

WORKERS' COMPENSATION
MANAGEMENT-LABOR ADVISORY COMMITTEE

Full MLAC Meeting

April 26, 2019

9:30 a.m. – 12:00 p.m.

Committee Members Present:

Alan Hartley {via teleconference}
Kimberly Wood, Perlo Construction
Kevin Billman, United Food and Commercial Workers
Diana Winther, IBEW Local 48
Tammy Bowers, May Trucking
Jill Fullerton, Clackamas County Fire Department
Ateusa Salemi, Oregon Nurses Association {via teleconference}
Cameron Smith, Director, Department of Consumer and Business Services (DCBS), *ex officio*
Lynn McNamara

Committee Members Excused

Kathy Nishimoto, Duckwall Fruit
Aida Aranda, Oregon and Southern Idaho Labor-Employers Trust

Staff:

Theresa Van Winkle, MLAC Committee Administrator
Jeff Roddy-Warburton, MLAC Assistant

Agenda Item	Discussion
Opening (0:00:00)	Diana Winther opened the meeting at 9:31 am.
Meeting Minutes (0:00:25)	Diana Winther moved to approve the minutes from the April 5, 2019 meeting. Committee approves the minutes (Kathy Nishimoto and Aida Aranda excused).
Department Updates (0:01.12)	Theresa Van Winkle, Committee Administrator, made announcements and provided updates: <ul style="list-style-type: none">- Update on the forward looking administrative rulemaking calendar, there are no upcoming meeting scheduled for 2019 at this time. The last public hearing on rules specific to attorney fees, medical fees, medical services, and managed care organizations. Both sets of rules went into effect on April 1, 2019.
(0:01:30)	- Update on upcoming MLAC meetings listed on the agenda. In June meetings will go back to every other month and some will be held in Durham. (Following the meeting a May 3rd, 2019 MLAC meeting was added to the calendar)
(0:02:28)	- Updates on HB 3022 possible work session to consider the amendments brought forth by the subcommittee. Currently no hearing scheduled for HB 2418 or SB 507. HB 2087 has been signed by the Governor. HB 2406 has either been signed or is on the Governors desk to be signed. HB 2788 is still in Ways and
(0:02:53)	

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(0:04:28)	<p>Means. HB 3003 was voted out of the Senate and is on its way to the Governor. HB 3146 was voted out of the House and is on its way to the Senate. SB 355 has been voted out of both chambers or will be shortly.</p> <ul style="list-style-type: none"> - Diana Winther requests that if the HB 2788 has to go to hearing that the committee be informed. Theresa Van Winkle responds yes of course.
<p>Annual Report and Education Session (0:05:00)</p>	<p>Steven Shea, Ryan Olson, David Hurtado, Emily Huang, and Dede Montgomery from the Oregon Institute of Occupational Health Sciences (OIOHS) give a presentation on their annual update for MLAC.</p>
(0:38:00)	<ul style="list-style-type: none"> - Tammy Bowers asks how much their services cost. Emily Huang states that she isn't sure the exact cost. Tammy Bowers asks who would you contact at OIOHS to do some of the surveys. Emily Huang responds that she can contact her.
(0:48:35)	<ul style="list-style-type: none"> - Kimberly Wood asks OIOHS when they are coming back MLAC. Theresa Van Winkle states that if she finds out what topics everyone is interested in hearing about then she can have more information available for those topics. Kimberly Wood asks for an update on the skin cancer study from OIOHS, Steven Shea gives an update on cancer skin study and states that they come back to MLAC once a year.
<p>2019 Legislative Review (0:53:33)</p>	<p>Theresa Van Winkle begins the legislative review discussion with HB 2418 and SB 507 and the subcommittee recommendation. This meeting was the first time the committee has seen the agreed upon language that came out of the subcommittee. Also provided was an overview of that the proposal contains.</p>
(0:54:50)	<ul style="list-style-type: none"> - Andy Graham, attorney, Cummins, Denley & Vickers P.C, Jack Dempsey, Oregon State Firefighters Council, and Hasina Wittenberg, Special Districts Association of Oregon give an overview of the changes made to HB 2418 and SB 507.
(0:58:38)	<ul style="list-style-type: none"> - Andy Graham does a walk through of the bill's burden of proof.
(1:01:34)	<ul style="list-style-type: none"> - Tammy Bowers asks if full time medical service providers include EMT's but not emergency room physicians and nurses. Andy Graham and Jack Dempsey both respond that is correct. Jack Dempsey states that special language would have to be written to add the ER physicians and nurses into the bill. Hasina Wittenberg adds in that the only people that can diagnose are psychologist and psychiatrist.
(1:02:30)	<ul style="list-style-type: none"> - Kimberly Wood and Diana Winther thanks them for all of their hard work on behalf of the committee.

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(1:03:40)	- Cameron Smith asks which bill becomes the vehicle for the amendment. Andy Graham responds SB 507.
(1:04:07)	- Diana Winther asks for a motion to move forward on recommendation of HB 2418 and SB 507. Jill Fullerton moves to approve and Kimberly Wood seconds. Committee members unanimously vote to approve recommendation (Kathy Nishimoto and Aida Aranda excused).
(1:04:50)	Theresa Van Winkle gives a status report on HB 3022. HB 3022 had a public hearing in House Rules on April 22, 2019. Committee was given the -2 amendments of the bill . The reason why it is -2 is because -1 had incorrect information. Upon review of the amendment language, the Oregon Trial Lawyers Association feels that the current verbiage does not match closely enough with what was recommended by the committee. Theresa Van Winkle has had a few meetings with legislative counsel to work through seeing what can be changed and provide justification to why the changes are needed versus things that were “wordsmithing”. The -2 amendment has been signed off by stakeholders, it is a hand engrossed. It is hopeful that this language will be finalized by April 29, 2019. Theresa Van Winkle states that she can not guarantee that it will look exactly “as-is”. Once -3 is available she will get it to committee members.
(1:06:48)	- Kimberly Wood thanks Theresa Van Winkle for the work that she has done. Theresa Van Winkle thanks the stakeholders for their work.
(1:08:20)	- Kimberly Wood asks if anything came in from OTLA. Theresa Van Winkle states that OTLA had 2 additional tweaks, one was in regards to the justification in changing the terminology from occupational disease to occupational exposure, the second was on page 9 changing the “and” to “the”. Theresa Van Winkle’s presumption is that is ok.
(1:09:05)	- Kimberly Wood asks if that is what SAIF and AGC were okaying? Theresa Van Winkle responds yes.
(1:10:16)	- Kimberly Wood asks Andy Graham if he is ok with where the bill stands right now. Andy Graham responds with his concerns (on behalf of Special Districts but just as a private defense attorney) on page 2 the word “and” was added that wasn’t in the original language and he feels it doesn’t belong there, the second was also on page 2 line 4, “may be related” got changed to “might be related” and he doesn’t know Legislative Council’s reasoning is for that.
(1:12:05)	- Theresa Van Winkle believes that in talking to Legislative Counsel those changes were made through the editing process to match form and style manual. Andy Graham responds that to him it is an unusual word choice to use.

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(1:12:41)	- Kimberly Wood asks if Andy Graham thinks that it changes the nature of the meaning. Andy Graham responds that he thinks it could and he thinks that the language that was agreed upon is what should be used. Theresa Van Winkle states that is what she advocated for.
(1:13:41)	- Kimberly Wood asks if the changes can go back to the original proposal. Theresa Van Winkle responds she isn't sure if those changes will be made in time.
(1:13:55)	- Diana Winther states that she knows that SAIF has signed off on the -2 amendments and that OTLA is ok with it as well. She also states that she sees the concern of the two word changes but she is also concerned with holding the bill up any longer and it not getting through in time.
(1:14:15)	- Holly O'Dell, says on behalf of SAIF that they did agree with OTLA in regards to the term occupational exposure over occupational disease and reversing all of the language back to what it was agreed upon. SAIF also agrees with Andy Graham that "may be" and "might" have different meanings and that "and" should be removed.
(1:15:00)	Committee members and staff discuss the importance of the verbiage being exactly what is proposed, the reasoning behind why certain words were changed, and what is next going forward with the bill. Committee takes a brief recess at 10:50am. Committee reconvenes at 11:35am.
(1:19:20)	Diana Winther announces the committee has decided not to make any make any decisions in regards to HB 3022. Kimberly wood asks the parties that were involved in drafting the language to meet and discuss the changes that were made and come back with a recommendation.
(1:19:20)	Theresa Van Winkle noted the bill review document on the MLAC webpage will be updated.
Meeting Adjourned (1:22:05)	Diana Winther adjourned the committee at 11:38 a.m.

*These minutes include time stamps from the meeting audio found here:
<https://www.oregon.gov/dcbs/mlac/Pages/2019.aspx>

**Referenced documents can be found on the MLAC Meeting Information page here:
<https://www.oregon.gov/dcbs/mlac/Pages/2019.aspx>