

WORKERS' COMPENSATION
MANAGEMENT-LABOR ADVISORY COMMITTEE
Full MLAC Meeting
June 4, 2018
1:30 p.m. – 3:30 p.m.

Committee Members Present:

Tammy Bowers, May Trucking
Alan Hartley, Shari's Restaurants {via teleconference}
Lynn McNamara, CityCounty Insurance
Kathy Nishimoto, Duckwall Fruit {via teleconference}
Kimberly Wood, Perlo Construction
Aida Aranda, Oregon and Southern Idaho Labor-Employers Training Trust {via teleconference}
Kevin Billman, United Food and Commercial Workers
Diana Winther, IBEW Local 48
Cameron Smith, Director, Department of Consumer and Business Services, *ex officio*

Members Excused:

Ateusa Salemi, Oregon Nurses Association

Guest:

Guy Boileau, Louisana-Pacific Corporation

Staff:

Theresa Van Winkle, MLAC Committee Administrator

Agenda Item	Discussion
Opening (0:00:00)	Diana Winther opened the meeting at 1:30 p.m.
Meeting Minutes (0:00:35)	Lynn McNamara moved to approve the minutes from the February 16, 2018 meeting. Kevin Billman seconded. All members present voted aye. NOTE: there was not a quorum present for this vote, so the minutes will be approved at the next meeting.
Medical Arbiter Process (0:01:00)	<p>Lou Savage, Administrator, Workers' Compensation Division (WCD), provided background on medical arbiters in the reconsideration process and the statutory requirement to consult MLAC on the process. Julia Hier, policy analyst, WCD, gave a PowerPoint presentation on the reconsideration process, history of medical arbiter process, role of the medical arbiter, and process to recruit arbiters.</p> <p>Lynn McNamara asked how closely the members of an arbiter panel match the type of claims needing review? Tracy George, Appellate Review Unit, answered that the bulk of claims are going to be orthopedic in nature.</p> <p>Kimberly Wood asked how many arbiter exams are performed per month compared to how many are requested? Ms. George responded that they are keeping up with requests, but some requests are rescinded.</p>

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	<p>Cameron Smith asked about difficulties in recruiting arbiters and whether the numbers are flat or declining? Ms. George responded it is declining, mostly due to retirements in the medical field generally.</p>
	<p>Diana Winther asked if there is data about why providers stop being arbiters? Ms. George responded that very few quit outright, sometimes their practice is too busy, but mostly it is because they are retiring or moving out of state.</p>
	<p>Kimberly Wood asked if we have demographics about the providers we do have on the list? Ms. George said that we could find out.</p>
	<p>Kevin Billman asked what type of specialties are needed? Ms. George responded that though most injuries are orthopedic in nature, but some specialties are not needed very often. We also need other types of providers especially in rural areas.</p>
	<p>Kimberly Wood asked if the division has contacted the Oregon Medical Board for recruitment efforts? Ms. George said they have not contacted them recently. Lou Savage commented that the division is working on a medical outreach project and will come back to MLAC for future discussion.</p>
<p>SB 533 Managed Care Report (0:28:39)</p>	<p>Lou Savage provided the annual SB 533(2013) report.</p> <p>Diana Winther asked if “previously terminated as an attending physician” means they violated one of the MCO rules? Mr. Savage responded that is correct.</p> <p>Cameron Smith asked if the report is annual? Mr. Savage responded yes.</p>
<p>Workers’ Compensation Board recent court case update (0:31:45)</p>	<p>Theresa Van Winkle introduced Connie Wold, the new chair of the Workers’ Compensation Board.</p> <p>Grieg Lowell, Workers’ Compensation Board, reviewed five major recent court cases.</p> <p>Tammy Bowers asked about the <i>Chu v. SAIF</i> case and whether the worker can to go back to work at any job? Mr. Lowell responded the court case did not address that issue.</p> <p>Julia Hier, WCD, provided a short update about the division’s rulemaking to address the <i>Chu v. SAIF</i> case. The rules are out for public comment, the hearing is June 21, 2018 and written comments due June 26, 2018.</p> <p>Guy Boileau asked if the <i>Chu v. SAIF</i> case has been appealed? Mr. Lowell</p>

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Worker's Benefit Fund Balance Study (0:52:01)	<p>responded he believes yes.</p> <hr/> <p>Gary Helmer, Senior Economist, DCBS, reviewed an outline for the study of the Worker's Benefit Fund as required by SB 1558 (2014). The goal is to have a rough draft of the study ready for MLAC by September.</p> <p>Tammy Bowers asked about the tools to address risk, specifically the reimbursement for the Employer at Injury Program (EAIP) that was reduced several years ago? Mr. Helmer noted that change did happen and the information about impact will be included in the report. He commented that at that time we increased the assessment and reduced reimbursements.</p> <p>Kimberly Wood asked further about the impact on EAIP? Lynn McNamara agreed that the outcome on that program should be included.</p>
2019 Legislative Concepts (1:00:39)	<p>Lou Savage provided an update on the division's legislative concepts for 2019. The division will return when we have draft language for MLAC's approval.</p> <p>The first concept is to address the cap on civil penalties issued against employers, insurers, service companies (for audits) and managed care organizations that violate the workers' compensation laws and rules. The cap was put in statute in 1975. Recent performance of some parties has not been good and in some cases is declining and the penalty amounts are not effective. The concept does three things. First it separates the cap into three parts – one for employers, one for managed care organizations, and one for insurers/self-insured employers and service companies (for audits). Second, it increases the penalty cap amount for insurers/self-insured employers. Third, the concept changes the penalty cap to an annual amount instead of a three month rolling period.</p> <p>Cameron Smith asked where collected civil penalties go? Mr. Savage answered they go in the Worker's Benefit Fund.</p> <p>Mr. Savage discussed the other proposal is a budget request to start the planning process to improve the workers' compensation claim system. The data system is used to monitor compliance, track data, and OSHA uses to schedule inspections. The system is archaic and requires manual entry. The long term project will be large, but this request is for the planning process to get the project going. The funding will come from premium assessments.</p> <p>Theresa Van Winkle commented that there are more steps to go through in the budget and legislative process through the Governor's office. Mr. Savage commented that the planning process is important to be sure legislative approval is gained.</p>

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**General
announcements**
(1:14:00)

Theresa Van Winkle said that regarding 2019 legislation, we will notify stakeholders about presenting concepts to the committee in the near future.

Ms. Van Winkle said that we are working on improving technology to participate in MLAC meetings. We are working on options for members to be able to see the meetings remotely.

Ms. Van Winkle provided an update on MLAC membership. Several members were reappointed at the last executive appointments session. Kathy Nishimoto is a new member, she previously served on MLAC in 2008-13. Guy Boileau's term has expired and the committee thanked him for his service. Mr. Boileau thanked the committee and others for their participation with the committee. Ms. Van Winkle noted there is a labor member position open which should be filled by September.

**Meeting
Adjourned**
(1:19:01)

Diana Winther adjourned the committee at 2:50 p.m.

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

<http://www.oregon.gov/dcbs/mlac/Pages/2018.aspx>

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

<http://www.oregon.gov/dcbs/mlac/Pages/2018.aspx>