

Council on Worker's Compensation
Meeting Minutes – Virtual Meeting (WebEx)
201 E. Washington Avenue
GEF-1 Building
Madison, Wisconsin
December 13, 2021

The Department of Workforce Development (DWD) provided public notice of the meeting under Wis. Stat. § 19.84.

Members present by telephone or by video: Ms. Bloomingdale, Mr. Buchen, Ms. Frank, Mr. Fugina, Mr. Kent, Ms. Johnson, Mr. Large, Mr. Nettum, Mr. Peters (Chairperson), Ms. Quigley-Knackert, Mr. Schwanda, Mr. Streff, Mr. Tindall and Ms. Ver Velde

Excused: None

Staff Present: Mr. Brockman, Ms. Brown, Mr. Dipko, Ms. Lake, Mr. Moreth, Ms. McCormick, Mr. O'Malley, Ms. Przybylo and Ms. Weinberger

- 1. Call to Order/Introductions:** Mr. Peters convened the Worker's Compensation Advisory Council (WCAC) meeting at approximately 2:00 p.m. in accordance with Wisconsin's open meetings law and called roll of the WCAC members.

Mr. O'Malley provided a brief review of the preliminary draft of the WC Agreed Upon Bill from the Legislative Reference Bureau (LRB). The draft covered the provisions that were intended to be included in the bill. On pages 4 and 5 of the draft, there are amendments to five (5) sections in ch. 46, Wis. Stats., that added the language, "for purposes of worker's compensation coverage". This additional language was included so there would be no misunderstanding those provisions applied to worker's compensation coverage. These amendments were included in prior bills that did not pass.

On page 6 of the draft, Sections (6), (7) and (8) are amendments to Chapter 73, Wis. Stats., that were cross referenced to conform with the transfer of the license to appear process to the Division of Hearings and Appeals.

Section 102.04 (1) (b) 1 and 2, Wis. Stats., were amended to clarify that every person who at any time employs three (3) or more employees in Wisconsin is subject to the Wisconsin Worker's Compensation Act on the day on which the person employs three (3) or more employees in this state.

Farmers will have the same authority to withdraw from subjectivity to ch. 102, Wis. Stats., as other employers who have had no employee in the previous two (2) years with amendment to s. 102.05, Wis. Stats.

At the top of page 8 in the draft s. 102.11 (1), Wis. Stats., was amended to reflect the increase in the maximum weekly benefit rate for permanent partial disability. The maximum benefit rate for permanent partial disability will be \$415.00 for injuries occurring on and after the effective date of the bill in 2022, and the maximum weekly wage will be \$622.50. For injuries occurring on and after January 1, 2023, the maximum permanent partial disability rate will be \$430.00 per week with a maximum weekly wage of \$645.00.

On page 9 of the draft s.102.11 (1) (am), Wis. Stats., will be repealed relating to the expansion a part-time employee's weekly wage up to 24 hours per week when the employee is working part of a class. The concept of working as part of a class is to be eliminated. Section 102.11 (1) (ap), Wis. Stats., was created to implement the change in the law for calculating the weekly wage for part-time employees.

There is an amendment to s. 102.11 (1) (f), Wis. Stats., on page 10 of the draft. Section 102.11 (1) (f) 1., Wis. Stats., was repealed because it referenced expanding the weekly wage to 24 hours for part-time employees working part of class. Section 102.11 (1) (f) 2, Wis. Stats., was amended and renumbered as s. 102.11 (1) (f), Wis. Stats., to reflect the current proposed change for expanding part-time workers to full time by adding those who have worked less than 12 months for the employer.

On pages 10 and 11 of the draft s. 102.13 (1) (b), Wis. Stats., was amended to allow an employee to have one (1) observer present at an examination requested by the employer or worker's compensation insurance carrier.

Section 102.15 (1), Wis. Stats., was amended to authorize the Department to have statutory authority to promulgate administrative rules that are necessary to carry out its duties and functions.

On page 11 of the draft s. 102.16 (1) (b) 2, Wis. Stats., was created to provide the Department with statutory authority to conduct alternative dispute resolution activities in cases where employees are not represented by attorneys. With this amendment the Department is authorized to conduct alternative dispute resolution activities in cases where no hearing application was filed and cases where a hearing application was filed regardless of whether the case is ready to be scheduled for a hearing.

The amendments to s. 102.17 (1), Wis. Stats., authorize the transfer of the authority to grant licenses to appear for individuals who are not licensed to practice law in Wisconsin to the Division of Hearings and Appeals. Section DWD 80.20 of the Wisconsin Administrative Code covering license to appear was also transferred to the Division of Hearings and Appeals.

Section 102.33 (2) (b) 7, Wis. Stats., was created as an exception to the confidential records provision that will allow the Department of Health Services, a county department of social services or a county department of human services to obtain limited information that is confidential such as name and address of employee or employer and financial information about the employee.

Section 102.39, Wis. Stats., will be repealed because this section is obsolete. The relevant language of this section was combined with the amendment to s. 102.15 (1), Wis. Stats.

On page 16 of the draft, ss. 102.43 (6) (b) and 102.61 (1g) (a) 2, Wis. Stats., were amended to correctly cross reference the creation of s. 102.11 (1) (ap), Wis. Stats., for the calculation of the weekly wage for part-time employees.

On pages 16 and 17 of the draft, there are a number of amendments to ss. 102.80, 102.81 and 102.82, Wis. Stats., that authorize the Uninsured Employer Fund (UEF) to receive the same distribution of proceeds from third party settlements as worker's compensation insurance carriers and self-insured employers.

At the end of the draft there is a fiscal change provision that covers the Department's proposal for an additional 0.2 position to increase an already existing 0.8 position to a 1.0 position (full-time).

2. **Review of Agreed Upon Bill Draft:** A motion was made by Ms. Bloomingdale to approve the draft legislation for introduction to the legislature. Mr. Buchen seconded the motion. The draft legislation was unanimously approved without correction.

The WCAC agreed that companion bills should be submitted for introduction in the Wisconsin State Assembly and Senate.

3. **Adjournment:** Mr. Buchen moved to adjourn the meeting. The motion was seconded by Ms. Bloomingdale. The motion passed unanimously. The meeting was adjourned at approximately 2:35 p.m.

[WCAC 12.13.21 MEETING MINUTES 12.20.21]