

Meeting Minutes
WORKERS' COMPENSATION ADVISORY COUNCIL

Missouri River Plaza, Sharpe Conference Room
123 W. Missouri Ave. Pierre, SD
Microsoft Teams Meeting
Tuesday, July 16, 2024 | 1:30 p.m. CDT

Chairman Scott Stern called the meeting to order at 1:30 p.m. CDT. Darcy Sorenson called the roll. A quorum was present.

Members Present: Marcia Hultman, Jeff Kjenstad, Kate Lukkes, Susan Peterson, Michael Plank, Kory Rawstern, Scott Stern

Members Absent: Jason Dodson, Jesse Smith, Michael Williams

Others Present: Doug Abraham, Riley Bennett, Gregory DeRynck, Tony Dorshner, Dawn Dovre, Adam Fowler, Kathy Grosz, Dr. Bruce Jon Hagen, Isabel Hernandez, Kristi Holm, Julie Johnson, Charlie Lude, Frank Marnell, Jerry McCabe, Patsy Mehlhaff, Deb Mortenson, BJ Motley, Scott Munsterman, Dan Nelson, Senator Reynold Nesiba, Lisa Nold, David Owen, Brian Povandra, Kristi Sandal, D.J. Sjerven, Brittany Smith, Darcy Sorenson, Brad Wilson

Peterson made a motion to approve the October 17, 2023, meeting minutes. Lukkes seconded the motion. **MOTION PASSED** by 6-0 roll call vote (Yea – Kjenstad, Lukkes, Peterson, Plank, Rawstern, Stern).

Chairman Stern opened the floor for Public Comments.

Julie Johnson representing the Society for Human Resource Management asked the Council to recognize her attendance.

Chairman Stern opened the Public Meeting.

Item a. Proposed Legislation – Modify timeline for notice of injury under SDCL 62-7-10 as contemplated in 2024 SB 145 (Senator Reynold Nesiba)

Senator Nesiba proposed changing the number of days for an employee to file a first report of injury to their employer from no later than three days to ten business days.

Testimony was heard from the following.

Proponents: Julia Natvig (via a letter of support). BJ Motley, President of United Food and Commercial Workers International Union (UFCW) Local 304A in Sioux Falls.

Opponents: Doug Abraham, attorney for the American Property and Casualty Insurance Association and the South Dakota Municipal League. Brad Wilson, President of Insurance Benefits for South Dakota Municipal League Workers' Compensation Fund.

Chairman Stern provided Senator Nesiba with a rebuttal opportunity. Chairman Stern opened the floor for questions of the Council. The question period closed. Chairman Stern opened up discussion and/or action.

Plank made a motion to extend the reporting period to ten business days. Rawstern seconded the motion. The Council discussed the motion. **MOTION FAILED** by a 3-3 roll call vote (Yea – Lukkes, Plank, Rawstern; Nay – Kjenstad, Peterson, Stern).

Item b. Proposed Legislation – Presumptive coverage for occupational cancer for firefighters as contemplated in 2024 SB 114 (Steve Willard)

Steve Willard, lobbyist representing South Dakota Firefighters Association, proposed adding presumptive coverage for firefighters as outlined in SB 114 from the 2024 legislation session.

Testimony was heard from the following.

Proponents: Brian Povandra, Division Chief Fire Operations, Rapid City Fire Department. Charlie Kludt with Viborg Volunteer Fire Department, Joe Foss Field, and South Dakota Firefighters Association. Steve Willard.

Opponents: Frank Marnell, Senior Legal Counsel for the South Dakota DLR, Division of Insurance. Brad Wilson. Doug Abraham. DJ Sjerven, adjuster at SFM Mutual Insurance.

Chairman Stern provided Willard with a rebuttal opportunity. Chairman Stern opened the floor for questions of the Council. The question period closed. Chairman Stern opened up discussion and/or action.

Rawstern made a motion to support SB 114 from the 2024 legislative session. Plank seconded the motion. The Council discussed the motion. Chairman Stern opened the floor again for questions of the Council. Rawstern made a substitute motion to table the issue until the next Council meeting. Kjenstad seconded the motion. **MOTION PASSED** by a 6-0 roll call vote (Yea – Kjenstad, Lukkes, Peterson, Plank, Rawstern, Stern).

Item c. Cost Drivers for Workers' Compensation (Scott Munsterman, South Dakota Chiropractors Association)

Scott Munsterman, representing the South Dakota Chiropractors Association, presented National Council on Compensation Insurance (NCCI) data on cost drivers for workers' compensation in South Dakota. He recommended the Council review the data and take necessary steps to address the cost drivers.

Item d. SDSU OSHA Extension; OSHA Consultation program (Gregory DeRynck)

Gregory DeRynck, Program Director of the OSHA Consultation program, provided the FFY 23 activities report including an update on staffing, training, and funding.

Jerry McCabe provided the Director's report.

The next meeting will be held in October 2024.

Plank made a motion to adjourn the meeting at 3:41 p.m. Lukkes seconded the motion. **MOTION PASSED.**