

**Management-Labor Advisory Committee**  
**Thursday, January 6, 2005**  
**Labor and Industries Building, Conference Room 260**

***Committee Members Present:***

Ken Hector, CNF Service Company, Portland, OR  
Lon Holston, AFSCME, Grants Pass, OR  
Diane Janzen, NorPac Foods, Inc., Lake Oswego, OR  
John Kirkpatrick, IUPAT District Council #5, Portland, OR  
Mike O'Rourke, Plumbing and Steamfitters UA 290, Tualatin, OR  
Sheri Sundstrom, Hoffman Construction Company, Portland, OR  
Brad Witt, Oregon AFL-CIO, Salem, OR

***Committee Members Excused:***

Bob Shiprack, Oregon Building Trades Council, Tualatin, OR  
Lisa Trussell, Associated Oregon Industries, Salem, OR  
J.L. Wilson, NFIB, Oregon Chapter, Salem, OR

***Staff Present:***

Teri Bledsoe, Director's Office  
Jerry Managhan, Workers' Compensation Division  
Mike Manley, Information Management Division  
Jan Miller, Workers' Compensation Division  
Lou Savage, Director's Office  
John Shilts, Workers' Compensation Division  
Barbara Smith, Workers' Compensation Division  
Cory Streisinger, Director's Office  
Mike Taylor, Small Business Ombudsman  
Travis Wall, Injured Worker Ombudsman

**REVIEW MINUTES FROM DECEMBER 2, 2004 MEETING**

Brad Witt called the Management Labor Advisory Committee meeting to order at 1:03 p.m.

Ken Hector made the motion and Mike O'Rourke seconded to accept the minutes for the December 2, 2004 meeting as submitted. A vote was taken and the following voted aye on the motion: Ken Hector, Lon Holston, Diane Janzen, John Kirkpatrick, Mike O'Rourke, Sheri Sundstrom, and Brad Witt.

**INDEPENDENT CONTRACTOR STUDY UPDATE**

Jerry Managhan, Workers' Compensation Division Deputy Administrator, presented a legislative concept to the committee that would amend the definition of "worker" in ORS 656.005(30) so that the workers' compensation definition of an independent contractor is the same as the Department of Employment and Department of Revenue, using the standards established in ORS 670.600. Copies of the legislative concept and ORS definitions were provided for the committee to review.

**IME SUBCOMMITTEE UPDATE**

Ken Hector, member of the IME Subcommittee, updated on the progress of the IME Subcommittee. They have met on three occasions addressing the eight identified areas of concern from the IME study. Staff will prepare a final document with the subcommittee's recommendations to review at their next meeting. They will be presenting final recommendations to the full committee at their next meeting. The IME Subcommittee's next meeting is Friday, January 14, at 8:00 a.m.

**LC 239 – Aggravation Claims Form Submission By Attending Physician**

Mr. Randy Elmer, Oregon Trial Lawyers Association, provided copies of their second legislative concept draft to the committee. The second draft addressed the concerns brought forward with the first draft.

***Action:***

Mike O'Rourke made the motion and Ken Hector seconded to support LC 239 (Aggravation Claims Form Submission By Attending Physician). A vote was taken the following voted aye: Ken Hector, Lon Holston, Diane Janzen, John Kirkpatrick, Mike O'Rourke, Sheri Sundstrom, and Brad Witt.

**LC 942 – Oregon Injured Workers Retraining Grant Program**

Mr. Scott Wroot, Injured Workers Support Groups, provided copies of Legislative Concept 942 and testified in support of this concept. This concept would establish an Oregon Injured Workers Retraining Grant Program and an Oregon Injured Workers Retraining Fund. It would require annual transfer of 50 percent of surplus from SAIF into the Oregon Injured Workers Retraining Fund. Mr. Wroot believes a typo was made and the intent was to be excess surplus of the fund and not just surplus.

***Action:***

This concept addresses the structure of SAIF and may not be within the charge to MLAC. Staff will look into if this is an issue for MLAC to consider.

Mr. Chris Davie, SAIF, made public comment regarding to this concept. At this time, he is the only one from SAIF to have seen this and the Board of Directors and other staff would need to review this. Mr. Davie stated that this committee, with the work of the Voc Rehab Subcommittee, has addressed many voc rehab issues and have reached agreement to make changes to voc rehab. If there is something wrong with the system, then it needs to be fixed within the workers' compensation system. Mr. Davie also expressed concern about workers not usually having a say who their insurer is. This concept would cover only those insured by SAIF. This would also strip the SAIF Board of Directors the ability to manage the funds. If MLAC considers this further, they are requesting to contribute further on this issue.

**LC 1288 – Oregon Trucking Association**

Mr. Bob Russell, Oregon Trucking Association, provided copies of Legislative Concept 1288, which makes owners or leaseholders of certain motor vehicles used for transportation of property non-subject workers for purposes of workers' compensation statutes. Mr. Russell also provided written testimony in support of this concept.

***Action:***

John Kirkpatrick made the motion and Ken Hector seconded to support this concept. A vote was taken and the following voted aye: Ken Hector, Lon Holston, Diane Janzen, John Kirkpatrick, Mike O'Rourke, Sheri Sundstrom, and Brad Witt.

**PUBLIC TESTIMONY**

Mr. Chris Davie, SAIF, submitted written testimony and summarized his testimony on the draft PTD legislation which MLAC sent to Legislative Counsel for drafting in December, 2004. Since receiving the Workers' Compensation Division draft, SAIF has studied the draft language and have identified a number of questions to be addressed in final statutory language. Mr. Davie briefly reviewed the six points in his written testimony.

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Staff will be working with Legislative Counsel on this draft to address these issues.

**ADJOURNMENT**

The meeting was adjourned at 2:10 p.m.