



July 8, 2020

To: Management and Labor Advisory Committee (MLAC)

From: State Representative Christine Drazan, House Republican Leader
State Senator Fred Girod, Senate Republican Leader

Dear Management and Labor Advisory Committee (MLAC) Chairs and Members:

The effects of the COVID-19 pandemic are being felt in all corners of our state, including workplaces in every sector. Business owners are being required to take extraordinary precautions to stay open and reopen.

In recent weeks, we have seen how difficult the virus is to contain and how it can spread easily between family and friends, at social gatherings and community events. We have also seen it spread at workplaces. Last week, MLAC heard testimony about this in its review of the workers' compensation system, and how workplace claims for COVID-19 are being managed.

The governor has tasked MLAC with examining workers' compensation issues related to COVID-19 to determine whether there are gaps in protections for workers, and, if so, if a worker presumption for COVID-19 would address those gaps.

So far, there do not appear to be gaps that would warrant such a presumption—in fact, Oregon's largest workers' compensation carrier indicated that the vast majority of workers' compensation claims for COVID-19 have been accepted. Those that were denied have unique circumstances where there was scant evidence of work-related exposure or where the worker did not even test positive for COVID-19. As SAIF testified, there are no pending appeals or disputes for these decisions.

The system is working as intended.

We are also aware that there was testimony from workers and advocates, who raised issues we are confident MLAC will investigate further.

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(Cont'd.)

In Oregon, we're fortunate to have one of the best workers' compensation systems in the nation—a system that has simultaneously maintained strong worker benefits and reduced costs for employers through a focus on workplace safety. All signs point to a system that is working well, with worker benefits that are higher than many other states. Since 1990, MLAC has provided an effective means for labor and management to come together and resolve issues facing the system.

As members of MLAC, you understand how quickly the system can fall out of balance if we forget what it was designed to do—to take care of workers who are injured or become ill through workplace exposure.

The evolving science of COVID-19 indicates unprecedented spread through asymptomatic and pre-symptomatic individuals, necessitating a recent indoor mask mandate. The need for the mask mandate is also the clearest argument against any broad, hasty presumption of COVID in the workplace. Oregon's workplaces are among the most regulated environments in our state as the guidance and mandates for managing COVID spread continue to be enforced in ways that community and family settings cannot.

Absent the need to prove an exposure happened at the workplace, a presumption places an undue share of the burden for the pandemic on the workers' compensation system. It presumes that workplaces are the sole place where people gather and risk exposure to the virus, even as employers are taking unprecedented steps to keep workers and customers safe.

We would urge you to remain focused on what has been successful in Oregon—a balanced approach that maintains existing coverage for workers who are legitimately exposed to the virus in the workplace and protects the balance within the workers' compensation system for future generations of employers and workers.

We urge you to complete the thorough, data-driven review already underway in response to the governor's letter. We ask you to share your review findings with all members of the legislative assembly when you have completed your gap analysis.

We recognize you are volunteering to serve on MLAC, and we thank you for your service. Thank you for the time you are dedicating to this important issue. We look forward to receiving your analysis and recommendations.