

Council on Worker's Compensation
Meeting Minutes
201 E. Washington Avenue
GEF-1 Building
Madison, Wisconsin
June 19, 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, Ms. Johnson, Mr. Nettum, Mr. Peters (Chairperson), Mr. Schwanda, and Ms. Ver Velde.

Excused: Mr. Large, Mr. Streff, Mr. Tindall, and Ms. Zarecki.

Staff Present: Ms. Brown, Mr. Gottfredson, Ms. Lake, Ms. McCormick, Mr. O'Malley, 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. Ver Velde to approve the minutes of the May 23, 2023, 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.

An undated anonymous letter was received that stated, "Too Many Workers Die in Wisconsin. Prioritize Workplace Safety to Prevent Deaths." This letter was accompanied by copies of four news articles discussing recent fatal workplace injuries in Wisconsin.

Another undated anonymous letter was received that stated, "Why does Wisconsin Manufacturers & Commerce have two employer representatives on the Worker's Compensation Advisory Council?"

- 4. Agreed Upon Bill Department Proposals:** A handout of the Department's proposals was distributed at the meeting. Mr. Peters discussed Department Proposals No. 1 through No. 7.

Department Proposal No. 1. Amend ss. 102.07 (5) (b) & (c) and 102.51 (1) (a) 1., Wis. Stats., and to repeal s. 102.51 (1) (a) 2., Wis. Stats. These proposed changes will harmonize the language of the Wisconsin statutes relating to marriage and the determination of parentage and to better align the statutes with the holding of the U.S. Supreme Court in *Obergefell v. Hodges* (2015).

Department Proposal No. 2. Update terminology from advanced practice nurse prescribers to advanced practice registered nurses in ss. 102.13, 102.17, 102.29 and 102.42, Wis. Stats.

Department Proposal No. 3. Extend the same worker's compensation coverage for PTSD that law enforcement officers and full-time firefighters previously received to include emergency medical responders, emergency medical services practitioners, volunteer fire fighters, correctional officers, emergency dispatchers, coroners and coroner staff members, and medical examiners and medical examiner staff members in s. 102.17 (9), Wis. Stats.

Department Proposal No. 4. Create a new, separate appropriation in the worker's compensation operations fund to provide for insurance carrier reimbursement of up to \$5,000,000 per year for payment of supplemental benefits by amending s. 20.445 (1) (ra), Wis. Stats. The proposal does not increase revenue to the Department of Workforce Development (DWD) or collections from insurers.

Department Proposal No. 5. Change the appropriation for the Uninsured Employer Fund (UEF) in s. 20.445 (1) (sm), Wis. Stats., from a sum sufficient appropriation to a continuing appropriation.

Department Proposal No. 6. Amend s. 102.125 (2) and (3), Wis. Stats., and to create ss. 102.125 (1m) & 943.395 (1) (e), Wis. Stats., related to criminal penalties for various types of insurance fraud, which are punishable as either a Class A misdemeanor or a Class I felony, depending on the value of the claim or benefit. With this proposal the presentation of false or fraudulent applications for worker's compensation insurance coverage and the presentation of applications for worker's compensation insurance coverage that falsely or fraudulently misclassify employees in order to lower premiums are added to the list of actions that are criminally punishable insurance fraud.

Department Proposal No. 7. Increase the amount for payments for employers who fail to provide worker's compensation insurance coverage, and increasing forfeitures for employers without insurance coverage, employers who require employees to pay for any part of worker's compensation insurance, provides false information about the coverage to its employees or contractors who request information, or fails to notify a person who contracts with the employer that coverage has been cancelled. The proposed amendments to s. 102.81 (2) (a) (intro), (am) and (ar), Wis. Stats., and creation of s. 102.82 (2) (ab) and (ad), Wis. Stats., will increase payments for failing to have worker's compensation insurance to the greater of three times the premium or \$3,000 for a third offense within three years, and the greater of four times the premium or \$4,000 for a fourth or subsequent violation within three years. With the proposed amendments to ss. 102.16 (4) and 102.85 (1) and (2), Wis. Stats., forfeitures will be increased as follows:

1. For a first violation, \$1,000 per violation or the amount of the insurance premium that would have been payable, whichever is greater.
2. For a second violation, \$2,000 per violation or two times the amount of the insurance premium that would have been payable, whichever is greater.
3. For a third violation, \$3,000 per violation or three times the amount of the insurance premium that would have been payable, whichever is greater.
4. For a fourth or subsequent violation, \$4,000 per violation or four times the amount of the insurance premium that would have been payable, whichever is greater.

Mr. O'Malley discussed Department Proposals No. 8 through No.11:

Department Proposal No. 8. Correction of the spelling of "speciality" to "specialty" in s. 102.44 (4m) (b), Wis. Stats.

Department Proposal No. 9. Amend s. 102.61 (1), (1g) (b), (c) and (1m) (a), Wis. Stats., to provide for the correct citation for the Federal rehabilitation law. Title 29 USC ss. 701 to 796/ are still in effect. Title 29 USC ss. 797 to 797b were repealed.

Department Proposal No.10. Increase the amount of large Uninsured Employer Fund (UEF) claims from \$1,000,000 to \$2, 000,000, not covered by excess or stop loss insurance, that will require reimbursement from worker's compensation insurance carriers in s. 102.81 (1) (c) 1. And 2., Wis. Stats. Assessments to worker's compensation insurance carriers for reimbursement will continue to be limited to \$500,000 per year under the proposal.

Department Proposal No.11. Transfer the liability for expenses for legal fees, retaining an insurance carrier or insurance service organization for adjusting, processing, investigating and paying claims with the Uninsured Employers Fund (UEF) from the worker's compensation operations fund to the UEF in s. 20.445 (1) (rp), (sm) and 102.81 (2), Wis. Stats.

5. Other Business: No other business was addressed.

6. Adjournment: A motion was made by Ms. Ver Velde to go into a 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. Bloomingdale. 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 10:35 a.m. The Worker's Compensation Advisory Council's next meeting is scheduled for July 25, 2023.