WORKERS’ COMPENSATION
MANAGEMENT-LABOR ADVISORY COMMITTEE
Full MLAC Meeting
June 16, 2017
10:00 a.m. – 12:00 p.m.

Committee Members Present:
Aida Aranda, Oregon and Southern Idaho Labor-Employers Training Trust [via tele-conference]
Kevin Billman, United Food and Commercial Workers [via tele-conference]
Guy Boileau, Louisiana-Pacific Corporation
Tammy Bowers, May Trucking
Rachel Brozovich, Keizer Fire District
Alan Hartley, Shari’s Restaurants [via tele-conference]
Diana Winther, IBEW Local 48
Kimberly Wood, Perlo Construction
Lynn McNamara, CityCounty Insurance
Theresa Van Winkle, MLAC Committee Administrator
Ateusa Salemi, Oregon Nurses Association [via tele-conference]
Patrick Allen, DCBS Director, ex-officio

Committee Members Excused:

Meeting Participants:
Nathan Johnson, DCBS Information Technology and Research Section
Gary Helmer, DCBS Information Technology and Research Section
Sheri Sundstrom, Hoffman Construction
Dr. Kent Anger, Oregon Institute of Occupational Health Sciences
Dr. Steven Shea, Oregon Institute of Occupational Health Sciences
Dr. R. Stephen Lloyd, Oregon Institute of Occupational Health Sciences
Keith Semple, Oregon Trial Lawyers Association
Theodore Heus, Preston Bunnell
Steve Passantino, Workers’ Compensation Division
Lou Savage, Workers’ Compensation Division

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<td>Opening (0:00:00)</td>
<td>Guy Boileau opened the meeting at 10:00 a.m.</td>
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<td>Minutes Review (0:00:36)</td>
<td>Diana Winther moved to approve the April 4, 2017 minutes. Kimberly Wood seconded. All members present voted aye.</td>
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<td>Oregon Institute of Occupational Health Sciences</td>
<td>Dr. Kent Anger, Dr. Steven Shea, and Dr. R. Stephen Lloyd presented the Oregon Institute of Occupational Health Sciences’ biennial report. The institute’s mission is to promote health and prevent disease and disability among workers and their families. The institute does basic and applied research, and provides education and outreach. Founded in 1988, the</td>
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statute states that the purpose of the institute includes reducing the incidence of disease and reducing the cost and dangers to employers and employees associated with occupational disease. This gives loose guidelines on what the institute can do. The institute has chosen to do a lot of basic and applied research; their main research areas are total worker health, occupational exposures, injury treatment recovery and prevention, and sleep and shiftwork’s impact on health and safety. They have funding with the National Institute for Occupational Safety and Health (NIOSH) in collaboration with the Oregon Health Authority.

**Night Shift Work**

Dr. Shea spoke about the night shift work, which is associated with increased risks. There is fatigue related to sleep disorders and working at night. When you work at night, you’re tired, and when you’re trying to sleep during the day, you don’t do it well since you’re sleeping at the wrong time for your body clock unless you can adjust (which is tough to do). This is a big problem, causing fatigue, producing accidents, and decision making can lead to disasters. There are also health risks associated with working at night, such as obesity, diabetes, cardiovascular disease, hypertension, mood disorders and cancers. The institute studies this from the molecular level all the way to outreach in the workplace. Some of their research has includes:

- Genetic changes that occur with simulated night shift work with in rodents
- How the body clock works
- How the body clock affects physiology
- Factors for improving sleep, health, safety, and performance

Dr. Shea noted that the summer intern brochure he provided has specific examples of their research.

**Funding**

The institute receives funding from the workers’ compensation system. They also receive funds from grants and contracts. Overall, more of their funds come from grants and contracts than the state. The institute has leveraged state funds to do pilot projects and get data so they can compete well for national funds. The institute has internationally renowned faculty and they have influence nationally and internationally. In 2016, they received just over $3.5 million from the state and almost $5 million from grants and contracts. OHSU also provides financial support. Since Dr. Shea arrived at the institute, they have put in over $5 million to bring in additional faculty.

The institute is recruiting in a new area, and trying to form an occupational stress workgroup. Stress is one of the most common problems, and has far reaching implications for health. They are trying to recruit researchers (both basic and applied) to study stress on a molecular and cellular level all the
**Agenda Item**
(0:13:28)  

**Discussion**

way to intervention.

**Basic Science Research**

Dr. Lloyd spoke about basic science research at the institute, where faculty is always looking to apply the knowledge they learn to improve occupational health. For example, Dr. Lloyd and Dr. Amanda McCullough have worked on developing strategies to prevent sunlight induced human disease (specifically skin cancer).

- In Oregon, many workers are outside for the majority of the day, which puts them at increased risk for certain types of cancer. Dr. Lloyd’s research specifically addresses skin cancer, which is caused by DNA damage due to excessive sun exposure and an inefficient DNA repair system. Non-melanoma skin cancers have dramatically increased over the last three decades. In the United States, it used to be approximately 1.4 million new cases were diagnosed annually. This is over 5.4 million now. Dr. Lloyd and Dr. McCullough are working on strategies to dramatically delay or prevent these cancers in workers and in the recreational arena.

- Washington and Oregon (along with other northern states) have the highest incidence rates of melanoma. This may be due to people getting excessive sun exposure on sunny days. These excessive short term doses are likely leading to melanoma.

- The strategy they adopted leads back to the fact that humans only have one DNA repair mechanism to handle damage from sunlight, and it is a pretty inefficient system. Even after mild sunburn, residual DNA damage can still reside in your system 48-72 hours afterwards. It also causes your immune system to “fall asleep.”

- The work they are doing is in activating a second DNA repair system which operates about 50 times faster. Humans don’t normally have enzymes to do that, so they looked into other organisms in nature that have to repair sunlight damage. They found green algae that are continuously irradiated, and it turns out the most efficient known DNA repair system is encoded by viruses that only infect green algae. They essentially borrowed the DNA that codes for that virus and used it to create DNA repair proteins that are implemented in a topical cream. They have tested the cream in mice, and were able to delay skin cancer in mice at least two fold. If this cream was available to the public, it could potentially delay skin cancer in humans until they are about 100 years old.

- Now they are seeking FDA approval as an investigational new drug. They would like to use the cream in patients who are missing the usual DNA repair system, then organ transplant patients. After clinical trials demonstrate efficacy, they want to move to the general population.
Agenda Item
(0:22:25)

Discussion

*Total Worker Health*

Dr. Anger spoke about total worker health. The Oregon Healthy Workforce Center (OHWC) was developed in 2011, and also received a Center of Excellence grant in 2011. OHWC is a host institution, and collaborates with other institutions. They also have research partners that are funded to work with them on research, and research partners that conduct research within their own organizations. In the course of the five year cycle, there were over 3,164 research participants. The OHWC grant was approved again in 2016. This funding brings in $800,000 to $1.3 million per year to OHSU (part of this goes to partner organizations).

One of their themes is intervention effectiveness, which involves prevention programs. OHWC wants to change things in workplace for the better and feel that it is urgent to do that. Some of the projects they developed in their first five year cycle involved:

- Team based total worker health interventions in home care workers
- Total worker health intervention in public construction workers in Portland
- Commercial construction workers
- Young workers

They also have data from surveys they collect across these projects so they can see how the projects relate to each other. The data is compiled in a database so they can conduct cross project, cross industry comparisons. They found 81 statistically significant changes that were positive. Some examples of the areas of change were:

- A reaction of good or excellent
- Improvement of knowledge
- Used new tools for moving objects
- Safety (e.g., using new tools for moving objects or safety compliance)
- Blood pressure and meters walked
- Healthy behaviors (e.g., reducing sugary snacks, more exercise)
- Well being

OHWC has worked hard to disseminate information into the workplace. They’ve taken each of their interventions they conducted and used the research protocols to create self starting toolkits. They’ve also developed tools that are available at their website. Dr. Anger noted that he has a conflict of interest since some of the projects used a training program Dr. Anger developed and licensed from OHSU.

Some of OHWC’s successes in disseminating information include:

- The Oregon Home Care Commission made the training OHSU developed available to all home care workers as a part of their standard training.
- Dr. Leslie Hammer is working with a regional office of a large national...
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|             | government organization to implement her training for construction workers in a new industry  
|             | - Dr. Anger got funding to take the project for commercial construction workers and convert it for the agricultural industry.  
|             | - Oregon Bureau of Labor and Industries has adopted the young worker training and awarded a contract to expand it.  
|             | One of their major ways for disseminating information is their blog, which gets about 3000-4000 visits per month. The blog has also received the 2017 GOSH award for group advocacy. Dr. Anger also showed the committee a brief video about outreach and education.  
|             | Guy Boileau asked about the cream Dr. Lloyd described and whether it is used after exposure or as a preventative measure. Dr. Lloyd responded that it would be appropriate in either case. Guy asked about the FDA timeline on this product. Dr. Lloyd responded that they are now trying to finalize with the FDA. They have done dose escalation experiments in mini pigs and came up with a clinically effective dose for humans. The FDA has reviewed some of that. Dr. Sany Leachman, the chair of OHSU Dermatology is currently accumulating potential volunteers who have the genetic defect that doesn’t allow them to repair any damage. They are working with patient advocacy groups to try and have the study started within the year.  

| Department Updates (0:41:06) | Lou Savage, Workers’ Compensation Division, provided department updates.  
|                            | **SB 533 (2013) MCO report on “come along providers” – 2016 report**  
|                            | - If worker is enrolled in a managed care organization (MCO), they can bring a provider to the MCO under certain conditions. SB 533 (2013) required MCOs to report annually on denied come along providers.  
|                            | - There are four MCOs in Oregon, and they all provided their report as required by administrative rules. There were only two occurrences in 2016 where a provider was denied to “come along.”  
|                            | **Workers’ Compensation system issues**  
|                            | - The division is embarking on an outreach project, and reaching out to stakeholders to get a sense of what people see as major issues in the workers’ compensation system. The world of work and economy has changed, and the division wants to respond to that changing world. The division is conducting outreach to the usual stakeholders, and stakeholders they don’t often hear from.  
|                            | - They are in the early stages of this project. The division sent an email a couple of months ago to give stakeholders a heads up about this project. The initial response to the email was very good.  
|                            | - The plan is to have some initial discussions, get a sense of the big issues and common themes, create work groups, and then bring that information to MLAC. Another area the division would like to know about is what  


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|             | they can do better.  
|             | - The division will likely start having the initial meetings in July, August, September. Hopefully by fall, the division can start report to MLAC. Lou encouraged MLAC participation. |
|             | Guy Boileau asked about letting MLAC know when the division doing these meetings. Lou responded that the division will do another email, and put information on the division’s website. The division will reach out to MLAC about getting ideas regarding clarifying issues before work groups meet. |
|             | Kimberly Wood asked if the groups will be based on stakeholders (e.g. an insurer group or mixed group). Lou responded that they are still figuring it out. On some issues they may have some groups talk separately first, and then come together. On other issues, everyone has a common interest in making the system work more smoothly. It will depend on what the issue is. The division will look to MLAC for guidance on that. |

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<th>Legislative session update (0:51:39)</th>
<th>Theresa Van Winkle gave an overview of legislation MLAC has reviewed during the 2017 legislation session.</th>
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<td>Bills signed by the governor</td>
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<td>- HB 2335, 2336, 2337, and 2338</td>
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<td>- HB 2192</td>
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<td>- For new terms starting after Jan. 1, 2018, the 3 year period will apply.</td>
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<td>Did not pass during legislative session</td>
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<td>- HB 2762</td>
<td>was not recommended by MLAC, and died in House Business and Labor. The requester realized that the rulemaking had taken care of their concerns.</td>
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<td>- HB 3209</td>
<td>died in House Business and Labor.</td>
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<td>- SB 607</td>
<td>died in Senate Workforce and proposed excluding sick leave from payroll. Due to some issues that came up during MLAC deliberations, MLAC agreed to form a subcommittee to modernize the definition of payroll for premium calculations.</td>
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<td>- SB 780</td>
<td>died in Senate Workforce, which included MLAC’s clarifications regarding the worker requested medial examination (WRME) process.</td>
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<td>- SB 901</td>
<td>died in House Business and Labor (section 1 was recommended by MLAC).</td>
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<td>New bills</td>
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<td>- HB 3466</td>
<td>was introduced after SB 901 did not pass. It is identical in scope other than a minor wording change. There is a bill analysis available online. Tammy Bowers made a motion to vote on HB 3466, Kimberly Wood seconded. All members present voted aye to support section 1.</td>
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<td>Biennial PPD Benefits Review (0:58:33)</td>
<td>Nathan Johnson and Gary Helmer, DCBS Research, presented information about permanent partial disability (PPD) benefit trends.</td>
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**Permanent Partial Disability Benefits**

**Background**

- In the 1980s, PPD was the most frequently litigated issue in the workers’ compensation system.
- Changes between 1987 and 2001 included:
  - Mandating consistent rating standards at all levels of appeal. (1987)
  - A new step in the reconsideration process that included the medical arbiter process for impairment disputes. (1990)
  - Benefit levels tier levels were introduced and tied to average wage growth. (1991)
  - Benefit tiers increased, average wage growth tie deleted, appeal process clarified. (1995)
  - Benefits were increased. (1997)
  - Benefits were increased with a sunset in 2004. (2001)
- More recently (2001-2003), MLAC developed PPD concepts to replace the prior system. In 2003, SB 757 passed and the new PPD is effective for dates of injury from January 1, 2005. In 2005, HB 2408 modified return to work criteria and mandated a PPD study.
- In 2006, the PPD study confirmed that PPD benefit changes were cost neutral and redistributed benefits to more serious cases.
- In 2007, HB 2244 removed the sunset on new PPD and mandates a biennial MLAC review. 2009 was the first mandated MLAC PPD update.
- Before 2005, PPD could be scheduled or unscheduled. From 2005 on, PPD is now impairment or work disability. A PPD award can be only impairment or impairment and work disability. The criteria for rating impairment remain consistent.

**Trends**

- Claims have followed economic trends.
- There has been a small increase in disabling claims since 2010. The claims rate has held consistent in that time. This is probably representing an evolution in the nature of the economy.

**Claim resolution**

- There are two ways for a claim to resolve.
  1) The insurer typically closes the claim once the worker is determined to be medically stationary. Temporary disability benefits are ended and the insurer determines if any PPD awards are due.
  2) A claims dispute agreement (CDA) is created. There is no closure date, but there is a resolution to that claim.
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| (1:03:53)   | ▪ PPD claims have declined as a proportion of claim resolutions since 2010. CDAs have gone up slightly since 2010. Temporary disability has absorbed the decline in PPD.  
▪ In 2016, 96% of PPD award dollars were granted by the insurer at the initial closure, 3% was from requests of reconsideration by WCD and about 1% was from appeals to WCB.  
▪ Of hearings orders issued in 2016, 2.7% included PPD as part of the order’s issue. This indicates that the original PPD award is typically provided by the insurer and if the claim makes it to hearings, PPD is a small portion of the resulting order.  

Primary drivers of PPD dollar totals  
▪ Changes in injuries, both frequency of claims and underlying severity of those injuries.  
▪ Changes in the economy, both in general and higher hazard industries.  
▪ Trends in wages. We use the state average weekly wage, (SAWW) which limits how high maximums can be.  
▪ Changes in wages of injured workers also drive disability awards.  
▪ The wages of injured workers can be different than the wages of the state overall. You can have some divergence in those trends.  

Benefits paid by PPD systems  
▪ The average PPD benefit per claim is slowly increasing. Additionally, the average benefit is going up at same rate as the SAWW.  

Benefit characteristics of 2016 awards  
▪ 85% of claims with PPD had impairment only awards, while 15% of claims of PPD had work disability awards. However, in the distribution of benefits, 52% of PPD award money goes towards work disability awards.  

Conclusions  
▪ It has been about 10 years since the PPD benefit changes took effect. The PPD award characteristics appear to have remained consistent with original expectations.  
▪ These characteristics now track along with broader trends in the system and economy.  

**Benefit adequacy**  
Background  
▪ The department uses claims data and Employment Department wage data to look at reemployment and wage recovery trends. They can match the claims and their wages to look at long term patterns in employment. The department has been looking into this topic for about 15 years. They use
results from this in the department’s key performance measures. The method used is similar to methodology used by the Workers’ Compensation Research Institute (WCRI) and RAND Corporation.

Based in part on some of the department’s research, the department recently had a legislative concept regarding increasing PPD benefits. This was based on evidence that workers with PPD impairment tended to have low average wage growth over a long period of time. The notion was that increased impairment would help those workers. However, we were unable to explain exactly why this pattern exists or demonstrate that an increase in impairment would solve the issue. As a result, the PPD portion of the legislative concept did not move forward. The department decided to look into this in the interim and come back with more information. The plan is for the department to present detailed info about the study model and results in a future meeting, and provide options for further studies.

Diana Winther clarified whether the department will come back to MLAC and share more about why increasing impairment would hopefully help address lagging wages. Gary Helmer responded that it is up to MLAC, the division, and Theresa. They can certainly do that.

Pat Allen noted that the department identified a problem and speculated about a cause, but got pushback on clarifying the actual cause. The department needs to make a better case that increasing impairment would address the underlying problem. The question is whether we want to spend more time digging deeper into this.

Gary Helmer noted that he doesn’t want to say the solution is necessarily to increase impairment. He recently saw a WCRI study that found that the more severely you’re injured, the worse your reemployment patterns are, and the worse your wage recovery is over time. However, increasing a benefit may not necessarily help people who are falling behind. The WCRI study noted that an alternative to increasing impairment could be improving return to work programs. The department has data they can provide and show impact of different solutions too.

Guy Boileau commented that he thinks it would be worth maintaining dialogue and continuing discussion. As the department researches this, it would be very helpful for MLAC to stay on top of what the department finds.

Sheri Sundstrom, Hoffman Construction, spoke about the PPD benefit presentation. Sheri was a MLAC member during the 2003-2005 changes to PPD. At the time, MLAC wanted to make sure workers that were most severely injured got higher rates, but that the benefit was also tied to actual wages. Before the changes to PPD, a hand surgeon was getting same amount
Agenda Item | Discussion
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 | of PPD as a convenience store worker. Today’s presentation shows exactly what MLAC wanted to see happen when changing PPD benefits. It is pretty phenomenal. Impairment means you can get back to your job at injury, while work disability is given when you cannot return to your job or employer at injury. The numbers show that Oregon is doing a great job of people getting workers back to their job at injury, so they’re getting the impairment award. Additionally, the dollars for work disability are much larger, which is exactly what MLAC wanted to happen. Workers with severe injuries or high wages are getting more money.

Sheri noted that in her industry, there are wage increases according to union contract. Due to that, they would not see a reduction or anyone lagging behind. Where you could see someone lagging behind is workers who have work disability, can’t return to the job at injury, and have to find a different vocation. Then you’re looking at whether we are successfully getting workers back to jobs that are on par with what they were doing at injury. Sheri is pleased with the numbers she saw in the PPD presentation.

Sheri also spoke about Kids’ Chance, a charity that provides scholarships to children of parents who died on the job or received a permanent disability award. Kids’ Chance is having its 3rd annual fundraiser, and is looking for scholarship applicants who had a parent who died on the job, or a parent who is severely disabled and has permanent total disability. Kids’ Chance provides college scholarships, but also provides for vocational training, technical training, or even building trade training. Oregon is very fortunate, and has been able to give high dollar scholarships.

Interim work Plan (1:25:51)

- MLAC already has one commitment, creating a subcommittee looking into the paid leave potential legislation for the 2018 session.
- Theresa noted that this is probably interest in follow up on MLAC’s recommendations regarding worker requested medical exams (WRME) due to SB 780 dying in committee. Theresa believes there was one outstanding issue in rulemaking for WCD to address, and this could open up the gates for other activities.
- Theresa noted that the interim work plan could also include participation in the division’s stakeholder outreach project.
- Theresa asked for ideas MLAC has for interim work or even educational sessions regarding workers’ compensation. Guy Boileau formally recommended that MLAC do some informational meetings that would enhance members’ knowledge of workers’ compensation.
  - Diana Winther agreed that would be a good idea and noted that MLAC could be more efficient if members are all base line educated about workers’ compensation. Kevin Billman, Ateusa Salemi, and Alan Hartley were all in favor of this idea.
  - Theresa Van Winkle will look into availability of meeting rooms
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<td>in other locations, along with video conferencing. Theresa can also send topic ideas out.</td>
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**SB 780 follow up**
- Guy Boileau commented that MLAC should talk about this topic, but hold off until September.
  - Diana Winther would like to be on the subcommittee and figure out how MLAC’s recommendations about Worker Requested Medical Examinations (WRME) can be effective. Kevin Billman agreed.
  - Theresa Van Winkle will put this on the agenda for September.

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<td>Ted has a concern about how the division interprets eligibility for a WRME. The division suggested that Ted come to MLAC.</td>
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<td>Ted’s clients need WRMEs for a variety of reasons, the most common because they lack funds to obtain evaluation by a specialist. A private independent medical examination (IME) can cost $1,000-$2,000, and many workers don’t have that kind of money up front. Even if the attending physician supports the worker, they might not have the specialty needed to address the issues regarding workers condition. If an insurer gets an IME, they are all specialists. For evidentiary purposes, you need to have a competent medical response to an IME.</td>
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<td>Workers are being denied WRMEs when the attending physician doesn’t offer comment on the IME. Some reasons they don’t respond include:</td>
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<td>- The insurer doesn’t send the IME report, or they send the report but don’t ask for comment.</td>
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<td>- The attending physician can’t comment on the worker’s condition because they are a VA doctor and regulations prohibit them from testifying in any state matter or providing an opinion that might be presented as evidence.</td>
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<td>- The attending physician isn’t familiar with workers’ compensation, so they don’t comment.</td>
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<td>- The attending physician lacks the expertise to comment on a specialist’s opinion</td>
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<td>- Occasionally, a lot of workers don’t want to pay out of pocket to have the attending physician review the report.</td>
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<td>The division has interpreted <strong>ORS 656.325 (1)(c)(C)(e)</strong> so that a non comment means agreement with the IME report. If the attending physician does not comment, the worker is denied a WMRE. The effect is significant on the worker when it occurs.</td>
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<td>Delay is biggest issue for workers. In Ted’s experience delay in litigating WRME entitlement can delay a worker’s case by 8 months.</td>
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<td>Ted noted that in the <a href="#">IME subcommittee report</a> from January 2016, about 8,000 IMEs were performed by insurers in 2015. Workers were approved</td>
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<td>(1:44:21)</td>
<td>for 112 WRMEs. That is a big difference in numbers. For a system that is supposed to be a level playing field, this is a staggering difference.</td>
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<td>- Ted requested that MLAC should ask the division about their interpretation of the law. He hasn’t heard any good reasons as to why the division can’t interpret the law correctly. He has had two cases where the judge held that interpreting the statute as requiring an affirmative disagreement with the IME is not a part of the eligibility requirements. If there is no comment, then there isn’t a concurrence and the worker is entitled to a WRME. The department still resists interpreting the law in that way and resorted to other tactics to get around interpreting the eligibility criteria directly (e.g., documentation of a non concurrence). Those kinds of issues need to be addressed.</td>
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<td>- These issues were supposed to be resolved by statutory changes in SB 780, but Ted think that they could be resolved by rulemaking. All we’re asking is for the division to interpret the law as two judges have already interpreted.</td>
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<td>- Ted submitted a <a href="#">letter</a> that details this issue along with some exhibits.</td>
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Kimberly Wood asked Ted to forward the list of reasons why the attending physician doesn’t respond. Kimberly Wood also asked Lou Savage whether the department can provide how many WRMEs were denied due to attending physician non response before the September MLAC meeting.

Steve Passantino, Workers’ Compensation Division, responded and noted that he believes there were 117 requests for WRMEs in 2015. He would say that a fair number of them are denied because there was not a response from the attending physician. Those are the primary reasons for denial. It is roughly a 90% approval rate. He can only think of a couple of instances where there wasn’t a timely request for hearing or where the denial was not based in whole or in part on an IME.

Diana Winther asked if any of the approved WRMEs were initially denied then later approved. Steve responded that he is not aware of the division typically getting return requests.

Lou Savage said that the department is happy to take look at this in terms of ability to promulgate a rule. However, reasonable minds can differ on whether the division has the authority to do that and whether the administrative law judges correctly decided a case. The division is discussing whether we have the authority to do that under the statute. There are some that believe that the department doesn’t have authority under rule. The department will do deeper analysis of that and come back to MLAC.

Guy Boileau suggested that if the department concludes that they have the authority, to think of the mechanics and how they would do things.
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<td>differently. Lou Savage noted that they may be able to craft a rule that would not run afoul of statute but still accomplish what was suggested.</td>
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<td>Diana Winther commented that might resolve the issue with MLAC recommendations regarding WRMEs.</td>
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<td>Lou Savage noted that he is willing to try if it looks like something the division can do.</td>
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<td>Testimony – Keith Semple (1:53:36)</td>
<td>Keith Semple, Oregon Trial Lawyers Association (OTLA), provided testimony regarding WRMEs. OTLA was disappointed that WRME recommendations didn’t go through in the legislative session. He wants to echo what Theodore Heus said. They would now like the department to find out what can be accomplished through rule changes. It was OTLA’s position that everything could be accomplished through rule changes.</td>
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<td>It is very hard for OTLA to understand how the term “does not concur” could be interpreted to mean some affirmative action by the doctor. The department can interpret its own rules, and the court can decide if that interpretation is correct.</td>
</tr>
<tr>
<td></td>
<td>If it is concluded that department doesn’t have that authority, OTLA wants to know what authority the department is relying on to reach that conclusion. Keith would hope MLAC and department would take a serious look into what can be done before the next legislative session.</td>
</tr>
<tr>
<td>Meeting Adjourned (1:56:15)</td>
<td>The meeting adjourned at 11:56 a.m.</td>
</tr>
</tbody>
</table>

*These minutes include time stamps from the meeting audio found here: [http://www.oregon.gov/DCBS/mlac/Pages/2017.aspx](http://www.oregon.gov/DCBS/mlac/Pages/2017.aspx)*

**Referenced documents can be found on the MLAC Meeting Information page here: [http://www.oregon.gov/DCBS/mlac/Pages/2017.aspx](http://www.oregon.gov/DCBS/mlac/Pages/2017.aspx)