

**Minutes**  
**Labor-Management Advisory Council**  
**August, 2016**  
**Big Sky Montana**

**Advisory Council and Subcommittee members present:**

Lt. Governor Mike Cooney  
Bob Worthington, Montana Self Insurers Association  
Al Smith, Montana Trial Lawyers Association  
Marvin Jordan, Montana Contractors Compensation Fund  
Chris Cavazos, Montana AFL-CIO  
Lance Zanto, Workers' Compensation Management Bureau  
Kevin Braun, Montana State Fund  
Vicky Byrd, Montana Nurses Association  
Bonnie Lyytinen-Hale, Genex Services  
Annette Hoffman, St. Vincent Healthcare  
Bill Dahlgren, Sun Mountain Sports  
Don Judge, Injured Workers Resource Council.  
Jim Larson, Teamsters Local 190  
Larry Jones, Montana Self Insurers Association  
Scott McGinnis, Stillwater Mining

**Project Core Team members present:**

Eric Strauss, ERD Administer  
Bryan Page, Safety & Health Bureau Chief  
Peter Van Nice, Regulations Bureau Chief  
Bill Wheeler, Claims Assistance Bureau Chief  
Mark Cadwallader, Department Legal Counsel  
Jason Swant, Project Manager

**Others present:**

**ERD:** Debra Blossom, Dave Elenbaas, Mona Hylton, Steven Scholl, Misty Knight, Adrienne McLean, Julia Brennan, Barb Gullickson, Karen Wiles, Dave Elenbaas, Ken Buskupiak, Julia Brennan, and Maralyn Lytle  
**Department of Administration:** Kirby Fugle  
**MMIA:** Ann Komac  
**NCCI:** Bruce Spencer  
**Kalispell Regional Healthcare:** Brad Roy, Dean Stimpson, Kelly Stimpson  
**Genex Services:** Tom McLaughlin  
**Midland Claims Industrial Injury Claims:** Michael Marsh  
**MT Chamber of Commerce:** Bridger Mahlum  
**HCBD/WCMB:** Lisa Brooks, Matt Chambers  
**Rosauers Supermarkets:** Jamie Haline

### **I. Welcome and Introductions**

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

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

The agenda and minutes from the June 15, 2016 were approved.

### **III. Petition to Re-open Medical Benefits - Jason Swant**

Jason reviewed the process, the development of rules, the process involved with a joint agreement to re-open, the panel process and the 2 year review process. He advised of ERD training during the months of February and March with 153 participants in Great Falls, Billings, Missoula and Helena. He provided current statistics consisting of the receipt of 7 petitions, 2 of which the medical benefits have been re-opened, 1 was dismissed as out of the 90 days of closure, 1 is pending and 3 are joint agreements. He advised 2 of the petitions included legal representation for the claimant. There has also been a survey designed to see how the process is working.

### **IV. Drug Formulary – Bill Wheeler**

Bill provided an overview consisting of the types of drug formularies, evaluation priorities, formulary goals and outcomes, existing statutory structure, formulary design and maintenance, morphine equivalent dosage, states with WC formularies, state comparison, and states looking at a drug formulary. Considerations would be to develop a formulary or borrow a state developed formulary, possibly a Schedule II only proprietary formulary, purchase of a commercial formulary, Montana to incorporate an opioid guideline into current MT Guidelines and; is a current hybrid utilization and treatment guidelines still the best option for Montana. Recommendations would be for LMAC to support the department to develop a team to investigate a drug formulary for Montana and request legislation in 2017 supported by LMAC, authorizing the department to, by rule, establish a workers' compensation drug formulary (all drugs or Schedule II). He advised it would take up to 18 months to study options, make decision, and implement. A motion to accept the department's recommendation was passed.

### **V. Safety information – Bryan Page**

Bryan presented a Draft Rule titled "Montana Buy Safe Procurement Policy" providing 4 options in a hand-out consisting of 1) contractors providing certification involving a mod factor: 2) provide certification of the DART rate: 3) provide certification of worker's completion of OSHA's 30 hour safety training or: 4) the contractor has obtained a comprehensive safety consultation form the Montana Department of Labor and Industry within 1 year of the bid submission. Discussion involved whether or not penalties would be involved, if there will be time to comply without holding up bids and the safety record would only be certified and not made public.

Bryan also advised of the public safety certification curriculum would be 60 hours free at the SafetyFest in Great Falls in March and that there were 300+ attendees at the SafetyFest in Bozeman.

**VI. Best Practices for Claims Handling Strategies – Jason Swant**

Jason described the department's role which is ensuring compliance with the Workers' Compensation and Occupational Disease Acts through education, consensus building and dedication to customer service. He reviewed common claims handling issues, remedies available through the department, and voluntary certification for claims examiners.

**VII. Annual Report – Bill Wheeler**

The Annual Report is now available and LMAC members were provided a copy.

**VIII. Kalispell Regional Medical Center – Eric Strauss**

KRMC will be presenting proposed legislation adding 39-71-125 or amending 39-71-316 Filing true claim – obtaining benefits through deception or fraudulent means. The new Section or amendment to 316 would be: "False statement on employment application or questionnaire. A false statement made by an employee, either in an employment application or a questionnaire calling for disclosure of the employee's medical condition, bars all benefits under this title if: 1) the employee knowingly or willfully, by omission or commission, makes a false representation regarding the employee's physical condition; 2) the employer relies upon the false representation and 3) the employer's reliance is a contributing factor in the hiring or continued employment of the employee". A handout was provided outlining a summary of the issues involving safety, the cost of fraud and a sampling of similar legislation in other states.

**IX. Other Matters (Information only) – Lt. Governor Mike Cooney**

Mike announced the retirement of Bob Worthington thanking him for his service and wishing him well on behalf of himself and the LMAC members.

**X. Public Comment – Lt. Governor Mike Cooney**

There was not public comment

**XI. Next Steps – Jason Swant**

Next LMAC Meeting October 12, 2016  
Radisson Colonial Inn, Helena

The meeting was adjourned