

**NOTICE OF PUBLIC MEETING
WORKERS' COMPENSATION
MANAGEMENT-LABOR ADVISORY COMMITTEE
VOLUNTEERS SUBCOMMITTEE**

June 19, 2009
10:00 a.m. – 11:00 a.m.
Conference Room 260, Labor & Industries Building
350 Winter Street NE, Salem, Oregon

Committee Members Present:

Greg Miller, Gunderson LLC, Portland
Kathy Nishimoto, Duckwall-Pooley Co., Hood River
Mike O'Rourke, Plumbing and Steamfitters UA 290, Tualatin
Jeri Ray, Timber Products Company, Springfield
Sheri Sundstrom, Hoffman Construction Company, Portland
Tracy Brill, Portland Fire Fighters Association, Portland
Lon Holston, Laborers' International, Local 483, Portland

Committee Members Excused:

Cory Streisinger, Ex-Officio Member, Department of Consumer and Business Services, Salem
John Kirkpatrick, IUPAT District Council, Portland
Bob Shiprack, Oregon Building Trades Council, Portland
Linda Barno, ESIS, Inc., Portland

VOLUNTEERS SUBCOMMITTEE

Jeri Ray, subcommittee chair, called the meeting to order at 10:10 a.m.

OVERVIEW

John Shilts, Administrator of the Workers Compensation Division (WCD), provided background information on the issue of volunteers and workers compensation. Mr. Shilts presented a request of the director of the Department of Consumer and Business Services (DCBS), Cory Streisinger, to MLAC committee to review the volunteers' compensation law and identify issues that come out of the review. Mr. Shilts informed the committee that after the review is complete, the DCBS director will be asking MLAC for recommendations. Mr. Shilts noted that DCBS staff recommends that MLAC breaks this process down into two stages:

- Phase I. - Gather information about the current law related to volunteers and workers' compensation.
- Phase II. - Try to define any problems with the current state of law based on the information from Phase I. and and make recommendations for changes to clarify, modify current law. So that MLAC is well prepared to make any recommendations to the legislature in the upcoming legislative session.

Mr. Shilts informed the committee that the director is open to any recommendations and suggested a timeline for the process in which the subcommittee meetings would start in 2009,

completing work on time to make recommendations to 2011 legislation, probably vetting out the recommendations starting early in early 2010.

COMMITTEE DISCUSSION

Chair Jeri Ray asked if the director is asking to create more consistency between agencies. Mr. Shilts clarified that Ms. Streisinger is not necessarily asking for that.

Lou Savage passed around a list of interested parties that MLAC is going to notify regarding upcoming meetings and asked members to add anyone they think should be on the list.

Mr. Shilts completed his overview of volunteers related workers' compensation law and noted that Ms. Streisinger asked to raise the issue of what benefits should volunteers receive if they are injured on the job. Should the volunteer receive the same benefits as a regular employee?

Ms. Sundstrom asked if there are any statistics kept on volunteer injuries to get an idea of the types of injuries that occur.

Chris Davie, SAIF Corporation, mentioned that many volunteers have their payroll reported on class codes specific to volunteers which allows for isolation of volunteer claims.

Mary Schwabe, Workers' Compensation Division, provided an overview of the definitions on volunteers as defined in the current workers' compensation law.

Mr. Savage asked if a ski pass for ski patrol members is considered remuneration and if it is not necessarily a dollar threshold as it is an expectation threshold.

Reg Gregory, Workers' Compensation Division, explained these cases usually don't come through workers' compensation questions. Mr. Gregory further explained that if there is no workers' compensation and the value of a product received by a volunteer is more than five hundred dollars aggregate in any thirty day period, than it would be greater than casual labor and would be a remuneration and considered viable labor.

Mr. Savage clarified that the general rule is that when there is an expectation up front that is more important than the remuneration.

Mr. Shilts referred to the white paper provided by Mr. Gregory and Ms. Schwabe, and noted that it includes general exceptions. Mr. Shilts explained that in a question regarding the goods received by volunteers, the decision also depends on the type of organization the volunteers belong to, and whether that organization falls under any of the exception categories included in the white paper.

Mr. Shilts noted that diving into questions like this is something the subcommittee needs to do and explained that there are different levels and definitions of volunteerism.

Ms. Ray asked DCBS for direction and to put together a timeline and then set up meetings based on the timeline. Ms. Ray noted that the subcommittee would like to hear from the other

regulatory agencies first before going to the other stakeholders to understand what the other regulations are and see if there are any inconsistencies.

Mr. Savage noted that January 2010 should be the cut up date for recommendation.

The subcommittee agreed to start meeting once a month.

Tracy Brill asked if the fact that a government agency has a cap, but a private agency utilizing volunteers don't have the same cap, is a factor in how much a tort action lawsuit can achieve.

Mr. Savage responded that if there are no subject workers, the organization is open to liability.

Kathy Nishimoto asked if a high school does a fund raiser for local United Way and solicit businesses for eight hours for a wage they donate to United Way and than get injured, is that considered?

Mr. Gregory explained that the money wouldn't be remuneration for the worker because it doesn't directly go to the volunteer, therefore the volunteer would not be considered a subject worker.

Ms. Brill asked if the list of exemptions includes anything where the level of risk is a factor.

Mr. Gregory explained that there is no distinctions in the level of risk.

Ms. Ray asked Jennifer Flood, Ombudsman for Injured Workers, if she is aware of this issue with people that she talks to?

Ms. Flood responded that she doesn't receive phone calls from volunteers, but she does have the concern about workers doing volunteer services and not understanding who might be liable when they become injured. Ms. Flood noted she would like to see more predictability and transparency in who is covered and what is provided.

Ms. Ray asked the department to narrow the focus on the really important, relevant issues.

Mr. Savage noted DCBS will compile a list of issues and the subcommittee can go through those and prioritize.

Ms. Ray further asked that the list be emailed to the committee and the issues be put on a calendar.

The meeting adjourned at 11:10 a.m.