

# Alaska State Medical Association

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March 12, 2014

Honorable Kurt Olson  
Alaska House of Representatives  
State Capitol Room 24  
Juneau, AK 99801

RE: House Bill 316 Version N

Dear Representative Olson:

The Alaska State Medical Association (ASMA) represents physicians statewide and is primarily concerned with the health of all Alaskans.

The Alaska State Medical Association (ASMA) appreciates your past efforts and willingness to work with us and values our relationship with you. The medical community are Alaska businesses many of which are “small businesses” that employ thousands of people, contribute to the economy and also understand the cost of workers’ compensation from a business cost perspective. In short, we appreciate the cost impact of workers’ compensation insurance and are not opposed to looking for responsible ways to reduce the cost burden to businesses while protecting patient care.

Any effort to reform workers’ compensation must ensure patient access to care is protected. In Alaska, historically, the legislature has established the policy around medical fee reimbursement schedules for the workers’ compensation program. The legislative process allowed for robust open and public policy debate with established processes that ensured accountability and avenues for public participation. While the legislative process provides a robust process ASMA also recognizes that some other states do utilize executive branch processes for the establishment of fees schedules.

If the legislature desires to move the establishment of the reimbursement fee schedule from the legislative branch to the executive branch ASMA suggests the process be well defined to ensure the protections afforded to the public in the legislative process are captured in the executive process. ASMA suggests the following concepts be considered for establishing a fee reimbursement schedule:

## Accountability

Any final decision for the adoption of the reimbursement fee schedule should be made at the commissioner level. This is a significant policy that impacts injured workers, health care providers and all businesses. When the legislature makes the policy decision the public has elected officials that can be directly held accountable for their decisions. The pressure that accountability adds to a public process is necessary to ensure the public process is meaningful. The workers’ compensation board is a quasi-independent board of eighteen members appointed by the Governor without consideration as to their knowledge or ability to set policy on medical fees. The workers’ compensation board is too far removed from public accountability to ensure the public process is

meaningful. ASMA believes that adding the additional complex task of establishing a medical reimbursement fee schedule to the workers' compensation board is inappropriate. If the process moves to the executive branch, ASMA believes that this accountability can be retained by having a commissioner or commissioners, as direct reports to the Governor, make the final decision. ASMA strongly opposes the Workers' Compensation Board having final decision authority.

## Policy

ASMA believes that at a minimum the broad policy objectives that the reimbursement fee schedule is trying to accomplish should be established by the legislature. The current version of the bill instructs the workers' compensation board to establish a reimbursement fee schedule but does not provide any direction as to what the goal of the reimbursement schedule should be. What is the policy that the schedule is attempting to implement? That debate and decision should be legislative. ASMA believes that any fee schedule should be built around the policy of paying commercial rates. Although admittedly a somewhat broad concept we believe it is appropriate to establish the policy as one that sets reimbursement rates at a commercial fee rate, with the executive branch defining the policy, as opposed to adopting non-commercial, discounted or subsidized fee schedules that could impact an injured workers access to care.

## Process

While the legislative process is robust in allowing the public to participate the regulatory process is deficient and closed. Department of Law advice to other departments on regulatory process dissuades public discussion or discourse once a regulatory package is released publically. In fact departments are often instructed to not answer questions or provide any additional information during public hearings except for pointing to the actual language in the proposed regulation. This leads to a frustrating and seemingly meaningless public process beyond submitting a written comment. Furthermore, once public hearings are held there is no requirement that the final regulations be similar to the proposed regulations.

ASMA supports the utilization of the Medical Services Review Committee as an advisory committee to mitigate the poor public process utilized by the regulatory process. By engaging stakeholders in public meetings and work sessions we believe that the use of this Committee and the regulatory scheme can provide adequate public input and process.

Additionally, while we believe the workers' compensation board should be removed from the decision process we think making two of the public seats on the Medical Services Review Committee Workers' Compensation Board seats could be a compromise.

ASMA is still analyzing potential impacts related to the provisions related to prescription drugs on page 4 lines 1 -7 and may provide additional information in the future.

Thank you and we look forward to working with you to make Alaska's Workers' Compensation better while protecting patient care and access.

Sincerely,

Jana Cole, MD  
President – Alaska State Medical Association