



## **Workers' Compensation Committee of Alaska**

---

**PO BOX 200361 ANCHORAGE, ALASKA 99520**

February 19, 2010

The Honorable Kurt Olson  
State Capitol, Room 24A  
Juneau, AK 99801-1182

RE: HB 346

Dear Representative Olson:

I am writing on behalf of the Workers' Compensation Committee of Alaska to share our concerns about HB 346 ("An Act establishing the Workers' Compensation Advisory Board..."). The Workers' Compensation Committee of Alaska (WCCA) is an employer education and advocacy group working since the 1980's as a voice for Alaskan employers in the workers' compensation system. Its membership includes public and private employers both large and small.

HB 346 would establish an advisory board consisting of the major stakeholders in the workers' compensation process, charged with advising the Department of Labor on all matters pertaining to the application, revision, and operation of the Alaska Workers' Compensation Act. It appears this legislation evolved from the recommendations of the Medical Services Review Committee (MSRC) issued in November 2009. According to the MSRC report, this statutory advisory board would replace the informal ad hoc process by which labor and management have negotiated Alaska workers' compensation reforms over the past 25 years. The legislation proposes that the board would consist of representatives from organized labor, employers, medical care providers, insurers, the department, and the legislature. Under the bill language, labor, employer, and medical provider representatives would have voting rights at board meetings.

Although insurers, medical providers, and others may have a financial stake in the workers' compensation process, the WCCA believes that only the parties to the employment contract—employees and employers—should be voting members of the advisory board should. Employees and employers have the ultimate interest in establishing a fair and equitable workers' compensation benefit structure. For this reason, WCCA also recommends that potential employer members be selected by an established business organization such as the Alaska State Chamber of Commerce or WCCA to ensure that members have the necessary background and expertise in workers' compensation.

Historically, labor and management selected their own representatives in the ad hoc process. This minimized political agendas, and the stakeholders selected those they thought best represented their interests. WCCA opposes the current recommendations in HB 346 as outlined

in AS 23.30.275((b) and recommends that the proposed statute be amended to require the commissioner to look to organized labor and employer organizations such as WCCA or State Chamber of Commerce for their appointments of their respective representatives as outlined in (a)(1)-(a)-(2).

Further, we have concerns that the Advisory committee is being charged with making recommendations and evaluations of all aspects of workers' compensation and is therefore too broad-reaching. It is unreasonable to incorporate the duties of the MSRC into a new committee that is also charged with making recommendations on regulations and all other areas of worker's compensation law.

The Workers' Compensation Committee of Alaska believes the appointment of experienced members is essential to the success of a group such as the proposed board, and respectfully requests your consideration of the amendments we've outlined above.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patricia Wilson', with a stylized, cursive script.

Patricia Wilson  
President

February 19, 2010

The Honorable Kurt Olson  
State Capitol, Room 24A  
Juneau, AK 99801-1182

RE: HB 346

Dear Representative Olson:

We are attorneys who represent employers in workers' compensation defense. We are writing to share our concerns about HB 346 ("An Act establishing the Workers' Compensation Advisory Board...").

HB 346 would establish an advisory board consisting of the major stakeholders in the workers' compensation process, charged with advising the Department of Labor on all matters pertaining to the application, revision, and operation of the Alaska Workers' Compensation Act. It appears this legislation evolved from the recommendations of the Medical Services Review Committee (MSRC) issued in November 2009. According to the MSRC report, this statutory advisory board would replace the informal ad hoc process by which labor and management have negotiated Alaska workers' compensation reforms over the past 25 years. The legislation proposes that the board would consist of representatives from organized labor, employers, medical care providers, insurers, the department, and the legislature. Under the bill language, the labor, employer, and medical provider representatives would have voting rights at board meetings.

We believe that medical providers should not have voting rights and the voting members of the advisory board should represent only the parties to the employment contract--employees and employers. Employees and employers have the ultimate interest in establishing a fair and equitable workers' compensation benefit structure. While the input of medical providers is important to the process, medical providers do not have the knowledge and necessary experience to vote on changes to the workers' compensation law dealing with nonmedical issues. For this reason, we strongly recommend that potential employer members be selected by an established business organization such as the Alaska State Chamber of Commerce or WCCA to ensure that members have the necessary background and expertise in workers' compensation. This is particularly concerning because often times Labor representatives are trained negotiators. If any person who simply owns a business or works in management of a business without any experience in negotiations or knowledge of workers' compensation law is appointed to sit on this committee, Alaska employers would be at a serious disadvantage.

Further, we have concerns that the Advisory committee is being charged with making recommendations and evaluations of all aspects of workers' compensation and is, therefore, too broad-reaching. It is unreasonable to incorporate the duties of the MSRC into

The Honorable Kurt Olson  
Page 2  
February 19, 2010

a new committee that is also charged with making recommendations on regulations and all other areas of workers' compensation law.

We also have concerns that only organized labor representatives are being considered to sit on this committee. Organized labor makes up only a small percentage of the workforce. Other aspects of the workforce should be considered and given a voice.

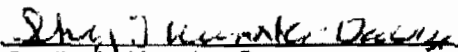
Historically, labor and management selected their own representatives in the ad hoc process. This minimized political agendas and the stakeholders selected those they thought best represented their interests. Appointment of these members by the Commissioner of Labor, who changes from administration to administration, only reintroduces the political agenda back into the process. WCCA opposes the current recommendations in HB 346 as outlined in AS 23.30.275((b) and recommends that the proposed statute be amended to require the commissioner to look to organized labor and employer organizations such as WCCA or State Chamber of Commerce for their appointments of their respective representatives as outlined in (a)(1)-(a)-(2).

We believe that appointment of members who are very knowledgeable in workers' compensation law and the effects of those laws are essential to the success of a group such as the proposed board, and respectfully request your consideration of the amendments we've outlined above.

Sincerely,

DAVISON & DAVISON, INC.

RUSSELL, WAGG, GABBERT &  
BUDZINSKI, P.C.

  
Shelby E. Nuenke- Davison

  
David D. Floerohlinger

FARLEY & GRAVES, P.C.

HOLMES, WEDDLE & BARCOTT, P.C.

  
Theresa M. Hennemann

  
Jeffrey D. Holloway

DELISIO MORAN GERAGHTY &  
ZOBEL, P.C.

  
Nora G. Barlow

  
Patricia L. Zobel

# Alaska State Medical Association

4107 Laurel Street • Anchorage, Alaska 99508 • (907) 562-0304 • (907) 561-2063 (fax)

---

February 22, 2010

Honorable Kurt Olson  
State of Alaska  
House of Representatives  
Chair, House Labor and Commerce Committee  
State Capitol, Room 24  
Juneau, AK 99801

RE: HB 346 – Workers Compensation Advisory Board

Dear Representative Olson:

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

ASMA opposes HB346 as it is currently written. ASMA feels it is critical to have a greater presence on this advisory board. This is particularly true if the rumored “sunset” of the Medical Services Review Committee (MSRC) takes place. At a minimum, the physician community should have an equal number of voting representatives as does organized labor and employers. Additionally, ASMA recommends that those physician representatives be evenly split between proceduralists (eg. surgeons) and generalists (eg. general internists).

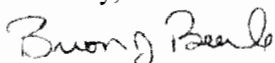
Testimony provided on HB314 indicated that the percentage of total Workers Compensation that relates to medical care cost is up to 72% based on the latest data for 2008. This was termed an increase in “medical severity”, a term used in the Workers Compensation technical world that encompasses a number of complex and related factors. The amount paid to a particular medical care provider is but one of the components. Other more complex components such as the trend in the injury severity, the frequency which a certain service is provided, and the trends in the change of treatment type mix (eg. a movement from a “watchful waiting” course of treatment to more complex surgical treatment) have a material effect on the total cost.( ie, the “medical severity”).

These other factors may be influenced by such elements such as treatment guidelines and the comparative effectiveness of the various treatment algorithms. The development of the comparative effectiveness for each of the numerous treatments algorithms for the possible injuries or diseases is in its infancy.

The expertise of the physician community is necessary to provide the meaningful input necessary for the Workers Compensation Board to make informed decisions. The Legislature realized this when it created the MSRC for the purpose of providing advice on the appropriateness, necessity, and cost of medical and other related services.

ASMA stands ready to assist you in these complex issues.

Sincerely,



By: Brion Beerle, MD, President  
For: The Alaska State Medical Association

# Alaska State Medical Association

4107 Laurel Street • Anchorage, Alaska 99508 • (907) 562-0304 • (907) 561-2063 (fax)

---

February 24, 2010

Honorable Kurt Olson  
State of Alaska  
House of Representatives  
Chair, House Labor and Commerce Committee  
State Capitol, Room 24  
Juneau, AK 99801

RE: HB346 – Workers Compensation Advisory Board; Proposed Amendment (26-LS1447\R.1,Bailey, 2/15/10)

Dear Representative Olson:

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

When ASMA's written testimony dated February 22, 2010 was provided, the "sunset" of the Medical Services Review Committee was rumored, now, with the above identified amendment, it is no longer rumored. Sec. 2 repeals the MSRC by repealing AS23.30.095(j). ASMA expects that this amendment will be adopted.

Given the above expectation, ASMA strongly recommends that the physician community have parity in representation with organized labor and employers. Additionally that representation should be split evenly between physicians that are proceduralists and generalists. The representatives of organized labor and employers do not actually treat injured workers but yet will have the potential for significant effect on the process of proper medical care.

Bruce Kiessling, MD was the first representative and sole physician on the MSRC who resigned in 2009 due to a family illness. Dr. Kiessling stated it best in his resignation letter to Trena Heikes, Director of the Division of Workers Compensation. He in part stated:

"... As a member of the committee since its formation it has been curious to see some of the progress and all of the stumbles as members and leaders have worked, with good intentions, toward "reform".

To a physician, and which is why it is so important that physicians be at the table, with any reform discussion, "reform has to include measurement of patient care as well as a structure of accountability that will improve that care.

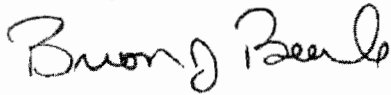
"Reform" to the committee has moved sluggishly in the first years and now with more urgency toward fee controls. It has been my strong assertion, based on 40 years in the community, that this will ultimately compromise care, or at least the best care that otherwise would be available. I have reviewed on several occasions why this will occur.

Fundamental to any of the committee discussions has to be the core issue of quality of care. Next it has to be accountability and improvement of that care. Only after that will the also hugely important issue of how will it be paid for come to the front and be discussed with integrity....”

Physicians need to be an integral part of reform to the Alaska Workers Compensation system. Indeed, outside expert medical consultants could be engaged. However, without meaningful local medical participation you will forgo local participation in the process resulting in difficulty with “buy in” to any meaningful reform, and potential serious problems with access to care for injured workers.

ASMA and I stand ready to help in the reform efforts.

Sincerely,

A handwritten signature in black ink, appearing to read "Brion Beerle". The signature is fluid and cursive, with the first name "Brion" and last name "Beerle" clearly distinguishable.

By: Brion Beerle, MD, President  
For: Alaska State Medical Association

February 23, 2010

Ms. Trena Heikes  
Alaska Division of Workers' Compensation  
PO Box 115512  
Juneau, AK 99811-5512

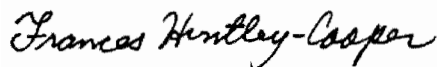
Dear Ms. Trena Heikes:

As a fellow administrator of a state workers' compensation agency, I can feel some of the pain you must be experiencing dealing with the interest group pressure and legislative concerns over high workers' compensation costs. When any state's insurance rates stand out among its peer states, it attracts stakeholder attention, and especially by employers.

Your legislature's interest in establishing a strong labor-management advisory council to help steer the course of reform of benefits and costs is an excellent approach. My state of Wisconsin is extremely proud of the track record of our advisory council in maintaining a stable and moderate cost workers' compensation system. Legislative preemption of council legislative suggestion is unheard of in Wisconsin. There are several other states with good advisory council models.

As President of the International Association of Industrial Accident Boards and Commissions, I would be pleased to offer the assistance of the association staff in assisting you in evaluating the structure, organization, and scope of duties of successful councils. If you are interested in assistance, please contact our Executive Director, Gregory Krohm. You may have met Greg at the Minneapolis Convention. I am sure he will be glad to help research questions of particular interest to you, and seek out insights from our member states.

Sincerely,

A handwritten signature in cursive script that reads "Frances Huntley-Cooper".

Frances Huntley-Cooper  
IAIABC President





The Voice of Small Business®

ALASKA

February 17, 2010

The Honorable Kurt Olson  
State Capitol Building  
Juneau, Alaska 99801-1182

RE: House Bill 346

Dear Representative Olson:

On behalf of the National Federation of Independent Business/Alaska, I wish to respectfully share our support for House Bill 346. The National Federation of Independent Business is the largest small-business advocacy group in Alaska.

House Bill 346 creates a Workers' Compensation Advisory Board to advise the Department of Labor and Workforce Development on workers compensation issues. It is important to have those affected by policies that will be adopted relative to workers' compensation.

We would request that you consider requiring that one employer member be from a small business as our concerns are different from those of larger, perhaps multi-state employers, found in the oil industry and self insured employers.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Dennis", is written over the typed name.

Dennis L. DeWitt  
Alaska State Director

Cc: NFIB/AK Leadership Council