

**WORKERS' COMPENSATION
MANAGEMENT-LABOR ADVISORY COMMITTEE**

Full MLAC Meeting

May 1, 2015
10:00 a.m. – Noon

Committee Members Present:

Guy Boileau, Louisiana-Pacific Corporation, Portland
 Tammy Bowers, May Trucking
 Jim Denham, ATI, Albany
 Carol Duncan, General Sheet Metal, Clackamas
 Paul Goldberg, Oregon Nurses Association, Tualatin
 John Mohlis, Oregon Building Trades Council, Portland
 Lynn McNamara, CityCounty Insurance, Salem
 Ben Stange, Polk County Fire District No.1, Independence
 Theresa Van Winkle, MLAC Committee Administrator

Committee Members Excused:

Aida Aranda, Oregon & Southern Idaho Laborers-Employers Training Trust, Corvallis
 Patrick Allen, DCBS Director, *ex-officio*

Agenda Item	Discussion
Opening (0:00:00)	John Mohlis opened the meeting at 10:04 a.m.
Review of April 17, 2015 Minutes (0:00:00)	Carol Duncan moved to approve the minutes dated April 17, 2015 . Guy Boileau seconded the motion, which was approved on a unanimous vote.
2015 Legislation Review HB 2764 (0:00:00)	<p>John Mohlis asked John Shilts, Administrator, Workers' Compensation Division (WCD) to explain the -5 amendments to HB 2764. Mr. Shilts discussed a document created by WCD outlining the changes made to the underlying bill by the -5 amendments.</p> <p>Julie Masters and Jaye Fraser, SAIF Corporation, reviewed SAIF's stance on the bill. Ms. Fraser stated that SAIF's position has been that there is not a crisis regarding representation for injured workers, but are supportive of the MLAC process. SAIF has some suggested language changes and technical fixes to the -5 amendments. Ms. Masters reviewed these changes, which were outlined in their written testimony and related documentation.</p> <p>Sheri Sundstrom, Hoffman Construction and Oregon Self-Insurers</p>

Association (OSIA) stated that it is important to remember that the reforms made to workers' compensation and OSHA in Oregon have led to significant decreases in both claim counts and claim severity. This leads to a logical decrease in the need for representation. She also stated that in a previous meeting there was testimony that recent law graduates had a difficult time going into workers' compensation as a specialty because the fee structure was too low. Ms. Sundstrom pointed out that studying a field of expertise does not always lead to a career in that field.

John Klor, workers' compensation defense attorney, discussed imbalances in the bill. He stated that Washington is having a difficult time passing workers' compensation reform because they do not have the system in place Oregon has. He feels that the -5 amendments speak to why Oregon's system works so well by encouraging a balanced approach. Mr. Klor feels the legislature is starting to lose perspective on the need for the sort of process MLAC provides. His concerns with bill were largely addressed with the -5 amendments. Ms. Sundstrom added that her organization agrees with the changes to the -5 amendments proposed by SAIF.

Arthur Towers, Oregon Trial Lawyers Association (OTLA), recognized the work put into the bill but that also they are a significant compromise for his organization. He discussed OTLA's suggested changes in his [written testimony](#). Guy Boileau asked in what way claimants are being left out. Randy Elmer, OTLA, stated that the issue is related to the part of the bill discussing implementation dates surrounding the date of injury. Having it in effect on the date the bill becomes effective leaves workers currently in the pipeline out of the changes. Mr. Elmer also stated that he felt that attorneys are being put into a situation where economic decisions are put against ethical decisions. Jim Denham asked about other pending legislation. The other bills are not intended to be a workaround beyond this bill, it is just the process moving forward. Lynn McNamara asked about the nature of the emergency necessitating the emergency clause. Mr. Towers stated that they were trying to cover all workers.

Carrie Wipplinger, Liberty Mutual Insurance, stated that her organization opposes the bill in that they feel it would increase the costs to their policy holders. She further stated that they respect the MLAC process and believe that the -5 amendments are a reasonable compromise provided the committee adds in the changes proposed by SAIF.

Theresa Van Winkle, Committee Administrator, stated that Betsy Earls, Associated Oregon Industries (AOI) was unable to attend the meeting but that her organization is supportive of the -5 amendments and the MLAC process.

Ms. Masters stated that she had referenced the provision on pages 20-21 of the bill but that suggestion was inadvertently left out of their written testimony. SAIF suggests narrowing the language. It is common that claimant's attorneys file appeals and then withdraw them in order to comply with various required timelines. Medical billing disputes are generally regarding the amount of a medical bill, not about whether or not the provided treatment was valid. Adding fees to that would encourage additional litigation. Workers' compensation plaintiff work is historically a contingent-fee type of practice and is therefore inconsistent with having each and every service compensated.

John Klor clarified the discrepancy between defense attorney's fees and claimant attorney's fees. Most claimant's attorneys do not practice only workers' compensation, where defense attorneys generally do focus only on workers' compensation, so a comparison is not consistent between the two types.

Chris Frost, OTLA, responded to medical billing disputes issue, stating that attorneys are brought in when clients are sent to collections over medical billing and that attorneys should be compensated for that.

John Mohlis talked about [MLAC's technical amendments](#) to the -5 amendments. Some of these were discussed in earlier testimony and one change was clerical. John Shilts reviewed these changes.

John Mohlis requested a recess.

The committee returned from recess. Ms. Van Winkle recapped the [consensus](#) reached during the recess. Mr. Shilts provided additional clarification and mentioned an additional agreement on page 17-18 of the -5 amendments removing the reference to DCBS. Jennifer Flood, Ombudsman for Injured Workers provided some clarification on page 18 line 21.

Ms. Masters discussed an inconsistency between the co-chair technical amendments and the SAIF technical.

Ms. Frost asked for clarification. Ms. Van Winkle agreed that there was a great deal of discussion on how to combine OTLA's concerns with SAIF's. The issue will be added to the -5 amendments on page 17 line 7 after the words "cross appeal". Mr. Elmer discussed section 6 of the bill regarding OTLA's suggestion for language on page 17. Ms. Van Winkle stated that she would ask Legislative Counsel for guidance.

Mr. Boileau moved to adopt changes made through the consensus

	<p>agreement into the -5 amendments, which will be a separate amendment. Ben Stange seconded the motion, which passed on a unanimous vote.</p> <p>Mr. Mohlis recognized Mr. Boileau, Ms. Van Winkle, and WCD staff for their work on the bill.</p>
Meeting Adjourned (0:XX:XX)	Mr. Mohlis adjourned the meeting at 1:42 p.m.

*These minutes include time stamps from the meeting audio found here:

<http://www.oregon.gov/DCBS/MLAC/audio.shtml> .

**Referenced documents can be found on the MLAC Supporting Documents page here:

<http://www.oregon.gov/DCBS/MLAC/pages/support.aspx>