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**Workers' Compensation Advisory Council
Meeting Minutes
July 31, 2007
Kneip Building Conference Room #3
Pierre, SD**

The Workers' Compensation Advisory Council met on Wednesday, July 31, 2007, at the Kneip Building Conference Room #3 in Pierre, South Dakota.

Members Present

Dennis Daugaard, Chair
Pam Roberts
Paul Kinsman
Connie Halverson
Randy Stainbrook
Paul Aylward
Carol Hinderaker
Glenn Barber
Jeff Haase
Chris Lien

Members Absent

Guy Bender

Others Present

James Marsh
Rep. Mark Willadsen
Fern Johnson
Randy Moses
Mike Shaw
Rex Hagg
Larry Klaahsen
Sue Simons
Sharon Bossman
Kelly Hefti
Lynn Job
Mary Merritt
Mike Taylor
Phil DeGreff
Patsy Mehlhaff
Naomi Cromwell
Bob Mercer

Chairman Daugaard called the meeting to order, and roll call was taken by the Secretary, Sarah Trebesch. Chris Lien MOVED approval of the minutes from the May 30, 2007, meeting. Glenn Barber SECONDED. Motion Carried.

Chairman Daugaard reviewed the agenda with the council members and advised there were 12 issues for the Council to review. On review, item Issue 11 was withdrawn from the agenda.

The first agenda item discussed was Issue 3, Medical Findings vs. Expert Medical Opinion, with legislation drafted by the Department of Labor (DOL). James Marsh gave an overview of the proposal amended §62-1-15. Public testimony was heard. Carol

Hinderaker MOVED that the Council recommend to the legislation the words “or condition” be added to §62-1-15. Glenn Barber SECONDED. MOTION PASSED with 6 Yea, 2 Nay (Aylward, Stainbrook).

The next agenda item discussed was Issue 6, Medical release, with legislation drafted by DOL. James Marsh gave an overview of the proposal that chapter 62-4 be amended by adding thereto a NEW SECTION. Public testimony was heard. Chris Lien MOVED that the Council include in its report to the Governor the new section under chapter 62-4 with the amendment. Chairman Daugaard SECONDED. MOTION PASSED unanimously.

The next agenda item discussed was Issue 9, Delays – Approval of permanent benefit filings, legislation drafted by Farmers Insurance by letter. Farmers proposed that chapter 62-4 be amended by adding thereto a NEW SECTION. Public testimony was heard. Carol Hinderaker MOVED to defer action on the issue until a representative from Farmers Insurance can be available to further explain their proposal. Glenn Barber SECONDED. MOTION PASSED unanimously.

The next agenda item discussed was the package brought by Fern Stanton Johnson. Johnson proposed that chapter 62-6 and §62-6-3 be amended by adding thereto a NEW SECTION; that §62-6-3 be amended, that chapter 62-7 be amended by adding thereto a NEW SECTION, and that chapter 62-4 be amended by adding thereto a NEW SECTION. Public testimony was heard. Paul Aylward MOVED to recommend to the Governor that the Council would support this legislation before the next legislative session. Randy Stainbrook SECONDED. MOTION FAILED with 2 Yea, 6 Nay (Hinderaker, Halverson, Haase, Lien, Barber and Daugaard).

The next agenda item discussed was Issue 10, Delays – Penalty for failure to provide medical reports brought by Farmers Insurance. Issue withdrawn by Farmers Insurance.

The next agenda item discussed was Issue 12, Increasing penalties for late reporting drafted by DOL. James Marsh gave an overview of the proposal that, Part 1 of § 62-6-2 be amended. Public testimony was heard. Chris Lien MOVED to amend the proposal and have DOL come up with a proposal for the additional language. Glenn Barber SECONDED. MOTION PASSED with 6 Yea, 2 Nay (Aylward, Stainbrook). Paul Aylward MOVED to amend the proposal by adding the last sentence of section two as the last sentence of section three. Connie Halverson SECONDED. MOTION PASSED unanimously. Glenn Barber MOVED to recommend the entire issue 12 as amended. Randy Stainbrook SECONDED. MOTION PASSED with 6 Yea, 2 Nay (Hinderaker, Lien).

The next agenda item discussed was Issue 7, Permanent total disability (Schied case), brought by DOL and American Insurance Association. Proposed was that chapter 62-4 be amended by adding thereto a NEW SECTION. Public testimony was heard. Issue withdrawn by DOL.

The next agenda item discussed was Issue 1, Causation; “contributing factor” vs. “a major contributing cause” (Orth case), proposed by DOL. The proposal was “that §62-1-1 be amended. Public testimony was heard. Carol Hinderaker MOVED that the Council adopt the recommendation of DOL in issue 1 as written. Chairman Daugaard SECONDED. MOTION CARRIED with 6 Yea, 2 Nay (Aylward, Stainbrook).

The next item discussed was Issue 5, Employer notice and “actual knowledge” (Orth case), brought by DOL. The proposal was that, §62-7-10 be amended. Public testimony was heard. Chairman Daugaard MOVED to strike the words “and that said injury was work-related” add the words, “without the need of inquiry”. Chris Lien SECONDED. MOTION CARRIED unanimously. Chairman Daugaard further MOVED to recommend issue 5 as amended. MOTION CARRIED with 6 Yea, 2 Nay (Aylward, Stainbrook).

Chairman Daugaard MOVED to defer action on the remaining issues until the next meeting. Paul Aylward SECONDED. MOTION CARRIED.

The next meeting is scheduled for August 27, 2007, at 10:00 a.m. in Kneip Conference Room #3.

Chairman Daugaard declared the meeting ADJOURNED.