

Council on Worker's Compensation
Meeting Minutes
Teleconference at GEF-1 Building, Room F305
Madison, Wisconsin
February 5, 2018

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

Members present by telephone: Ms. Bloomingdale, Mr. Buchen, Ms. Frank, Mr. Fugina, Mr. Kent, Mr. Gunderson, Ms. Johnson, Mr. Lasee (Chair), Mr. Reader, Ms. Seiler and Mr. Tindall

Excused: Mr. Redman, Mr. Schwanda and Ms. Thomas

Staff Present: Ms. Brown, Mr. Krueger, Ms. Lake, Ms. McCormick, Mr. Moreth and Mr. O'Malley

1. **Call to Order/Introductions:** Mr. Lasee convened the Worker's Compensation Advisory Council (WCAC) meeting at approximately 3:30 p.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. **Approval of the Minutes:** A motion was made by Mr. Buchen to approve the minutes of the December 12, 2017 meeting. Ms. Bloomingdale seconded the motion. The minutes were unanimously approved without correction.
3. **Correspondence:** Mr. O'Malley reviewed the correspondence received since the last meeting.

A letter dated February 1, 2018 was received from Mr. Eric Borgerding, President/CEO of the Wisconsin Hospital Association. The letter was addressed to Majority Leader Fitzgerald and Speaker Vos with a copy to Representative Cindi Duchow. The Worker's Compensation Advisory Council was also provided with a copy of the letter. The letter requested that the legislature work to address the issues raised in the case of Estate of Carlos Rivera v. West Bend Mutual Ins. Co.

4. **Discussion of AB 884:** Mr. O'Malley explained that AB-884 was legislation introduced in response to the recent decision by the Wisconsin Court of Appeals in Estate of Carlos Rivera v. West Bend Mutual Ins. Co. The facts in this case were Mr. Rivera was a temporary employee and was killed in a motor vehicle accident while a passenger in a motor vehicle owned by the work-site employer traveling between jobsites. No claim was made for worker's compensation and Mr. Rivera's estate commenced an action in the Circuit Court. In the Rivera case the Court of Appeals applied a literal reading of the language in the statute and held the estate could go forward with the lawsuit because no claim for worker's compensation had been made. SB-884 amends a number of subsections in s. 102.29, Wis. Stats., to prohibit actions in tort against work-site employers for work-related injuries by employees of temporary help agencies, employee leasing companies and some other programs placing employees with work-site employers to receive training or work experience. The language in AB-884 clarifies the intent of the WCAC to prohibit actions in

tort against work-site employers by temporary employees and employees placed with work-site employers for training or work experience.

A motion was made by Mr. Buchen for the WCAC to approve AB-884. Ms. Bloomingdale seconded the motion. The motion was unanimously approved.

Adjournment: A motion was made by Mr. Buchen to adjourn the meeting. The motion was seconded by Ms. Bloomingdale. The motion passed unanimously. The meeting was adjourned at approximately 3:37 p.m.

The Worker's Compensation Advisory Council does not have any additional meetings scheduled at this time.