

Council on Worker's Compensation
Meeting Minutes
201 E. Washington Avenue
GEF-1 Building, Room F305
Madison, Wisconsin 53703
May 30, 2019

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

Members present: Ms. Bloomingdale, Mr. Buchen, Ms. Frank, Mr. Fugina, Ms. Johnson, Mr. Kent, Mr. Nettum, Mr. O'Malley (Acting Chair), Mr. Reader, Mr. Schwanda, Ms. Thomas and Mr. Tindall

Excused: Mr. Peters and Mr. Redman

Staff Present: Ms. Brown, Ms. Lake, Ms. McCormick and Mr. Moreth

- 1. Call to Order/Introductions:** Mr. O'Malley convened the Worker's Compensation Advisory Council (WCAC) meeting at approximately 10:05 a.m. in accordance with Wisconsin's open meetings law. Members of the WCAC, the audience, and Worker's Compensation Division (WCD) staff introduced themselves.
- 2. Correspondence:** Mr. O'Malley reviewed the correspondence received since the last meeting. A letter dated May 29, 2019 was received from the Health Care Liaisons to the WCAC: Mr. Thomas Moore, Wisconsin Chiropractic Association; Ms. Lisa Ellinger, Wisconsin Hospital Association; Mr. Mark Grapentine, Wisconsin Medical Society; and Ms. Annie Early, Wisconsin Physical Therapy Association. In the letter the liaisons shared their observations on some of the proposals that were made at the last meeting and commented about the following: Management Proposal 1 about employer directed care; Management Proposal 2 authorizing electronic billing and payments; Management Proposal 3 regarding electronic medical records; Management Proposal 4 establishing treatment guidelines; Management Proposal 5 modifying the fee dispute resolution process; and Management Proposal 16 regarding disability determination. The liaisons also offered observations on Labor Proposal 15 related to alternative treatments and medical marijuana.
- 3. Motion to Caucus:** Ms. Bloomingdale moved that the Labor and Management members go into closed caucus and return from caucus at 1:00 p.m. Mr. Reader seconded the motion. By unanimous vote, the members approved the motion and went into closed caucus at about 10:15 a.m. The members returned from caucus at about 1:00 p.m.
- 4. Approval of the Minutes:** A motion was made by Ms. Bloomingdale to approve the minutes of the May 23, 2019 meeting. Mr. Reader seconded the motion. The minutes were unanimously approved without correction.
- 5. Comments by Health Care Liaisons About Proposals:** Mr. Grapentine and Ms. Ellinger were invited to speak by the WCAC. Mr. Grapentine clarified that he and Ms. Ellinger were speaking on behalf of all the liaisons even though two members were unable to attend the meeting.

Mr. Grapentine shared thoughts on Management Proposal 1. He pointed out that employer directed medical care is a fundamental change to the worker's compensation system and freedom of choice in selecting a practitioner is one of the reasons patient satisfaction is so high in Wisconsin. Based on the facts, data and studies available, the liaisons question the need for this type of dramatic change. Mr. Grapentine explained that employees make a

choice in where they go for health care; whether the purpose is a work-related injury or not. Control of that choice is where patient satisfaction is affected in a positive way.

Mr. Buchen inquired as to whether there are high levels of patient satisfaction in health insurance programs. Mr. Reader pointed out that unlike the health insurance programs, worker's compensation does not permit negotiation payments. Mr. Reader agreed with Mr. Buchen there is a high level of patient satisfaction in both the health insurance and worker's compensation systems. The factor driving up patient satisfaction is the high quality of medical care offered in both systems. Mr. Buchen explained that employer directed care would incorporate a panel of doctors. Mr. Reader asked Mr. Grapentine if he could obtain and provide information from his counterparts in other states where panel systems are used.

Ms. Johnson explained her understanding of directed or managed care as utilized in other states and cited some examples. In some states, the panel is comprised of no more than two or three occupational health providers, one chiropractor, one physical therapist, an urgent care facility and a general or family physician. The medical providers need to be within reasonable driving distance from the employer's location; not on the fringes of the state. Some states require that the choice has to include a health care system that they can pick from, such as Aurora or Gundersen Lutheran.

Ms. Ellinger addressed Management Proposal 2 stating that the health care industry has consistently supported administrative streamlining and reforms. However, Management Proposal 2 as written appeared to focus exclusively on the providers versus the insurance carriers which are the other part of this partnership. While the liaisons are absolutely pro administrative reform, there needs to be a focus on the carriers' ability to handle the move to electronic format in an automated fashion. Mr. Reader confirmed that the intent of Management Proposals 2 and 3 is to have electronic records, billings, and receivables used by both medical providers and insurance carriers.

Mr. Grapentine addressed Management Proposal 4 explaining that while treatment guidelines can be helpful in providing suggestions on how care can best be given to an injured worker, when guidelines become parameters it becomes problematic. When specific types of standards, practices or treatments are included in the statute, problems arise as medical practices, science and treatments advance but are not included as allowable treatments under the statute. Artificial limits imposed by legislatures or governors on medical treatments or therapies can be misinterpreted or used for unintended purposes. Prior authorization requirements do not lend to the efficient and effective treatment of patients by medical providers.

Mr. Grapentine stated that while Management Proposal 5 purports to address the fee dispute resolution process, it is attempting to achieve the fee schedule goal by changing the fee dispute process. By using different data points that meld in group health care payments, a fee dispute process that allows for the desired lower rates will be created. A medical fee schedule has been addressed over a number of legislative sessions. It is a fundamental change to the worker's compensation law and the liaisons are very concerned about it.

Mr. Grapentine stated that Management Proposal 16 regarding disability determinations was confusing. Currently permanent disability determinations must be made by occupational health physicians or other qualified health care providers according to statutory guidelines. More information about the intention of this proposal is required before any feedback can be offered.

Mr. Grapentine acknowledged that Labor Proposal 15 regarding opioids was appreciated as it has been a very big priority of the health care community and especially physicians. This proposal was shared with the Opioid Task Force within the Wisconsin Medical Society

comprised of addiction and pain medicine physicians. This group suggested that medical providers should try to use as many alternative treatments to opioids as possible. This includes both physicians and hospitals. The group also suggested that the treatments being proposed should be supported by research, science, and be generally medically acceptable, such as physical therapy or acupuncture. The group provided specific feedback on Lidocaine and Ketamine infusions. One of the addiction medicine physicians previously used that kind of alternative treatment, but found these treatments to be very expensive and over time only provided limited benefits for only some conditions. Leaving the decision-making up to the individual physician or other health care provider is beneficial because each patient's condition is different, even if the type of injury is the same.

Mr. Grapentine commented the only marijuana-based products allowed to be prescribed right now are those that have passed FDA approval and clinical trials. The only one at this time is Epidiolex, which is used for severe childhood seizures. There is an interesting article in the Isthmus today by a CBD grower discussing CBD issues. There is no current FDA regulation in this area and medical marijuana and CBD are still developing areas. The liaisons would like to see more research at the federal level.

Ms. Bloomingdale expressed interest in the medical opinions. Mr. Grapentine pointed out that the governor's current budget proposing legalization of medical marijuana was sent to Wisconsin Medical Society members. The vast majority of physicians do not endorse the idea of medical marijuana because it puts physicians in a position where they are expected to provide therapies that have not had enough scientific research for physicians to feel comfortable about recommending it to their patients. There are still many unanswered questions and a supermajority of members are very uncomfortable with medical marijuana at this time.

Mr. Kent referenced an article disseminated at the last meeting written by Dr. Kevin Hill M.D., and published in the Journal of the American Medical Association in 2015. Dr. Hill made findings related to the use of marijuana for chronic pain and neuropathic pain. His findings are supported by high quality evidence. Six trials that included 325 patients examined chronic pain, six trials that included 396 patients investigated neuropathic pain, and twelve trials that included 1,600 patients focused on multiple sclerosis. Several of these trials had positive results suggesting that marijuana or cannabinoids may be efficacious for these indications. There are about 23 states that allow medical marijuana to be prescribed for pain. Medical marijuana is known to prevent people from taking more opioids or going to fentanyl or heroin and then dying from such drugs. Members representing Labor want practitioners to have the ability to prescribe for pain relief and hope it reduces deaths related to opioids. Labor members are not advocating for recreational cannabis use. If one person can be prevented from going to the extremes of suicide when using opioids to cure their problem, we should be willing to do it. Mr. Kent expressed appreciation to the liaisons to evaluate and give their candid opinions and hoped the dialogue would continue.

6. **Adjournment:** A motion was made by Mr. Reader for the members representing Labor and Management to return to closed caucus and to adjourn directly after caucus. The motion was seconded by Ms. Bloomingdale. The motion passed unanimously. The meeting was adjourned at approximately 1:40 p.m.

The Worker's Compensation Advisory Council's next meeting is scheduled for Tuesday, June 25, 2019.