

Council on Worker's Compensation
Meeting Minutes
201 E. Washington Avenue
GEF-1 Building
Madison, Wisconsin
May 23, 2023

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, Mr. Kent, Mr. Large, Mr. Nettum, Mr. Peters (Chairperson), Mr. Schwanda, Mr. Streff, and Ms. Ver Velde.

Excused: Ms. Johnson, Mr. Tindall, and Ms. Zarecki.

Staff Present: Mr. Aiello, Ms. Brown, Ms. Lake, Ms. McCormick, Mr. Moreth, Mr. O'Malley, Ms. Przybylo, and Mr. Spencer.

- 1. Call to Order/Introductions:** Mr. Peters convened the Worker's Compensation Advisory Council (WCAC) meeting at approximately 10:05 a.m. in accordance with Wisconsin's open meetings law and called roll of the WCAC members. Staff and attendees introduced themselves.
- 2. Approval of the Minutes:** A motion was made by Ms. Bloomingdale to approve the minutes of the April 11, 2023, meeting. Ms. Ver Velde seconded the motion. The minutes were unanimously approved without correction.
- 3. Correspondence:** Mr. O'Malley advised that there was no correspondence to report.
- 4. Review of Recently Introduced Legislation Pertaining to Worker's Compensation :** Mr. O'Malley provided an update on Assembly Bill 147 (AB-147) which relates to the misconduct provision in s. 102.43 (9) (e), Wis. Stats., which allows for the denial of compensation for temporary disability during the healing period, if the injured worker was terminated or suspended for misconduct or substantial fault. SB-237 is the companion bill in the Wisconsin State Senate. AB-147 makes various changes in the unemployment insurance law related to the definition of misconduct, including eliminating the requirement that the employee have the intent to deprive the employer of property or services permanently; provides that intentional or negligent conduct by an employee that causes the destruction of any employer's records is also considered to be misconduct; and adds unauthorized possession of an employer's property, theft, or unauthorized distribution of an employer's confidential or proprietary information, or the use of an employer's credit card or other financial instrument for an unauthorized or nonbusiness purpose without prior approval from the employer, as actions constituting misconduct connected with .

AB-147 also provides that misconduct includes both of the following: 1) a violation of the employer's reasonable policy that covers employee absenteeism, tardiness, or both and that results in the employee's termination, if that termination is in accordance with that policy and the policy is specified by the employer in an employment manual of which the employee has acknowledged receipt with his or her signature; and 2) If an employer does not have a policy covering absenteeism that meets the criteria described above, absenteeism on more than two occasions within a 120-day period preceding an employee's termination, if the

employee does not provide to the employer both notice and one or more valid reasons for the absenteeism. AB-147 provides that misconduct includes a violation by an employee of an employer's reasonable employment policy that covers the use of social media specified by the employer in an employment manual of which the employee has acknowledged receipt with his or her signature. Mr. O'Malley stated that the Worker's Compensation Division does not have any statistics on the number of cases where employees' benefits were terminated or suspended during the healing period. It is estimated that DWD has had only about 10 requests for hearing on this issue. AB-147 was passed in the Assembly on April 25, 2023. A committee hearing was held in the Senate on May 16, 2023, but the bill had not yet passed by the date of the meeting.

Mr. O'Malley also provided an update on Assembly Bill 154 (AB-154). AB-154 and its companion bill, Senate Bill 145 (SB-145) makes various changes to practice, licensure, and certification requirements for nurses, who are administered by the Board of Nursing. These bills provide an additional system of licensure for advanced practice registered nurses (APRNs) to be administered by the board. The bill recognizes four roles of APRN licensees: certified nurse-midwife, certified registered nurse anesthetist, clinical nurse specialist, and nurse practitioner.

AB-154 will allow APRNs to work without the collaboration of a physician as long as they have attained approximately 3,840 hours of specialized training. To provide pain management services, the APNR must work collaboratively with a physician, or if qualified to practice independently, work in a hospital or clinic associated with a hospital. Under worker's compensation law, injured workers may select advance practice nurse prescribers (APNPs) for treatment and employers and worker's compensation insurance carriers may direct injured employees to appear for examination by APNPs. APNPs can render a diagnosis and prescribe treatment but they cannot opine as to causation and extent of disability. If this bill is approved there will likely be additional rule making required. There were some questions about the companion bills and earlier versions of the bills that were introduced in previous sessions. Mr. Mark Grapentine from the Wisconsin Medical Society provided background information about the earlier bills and the current bill.

5. **Other Business:** No other business was addressed.
6. **Adjournment:** A motion was made by Ms. Bloomingdale to go into closed session under s. 19.85(1) (eg), Wis. Stats., to deliberate items on the agenda and to adjourn the meeting from closed session. The motion was seconded by Ms. Ver Velde. The motion passed unanimously. Mr. Peters announced the closed session, statutory authority, and the nature of business to be considered. The open session of the meeting was adjourned at approximately 11:15 a.m. The Worker's Compensation Advisory Council's next meeting is scheduled for June 19, 2023.