

**MANAGEMENT-LABOR ADVISORY COMMITTEE
FULL COMMITTEE**

February 27, 2009
10:00 a.m. – 12:00 p.m.
Conference Room 260, Labor & Industries Building
350 Winter Street NE, Salem, Oregon

Committee Members Present:

Greg Miller, Gunderson LLC, Portland
Mike O'Rourke, Plumbing and Steamfitters UA 290, Tualatin
Jeri Ray, Timber Products Company, Springfield (by conference call)
Lon Holston, Laborers' International, Local 483, Portland
Tracy Brill, Portland Fire Fighters Association, Portland
Linda Barno, ESIS, Inc., Portland (by conference call)
Sheri Sundstrom, Hoffman Construction Company, Portland

Committee Members Excused:

John Kirkpatrick, IUPAT District Council, Portland
Kathy Nishimoto, Duckwall-Pooley Co., Hood River
Bob Shiprack, Oregon Building Trades Council, Portland
Cory Streisinger, Ex-Officio Member, Department of Consumer and Business Services, Salem

FULL MLAC COMMITTEE

Sheri Sundstrom, committee chair, called the meeting to order at 10:01 a.m.

There was unanimous consent by the committee that the minutes from January 30, 2009 be adopted. The minutes from February 13, 2009 will be approved at the next MLAC meeting.

Legislative Update

John Shilts, Administrator, Workers Compensation Division (WCD), provided a legislative update on bills reviewed by MLAC.

- 1) WCD & MLAC Bills
 - a) SB 110 passed completely through the Senate with a vote of 21:7. There was interest from Sen. George on offering amendments regarding changes to unpaid PPD awards. Mr. Savage and Mr. Shilts will meet with Sen. George on March 2, 2009.
 - b) HB 2195 passed through House with a vote of 25:0.
 - c) HB 2197 passed the House with 60:0 vote.
 - d) HB 2196 is not expected to have a hearing due to concerns from a legislator on the House Committee on Business & Labor.

- 2) Other Bills
 - a) HB 2044 was heard in the House Committee on Business & Labor on February 16, 2009. The bill is not expected to move. The committee asked that DCBS continue to work on the issue of notice through provider choice.
 - b) HB 2045 passed through the House with a vote of 59:0. Waiting for Senate action.

- c) HB 2420 passed the House with a vote of 55:1. The bill now has a minor amendment addressing the applicability issue to the city of Portland. The bill did not need further MLAC review. The bill passed out of Senate Commerce & Workforce Development Committee with a unanimous vote.
- 3) Other Concepts of Interest to MLAC
- a) Emergency Management Concept relating to liability determination in emergency management situation. This Concept does not have a bill number as yet.
 - b) HB 2791 does apply to workers compensation. The sponsor of the bill asked DCBS to help draft an amendment to remove workers compensation out of the bill.
 - c) HB 2815 is Representative Holvey's bill to address multiple agency issues related to independent contractors and cash-basis businesses. The bill would provide more structure in multiple agency enforcement activities. DCBS is working on an analysis of this bill. There are fiscal issues.
 - d) SB 509 may apply to workers compensation. DCBS developed administrative rules regarding Preferred Provider Organization Networks. If this bill does apply to workers compensation it would roll back some of the work that DCBS did to develop these administrative rules.

2009 Legislation

Brian DeLashmutt, Oregon State Police Officers Associations, Oregon Council of Police Associations, Association of Oregon Corrections Employees, Federation of Oregon Parole and Probation Officers, testified in support of HB 2577.

- HB 2577 - Establishes presumption that certain bloodborne diseases are compensable occupational diseases for public safety officers.

Mr. DeLashmutt explained the issue is the increasingly high exposure rate of public safety officers to bloodborne pathogens due to their work environment. He mentioned a study in 1999 in which Washington State found the HIV/AIDS and Hepatitis-C rate was higher among public safety workers than among the general public. He also pointed out a conflicting study from the State of Oregon that indicated rates of diseases caused by bloodborne pathogens were not significantly higher among public safety workers than among general population. Mr. DeLashmutt explained that this might be due to safe practices and the awareness on the part of public safety workers of the possibility of exposure bloodborne pathogens. He believes the studies should not be discounted.

Mr. DeLashmutt explained that the bill is designed to mirror what has been done before. He noted that the bill should be similar to the Firefighter Cancer Presumption bill in that it would require a baseline test to determine whether or not a person has any of these issues.

Mr. DeLashmutt described several public safety worker exposure cases. He submitted summaries of these cases for the record. He also referred to HB 2401, known as the "sliming bill", to illustrate the type of situations public safety workers are exposed to.

Mr. DeLashmutt wished to work with MLAC on this potentially life threatening issue.

Mr. Savage asked for clarification on when the public safety workers filed their claims. Mr. DeLashmutt said obvious exposure can be documented but often exposures cannot be documented because some of the diseases caused by bloodborne pathogens can take years before a person experiences any symptoms.

Mr. Miller asked about the penalty in the law for being convicted for trying to willfully transmit a disease. Mr. DeLashmutt answered that he is not aware of any case law or statute criminalizing it.

Mr. Savage asked for data on workers exposed to Hepatitis-C. Mr. DeLashmutt said he will provide this data at a later date.

Public Comment

Chris Davie, SAIF Corporation, testified on HB 2577. He said SAIF is cautious about adding presumptions of compensability to the worker's compensation system. Support or opposition will depend on the wording of the presumption. Mr. Davie noted that he has just recently learned about Methicillin-Resistant Staphylococcus Aureus (MRSA). He believes that the few claims SAIF has received have been treated as a consequential condition from something that happened before.

Mr. Davie explained that SAIF accepted 351 claims from occupational diseases identified in HB 2577 over the past nine years, and noted that the denial rate is lower than for other occupational diseases. Mr. Davie will submit the actual numbers to the committee. He believes that a lot of work needs to be done around developing this bill and does not think that adopting the wording from the existing heart and lung presumption is a good idea.

Michael Wood, OR-OSHA, explained a requirement for employers to maintain records on workers' exposure to bloodborne pathogens for 30 years, because of the time it takes for the symptoms of these diseases to develop.

Mr. Miller expressed concern about the bill, if it is currently worded to be open to only public safety professions what about hospital workers and security personnel? Mr. DeLashmutt explained hospitals are more controlled environments. He said the bill was crafted to apply to less controlled environments such as a public safety officer.

Hasina Squires, Special Districts Association of Oregon (SDAO), pointed out the bill applies to public agencies. SDAO does not support the bill and encouraged MLAC to obtain more data on Hepatitis-C.

Mr. Savage asked Ms. Squires about data on accepted and denied claims. Ms. Squires will provide updated information in respect to MRSA, HIV/AIDS, and Hepatitis-C.

The next full MLAC meeting is March 13, 2009.

Meeting adjourned at 11:16 a.m.