

**NOTICE OF PUBLIC MEETING
WORKERS' COMPENSATION
MANAGEMENT-LABOR ADVISORY COMMITTEE**
Meeting Minutes

**March, 2, 2007
10:00 a.m. – 12:00 p.m.**

Conference Room 260
Labor & Industries Building, 350 Winter Street NE, Salem, OR
(A map is available upon request)

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

Committee Member Excused:

Ellen Cutler, Harry and David, Medford, OR
Bob Shiprack, Oregon Building Trades Council, Tualatin, OR
Lisa Trussell, Associated Oregon Industries, Salem, OR

Meeting Agenda

Report from MLAC Legislative Subcommittee:

The subcommittee reported that they are willing to meet for a work session again and possibly prior to each full committee meeting to have enough time to fully address each bill.

SB 503 Defines "regular work" for purposes of workers' compensation statutes. A copy of the bill, analysis, and fiscal impact statement were provided to the committee. The documents are part of the record.

Subcommittee report: Committee reviewed this bill and asked the division to provide additional information.

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. A copy of the bill, analysis, and fiscal impact statement were provided to the committee. The documents are part of the record.

Subcommittee report: The department and the bill sponsor will meet to address some of the concerns and report back to the subcommittee.

Action: None

SB 506 Defines "direct medical sequelae" for purposes of workers' compensation claims. A copy of the bill, analysis, and fiscal impact statement were provided to the committee. The documents are part of the record.

Subcommittee report: The department and the bill sponsor will meet to address some of the concerns and report back to the subcommittee.

Action: None

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

A copy of the bill, analysis, and fiscal impact statement were provided to the committee. The documents are part of the record.

SB 564 is held over for the March 16, 2007 MLAC Legislative Subcommittee meeting.

SB 565 Modifies method for determining average weekly wage for worker with more than one job at time of injury. A copy of the bill, analysis, and fiscal impact statement were provided to the committee. The documents are part of the record.

SB 564 is held over for the March 16, 2007 MLAC Legislative Subcommittee meeting.

SB 404 Authorizes payment of certain reasonable fees, expenses and costs associated with Litigation of workers' compensation claim if claimant prevails against claim denial. A copy of the bill, analysis, and fiscal impact statement were provided to the committee. The documents are part of the record.

SB 564 is held over for the March 16, 2007 MLAC Legislative Subcommittee meeting.

SB 405 Modifies circumstances requiring evaluation of injured worker for vocational assistance. Extends period of eligibility for vocational benefits. Modifies definition of "suitable employment." A copy of the bill, analysis, and fiscal impact statement were provided to the committee. The documents are part of the record.

SB 564 is held over for the March 16, 2007 MLAC Legislative Subcommittee meeting.

Proposed Legislation

SB 158 – Permits Home Care Commission to elect workers' compensation coverage for certain home care workers. Allows termination of temporary total disability benefits of home care workers who refuse modified employment in certain circumstances. A copy of the bill, analysis, and fiscal impact statement were provided to the committee. The documents are part of the record.

Jerry Managhan and Mary Schwabe, Workers' Compensation Division

Ms. Schwabe, Compliance Section Manager testified regarding the changes proposed in SB 158 which would allow Department of Human Services (DHS) broad election of coverage for all clients and enable the temporary total disability payments to be terminated if the worker refuses modified work with any client employer. The proposed change is intended to streamline the current process and to set parameters of return to work for the home health care workers.

Chris Davie, SAIF

Mr. Davie testified that SAIF is the insurer for this group of home care providers. Mr. Davie testified that DHS has submitted amendments to the bill which does address the parameters. He provided

clarification on the conditions and the parameters by which a worker could refuse modified work and not have the temporary total disability terminated.

Committee discussion: None

A motion was made and seconded to move this bill back to the Senate Commerce Committee with amendments and a Do Pass recommendation from MLAC. A vote was taken and the following members voted aye: Tracy Brill, Greg Miller, Mike O'Rourke, Sheri Sundstrom, Lon Holston, John Kirkpatrick, and Linda Jefferson. Motion passed.

SB 563 – Modifies standards for approval of managed care plans that provide medical and health care services for injured workers. A copy of the bill, analysis, and fiscal impact statement were provided to the committee. The documents are part of the record.

Ramona St. George, Oregon Health Systems

Ms. St. George testified to the original intent of SB 670 (2005) and that during the administrative rule process it was determined that SB 670 had unintended consequences. She testified that SB 563 is intended to remedy the problem caused by SB 670. Written testimony was provided to the committee. A copy is part of the record.

Laurel Gunderson, Providence MCO

Ms. Gunderson provided clarification that Senator Vicki Walker is the sponsor of SB 563 and was the original sponsor of the SB 670 (2005). The administrative rules do not reflect the original intent of SB 670.

John Shilts, Workers' Compensation Division

Mr. Shilts testified that the division supports this bill and that the current system creates a lot of unnecessary work for both the department and the MCOs.

Committee Discussion: None

A motion was made and seconded to move this bill back to the Senate Commerce Committee with a Do Pass recommendation from MLAC. A vote was taken and the following members voted aye: Tracy Brill, Greg Miller, Mike O'Rourke, Sheri Sundstrom, Lon Holston, John Kirkpatrick, and Linda Jefferson. Motion passed.

HB 2661 - Authorizes health care providers and health care recipients to enter into dispute resolution agreements. Provides that process for resolving claims is exclusive remedy for health care recipients who enter into dispute resolution agreements. A copy of the bill, analysis, and fiscal impact statement were provided to the committee. The documents are part of the record.

The bill was not heard and will be brought back at a future meeting for testimony.

HB 2706 - Makes parent who would have become dependent of deceased worker if not for death of worker eligible for workers' compensation survivor benefits. A copy of the bill, analysis, and fiscal impact statement were provided to the committee. The documents are part of the record.

Mary Schwabe, Workers' Compensation Division

Ms. Schwabe provided an overview of the of the proposed bill. She stated that the bill creates a new category of survivor benefits by providing monthly fatality benefits to a surviving parent who would

have become dependent on the worker if it weren't for the death of the worker. There is a maximum benefit allowed. Ms. Schwabe provided the current definition for dependent in statute. She stated that the division has several questions that are unanswered by the proposed bill.

John Shilts, Workers' Compensation Division

Mr. Shilts provided that he had met with Representative Cannon to work on answering the division's questions. He stated there will likely be amendments forthcoming. Mr. Shilts provided an example of a gentleman whose daughter was killed in an on-the-job injury. John provided some clarification of the current interpretation of "dependent." The challenge will be how to determine who might have become a dependent in the future.

Chris Davie, SAIF Corporation

Mr. Davie testified that the current statute provides that a parent can be a dependent if they are a dependent at the time of death. He testified that it would be difficult to determine if a parent would have become a future dependent.

Committee discussion: The committee discussed various scenarios and how future dependency may be determined.

HB 2783 - Requires insurer providing workers' compensation coverage to provide notice of termination of coverage 45 days prior to effective date of termination. A copy of the bill, analysis, and fiscal impact statement were provided to the committee. The documents are part of the record.

Mary Schwabe, Workers' Compensation Division

Ms. Schwabe gave a general overview of the current system and the changes this bill proposes. She clarified the impact this proposed law would have on a self-insured employer. Ms. Schwabe stated this bill is amending ORS 656.427, which address the termination guarantee contract not ORS 656.423, which addresses canceling coverage; therefore, self-insured employers would not be affected.

John Shilts, Workers' Compensation Division

Mr. Shilts testified regarding the impact this bill would have on the guaranty contract bill, SB 559. He stated that this bill was submitted independently but will also work in concert with the SB 559, should it pass.

Chris Davie, SAIF Corporation

Mr. Davie testified regarding the current system and statute. He has communicated with Representative Shields regarding an amendment to include 45 days for non-renewal and 10 days notice for bad conduct of the employer.

Anthony Miller, Barrett Business Services

Mr. Miller asked how this change will affect his company as a self-insured employer. Ms. Schwabe clarified that it does not impact self-insured employers.

Committee discussion: None

A motion was made and seconded to support HB 2783 . A vote was taken and the following members voted aye: Tracy Brill, Greg Miller, Mike O'Rourke, Sheri Sundstrom, Lon Holston, John Kirkpatrick, and Linda Jefferson. Motion passed.

LC 3545 – Relating to workers’ compensation claims records of injured workers. A copy of the Legislative Concept and analysis were provided to the committee. The documents are part of the record.

Mary Schwabe, Workers’ Compensation Division

Ms. Schwabe provided an extensive overview of the changes this bill proposes. She also addressed several questions the division had after the bill analysis was done.

Ed Johnson

Mr. Johnson provided testimony regarding the intent of the bill and his concern about the current system in relation to records. He stated that he knew there was unanswered questions and that he was willing to work with the division to answer the questions. Mr. Johnson clarified that the records should be kept in whole until the worker is deceased. He is willing to consider amendments. Mr. Johnson asked the committee to support the bill. Mr. Johnson provided clarification that he believes all records should be included even proprietary records. He gave some personal examples of seeking records lost, destroyed, or unusable. Mr. Johnson provided written testimony. The documents are part of the record.

Velma Hartwig

Mrs. Hartwig provided testimony in support of this bill.

Committee discussion: After discussion the committee suggested Mr. Johnson and the department meet to resolve some of the unanswered questions and come back to MLAC with any needed amendments.

Meeting Adjourned.