

WORKERS' COMPENSATION
MANAGEMENT-LABOR ADVISORY COMMITTEE
Full Committee Meeting

January 19, 2023
10:00am-12:00pm

Committee Members Present:

Scott Strickland, Sheet Metal Workers Local #16
Patrick Priest, Citycounty Insurance Services via Zoom
Matt Calzia, Oregon Nurses Association via Zoom
Sara Duckwall, Duckwall Fruit via Zoom
Margaret Weddell, Labor Representative via Zoom
John McKenzie, JE Dunn Construction via Zoom
Lynn McNamara, Paladin Consulting via Zoom
Tammy Bowers, May Trucking via Zoom
Jill Fullerton, Clackamas County Fire Department via Zoom
Andrew Stolfi, DCBS Director, *ex officio* via Zoom

Committee Members Excused:

Marcy Grail, IBEW Local 125

Staff:

Cara Filsinger, MLAC Committee Administrator
Brittany Williams, MLAC Assistant

Agenda Item	Discussion
Opening (0:00:06)	Scott Strickland opened the meeting and Cara Filsinger called the roll of members. Quorum was met and minutes from the December 22, 2022 meeting were discussed.
(0:03:30)	Lynn McNamara made a motion to approve the minutes, Margaret Weddell seconded the motion. The motion passed with a voice vote with nine votes in favor, none opposed, and no abstentions.
(0:04:29)	Workers' Compensation Board case law update was given by Robert Pardington, noting that attorney fee statistics are now available on the WCB website.
(0:06:42)	Cara Filsinger gave the Workers' Compensation Division rule making update stating that the annual medical fee schedule that takes place on April 1, 2023 will be available for public comment shortly.
(0:07:16)	Cara Filsinger began the revised committee workplan . Scott Strickland explained that Northwest Worker's Justice Project had reached out to

MLAC with concerns about worker retaliation, prompting the highlight of that issue for MLAC to investigate. He noted that the updated workplan is a compilation of reoccurring themes that have come up in the past and that have been recently discussed. Patrick Priest agreed with Scott Strickland's comments noting that the work plan helps new members focus on what is important and that he wants to celebrate the things that the committee has checked off the list.

- (0:10:24) Sara Duckwall commented that she hopes that the committee can be proactive in working through these items.
- (0:10:56) Scott Strickland agreed and mentioned that he is excited to see early stakeholder involvement.
- (0:11:23) Margaret Weddell agreed with Sara and asked if she had any suggestions for how the committee can be more proactive in the workplan. Sara Duckwall responded that there was agreement that the two top bullet points are the top priority but that ensuring that there is ample support through the Workers' Compensation Division and being proactive in reaching out to stakeholders proactively will be important to completing the workplan in a timely manner. Scott Strickland agreed.
- (0:13:10) David Barenberg, SAIF suggested that after seeing stakeholder input from the NW Workers' Justice project that it may be a good idea to hold a public hearing in order to gather input from other stakeholder groups and having that input guide the committee on how they approach the issues.
- (0:14:09) Tammy Bowers addressed Sara Duckwall's concerns about having enough support in order to address the work plan. Noting that the committee will need to be able to organize and make information accessible to workers using a QR code. She noted that that would take a lot of support from the department to complete. She voiced support for David Barenberg's suggestion of having an open opportunity to gather stakeholder feedback.
- (0:15:43) Sally Coen, WCD gave a update on the ongoing WCD information and processing streamlining project. They have settled on using the Hemingway readability tool to review current documents and communications. They would like to be able to test out some of their proposed language on end users after the suggestion of MLAC members during the December meeting. WCD is looking for opportunities for testing and gathering feedback on this proposed language. They did send out a [detailed update on the modernization program in December](#).
- (0:25:19) Sara Duckwall asked if Sally could include all MLAC members on sending out the update as she had received it but was not sure if she had received it via GovDelivery or it was forwarded to her. Sally Coen agreed that she
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would send that out as well as information about how to sign up for GovDelivery notification. Sara Duckwall asked when end user deliverables could be expected on this project. Sally Coen responded that these will require rulemaking processes so it will take a few months.

(0:27:07) Dustin Karstatter, Multnomah County Risk Management asked about the issues that carried over into the workplan from 2022. He asked how much historic data needed to be received and asked the subcommittee chairs how far back they would like to see information that they were requesting in order to reopen issues about time loss end dates not being listed.

(0:28:17) Sara Duckwall responded that the last few years data would be ample but that there is no specific guidance about how much data is needed. Matt Calzia noted that sorting through the information that is available from the last few years if there was appropriate data available.

(0:29:41) Cara Filsinger added MAC would be meeting on January 20, 2023 to discuss MLAC's questions about best practices.

Discussion about LC 1486

(0:30:29) Dr. Vern Saboe representing the Oregon Chiropractic Association shared a [presentation](#) about [LC 1486](#).

(0:38:11) Dr. Anthony Rosner spoke about the cost savings associated with injured workers seeking chiropractic care sharing information about a [paper](#) that he recently authored about the subject.

(0:47:12) Matt Calzia asked Dr. Rosner if he had any data outcomes on spinal manipulation other than the lumbar manipulation, specifically examples about cervical spine manipulation and stroke. Dr. Rosner answered that the type of treatment a patient received is based upon the patient's injuries and that the use of procedures such as extreme motor rotation treatments are rarer. Dr. Rosner has seen a few studies that indicates that the rates of stroke or dissection is similar to other physicians.

(0:49:29) Lynn McNamara asked Dr. Rosner if there are studies that compare amount of time for workers to return to work after chiropractic treatment. Dr. Rosner answered that there is and that he believes that information was included. Lynn McNamara requested that Dr. Rosner send any additional information to MLAC for review.

(0:51:07) Dr. Saboe responded to Matt Calzia's question about veritable artery dissection and subsequent stroke. Dr. Saboe referenced the article by Cassidy that Dr. Rosner spoke about which stated that the percentage of this occurring under chiropractic care is less than the general population

with the data suggesting that the event occurs in less than one in every 10 million.

- (0:53:37) Scott Strickland raised a bit of clarification, stating that the group is evaluating this legislative concept through MLAC's stated lens and asked if either Dr. Saboe or Dr. Rosner had any additional information relating to lack of access to care or evidence stemming from anything other than cost.
- (0:55:05) Dr. Saboe responded that the most chiropractors do their own imaging and physical therapy leading to more cost savings. Dr. Saboe mentioned the recent change allowing Oregon Health Plan members to receive chiropractic treatment and stated that this change came about because of the documented positive outcomes and preventions of chiropractic treatment as evaluated by OHSU.
- (0:56:32) Sara Duckwall asked Dr. Rosner to clarify his previous statement that patients experienced extreme amounts of improvement within 1 to 3 chiropractic visits. Sara Duckwall explained that currently 18 chiropractic visits are allowed so, she is unsure how that current system is restrictive. Dr. Saboe responded that he was actually the one who made that comment that stated that the great majority of patients can be treated under the current system but that there are still access issues as well as the small percentage of patients that need more extensive treatment than the current system allows. Dr. Saboe stated that there are barriers to access because chiropractic physicians are not allowed to be attending physicians on claims. Sara Duckwall asked Dr. Saboe for confirmation that patients can currently choose to continue seeing the chiropractors. Dr. Saboe responded that often patients are not told that they can seek chiropractic care outside of their occupational medicine or managed care provider.
- (1:00:47) Tammy Bowers asked Dr. Saboe to expand upon his statements about lack of access to care, she stated that MLAC has heard that the lack of access to care is because of provider availability. Tammy further stated that in her experience she has not had workers have the same access issues with chiropractic offices and asked Dr. Saboe to clarify where the access issues are occurring. Dr. Saboe responded that the number of chiropractors allowed in MCO panels can be restrictive and that once the worker begins treatment, the chiropractor loses ability to treat the patients after 18 visits without an additional referral from the attending physician. Tammy Bowers asked Dr. Saboe if it was correct that the attending physician can then refer a worker back to chiropractic care for as many visits as needed. Dr. Saboe responded yes, but that does not happen and part of the issue is that workers are not being referred back.
- (1:04:04) Scott Strickland asked Dr. Saboe for clarification about his statement, asking him to confirm that yes, there is the ability to be referred back to
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- chiropractic treatment as needed but that it does not occur. Dr. Saboe responded that he does not believe that it never occurs but that it does not often occur and more often workers are referred to occupational medicine clinics.
- (1:05:24) Dr. Rosner responded that he cited a number of maintenance care studies that discussed the importance in continuity of care. He also noted that in the study by Davis, an additional cost is noted when Medicare patients had reduced access to chiropractic care. He finished by noting that access and continuity issues are key.
- (1:07:33) Matt Calzia asked Dr. Rosner about the New England Journal of Medicine's article that he cited that stated that there was not clear benefit of chiropractic care over physical therapy defined by effectiveness and cost. Dr. Rosner responded that unfortunately there is a lot of flaws in the methodology of that article both in patient selection and cost analysis, noting the lack in definition of fees paid. Dr. Rosner stated that he was one of the reviewers of this article and had objections to it at the time of publishing.
- (1:09:50) Dr. Saboe emphasized that chiropractic treatment is a one stop shop that includes physical therapy and radiographic evaluations. He noted that chiropractors are versed in numerous treatments and modalities.
- (1:11:01) David Barenberg, SAIF stated that SAIF supports the existing system where a chiropractic physician can be the attending physician for up to 18 visits of 60 days. David reminded the meeting that one of the cost drivers for the Workers' Compensation system in the 1980's was chiropractic care costs at the time. He noted that insurers are focused on getting the best outcome for the lowest costs and that the current system is what is in everyone's best interest. He noted that with the proper attending referral, there is no limit on chiropractic care in the system.
- (1:13:31) Dustin Karstatter, Multnomah County Risk Management asked Dr. Saboe to speak to situations where surgical intervention is necessary and it is determined that chiropractic care cannot resolve a patient issue. Dr. Saboe responded that he works with local neurosurgeons and once it is determined that surgical intervention is necessary, chiropractic physicians are bound to make appropriate referrals in a timely manner. He noted that clinical skills and imaging are used to determine the correct course of action. He noted that it is malpractice if they do not make the appropriate in a timely manner. Dr. Saboe also responded to David Barenberg's previous comments, noting that he has a slide of information from SAIF that was inappropriately used explaining the case cost analysis. Dr. Saboe explained that the case costs did not include the information about
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chiropractic care did not include the costs of imaging, direct treatment, or performed diagnostic treatment.

- (1:19:21) Dr. Rosner responded that there is a referral pattern that has made patients believe that chiropractic care is an add on service as opposed to the route of patients seeing chiropractors as a primary point of care. Scott Strickland invited Dr. Rosner to get involved in the worker communication aspect of MLAC's workplan noting the previous discussion about ensuring that workers receive information about all of their treatment options at the beginning of their claim.
- (1:21:28) Kirsten Adams, Association of General Contractors spoke in support of David Barenberg's concerns about a shift the current workers' compensation system. She added that AGC shares SAIF's concerns about the changes to the system that this piece of legislation may cause.
- (1:22:24) Dr. Rosner responded to the concerns raised about the lack of diagnostic training. He stated that in the papers that he cited, it shows a clear lack of training in musculoskeletal training in general health care and that the area of expertise that chiropractic physicians have in a necessary part of treatment that the worker may not be able to find outside of chiropractic treatment.
- (1:23:39) Scott Strickland called for any additional discussion. Hearing none he thanked Dr. Rosner and Dr. Saboe for their presentations.
- (1:23:57) Cara Filsinger gave an update on agenda stating that the additional bills would be carried over the February 3rd 2023 meeting.
- (1:24:41) Scott Strickland asked for any additional closing comments, hearing none the meetings was adjourned.

Meeting

Adjourned

Scott Strickland adjourned the meeting at 12:04pm.

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

<https://www.oregon.gov/dcbs/mlac/Pages/2023.aspx>

**Referenced documents can be found on the MLAC Meeting Information page here:

<https://www.oregon.gov/dcbs/mlac/Pages/2023.aspx>