

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4776 HJUD SB 322 (FILE 3)

5/8

"Stress cases are probably the subject of more horror stories in states than anything else you see in workers' comp. In stress cases you can always buy the appropriate testimony. It is very difficult to defend," Lewis says.

"Labor in many states has indicated that stress is not something that they want to permit to tear apart a workers' comp system. Once it gets out of control it causes difficulties for the entire system and it's not something they want to see happen."

"In states in which the horror stories have come, labor and management have gone to the legislature usually hand in hand and said we can't deal with this. It detracts from the other things that the workers' comp system can handle," Lewis says.

Lewis has high praise for the direction taken by the ad hoc labor management task force in Alaska. "There's no doubt in my mind that, if the Alaskan task force proposals go as a package and if they're permitted to operate the way they are intended, they will have a substantial impact on the system both in terms of cost savings and the efficiency with which the system delivers benefits to injured workers."

"Your problems here are the same and your solutions can be found in the same areas in which other jurisdictions are finding solutions," Lewis adds. "What works in other states may very well work here. What has already failed in other jurisdictions will almost certainly not work in Alaska."

#

FEB 20 1988

R. CLARK DAVIS, D.C.

CHIROPRACTOR

320 BAWDEN, SUITE 306 KETCHIKAN, ALASKA 99901 (907) 225-6815

February 19, 1988

Representative John Sund
Capitol Room 122
P.O.Box V
Juneau, Alaska 99811

RE: HB 352/ SB 322

Dear Representative John Sund:

I am writing in regard to the Workman's Compensation bill. In previous correspondence I have pointed out that an arbitrary limit on treatment under proposed Workman's Compensation regulation changes (e.g. 20 visits for the first sixty days and subsequent limits) is not practical for realistic patient care. Admittedly MOST patient treatment schedules fall within the above proposed limits but the most severely injured patients will have their essential treatment being interfered with by setting limits effectively in stone. This will result in patients that are making progress under the chiropractic treatment but faced with an arbitrary cut off of treatment benefits, by third party payors, to be steered toward LESS CONSERVATIVE treatments such as SURGERY and CHEMNUCLEOLYSIS, at times unnecessarily. To prematurely force an injured worker into the above alternatives with their record of HIGH FAILURE RATES an UNACCEPTABLE costs is unreasonable at best, and unpardonable in my estimation.

Recent government inquiries in Australia (1986)¹ and Sweden (1987)² have found chiropractic treatment effective and cost-effective, and recommended increased government funding for chiropractic services. This report looks at the evidence of cost-effectiveness, emphasizing acute and chronic back pain including workers' Compensation figures, neck pain/migraine/headache, and prevention.

Compelling evidence of effectiveness and cost-effectiveness comes from Kirkclady-Willis, an orthopaedic surgeon, and Cassidy, a doctor of chiropractic, who have been researching chiropractic treatment of chronic low-back pain for the past 10 years. Their striking results have been published in a number of prominent texts^{3 4} and journals.^{5,6} This included a population of 171 patients examined by consulting chiropractors in a hospital setting and found to have posterior joint syndrome

and/or sacroiliac joint syndrome⁵, totally disabled by low back pain, averaging 7.6 years.

In a trial study⁷ Silverman, a Florida chiropractor, was sent a consecutive series of 100 patients with persistent low-back or neck pain by AV-MED, a large South Florida health maintenance organization (HMO). Faced with fixed funding per patient, and prohibitive rates and costs of surgery, Dr. Herbert Davis, AV-MED's medical director, agreed to a study wherein the next 100 patients requiring hospital evaluation with a view to surgery would first be sent for chiropractic evaluation and, if appropriate, care.

- a) The patients had already been seen by 1.6 MD's on average.
- b) 23% had already been hospitalized.
- c) 12% had been confirmed medically as requiring surgery.
- d) Chiropractic care consisted of spinal adjustment supplemented with physical therapy modalities, remedial exercise programs and advice.
- e) Chiropractic treatment was shown to be very cost-effective.
- f) There were no referred costs for outside diagnostic investigations, other health care practitioners, or hospitalization.
- g) No patient, including the 12 medically diagnosed as needing surgery, required surgery.

In conclusion, chiropractic treatment, unlike medical practice, does NOT increase costs through the medical system through adjunctive and specialist services, hospitalization, and pharmaceutical supplies. "Usually a dollar spent on chiropractor services causes no further costs"⁸. This cost-effectiveness is both in terms of direct costs (treatment) and indirect costs (compensation, lost production, lost opportunity). An injured workers access to chiropractic treatment should not be restricted by an arbitrary treatment limit that does not take into account the most severely injured patients. These most seriously injured patients still often successfully avoid spinal surgery and other similarly invasive and very costly procedures. I recommend amending HB 352/ SB 322 accordingly. If it is not amended so, I strongly recommend a negative vote.

If you have any question feel free to call.

Sincerely,


R. Clark Davis, D.C.

References

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- 2 "Legitimization for Vissa Kiropraktorer" (1987). Report of Commission on Alternative Medicine, Social Departementete, Stockholm, English Summary, SOU 1987:12.
- 3 Kirkaldy-Willis W H (1985), "Managing Low-Back Pain" Churchill Livingstone, New York and London.
- 4 Cassidy J.D., Kirkaldy-Willis W H and McGregor M (1985), "Spinal Manipulation for the Treatment of Low Back and Leg Pain: An Observational Study" Chapt 9 in "Empirical Approaches to the Validation of Spinal Manipulation" ed. by Bueger A A and Greenman P E , Charles C. Thomas, Springfield, Illinois.
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- 8 Chapman-Smith (Aug 1988), "The Chiropractic Report",Vol.2,No.2, Toronto.



THE CHIROPRACTIC REPORT

An international review of professional and research issues, published bimonthly.

Editor: David Chapman-Smith, Toronto

January 1988

Vol. 2 No. 2

Cost Effectiveness of Chiropractic – the evidence

A. Introduction

1. In a paper entitled 'Health Economics and Chiropractic'¹ Professor John Dillon, a prominent Australian economist, studies modern health care economics and concludes:

"Undoubtedly, in terms of economic appraisal of the current health scene ... chiropractic is in a very strong position. Compared to medical services, it is an extremely cheap avenue of health care for those who seek it. Unlike primary medical practice, it does not spiral costs into the system through ancillary and specialist services, hospitalization and pharmaceuticals. On average, a dollar spent on a chiropractor's services causes no further costs".

"... until very recently and unlike medical services ... chiropractic has stood the market test of exhibiting a growing demand for services without the inducement of price subsidies, health insurance coverage and tax deductibility. ... Far more, therefore, than the demand for medical services, the demand for chiropractic services reflects an expressed need in the community".

"... in terms of meeting the not insignificant need felt by many members of the community to have an occasional friendly chat with a professional practitioner about their health, chiropractic beats medicine hands down".

2. In terms of cost-effectiveness a chiropractor can best be compared with a dentist. Both see the patient directly, and generally provide all necessary diagnosis and treatment themselves.

The essentials of chiropractic practice are the same worldwide. Treatment is conservative without the cost of drugs or surgery. Principal treatment approach is joint adjustment, comprising a wide range of specific manipulative techniques, with adjunctive use of remedial exercises, nutritional therapy and advice, soft tissue and pressure techniques, traction and electrotherapy. These are self-contained inexpensive approaches to care.

3. Recent government inquiries in Australia (1986)² and Sweden (1987)³ have found chiropractic treatment effective and cost-effective, and recommended increased government funding for chiropractic services.

This report looks at the evidence of cost-effectiveness, emphasizing acute and

chronic back pain including workers' compensation figures, neck pain/migraine, headache, and prevention.

Most talk of cost-effectiveness is at the community level – costs to insurance companies, WCBs, government and society. A final section looks at chiropractic cost-effectiveness from the patient's point of view.

B. Back Pain

4. Surveys of chiropractic practice in a number of countries confirm that approximately 90% of chiropractic patients have headache, neck and back pain as chief presenting complaints - 50-60% have acute or chronic back pain.^{4,5}

5. In the western world 80% of the population will experience disabling low-back pain during their lives. At any given time 6.8% of the adult U.S. population is experiencing a bout of back pain that has been continuing for more than two weeks.⁶

30% of WCB claims by injured workers are for back pain (more than twice the percentage of any other complaint) and, because of the acknowledged poor medical management of this complaint and the huge cost of chronic cases, these 30% of claims generate 60% of total WCB compensation costs.⁷

6. In 1985 U.S. workers compensation boards disbursed \$6 billion for low-back pain.⁸ The estimated total annual cost of back pain in the U.K. in 1982 was £1,000 million.⁹

7. No one knows the true cost and, as the manager of a large U.S. insurance association has confessed, "the insurance industry should be and is being criticized for an obvious lack of statistical data on the costs of back related injuries. What we have, however, is scary".¹⁰

8. The high cost of medical management of low-back pain is a major subject in the scientific literature in recent years, which reveals:

a) Surgery and chemonucleolysis have been subject to high failure rates and unacceptable costs, and are now used rarely, with under 1% of patients.¹¹

b) Bedrest, which promotes 'illness behaviour' and huge compensation costs has now been proven ineffective. It has been a general medical first response to back pain. It is being outspokenly rejected by leaders in medicine – most notably in recent months by

Professional notes:

Medicine Deserts Bedrest

The times they are a'changin'. It was always going to happen, but medicine is now moving sharply towards the chiropractic model of management of back pain. There are two important recent reviews of which you should be aware.

The Biopsychosocial Model

'A New Clinical Model for the Treatment of Low Back Pain' Waddell G, Spine (1987) 12(7):632-644. PN 1

This article will be highly influential within medicine. It is by Gordon Waddell, a well-published British orthopaedic surgeon from the Western Infirmary, Glasgow. It won the prestigious 1987 Volvo Award in Clinical Sciences, and is thus accepted in medicine as a foremost international spinal research contribution for 1987.

On considerable clinical and research evidence Waddell says:

a) "The main theme of management must change from rest to rehabilitation and restoration of function".

b) There is "a fundamental antithesis between the passive and active approaches" to treatment of back pain.

c) "There is no evidence that rest has any beneficial effect on the natural history of low back pain. On the contrary, there is strongly suggestive evidence that rest, particularly prolonged bed-rest,

continued on insert page 1.

Gordon Waddell, in work which won the 1987 Volvo Prize for spinal clinical research.¹¹ (See professional notes)

c) The basic approach to treatment now recommended is on a chiropractic model – early active treatment to restore spinal function and prevent onset of illness behaviour.

C. Acute Back Pain

9 Research from chiropractic^{12,13} and medicine^{14,15} reports a greater than a 90% success rate with skilled specific spinal manipulation for treatment of acute back pain. There is such broad acceptance of effectiveness with acute pain that the major research effort has been directed at chronic back pain.

10 A prominent finding of great importance with respect to cost is the speed of relief. This has been confirmed by recent research in both England¹⁶ and the United States¹⁷. In the U.S. study, from the University of North Carolina:

a) There were 54 patients with acute low-back pain, one group with duration of pain under two weeks, the other with pain from 2-4 weeks.

b) The purpose of the study was to compare two active forms of manual therapy – mobilization ("use of insufficient force to move the facet joints" – i.e. moving the vertebra more slowly through a lesser range of movement as commonly practised by physiotherapists) with spinal manipulation (by a medical physician, but using the controlled low-amplitude high-velocity thrust basic to chiropractic practice – the physician claimed his technique was the "one used by chiropractors").

c) Outcome was monitored by questionnaire immediately after treatment and every three days for two weeks.

d) "The vast majority" of patients in both treatment groups "improved dramatically" over the two weeks follow-up period.

However, the group that had suffered acute back pain for slightly longer – the patients with pain for 2-4 weeks – did much better with manipulation than mobilization. Speed of response was commented on particularly. The advantage of manipulation "was most striking midway through the first week" and was statistically significant.

11. Accordingly chiropractic spinal adjustive techniques, are effective and, since they produce a generally quick response, are also cost-effective. This is both in terms of both direct costs (treatment) and indirect costs (compensation, lost production, lost opportunity).

D. Chronic Low-Back Pain

12 While there is no real debate concerning cost-effectiveness with acute pain, there has been concerning chiropractic treatment of chronic low-back pain. That is rapidly being laid to rest by recent research arising from the new era of cooperation between chiropractic and medicine.

13 Compelling evidence of effectiveness and cost-effectiveness comes from Kirkaldy-Willis, an orthopaedic surgeon, and Cassidy, a doctor of chiropractic, who have been researching chiropractic treatment of chronic low-back and leg pain for the past 10 years. Their striking results have been published in a number of prominent texts^{18,19} and journals^{20,21}. Consider the population of 171 patients examined by consulting chiropractors in a hospital setting and found to have posterior joint syndrome and/or sacroiliac joint syndrome:²⁰

a) These were patients who had been totally disabled by chronic low-back pain ("constant severe pain") for an average of 7.6 years.

b) Over that period they had proved unresponsive to a wide variety of medical treatments. No details of cost are given – obviously direct and indirect costs will have been substantial. Patients were now being referred, or re-referred, to the hospital back pain clinic for further investigation with a view to initial or further surgery.

c) Following a "2-3 week regime of daily chiropractic manipulation", 87% returned "to full function with no restrictions for work or other activities".

d) Importantly, that success rate was maintained at 12 months follow-up. Additionally, no patient was made worse.

Quite simply workers compensation and insurance fund managers should be swept off their feet by those figures from internationally respected researchers. They should be establishing studies in their own jurisdictions to see if they can repeat such startling success with such an intractable problem.

14. Interesting evidence is now emerging from the United States, as the health care system reacts to years of unacceptable cost increases and is producing new health care partnerships and delivery systems.

15. In a trial study²² Silverman, a Florida chiropractor, was sent a consecutive series of 100 patients with persistent low-back or neck pain by AV-MED, a large South Florida health maintenance organization (HMO). Faced with fixed funding per patient, and prohibitive rates and costs of surgery, Dr. Herbert Davis, AV-MED's medical director,

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Chiropractic USA

June 16-19, 1988
Las Vegas Nevada
Contact:

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(219) 423-1432

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October 2-9, 1988

Sydney, Australia

Contact:

John Sweeney, D.C.
Australian Chiropractors' Association
459 Great Western Highway,
Faulconbridge
N.S.W. 2776, Australia

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Contact:

Aif L. Nachmeson, M.D.
Department of Orthopaedics
Sahlgren Hospital
S-413 45 Gothenburg, Sweden.

agreed to a study wherein the next 100 patients requiring hospital evaluation with a view to surgery would first be sent for chiropractic evaluation and, if appropriate, care. Comments are:

a) The patients had already been seen by 1.6 MDs on average.

b) 2% had already been hospitalized.

c) 12% had been confirmed medically as requiring surgery.

d) Chiropractic care consisted of spinal adjustment supplemented with physical therapy modalities, remedial exercise programs and advice.

e) Average number of visits per patient was 12.1, average cost per patient \$326.76.

f) This was total cost – there were no referred costs for outside diagnostic investigations, other health care practitioners, or hospitalization.

g) No patient, including the 12 medically diagnosed as needing surgery, required surgery.

7. At six months follow-up 36% had used no further chiropractic or medical services.

11. AV-MED advised an average cost of neck back surgery at the time as \$20,000. Accordingly AV-MED considers it saved approximately \$225,000 (medical and surgical costs, less cost of chiropractic care) on the 12 confirmed surgical cases alone.

Following the trial AV-MED established a corporate policy requiring all patients to receive chiropractic assessments before referral to hospital for back and neck pain.

16. Impartial clinical evidence of cost-effectiveness is emerging from U.S. hospitals now that many hospitals have chiropractors on staff.

In the recently decided Wilk Case Dr. Per Freitag, a Chicago orthopaedic surgeon, gave testimony comparing the progress of hospitalized back pain patients in the two hospitals at which he is a consultant, the John F. Kennedy Hospital in Chicago where patients receive combined chiropractic and medical management, and the Lutheran General Hospital in Park Ridge, which has no chiropractors on staff.

He reported that with chiropractic care at JFK the term of hospitalization of his orthopaedic patients was cut by half. "An average of ... six or seven days in hospital (at JFK). At Lutheran General Hospital the same type of orthopedic patients spend an average of 14 days".²³

17. There are two points to be made here:

a) Hospital bed costs are reduced by 50%

b) Overall costs are reduced by far more because of the conservative low cost nature of chiropractic care. A number of costly examinations and surgeries will have been avoided by sending these patients first to conservative chiropractic care. (See Silverman (para 15 above), and Kirkaldy-Willis and Cassidy (para 13)).

18. In the United Kingdom Breen reported a survey of British chiropractic practice in 1977.⁴ Data was obtained over a one year period. Specific information on cost was reported.

a) 1595 patients (53.4%) presented with low back pain. One in two had chronic back pain (complaint for over 1 year), one in three had experienced back pain for over 5 years, and only one in four was seen within 3 months of onset of pain.

b) The 'average patient' from this group made a preliminary visit for examination and assessment including x-rays, and then 6 treatment visits - 7 visits total.

c) Costed on chiropractic fees at May 1976 (when survey results were analyzed) the total cost for chiropractic care per patient in this largely chronic sample was approximately £35. On fees as at January 1988 the average cost is approximately £120.

d) These results are consistent with those reported in Canada by Kirkaldy-Willis and Cassidy (para 13 above).

Comparison figures from medicine are not available. However, this is evidently cost-effective management of acute and chronic low-back pain.

Workers Compensation Costs

19. WCB studies relate to both acute and chronic low-back pain. There is an injury, but this is often a re-injury or aggravation of an advancing degenerative problem. United States WCB studies have been performed in Florida (1968), Iowa (1969), Oregon (1971), California (1972) and Wisconsin (1978). All favour chiropractic, and suggest a 45-50% saving in health care costs for low-back pain when the treatment is chiropractic rather than medical.

20. Methodology used in the studies has varied. The most thorough study is that in Wisconsin in 1978²⁴ concerning which:

University of Wisconsin. The methodology is clearly described and demonstrably thorough.

b) The study deals with all injuries diagnosed as back strain or sprain under the Wisconsin WCB during 1977, and compares those treated by a chiropractor and those by a medical doctor. Thus fractures and other more serious cases treated by medicine which would have biased the study are excluded.

c) The average compensation periods for time off work were 13.2 days for chiropractic cases versus 21.8 days for medical cases - 40% saving in compensation costs.

d) The average health care costs were \$145.64 per chiropractic case, \$267.68 per medical case - a 46% saving.

e) These results are consistent with the outcomes of the other studies mentioned, including the large California study done by Richard Wolf, MD, a specialist in occupational medicine.²⁵

21. Given the staggering cost of low-back pain to WCBs - and thus employers, and thus all of us who buy their services and products - and this evidence, WCBs should be making far greater use of the chiropractic profession.

Failure to do so represents gross inefficiency. Sadly it also represents, as those who deal with WCBs know, the victory of medical politics over patient and employer interests.

C. Neck Pain/Migraine/Headache

22. The following case, an appeal to a Canadian WCB,²⁶ illustrates well the cost-effectiveness of chiropractic treatment for chronic neck pain:

a) Mr. C. suffered severe strain and sprain type neck injuries in a motor vehicle accident. He received medical care for seven months without improvement. This included consultations with a general practitioner, a specialist in physical medicine and two neurosurgeons, extensive use of medication, four months of intensive physiotherapy treatment, and use of a surgical collar.

His condition worsened throughout. Both neurosurgeons recommended neck surgery.

b) Mr. C. considered chiropractic treatment, but by letter

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California

Employers, insurers kick off campaign for workers' comp reform

SACRAMENTO - The Californians for Compensation Reform has kicked off a campaign designed to get action from the governor and state legislature on problems in the workers' compensation system.

At a press conference in Sacramento, the employer insurance coalition said it will press for legislative action with help from Governor George Deukmejian and if nothing is done by the lawmakers this year the fight will be taken to the voters statewide in 1990.

"We are here today to focus attention on a multi-billion dollar crisis that is bleeding California government and private industry: the runaway cost and rampant abuse of the state's workers' compensation system," said Ed Mangialico, president of CCR, in opening the campaign.

"Workers' compensation has become an insatiable beast whose yearly appetite has grown by \$700 million each year during the last three years, costing employers an additional

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The WEEK in A MINUTE

MARCH 25, 1988

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Major suit announced

Eight states accuse industry of creating the liability crisis

SAN FRANCISCO - California and six other non western states have sued some 31 insurance companies and the Insurance Services Office for conspiring to create the liability insurance crisis, eliminate the occurrence policy in favor of the claims-made form and eliminate pollution coverage.

The suit was announced March 22 at a press conference held by California Attorney General John Van de Kamp, who said the company's actions were "a major contributor to the insurance crisis that forced so many cities and business up against the wall. It was the public and the consumer who paid the price for this collusive exercise in corporate greed."

It was well known that a number of state attorneys general had been investigating the industry during the past two years. The focus of that investigation was unclear, however.

"The allegation against ISO is unfounded and without merit," said David Ostwald, an ISO vice president

(Continued on page 4)

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MCA



California

Employers, insurers kick off campaign for workers' compensation reform

(Continued from page 1)

\$4 billion since 1985.

"Yet benefit payments to workers have not increased by a penny during this same period. The workers' comp system consumed \$7 billion a year in 1987, threatening the very foundation of the state and private economy in California. Obviously something is dreadfully wrong," he said.

Mangiafico, who is chairman of May Co. California, told reporters the problem is "very simple, there are too many problems."

"Neglect has fostered abuse," he said. "Nowhere is that better illustrated than within the agency that administers the workers' comp system itself, the division of industrial accidents in the department of industrial relations. Research conducted by Californians for Compensation Reform has disclosed some creative 'uses' of the system by the employees who know it best."

Judges on the dole

He cited as an example two workers' comp judges who filed permanent disability claims, received substantial awards and are collecting monthly pension payments for life.

"Yet," Mangiafico added, "they are still on the job, collecting their full salaries. Another workers' comp judge with a poor performance record took a stress-related leave of absence. He came back to work with a letter from a doctor saying that he could only return to the job if he was assured he would not face disciplinary action of any kind."

Mangiafico said stress claims have become the disability of choice for thousands of workers and cited it as the "number one occupational disease in California today."

The system allows doctors and lawyers as middlemen to "siphon millions of dollars from the system," he said. "Between 1977 and 1985,



Employers have poured an additional \$4 billion into California's workers' compensation system since 1985.

Yet, benefits for injured workers haven't increased one cent since then and it's about time Pete D'Angelo, and tens of thousands of workers just like him, finally saw some of that money!

"IF IT'S BROKE... FIX IT"

CCR is sponsoring advertisements in support of workers' comp reform.

attorney-driven litigation costs climbed 104%. Forensic medical costs — those paying for doctors' reports of illness — jumped 106% over the same period."

Kirk West, president of the California Chamber of Commerce, charged that millions of dollars are "leaking through the sieve" created by loopholes in the current system.

"California employers are willing to pay the price for labor, services and goods — as long as they are receiving their money's worth," West stated.

"Unfortunately, this is not the case with workers' comp. It is not just employers who are the losers. Employees who abuse the system are ripping off their fellow workers as well by taking money from a system that is needed by those who are truly injured."

Thomas Ellick, president of the Sacramento-based California Manufacturers Association, which also is an

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...is aggressively encouraging the governor and the leadership of both houses of the legislature to make workers' comp reform a top legislative priority. Working together with employers, labor, insurance groups and lawyers, a compromise can and must be reached.

"Without an agreement between labor and management that enjoys the support of the governor and legislature, it is doubtful a comprehensive reform proposal can be enacted into law. As long as that is the case, CCR will push for legislation this session that addresses well-documented abuses associated with stress claims and medical-legal evaluations."

According to Ellick, the "initiative process" may be the "only alternative if lawmakers are unwilling or unable to find an acceptable solution to this crisis."

Larry E. Naake, executive director of the County Supervisors Association of California, who also took part in the CCR briefing, said stress-related claims are now costing taxpayers in California's 50 counties up to \$70 million in benefits each year.

Job stress grows fast

"Job stress is the fastest growing area for workers' compensation claims," Naake reported. "These types of claims have proven to be big business propositions for some public and private sector employees who are cashing in on a decaying system."

"The claims are filed by all types of workers and by both sexes. However, the major growth is in the white collar and safety jobs such as police and fire."

He also noted that when the system was developed more than 70 years ago it was to protect workers from physical injuries on the job and never designed for stress-related injuries.

PROPOSALS INVITED

Portland Community College is inviting proposals from qualified applicants interested in serving as the college's Agent of Record for casualty and property insurance. The Agent must meet minimum qualifications as determined by the college in the areas of experience, staff, and services provided. Applications must be received by 2:00 p.m. Pacific Standard Time, April 11, 1988.

For more complete information and applications materials, contact H.E. Lile, Director of Business Services, Portland Community College Ross Island Center, Portland, Oregon, (503) 244-8111, Ext. 2808.

Applicants to be interviewed will be selected from written applications.

On the wagon again

By Bob Kopta

"After reading all those pledges by insurance company executives in the past couple of years, I can hardly believe it. The soft market is back."

These are the words of a long-timer broker, a CPCU, who knows well the cyclical history of the property/casualty insurance business. Most surprising to her is how rapidly the market has shifted from hard to soft.

The insurance industry follows the pattern of a binge drinker. Periods of clear-headed sobriety are followed by a fall from the wagon which is followed by another solemn promise never to drink again.

For the alcoholic there is hope for recovery by abstaining. The property/casualty insurance industry, however, has shown no inclination to abstain from its cyclical behavior, and competition is unlikely to eliminate this new soft-market binge.

Since current interest rates are low, it is unlikely that the soft market will be extreme. There is little margin for profit in cash-flow underwriting, which was blamed for the depth of the last soft market cycle when record high interest rates prevailed.

If interest rates have as great an impact as was indicated by the last protracted soft market, the current cycle should be much shorter in duration.

48 states

Risk retention group to write truck cover

GARY, IN — The American Inter Fidelity Exchange, headquartered near Gary, Ind., a risk retention group, has resolved differences with the insurance transportation departments in Kentucky and Wisconsin and will commence writing liability coverage for truckers operating in the 48 contiguous states.

Kentucky and Wisconsin were the last two states to agree to accept the

risk retention group policies to meet insurance filing requirements. The group agreed to maintain a \$2 million net surplus to achieve approval of both states and to participate in the Kentucky assigned risk program. It also will furnish quarterly financial reports in both states.

The Interstate Commerce Commission announced a year ago that it would accept insurance from risk retention groups. The ICC requires interstate truckers to provide liability coverage of \$750,000 for ordinary, non-dangerous cargo; \$1 million for hazardous cargo; and \$5 million for ultra-dangerous cargo.



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Business

Comp bill flawed, Croft

By Yereth Rosen
Times Writer

The workers' compensation legislation that sailed through the Alaska Senate by a vote of 15-0 and, in revised form, appears to have enough support to pass the House is loaded with too many problems to save employers money in their workers' compensation insurance premiums, an attorney specializing in workers' compensation claims said Wednesday.

Chancy Croft, a claimants' attorney and former state legislator, presented his argument against the legislation that's scheduled to be heard by the House Judiciary Committee. Croft spoke at a luncheon sponsored by the Anchorage Job Service Employer Committee.

The legislation is aimed at simplifying and controlling a compensation system that has escalated in cost to employers and in complexity to employees. Both employers and workers are frustrated with a system in which insurance premiums have risen an

average of 40 percent in the last two years and the time to settle workers' claims has expanded 70 percent, Croft said.

But the workers' compensation law pending in the Alaska Legislature might make matters worse, not better, he argued.

Croft said the current workers' compensation legislation is flawed, much like the workers' compensation legislation drawn up in the late 1970s — legislation that he as a legislator voted against — was flawed.

"No legislature, in my experience as a legislator, had produced more legislation by anecdote than workers' comp legislation," he said.

As before, he said, legislators have drafted a workers' compensation bill without some crucial information about what is driving premiums.

"One real problem with the legislation is there is an expectation now for premium reductions," he said.

If the hikes in insurance premiums have been justified, and the legis-

lature isn't addressing the real causes of the premium increases, then non-Alaska insurers will have no choice but to pull out of the state, he said.

Croft criticized what he said were the arbitrary limits the legislators hope to place on injured workers' benefits.

Much has been made of the maximum weekly benefit of over \$1,100 that the current workers' compensation statutes allow injured workers, he said. In fact, less than 0.1 percent of Alaska's injured workers are awarded weekly compensation in excess of \$700, the dollar maximum that the legislation would impose.

Still, Croft argued, the \$700 limit is arbitrary and might not meet the needs of some injured workers who've suffered extreme economic losses due to their injuries.

Another arbitrary limit the legislation would impose is the two-year maximum for temporary disability payments, Croft said. Severely in-

See Workers, page E-4

Workers: Expectations high

Continued from page E-1

jured workers, such as those suffering brain trauma or burns, might be able to recover from their injuries but might need more than two years to do so, he said.

Croft said he's troubled by the aim of the pending legislation to pay benefits for permanent partial disabilities based on the severity of the injury instead of on the basis of lost earning power.

That emphasis on medical impairment rather than earnings impairment is contrary to the tradition of workers' compensation, he said.

Authors of the legislation say it's written so that the most seriously injured workers get the most money in compensation, Croft said.

"That may be good or bad. You may like it or not. But that is a significant and major departure" from previous workers'

compensation law in Alaska.

The "arbitrary" nature of the legislation "places too high a premium on getting the matter resolved," Croft said. "And it loses sight of the fact that what we're dealing with is human beings."

An injury at work "probably affects the average person as seriously as anything in their life," Croft said.

QUALITY SERVICES

Date DEC 16 1987

Fairbanks Daily News

Second of a series

High rates hit business hard

Worker's compensation may become one of the leading legislative issues in 1988. In this second of a four-part series, the News-Miner looks at why businesses are worried about the issue.

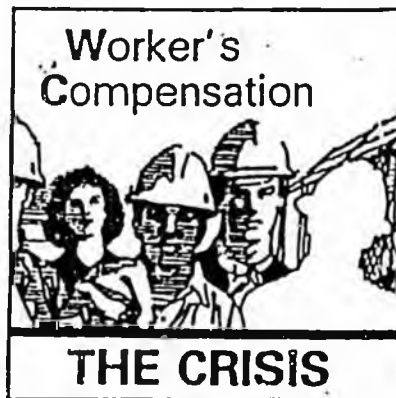
By **BILL KELDER**
Staff Writer

For 17 years, Al Pagh has operated Four Star Lumber at Mile 4 on the Parks Highway without an accident, and without an employee ever filing a claim for worker's compensation.

Pagh even mechanized part of his operation to reduce the risk of injuries.

In spite of that safety record at Four Star, Pagh has watched his worker's compensation insurance premiums continue to increase over the years.

"The state's planned 25 percent increase in worker's compensation rates this January will cost us \$49 per \$100 spent on employee wages," Pagh said.



When January's increase is added to state unemployment insurance and other federal tax payments, Pagh says he will be paying out "a little over" \$60 in insurance and tax fees for every \$100 he spends in salary on employees.

Increasing compensation insurance fees already has caused Pagh to cut back on the number of employees he hires at Four Star. "We

used to have 10-12 full-time employees here," he said. "Now, we've cut back to hiring only family members."

Pagh describes his lumber/sawmill operation as a small one, a "mom-and-pop operation that's only open during the summer season now, about 4½ months out of the year."

Pagh said he doesn't believe the proposed compensation rate increase is necessary.

"For one thing, it makes it hard for us and other Alaskan firms to compete with Outside firms for contracts in Alaska, and makes a mockery of our efforts to export products to other countries."

That's because the compensation rates charged Alaska firms are part of the total labor cost that must be factored into every bid for a project. An Outside firm, paying lower compensation rates, can submit a lower bid on a project than an Alaskan firm, even if the project is in



AL PAGH
Opposes rate increase

the state. The result: more competition from Outside.

"In 1985, Canada shipped 18 million board feet of lumber—the same species lumber we're cutting here—into the state," he said.

(See **WORKERS**, Page 8)

(Continued from page 1)

"That's because they pay lower compensation rates in Canada."

"They haven't gone crazy in Canada with the court awards on compensation like we have here in America," he said.

In 1971, before the compensation rates rose here, Pagh's firm exported 20 million board feet to Japan. "Now, we're importing from Canada the same lumber we have available here in Fairbanks. It's crazy," Pagh said.

The cost of worker's compensation premiums makes it hard for small firms to compete, he said. "We're not like General Motors, who can just add on a compensation increase to the price of their product and pass it on to the consumer. With the lower US and Canadian

competition, if we don't that we'd price ourselves right out of the market."

Pagh said he's heard of instances in Alaska where an employer ends up paying an injured employee a compensation twice what the employee earned on the job. But he also says there's more than one reason for the high compensation rates in Alaska.

"Courts award outrageous settlements for injury claims in this country, that's part of the increasing costs. Another part is the doctors. They're afraid to turn an injured employee loose too early for fear of a malpractice suit. That keeps him (the employee) on the compensation system longer, increasing costs. And there's other factors," Pagh said.

In Alaska—even with "all that stuff" factored in—the rates are excessive and the result is lost jobs, he maintains.

"When rates get so high you can't afford to hire people, then you have to lay them off. That reduces your service to your customers, further reducing your competitive edge," Pagh said.

One thing that puzzles Pagh is why the insurance industry isn't encouraging firms to work for good safety records by reducing their premiums.

"You'd think they'd want to lower rates to the firms that do well as a means of encouraging the other firms, the ones with bad safety records, to do better," he said. "But they won't. I've been in business 17 years without an accident, and I still have to pay the same high-end rate as if we were having an accident every week. It just doesn't make sense."

Pagh said Alaska would do well to follow the example of Oregon. That state has its own worker's compensation insurance program, as well as the program established by the insurance industry, he said.

"It gives Oregon employers a choice of programs for one thing," Pagh said. "For another, the state program rewards employers with clean safety records by reducing their rates."

Like Al Pagh, Claire Morton's Golden Wheel Amusement Co. has been operating in Alaska for a long time: 22 years. It's the only company of its kind in the state.

Because of rising worker's compensation rates, next year there may be no rides and concessions at the Tanana Valley fair and other fairs, she said.

"The high cost of worker's compensation insurance has forced me to close the company indefinitely," Morton said in a telephone interview from her Anchorage office. Morton said she's laid off her 10 year-round employees.

Since 1981, Morton has paid more

than \$379,000 in compensation premiums to her insurance company. In the same period, the insurance company paid only \$13,000 in claims to injured workers.

This year Morton will pay \$150,000 for compensation insurance and, with January's 25 percent increase, her premium payments for 1988 would have increased to more than \$200,000. That's enough to force her to call it quits.

"The insurance companies are getting rich off of me, and now I have to close my business because I can't afford to keep paying the high compensation rates," Morton said.

She has a permanent year-round staff of 10 employees. During the summer months, the staff increases to about 60, Morton said, and during the state's peak fair season as many as 200 Alaskans work for Golden Wheel, many of them local residents who have been hired as ticket-takers for the fairs' rides and concessions.

The worker's compensation rate for Morton's business is 28 per 100.

That means she pays out \$28 in insurance premiums for every \$100 she pays an employee. "It's a high rate, but it's scheduled to jump to 36 percent in January," she said.

Morton says not all of the jobs in her company warrant the high rate. Some jobs, like erecting the ferris wheel and other rides, carry more risk than others.

"But what has me steamed is that the insurance companies want me to pay the same compensation rate for ticket-takers as I do for roustabouts," Morton said. "I ask you, where's the injury risk in selling a ticket?"

Morton says her employees "are among the most experienced in the business. I've retained a three-star rating on my liability insurance. My people are careful and do a job properly. My liability insurance is only three percent of what I have to pay in worker's compensation," she said.

"If I can't stay in business, it means there will be no midways, no rides and games, at any fair in Alaska," she said.

Date DEC 18 1987

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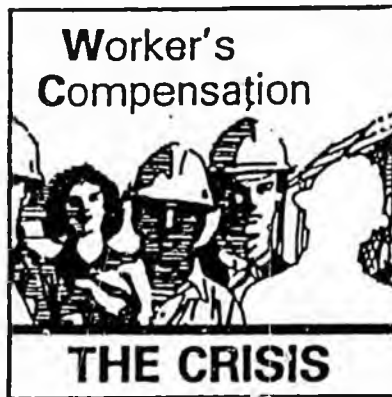
Frustrations of system not lost on doctors

By ⁰⁴¹⁰ BILL KELDER
Staff Writer

Dr. Kurt Merkel, an orthopedic surgeon with the Fairbanks Clinic, has seen a fair share of worker's compensation cases in the two years he's practiced medicine in Fairbanks.

"It's easy to say the problem (with worker's compensation) is the insurance companies, or this or that doctor, attorney, or employee, but the whole system has its bad points as well as its good points," Merkel said in an interview.

"For one thing," he said, "not all injuries are the same, and some can be tough to verify." A broken arm, for example, is easy to identify and reasonably easy to treat. An employee who breaks an arm on the job, can get it fixed and be back



to work without having to go through vocational rehabilitation training and with little lost work time.

"On the other hand, a back or neck injury can be very tricky,"

Merkel said. "Those types of injuries can be very real, very painful for the patient and never show up on an x-ray. When that happens, it's almost natural for the insurance company to say, this guy's faking the injury.

"But the doctor can't jump to that conclusion. If a doctor releases a patient for work too soon, the doctor can be sued for malpractice. So doctors are naturally cautious in such situations," Merkel said. He said back injuries account for about one-sixth of all compensation claims nationally. "We spend about \$40 billion a year nationally on back injuries through compensation payments, days lost, etc.," Merkel said.

Merkel says the vast majority of all compensation claims are legiti-

mate. Some clearly are not, and others fall into a gray area. He said some people now file worker's compensation claims because of stress on the job.

"Insurance companies want physical documentation or proof of injuries," Merkel explained. "Sometimes that's just not possible and the doctors get caught in the middle. But when insurance companies know they're liable and can be shown proof of an injury, they're usually pretty good about coming around."

Merkel said the way the compensation system is defined has a lot to do with the problems now being experienced by people involved in it.

"I don't know of any compensa-
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WORKERS

ALU

(Continued from page 1)

law here that's been drafted with solid input from doctors," Merkel said. "Orthopedic surgeons get half to 70 percent of all worker's compensation cases referred to them, but we weren't even asked to sit on the governor's workers' compensation task force."

Frequently, the employee is frustrated by the injury as well as by the compensation system.

"Blue-collar workers seem to have the most on-the-job injuries. They're brought up to work hard for a living," Merkel said. "Thus, an injury to them can be frustrating not only because it keeps them out of work, but also because they are embarrassed to be injured in the first place."

He said it's not uncommon for laborers to go back to work before an injury has been completely healed or has had time to heal.

"If you take a paper clip and bend it out of shape, then bend it back into shape, it might work fine. But if you keep bending it, it eventually weakens and breaks from over-use," Merkel said. "The same thing is true of people. I think a lot

of people with back, shoulder and neck problems get the occupational overuse syndrome."

Merkel has one compensation patient, an iron worker, whose back is totally worn out, like the overused paperclip. "He tied rebar, that was his job. It meant lifting the iron rebar and tying it into place 30 to 40 times an hour, 15 to 16 hours a day," Merkel said. "If you do that for three or four work seasons—unless you're an exceptional person—you'll start developing back pain."

Merkel says employers can save themselves a lot of trouble and money by physically testing an employee's back, shoulder and arm strength before they are hired.

Under state workers' compensation laws, anyone injured on the job who cannot return to that job because of an injury is, after 90 days, evaluated for referral to a vocational-rehabilitation service. Once approved, the employee receives training for a new job, often in a new career field, said Claire Hiratsuka.

Hiratsuka is a counselor with Northern Rehabilitation Services,

one of a number of privately owned rehabilitation firms that have sprung up in Alaska since 1982.

Vince Gollogly, owner of the service, told attendees at a recent Unified Fairbanks meeting that, prior to 1982, only about six such firms were operating in the state. Since then, he said, the number has grown to about 50. The 90-day provision was added to the state's compensation laws in 1982.

Hiratsuka said clients referred to her agency by insurance companies often face problems returning to work.

"Employers frequently do not want to hire, or rehire an employee who has filed a compensation claim for fear their insurance rates might go up or they might get hit with another claim themselves," Hiratsuka explained.

Another problem is the downturn in the state's economy.

"It's hard for a healthy person to find a job out there right now," Hiratsuka said, "let alone an injured person who is limited in the type of work they can do. It makes it that much tougher on the injured employee and that's sad."

"We deal with the doctors, the lawyers, the employer, the employee, the insurance companies and state agencies," said Mike Stackhouse, who handles job development for NRS. He said the company often is the first to encourage discussion among all parties involved in a claim and that, in turn, frequently leads to a more timely resolution of problems.

"But our main goal is to see the employee's situation all the way through medical recovery, the legal and paperwork process, and retraining until a suitable new job is found for them."

Under state law, Hiratsuka said, vocational rehabilitation workers need to have a background in counseling and psychology.

Hiratsuka recalled an episode involving an injured laborer who was anxious to get back to work. He had been cleared medically by his doctor, had been retrained, and was ready and eager to go back to work.

"We kept sending him out on job interviews," Hiratsuka said, "and he kept coming back saying 'no, not for me.' These were good jobs paying pretty close to what he had

earned before his injury. I couldn't understand what the problem was. His health and attitude were positive, and his job training was complete."

Finally, she called the man

to her office and asked "What's going on?" The man sheepishly told

her that, while he personally was ready to go back to work, his attorney had told him not to accept any new

offer because it might adversely affect his chances for a good settlement with the insurance company. Hiratsuka believes that kind of problem is not rampant though it does occur occasionally.

Date JAN 13 1988

Fairbanks Daily News

Client No. 04160

Labor, management fight bids to change workman's comp bill

0460 0333

By BILL KELDER
Staff Writer

Representatives of Alaska labor and management spent more than a year drafting legislation to revamp the state's worker compensation laws; now they are worried that attempts to amend the legislation could undo their efforts.

The legislation has been introduced through the Senate Labor and Commerce Committee.

"This bill is truly a compromise bill," said Richard Cattanach Tuesday. Cattanach is vice president for finance with the Anchorage-based Unit Co. and is one of the management representatives who negotiated with his labor counterparts to develop the new legislation.

"Parts of the bill are dear to me and parts are dear to them," he said, motioning across the table to his counterparts: labor representatives Bob Anders, field representative of the International Union of Operating Engineers, Local 302; Ralph Mingo, safety security officer with Teamsters Local 959; and John Giuchici, with the International Brotherhood of Electrical Workers, Local 1547.

"It has been a lot of work, geared to reducing worker's compensation costs to employers while still meeting the rights of injured employees," Anders said. "If the bill is changed, it could affect how labor or management might support it."

Cattanach, Anders and Mingo are all from Anchorage. They were

in Fairbanks Tuesday to drum up local labor and management support for the legislation. Giuchici, of Fairbanks, will present the bill to the members of Fairbanks building trades and construction locals at a meeting this afternoon.

"The workers compensation law was originally designed so that the employer pays the bills and the injured employee receives the benefits," said Anders. "But, since then, a lot of people have come between those two ends," he said referring to the doctors, lawyers and vocational rehabilitation workers that now crowd the worker's compensation landscape.

"The system wasn't designed to benefit them, it was designed to be-

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neff) injured employees. That's what we've tried to get back to in this legislation," Anders said.

"If anybody's going to torpedo this legislation, it will be those with a vested interest," said Mingo.

"There are a lot of issues we were unable to resolve this year—more issues still need to be addressed. But we're off to a good start and we'll continue our efforts," said Anders.

"We're by no means finished," said Cattanach. "This is an ongoing process."

Anders said the group asked John Lewis, a Miami, Florida-based independent national consultant on compensation to review their effort before submitting it to the Legislature. "Lewis said our proposals should reduce the cost of worker's compensation insurance to employers by 15 percent the first year and by 20 percent in two years," Anders said.

"We discussed our work with the governor and he seemed receptive to what we're doing. We appreciate his support," said Mingo.

Workers' comp premiums raised

By BILL WHITE
Daily News business editor

Alaska business owners could pay as much as \$38 million more next year for workers' compensation insurance because of heavy claims made by injured employees, according to the state Division of Insurance.

Don Koch, a special deputy in the division, said the premium increase next year will average 25 percent. But that's just the average. Actual premiums paid by individual businesses will range from a decrease of 11 percent to an in-

crease of 65 percent.

Businesses paid premiums totaling \$153 million this year. A 25 percent increase would raise that figure by \$38 million, assuming payroll costs don't decline.

"Without a doubt I can say some of the businesses here today will not be here several months from now, and the skyrocketing insurance rates will be a major cause of that," said Steve Haag, president of the Workers' Compensation Committee in Alaska. Haag's employers' group is trying to prepare a package of legislation designed to

lower workers' compensation costs.

The latest increase comes after a 14.3 percent boost in premiums in January.

The National Council on Compensation Insurance, a rating group of insurers, proposes the rates based on claims made and expected to be made, Koch said. The state reviews the proposal before adopting it.

Losses paid to injured employees under workers' comp have more than doubled in the last four years, Koch said. Losses in 1983 totaled

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WORKERS' COMP: Businesses face higher premiums

Continued from Page C-7

\$71 million. The next year they reached \$90 million, followed by \$124 million in 1985.

By last year, even as payrolls statewide were shrinking, losses had soared to \$159 million, he said.

Why are losses so high?

No one knows for sure, said Koch.

Benefits paid nationally have leaped 60 percent since 1982, according to the Social Security Administration. So Alaska probably is part of that phenomenon.

"You can have your benefits reach a level where there's little incentive to go back to work," Koch said. "The workers' comp system was originally designed to keep people off the welfare rolls, but it has gone beyond that."

Events peculiar to Alaska, however, could be contributing to the rise.

"We think that in a lot of cases with workers' comp, in the economy we have now, it becomes kind of a replacement for unemployment insurance." Employees who feel a layoff is imminent will go on workers' comp, whose benefits are better than unemployment insurance. Some such claims likely are fraudulent, Koch said, but in many cases the prospect of joblessness psychologically can cause ailments.

John George, director of the Insurance Division, told the workers' comp committee that "we are getting to a point where employers just can't afford to keep paying, insurers can't afford to keep selling insurance if they can't charge an adequate rate, and we end up at a place where you can't have a business in Alaska employing people."

The state uses 600 different business classifications for workers' comp, each paying a

different premium.

The classifications are divided into four categories. The following are the categories and the how much the premiums will change within the category on Jan. 1:

- Manufacturing, an 11 percent decrease to a 39 percent increase. This category includes bakeries, canneries, carpentry shops, machine shops and newspapers.

- Contracting, 4 percent to 54 percent increase. This includes plumbing, masonry, welding, electrical, water drilling, excavating, roofing and sewer construction businesses.

- Oil and gas, 15 percent to 65 percent increase. This includes oil companies, oil-field service businesses and pipeline firms.

- All other, 5 percent decrease to 45 percent increase. This includes logging firms, trucking, airlines, retailing, sales, hospitals, hotels, restaurants, legal and government.

The division will hold public meetings next week in Anchorage to explain the new rates and how they were derived. The meetings will from 1 to 4 p.m. and 7 to 10 p.m. Thursday in the Loussac Library.

10-17-87

Workers' Comp to jump 25%

Alaskan businesses will be faced with an average 25 percent rate increase in the cost of workers' compensation insurance effective Jan. 1, 1988, according to the director of the state Division of Insurance, John George. George made the announcement at a recent seminar sponsored by the Workers' Compensation Committee of Alaska.

Employers are required by law to carry workers' compensation insurance to pay for the medical costs

and lost wages incurred by employees who are injured on the job. Employees do not contribute toward the cost of the insurance.

"Based on the paid loss method of determining what the workers' compensation rate increase will be effective Jan. 1, 1988, the average will be an increase of 25.1 percent. That's not good news," George said.

The 1988 average rate is almost double the 1987 rate increase of 14.3 percent. In 1987 industries such as

construction, manufacturing and oil and gas experienced increases of almost 40 percent. George says the continuing increases are founded in losses via claims incurred by insurance companies.

"Payrolls have been going down in Alaska for the last few years. One would expect that the losses incurred by carriers would also be going down," George said. The opposite is true.

George noted workers' compensation claims totalled \$70 million in 1983, \$89 million in 1984, \$124 million in 1985 and \$150 million in 1986 despite a decreasing payroll base.

He said the rate hike this coming year could have been even higher since one method of calculating rates showed Alaska facing a 58 percent increase. "We insisted the national rating company use the method that came up with the lowest increase," George said.

He added the Division of Insurance ran its own calculations and predicted a 25-30 percent rate hike was legitimate. "We're fairly confident that the 25.1 percent is a legitimate number. It is an unfortunate number," George said.

Steve Haag, president of the Workers' Compensation Committee of Alaska, said the rate increase is bad news for Alaskan businesses already impacted by slow economic growth. "Without a doubt I can say some of the businesses here today will not be here several months from now and the skyrocketing insurance rates will

be a major cause of that," Haag said.

George encouraged employers and employees to examine the factors that affect rates to determine if the benefits are appropriate and if employers can legitimately afford to pay the cost of those benefits.

"I don't think anyone wants to deprive a truly injured worker of his due benefits," George stated, "yet we're getting to a point where employers just can't afford to keep paying, insurers can't afford to keep selling insurance if they can't charge an adequate rate and we end up at a place where you can't have a business in Alaska employing people."

WCCA reorganized last winter after the 1987 rate increases were announced. The organization is currently examining all aspects of workers' compensation law in an effort to prepare a reform package for the legislature in 1988.

George said the Division of Insurance would hold two public hearings in Anchorage on the rate increases. They will be at the Loussac library from 1-4 p.m. and 7-10 p.m. Friday, Oct. 23.

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Date NOV 05 1987

Fairbanks Daily News

Client No. 0460

Rising workers' compensation cost said threat to small business

By **BILL KELDER**
Staff Writer

From 1983 to 1986 the amount of workers' compensation insurance paid out to Alaskans suffering from job-related injuries and illnesses more than doubled: from \$70 million to \$150 million, according to state officials.

Because of that, Alaska employers last January saw the cost of their workers' compensation insur-

ance payments increase an average 14 percent. The insurance companies now plan to raise those rates again, by an average 25 percent this coming January.

State Sen. Bettye Fahrenkamp predicts that efforts to reduce worker's compensation costs will be one of the Senate's top three legislative priorities next year.

With the state's economy in tough shape, the workers' compensation

increase could cause some smaller businesses in the state to go under because those employers won't be able to afford the hike.

"In 1983, total workers' compensation paid out to injured Alaska workers was \$70 million. In 1986, it was \$150 million statewide," said John George, director of the state's division of insurance.

It's the insurance division's job to make sure that rates aren't excessive, he said. "But if you don't charge enough, insurance companies stop writing policies for employers, or the insurance companies go broke."

Even so, George described January's scheduled 25 percent increase as "a very substantial increase."

"It's a mess," said Chuck Rees at Wednesday's Unified Fairbanks luncheon meeting at the Sunset Inn.

The problem has led both Unified Fairbanks and the Fairbanks Chamber of Commerce to begin efforts to hold seminars for local employers on workers' compensation insurance reform.

The House Labor and Commerce Committee has scheduled hearings in Anchorage on workers' compensation and related matters next Thursday and Friday.

There will be a statewide teleconference.
(See **WORKMEN**, Page 7)

WORKMEN 0460

(Continued from page 1)

ference Friday afternoon. Interested parties can testify at the Fairbanks Legislative Information Office on Barnette Street.

Ray Price, the governor's special assistant for labor matters, said that Gov. Stever Cowper will soon appoint a special task force to look into the high rates Alaska employers must pay for workers' compensation insurance.

Price has been in Fairbanks the past few days on a series of meetings with local community leaders on this and other labor-related issues. According to George, the money for compensation payoffs can only come from a few places: One is from company surpluses, or savings accounts; another is from rate increases in workers' compensation insurance; or it could

come from a company's investment income.

"One way or another it ultimately comes out of employers' pockets," George said. "Insurance companies are conduits for money, they have to match income with outflow," he said.

"Setting workers' compensation rates is a lot like driving your car forward by looking in the rearview mirror," George said. He was referring to the fact that compensation rates are set by looking at past years' compensation claims and payoffs filed by Alaska employees injured on the job.

"It gives you an idea of what the rate ought to be for the following year, but there's no real way to predict the future, to say how many claims will be filed and paid," George said.

Bill would cut employee insurance coverage costs

By LARRY PERSILY
The Associated Press

JUNEAU — Employers are expected to save millions of dollars in premiums and insurance companies may save millions of dollars in claims under a rewrite of workers' compensation laws passed Thursday by the Senate.

The measure is intended to reduce the increasing cost of workers' compensation coverage, while also providing some help to injured workers.

The bill (SB322) passed the

Senate 15-0 and now moves to the House.

Alaska employers paid \$153 million in workers' compensation premiums in 1986, said Don Koch, special deputy for the state Division of Insurance. That cost increased in 1987, he said, but an exact figure is not available.

Insurance companies paid out more than \$150 million in claims in 1986, Koch said.

Anchorage pays out \$2 million to \$3 million a year in claims, said Harry Sjoberg,

the municipality's risk manager. He said the city expects in time to save more than \$500,000 a year if the bill becomes law.

"There could be less litigation because of it," he said, and stress-related claims and vocational rehabilitation costs to employers would be reduced under the bill.

The municipality covers its own employee claims up to \$500,000, and buys insurance to handle claims over that amount, Sjoberg said.

In passing the bill, senators approved a letter of intent asking the Division of Insurance to request insurance companies to adjust their rates to reflect changes in the law.

The letter of intent, which does not have the force of law and only expresses the wishes of legislators, said the bill is expected to reduce workers' compensation costs at least 2 percent.

The bill would prevent workers' compensation bene-

fits for stress unless it was "extraordinary and unusual in comparison to pressures and tensions experienced by individuals in a comparable work environment."

Stress-related claims were cited at legislative committee hearings as a growing problem. "Workers' compensation was not designed to deal with stress," an attorney told lawmakers last month. He said stress may be pre-existing or caused by factors outside the work place.

Briefcase

Alaska job-related injuries drop

Job-related injury and illness rates in Alaska dropped nearly five percent in 1986, according to the U.S. Bureau of Labor Statistics. Latest statistics also show the rate of injuries and illnesses for the nation remained unchanged from last year. The rate in Alaska declined from 10.7 to 10.2 percent in 1986. The incidence rates represent the annual number of recordable private sector occupational injuries and illnesses per 100 full-time workers. About one out of every 10 workers in Alaska suffered an on-the-job injury or illness during 1986.

Employers decry workers' comp hike

By HAL BERNTON

Daily News reporter

Escalating costs for workers' compensation threaten to close a carnival and cripple Alaska construction firms in bids to win in-state and Outside work, testified witnesses at a Thursday hearing.

The hearing, hosted by the House Labor and Commerce Committee, drew more than 200 business people, workers, lawyer and politicians.

The committee scheduled the hearing to give the public a chance to respond to a Division of Insurance announcement of a 25 percent average increase in workers' comp rates in 1988. That increase is expected to cost Alaska businesses up to \$38 million.

Workers' comp pays medical, rehabilitation and compensation costs to employees injured on the job. The benefits package is specified by state law but provided by private insurers whose policies are scrutinized by the state Division of Insurance. All state employers must carry the coverage.

For Golden Wheel Amusements of Alaska, a

22-year fixture at Alaska fairs, the new year's rise in insurance costs is a financial disaster, said Claire Morton, the carnival's owner. "This raise will put my company out of business," Morton said.

In 1986, Morton was paying 25 cents to the insurance companies for every \$1 in payroll costs. This year, that insurance bill jumped to 36 cents and next year she expects it to jump to 42 cents.

A closure of the carnival would be a big financial blow to Anchorage's Fur Rendezvous winter festival, testified Fur Rondy's director, C. Weymouth Bowles. Fur Rondy, hurt by state funding cutbacks, is walking a financial tightrope and depends on the carnival for \$30,000 in revenue, he said.

The carnival also is a pillar of the state fair in Palmer, said Marsha Melton, the fair's executive director.

Many businesses may be forced to shut down, according to Steve Haag, president of the Workers' Compensation Committee of Alaska. Even larger firms that survive "won't be able to compete with

See Page C-3, WORKERS' COMP

WORKERS' COMP: Employers voice concerns over rate increase

Continued from Page C-1

out-of-state companies that can bid jobs based on out-of-state rates."

Haag's employers' group, as well as ad-hoc committee of labor and business people, are preparing legislative proposals to reform Alaska's workers' comp law.

Donald Koch, a Division of Insurance deputy, said Alaska's workers' comp package is one of the most generous in the nation.

Maximum salary compensation rates, for example, al-

low an injured worker to be paid up to twice the average state wage. In many states, the average state wage is the maximum, he said.

Insurance companies need rate increases to keep making profits in the face of escalating claim costs, he said. In 1983, workers' compensation losses were \$70,678,000, Koch wrote in an analysis, "... and in 1986 they were \$150,294,000. That is more than doubled in a four-year period and with a decreasing (state) payroll to boot."

But Sen. Tim Kelly, R-An-

chorage, questioned Koch's statistics. He wondered what the insurance companies counted as costs, and whether injured workers were collecting their fair share, instead of some of too much of it going to doctors, lawyers and adjusters. "We got a whole lot of people splitting up the pie and I'm not convinced that it's going where it should be," Kelly said.

Mano Frey, an AFL-CIO representative, warned that reforms should not harm those who need service. "In the middle of this are thousands of people who are hurt,

and those are the people who should be compensated."

During the hearing, several injured workers told harrowing stories about not getting any assistance while insurance companies fought over who should pay bills.

"We don't have a Division of Insurance that is aggressively regulating the industry," said Chancy Croft, an attorney who represents injured workers, in an interview after the hearing.

Croft fears that new reform laws might be passed, but then insurance companies wouldn't cut rates.

(Continued from page A-1)

It also sends a message that it's okay to steal \$750,000 through fraud in Alaska because no one is going to prosecute you for it."

Kelley; and Anchorage compensation defense lawyer Shelby Nuenke-Davison.

Fairbanks Borough Mayor Juanilla Helms joined the group as moderator.

"People from all areas were on hand to discuss just about every aspect of the compensation system," said Helms. "The discussions were very open-minded. Boy, I learned a lot. I knew it (the compensation system) was complicated, I just didn't know how complicated," she said.

The panelists reminded the audience of employees that an injured employee often feels alienated and left out once away from the job. They suggested that employers call an injured employee at home shortly after he or she has left work to ask how they're doing and to let the employee know that he or she is missed at work.

It was suggested that the employer attempt to modify the em-

ployee's job, enabling them to come back to work for the firm in spite of the injury.

"Encourage the employee to come back to work as soon as they are medically able," said one panelist. "That way the employer doesn't lose an experienced employee, familiar with his business, and the employee doesn't feel alienated and resentful."

At one point in the symposium, the audience broke into several working groups. Each group discussed a specific aspect of the compensation system such as the insurance, medical and legal aspects, plus those affecting employers and employees.

Each working group then formulated recommendations on how best to improve that aspect of the system," Helms said. She said those recommendations will be taken up at a follow up session next Saturday to develop them into specific proposals for change.

Next Saturday's meeting will again take place at the Westmark Hotel, beginning at 9 a.m. "We hope to have everything wrapped up by noon," Helms said.

She said some of the changes discussed at Saturday's session don't require legislative action, and can be accomplished administratively. One such item referred back to George's earlier comments on prosecuting insurance fraud. The recommendation is to increase cooperation between the state Attorney General's office regarding the prosecution of insurance fraud.

"It makes it difficult to get people to comply with any law if there's no enforcement," Helms said.

There was also a recommendation that the Legislature require Outside firms bidding on Alaska projects to submit a certificate of

insurance before being considered eligible to submit a bid on a state project.

Among other information, that certificate would state that Alaska compensation insurance rates were being by the Outside firm for the in-state project on which it was bidding. If not, the recommendation was to impose a penalty on the Outside firm, similar to a penalty now imposed if a state firm fails to obtain compensation insurance.

It's believed such a change would allow Alaska firms to be more competitive when bidding against non-Alaska firms on in-state projects.

QUALITY SERVICES
Date DEC 13 1987
Fairbanks Daily News
Client No. 0460
**Compensation
for workers
complex issue**

227 BY10
By **BILL KELDER**
Staff Writer

One reason state workers' compensation and other insurance costs are increasing is because limited cases of insurance fraud are

The News-Miner will take a closer look at problems with the workers' compensation system in a series of articles beginning Tuesday.

being prosecuted, according to John George, director of the state Division of Insurance.

George was a panelist participating in an employers symposium Saturday on workers' compensation insurance at the Westmark Fairbanks Hotel.

The state's restricted budget and staff cutbacks have added to the problem of prosecuting insurance fraud and other so-called "white collar" crimes, George said. He said his division—with limited personnel—investigates available insurance fraud cases.

"In one case we investigated, we believe we came up with proof that an individual committed insurance fraud in the amount of three-quarters of a million dollars (\$750,000)," George said.

"We put the case together carefully and turned it over to the attorney general's office responsible for prosecuting white collar crime. They came back to us and said, 'Gee, we'd like to prosecute this, but three-quarters of a million dollars isn't that much money and we're spending our limited funds prosecuting murderers and rapists,'" George said.

While that may be true, he said, (See COMPENSATION, Page A-3)

1-1/88
What They're Saying to Patients (Constituents):

Chiropractors Critical Of Workers' Comp Bill

One major group in Alaska having problems with the proposed new 'Worker's Comp' legislation is the chiropractic profession, and they are lobbying with their patients concerning what they see as problems. Chiropractors are also concerned because they inherit the patients that suffer from job related injuries that tend to be 'cumulative.' These injuries, unlike the more definitive 'accident' injury, are less easy to define, and sometimes substantiate, as job related.

The following complaints are taken from a circular many chiropractors are providing their patients. (There have been a few deletions.) They say the new proposed law would do the following.

** An insurance rehabilitation specialist will have total control over your rehabilitation. You (the patient) will have almost no say. Also, you can only be rehabilitated once in your life, regardless of how many injuries you suffer. And it can't cost over \$10,000.

** You can only receive 20 treatments in 60-days, regardless of how extensively you are injured.

** After 14-days, the insurance company can make you go to their doctor.

** The insurance company can use 'lower 48' companies to determine fees, making you responsible for the difference.

** Permanent disability payments will have a limit, no matter how extensively you are injured.

** Once you have stopped improving, or your condition is expected to get worse without continued care, you can receive no additional medical care, regardless of how extensively you are injured, unless you prove it to the board

** Your doctor has one week to submit his treatment schedule to the insurance company, and they have two weeks to accept or deny it. Therefore, if they do not like you, or your doctor, or his plan of treatment, they can deny the entire claim without penalty.

** You can change doctors only once without written permission from the insurance company.

** If there is a dispute between you and your insurance company they can stop all benefits to you, regardless of your condition, until you take it to a board hearing. You are guilty until proven innocent!

** The IME doctor can say anything he wants about your claim or your doctor, and will not be held liable.

For all of this (and more), the insurance companies are not required to report how much they set aside in reserves, how much is spent on injuries, or how much was collected in premiums. Therefore they can charge whatever they want, regardless of how it may strangle our economy.

The handout to patients then urges patients to contact their representatives to oppose the proposed workers' comp bill. It (the bill) is highly discriminatory, (the handout states) and will seriously jeopardize your ability to seek health care as an injured worker. Employers, (it continues) demand that the insurance companies justify those exorbitant rates which they charge us.

Insurance Carriers' Long-Term Plan: World of No Liability

By N. MICHAEL RUCKA
CAAA Past President

(Editor's note — The following was delivered at the meeting of the Association of Trial Lawyers of America Nov. 11 in New Orleans.)

In the inexorable march to limit victims' rights, my premise is that the insurance carriers have no one single game plan, because the insurance industry is not monolithic.

Within the insurance industry are regional, national and international carriers, as well as those that specialize in one or another type of risk.

While there are certain competitive forces which operate on the short-term basis and appear to encourage diversity and competition, there is at the same time, common to all carriers, the object of eliminating or at least neutralizing the presence of effective trial counsel for the plaintiff.

There is, without question, a common ultimate goal to have a legal system which precludes civil trials as we know them today, i.e. with juries; to eliminate punitive damages as well as damages for pain and suffering; to do away with concepts of strict liability; and ultimately to bring about a major change in the judicial system so that, to the extent that litigation does occur, it will be held in an administrative law forum, a la the workers' compensation system.

Those of you who have read my articles in the California Trial Lawyers Association FORUM know that in 1986 at Orno, Maine, a conference was held entitled "The 10th Annual Symposium on Workers' Compensation". This symposium was subtitled, "Workers' Compensation: a Paradigm for Tort Reform". A number of major figures in the insurance "reform" community were present, among them Victor Schwartz and Kenneth Feinberg.

Schwartz was a major force in the development of the now defunct Danforth Products Liability Bill, which was an attempt through the U.S. Congress to make major changes in the field of product liability. Feinberg is a former chief aide of Sen. Ted Kennedy, and was the Special Master in the Agent Orange case. There were others present whose names are not well-known, but who are policymakers for various insurance carriers.

The common theme of the Orno conference speakers was that the system has to be changed. Even the representatives from organized labor bought into this concept! As expressed by one

of the several speakers "... change will come, it may take many years, but it will come because the message has been given and accepted by the public that change in the tort field is necessary."

The logic fallacy operative in the minds of the "insurance reformers" is that the current system is malformed, or at least malfunctioning and needs reform. Discussion always centers upon the supposed fact that lawyers and/or doctors take too much out of the system, leaving too little to be distributed to those "truly in need".

No discussion ever takes place concerning the amount of profit, method of bookkeeping, etc., employed by the various insurance carriers to manipulate public opinion or the level of dollars actually paid to the disabled.

Even representatives of organized labor avoid asking questions about insurance profits, accepting unquestioningly the premise that the system is not working and is being "ripped off" by lawyers, doctors and claimants.

Because it is assumed that the leaders of "organized labor" represent all of labor, it is also assumed that they know what is best for the working people of this country. In point of fact, "organized labor" represents only 19 percent of the entire work force, and of that 19 percent only 13 percent belong to the traditional AFL-CIO/Teamster organizations.

The remainder, six percent of the work force, is represented by nonaffiliated or quasi-unions, such as teacher and public employee unions, leaving a full 81 percent unrepresented.

In a world of mainly unorganized workers in which organized labor asserts little influence, who would speak

for the injured if there were no members of the trial bar? Obviously no one — at least that is what recent history has shown.

Even so, in California the effort to remodel the world of liability into a world of no liability and lots of profit is actively driven by the insurance community which over the years, through concerted campaigns, has effectively "stoked up" the employer/manufacturing/medical community to the point that its members believe that the problems of negligence, defective products, etc., are caused by lawyers.

What is occurring in California is not unique. Throughout the country there is the same battle cry. In Florida, Colorado, Oregon, Idaho — in some 26 states over the last dozen years, major changes have occurred in tort and workers' compensation, precipitated by the erroneous belief that it is the lawyers who are the root of all evil.

What is not fully understood by both lawyers and the consuming public is that what is occurring in each state is not really an isolated incident, but rather the product of a long-term, well-orchestrated campaign. An example of how this occurs can be seen from my California experience.

In 1986 the insurance community, with the aid of manufacturing groups and the California Chamber of Commerce, convinced the California Senate to hire as a consultant to its committee which deals with insurance, industrial relations and workers' compensation, a consultant who had been instrumental in rewriting the controlling laws in Florida, Massachusetts and Oregon, among others.

This fellow can truthfully, and probably
(Continued on Next Page)

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No Liability World

(Continued from Page 12)

ably proudly, say that he has caused more change in state laws throughout the nation than virtually any other single individual. His name: John Lewis, who is really a spokesman for a point of view espoused by the insurance industry and large manufacturers.

The plan in California was to reform workers' compensation, minimizing lawyers' participation by making their clients' access to the system extremely difficult, if not impossible. In this effort, organized labor, or at least its "leadership", was an active supporter.

That support came not because of a promise of increased levels of long-term benefits for members whose disabilities would take them away from their crafts, but because the short-term *quid pro quo* would be an increase in the "temporary disability" payment to the injured worker.

Perhaps the subtle reasoning for organized labor's concern for the temporarily disabled worker versus their reduced concern for the permanently disabled worker is that a permanently injured worker who can no longer ply his or her craft pays no dues to the union and, therefore, is no longer a constituent and no longer the responsibility of the union leadership.

We must understand that the insurance carriers want to segregate from the trial bar those organizations which should be the supporters of a litigation system that makes the workplace safer and more healthful.

The carriers attempting to cut off such groups employ as point persons individuals who are able to convince labor that controlling access to lawyers and restricting contingency fee

contracts help them provide a valuable service to their membership. Those who accept his argument often do not understand that complex litigation is costly and that not all cases brought are likely to succeed.

What can we do? As knowledgeable members of the trial bar, we must communicate regularly and clearly with organized labor. We must realize that the insurance industry has beaten out the trial bar in the public relations contest for the hearts and minds of the public.

Proof of this is to be found in frequent ads appearing in the WALL STREET JOURNAL and other major newspapers and magazines of the cities and towns across this country which say the system is in crisis and needs to be reshaped. Equally important, in virtually every market, radio talk shows feature frequent progams of "lawyer bashing".

As an organization, we must develop the capacity to respond! We must have a speakers' bureau staffed with knowledgeable and articulate individuals who can refute the outlandish claims and misconceptions floating around. There must be a dialogue with the public that reflects the positive things that the system brings to them.

In those state legislatures and in Congress, where the battle to maintain the tort system as we know it is being fought daily, the presence or absence of empathetic legislators determine the continuation or alteration of the present system. It is incumbent upon us, therefore, to become acquainted with candidates in state and federal campaigns and participate actively to make certain that the positions we believe correct are represented.

Yes, it would be presumptuous to suggest that the present system is without flaws, or that there are no attor-

neys who cause the plaintiff trial bar great embarrassment, or are an insult to the profession.

But we must not be complacent in our desire to preserve a good system. We must be willing to consider change — if it will make for a better system, we must consider the problems caused by those of our brethren who do overreach, do overcharge in their contingency contracts. We must be willing to share our special knowledge with the public in a way that it can understand.

This means that we have to give of our time. Appearing at public forums, Rotary, speaking before clubs and the like is extremely important. It has been said by some demographers that two of the most influential organizations in the U.S. to the general public are the WALL STREET JOURNAL and the Rotary Clubs. Nuff said!

Lastly, we have to be politically important players in our own communities. We must remember that when the public sits in a jury box, or enters the voting booth to vote for or against us and our clients, both short-term memory and long-term memory are at work.

If the long-term memory perceives lawyers as greedy and uncaring, we lose no matter how much we, in the short-term, try to educate.

Only if we adopt the approach of the insurance industry, a long-range program of constant education, constant advertisement and constant dialogue will we be able to change long-term memory in favor of the causes in which we believe we can be successful.

There is no doubt in my mind that if a vote were to be taken today, the views of Shakespeare, Trotsky, Lenin and a few well-known jurists would prevail: the lawyers would all be killed. My purpose for being here is to ensure that this does not occur. In reality, however, only through the concerted effort of all of the trial bar can this really be assured.

(Editor's note — The preceding was presented to the largest attendance of all of the section seminars at the ATLA convention. The Workers' Compensation Section seminar was chaired by Bob Buch, CAAA media chairman.)

DON'T INTERRUPT YOUR SECRETARY

What causes secretaries the most stress? According to a survey done by Panasonic Industrial Co. Professional Secretaries International, interruptions were the number one problem. Following closely behind were lack of advancement opportunities, lack of input into decisions and lack of communication from the secretary's immediate supervisor. — *Communication Briefings.*

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Workers' Compensation in Alaska: Lassoing a Good Idea That's Run Amok

Workers' compensation legislation being considered by Alaska's lawmakers during the current session addresses one of the most critical problems ever to face Alaskan business.

By Steve Haag

ONE OF THE MOST IMPORTANT pieces of legislation ever to come before Alaska lawmakers is being debated in Juneau: a long-overdue revision of the state's complicated and costly workers' compensation system. The bill is designed to protect Alaskan employees, businesses, jobs.

Workers' compensation originated in the United States in 1912 was based on a belief that an employee is entitled to wage compensation and medical coverage for injuries suffered on the job. Workers' comp insurance coverage now is mandatory for every employer in the country, and Alaska has one of the most generous benefit and compensation packages.

In practice, workers' comp systems and methods have run amok in Alaska. Neither employer nor employee is benefiting, and the cost of the system is threatening the very existence of many businesses in the state.

The problem isn't widespread abuse so much as that the system has gone far beyond what it was intended to accomplish. The goal of workers' compensation should be to help an injured worker to recover and return to gainful employment. During disability, he or she should be compensated at a level comparable to the income that would have been generated on the job at which the injury occurred. But that basic premise has been altered here. Under the Alaskan system, there's little or no incentive to return to work.

Why is Alaska's system so expensive? Numerous reasons. Some of the factors that have driven up the cost of coverage: runaway medical expenses, the failure of occupational rehabilitation legislation adopted in 1982, the absence of limits on benefits and a lack of fraud investigation.

Alaskan employees are being excluded from Alaskan jobs because Outside companies using all-states endorsements have a competitive advantage bidding on work in Alaska. Such endorsements enable Outside firms to pay workers' compensation premiums based on their home-state rates

even though the work is being performed in Alaska.

Last year workers' comp premiums in Alaska jumped an average of 14.3 percent; many industries suffered rate hikes of 30 to 40 percent. This year the average premium soared an additional 25 percent. Some industries—like oil and gas—were hit with an increase of 68 percent!

To put recent increases into perspective, consider these numbers: Workers' compensation claims in the state totaled \$70 million in 1983, \$89 million in 1984, \$124 million in 1985 and \$150 million in 1986 . . . despite a payroll base that's declined below 1982 levels.

In 1988, Alaskan companies will pay almost \$38 million more for workers' comp coverage than they did in 1987. Many businesses are struggling to survive; many won't be able to afford the most recent round of increases. The outlook isn't bright for the survivors, either. Another increase in 1989 is inevitable unless the system is reformed.

draft legislation currently before lawmakers.

A 10-member labor-management task force was formed to hammer out compromises and bring issues concerning both sides to the table. Both those who pay and those who benefit were heard. Both sides agreed lawyers, doctors, chiropractors and other special interests who earn handsome livings off the current system should not be represented on the task force.

Among the major issues addressed was a redefinition of vocational rehabilitation services. Under the agreed-upon proposal, such services would become voluntary instead of mandatory. Limits on the length and cost of rehabilitation programs would be established.

The task force also proposes that weekly minimum benefits be increased and maximum limits be reduced. Weekly compensation benefits should be adjusted for cost-of-living differences when claimants move outside Alaska. Numerous changes also are proposed for medical payments. Only four years



Steve Haag is president of the Workers' Compensation Committee of Alaska and controller of Udelhoven Oilfield System Services.

Already the number of claims filed in fiscal 1988 is outpacing the number filed during the same period in fiscal 1987.

Knowing that meaningful changes to the system would require the involvement of labor, Workers' Compensation Committee of Alaska approached a number of organized labor groups to gauge their interest in reform. Realizing there will be less business and fewer jobs as premiums continue to rise, labor worked closely with management to

ago, 25 cents of every workers' comp dollar went to medical care; today it's 38 cents—more than a 50 percent increase.

There's no issue more critical to business and the economy in Alaska today than the workers' compensation system. Unless the system is changed during this session of the Alaska Legislature, there will be even fewer jobs and businesses in the state in the very near future. We cannot afford that happening. □

Worker's compensation proposal delights some people, riles others

By JOHN LINDBACK
The News reporter

TUNEAU A business legislative coalition is convincing legislators to curb the services employers and insurance companies must provide for injured workers.

So far this month is clear about the proposed rewrite of Alaska's worker's compensation law.

Businesses love it. The lower cost of services should halt increases in worker's compensation insurance rates

that the owners claim threaten to sink them. Also, the bill bars workers from qualifying for worker's compensation due to job-related mental stress.

• Union leaders like it. For the first time, the pay that goes out to an incapacitated worker will be based on the value of his salary and fringe benefits, including his pension. State law now limits the payment, leaving fringe benefits out of the formula.

• Some workers distrust it

The bill would limit temporarily disabled workers to two years of twice-monthly benefit payments. After that, the bill allows only a lump-sum settlement. Advocates claim it will speed up settlements between workers and insurance companies and put an end to cases that linger for years.

• Vocational rehabilitation counselors hate it. The bill allows workers to forgo reha-

See Back Page **WORKER'S**

not ready. The Sandinistas took this to mean that the Reagan administration was pressing the contras to avoid a peaceful settlement.

Paul Reichler, an American lawyer who is part of the Sandinista negotiating team, said last week the Nicaraguan army was prepared to halt the offensive if the peace talks had been held that week and made progress.

After the dimension of the military offensive became clear, contra leaders agreed to talk, and the negotiations were rescheduled.

"This confirmed the Sandinistas' conviction that military pressure is essential to get the talks to succeed," Reichler said. "The Sandinista pressure is eroding the administration's control over them, because Reagan is unable to deliver them any aid."

The peace talks and the U.S. aid cutoff are the most tangible results of the Central American peace agreement signed last August by five Central American presidents. It called for restoration of democratic freedoms and an end of outside aid and sanctuary to rebel forces in the region's guerrilla conflicts.

Bethesda, Md., and put last year showed a link between drinking, breast cancer and age. It concluded that women increased their risk of developing breast cancer if they drank moderately before they were 30; after 30, drinking had no effect on breast cancer risk.

"There is a major uncertainty here," said Dr. Walter Willett of the Harvard University School of Public Health. Willett and his associates conducted one of the large studies that did find increased breast cancer risk in women who drank. He said he was planning to investigate whether there is a relationship between breast cancer, alcohol and age.

WORKER'S COMPENSATION: Proposed revision of state law doesn't make everybody happy

(Continued from Page A 1)

ation counseling that is mandatory. Workers will get counseling only if they want it.

• Chiropractors hate it. An injured worker and his doctor must get the blessing of an employer if the worker wants to visit a chiropractor or any other medical professional more than 20 times in the first two months after an injury. If the employer says no, the worker pays for the extra visits. Chiropractors, more than other medical professionals, treat patients in a series of brief visits.

A 30-page bill passed the Senate last month that makes dozens of changes, both major and minor, to the law. An amended version of the Senate bill cleared the House Labor and Commerce Committee early this week. If it passes the House, its future will hinge on whether House and Senate negotiators can reach a compromise late in the session.

The bill is one of the most difficult to follow this year.

The complexity of worker's compensation law and a lack of up-to-date statistics on worker injuries makes the potential impact on injured workers difficult to determine.

"It's a compromise proposal. You're getting some things and you're giving up some things. That's the way it is," said Rep. Dave Donley, D-Anchorage. Donley, a pro-labor union legislator and chairman of the House Labor and Commerce Committee, has been deeply involved in efforts to rewrite the law.

Even though the bill gives businesses a financial break, the workers gain plenty, too, he said. Donley and other advocates say the bill redistributes benefits so that seriously injured workers get more money and the marginally injured get less.

The bill will allow seriously injured workers — those determined to be partially disabled for life — to qualify for bigger lump-sum payments when they settle cases with insurance companies. Depending on the seriousness

of the injury, a partially disabled worker could qualify for as much as \$240,000 under the bill. Under current law the biggest lump-sum settlement possible is \$60,000.

Another provision would redistribute weekly worker's compensation benefits so low-wage workers qualify for more money and high-wage earners get less. It raises the minimum weekly pay for disabled workers from \$110 to \$154 and drops the maximum monthly pay from \$1,100 to \$700. Those rates depend, though, on the worker's ability to document his wage.

Most injured workers will be better off because the vast majority of them earn low wages, Donley said.

Businesses believe they will be better off. For the past two years insurance companies have increased premiums for Alaska businesses by a total of 39 percent, according to the state Division of Insurance. The bill is expected to cut worker's compensation costs by at least 2 percent, a savings that businesses believe would halt the increases. The House ver-

sion of the bill orders a 6 percent decrease in insurance rates.

Critics of the legislation, such as Anchorage lawyer Chaney Croft, say the bill changes the state's entire philosophy of helping the injured worker. Croft, a former president of the state Senate, represents injured workers in his law practice.

"The primary goal from the beginning has been to compensate people for lost earning capacity," he said. "It's now shifting to paying workers for medical impairments. It's a mistake because it just says that if you have an injury, what the state's really concerned about is just giving you dollars, just throwing money at an injury."

The legislature is also acting without up-to-date injury statistics, Croft said.

"Workman's comp causes more legislation by anecdote and less by information than any other area the legislature addresses. There just aren't statistics to say, 'Here's what caused the problem and here's

how to solve it.'"

"What this produces is the legislature acting arbitrarily. And doing things like limiting temporary disability to two years. What justification is there to saying, 'Two years is all you get. We don't care how badly injured you were, how long it takes you to recover, or anything like that. It's just bam, two years.'"

Donley agrees with some of Croft's criticisms. The bill requires the state to keep better statistics, he said. And the two-year limit is "probably pretty arbitrary," he said. But a task force of labor and business representatives who worked on the legislation felt that most cases would probably be resolved in the two-year period, he said.

Even though labor leaders support the bill, legislators are getting calls and letters from workers who fear the changes.

Glen Rainwater, an Anchorage worker injured in late 1985 on the North Slope, claims that insurance companies would gain more power

over injured workers.

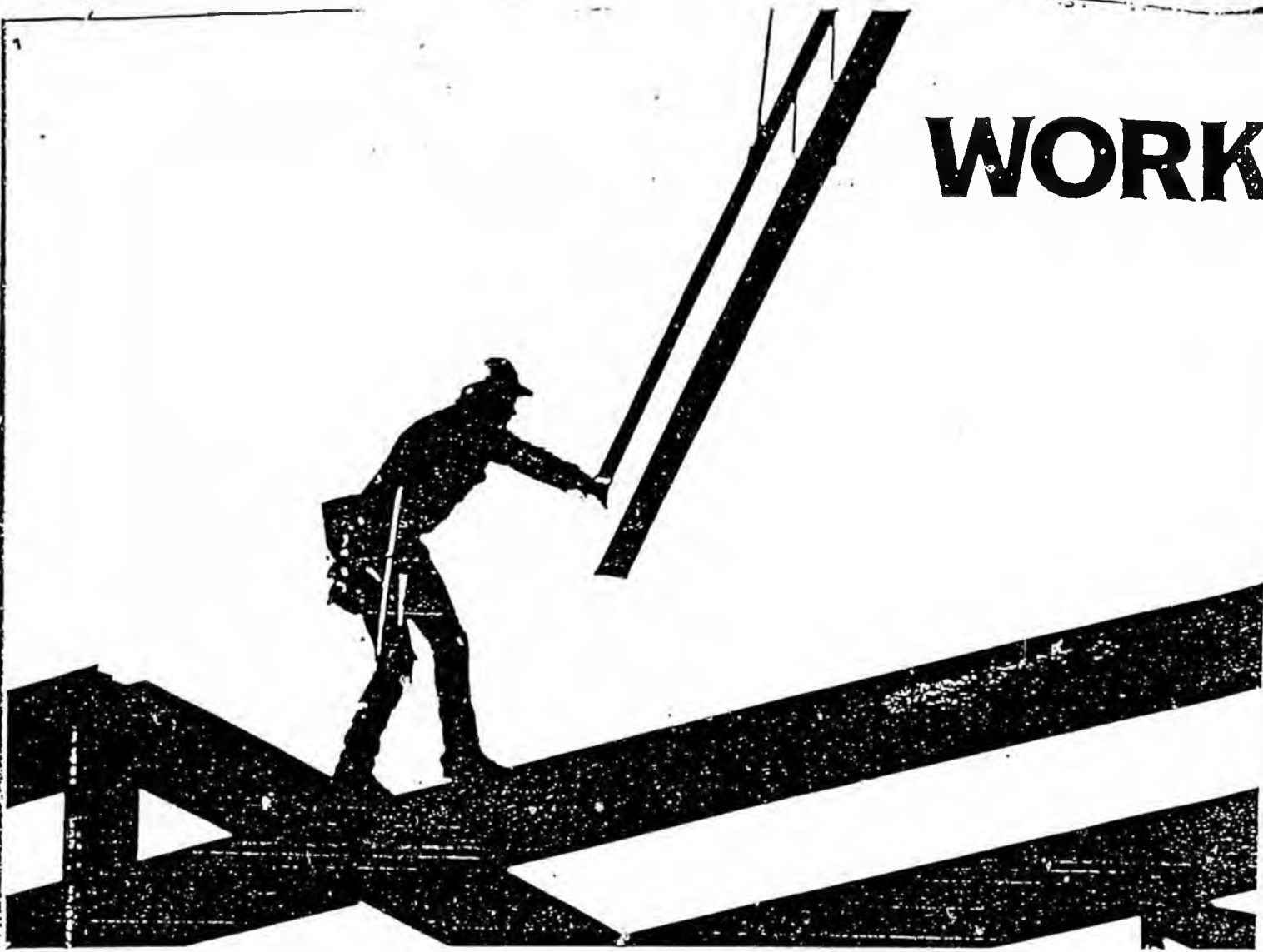
"They've got so much power and so much money that they can just whip a little man right into the ground," he said. "This bill is just going to give them that much more power."

"The two-year cut off and provisions that restrict workers' choices on doctor visits are particularly alarming," he said.

Rainwater said his benefits were cut off in 1986 when the insurance company decided to dispute his claim. The case still isn't settled and he is receiving no benefits, he said. He belongs to a group of injured workers who plan to lobby legislators to reject the bill, he said.

"Now that I've had my benefits cut off, there's no way I could donate to their campaign or anything like that," Rainwater said. "But I'll guarantee you this, the group we have together now, the people that vote for this bill, we are going to blanket the whole state and try to keep these people from being re-elected. They think I'm just blowing smoke but I'm not."

WORK



1987 Jan.

BY PAUL LAIRD

SPIRALING WORKERS' compensation insurance premiums and claims in a climate of shrinking margins and business bankruptcies. Soaring doctors' bills stemming from work-related injury claims and a bevy of barristers poised to litigate them straight into the stratosphere. An army of incompetents masquerading as vocational rehabilitation specialists, a squad of state Supreme Court justices interpreting new costs and confusion into existing workers' comp legislation.

Symptoms of a potentially fatal virus in Alaska's workers' compensation system. A virus characterized by hefty benefits and skimpy controls that encourage abuses, vague to nonexistent regulations that add to bureaucratic overhead and costs, a preoccupation with tailor-made justice tilted toward claimants that casts reason and efficiency to the wind.

A virus that was subdued by the natural defenses of a booming Alaskan economy earlier in the '80s . . . a virus that triggered a 14.3 percent average increase in workers' compensation premiums for the state's employers on Jan. 1 and threatens to claim corporate vic-

like contracting and construction when coupled with the current recession.

"There's no question the increase is going to wipe out a number of contractors," maintains Paul Duclos Jr., executive vice president and general manager of Ken Brady Construction Co. and vice president of Associated General Contractors of Alaska. Premiums for Alaska's contractors increased an average of more than 20 percent; for some construction job classifications, they rose as much as 46 percent.

The real issue, however, isn't so much the increases as the factors that caused them. Put simply: more claims and greater payouts to cover them the last few years. Premium rates are projections of what insurance underwriters will have to spend on claims for the term of a policy. They're based on overhead and expenditures on workers' comp claims for specific job classifications and specific employers over the most recent three to five years. Due to fewer claims and smaller payouts for some job categories, some rates actually declined in January - road paving and construction (down 4 percent); clerical (10 percent) and seafood processing (10 percent), to name a few.

WORKERS' COMPENSATION

The cure for work-related injuries has become a sickness in itself for Alaska's employers and employees alike.

1987's premium increases and decreases aside, Alaska has one of the most generous and expensive workers' comp benefits packages in the country. Some of the key factors: the state's historically high wages, the seasonal nature of much of its employment, benefit levels set by the legislature and other features of Alaska workers' comp law; interpretations of those laws by the Alaska Supreme Court, lack of controls on medical costs and litigation, the absence of regulations governing occupational rehabilitation five years after it was mandated by state law.

"You're going to find abusers in any kind of system, but the problem with Alaska's is that there's an incentive not to get well," says attorney Randall Weddle of Faulkner, Banfield, Doogan & Holmes, the largest workers' comp underwriters' defense firm in Alaska. "Workers' compensation is a social policy. The whole point of it is to provide a quick and consistent means of assuring that injured workers will continue to be paid at a rate that will keep them alive. In Alaska we've whittled away at that quick and rough justice and gotten too hung up on precise justice."

Adds attorney Shelby Nuenke-Davison, who also represents insurers in workers' comp disputes, "Employers don't want to do away with workers' comp, but the system has gone far beyond what it was ever intended to be. It's supposed to help injured workers, not make them whole again. In Alaska, all a person has to do is say 'ouch' and some doctors will say, 'OK, you don't have to go to work.'"

Workers' compensation began in the United States in the early 1900s, when the number of industrial accidents was increasing and injured workers' avenues for collecting compensation without suing were decreasing. It was based on the premise that an employee automatically is entitled to wage compensation and hospital-medical coverage funded by the employer's workers' compensation insurance if he or she is injured on the job. (Since then, occupational reha-

bilitation has been added to the list of benefits required in most states.)

Workers' compensation insurance is mandatory for all employers in the United States—through a private carrier, a state fund or self insurance. Maximum fine for failing to have workers' comp coverage in Alaska: \$50,000, 10 years' imprisonment and personal liability for damages by the person in charge of the corporation. Maximum penalty in other states: \$10,000 and a year in jail. Most have fines of less than \$1,000.

Fault and negligence are irrelevant in determining eligibility for benefits. The only criteria: Was the person an employee at the time of the injury? Was the injury job-related? In exchange, employees sacrificed the right to sue employers over job-related injuries.

In his 10-volume treatise on workers' compensation, legal scholar Arthur Larson writes that workers' comp should be structured to provide "bare minimum income and medical care to avoid destitution." Larson, one of the foremost authorities on workers' comp in the United States, maintains the system never was intended to restore everything an employee loses, but rather to provide him or her enough to avoid being a burden to others. To do otherwise, he writes, is to encourage malingering. He describes the system as "social protection, not righting a wrong."

What constitutes "bare minimum income" in Alaska in 1987? In some cases, more than \$57,000 a year. Tax-free. Maximum weekly wages under workers' comp are based on a percentage of the average weekly wage for the entire state. Injured workers are paid 80 percent of their spendable earnings up to that maximum. In Alaska, the ceiling has been set at 200 percent of the average weekly wage. That, in turn, pencils out to a weekly maximum of more than \$1,100.

According to a 1986 survey by the U.S. Chamber of Commerce, only one other state—Iowa—bases maximum benefits on 200 percent of its average

weekly wage. In Iowa, however, that amounts to less than \$600 a week. New Hampshire's are based on 150 percent of the average (\$462 a week). Illinois uses 133⅓ percent (\$512), and all other states and the District of Columbia use 100 percent or less.

It gets better. Because of one Alaska Supreme Court ruling, a worker injured in Alaska can relocate to another state during his disability and continue to receive workers' comp wages based on Alaska rates. One attorney tells of a North Slope worker who was injured while earning about \$40,000 a year and moved to a small town in New Mexico, where he continued not to work "and had to be the highest-paid person in the whole town."

"Can you imagine what would happen if somebody collecting the maximum decided to move to South Carolina?" the attorney quips. "He'd probably be making more than the governor."

Workers' comp rates more than doubled between 1973 and 1977. In 1975, the year the legislature adopted a new workers' comp law enacting the 200 percent maximum, they rose 50 percent. It's reported the National Council on Compensation Insurance (NCCI) has agreed to analyze the impact on premium rates if the state used the same standards as Washington State—60 to 75 percent of an employee's weekly wages with a cap of 75 percent of the state's average weekly wage.

NCCI is the national nonprofit rating organization that compiles statistical data on premiums, payroll, losses and expenses and files rates for Alaska and 31 other states. Rates filed by NCCI must be approved by the Alaska Division of Insurance. Alaska rates are based on experience in Alaska, unless there are too few workers in a given category to give an accurate representation. In such cases, national figures are used as well. (As an example of the disparity between Alaska rates and those elsewhere in the country, Alaska employers pay 99 cents in workers' comp premiums for every \$100 in wages for clerical workers; Texas employers



*Attorney Nuenke-Davison:
The system has gone beyond
what it was intended to be.*

pay 35 cents.)

While some Alaskans suggest the state hasn't monitored the organization's rate-making activities closely enough before approving changes, few will argue the revisions haven't been warranted by poor loss experiences in Alaska the last few years. Contractors, however, maintain they aren't given sufficient notice of increases, and major increases like the ones they've just suffered threaten their ability to survive in lean times.

New rates that took effect in January were filed Oct. 31, a hearing on them was scheduled for later Nov., and the new rates were approved by the Division of Insurance in mid-December. Notice of the most recent rate adjustment was no shorter than notices of the past, but the division has notified NCCI that in the future, 60 days' notice will be expected instead of the 15 required by law.

Ken Brady's Duclos says labor accounts for nearly two-thirds of an average contractor's costs. When two-thirds of a business's costs jump more than 20 percent in a climate of razor-thin margins, disaster is almost sure to follow for some. In some job categories, contractors now pay more than \$30 in workers' comp premiums for each \$100 in wages; in one isolated classification, the rate is \$85 in premiums for each \$100 in wages.

"We can't change our prices at will; we're bound by our contracts," he says. Because of fierce competition in the construction industry, jobs are being bid with small margins. A hefty workers' comp rate increase in the middle of a project conceivably could turn a marginally profitable project into a loser.

William Reeves, general counsel for

Alaska AGC, wrote the Division of Insurance that increases that took effect in January added about \$3 per man-hour to labor costs. "It could spell financial ruin for many small contractors," he said.

Another competitive consideration for contractors: Those whose policies came up for renewal in December have a huge advantage over those whose policies expired in January in bidding jobs in 1987. AGC lobbied the Division of Insurance to phase in rate increases over the year instead of implementing them all at once. Howard Cutter, risk manager for Alyeska Pipeline Service Co. and an 11-year veteran of the construction industry before joining Alyeska, says disparities among contractors' workers' comp rates "can make the difference between getting business and not getting it."

INSURERS, HOWEVER, counter that increases have to take effect sometime, and delaying rate increases simply shifts the burden of escalating losses to the insurance industry. Contractors should consider the possibility of premium increases when they bid multi-year projects, insurers maintain.

"Otherwise, it's just a question of who should operate unprofitably," says Carl Anderson, executive vice president of Alaska National Insurance Co. "Our business is really set by the legislature and the courts; we're almost a conduit." Alaska National is the No. 2 writer of workers' comp insurance in the state.

Stanley Sparks, director for NCCI in Portland, comments Alaska state officials for authorizing adjustments that

enable rates to keep pace with changes in the market. In some states where regulators have kept rates artificially low, insurance has been increasingly difficult for employers to secure through normal channels.

When that happens, employers are forced into an "assigned risk pool" where poor risks and companies that can't buy insurance directly are divvied up among insurers and the companies purchasing insurance must pay an additional premium on top of their normal rates. In Alaska, that additional premium increased during 1986 from 10 to 20 percent. Insiders, however, say an increase to 33 percent would have been justified by past loss experiences in the pool. In Maine, where rate increases were refused five consecutive years, about 80 percent of the workers' comp insurance written is through the assigned risk pool; underwriters say they can't generate sufficient returns to justify their risks in that New England state otherwise.

There's concern the high rates in Alaska discourage not only local hire, but hire in general. Says Larry Taylor, president of Tailored Construction Services and the Building Industry Association of Anchorage, "The increases are going to force us to stop hiring people. We'll just have to look for subcontractors to do the work instead, and that will affect the level of service we can give our customers."

Alaskan contractors maintain some lower 48 competitors circumvent Alaska's laws and rates by insuring for workers' comp in their home states. That gives outside firms a competitive edge over their Alaskan counterparts. That tactic would be a violation of the state's

workers' comp laws.

The owner of one Alaskan steel fabricating firm that does work for North Slope oilfield operators is concerned higher workers' comp rates will make his company uncompetitive with fabricators in the Pacific Northwest.

A very real concern in a climate of declining wages and layoffs in some sectors: Because workers' comp wage benefits usually are based on the injured worker's earnings performance the most recent three years prior to the injury (but not always, thanks to court and workers' comp board decisions), an employer who hires someone laid off elsewhere to a lower-paying position puts himself at risk for disproportionately high premiums at renewal time if the employee suffers an injury on his new job.

Example: The employee recently was laid off from a North Slope job that netted him \$1,000 a week. He lands a new job that pays \$400 a week, but suffers an injury shortly after starting the new job. His incentive to get well and return to work effectively has been quashed since his past earnings entitle him to \$800 a week under workers' comp until his condition stabilizes or for a maximum of two years (as long as the courts or the comp board don't alter that, too). Even though the level of wage compensation essentially has been determined by the employee's previous position, the claim is charged to the new employer, whose policy renewal rate likely will reflect the expenses incurred in settling the claim.

Economic conditions play an important role in determining the number of

workers' comp claims in any state. Notes NCCI's Sparks, "Anytime you have an economic decline, there's a temptation to look at workers' comp as a (wage) cushion." Unemployment compensation not only falls short of workers' comp benefits, but also is taxable. Alaska National's Anderson says the current recession doesn't so much encourage malingering as unnecessary extensions of injury benefits.

ADDS FAULKNER, Banfield, Doogan & Holmes's Weddle, "It's not a matter of fraud in most cases. People will tolerate little things when they're working, but when they know they're going to be laid off, they figure, 'Hey, I'd better get this taken care of while I'm still covered.' People are perfectly honest, but they tend to develop a

State funds, private insurance and self insurance

IS A STATE FUND A VIABLE SOLUTION FOR ALASKA'S workers' compensation insurance premium woes?

Six states currently administer their own workers' comp insurance programs: Ohio, Nevada, North Dakota, Washington, West Virginia and Wyoming. When premium rates as a percentage of payroll doubled in Alaska between 1972 and 1977, Alaska considered a state fund as well. Variations are competitive funds in which employers have an option of purchasing private insurance and exclusive funds in which the state program is mandatory.

A study by the Research Division of the Alaska Legislative Affairs Agency published early in 1977 concluded potential savings from a state fund need to be weighed against the potential for poorer service from the loss of private brokers and agents. The study didn't pinpoint how much employers could expect to save, but it did note the state would have to make a substantial investment in setting up such a fund.

According to the study, 65 percent of the employers surveyed at the time said they preferred a state fund if the savings were *substantial*, but their second most significant concern was that government involvement in the fund be minimal. The study also concluded private insurance offers superior occupational rehabilitation, but the cost of greater controversy.

In Ohio, where there's an exclusive state workers' comp fund but self insurance is allowed, the state's insurance investment portfolio has reached \$6 billion; spokesman Tony Mangini of the Ohio Bureau of Workers' Compensation says the estimated \$400 million in annual investment earnings are reinvested, and revenues from premiums "more than cover expenses" incurred in running the program and settling claims.

He says rates haven't risen dramatically in nearly a decade. "Ohio has between the 10th and 12th lowest premiums in the country and is ninth highest in benefits," he reports. "The program is economically desirable for the employer." Ohio voters overwhelmingly rejected a switch to private workers' comp insurance in 1980.

A risk manager from one of Ohio's largest corporations, however, says the sole advantage to the state's system is the

\$6 billion "kitty" and the fact that all investment earnings can be reinvested. "The system is very slow to respond—a typical bureaucracy," he says.

A recent audit of the state workers' compensation system in Ohio indicated that if the state were to settle all of its pending workers' comp claims immediately, there would be a \$2 billion deficit even with the \$6 billion in the fund. Now there are rumors premiums will increase 30 percent in 1987 to close the gap.

The risk manager blames the overwhelming rejection of private workers' comp insurance at the polls in 1980 on "horrible public relations tactics" on the part of the insurance industry, and he speculates voters would favor private insurance if there were another vote today.

While only 850 of Ohio's estimated 250,000 employers are self-insured, they account for 30 percent of the state's employment.

The risk manager for a large Alaskan corporation that self insures, Howard Cutter of Alyeska Pipeline Service Co., says the major benefits of self insurance for workers' comp are economic ones, in-house risk management and personal contact with injured employees and their families. At Alyeska, any claim over a certain amount is reported to corporate management. The company also has its own safety staff and extensive training programs to minimize the number of claims.

Among the criteria for determining eligibility to self insure for workers' comp in Alaska: financial stability (corporate net worth of at least \$5 million), bonding, loss control programs, number of claims filed in the past, other self insurance. It's reported fewer than 50 firms self insure in Alaska.

"Before any company commits to self insurance, though, it should carefully weigh the hazards against the benefits," Cutter cautions. "It should be viewed as a long-term commitment. You don't do it for the short term, because once you're in it, it's not always easy to get out." He says some underwriters are reluctant to cover companies that have had self insurance because of claims and liabilities that may arise from the period the company was self-insured.

'stay-sick' psychology if they know there's no job for them to go back to."

Weddle and his firm represented Alaska Pacific Assurance Co. during construction of the Trans-Alaska Pipeline System when Alaska Pacific wrote workers' comp insurance for Alyeska Pipeline Service Co. He recalls the number of claims skyrocketed in the final weeks before construction was completed. Claims in the construction industry traditionally increase as the construction season winds down.

"Maybe I'm imagining it, but it seems like my work load (in representing underwriters in claims disputes) has been up dramatically the last few months," adds Weddle.

It's estimated between 90 and 95 percent of the workers' comp claims filed in Alaska are resolved without dispute. When there is a dispute, arguments are heard by a three-person panel from the Alaska Board of Workers' Compensation. The board is composed of six members—three representing management, three representing labor, all appointed by the governor. Cases are heard by one labor representative, one management rep and an attorney-hearing officer from the Alaska Department of Labor's Division of Workers' Compensation.

Many employers complain hearing panels traditionally have been biased in favor of claimants. Alaska law, in fact, dictates that the burden of proof is on employers and insurers to prove a claimant *isn't* entitled to compensation and not on the claimant to prove he or she *is* entitled. Panels hear cases to determine matters like whether a claimant was an employee at the time of injury, whether the injury was in the scope of employment and the rate at which the injured employee should be compensated. They also must approve settlements between claimants and insurers.

Says Mary Pierce, senior management representative on the workers' comp board, "The employee's physician is honored as the ultimate authority unless he's proven not to be credible." She adds state Supreme Court decisions "have had even more impact than the statutes themselves."

A claimant can insist on a hearing within 10 days of filing a complaint. Attorneys for insurers maintain that isn't enough time to prepare an adequate defense. They can secure extensions, of course, but at a price. The price: paying the contested benefits until the matter is resolved in a hearing. Odds of recovering those benefits later: slim to none. In one case, an insurance company is said to have paid \$70,000 in benefits to one claimant before it was determined his claim "wasn't credible."

"The board never calls it fraud," says attorney Nuenke-Davison. "They sim-

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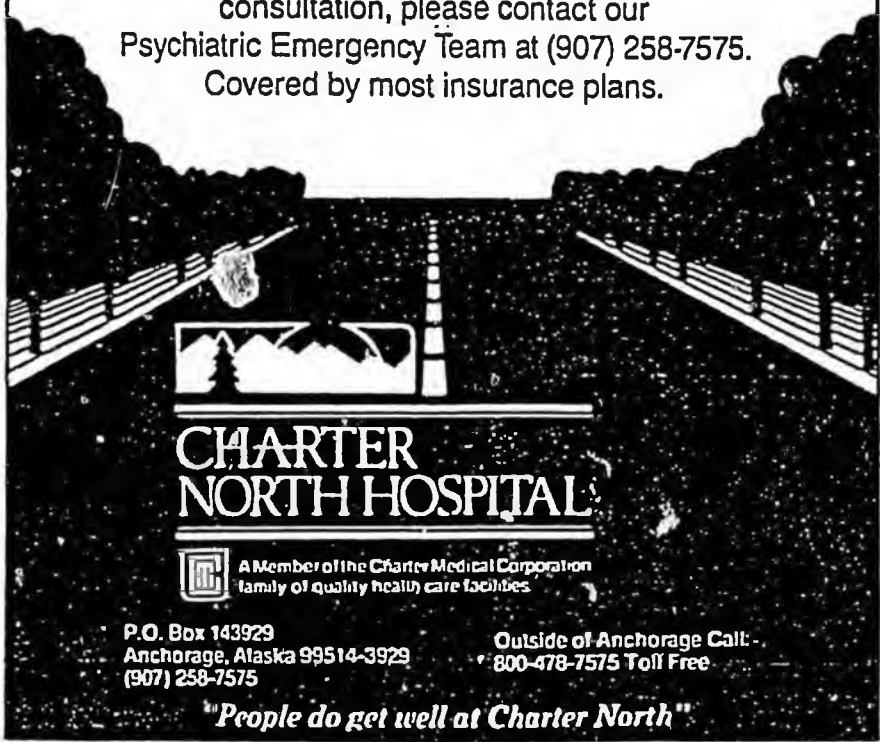
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ply say the claimant's case 'isn't credible.'" She complains there's no apparent relationship between the workers' comp board and the prosecutor's office, so fraudulent claims consistently go unpunished.

Since workers' comp began in Alaska 70 years ago, there's been a single case where a claimant was convicted of filing a fraudulent workers' comp complaint. The state's Division of Insurance says it's investigating four other cases with claims totaling \$380,000 for possible prosecution.

Adds Nuenke-Davison, "The state investigates welfare fraud, and it should be doing the same thing with workers' comp. The public would be appalled if they knew what some of their neighbors are doing and getting paid for it." At present, the only viable avenue for pursuing workers' comp fraud is for insurers to sue. That rarely happens, given

the expense of prosecuting and the bleak prospects for recovery in the event of a court victory.

Another attorney, Kevin Dougherty of the Alaska State District Council of Laborers, describes Alaska's workers' comp system as a "pipeline" — one that has a number of leaks and diversions that result in employers not getting their money's worth from compensation insurance. Among those leaks and diversions: attorneys, physicians, occupational therapists and the insurance industry itself. "Some are taking far more money out of the pipeline than was ever intended," he maintains.

Workers' comp is yet another battlefield for the war that's broken out in recent months between physicians and attorneys. Lawyers complain there's no regulation in Alaska of what doctors can charge for treatment. Since a claimant's physician is a direct beneficiary of ongoing

if they release an injured worker too early. As the system stands, they have everything to lose and nothing to gain when they release a patient to return to work.

In his recommendations and comments on the new rates filed by NCCI last year, Division of Insurance hearing officer Donald Koch wrote that the fear of being sued intensifies "an already difficult situation for the physician. In other cases, the expression 'ambulance chaser' has been used with some charity." He also expressed concern that claimants "are growing increasingly litigious in a system that is intended to be no-fault. Why this is felt to be necessary should be examined before it gets out of hand."

The workers' comp board's Pierce, whose private practice provides insurance and risk management consulting services to employers, says the biggest problems with the system are runaway medical costs; the means of determining average weekly wage, "especially in this economy," and the failure of occupational rehabilitation legislation adopted in 1982.

1982 legislation mandates that an injured employee be referred to an occupational therapist once he or she has been off work for 90 days. Mission of the occupational therapist is to get the employee back to work.

"THERE ARE three problem areas with occupational rehabilitation as it stands," says Pierce. "First of all, the insurer chooses the therapist. That often leads to non-cooperation on the part of the person being treated. Second, there should be a mechanism for insurers to buy out of rehabilitation benefits if the person doesn't want to cooperate, and finally, we need regulations."

That lack of specific regulations from the Alaska Department of Labor to govern occupational rehabilitation is said to have had a twofold impact: It's enabled unqualified individuals and companies to pose as therapists and forced legitimate firms to waste a lot of time and money taking measures to comply with what they think those regulations eventually may be.

State Rep. Virginia Collins, whose occupational rehabilitation firm Collins & Associates has been operating in Alaska since 1975 and now has offices in Anchorage and Fairbanks, says the 1982 legislation mandating vocational therapy prompted a flood of new occupational therapy firms in the state. Says she, "There's no mechanism for screening who's qualified to provide the service and who's not. In terms of rehab qualifications, it's often been a case of, 'Yesterday I didn't know what a vocational rehabilitation therapist was, and today I am one.'"



Brady's Duclos: Some contractors will fold.

ing treatment — regardless of whether it's necessary — the doctor isn't always a reliable and objective source for the claimant's condition, they argue.

A spokesman for the Ohio Bureau of Workers' Compensation says Ohio and many other states have set fees that can be paid for certain procedures. "If a physician's bill is out of line, we have a department that finds out why." Ohio handles workers' compensation through an exclusive state fund.

Physicians' counterattack: If some attorneys weren't so eager to file malpractice suits, medical costs wouldn't be running wild. Doctors are afraid of subjecting themselves to malpractice suits

Attorney Weddle dismisses the state's rehabilitation law as "a joke. There's no incentive to get back to work." Pierce, who worked on the bill prior to its adoption, agrees the law needs to be revamped. "I'm the first to admit that it just isn't working," she says.

'A dollar spent on workers' comp premiums is a dollar that's not being spent on additional wages, benefits or jobs.'

Because of problems that have arisen with Alaska's workers' comp system, a group of the state's business and labor leaders has revitalized the Workers' Compensation Committee of Alaska to study changes to make it less expensive and more effective. The committee's acting director says a business-labor coalition is vital to the group's success because of historic differences between the two interest groups on workers' compensation issues.

While previous pushes for workers' comp reform primarily have come from management, the latest round of increases has sparked a new awareness in labor as well. Says one executive, "Unions have begun to realize that every dollar spent on workers' comp premiums is a dollar that's not being spent on additional wages, benefits or jobs."

Alaska Gov. Steve Cowper reportedly has agreed to appoint an 11-member task force to study workers' comp—four representing management, four representing labor, one "neutral." Frank Mears, acting compensation committee chief, says task force recommendations should be ready for the 1988 legislature.

Workers' Compensation Committee of Alaska's goal, meanwhile, is to push for workable occupational rehabilitation regulations and to identify an agenda of problems with the current system, Mears says. "One thing we won't be discussing right away is the level of compensation," he adds. "Why start off with a war between business and labor and jeopardize the future of the thing right away? Initially, we'll be focusing on areas where we can agree."

The level of compensation in Alaska historically has been the biggest bone of contention between labor and management when the subject of workers' comp has come up. Employers want it reduced, labor doesn't. The issue is a political hot potato, one that Alaska's

politicians aren't likely to be eager to handle.

Laborers' attorney Dougherty maintains there should be no cap on benefits at all, since limits on wages are just as damaging for a highly paid employee as they are for others. Adds he, "The whole concept of the system was supposed to be that employees would exchange the right to sue for wage replacement. If you had the old laws and today's juries, you'd be seeing a lot of \$1 million verdicts." Responds Alyeska's Cutter, "You hate to penalize a person for being injured, but you need an incentive to get him back to work."

In the absence of a strong economy to temper the effect of the virus in the state's workers' comp system, many Alaska employers in labor-intensive businesses will continue to be easy victims with no antidote. Their only defense: an aggressive corporate safety program that enables them to limit the number and severity of claims.

A company's premiums are tailored, to an extent, with "experience ratings" that increase or decrease individual rates on the basis of past claims. Experience ratings are derived by comparing the loss performance of a specific employer with the average of all employers in that category.

An experience rating of "1" means the employer's claims in recent years have been similar to the average. An

experience rating of "0.8," on the other hand, means the employer has done better than the average; with a standard premium rate of \$10 per \$100 of payroll and an experience rating of 0.8, his premium would be \$8 per \$100 of payroll. The opposite is true as well. If an employer's loss experience is worse than the average, he'll have a rating of greater than 1 and pay a surcharge above the standard rate. Some Alaskan employers have experience ratings of more than 2, and they pay more than twice the standard rate because of it.

Says William Gee, account executive for Frank B. Hall & Co. of Alaska, "When the economy was booming, a lot of employers didn't take the time to worry about loss control; now some of them are paying for it. If the economy were going as it was a few years ago, you'd be hearing a lot less complaining about the rates today. In this economy, employers have to make sure they know that the way to reduce their insurance rates is through loss control."

Adds Pierce, "Safety is the only area where an employer has any control. In a bad economy, there's a lot more interest in cutting injuries in the workplace."

The recession has sparked a lot more interest in wiping out the virus, too, but the cure for that will have to come from the legislators and judges who've created and spread the infection and the officials who administer it. □

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WHAT YOU SHOULD FIND OUT ABOUT THE PROPOSED WORKERS' COMPENSATION LEGISLATION

If you are covered by Alaska State Workers' Compensation you should be extremely concerned about the proposed legislation. Approximately 10% of you are going to have time loss injuries in 1988. Of this number about 21% are women. No one regardless of occupation is immune from injury.

You have heard a great deal about how fair the new legislation is to employees. There are many bad aspects to the legislation but ask your union representative or your legislator the following questions:

1. Why is it fair to reduce weekly benefits if you are unable to exist in Alaska on the present benefit rate. (The average check is about \$340.00 per week.) Under the new law this would be reduced to about \$170.00 per week depending upon which state you move to if you leave Alaska.
2. Why is it fair to pay an injured worker a reduced rate when this clause would tend to promote Outside hire
3. Why is it fair to stop temporary disability payments when your injury has healed even though you still cannot return to work because of your injury.
4. Why is it fair to prevent you from changing doctors more than once without the adjuster's permission.
5. Why is it fair to allow an adjuster to send you to any state in the nation as often as every thirty days for a medical exam whether you like it or not.
6. Why is it fair if an Outside doctor's report is in your favor and you cannot get such a report before the Board without paying, in advance, for your lawyer to take a deposition of the doctor.
7. Why is it fair to reduce the maximum disability payment allowable from its present \$1,050.00 down to \$700.00.
8. Why is it fair for the insurance adjuster to arrange for another doctor to overrule your treating doctor.
9. Why is it fair to reduce your temporary partial disability payments from five years to two years.
10. Why is it fair, for example, if you have a 20% disability of your leg and will now get \$16,864.00 (if receiving the average payment of \$340.00 per week) but under the new law, you will get \$3,480.00.
11. Why is it fair that no injured worker has ever been appointed to the various "study groups" to research the alleged problems with the present Alaska Workers' Compensation system.

If you get satisfactory answers to the above questions then by all means tell your legislator that you support the new law.

If you do not get satisfactory answers, then tell your legislator that if he votes for the new law he is voting against you.

There are many ways of reducing the cost of worker's compensation that apparently have not been considered.

Written and paid for by Gil Johnson and no one else.
4120 Laurel, Suite 102. Anchorage, Alaska 99508

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Quality Service

Reform Alaska's workers' compensation system

By STEVE HAAG

Alaskan jobs and businesses will be threatened more than ever this winter by skyrocketing costs for workers' compensation insurance, and that's a very real threat to every employer and employee in this state.

The workers' compensation system began in the United States in the early 1900s. It was based on a belief that an employee should be entitled to wage compensation and hospital-medical cost coverage for injuries that occurred on the job.

Workers' compensation insurance coverage is now mandatory for every employer in the United States. Alaska has one of the most generous benefit and compensation packages in the country.

In 1987, Alaskan workers' compensation rates increased an average of 14.3 percent with some industries shouldering increases as high as 40 percent. That increase added \$20 million to the \$155 million statewide that employers were paying annually for coverage. It's expected that a 25 percent average increase will take effect in 1988.

The potential results are obvious. Businesses already hard hit by a faltering economy will be dealt a death blow by higher premiums. Jobs will be lost by the hundreds.

The problem is not that the system is being abused in large part, but rather that the system has gone far beyond what it was ever intended to accomplish. The goal of workers' compensation should be to help an injured worker

recover and to return to gainful employment. During the time of disability, the worker should be fairly compensated at a level comparable to the income that would be generated if the worker was on the job at which the injury occurred.

However, the basic premise of workers' compensation has been altered in Alaska. Under our system there is little or no incentive to return to work.

Why is Alaska's system so expensive? There are numerous reasons. Alaska is one of only two states which provide that benefits paid to an injured worker will be based on 200 percent of the statewide average weekly wage. This can result in a weekly compensation wage of more than \$1,000, tax free, while the salary an employee may have been earning while on the job was significantly less.

To make matters worse, a worker injured in Alaska may choose to move to another state with a substantially lower cost of living, yet be compensated at the rate determined in Alaska.

Compensation is based on a worker's income for the past two years. Under Alaska law a person can work on the North Slope earning \$40,000, then switch to a job paying half that, become injured on the new job and be compensated at a rate based almost totally on the prior job. As a result, that person would earn more from workers' compensation than from working.

Unlike many states, Alaska has no provision for peri-

odic reviews of standards for treatment of injured workers by medical or rehabilitation providers, nor any guidelines for fees.

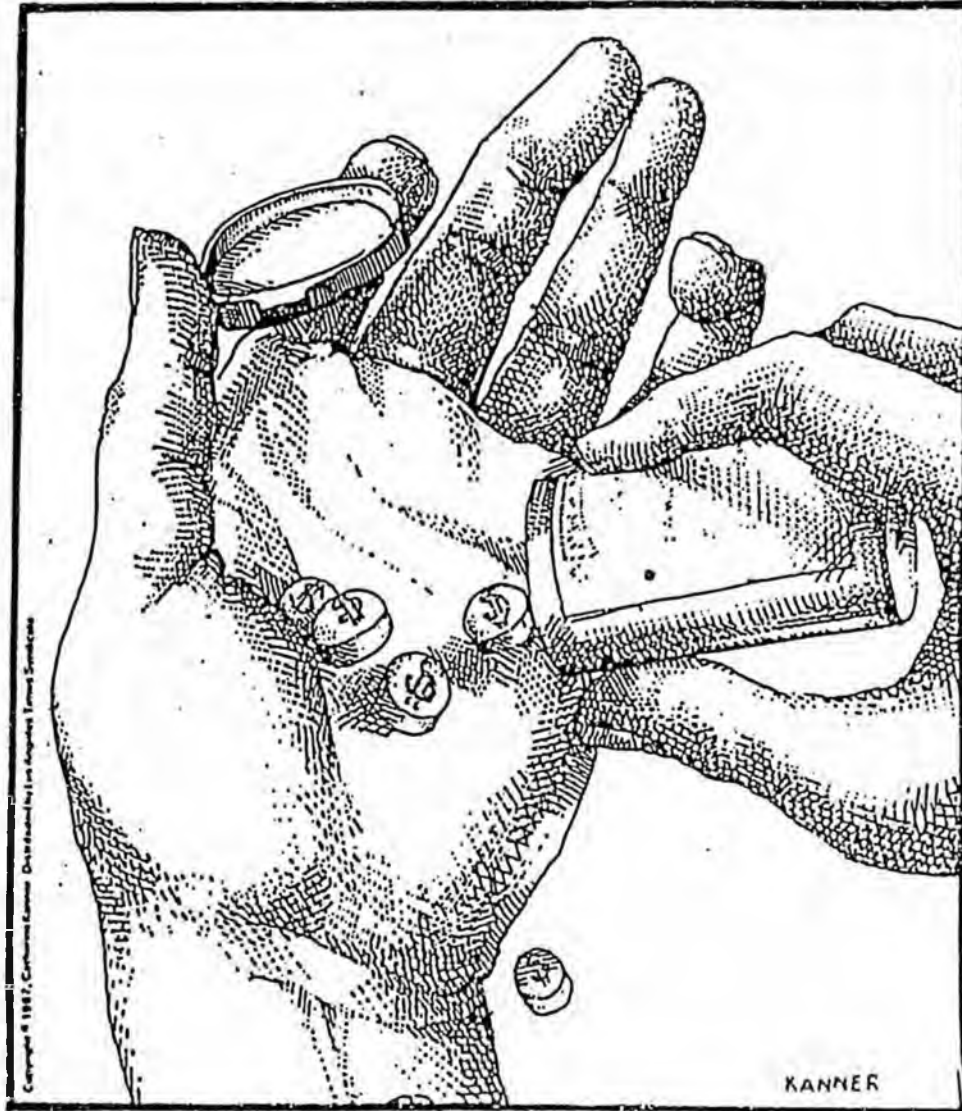
Many other factors have driven up the cost of coverage including runaway medical costs, the failure of occupational rehabilitation legislation passed in 1982, a lack of limits on benefits and a lack of fraud investigation.

Alaskan employees are being excluded from Alaskan jobs because outside companies can bid on those jobs using an all-states endorsement, which allows payment of workers' compensation based on the home-state rate, even though the job is in Alaska. As a result, Alaska companies paying premiums based on Alaska experience cannot compete for those jobs.

To remedy these and dozens of other faults with the system, the Workers' Compensation Committee of Alaska, a statewide organization, is reviewing every aspect of the law. WCCA hopes to present a legislative package negotiated by labor and management to the legislature in 1988.

While employers are the only group that pays premiums, this is both a management and labor issue. As premiums rise, businesses will fold, taking needed jobs with them. It is in everyone's interest to make the system work as it was originally intended.

Steve Haag is president of Workers' Compensation Committee of Alaska.



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Worker's comp

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It appears that the worker's compensation program is part of the problem for Alaska companies trying to compete with companies from the Lower 48.

The premiums for most basic-industry companies are outrageous. Construction companies frequently pay \$20 for worker's compensation insurance for every \$100 they pay their employees, while logging companies pay more than \$50. Rates are scheduled to take a 25 percent increase in January.

The rates in Alaska are significantly higher than the rates in other states, and this gives out-of-state companies a big advantage in bidding against Alaska companies for Alaska work.

There is evidence that the problem has caught the attention of the Legislature. The House Labor and Commerce Committee is pledged to report a bill designed to reduce costs and make the program fairer to workers and employers.

The state should start by getting more control over the worker's compensation program. The Legislature should review worker's compensation programs from other states for ideas on what might work here. Oregon, for example, has its own worker's comp program, which is available along with the insurance companies' program. The Oregon program rewards employers with clean safety records with lower premiums.

According to the table printed below, which was published recently in U.S. News & World Report, Alaska's maximum weekly rate of payments for worker's comp claims is \$1,108, nearly twice the second highest rate of \$632 paid by Iowa. A worker injured in Texas receives only \$224.

Wages and cost of living, obviously, are higher in Alaska, but are they that much higher? Any plan to revamp the worker's compensation system should take a close look at the rate of payments.

Another problem with Alaska's system is the adversarial relationship it promotes between the workers, their employers and the insurance companies. Lawyers frequently dominate the proceedings, their fees adding to the cost of worker's comp.

There will always be areas of disagreements if workers feel wronged by the system, but disagreements will decrease if the system becomes more responsive to the workers.

Alaska's system of worker's compensation tends to discourage small companies and encourage large ones that are well capitalized and can afford the premiums. Companies based Outside benefit the most.

There is no reason why Alaska-based companies can't compete with other companies if the conditions are fair. With the amount of construction in our state, Alaska should be developing companies that can compete for jobs Outside, not have jobs here taken by companies from Outside.

Maximum weekly worker's compensation

Alaska	\$1,108	Rhode Island	\$320
Iowa	632	Hawaii	318
Illinois	549	South Carolina	308
New Hampshire	525	North Carolina	308
Vermont	486	New Jersey	302
Washington, D.C.	454	New York	300
Maine	448	Montana	299
Connecticut	408	North Dakota	299
Michigan	391	Washington	289
Idaho	386	South Dakota	272
Massachusetts	384	New Mexico	271
Ohio	376	Missouri	270
Maryland	365	Louisiana	261
Pennsylvania	361	Kansas	256
Minnesota	360	Delaware	251
Colorado	358	Nebraska	235
Oregon	355	California	224
Nevada	353	Texas	224
West Virginia	351	Oklahoma	217
Wyoming	348	Tennessee	210
Virginia	344	Arizona	204
Wisconsin	338	Indiana	190
Utah	335	Arkansas	189
Alabama	331	Georgia	175
Florida	330	Mississippi	140
Kentucky	322	Puerto Rico	45

(Continued from page A-1)

weekly benefit from 200 percent of the state average weekly wage—now \$1,100—to a set maximum of \$700.

- Changing the minimum weekly benefit from \$110 to \$154 if the injured worker submits wage documents. Otherwise the lower rate prevails.

- Consider an employee's vested pension contributions in determining a weekly wage benefit.

- Eliminating "doctor shopping" to allow an injured worker to change his or her treating physician only once without the written consent of the employer.

- Subject medical payments to the usual and customary criteria of major medical plans.

- For workers with significant injuries (impairment of 20 percent or more, including back and neck injuries), change the present cap of \$60,000 to a "whole man" value of \$240,000 using American Medical Association guidelines.

- Limiting rehabilitation programs to two years.

- Bar an employee from making a false compensation claim.

- Increasing the permanent partial disability benefit for the most severely injured workers.

- Requiring the last employer

to pay benefits if a claim is denied solely because another employer may be liable, until such time as final liability is determined.

Donley said the committees have received numerous suggestions for correcting flaws in the state's compensation system. "While we hope to improve the system as much as possible during the next session, there will be other changes that may take longer to approve," he said.

"I think the main thing for people to consider when they think about this bill is that it is a jobs bill. Employers are having to lay employees off, in part, because of the

high compensation rates and claims they have to pay. This is one area where the Legislature can make a positive impact on the job situation in Alaska without spending more money," Donley said.

"We're trying to do the best we can."

The Anchorage Democrat, said he and Senate Labor Committee Chairman Tim Kelly, R-Anchorage, have scheduled four joint hearings on the bills. The first two hearings will be in Juneau on Jan. 19 and 21 and the third and fourth in Anchorage Jan. 29 and Feb. 12.

QUALITY SERVICES

Date DEC 20 1987

Fairbanks Daily News

Lawmakers seek changes in workers' compensation

By **BILL KELDER**
Staff Writer

Changing vocational rehabilitation of injured workers from mandatory to voluntary and limiting the rehabilitation programs to two years are among changes included in legislation being prepared by the House and Senate Labor and Commerce committees.

The committee members hope to reduce complexities and costs of Alaska's workers' compensation laws in the next session, according to House Labor and Commerce

Committee Chairman Dave Donley.

"We're trying to improve the law not only to reduce costs, but also to balance the rights and responsibilities of the injured employee with those of the employer," Donley, D-Anchorage, said. "We want to eliminate as much as possible the adversarial relationships that tend to develop in workers' compensation cases."

Changes being considered:

- Changing the maximum

(See **WORKERS**, Page A-6)

QUALITY SERVICES

Date DEC 15 1987

Fairbanks Daily News

First of a series

It's a system full of questions

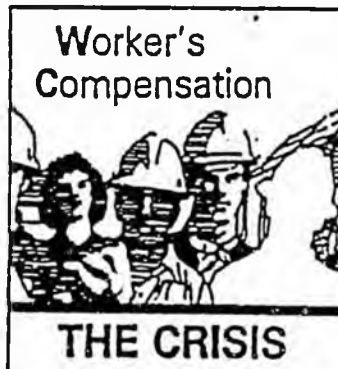
0460 227
Key legislators predict that attempts to revise the workers compensation system will emerge as one of the top issues of the 1988 Legislature. In this first of a four-part series, the News-Miner examines the system and what's wrong with it.

By **BILL KELDER**
Staff Writer

There was a time when an injured employee had to fall back on the generosity of his employer or to go on relief if he was unable to work.

Early this century, workers compensation laws changed all that by providing medical and disability benefits to workers injured on the job.

The workers compensation rates paid by Alaska employers, already among the most expen-



sive in the nation, are slated to rise by an average of 25 percent next month.

The 25 percent is an average. The cost will vary from industry to industry, and from job to job within a given industry. In contracting, for example, the increase will range from 4 percent

to 54 percent; while for the oil and gas industry the increase is expected to range from 18 percent to 68 percent.

Compensation rates are on a per 100 basis. Thus, if an occupation has a workers' compensation rate of, say, 45 per 100, it means the employer pays \$45 in workers' compensation insurance premiums for every \$100 he pays the employee. In some high risk job categories, such as iron working, the insurance premium may exceed the cost of the employee.

Many small employers say they can't afford the increase. Others say it will make it that much more difficult for Alaska companies to compete.

Several key legislators have
(See *WORKERS*, Page 12)

WORKERS 0410 217

(Continued from page 1)

said that one of their top priorities in 1988 will be to straighten out the workers' compensation system.

In 1983, Alaska employers paid \$125.5 million in compensation premiums to insurance companies, while the companies paid out \$70.1 million in claims. But each year since, the amount paid out in claims has crept closer and closer to the amount paid in through insurance premiums. Last year, employers paid \$153.4 million in premiums, and \$150.2 million of that was paid in claims.

Though the number of claims decreased 5 percent in fiscal year 1987, the amount paid out on those claims has increased, partially due to larger jury awards to employees injured on the job, and partially to an increase in settlements between an injured employee and the employer's insurance company.

Officials with the Division of Workers' Compensation say the amount of claims filed thus far in fiscal year 1988, which began last July 1, is up over the previous fiscal year.

As the difference between those figures declines, insurance companies are pushing for a premium rate increase, to ensure that the amount they pay in benefits does not exceed the amount they take in.

Some people familiar with the system argue that high costs are just a symptom of the workers compensation problem in Alaska.

Jon Deisher used to work for

the state Department of Labor as a rehabilitation administrator with the workers' compensation system. Frustrated by that system, he recently quit his job and now works with a private vocational-rehabilitation service in Anchorage.

"The state's workers' compensation system has no goal and, therefore, has no way of getting to that goal," Deisher said. He said there are many irregularities in the laws and regulations governing the system; irregularities that work against the system and the people it should be serving.

"One thing wrong with the system is its built-in disincentives," he said. Under the system, an injured employee who earned \$10,000 a month on the job, gets \$10,000 a month in compensation payments when he or she is injured on the job. But if the injury means the employee can never earn that kind of money again and must work for a lower wage once rehabilitated, what's his incentive to take the lower-paying job and get off the compensation?"

"There isn't any incentive," said Deisher, "so he might as well stay on compensation and get paid more money plus the medical benefits."

Deisher said the system needs a balance between the rights and the responsibilities of the employee and those of the employer. A balance that won't leave each mistrusting the other.

"Too often, the system pits the injured employee and the em-

ployer against each other. The employer sees the injured employee as a cost drain, and the employee begins to feel that his employer thinks of him as a disposable item," Deisher said.

He said the system also needs to develop a definition of disability, something it now lacks.

"If a right-handed attorney loses his left hand in an elevator accident, he certainly has a medical disability, but is that a wage-earning disability, or he is still able to practice law and earn what he earned before the accident," Deisher said. "Those are the kinds of definitions we need to make the system work properly."

The way insurance adjusters are qualified by the state to handle workers' compensation claims is another problem, he said.

"The compensation system is a very complex and convoluted system, with issues unique to itself. Yet on the state test to qualify an insurance adjuster to handle these cases, there are only four questions relating to compensation," Deisher said.

"There's a big difference between adjusting a claim for a bent fender on your car and adjusting one for a person who will never be able to work again. There need to be more compensation questions on the test."

These irregularities lead to litigation, Deisher said, which drives up the cost of the system to employers and employees.

There's also a lack of data available to those who must operate and regulate the sys-

tem. "The state division of workers' compensation has no way to check on how the insurance companies come up with the figures they say justify an increase," Deisher said. "If they can check the figures, how can they know if the figures are accurate?"

State officials and others say part of the problem is staff and budget cutbacks. Another part, they say, is that the state Division of Insurance lacks the statutory authority to examine how the insurance companies come up with the figures.

Deisher says he worries that the latest efforts to revamp the workers' compensation system may actually result in making the system worse—that some of the system's good points may be thrown out with the bad.

"It gets back to knowing where you want to go and then figuring out the best way to get there," Deisher said. "Without answers to those two questions, revamping the system doesn't make much sense."

For Wednesday: the compensation system through the eyes of two employers.

Workers' Comp Out of Control

By MARK HARRIS

Workers' compensation insurance premiums could increase by up to 68 percent for some sectors of business in Alaska, according to Alaska Division of Insurance Deputy Director Don Koch.

Beginning Jan. 1, 1988, premium increases will cause businesses to pay about \$38 million more for workers' compensation coverage, or an average of 25 percent more than in 1987 under a new rate filing (see Table 1).

"This filing could not have come at a worse time," Koch said during public hearings held in late October. "I have a suspicion these rates will still be somewhat inadequate. The 1987 filing (an average 14.3-percent increase) was absolutely deficient."

The rate increase comes through an analysis by the National Council on Compensation Insurance, an organization responsible for analyzing insurance rates in 32 states.

In Alaska, workers' compensation claims paid by insurance companies have more than doubled in the past four years, from \$71 million in 1983 to more than \$150 million in 1986, despite a drop in overall state payroll to pre-1982 levels, said Koch.

Between 1979 and 1986, wages in Alaska rose about 30 percent while hospital costs escalated 80 percent and other medical service costs skyrocketed 90 percent, according to state figures. For 1986, medical costs increased by 6.8 percent, while indemnity payments increased 30.2 percent. Indemnity costs include payment of wages while recovering from an injury.

The Workers' Compensation Committee of Alaska Inc., an employers

group, began work last winter to get the laws changed. As this article was going to press, a WCCA task force of four management and four labor representatives was completing a legislative reform package to submit to the Alaska Legislature next month. New legislation will focus on changes and adjustments in four main areas; vocational rehabilitation, compensation and benefits, medical parameters and the second-injury fund. Points WCCA would like to see addressed within these areas include the following:

Vocational Rehabilitation

- Voluntary rather than the current mandatory rehabilitation program, with eligibility determined by impartial firms not able to later deliver the service.

- Re-employment-preparation benefit provider to be chosen mutually by employee and employer. The plan to be signed off by qualified rehabilitation professional and recipient.

- Rehabilitation plan length specified. Benefits to end for clearly defined non-cooperation.

- Rehabilitation benefits' end to be triggered by test devised to establish re-employment eligibility.

- Law would establish maximum tuition and supply costs for rehabilitation and would set timeline for design and implementation of a plan.

- Remove financial disincentive for returning to work by establishing a schedule for injuries and the end of total temporary disability payments when a worker is medically stable.

- Begin partial disability payments at that point with rehabilitation ser-

vice. Worker would have choice of a final disability payment without rehab benefits or lower payments with rehab and re-employment training.

- To determine "gainful employment," benefits would terminate when a worker is ready to be employed rather than at actual employment. This would include a labor market definition.

- Medical disputes to be settled by an independent medical examiner rather than attending physician.

Compensation and Benefits

- "Gross earnings" definition which restricts some fringe benefits. Compensation to be reduced if claimant is paid by a pension or profit-sharing plan.

- Where injury liability is in question, the last employer will be held liable to pay workers' comp until specific liability is determined.

- Compensation rates would be tied to the recipient's current area of residence, allowing for recalculation of benefits if a claimant moves to a region with a lower cost of living.

Medical Parameters

- Limit the number of times a claimant can change primary physicians.

- Limit on doctors' claim amounts from workers' comp recipients. "Reasonable and customary fees" suggested at the 90th percentile as scheduled by the Health Insurance Association of America.

- Limit on number of medical visits a claimant may make to doctors before an independent medical evaluation is made.

- A definition of "stress" as a cause of disability and when this can be claimed as a compensation injury.

Second-Injury Fund

- Abolish and replace with a "Return-to-Work" fund administered by the Division of Vocational Rehabilitation, to provide incentives for employers to hire an injured worker. Incentives to include fund-paid job training and cash bonuses for employers who hire injured workers. Fund to be separate from workers' comp system.

- Claims now being paid by the Second-Injury Fund would be sunsetted with final payments negotiated with claimants.

Steve Haag, president of WCCA, stressed that the above points are what the organization would like to see encompassed in a legislative package. At press time, management-labor committees on each of the four major areas had not endorsed all points presented here. □

TABLE 1

	Average	Range
Oil and Gas	43%	18% - 68%
Contracting	29%	4% - 54%
Manufacturing	10.5%	-14% - 36%
All Other	17.6%	-7% - 43%

Workers' comp legislation no help to workers

By CHANCY CROFT

Workers' compensation reform was touted as reducing costs 15 to 20 percent until reality entered the debate.

A study by the National Council of Compensation Insurance was followed by a second major study from a private actuarial firm. Both concluded that the legislation under consideration in Juneau would not reduce costs. There might even be a cost increase. Yes, that's right — the hard number boys said there might be a cost increase.

The bill was touted as providing jobs from cost savings to employers. Without any cost savings, of course, no jobs will be created. But senators, anxious to please their business constituents, ignored the hard facts and passed a resolution — which has no legal effect — asking insurance companies to reduce premiums by 2 percent.

Even a fictitious 2 percent reduction would provide a saving of only a few hundred dollars to the average employer. The permanent fund dividend would be three times as large as any fictitious savings to an employer under SB 322.

Do we have the most expensive workers' compensation system in the United States? No. Several states have more expensive systems, including Oregon and Montana.

Are we the only state that's facing an increase? No. Oklahoma, Louisiana, South Carolina, Maine and New Hampshire are all facing larger increases.

So why is there an increase in Alaska? Nobody can say for sure. The Division of Insurance has no figures, the Workers' Comp Division has no figures.

The only thing we know for sure is the injury frequency has hit a 10-year high and that the delay in handling cases has increased 70 percent. This alone probably accounts for some of the increase. But SB 322



ignores safety and makes delays worse.

If the legislation does nothing to control insurance companies or reduce premiums, does it benefit injured workers? Only a few workers at the expense of the many. Some legislative provisions are good. Many more are regressive.

The benefits are not worth the price most injured workers will pay.

• Seriously disabled workers get less. People with closed head injuries, burn victims, multiple trauma injuries requiring repeated operations, all are arbitrarily cut off temporary disability after two years. This is done in the name of a false premium reduction to those employers who caused the injury in the first place.

• All payments for permanent partial wage loss are totally eliminated. This would make Alaska the first state to reject compensation to injured workers based on permanent loss of earning capacity. Instead payment is solely on medical impairment.

If you're a lawyer and lose an arm you'll get a lot, but if you're a laborer with a bad back, you're mostly out of luck.

• Workers pay their own time loss during rehabilitation once they are medically stationary.

• A worker's right to a determination of actual earning capacity is ignored, claims based on stressful jobs are excluded, compensation is limited regardless of actual earnings, out-of-state benefits are reduced (a similar provision was declared unconstitu-

tional years ago) and workers get only one choice of a doctor.

• Court review of board decisions is severely restricted.

But even more strangely, all medical benefits are excluded. To the average Alaska family, medical benefits are more important than pension. Some states have mandated that employers continue health insurance for injured workers — why not Alaska?

The legislation was the result of long hours of hard work by a select group of people. But it has three philosophical premises not in the interest of injured workers.

First, the legislation is arbitrary. What is the legal or moral authority to make arbitrary rules about injured workers? Who can say that some workers get a high percentage of their pre-injury earnings and others have to get by on less? Why aren't all workers treated equally?

Second, a case is closed regardless of condition. Injured workers are treated like dated products on a grocer's shelves. After time, they are disposed of.

Third — and the most serious fallacy behind this legislation — is the notion that workers' compensation can be reduced without reducing benefits. It's a nice theory, but it doesn't work here. In short, there's no free lunch. This bill is the first workers' comp legislation in a long time that both raises costs and reduces benefits!

The theory of workers' compensation legislation is "that the cost of all industrial accidents should be born by the consumer as part of the cost of the product." *Searfus vs. Northern Gas Company*, 472 Pacific 2nd 986 (Alaska 1970).

If workers' compensation is costing too much, it's because employers are injuring too much. If the cost of doing business in Alaska is too great because workers are too careless,

Do Alaska businesses really deserve an economic bailout from the state and a subsidy by their injured workers, as well?

Why reduce benefits to injured workers? Do Alaska businesses really deserve an economic bailout from the state and a subsidy by their injured workers, as well?

Workers in other states are fighting winning battles for a higher minimum wage, decent health insurance and better working conditions. Why do Alaska workers have to settle for a second-rate compensation act?

So, I come back again to the question each of us should ask. Why is it that when injured workers and businesses alike are affected by increased delays by the Division of Workers' Compensation, the legislative solution is to increase those delays? Why is it that when workers' comp costs increase because of an increasing injury rate, nobody does anything about safety?

Why is it that if insurance companies want an increase in premiums one year, nobody asks if they made excess profits years before? Why is it that every time something is done about insurance costs the reaction is always to reduce benefits to the state's 25,000 injured workers? Why must the worker always pay the price?

□ Chancy Croft is an Anchorage attorney.

Workers' compensation bill a 'win-win' solution

By ROBERT ANDERS
and STEVE RHENBERG

For employers in Alaska, workers' compensation reform is not an issue of insurance but a matter of survival. Skyrocketing premiums for workers' compensation insurance have eliminated many Alaska businesses and jobs.

For employees, workers' compensation should be exactly that, not lawyer, doctor, chiropractor or vocational rehabilitation compensation. The system was designed to compensate an injured worker for lost time and wages and to help return an employee to productive work.

For the past 18 months, individuals representing Alaska employers and labor unions met as a combined labor-management task force to study and recommend changes in the workers' compensation statutes. The goal of the task force was to reduce the cost of workers' compensation in Alaska but not at the expense of the injured worker.

Working together to solve problems and improve the system for both in the process has truly resulted in proposals that are a win-win situation for everyone.

Under the bill, minimum weekly benefits will be raised from \$110 to \$154 while the maximum will be dropped from \$1100 to \$700. Labor believes this is necessary to better provide for individuals at the low end of the scale who most need it.

The changes proposed in the permanent



partial disability rate structure will significantly increase payments to the more severely injured workers while putting reasonable time limits on the length of time some benefits may be paid.

Employer disputes over who is responsible for paying claims can cost an employee his life savings and possessions. The proposed legislation would eliminate those possible consequences by requiring the last employer of a worker to pay claims until a dispute is resolved.

The bill would prohibit discrimination against workers who have filed workers' compensation claims. But benefits could be denied to an employee who knowingly misrepresents his physical condition prior to employment.

Management and labor agree that medical costs must be contained to achieve any significant premium reductions. Currently there is no limit to what medical providers can charge. Our proposal limits medical charges to usual, customary and reasonable fees, similar to controls used in medical insurance plans.

Medical providers would be required to

establish written plans for treatments of a multiple or continuing nature. However, the proposed legislation does not limit treatment if it's proven to promote recovery.

The bill proposes a cost-effective, unbiased method to settle medical disputes which currently result in lengthy and costly litigation.

Both management and labor strongly endorse a voluntary vocational rehabilitation program that provides effective and efficient services to the worker.

When carriers control a mandatory rehabilitation system that's tied to the claims process, as is the case now, abuses occur on both sides, fanned by a lack of trust that produces program failure.

A voluntary program which takes service provider selection away from the carriers removes it from the claims process. The end result should be more cooperation from the injured worker and those providing rehabilitation services, less litigation and lower costs.

Labor agreed with management that limits to avoid an avalanche of stress claims are necessary to prevent further rate hikes and lost jobs. The bill includes reasonable limits.

The proposed bill would also allow recalculation of benefits for recipients who move outside Alaska based upon differences in the cost of living between Alaska and the "Lower 48."

Labor believes that by supporting these and

other changes a greater portion of workers' compensation dollars will be directly allocated to injured workers, and a cost effective, equitable program providing incentive for injured workers to return to work will be put in place.

Predictably, some attorneys and members of the medical profession have criticized our efforts because we focused our concerns on the litigation and disputes that are presently built into the system.

We would hope that reasonable people would put concerns for injured workers ahead of vested financial interests such as those held by critics of our efforts.

The major asset of any Alaska business is its employees. When an employee becomes injured through a work related accident, immediate and adequate medical treatment should be provided. They employee also should receive adequate compensation for lost wages while the employee is unable to work. The legislation now being considered will ensure this continues while, at the same time, making the system affordable and thereby helping employers provide the jobs on which labor depends.

Robert Anders is the field agent for Operating Engineers Local 302. Steve Rhenberg is president of BMR Company, a financial consulting firm.



Alaska Independent
Insurance Agents & Brokers, Inc.

March 11, 1988

Representative Dave Donley
Chairman House Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Re: Proposed Workers Compensation Legislation (HB 352 / SB 322)

Dear Representative Donley,

The Members of the Board of Directors and the Legislative Committee have requested I write you this letter and copy all members of the House Labor & Commerce Committee & members of the House Judiciary Committee.

We support the efforts of the WCCA (a group of labor and management) to draft Legislation to revise the current Workers Compensation Statute. HB 352 and SB 322. This is a very difficult area, as the Workers want maximum benefits, and Management wants affordable premiums. We request you work as closely with this group as possible. They have spent numerous hours and have made considerable compromises to achieve an acceptable piece of Legislation, and even though it may need some amendments before it succeeds in reaching it's original intent, we believe that they are the best group to accomplish this goal. As the goal is to make the system better for both the employer and the employee.

We wish to request that no consideration be given to mandating reduced premium in this area. It has been tried in other states, and it doesn't work! You cannot force private enterprise (Insurance Companies) to sell a product (Workers Compensation policies) guaranteed to lose them money.

What will happen if this is attempted, is that some Insurance Companies will just stop writing Workers Compensation coverage in Alaska, other Insurance Companies will just refer all Workers Compensation policies to the Work Comp. Pool, which is presently approximately 30% higher than Standard policies. So by mandating reduction in rates, you will actually have the reverse effect in the market place.

We thank you for taking the time to read this letter. If you have any questions or comments, please let us know.

Respectfully submitted,

Patrick S. Cowan
Executive Director

On the back page (February 21, 1988) of the Metro Sunday section of the Anchorage Daily News is a full page ad stating the benefits of the proposed addendum to the Workers' Comp Law.

The vast majority of workers never expect to become injured on the job. No sane person would deliberately disable themselves. However, even though you may be meticulously cautious, you may be severely injured by a co-worker or as a result of employer negligence. If you are injured because of negligence on the part of another person and they refuse to pay you compensation for your true loss, you take them to court. Under our democratic system you can have a jury determine the responsibility for your injury and value of your loss. However, if you are injured while performing duties during employment all of your rights of financial recovery are taken away from you. The Workers' Comp Law has gradually become more anti-worker and the new proposed legislation will take away even more financial assistance from an injured worker.

It is hoped that no individual ever falls under the Workers' Comp Law. The law allows the insurance carrier to be ruthlessly harsh and cruel to the very person who should be treated with consideration and sympathy. Instead he is treated like a criminal. He is badgered and intimidated until he either caves in to their tyranny or commits his life to an all out war with them. An insurance carrier should not be able to deliberately punish a worker because he has been injured.

The fifteen points stated in the Daily News Ad, on Workers' Comp., should be addressed individually to consider their accuracy.

1. There is a negligible increase in the permanent impairment benefit. However only \$10,000. is allocated for a re-employment plan. This allocation is separate from the weekly benefit payment. When that fund is exhausted the employee only receives 60% of his spendable income. The law now allows benefits of 80% of the employees spendable income. Also, a workers pension plan will be kept current under the new law. However, if an injured worker is forced into early retirement or files for permanent disability on his pension plan, these funds, which he has paid into his pension for many years, will be subtracted from his Workers' Comp disability payment.

2. If an employee works only three months in each of the two calendar years preceding his injury, his benefits will be determined in a more reasonable manner. However, only minimum wage is guaranteed. Ask yourself, could you make your car payment or take care of your other obligations on Alaska's minimum wage?

3. The greatest financial burden to the Workers' Comp Law as it is, is the rehabilitation program. The insurance carriers have used this program to controvert claims and prolong just compensation. These totalitarian actions of the insurance carrier will not be changed under the new law. Under the new legislation an injured worker will be allowed to refuse the insurance carriers rehabilitation plan. However, the employee will be made to suffer because of his decision.

4. Any time the phrase "encourage co-operation" is used the employees basic human rights are in jeopardy. The rehabilitation counselors are working for the insurance company and not the injured worker. So when the rehab counselor tries to take your right to privacy, self-determination, and pursuit

of happiness, in reality, it is the insurance carrier who is abusing the injured worker. The new legislation will bring about even more human rights abuse.

5. The suggestion to establish minimum qualifications for rehab counselors is only a cover to convince labor they are going to be treated justly. In reality the wishes of the insurance carrier are given first priority over the injured workers best interest.

6. Physicians charge workers' comp patients the same as any other patients. The insurance carriers are trying to set fees which are much less than is usually charged. The reason behind this proposal is to discourage physicians from giving thorough and complete treatment to an injured worker.

7. The proposed new law will set up an independent medical doctor to determine an injured workers injury status. This is an affront to the medical profession. The independent doctor can give an opinion which is completely different from your family doctor's diagnosis. The independent doctor has the final say and you cannot sue him for future damage incurred by you because of his judgment. This law will only give the insurance carrier more tools to defraud an injured worker.

8. The phrase "encourage" is used again instead of "demand". The insurance carrier will demand that you take the medical treatment they dictate even if this treatment is detrimental to your health or life.

9. In many cases continued treatment of an injured worker will not promote recovery. However, continued treatment is necessary to maintain a minimum of suffering and side effects detrimental to the injured worker. The new law would terminate this treatment when it was determined that the injury itself was not getting any worse.

10. There are so many ways to subvert a discrimination law against a previously injured worker that any law of this nature is frivolous.

11. The new Workers' Compensation legislation will not protect workers from delays in implementing benefits. The reality is the law gives the insurance carrier more loopholes to controvert a claim and therefore more delays.

12. Compensation benefits, especially for permanently disabled workers should be inflation-proofed. Compensation payments are not inflation-proofed. This deficiency in the law causes slow economic death. Therefore, to reduce benefits even further when an injured worker is forced to move where his money will go farther, is geometrically unjust.

13. There is a catch-all in the new law which will eliminate all stress claims.

14. Less than one-third of the cost of Workers' Comp Insurance goes to the injured worker. Under the new legislation he will receive even less. However, the insurance carrier will receive more and the cost of Workers' Comp Insurance will not be substantially reduced for the employer.

15. "Cost-effective" and "equitable" programs are merely catch-all phrases, which means there will be less financial liability to the insurance company and more financial distress to the injured worker.

The Workers' Comp Law in Alaska has been quietly and methodically adulterated for many years. The only solution for cost-cutting in the program is to start from scratch. The uncontrolled profit-making of the insurance carriers will have to be addressed. The conflict provision will have to be addressed. Long conflict situations instigated by the insurance carrier are not only expensive, but hard on the already depressed, injured worker. The rehabilitation program should be a complete and separate program from Workers' Comp. The insurance carriers should not be able to use the program to their advantage. As the law is now, the insurance carriers can continue to badger and control the life of a permanently disabled worker for the the rest of his life. The future economic status of every worker in Alaska is in jeopardy. Even many of the unions have caved in to intimidation by the insurance carriers. If you want the truth about the Workers' Comp law ask someone who as been snared by it. Don Sasser PH: 688-2614

ALASKA STATE SENATE



SENATOR TIM KELLY
ANCHORAGE EAGLE RIVER
CHAIRMAN

MEMBERS
SENATOR BETTYE FAHRENKAMP
FAIRBANKS

SENATOR DICK ELIASON
SITKA
VICE CHAIRMAN

LABOR AND COMMERCE COMMITTEE

SENATOR RICK UEHLING
ANCHORAGE

SENATOR MIKE SZYMANSKI
ANCHORAGE

February 4, 1988

Maurun Bayliss
7774 Mayfair, #4
Anchorage, AK 99502

Dear Maurun,

I appreciate you taking the time to send me a card with your thoughts on the worker's compensation bill before us.

After receiving a number of cards, we have reviewed the flier suggesting the postcards and making comments about the legislation. I am somewhat disappointed to see that a good portion of the information given you about the legislation is inaccurate. To clarify the situation, I want to give you some additional information.

This bill was developed by a task force made up of 5 representatives of organized labor and 5 representatives of management. Both groups realized that a solution to the current problem needed to be found and that an agreement had to be negotiated. After several months of work, this agreement was reached and the same bill was introduced in both the House and the Senate to use as a starting point.

First let me highlight a few points that the bill does for Alaskan workers.

- * There is a significant increase in the payment for permanent partial disabilities. This assures that the more substantially injured workers receive greater benefits.
- * The minimum weekly benefit is being raised and the maximum weekly benefit is being reduced. Only about 3 percent of the cases will be effected by the reduction and a much larger number of workers will get increased benefits. This section will actually increase in dollar amounts, the overall wage benefits to injured workers.
- * The bill requires that pensions and benefits be included in calculating a workers' average weekly wage instead of just wages and salaries.

- * An injured worker will immediately receive benefits if an argument breaks out over which carrier will be responsible. Currently a worker can go for months without benefits.
- * Vocational rehabilitation will become voluntary under the bill. The injured worker has a choice of whether or not to enter a vocational rehabilitation program, and will no longer be forced to "play the game" just to continue receiving benefits.
- * Discrimination against a worker who has filed a worker's compensation claim will be prohibited under this new law.

There has been some other misunderstandings that need to be clarified. It has been said that the cost of vocational rehabilitation can't exceed \$10,000. In truth, only the cost of the plan for rehabilitation can't exceed that amount. There isn't a cap on the cost of the rehabilitation itself.

It is not the insurance company who must approve additional changes of doctors, but the worker's employer. Referrals to other doctors by a primary physician don't count as a change of doctors. Additional changes of doctors can be made if the worker's employer approves.

The area of only allowing 20 visits in 60 days has also been mis-stated. After the 60 day period 4 visits per month are allowed. If more than the 20 are needed, they are allowed if they are justified in the written plan.

Under the current system, less than 40 cents out of every dollar paid in worker's compensation premiums actually goes to the injured worker. The bill being worked on is designed to give more of the money to the injured workers and less money to the people in the middle. The idea behind worker's compensation is to provide a system to ensure that an injured worker gets the appropriate care and compensation. It is my intention to support a bill that is fair to both the injured worker and the employer, after all, that's who the system was designed to protect in the first place.

Hopefully, I have cleared up some of your concerns. Please be assured that I won't support a bill that I feel is unfair to injured workers.

Best Regards

Tim

TIM KELLY

PS: Any changes enacted this year would not take effect until July 1, 1988. Anyone that suffered an injury or has a claim or settlement in process before July 1 of this year would not be effected and would continue to settlement under the current law.

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THE VALENTINE BUILDING
119 SEWARD STREET, SUITE 1
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THOMAS W. FINDLEY
PHILIP M. PALLEMBERG

January 11, 1988

TELEPHONE 586-3811
AREA CODE 907

The Honorable Tim Kelly
Chairman,
Senate Labor and Commerce Committee
P.O. Box V
Juneau, Alaska 99811

SUBJECT: S.B. 322/H.B. 352--Proposed amendments to Alaska Workers' Compensation Act

Dear Senator Kelly:

As an attorney representing injured workers in workers' compensation cases, I have viewed with interest the recent efforts to reform the Alaska workers' compensation laws. It has long been clear to everyone involved in the system that changes are necessary. Costs are out of control, numerous abuses are occurring on both sides of the system, and too much money is going to individuals other than the most deserving injured workers. It is even more important, however, that the rush to make those changes does not result in a bill that deprives injured workers of basic fairness, and does not achieve the needed savings. I have reviewed the amendments contained in S.B. 322 and H.B. 352, and I am appalled at some of the proposed changes. Cost savings should not be achieved at the expense of fundamental fairness.

It must be remembered that workers' compensation benefits are not handouts. Workers' compensation was devised as a trade-off--workers were allowed benefits, without regard to fault, to compensate them in part for their losses resulting from on-the-job injuries, in exchange for losing their right to sue their employers for negligence. If employers are to continue to be immune from suit, their employees have a right to receive fair and adequate benefits in return.

Clearly, the bill represents a great deal of effort by a large number of people. While much of the proposal is a constructive approach to the problem, I feel that many of the proposed amendments are discriminatory, unfair, or simply unworkable.

The bill's tone is set by its first section, which states that its intent is to assure the "quick, efficient, and predictable" delivery of benefits. While these are worthwhile goals, there is no mention of fairness--not only to the injured worker, but also fairness to the employer.

The major structural changes in the statute are in the areas of rehabilitation and computation of permanent partial disability benefits. I will first discuss my concerns about the rehabilitation provisions.

Although I have other concerns about the rehabilitation section of the bill, I am most concerned about a few items. First, under new section 041(j)(2), the injured worker is ineligible for vocational rehabilitation unless he or she requests a rehabilitation eligibility determination within 60 days after the injury. This will automatically deprive many needy workers of rehabilitation, since 60 days after their injury most employees don't know whether they will be able to return to their old jobs. Most workers that I speak to are almost totally unaware of their right to rehabilitation benefits. The average injured worker does not want rehabilitation after 60 days, since he expects to return to his previous job. It is only after the worker discovers that he will not recover fully that rehabilitation becomes necessary. The 60 day requirement of new section 041(j)(2) sets a trap for the unwary injured worker.

New section 041(i) defines "noncooperation" with rehabilitation, which disqualifies the worker from further rehabilitation benefits. The proposal needs to define noncooperation more carefully. This section could be interpreted to provide that an injured worker forfeits his or her reemployment benefits if he or she misses one meeting with the rehabilitation specialist. The statute should contain the requirement that the noncooperation be unreasonable. It is also not fair to deprive a worker of his or her benefits for failure to maintain average grades. By definition, half of all students are above average, and half are below average. It seems somewhat elitist to suppose that any student who does not maintain average grades is not cooperating.

The rehabilitation section eliminates the provision in present law that an employee's ability to return to work be judged by the availability of work in his or her community, or the place of work at the time of injury. Instead, it is judged by the existence, not availability, of work anywhere in the state. Under this rule, a Petersburg resident who is injured would not be eligible for rehabilitation if a job exists anywhere in the state, whether in Petersburg, Anchorage, or Nome, which he is capable of performing--regardless of whether the job is available to him.

The new statute also eliminates any payment of temporary compensation as maintenance during rehabilitation. Employees instead are expected to live on their permanent partial disability award during rehabilitation. Maintenance would be awarded only after the worker has exhausted his or her PPD award. I find it unfair to require an employee to live off his or her permanent partial disability settlement during the period of rehabilitation. Coupled with the changes in permanent partial disability awards, this will leave many workers with no money after they complete their rehabilitation programs. This is inconsistent

with the purpose of permanent partial disability, which is to partially compensate injured workers for their permanent loss of earning capacity.

I am very concerned about the changes in permanent partial disability (PPD) awards. PPD is intended to be compensation for an employee's permanent loss of earning capacity. For the typical worker with a back injury (or any "unscheduled" injury), the existing system attempts to base compensation on actual loss of earnings. The new statute eliminates any attempt to calculate actual loss of earnings. Instead, the award is based on the arbitrary disability ratings established in the AMA Guides to the Evaluation of Permanent Impairment. Most physicians will agree that the AMA Guides are a poor way of evaluating many injuries. They are particularly arbitrary when it comes to evaluating back injuries. The gross unfairness with this system is that the arbitrary award is paid whether or not the injury affects the employee's ability to work. A longshoreman with a 5% impairment of his back may be unable to do his job, but he would receive an award of \$250. An attorney with a 40% disability may be fully able to work, but he or she would receive \$96,000. While this may meet the stated intent of "quick, efficient and predictable" delivery of benefits, it is far from fair--to either side.

Section 190 contains another curious provision. After the injured worker's impairment is rated, the rating is "adjusted" by multiplying it by an "Adjustment Factor", ranging from zero for impairments of 5% or less, to one for impairments of 31% or greater. This will result in the following payments for permanent disabilities:

<u>Impairment</u>	<u>Payment</u>
5%	\$250
10%	\$4,800
15%	\$14,400
20%	\$28,800
25%	\$42,000
30%	\$57,600
50%	\$120,000

While workers with large impairment ratings will receive large sums of money, the new schedule, for some reason, sharply discounts the awards to workers with small disabilities. If a worker with a 5% impairment is onetenth as impaired as one with a 50% impairment, it is not clear why the second worker should receive an award four hundred and eighty times as large. The use of the "Adjustment Factors" to discount small awards is discriminatory.

It is interesting to note that, at the same time that Alaska seems to be moving toward a purely scheduled system, the general trend nationwide is away from such systems. This state would do well to heed the example of other states such as Florida, which abandoned a scheduled disability scheme when it found, according to Professor Arthur Larson, the national authority on workers' compensation, that 79 percent of administrative and legal time

was consumed arguing about disability ratings. I predict that, if this section is adopted, there will be just as many disputes about disability ratings as there are now about earning capacity.

Another provision of the bill which I find unduly harsh is the two year limit on temporary total benefits contained in new section 185. While benefits generally are not paid for more than two years, there are instances in which an injured worker has not fully recovered in two years. Occasionally, an employee's condition is not properly diagnosed right away. If an employee needs major surgery, or complications develop, he or she may well be left destitute, while still under medical treatment.

Under new section 095(k), medical disputes are to be submitted to a physician selected from a list kept by the Board. The determination of this physician is presumed to be correct, in the absence of clear and convincing evidence to the contrary. In many cases, all three doctors may be on the Board's list. There is simply no reason to decide a case solely on the basis of the opinion of one doctor who has seen the worker just once. This is just another way of making the process more arbitrary, and less fair.

Under new section 020, a worker is totally ineligible for benefits if he or she misrepresented the worker's physical condition at the time of hire, and the employer relied thereon. It would appear that, under this section, a worker who denied a previous back injury would go uncompensated if he or she aggravated the previous injury on the new job. The consequences of this section for many workers will be disastrous.

In many industries, such as the logging industry, it is very difficult, if not impossible, for a worker with even a minor back injury to return to work. No logging company, if given a choice, will hire a worker with a back problem. Under this section, a logger with a prior back injury will have to make a choice between mentioning his injury, and probably not getting a job, and not mentioning it, and forfeiting his workers' compensation benefits if he is reinjured. While the new statute does contain a toughened anti-discrimination section, such provisions are very difficult to enforce. It is usually impossible to prove discriminatory intent.

This section illustrates the peril of assuming that labor interests can speak for injured workers. A union worker, dispatched through a hiring hall, would not be harmed by this section. The employer could not discharge the worker if his preemployment health questionnaire reflects an injury. A nonunion worker, such as a logger, does not have this protection.

New section 220 revises the procedure for calculation of compensation rates. Under section 220(1), which is unchanged from existing law, rates are based on wages during the two years preceding the injury. Under existing law, if those wages do not

fairly represent the employee's wages at the time of the injury, the Board may adjust the wages by considering the employee's work and work history. This "escape hatch" has been substantially enlarged in recent years by the Supreme Court. The new section would limit this "escape hatch." The rate could only be adjusted if the employee had no earnings, or was "voluntarily" absent from the labor market for 18 months or more during the two years. I can see no justification for limiting this section to voluntary absences. The main justification for the "escape hatch" of section 220(2) has always been to allow the Board to adjust the compensation rate when the employee was absent from the labor market for a portion of the previous two years due to previous illness, disability, or other circumstances beyond the employee's control. Under the new language, such involuntary absences from the labor market would not qualify an employee for an adjustment. This cannot be justified.

Under new section 265, an employee is presumed to have reached medical stability if he or she goes 45 days without objective medical improvement. Medical stability becomes all the more important under the new rehabilitation provisions, since it marks the point at which an employee's temporary benefits end. While the standard of objective medical improvement has some merit, 45 days is much too short a time to judge stability. Many workers go more than 45 days between follow up visits after major surgery. It is not fair to throw an injured worker back in the labor market simply because his injury is slow to recover.

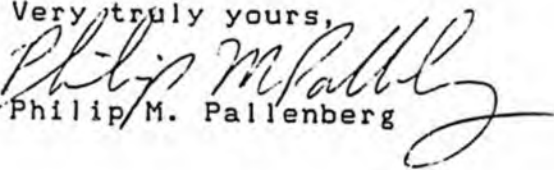
I would suggest four basic reforms which would substantially cut the costs of the system. First, lower the maximum benefit, as S.B. 322 and H.B. 352 do. Second, restore the adjustment of benefits for out of state claimants, as S.B. 322 and H.B. 352 do. Third, return the calculation of compensation rates in section 220 to what the Legislature originally intended, which is that the rate be based on the employee's historical wages. Finally, and most importantly, rewrite the vocational rehabilitation provisions to require a quick, fair determination of an injured worker's entitlement to rehabilitation. Too many workers draw temporary benefits for many months or even years while waiting for a rehabilitation plan to be completed. I can provide more specific proposals along these lines if necessary.

Clearly, the present system has major flaws. Too much money and time is expended in litigation. Too much money is wasted on meaningless rehabilitation. Too many workers are being financially devastated by injuries while other workers receive excessive benefits. The existing statute is an attempt, although not an entirely successful one, to compensate injured workers for their lost wages, and to return them to work. The proposed bill would abandon that effort, and instead pay settlements based solely on the impairment of the body--without regard to earnings. We must not let the need to cut litigation costs and promote certainty eliminate fairness. Fairness, after all, means only that benefits have some relation to what a worker has lost as a result

January 11, 1988

of an injury. That is what the system is supposed to do--and can do, if we are willing to make it work. I sincerely hope that this Legislature will not be remembered as the one which stripped injured workers of their right to be fairly compensated for their injuries.

Very truly yours,


Philip M. Pallenberg

cc: Governor Cowper
Members of the Senate Labor and Commerce Committee
Members of the House Labor and Commerce Committee
Senator Duncan
Representative Hudson
Representative Ulmer

Dear Senators and House Members:

This letter is in regard to House Bill 352 which proposed changes in the Workers' Compensation law. On page one of this proposal at line 14-15, it states "The legislature declares that the Workers' compensation laws must not be construed by the courts in favor of any party." This part denies the worker to take any dispute to the courts. Has the legislature found our courts wanting or needing.

Page 6, line 5, part E states "an employee is not eligible for re-employment benefits if" (see part 2 line 11) the employer has been previously rehabilitated in a former workman's comp claim and returned to work in the same or similar occupation in terms of physical demands." My question is, if the injury is clearly a new injury, why do you not want to give the injured worker his right to re-employment benefits or have you guys decided to have this as a once-in-a-lifetime benefit. What a sorry commerce kissing plan.

Page 7, line 14-19 - If an employee is in the re-employment part of workmen's compensation, an employee will be considered non-cooperative if he fails to maintain average grades (C) in any schooling they propose, and if you don't maintain an average C grade, you are history. Any one who can see through a ladder can see that this new piece of legislation is definitely not for your average worker. If the average construction hand could hold down average graded (C), or better, he darn sure would not be a blue-collar worker.

Page 9, line 4-6, the cost of the re-employment plan incurred under this section shall be the responsibility of the employer, but may not exceed \$10,000. It will take a lot more than \$10,000 to re-employ a man physically incapacitated, especially if a limb is missing.

As the law states, a person doesn't even have to have a degree to be a rehabilitation specialist. I believe they should.

Page 9, line 26, your definition of "employability" is an amazing snow-job designed to dump the worker off workmen's comp. You are aware of this and I plan to make the workers and voters in my voting district aware of this in the next election. Rest assured of this fact. I will also organize other voters in other districts come next election.

Page 10, line 6, if you are injured and on workman's compensation and a job in Timbuktu is available, you must take that job - 3,000 miles from home, family, friends, future union benefits, relatives, possessions, or whatever, or you are off workman's compensation. If by now you have discovered I am mad ----- you are right!

Page 12, line 7-9, this next one really blows my mind. The bill states "the employee may not make more than one change in the employee's choice of attending physician without the written consent of the employer." The injured worker has never been the one who is doctor shopping. It has always been the insurance companies who search (doctor shop) for a doctor who will give them a favorable report or diagnosis and the insurance companies pay well, and I mean well if this new found prostitute will examine you and report back with the right words. They are paid \$700 to \$900 for a 45-minute exam of the injured worker, and if they don't give the insurance company the right report about the injured worker, they are no longer used by the insurance company for independent medical exams. They then are back into honest medicine.

You may not know it, but there are only a few (10 or 12) doctors in town who will prostitute themselves and these are used a lot by insurance companies. Most doctors will give an honest IME, but that is not what the insurance company wants.

Scenario: A man is injured and is sent to town and is usually coerced into seeing the company's doctor or the one recommended by the insurance company. Then he can make only one more change and then must get permission from his past employer (who by now is mad cause this man got hurt) and will not get their permission and must stay with his second choice irregardless of the doctor's field of expertise and specialties.

You are either ignorant or you think the voters are ignorant if you think we will take this piece of legislation as is. Your opinion of the general public must be at a new low if you think we believe this new law is for the injured worker. Don't forget who you are supposed to represent.

Page 13, line 8-9. "The initial treatment plan may not include more than 20 visits in the first 60 days." Why limit the visits to 20 the first 60 days and 4 per month in the next month unless you have completely disregarded the injured worker's needs and rights to fair treatment.

Page 13, line 15-29, more money will be spend by the insurance company on IME than the employees will spend on treatment. And, yet, the insurance company is screaming that too much money is spent on doctors. What a farce!

Page 14, line 1-3, the employee must submit to "[ANY]" examination by the 10 or 12 doctors (prostitutes) or his compensation is suspended. These exams are electro-milogram which is where they stick 2 inch needles into your muscles and they turn the electricity on and see if the muscle moves, which is a hideous thing if a person is afraid of being shocked. And, if needed, the electricity can be turned up to make you do an uncontrolled dance if needed. Usually one visit is all that is needed to get the injured worker to drop workers compensation and find self-help.

Page 14, lines 17-22, here you have limited the injured worker to going to doctors who are average in price for services, but no limit was put on IME doctors. Whose side are you on anyway? All you want is average care for the injured worker.

Page 15, line 1-13. This bill states that if a dispute between the injured worker's doctor and the insurance company's doctor (prostitute) exists, the insurance company's doctor will be presumed to be the correct one. My, my, my, does our prejudice show! You are so narrow-minded and prejudice that a gnat could sit on your nose and kick both of your eyes out.

Same page next " s, same paragraph. You have the audacity to write into this bill these words, "a person may not seek damages from an independent

medical examiner caused by the rendering of an opinion or providing testimony under this subsection, except in the event of fraud." If IME are caught prostituting for the insurance company with a false statement, they will plead ignorance which doesn't constitute fraud.

You have made it an air-tight case for the insurance company. Shame on you! If you had a part in making or drafting this bill, then plead ignorance-----it works for the IME doctor, but don't vote for it.

Page 16, lines 9-11. It reads as follows: "Subject to an employer's or employee's burden of proof, a finding of fact made by the board as a part of a compensation order is conclusive if supported by any evidence." What have you got against the court system in Alaska? Are you afraid of judges and jury's decisions? Our court system may not be perfect at times, but its better than a group of hand-picked workman's comp board members who are also slanted and prejudiced in favor of big commerce and insurance companies.

Page 20, lines 21-23. "Failure to achieve remunerative employability as defined in AS 23.30.04(n)(7) does not, by itseif, constitute permanent total disability." In my mind and to anyone else who has been on workman's compensation, we know what your motives are.

Jerry Brinkley
4106 Northwood
Anchorage, Alaska 99517
Phone: 248-0266

February 2, 1988

Dear Senators and House Members:

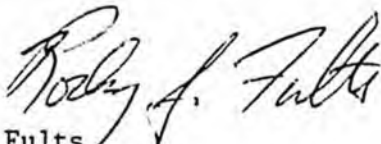
This letter references the proposed new Workman's Compensation Bill (Senate Bill No. 322 and House Bill No. 352). After attending the recent teleconference hearings and testifying before the committee at the public hearing held in Anchorage on January 29, I decided to send each of you a copy of my speech.

I am not a public speaker, nor am I a politician. I am an injured worker who has been through some of the bad faith methods the insurance company practices. This bill made me so mad that I recently registered to vote and have joined a group that will campaign against anyone who votes for the bill as is.

The proposed bill has been tailored to benefit insurance companies and employers, while the employee is often left in the cold. I feel you were elected to serve as the people's voice and to represent the public interest, not the concerns of big money. I am asking for your support in ensuring that worker's needs will be met.

In closing, please feel free to call me if you have any questions or feel I am off base in my statements. If you have already decided to vote against this bill, please disregard this letter. In any case, thank you for your time.

Sincerely,



Rodney Joe Fults
6311 Debarr Road, #124
Anchorage, Alaska 99504
(907) 333-2576

Hello. My name is Rodney Fults and I am speaking as an injured worker that knows the Workman's Compensation System. I've been through it... The reason I got involved with this bill? I read this in the paper....

Worker's Comp committee has office
The Worker's Compensation Committee of Alaska, a statewide employers' organization, has opened a headquarters office in Anchorage. According to a spokesman of the group, WCCA's major goal is the revision of workers' compensation statutes to lower insurance costs while better serving injured employees. The address is 2204 Cleveland Ave., 99517. The phone number is 248-7630.

Well, I went to the Legislative Affairs Building, got a copy of the bill, and read it when I got back to my truck. After I read it, I got out of the truck and walked back to see if I had dropped part of the bill, because I couldn't find the part that "better served the worker."

FIRST OF ALL, I would like to comment on the part that states "the board poses the greatest possible authority in the exercise of its fact finding responsibilities and that the board's decisions be conclusive if supported by any evidence." This means you can't take it to the courts if you feel you've been wronged. The words "any evidence" could mean "wrong evidence" or "bad evidence." This is a clear violation of the 14th Amendment of our constitutional rights...the right to due process. What's wrong with the WCCA? Don't they have any faith in the Alaska Court System? They trust twelve board members but not twelve honest people and a judge? I feel this gives the Comp Board too much power. We need a check and balance system.

SECOND...the part of the bill that states changes of benefits according to what state you live in...I believe this will encourage out-of-state hiring, especially for self-insured companies. It would be cheaper if you had a job going and some worker from Mississippi was injured than if an Alaskan worker was injured. Alaskans would be discriminated against more than they are now. Imagine living in Anchorage and having to get a post office box in Seattle so you could get a job in Alaska...

THIRD...The Independent Medical Exam...This bill talks about cutting medical cost, yet at the request of the insurance company an injured worker must go to a doctor, hand picked by the insurance company, for an exam. This doctor is paid very well--\$500 to \$1,000 for 30 to 45 minutes. If the doctor doesn't give the report the insurance company wants, they discontinue future use of this doctor for Independent Medical Examinations. If he gives them the report they want to hear, they've found themselves a "new friend." As a normal doctor visit only averages \$50.00, I feel this should be looked at as a bad faith method.

FOURTH...Litigation...Litigation is brought on by the insurance company's lawyers to try and get out of the responsibility, not the injured worker trying to get on workers compensation. Defense lawyers are paid two to three times the amount the lawyer for the injured worker receives. Lawyers fees for the injured worker have to be okayed by the Comp Board. If they are not okayed, they will not be paid. The defense lawyers, on

Section #9
Page 1
House Bill
#352

Sec. #21
Page 19

Sec. #10
Page 13

the other hand, do not have to be okayed and they can make up any excuse to litigate a case--literally "starving out" the injured worker in the process. This should be changed to where all lawyers fees need to obtain approval from Board. This needless waste of money should be stopped.

FIFTH...I would like to see a breakdown in cost. What are the litigation costs listed under? Rehabilitation? Medical? Wages? I also feel that before anyone votes on this bill, insurance companies should show their profit margins for last two years as premiums have gone up 40 to 60% in that period. A lot of costs seem to be hidden or not monitored. As one committee member said in the public hearings in Juneau last week..."they have a difficult time getting that information." If only 30 cents of \$1.00 goes to the injured worker, I think we should know exactly where the rest goes...

SIXTH...The subject of a Rehabilitation Specialist...They want to cut cost, but yet they speak of hiring more people through the State. This would not only give one person too much power over another person's future, but would also add cost to the State. I feel rehabilitation should be a voluntary program. This certainly needs to be re-examined.

Sec. #6
page 4

SEVENTH...Cooperation...If you don't cooperate with the Rehabilitation Specialist you lose your benefits. That means if you don't agree with what they say about your future, you're screwed. If you don't attend designated programs, your benefits stop. Does this mean if a person gets the flu and misses a week of school, they're out of the program? These things are worded too vaguely. It leaves too many loopholes that are not to the injured worker's advantage.

Sec. #6
page 7

EIGHTH...Requires the most recent employer to make the compensation payments if there is a dispute of liability. This should not even be in this bill. There is already a law that covers the "last injurious exposure". All this would do is discourage anyone from hiring you if you've ever been injured before.

Sec. #19
page 17

NINTH...Section 9 deals with a "written plan for continuing medical treatment" within seven days of treatment from your attending physician. I don't know about you, but I'm not a damn car going to the body shop for an estimate. Doctors don't always know what you're going to need in a week.

Sec. #9
page 13

TENTH...I don't agree with this bill, but I do agree with a maximum of \$700.00 per week. I don't know many workers who can't make it on that amount.

Sec. #21
page 18

In summary, I've listened to several people in Juneau stand up and beg for the legislature to pass this bill "as is" because the WCCA worked so hard putting it together. Hard work isn't the issue here. Jesse James worked hard, but that doesn't make what he did right. I've also heard Workman's Comp referred to as a runaway train. You don't stop a runaway train by shooting the passengers.

Next time the WCCA decides to write a bill of this nature, I hope they talk to the workers and ask for their input.

Rene Bales
4859 Wesleyan
Anchorage, Alaska 99508
February 5, 1988

FEB 10 1988

Dear Representative:

We all agree the system is not working. We all agree too much money is spent to keep the present system. But a wrong doesn't make a right! Things that need to be changed should equally be done for the good of all and not the good of some. Injustices have to stop. For by whatever name they are called they do exist and are causing a lot to hurt. I for one would like to see costs down but not at the expense of the worker and family. They are the real victims. The insurance raises premiums, the employer pays, but what does the worker do when he is injured, unable to work or make wages that are not able to put food on the table? It is well and good to say that people are using the system for monetary gain, but lets be sensible, who stands to gain by all of this, surely not the injured worker. If you really check claims you will see that most of the money goes to the doctor, rehabilitation, therapy and defense attorney. Only after people can't afford to have to hold out any longer they submit and accept too soon and settle. I know of many of such cases.

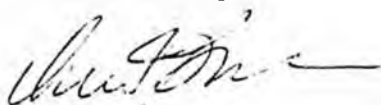
It is a known fact that doctors are being influenced prior to doing an IME requested by defense attorneys. They are told what they want to hear and some doctors very unprofessionally comply even at the point of asking such questions as how much money the injured workers' spouse makes, why are they doing this (meaning going to hearing). Vocational Rehabilitation doesn't help. They go through the motions but they know there is no industry or job that will employ injured workers with limitations. They collect all that is in the kitty and more and after harrassment, lies, etc., they throw you to the wolves. As for the word stress, you can be sure that by the time they get through with you if you were a normal, unstressed person, you aren't after they are finished. Some doctors treat us like criminals and by the time vocational rehabilitation gets through with you we are nothing. But that's OK with them. They can blame stress that may have been pre-existing and try to get away from the main issue that you are injured. You are not OK and will never be again. Your life has changed and it is easy for those who are not in your shoes to say forget the continuous harrassment. The injured worker has trouble getting an attorney when by law they only get 10% on top of the benefit awarded. Thus very few attorneys who are willing to stay in workers' compensation cases because there is little money in it but the defense attorney have the right to

set fees and they can afford to spend unlimited amounts to find reasons as to why claimants shouldn't receive the money due him or her even after proof of injury. IME's only serve for the purpose of finding a willing doctor to lie or twist the truth and we have quite a few in this town that are doing just that. If this situation exists now it can only worsen by giving insurance carriers power without repercussion when mistakes are made deliberately. It is ironic that insurance companies want to take steps to stop doctor shopping by workers, for the reverse is true. IME's are intended for just that and injured workers are usually being sent to them even after medical proof on disability. In my particular case the doctor's deposition in my favor I ended up paying for \$660 for wasn't even introduced.

I go on with life for me it will never be the same. I have lost 6½ years of my life, the years when I should have been the happiest. I feel like an old lady already unable to do the things I like. All they can say is chronic pain - Give me a break! Why would I want to not work? The money I get now isn't even enough to go out to dinner or pay for the help in my house that I need. I was a very happy energetic person before. I enjoyed work and independence. I have nothing to gain from this except misery. I would gladly give you the \$35.00 a a week if I could gain my health back.

Sincerely,

RENE BALES



FEB 11 1988

February 5, 1988

Dear Representative Sund:

You have before you an important piece of legislation regarding workers compensation. If it passes it will go a long way in reducing costs and taking more appropriate care of our injured workers instead of all the doctors, lawyers, chiropractors, and rehabilitators the current system is designed to reward. I would strongly urge you to support HB 352 in an effort to stem the losing tide of worker compensation premium costs in Alaska. It has the broad support of management and labor, and even though not everybody is happy with it, I believe it will do the job we want our comp system to do for us.

Please support the effort put forth by labor and management, and help our economy at the same time.

Thank you.

Respectfully,



Larry Peck
3136 Doil Drive
Anchorage, Alaska 99507

FEB 22 1988

Taylor

CONSTRUCTION SERVICES, INC.

DESIGN • REMODELS • ADDITIONS

Representative John Sund
P.O. Box V
Juneau, Alaska 99811

Feb. 16, 1988

Dear Representative Sund:

I'm writing as a small business person who is trying to stay alive in these tough economic times. While we are able to bring most of the overhead cost for our business under control the one that needs to be brought back to a reasonable cost can only be corrected with your help of legislative action.

Workers Compensation Rate for construction has risen over 50% for carpentry in the last two years - while the construction industry has been the hardest hit industry in the State's recession. It is literally forcing companies to get rid of any employees.

On top of the rising cost, in my business I have been able to watch the devastating results of a bogus claim by an employee who was hurt on the weekend working on his own home. He made more than any of the carpenters which I had working because of the tough economic times. Tell me, what incentive did he have to go back to work. Especially when he moved back to North Dakota and lived comfortably on the income from workers compensation paid at the Alaska level. After a settlement in March because he can never work as a carpenter again, I recently got word that he is framing in Oregon now. So take the 50% increase of workers compensation for carpentry and add a modification factor of 1.39 because of the incidence above.

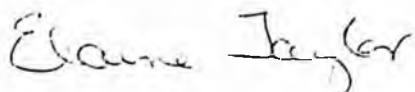
I understand that the major opposition to the compromise bill negotiated between labor and management is coming from the chiropractor community and the claimants attorneys. I can certainly see why they have an interest in the bill as the people whose pockets are affected but what about those who are paying for the cost and are being forced out of business for this large contingency at the feeding trough. I would love to have someone pay for me to see a chiropractor every week. It is a real addiction that makes one feel relaxed. What is asked of the bill is no more than accountability by those who are paying for the cost. It has always been my understanding that a profession is

one who polices its own profession. The fact that there are such documented claims of abuse by some chiropractors only shows that they as a profession have forced others to monitor because they are not willing to do it themselves.

The recent report to the Senate & House joint hearing of the Labor and Commerce Committees the insurance industry testified without the bill now before the Legislature that there would be a guaranteed increase of workers compensation of 10% to 30%. Small business people cannot keep biting the bullet of these increases so that special interest groups such as the chiropractors and claimants lawyers can be assured of their present level of living. If two groups of such diversified interest as labor and management can make a compromise - and these are the two groups that pay the bills and receive the benefits- than those who are living off the shirt tails need to step back so that the other two entities can exist.

I urge you to take quick action to protect Alaskan jobs and businesses by swift action on the labor-management workers compensation reform bill.

Sincerely,

A handwritten signature in cursive script that reads "Elaine Taylor". The signature is written in dark ink and is positioned above the typed name.

Elaine Taylor

FEB 22 1988



OK Lumber Company, Inc.
Building Supply Center & Hardware

February 7, 1988

P. O. BOX 10449
FAIRBANKS, ALASKA 99710
(907) 457-6270
FAX (907) 457-3122

Representative Dave Donly
Pouch Y State Capital
Juneau, Ak., 99811

Ref: Workmans Compensation HB 352

Dear Mr. Donly,

Thank you for sending House Bill 352 and Memorandum,

Section 4. AS 23.30.020 has some great loop holes for the attorneys to fight over to get a greater piece of the "workmans compensation pie" that was assigned to protect the employer and the employee.

If you will keep intact only item (b) with a period after the word "chapter" and eliminate items (1) and (2) that are immediately after (b), you will have a "cut and dried" piece of legislation.

The fact remains clear in my mind, for the protection of all employers and all the honest employees, who work for those employers who are participants in the WORKMANS COMPENSATION ACT, should NEVER be at risk, due to any employees who lie by filling out a fraudulent application to get employment.

The excessive costs to the employers is what the jest of the re-assessment to this act is all about. Make sure that you write this in a laymens language that can be readily understood by all, and not a preparation for a "feast" for the attorneys to gorge on in the courts!

Sincerely Yours,

Angie Kruckenberg
Angie Kruckenberg

I am sending copies of this to every one that I had sent my original packet providing the evidence of the frauds that we have experienced in our firm. Plus, to those who I feel need to know.

Copy to:

John Sund
Alaska State Legislature
P. O. Box V, Capitol, Room 122
Juneau, AK 99811



**Risk and
Insurance
Management
Society, Inc.**

FEB 22 1988

Alaska Chapter

February 18, 1988

President

HOWARD P. CUTTER
1835 South Bragaw, MS 512
Anchorage, Alaska 99512
(907) 265-8172

TO: Representative John Sund

Vice President

MIKE KLAWITTER
Risk Manager
North Slope Borough
P.O. Box 63
Barrow, Alaska 99723
(907) 852-2611

SUBJECT: HB-352, Workers' Compensation

Dear Representative Sund:

I am writing to you as President of the Alaska Chapter of Risk and Insurance Management Society. Our organization represents about twenty of the largest employers in the State of Alaska, such as State of Alaska, Municipality of Anchorage, Alascom, Enstar, North Slope Borough, Sealaska, Alaska Railroad Corporation, and Alyeska Pipeline Service Company. Employers who are members of RIMS employ more than 36,000 people in the state.

Secretary

GAIL J. JONES
Sr. Insurance Specialist
Alyeska Pipeline Service Co.
1835 South Bragaw, MS 512
Anchorage, Alaska 99512
(907) 265-8798

Workers' compensation rate increases during the past three years have significantly impacted the cost of doing business in the state, whether it be private or public entity. A couple of examples are that oil and gas pipeline operations have jumped from \$3.09 to \$10.83 in 1988, or 251%. Drilling operations have gone from \$11.93 to \$30.26, or 153%. Milliman & Robertson (actuaries) have indicated we could expect a 10-30% increase in 1989 if legislation is not enacted.

Treasurer

IKE CHARLTON
Risk Manager
University of Alaska
Bunnell Building
Fairbanks, Alaska 99775-5580
(907) 474-7428

Many employers, labor representatives and others have spent many hours in 1987 and 1988 working on legislation that would reduce the cost of workers' compensation in the State of Alaska and yet would not deprive the injured worker of his/her right under the law. Although H.B. 352 does not correct all the major problems with the current law, it does correct some of the high cost areas.

Society Director

VICTORIA RATCHYE
Risk Manager
Enstar Natural Gas Co.
P.O. Box 190288
Anchorage, Alaska 99519-0288
(907) 264-3753

There are special interest groups who do not like the bill, i.e. plaintiff attorneys, rehabilitation counsellors, and chiropractors. Labor, the recipients of the benefits, and management, the people who pay the bills, have a consensus agreement on the bill. Therefore, it is paramount you give primary consideration to the majority involved in the process and not the loud minority.

The Board of Directors of RIMS strongly endorse the bill and request your affirmative vote in the committee and on the floor.

Yours truly,

H. P. Cutter, President
Alaska Chapter of RIMS

LARRY BUCHHOLZ DBA I.D.E.A.
Injured or Displaced Employees of Alaska
801 West Fireweed Lane, Suite 200-B
Anchorage, Alaska 99503
(907) 273-3730

February 19, 1988

Dear Friend:

The attorneys who represent injured workers for workers' compensation claims in Alaska have asked me to contact you to inform you of how proposed legislation amending the Alaska Workers' Compensation Act will affect your interests.

The proposed legislation reduces all the wrong things -- it reduces your medical benefits, your time loss benefits and your vocational rehabilitation benefits.

Please complete the enclosed card and mail today. Time is of the essence, because introduction of the proposed legislation in the Alaska Legislature is scheduled to occur on February 26.

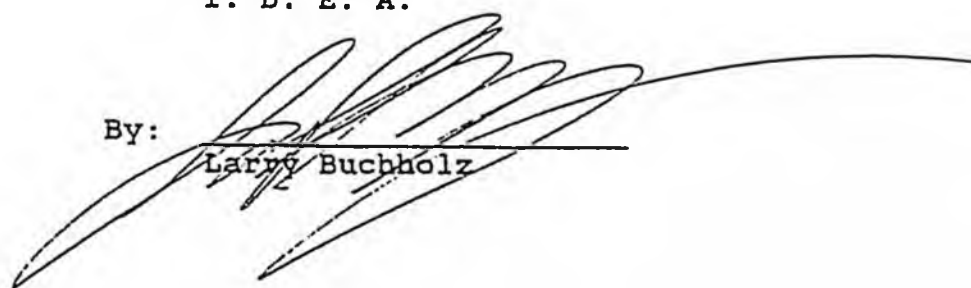
You may also object to particular aspects of the proposed legislation by telephoning the Legislative Affairs Office (phone number 561-7007) and dictating a free public opinion message to any or all legislators and the governor.

By protecting the interests of injured workers, you will protect yourself. Thank you.

Very truly,

I. D. E. A.

By:


Larry Buchholz

LB/jce

FEB 24 1988



Family Chiropractic Center

SUITE 301 • 615 EAST 82nd AVENUE • ANCHORAGE, ALASKA 99518
TELEPHONE 349-8922

February 19, 1988

Senator Tim Kelly
Alaska State Senate
P.O. Box V
Juneau, Alaska 99811

Dear Senator Kelly,

I read your response to one of my patients concerning the new workers' compensation bill. As a doctor, I agree the bill needs revision for cost effectiveness. There are clinics that intentionally abuse workers' comp. cases with excessive billing visit recommendations, there are workers who would rather collect than work and there are insurers who don't cover those with truly severe injuries. The problem lies in that I don't believe the new workers' comp. bill, which gives more control to employers and insurance companies, handles the problem.

Consider the following as part of the solution. We have a Workers' Comp. Board to handle disputes of cases, why not have a Workers' Comp. medical panel to review the need, excessiveness of care, lack of care, rehabilitation, parameters, etc. The current I.M.E. structure is weak, lacks communication and promotes animosity between parties because some doctors become well-paid hired guns for the insurance companies, being paid \$500 - \$1,000 for a fifteen (15) minute exam and writing a report.

If you are really interested in solving the problems. my suggestion would create a definitive structure (M.D., D.C., Psychologist, Rehab. specialist) that could evaluate and set a logical plan as far as the injury, disability, and proper care aspects of each case that exceeds whatever guidelines are reasonable.

Thank you for your attention to this matter. I look forward to a bill that is truly fair to all.

Sincerely,

Avery N. Martin, D.C.

ANM/k

cc: all Representatives

for job - write letter - Andy - ask me
what the terms of his settlement were
How much does he receive per month?

Andy Mischenko
HC 89 Box 608
Willow, Alaska 99688
February 29, 1988

John Sund
P.O. Box V
Juneau, Alaska 99811

Dear Mr. Sund:

I am a workman's compensation recipient involved in a serious problem.

To begin with, my name is Andy Mischenko. I am 45 years old, married, and have four children. I have resided in the Talkeetna, Ak. area since moving to this state in 1968. My wife has lived in the Talkeetna area since 1960. I have been on medical retirement from the Operating Engineers Union Local 302 since my back injury in 1984. I have had three back surgeries and have been informed by my doctors that chances are I will require another surgery. Needless to say, I can no longer return to this or any other type of strenuous work.

Since my wife and I decided many years ago to stay in this area we worked hard, constructed and paid for our home, purchased property, and invested in another commercial building, which we now lease. To acquire what we now have meant that I had to work in remote locations, primarily Prudhoe Bay, on the pipeline, Barrow, ect. This, of course, was a necessity due to the fact that there were no steady, well-paid jobs in my craft in the Talkeetna area. Anchorage was out of the question because its simply too far away to drive back and forth to work.

This is where the problem presents itself. My insurance carrier, Scott Wetzel Inc., has been pushing for a settlement and a rehabilitation plan, which I would be more than happy to resolve if they would be reasonable. Scott Wetzel Insurance and their attorney are attempting to rewrite the Workman's Compensation Laws and set a new president by forcing my family and I to uproot everything we have worked for, leave our house and friends, and move to Anchorage. I know that most Americans abhor South Africa's policy of apartheid by relocating people where the government feels like, and I certainly hope we are not coming to that. So, in response to this threat of relocation, I willingly offered to:

- 1- Taking into consideration my physical restrictions, I offered to take a job at Prudhoe Bay or other remote site which paid enough to make a living for my family and I under the same conditions I had worked before
- 2- I had presented the insurance company as well as the Workman's Compensation a self-employment plan which is a viable part of the Workman's Compensation laws.
- 3- I would be willing to work in the Talkeetna area if a job was available that would make a living for my family and I.

Needless to say, Scott Wetzel Insurance Company has given the above mentioned propositions little or no consideration. I would like to further add that the self-employment plan which I presented was unanimously accepted by all three of my Rehabilitation counselors, my doctors, as well as all the personnel at the Virginia Mason Pain Clinic which I attended last year.

On the 18th of February, 1988, a hearing was held concerning my rehabilitation status. At the beginning of the hearing, my attorney, Mr. Richard Wagg, asked one of the Workman's Compensation Board members to be excused due to the strong evidence of a conflict of interest. This evidence was based on the knowledge that this Board member is a mutual friend of the insurance company's attorney and that this attorney had the Board member in her work resume. There was further proof brought out that the

insurance company lawyer and Board member were working together on material to be presented to the Legislature in order to change Workman's Compensation laws. Needless to say, Mr. Wagg was overruled and the Board member was allowed to hear my case. I believe this disregard for the possibility of a biased decision is highly unethical.

I believe that in this insane rush to save the Insurance Industry as well as big business money, the intent and purpose of the Workman's Compensation program and its recipients are being jeopardized. We, as injured workers, are not represented by a powerful lobby group. Thus, I feel that before the legislature passes further crippling laws there should be an input from the injured people who will be the ones most effected by these laws.

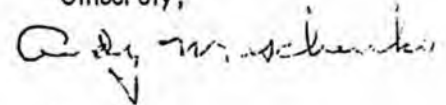
It is very apparent to me as well as many other Workman's Compensation recipients that the present Workman's Compensation laws pertaining to retraining and rehabilitation are not being, and will not be, administered adequately as long as the arm-in-arm relationship between members of the Workman's Compensation Board and insurance industry representatives is allowed to proliferate. Once again, I point to the intent and purpose of the Workman's Compensation Program and ask the Administration to reconfirm the atmosphere of fairness in the decisions made by the Workman's Compensation Board members, collectively.

I believe that if insurance companies and employers spent as much time and money on safety measures in the work place as they spend on lobbying for unfair laws and hiring lawyers to fight Workman's Compensation recipients we would all be better off.

Once again, I ask the Administration and Legislators to allow input from the injured workers who depend on a fair Workman's Compensation program to allow them to return to work as productive members of society. This will only happen if we maintain a strong rehabilitation program.

Any help or advise you can offer will certainly be appreciated. Thank you

Sincerely,



Andy Mischenko

Ph. 733-2357

Andy Mischenko,

Applicant,

Richard L. Wagg,

His Attorney,

vs.

Kodiak Oilfield Haulers,

Employer,

Scott Wetzel Services,

Adjuster.

HC 89 Box 608
Willow, Alaska 99688

1500 W. 33rd, Suite 110
Anchorage, Alaska 99503

4300 B Street, Suite 600
Anchorage, Alaska 99503

741 Sesame Street Suite 1A
Anchorage, Alaska 99503

HC Box 608
Willow, Alaska 99688
March 31, 1988

Representative John Sund
2504 2nd Avenue
Ketchikan, Alaska 99901

Dear Representative Sund:

I certainly was happy to receive your reply to my letter concerning my Workers Comp. case.

In response to your question concerning my settlement terms, I will try to be as brief as possible. I received a decision from a Workers' Compensation hearing that was held February 18, 1988 concerning my rehabilitation status. The outcome was as follows:

1. According to Workers' Compensation Board, bi-weekly payments would be made to me until the sum of between \$50,000-\$60,000 was used up.
2. As far as the actual rehabilitation, the Board assigned me to go to work on a nonexistent job; as ludicrous as this may sound, this is the morbid truth. You can verify this through my Comp. attorney, Mr. Richard Wagg, at (907)258-7077 or 1500 West 33rd Avenue Suite 110, Anchorage, Alaska 99503.
3. The insurance company and Workers' Compensation Board failed to address or recognize the fact that in April 1987 further MRI tests on my lower back clearly showed further disc herniation as well as an unstable fusion from a previous operation.

As I stated in my previous letter, I would be more than willing to return to work once my medical situation could be pronounced as stable. I have also requested help in pursuing a self-employment plan, which I have submitted on two occasions and which has been highly thought of by the majority of medical and rehabilitation people involved in my case.

The unanimous concensus is that I cannot return to work as a 302 operating engineer or to any other construction-related job at which I am trained or skilled. The severity of my back injury and the resulting operations prevent this. The Workers' Compensation Board, as well as the insurance company involved, have given little or no consideration for my self-employment plan,

have given no consideration for additional schooling or retraining, and have not offered to re-hire or help in finding a job at which I can make a living.

My opinions of present and proposed Workers' Compensation legislation are as follows:

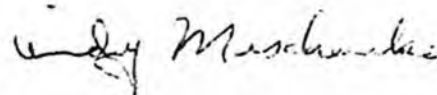
1. Present and proposed legislation would place all injuries, re-injuries, or even questionable medical problems as being the responsibility of the last or present employer. My question to this is, what incentive would this give to a potential employer to hire a person who has had a previous history of personal injuries in the neck, back, knees, ect? Certainly, this does very little to help a viable rehabilitation program for previously-injured employees.
2. Present laws prevent an employee from suing or taking any legal action against an employer for negligence or having an un-safe workplace. I have never been a person who believes in suing anyone for an extravagant amount of money, but I do believe that the state, through the Workers' Compensation system, should be allowed to fine or penalize employers for negligence on the job. Wouldn't it be appropriate to suggest that this type of checks and balances system would help alleviate or reduce accidents which would be to everyone's benefit.
3. To the best of my knowledge, our Workers' Compensation boards consist of a representative of the insurance industry, another representative of the employers and big business conglomerates, and lastly, a supposed representative of labor (in theory). Since it takes a majority vote to make and pass Board decisions, how can we, as Workers' Compensation recipients, expect un-biased hearings and decisions coming out of these hearings? I believe that if a serious inquiry were conducted by the legislature or the administration, the answer would be evident that there has been and will continue to be many injustices perpetrated by the so-called Mutual Admiration Society, composed of the insurance industry, big business, and members of the Workers' Compensation system.

Mr. Sund, I apologize if I sound too bitter, but when my wife's and four children's futures are at stake, I collect the evidence and call a spade a spade! I have mentioned previously that I am 45 years old and I have worked hard for the majority of those years to try and better my family and I would like to think that there is an opportunity to continue providing for them.

I am sad to admit that out of the 10 copies of the previous

letter which I sent out to you, as well as your fellow legislators, you were the only person to reply. On the other hand, it certainly is gratifying to know that we have an elected representative such as yourself who unselfishly lives up to the position of a good representative of the people. I'm sure I can speak for all Alaskans, injured or otherwise, in passing on a very special "Thank you!"

Respectfully yours,


A handwritten signature in cursive script that reads "Andy Mischenko". The signature is written in dark ink and is positioned above the printed name.

Andy Mischenko

MAR 09 1988

RG & B CONTRACTORS, INC.

P.O. Box 213609 • ANCHORAGE, ALASKA 99521 • 338-2667



2 March 1988

Rep. John Sund
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Rep. Sund:

As an Alaskan employer I urge you to support the Workmens' Compensation Bill currently before the House of Representatives as it is written.

The labor management task force has worked together for over a year to reform a system that will benefit employers as well as employees.

If the current system is not changed it will prove devastating to many Alaska businesses. Some have already closed their doors and others may follow if there are more rate increases. In this economy we can not continue to allow the loss of jobs.

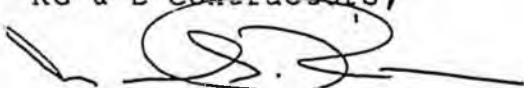
Our business competes with outside companies who have much lower Workmens' Compensation rates. Considering the low profit margins allowed in this market we are finding it increasingly difficult to compete with these firms. This bill is crucial to this business as well as the few remaining businesses' in this community.

This company has personally seen many abuses in the system which has been extremely costly to us. The system needs this reform to fairly represent both the employee as well as the employer at a reasonable cost.

Please support this bill as it has been presented to avoid the loss of more jobs and businesses' in the state.

Sincerely,

RG & B Contractors,



Barbara A. Reiersen
Secretary/treasurer

CC: file

Alaska Chiropractic Society

MAR 1 1988
P.O. Box 111507 • Anchorage, Alaska 99511

March 4, 1988

Representative John Sund
P.O. Box V
Juneau, AK 99811

RE: Memorandum from Senator Tim Kelly

Dear Representative Sund,

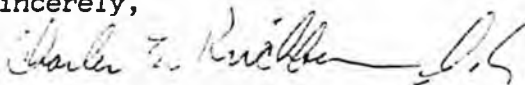
Senator Kelly states in his 2/1/88 memorandum (see attached) that misinformation has been distributed by Alaska chiropractors concerning S.B. 322 and H.B. 352. I believe anyone who studies the proposed workers' compensation bill with an open mind will see that the bill greatly reduces the injured workers' rights and is specifically targeted against chiropractors.

Two actuarial studies have recently been completed by NCCI and Milliman & Robertson, Inc. to see what cost impact the new workers' compensation bill will have. Both studies show no significant cost savings.

Past workers' compensation studies comparing chiropractic vs. medical care have shown chiropractic care to be of significant cost savings in California, Oregon, Washington, Wisconsin, Florida, Colorado, Kansas, Montana, etc. I, therefore, ask you why would Senator Kelly support a bill that two actuarial studies have shown will not produce any significant cost savings, that reduces an injured employees rights and discriminates against a form of treatment (chiropractic care) which has been shown to be cost effective? I think you will find, in this case, Senator Kelly, not the chiropractors, has been misinforming the public about S.B. 322/H.B. 352.

I believe that further statistical analysis should be performed before hastily passing an ill-conceived workers' compensation bill. I am, therefore, asking you not to support S.B. 322/H.B. 352. If, however, you feel that a workers' compensation bill must be passed, I have enclosed revisions to the bill our attorney drafted. We believe these changes will protect the injured workers' rights and decrease cost at the same time.

Sincerely,


Charles E. Krichbaum, D.C.
President

A. Fred Miller
Admitted to practice in Alaska & Wyoming

A. FRED MILLER

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Michael P. Heiser
Admitted to practice in Alaska & Washington

March 7, 1988

Representative John Sund
Alaska House of Representative
P. O. Box V
Juneau, Alaska 99811

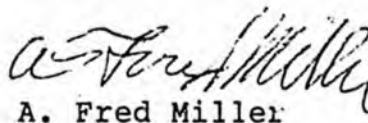
Dear John:

I am writing to you with reference to the changes that are now being made in the Worker's Compensation law. As you know, it has long been that attorneys go out of their way to avoid taking a claimant's case as you know. I have recently written to the Worker's Compensation Department expressing my concern in this regard in general and addressing specific concerns. I'm pleased to say that the staff has written me back and has adopted certain of my suggestions, but more importantly recognizes that while insurers and employers' attorneys are adequately compensated, many times claimants' attorneys are not. In this regard, staff mentioned that AS 23.30.145 has not been amended. I would respectfully suggest that it should be amended to permit a reasonable hourly charge or a reasonable contingency and should also permit the claimant client to advance costs. Right now, it is questionable whether the client can advance costs, and therefore the claimant's attorney may find himself or herself advancing costs in these matters. I truly believe that the whole Worker's Compensation system would run smoother and the workers, as well as the employers and the insurers, would be benefited if that particular statute and the law in general were amended to provide for claimants to have adequate legal representation. To achieve this, the law should provide for reasonable compensation to claimants' counsel.

Representative John Sund
March 7, 1988
Page 2

I hope you will agree at least in principle with the foregoing and be able to have inserted in the present amendments language which will address this problem. Thank you very much for considering this and for your continuing hard work on behalf of your constituents.

Sincerely,

A handwritten signature in cursive script, appearing to read "A. Fred Miller".

A. Fred Miller

AFM:ce

Letters to the Editor
Anchorage, Times
P.O. BX. 40
Anchorage, AK. 99510

March 8, 1988

Dear Editor:

I would like to respond to Mr. Larry Taylor's letter regarding the pending Workers' Compensation legislation. I believe he has not had an opportunity to clearly evaluate the facts of this bill. I personally have been involved in this particular legislation and feel it is grossly unfair to the injured worker. Most importantly, though, is the fact that the injured worker is guilty until proven innocent. If there is a dispute between the employee and the employer, all benefits can be legally stopped (or controverted) until the Board can decide. This can leave the injured worker without any financial support for months (or longer) until he can get a board hearing. I have literally seen legitimately injured workers lose all their savings, their cars, and their homes waiting for a board hearing. So, let us look at who stands to benefit the most from this bill. If you think the injured worker will benefit from this bill, you are wrong. Sure, the minimum benefits have been raised to meet minimum wage, but the maximums have been decreased way out of proportion. Choice of physicians has been decreased, amount of treatment has been limited and must be approved by the insurance company, insurance companies can use out of state organizations to determine fees (making the worker responsible for the difference), and the list goes on. The injured worker cannot by any stretch of the imagination benefit from this legislation as a whole. How about the provider? You made mention that the chiropractors and the claimants' attorneys are the ones making such wonderful livings from the Workers' Compensation system. I cannot speak for the attorneys, but I can tell you that approximately 11% of our practice is Workers' Compensation patients, and we have one of the largest clinics in Alaska. It is not by any means the major portion of our business. Nor do I appreciate the implication that we as a class are anything less than ethical regarding injured workmen. Our fees are our fees, and they are no different if you were hurt on the job or carrying out the garbage. As a matter of fact, studies from around the country have shown that chiropractic is twice as effective as medical care for work related injuries, and many foreign governments have come to the same conclusions, finding chiropractic both effective and cost effective. In a study yet to be released by the

Italian Medical Community, that spanned two years and 17,142 patients, they found that chiropractic care saved 75.55% of days absent from work and 83.6% of hospital admissions. Any implication that chiropractic is not effective or would not save the employer valuable time lost from work can only be based on ignorance of the facts and bias.

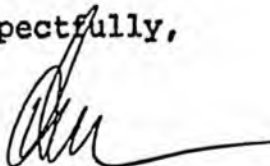
So, let us turn our attention to the employer. Unfortunately, the employer does not stand to gain from this legislation either. As your letter implies, the emphasis is on containing your costs. Will that really be accomplished? Neither of the two actuarial studies performed showed any significant cost savings, and during a teleconference held in Anchorage, an unidentified insurance representative stated that there would be no cost savings. This could actually increase costs due to litigation, and therefore increased premiums.

Let us finally consider the insurance industry, and I include the self-insureds. In my opinion, these are the ones who stand to gain the most. In 1945, the United States legislature passed the McCarran-Ferguson Act, which gave the insurance industry legal ability to monopolize. This has made it difficult if not impossible for state regulatory agencies (ie-Division of Insurance) to obtain accurate information by which to base rates. Therefore, insurance consumers (you and I) are forced to pay rates that are determined by a what-the-market-can-bear attitude. In this proposed legislation, fines for late payments to injured workers can even be avoided by simply providing custodial reports on time (which are already required by law). And the self-insureds are no better. Because of their status, they can avoid some of the laws that apply to the insurance companies, while also avoiding payment of the premium tax which insurance companies are required to pay. That means they enjoy the benefits of the Workers' Compensation system while providing absolutely no support for it.

Mr. Taylor, I have to admit that I empathize with you. I also pay Worker's Compensation premiums for my employees. It is the law. But what is so frustrating is to be forced to buy insurance and having absolutely no input as to its cost. I agree that there needs to be changes to the current law, but not necessarily the ones proposed. We have been led to believe that the "insurance crunch" is our own fault and that we need to do something about it, but I really think this is the smoke from another fire. Nowhere in this bill does it say anything about mandating a premium reduction. If insurance coverage is to be required by law, maybe they should be regulated similar to the public utilities. It is your responsibility (and mine) to demand justification for these outrageous premiums, and not just "costs are going up". Insurance companies are getting rich thanks to you and me, and we should have some input into the

process (other than paying into it). I simply do not think the injured worker should be left holding the bag. I hope you will take a second look at the proposed legislation with a more objective eye. I am not opposed to it because it will affect my practice. The impact will be minimal. I am opposed to it because it is arbitrary, it is restrictive to the injured worker, and because it is wrong.

Respectfully,



David J. Mulholland, D.C.
Community Chiropractic Clinic, Inc.

cc: Governor Steve Cowper
Dr. Trevor Ireland, D.C.
Dr. Charles Krichbaum
Alaska State Legislature, et al

Chancy Croft Law Office

738 H Street -- Suite 200
Anchorage, Alaska 99501

MAR 14 1988

Chancy Croft
Michael J. Jensen

(907) 272-3508

456-8777

March 11, 1988

Representative John Sund
Alaska State Legislature
P. O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Representative Sund:

One of the problems with the Alaska Workers Compensation Act is that the existence of insurance often allows employers to ignore violations of safety conditions. Since employers cannot be sued for their own negligence, even gross negligence, some employers get rather callous with regard to the safety of workmen. I believe that this is one of the reasons for the increasing accident rate in Alaska. Employers should not be able to ignore known safety requirements and then hide behind the limited benefits of the Alaska Workers Compensation Act and escape full financial responsibility for the damages they have caused.

This problem came to light recently in Fairbanks where Price/Ciri Construction, J.V. allowed a dangerous condition to exist which resulted in permanent brain damage to a hard working, operating engineer. My unfortunate client may be permanently, totally disabled for the rest of his life. The accident could and should have been avoided. Enclosed is a copy of the notice that was immediately sent by the Corp of Engineers to Price/Ciri Construction as a result of their past and present wanton disregard of safety regulations.

I would like to see the Alaska Workers Compensation Act amended so that employers who violate known safety regulations lose the exclusiveness of liability provision of the Alaska Workers Compensation Act. Would you support such an amendment?

Very truly yours,

Chancy
CHANCY CROFT

PS. Please let me know as soon as you schedule hearings on this bill as I would like to attend. Thanks CC