

Management-Labor Advisory Committee
Monday, April 4, 2005
Labor & Industries Building Room 260

Committee Members Present:

Ken Hector, CNF Service Company, Portland, OR
Lon Holston, AFSCME, Grants Pass, OR
Diane Janzen, NorPac Foods, Lake Oswego, OR
Mike O'Rourke, Plumbing and Steamfitters UA 290, Portland, OR
Bob Shiprack, Oregon Building Trades Council, Tualatin, OR
Sheri Sundstrom, Hoffman Construction Company, Portland, OR
J.L. Wilson, NFIB, Oregon Chapter, Salem, OR

Committee Members Excused:

John Kirkpatrick, IUPAT District Council, Portland, OR
Lisa Trussell, Associated Oregon Industries, Salem, OR

Staff Present:

Teri Bledsoe, Director's Office
Maureen Bock, Workers' Compensation Division
Cara Filsinger, Workers' Compensation Division
Jerry Managhan, Workers' Compensation Division
Mike Manley, Information Management Division
Dan McNally, Workers' Compensation Division
Lou Savage, Director's Office
John Shilts, Workers' Compensation Division
Travis Wall, Injured Worker Ombudsman

CALL TO ORDER

Chairperson Bob Shiprack called the Management-Labor Advisory Committee meeting to order at 9:35 a.m.

APPROVAL OF MINUTES

The March 24, 2005 meeting minutes were not available for approval at this meeting. They will be approved at the next meeting.

REVIEW OF WORKERS' COMPENSATION LEGISLATION

HB 3203 – Relating to workers' compensation insurance premium assessments for emergency service workers working out of state

Kevin Mannix, Salem Attorney

Mr. Mannix testified in support of HB 3203. Nationally about 80 percent of the emergency crews originate out of Oregon to provide a wide variety of emergency services. An Oregon employer with a project in another state who has purchased coverage in the other state is being charged a premium in Oregon. HB 3203 addresses this issue. On a national level, this issue is being worked on, but it could take years for a national model to be developed.

Debbie Miley, National Wildfire Suppression Association

Ms. Miley testified in support of HB 3203. She discussed a specific incident where there was an accident with a crew in Colorado who had covered and filed a claim in Colorado and Oregon. If this sort of incident were to occur repeatedly over and over again obviously those companies based in Oregon would be priced out of the market. They are not trying to get out of providing workers' compensation coverage.

Management-Labor Advisory Committee Minutes

April 4, 2005

Page 2

Chris Davie, SAIF

Mr. Davie commented on this being a high-risk business and they are supportive of this industry and want to resolve this difficult issue. There is the problem of each state having their own workers' comp system. If this bill passes, insurance companies would be responsible for the claim, but receive no premiums. Mr. Davie will discuss more in depth about this bill with Mr. Mannix.

Committee Discussion

There are advantages to filing in your own state, especially when dealing with doctors. Mr. Davie and Mr. Mannix have talked about a couple of items in regards to this bill, but have not come up with anything. There was the suggestion to consider them nonsubject workers. The National Association of Insurance Commission will be meeting a couple of months and will be talking about this issue.

The bill addresses fire prevention, but no other disaster relief kind of work. This bill can be amended later to define emergency services.

Action: Put on 4/14 agenda for additional discussion

At 10:57 a.m., JL Wilson arrived at the meeting.

HB 2588 – Study of chiropractic services provided in workers' compensation claims

Vern Saboe, Chiropractic Association of Oregon

Mr. Saboe clarified his testimony at the last MLAC meeting in regards to funding this study. It is not being requested that the Center for Research on Occupational and Environmental Toxicology (CROET) at Oregon Health Science University (OHSU) fund this study. Mr. Saboe submitted written proposed amendments to HB 2588.

JL Wilson clarified that the idea of CROET funding this study came from the committee and not Mr. Saboe.

Jennifer Wisdom, PhD., MPH, Director of OHSU's Center for Health and

Ms. Wisdom is a researcher with OHSU and was in attendance to answer any of the committee's concerns as to how the study would be conducted. She supports the formation of an advisory group and should have people who have expertise in these areas. In order to ensure research integrity, she cannot be subjected to political views.

Kent Anger, CROET (OHSU)

Mr. Anger provided written testimony and CROET's 2003 Annual Report. His written into detail in regards to erroneous information provided at the last MLAC meeting in regards to their funding. MLAC was invited to provide input on the CROET's research direction or the distribution of the workers' compensation funds to the various program areas.

Committee Discussion

There are a number of provider bills on the agenda and it was suggested that the study not be just limited to chiropractors, but to include other providers. This would increase the size of the study and may result in some significant changes to the study.

Ms. Wisdom commented that she would be willing to consider this idea and they are equipped to do such a study. She realizes the benefit for this committee to include other providers, but would not be able at this

meeting to provide information as to how this would affect the budget or the study. Ms. Wisdom reiterated that she is not a chiropractor and is a neutral health services researcher. Her only involvement is to run the study and would conduct an independent study. Her views expressed during her testimony were based on the literature there is about this subject. The statisticians are blind as to which group participants are in.

Action:

No action at this time.

SB 469 – Podiatric physicians to serve as attending physician in workers’ compensation

Action:

The motion was made and seconded for a do pass recommendation of SB 469. A vote was taken and the motion did not pass.

HB 2790 – Chiropractors to serve as attending physician in workers’ compensation

Action:

The motion was made and seconded to recommend a do pass of SB 469. A vote was taken and the motion did not pass.

SB 669 – Naturopathic doctor or physician to serve as attending physician in worker’s compensation

Committee Discussion

The question was raised as to if naturopaths are listed in the statutes to treat for workers’ compensation. It was suggested they should get the recognition as other disciplines so they can treat for workers’ compensation claims.

Jerry Managhan, Workers’ Compensation Division, addressed the question raised. The department adopted by rule a set of statutes that does include those categories and does include naturopaths.

There is the need to ensure that MCOs have alternative providers for injured workers to select from.

SB 1001 – Physician assistant services for workers’ compensation claims

Action

The motion was made to recommend a do passage, no second was received, and the motion died.

SB 194 – BOLI transfer from WBF to fund activities related to discrimination against injured workers

The representative from BOLI was unable to attend. Public testimony was taken on this bill.

Ernie Delmazzo, Injured Workers’ Alliance

Mr. Delmazzo testified in support of SB 194. He commented that workers are not aware of their rights and procedure in filing complaints. The intent of this bill is to provide additional funding to investigate discrimination. Mr. Delmazzo requested that MLAC pass this bill.

Committee Discussion

There is concern in regards to WBF money. A revised fiscal was provided.

HB 2294 – Relating to workers’ compensation claims

Committee Discussion

To be discussed at the April 14, 2005 meeting to include the issue of return to work and regular work into HB 2408.

Action

The motion was made and seconded for a do pass recommendation of the bill as it is. A vote was taken and the motion passed unanimously.

HB 2405 – Relating to workers’ compensation aggravation claims

Action

The motion was made and seconded for a do pass recommendation (both HB 2294 and 2405 would contain the same notice language). A vote was taken and the motion passed unanimously.

HB 2823 – Relating to authorization to serve as primary care physician for injured workers subject to managed care contract

Jerry Keene, Counsel for Managed Healthcare Northwest and Providence Health Plans

Mr. Keene provided written testimony. This bill would allow MCOs to consider any past practices of providers. They introduced this bill to restore the status quo by preserving a policy Oregon’s MCOs have actually followed since their inception.

Dolores Russell, President/CEO, Managed Healthcare Northwest

Jennifer Kirk, Director of Provider Relations, Managed Healthcare Northwest

Ms. Russell and Ms. Kirk provided written testimony was provided. They testified in support of HB 2823. They believe it is vitally important to the safety of injured worker to allow the MCOs to apply their standards and evidence of past practices in rendering a decision to approve the PCP or not.

Karen McNamoe, Program Manager, Providence Health Plans

Ms. McNamoe provided written testimony. She testified in support of HB 2823. Providence supports this bill so that workers enrolled in a managed care program will be assured that all family physicians authorized to provide care meet the same standards established for contracted physicians within the MCO.

Travis Wall, Injured Worker Ombudsman

Mr. Wall testified that there is an existing physician licensure body to ensure that people who practice meet certain standards and if they do not meet up to those standards then they should have their license taken away. There is a question of what the problem is and how many cases of this are happening. Need to consider as to if MCOs are being sued because harm is happening to injured workers because they have allowed physicians to treat them.

Ernie Delmazzo, Injured Workers’ Alliance

Mr. Delmazzo testified in opposition to this bill. This bill would open up to terminate any physician. This would give MCOs the position to scrutinize physicians.

Committee Discussion

There was discussion in regards to the Oregon Board of Medical Examiners taking care of this issue.

The MCO representatives who testified commented that this board moves very carefully to make sure the action they take is appropriate, which is too slow for them. It is understandable why they do move slowly because they are taking away someone’s livelihood and career. There are also the confidentiality issues and providers having licenses in other states. The MCOs have an appeal process in place if a physician is terminated.

Nurse practitioners were not included in this bill, which could be added as an amendment.

John Shilts commented that the Department does not oppose or endorse this bill and it is a public policy issue.

Action

This bill will be reviewed at the April 14, 2005 MLAC meeting.

HB 3224 – Relating to workers’ compensation survivor benefits for parent of deceased worker

Judi Mehrens, Legislative Aid to Representative Steve March

Ms. Mehrens provided written testimony. Representative March introduced HB 3224 at the request of their constituents. They had lost their daughter in a work site accident. There is the future dependency of parents that needs to be considered. People are living longer and there are more circumstances where parents are dependent on their children. This bill is addressing this issue.

John Shilts, Workers’ Compensation Division

Mr. Shilts explained more technically how this bill would work. There would be a new category of parents.

Action

This bill will be on the April 14, 2005 MLAC agenda.

UPDATE FROM WORKERS’ COMPENSATION BOARD

SB 280- Relating to subpoenas issued under authority of Workers’ Compensation Board

Maureen Bock, Workers’ Compensation Board

Ms. Bock submitted a written update on SB 280. They are not asking MLAC to take a position on this bill, just wanted to give them an update.

In regards to HB 2717, there were concerns with the additional language and two categories where the 60 days notice would not work. They have been working with Liberty NW to amend the language.

ADJOURNMENT

Meeting was adjourned at 11:50 a.m. The next meeting will be Thursday, April 14, 2005.