 60-day deadline if it is a new exam; and
- verify good-cause extensions by having sworn detail showing multiple physicians had been contacted.

They also proposed extending the same structure to all disputes and considering fast-track liability hearings.

Council members had questions and additional comments. Sisk addressed them and additional discussion ensued.

2. North Dakota employer exception

Joel Carlson, lobbyist for MAJ, addressed the council regarding repealing a part of the law covered in Minn Stat. § 176.041 that MAJ feels is unfair to both employers and employees, and is also obsolete based on a change in North Dakota law.

Subdivision 5 of the statute defines temporary work as 15 consecutive calendar days working, and also 240 hours working for a North Dakota employer. MAJ feels that is unfair to the employee and is a benefit to North Dakota employers while also being a competitive disadvantage for Minnesota employers. Carlson went on to say that the reason he thinks this law is obsolete is that when it passed in 2005, North Dakota did not offer all states coverage to their employees. They have since changed that policy effective as of July 1, 2010.

Council members had questions for Carlson, which he addressed.

Anne Jorgenson Greene, Special Assistant Attorney General and Director of Legal Services for North Dakota Workforce Safety and Insurance, presented to the council on this topic as well. Greene stated she was involved in the passing of Minn Stat. § 176.041 back in 2005 and that it has been an effective tool. She noted that North Dakota is a monopoly. Prior to the enactment of this statute in Minnesota, a North Dakota employer had no ability to ensure their exposure in Minnesota was anything other than random, so they had to duplicate coverage in both states to ensure coverage. Greene said that if they didn't have coverage in Minnesota, claims were paid in Minnesota where no premium dollars were being contributed to the fund. She explained that with their other border states they have reciprocal agreements. However, they have never been successful in negotiating and implementing a reciprocal agreement with Minnesota. This statute helps to unburden the system by clearing petitions that have been filed in the wrong jurisdiction.

She also noted that this same initiative was raised by the MAJ back in 2021 and it was rejected by this council at that time. Greene stated that at that time, WSI and DLI attempted to pull data and they found that between 2010 and 2021 there were 25 claims filed where the zip code of the injured worker was a North Dakota zip code, which averages to about 3 claims per year. She added that whether there was a temporary exposure in Minnesota is not tracked, and if there wasn't a claim filed in North Dakota, then she may never be aware that something was filed in Minnesota. In the past five years, Greene was aware of two claims where this particular statute was triggered.

Greene went on to address Carlson's comments that Minn. Stat. § 176.041 is obsolete. She added that the statute is a valuable tool not only for continued commerce between North Dakota and Minnesota, but also for Minnesota's system and reducing the wear and tear of overburdening the litigation system with claims filed in Minnesota that should be filed in North Dakota. She ended by asking the council to unanimously consider leaving the statute alone.

Council members, as well as Commissioner Blissenbach, had questions for Greene, which she addressed.

3. DLI proposals

Ethan Landy began by reminding the council that at the last meeting, the department had presented two technical proposals. The effective date had been left blank in the proposed change to 176.081 and Landy had noted that the department was working with the Revisor regarding the effective date. The Revisor suggested that it makes sense to point back to the date of the actual change to the attorney fee amounts. He noted that they do not usually do language that is retroactive, but since it is just about the notice itself that in this case they would put the effective date back to October 1, 2024.

Thaden wanted to note on the record that the department will not sanction any attorneys who use the old language in the interim, and Commissioner Blissenbach agreed.

Other Business

The next Workers' Compensation Advisory Council meeting will be April 8, 2026.

Adjournment

Burnham moved to adjourn the meeting and Loon seconded. The meeting adjourned at 11:41 a.m.

Respectfully submitted,

Alyssa Westergard, Executive Secretary