

**WORKERS' COMPENSATION
MANAGEMENT-LABOR ADVISORY COMMITTEE
Legislative Subcommittee
Meeting Minutes**

**March 2, 2007
8:30 a.m. – 10:00 a.m.**

Conference Room 260
Labor & Industries Building, 350 Winter Street NE, Salem, OR

Committee Members Present:

Sheri Sundstrom, Hoffman Construction Company, Portland, OR
Linda Jefferson, City of Portland, Portland, OR
Greg Miller, Gunderson LLC, Portland, OR
Mike O'Rourke, Plumbing and Steamfitters UA 290, Tualatin, OR
John Kirkpatrick, IUPAT District Council, Portland, OR
Tracy Brill, Port of Portland, Portland
Lon Holston, Grants Pass, OR

Meeting Agenda

SB 503 Defines "regular work" for purposes of workers' compensation statutes.

John Shilts, Workers' Compensation Division

Mr. Shilts introduced Barbara Smith, Workers' Compensation Division Reemployment and Dispute Resolution Services Section Manager, to speak to the bill. He later gave brief background on discussions regarding the definition of "regular work" from the 2005 session. Mr. Shilts offered to research the history of why "regular work" was removed from rule.

Barbara Smith, Workers' Compensation Division

Ms. Smith gave a general overview of the current process and the effect of the proposed on that process. Ms. Smith expressed concern that the proposed change may negatively affect determinations of vocational assistance eligibility.

Judy Johnson, Oregon Self-Insured Association

Ms. Johnson testified in support of SB 503 and gave a brief description of how the proposed bill will fix a flaw in the current system. She acknowledged the concern that this definition may not work for every reference throughout the statutes. Ms. Johnson suggested moving the proposed definition "regular work" to 656.214(1)(d) to be used for permanent disability determination only.

Randy Elmer, Oregon Trial Lawyers Association (OTLA)

Mr. Elmer testified that OTLA is in opposition of SB 503. The concern would be that the proposed bill will leave the system too subjective, the worker will suffer and there will be increased litigation.

Committee Discussion: Last session "regular work" was discussed by the committee and it was determined that this could be fixed in rulemaking. A rulemaking advisory committee later decided no change was needed. There was no agreement on the definition of "regular work." There was lengthy discussion about the implication of the proposed definition of "regular work."

Action: None

SB 504 Requires physician serving as attending physician for workers' compensation claim to be responsible for treatment of worker's compensable injury on ongoing basis.

Jerry Managhan, Workers' Compensation Division

Mr. Managhan introduced Kevin Willingham, Medical Section Manager, and later clarified this bill as written will impact more than just emergency physicians.

Kevin Willingham, Workers' Compensation Division

Mr. Willingham gave a brief overview of the attending physician definition and current authority of the attending physician. He testified that the term "on-going care" may be too vague. He clarified that the proposed bill would require that the worker see an attending physician to have time loss authorized. He also clarified the role of the emergency room physician in determining compensability of the claim.

Anthony Miller, OSIA

Mr. Miller testified that OSIA is willing to amend the language if the language is too vague. He testified that trying to get a modified job offer letter from an emergency room physician is difficult. Mr. Miller also clarified that in rural areas if a worker returns to the emergency room physician on an ongoing basis that physician would be considered an attending physician.

Ronald Atwood, Oregon Self-Insurers Association

Mr. Atwood testified that this bill's intent is to be limited to emergency room physicians and that the emergency room physician is not in a position to be responsible for the workers on-going treatment.

Linda Barno, Oregon Self-Insurers Association

Ms. Barno testified that this bill clarifies what is already on the back of the Form 827. The form states that the emergency room physician cannot be an attending physician. She testified that if a claim has three days of loss time the claim will have to be closed; therefore, the worker would be required to see an attending physician.

Committee discussion: There was lengthy discussion of the emergency room physician's role. The committee suggested that the proponent of this bill meet with the department to resolve unanswered questions.

SB 506 Defines "direct medical sequelae" for purposes of workers' compensation claims.

Barbara Smith, Workers' Compensation Division

Ms. Smith gave a general overview of the current system and the impact the proposed bill would have on that system. This change would require that the sequelae be claimed prior to claim closure. This is different from a new or omitted condition. The concern is that a worker will have had to request a medical sequelae be accepted prior to closure for that condition to be considered when the claim is closed and permanent disability is determined. Currently, that condition would automatically be considered in rating the disability at closure.

Jerry Managhan, Workers' Compensation Division

Mr. Managhan testified regarding the current system and the change this bill proposes.

Ronald Atwood, Oregon Trial Lawyers Association

Mr. Atwood testified in support of SB 506. He testified regarding the benefit of the proposed change and an overview of how the changes will work. He testified that this bill would not bar the worker from new or omitted claims.

Committee discussion: The committee suggested that the proponent of the bill work with the department to assist in the review and analysis of the bill.

Action: None

The following bills were held over to the next meeting:

SB 564 Allows closure of workers' compensation claims if preponderance of evidence supports closure and attending physician fails to provide closing report after request.

SB 565 Modifies method for determining average weekly wage for worker with more than one job at time of injury.

SB 404 Authorizes payment of certain reasonable fees, expenses and costs associated with litigation of workers' compensation claim if claimant prevails against claim denial.

SB 405 Modifies circumstances requiring evaluation of injured worker for vocational assistance. Extends period of eligibility for vocational benefits. Modifies definition of "suitable employment."

Meeting adjourned.