

WORKERS' COMPENSATION  
MANAGEMENT-LABOR ADVISORY COMMITTEE  
**Full Committee Meeting**

December 22, 2022

11:00am-12:00pm

***Committee Members Present via Zoom:***

Patrick Priest, Citycounty Insurance Services  
Marcy Grail, IBEW Local 125  
Scott Strickland, Sheet Metal Workers Local #16  
Matt Calzia, Oregon Nurses Association  
Sara Duckwall, Duckwall Fruit  
Margaret Weddell, Labor Representative  
John McKenzie, JE Dunn Construction  
Lynn McNamara, Paladin Consulting  
Tammy Bowers, May Trucking  
Jill Fullerton, Clackamas County Fire Department  
Andrew Stolfi, DCBS Director, *ex officio*

***Committee Members Excused:***

***Staff:***

Theresa Van Winkle, MLAC Committee Administrator  
Cara Filsinger, Senior Policy Analyst, Workers' Compensation Division (WCD)  
Brittany Williams, MLAC Assistant via Zoom

<b>Agenda Item</b>	<b>Discussion</b>
Opening (0:00:02)	Patrick Priest opened the meeting and Theresa Van Winkle called the roll of members. Quorum was met and minutes from the <a href="#">November 10, 2022 meeting</a> were discussed
(0:01:53)	Marcy Grail made a motion to approve the minutes from the November 2022 meeting. Tammy Bowers seconded the motion as presented. The motion passed with a voice vote with nine votes in favor, none opposed, and Lynn McNamara abstaining.
Department Updates (0:03:00)	Theresa Van Winkle reported that there was no update from the Workers' Compensation Board and that the next MLAC quarterly update would occur at the January MLAC meeting. Theresa Van Winkle gave an update about the permanent rules of HB4138 and HB4086 which will become effective on their respective dates.

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- (0:04:45) Donald Gallogly and Amelia Vargas from DCBS gave a [presentation](#) about [The Oregon Premium Rate Study](#).
- (0:16:19) Tammy Bowers asked for clarification about the ranking system that was presented. Donald Gallogly explained that Oregon is the 42<sup>nd</sup> most expensive jurisdiction or the 10<sup>th</sup> least expensive district.
- (0:17:28) Patrick Priest asked if the presumption or state laws is examined when ranking the responses. Donald Gallogly answered that the administrative costs, taxes, and assessments are factored into the ranking. There are states where workers' compensation is not mandatory and that is not factored in neither is the insurance company payouts and fees.
- (0:20:45) Tammy Bowers asked if it was possible to get a copy of the ranking charts. Donald Gallogly responded that his presentation will be sent out after the meeting, Theresa Van Winkle confirmed.
- (0:21:40) Scott Strickland asked if there was any analysis about OSHA or the frequency of safety visits included in the ranking. Donald Gallogly responded that information was not accounted for in their research and presentation.
- (0:23:33) David Barenberg asked if the numbers reflected what the state is paying but not what the benefits are to the workers? Donald Gallogly responded that David was correct and that what the states provide varies greatly and this study only focused on premium cost.
- (0:24:26) John Mackenzie asked if there was any data about the severity of claims and payout amounts. Donald Gallogly responded that they did not look into that specific data about claims.
- (0:25:18) Scott Strickland asked if there was any information about the cost to the workers or community in there research. Donald Gallogly responded that they did not evaluate those costs in this research and that most states have a policy of not passing undue costs on to the worker and that they did not attempt to go beyond the premium assessment in this study.
- (0:27:09) Patrick Priest asked why this report was created by the division and what it is used for. Donald Gallogly responded that it was created a way to inform policy decisions and has won several awards from workers' compensation associations nationwide. The study is continued to be done as it is usually widely anticipated nationwide and it is still used by the agency to inform policy decisions.
- (0:30:00) Andrew Stolfi gave an update on DCBS and MLAC staffing, explaining that Jennifer Flood, Ombud for Oregon Workers is retiring and that the
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- December 2022 was the last MLAC meeting that she would be attending in that role.
- (0:32:11) Jennifer Flood thanked the group for having her and ensuring that Oregon workers are getting the attention that they deserve.
- (0:32:49) Tammy Bowers, Patrick Priest, and Scott Strickland congratulated Jennifer on her retirement and thanked her for her work for workers in Oregon.
- (0:36:10) Andrew Stolfi introduced Barbra Anderson as the new Ombud for Oregon Workers pending approval from the governor elect on January 9, 2023. Andrew also discussed the internal transition of MLAC administration responsibilities from Theresa Van Winkle to Cara Filsinger on January 3<sup>rd</sup> 2023.
- (0:43:44) Marcy Grail, Patrick Priest, and Tammy Bowers thanked Theresa Van Winkle for her work as the MLAC administrator and applauded her efforts in helping MLAC members be successful.
- (0:44:54) Theresa Van Winkle thanked the group and explained her role within DCBS as the Legislative Director. She echoed that she will continue to be around and helping with MLAC just in a different role.
- (0:48:24) Tammy Bowers asked Andrew Stolfi about the timeline of confirmations for new MLAC members in the next year. Theresa Van Winkle answered that there currently is no timeframe about appointments but that she has e-mailed the office of executive appointments to ensure that those applicants will be addressed.
- (0:49:38) Patrick Priest asked about the onboarding process for new members. Theresa Van Winkle responded that they will do their best to ensure that the new members receive the comprehensive orientation.
- (0:50:47) Patrick Priest asked about the mandatory trainings that members must take. Theresa Van Winkle responded that because of some glitches in the Workday system, she is putting together an e-mail about how to reset the passwords and the direct links to the trainings for members to complete. Theresa Van Winkle shared that the members who have not taken the trainings due to the Workday issues won't be kicked off the council automatically.
- (0:57:20) Patrick Priest asked Andrew Stolfi if they would be doing an open recruitment to fill Cara Filsinger's position when she retires in the summer. Sally Coen, Workers' Compensation Division responded that there are a few internal candidates that are doing job shadows but they are planning on opening the recruitment to external candidates.
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(0:58:33) Patrick Priest noted that there are some MLAC members who have reached out and asked if MLAC would be able to give input on the recruitment process. Sally Coen responded that they would welcome input from MLAC and would be working with the council as the recruitment moved forward.

Subcommittee  
Report

(0:59:39) Matt Calzia gave an overview of the previous subcommittee meeting on December 16, 2022 where the group heard from members for the Oregon Medical Association and have decided to move forward in asking MAC if they believe that putting together a list of best practices for standard of care for providers moving forward.

(1:00:50) Sara Duckwall noted that the medical community that spoke during the subcommittee's work expressed that regular follow-up appointments with workers was important. Matt Calzia added that they heard about these best practices and also feel that it is important to find out where the gaps in follow-up care is occurring and how it can be addressed.

(1:03:00) After hearing no further comments, Patrick Priest stated that what he understands from the given report is that the subcommittee has concluded their work for now and are suspending further activity while awaiting guidance from the medical community and/ additional evidence of the problem. Sara Duckwall corrected that the subcommittee is suspending activity and awaiting guidance from the Medical Advisory Committee after their January meeting and will reopen the subcommittee with agreements from both co-chairs if data is brought forth with data showing the severity of the problems.

(1:05:55) Matt Calzia agreed with Sara Duckwall's explanation and added that the subcommittee won't have anything to do with MAC's decision.

(1:06:25) Sara Duckwall asked if MAC's response would be shared with MLAC. Sally Coen responded she would ensure that MAC's would be shared with MLAC following the January MAC meeting.

(1:07:17) Theresa Van Winkle summarized the subcommittee report noting that a motion accepting the subcommittee recommendation would be as follows: to request and receive feedback from the Medical Advisory Committee in response to the subcommittee's refined problem statement and to find reopen the subcommittee at the call of the co-chairs if additional work needs to be done

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- (1:08:07) Margaret Weddell asked for clarification about whether the subcommittee was asking MAC to consider this issue if they would like to provide a guide of best practices or if MLAC asking them to create a best practices. Theresa Van Winkle responded that MLAC is asking MAC to consider the issue and decide if they would like to issue a best practices statement.
- (1:09:01) Tammy Bowers made a motion to accept the subcommittee report as presented and Lynn McNamara seconded the motion. The motion passed with a voice vote with ten votes in favor, none in the opposed, and no abstentions.
- (1:12:16) Tammy Bowers noted would like to hear back from MAC after their discussion to ensure that MLAC's work is completed or if further action needs to be taken. Theresa Van Winkle responded that Cara Filsinger will coordinate with her colleagues to ensure that the report back to MLAC is done and that MLAC's work plan is adjusted accordingly.
- (1:14:38) Lynn McNamara responded that it would be good if MLAC chose a few issues to begin working on. She suggested that the issues of worker's access to information and ongoing issues of retaliation and intimidation seem to be timely issues to begin with.
- (1:15:38) Sara Duckwall responded that action item number one on the list seems to be appropriate to start with that it was her understanding that some of these things were already in the works.
- (1:16:13) Sally Coen stated that the Workers' Compensation Division has been working on their efforts to streamline communications to stakeholders and the team will be sending out a report to stakeholders later in the month. Her team will be recommending changes to the statute to streamline communication.
- (1:17:37) Marcy Grail asked Sally Coen if her division does any focus groups or alpha tests when doing these types of changes and how the divisions tests their communication. Sally Coen responded that the division did have a stakeholder meeting where everyone that subscribes to their communication were invited. They do try and get stakeholder input and public advisory meetings when making changes like that.
- (1:20:49) Scott Strickland requested a five-minute caucus meeting to discuss this issue. Theresa Van Winkle responded that she is setting up caucus rooms for these meetings.
- (1:21:58) David Barenberg, SAIF shared that SAIF is currently working on a similar project to increase the voices of injured workers in the processes and that they would like to present to MLAC at some point about that.
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- (1:23:20) Patrick Priest announced that a five-minute recess would be taken for caucus meetings. Discussion resumed after the five-minute recess when all members returned to general meeting.
- (1:24:40) Patrick Priest welcomed the whole committee back from their caucus breaks.
- (1:25:03) Margaret Weddell shared that in the labor caucus they had discussed the concern about injured worker retaliation as a community member has approached their caucus with concerns about this issue. They feel that this is an issue that should be discussed with input given from various groups.
- (1:26:24) Sara Duckwall shared that she feels that working on information streamlining and access and understandability is connected to this issue as ensuring that worker's have a good understandings of their rights is important to reduce retaliation and feels that working on both of these issues would be important to begin work on.
- (1:27:19) Scott Strickland agreed with Sara Duckwall's comments and further explained that working on ensuring that there is better clarity and streamlining about the responsibility and protections that the law provide is important. He noted that bringing in information from stakeholders including the insurance providers and Small Business Ombud's office would be beneficial.
- (1:29:17) Tammy Bowers agreed and highlighted how the issues intertwine with education especially of smaller businesses play into the issues.
- (1:29:57) Scott Strickland agreed and shared that he believes that bringing in stakeholders and asking them about a few different items at one time could be beneficial in working on some of the enmeshed issues.
- (1:30:30) Sara Duckwall proposed striking the MCO enrollment and COVID-19 updates from the workplan as the group appears to be beyond these issues and could move forward in focusing on the other issues on the plans.
- (1:31:27) Marcy Grail asked if we have any specific issues that have been brought up surrounding the communication and understanding issues to ensure that we understand the issues before we dedicate to exploring these issues.
- (1:32:59) Tammy Bowers responded that the reason that this was put on the workplan is because there have been reports, often from workers' whose first language is not English that they are retaliated against or being pressured not to file workers' compensation claims. Tammy added that
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striking the access to health care may also be stricken as that was discussed toughly at the subcommittee meetings.

- (1:34:43) Scott Strickland agreed with Marcy Grail's comments and suggested that one starting point in addressing the problem of worker communications could be how and when workers are given the information about their workers compensation rights. He also addressed Sara Duckwall's suggestions about taking the MCO enrollment off of the workplan noting that streamlining communication and understanding as a whole could impact MCO enrollment.
- (1:36:45) Margaret Weddell responded Marcy's and Tammy's points, stating that she feels that our first steps should be engaging with stakeholders about the specifics and extents of the issues.
- (1:37:49) Sara Duckwall responded asking if the committee is properly supported by the division to undertake these issues and setting up stakeholder engagement. Sara Duckwall asked Scott Strickland if it would be possible to strike the MCO enrollment issue from the workplan and add sub-bullet points under the worker retaliation and communication points. Theresa Van Winkle shared that the committee would be supported that the sub-bullet makes sense to her.
- (1:39:43) Sara Duckwall asked for any further objections or discussion about removing the COVID-19 bullet and the time-loss bullet from the work plan. No objections or further discussion was heard and it agreed upon that they would be taken off of the workplan.
- (1:40:30) Lynn McNamara responded to Marcy Grail's comment about understanding the issues in worker communication and noted that beyond language barriers, different learning styles have to taken into consideration as workers' compensation is dense and can be difficult to understand.
- (1:41:30) Sara Duckwall asked Theresa Van Winkle if the updated workplan would be send out for committee review. Theresa responded that it would be sent out and that there may be the opportunity to include information about what has been worked on and why things were stricken as well as the subcommittee recommendation and legislative information.
- (1:43:01) Sara Duckwall responded that she is not interested in doing work with backdated information and would prefer to look forward on what can be accomplished. Patrick Priest agreed and noted that he would be interested in having the historical record but that he feels that having a forward focused document to show were the work needs to occur is his priority. Scott Strickland noted that he was fine either way.
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- (1:44:50) Patrick Priest asked if a redlined version of the plan would be available for the committee to review by the next meeting. Theresa Van Winkle confirmed and added that by early January more legislative information would also be available.
- (1:45:33) Marcy Grail asked if the legislative committees have been formed yet. Theresa Van Winkle responded that they have not and that she has heard that this might not happen until after the holidays.
- (1:46:37) Patrick Priest noted that at the next meeting a updated document for committee review and discussion is expected. He also shared that a meeting between the co-chairs and administrators may be helpful and that the co-chairs are always open meeting outside of the general meetings.
- (1:47:27) Theresa Van Winkle shared that the webpage for MLAC's 2023 meetings is currently live and that there is a tentative schedule for meetings and legislative review currently published.
- (1:47:49) Patrick Priest made a final call for discussion and asked for a motion to adjourn. Marcy Grail made a motion to adjourn the meeting. Lynn McNamara seconded the motion. The motion passed with a voice vote with nine votes in favor, none opposed, and no abstentions.

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**Meeting  
Adjourned**

Patrick Priest adjourned the meeting at 12:04pm.

\*These minutes include time stamps from the meeting audio found here:  
<https://www.oregon.gov/dcbs/mlac/Pages/2022.aspx>

\*\*Referenced documents can be found on the MLAC Meeting Information page here:



<https://www.oregon.gov/dcbs/mlac/Pages/2022.aspx>