

**Minutes**  
**Labor-Management Advisory Council**  
**December 14, 2016**  
**Radisson Motel, Helena, MT**

**Advisory Council and Subcommittee members present:**

Lt. Governor Mike Cooney  
Larry Jones, Montana Self-Insureds Association  
Marvin Jordan, Montana Contractors Compensation Fund  
Al Smith, Montana Trial Lawyers Association – Proxy for Jim Larson  
Lance Zanto, Workers' Compensation Management Bureau  
Kevin Braun, Montana State Fund  
Vicky Byrd, Montana Nurses Association  
Bonnie Lyytinen-Hale, Genex Services  
Bill Dahlgren, Sun Mountain Sports  
Doug Buman, Laborers' International Union of North America  
Don Judge, Injured Workers Resource Council  
Chris Cavazos, Montana AFL-CIO  
Nicole Thuotte, Montana Public Employee Association

**Project Core Team members present:**

Eric Strauss, ERD Administer  
Bryan Page, Safety & Health Bureau Chief  
Peter Van Nice, Regulations Bureau Chief  
Jason Swant, Project Manager

**Others present:**

**ERD:** Karen Wiles, Julia Brennan, Kristine Ediger, Ken Biskupiak, Maralyn Lytle  
**Montana Municipal Interlocal Authority**  
Ann Komac, Thom Danenhouer, and Alan Hulse  
**ODG/Work Loss Data** - Ken Eichler  
**TCC** – Becky Curtis  
**Montana State Fund** - Lanny Hubbard  
**Montana Chamber** - Bridger Mahlum  
**NCCI** - Bruce Spencer

**I. Welcome and Introductions**

Lt. Governor Mike Cooney chaired the meeting greeted those present and introductions were made.

**II. Approval of Agenda and Previous Minutes**

The agenda and minutes from the October 12, 2016 meeting were approved. It was pointed out Marvin Jordan was in attendance at that meeting

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### **III. Drug Formulary 101 – Mark Pew, PRIUM**

Mr. Pew provided a drug formulary presentation consisting of: why a drug formulary is important; risks and benefits; what is a drug formulary; guiding principles; benefits/goals; potential impacts; frequently asked questions and a list of states with formularies or in the initial development process.

### **IV. Draft Statutory WC Drug Formulary Authorization – Bill Wheeler**

A draft of an amendment to Section 39-71-704 MCA was provided. The amendment to this section allows the department to adopt a drug formulary on an annual basis to update by rule and; provides a transition for the injured worker. Mark Cadwallader has had the language reviewed by the department legal staff and drug formulary committee member, attorney Leslae Dalpiaz. Discussion included making sure we had good language to provide the department with guidance for rule-making purposes. Concerns were shared by Kevin Braun and Al Smith. Bill indicated that he would have Mark connect with Leslae and Al Smith to provide the working group with updated language.

### **V. Assaults on Healthcare Workers in Montana – Julia Brennan**

Julia's presentation included statistics on the number of healthcare workers in Montana; work environments; patient population; underreporting of workplace injuries; days away from work; estimated incidence rates (per 100 full-time workers) of total recordable cases of non-fatal injuries and illnesses for healthcare and social assistance workers in different sectors, private industry. Results summary of healthcare works in the private industry in Montana revealed higher rates of intentional injuries by another person; higher rates of intentional injuries by another person by hitting, kicking, beating or shoving and, higher rates of injuries from patients.

### **VI. Workplace Safety for Healthcare Workers – Vicky Byrd**

Vicky provided a presentation on the national landscape on this issue. This is the fourth successive year injuries related to violence has increased; personal care aides are now the third highest occupation for lost time injuries that result from workplace violence; nursing and residential care facilities experience the greatest number of injuries from violence; patients were responsible for 49% of reported injuries related to violence. Workers in healthcare and social assistance in Montana represented the highest percentage of total recordable injuries in the private section in 2014 (23.8%) followed by workers in retail trade, accommodation and food services, manufacturing and construction. In 2014, 270 reports of nonfatal occupational injuries and illnesses involving days away from work involved injury by a health care patient. Almost 74% of the healthcare worker assault claims were reported for female workers and 26% for male. Underreporting of workplace injuries is a major concern as it is the mindset of the healthcare worker "it is part of the job".

Vicky advised of draft legislation for a bill entitled: "An act solely creating the felony offense of assault on a healthcare worker or emergency responder; providing a penalty; and providing an immediate effect date. A person convicted of assault on a healthcare provider or emergency responder can result in a fine not to exceed \$50,000 or be

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imprisoned for a term not to exceed 10 years, or both. LMAC moved to add the Workplace Safety for Healthcare Workers bill onto the work plan.

## **VII. Stay at Work/Return to Work – Jason Swant**

Jason reviewed the effectiveness of the postcard to injured workers and suggesting replacing it with a letter which would include additional information of action steps for return to work, the purpose of the Medical Status Form, a description of work status, i.e. full duty, modified duty, limited duty, part time, and not released. The letter would also provide the injured worker the insurer and department contact information. Discussion included adding to the letter the claimant should contact their employer with doctor recommended return to work status, and to limit the department contact information in the letter from Department of Labor and Industry to “Help Desk”

## **VIII.**

### **Subrogation – Eric Strauss**

After discussion, a motion was made and passed to remove this issue from the LMAC work plan. The Commissioner of Labor and Industry will pursue per the direction of the Governor

### **IX. Safety Information – Bryan Page**

Bryan described bringing safety into the contracting procurement process through education and site visits which would be done before the bid time. He provided the Montana “Buy Safe” Procurement Policy. The Safety Unit will work with the Department of Administration to establish rules. A motion to move forward was carried. Safety classes are going well at SafetyFest. After Missoula there will have been 10,000 classes completed. It was requested Casey Kyler West track what training is done for an employer’s employees. Discussion included ways to ensure employees are in attendance at the classes.

### **X. Kid’ Chance – Bill Wheeler**

Throughout the country, Kids’ Chance state organizations provide scholarship grants to children where a parent has been seriously or fatally injured in a work-related accident. The national organization assists all states. An internal work group was formed consisting of Eric Strauss, Bill Wheeler, Peter Van Nice, and Kristy Wolter to look into the opportunity of bringing to Montana. There is a need to identify people to serve on a non-profit board. Al Smith indicated his members would be interested. Bill will send an email and post on the LMAC website. A 501 (c) (3) will need to be designated which can be modeled after other states, and would be outside of state government.

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**XI. LMAC Meeting Plan for Session – Jason Swant**

During the legislative session, LMAC will meet in the Native American Room at the Governor’s office via telephone or Go To Meeting to work through the bills being tracked by LMAC. A printout of anticipated bills was provided. There will be no regular planned meetings for the core team during the session but can be held if necessary. Jason will send an agenda and call information before each meeting.

**XII. Other Matters**

Becky Curtis was appointed as a member of the public on the Drug Formulary Committee.

Eric advised of Jason’s new position within the department as the supervisor of the Claims Assistance Unit. At this time, he will still remain the LMAC Project Manager

**IX Next Steps – Jason Swant**

Develop support position paper for LC0223 Short title, create offense related to assault on healthcare and emergency providers.

2017 Workers’ Compensation Legislation Bill Status

The meeting was adjourned