

Approved: 1/24/96 la
Date

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR.

The meeting was called to order by Chairman Al Lane at 9:05 a.m. on January 17, 1996 in Room 526-S of the Capitol.

All members were present except: Rep. Vaughn Flora - excused
Rep. Gary Merritt - excused

Committee staff present: Jerry Donaldson, Legislative Research Department
Bob Nugent, Revisor of Statutes
Bev Adams, Committee Secretary

Conferees appearing before the committee: Terry Leatherman - KCCI
Phil Harness - Director, Workers Comp
Steve Richards - member, Workers Comp Advisory Council
Wayne Maichel - member, Workers Comp Advisory Council
Terry Leatherman - member, Workers Comp Advisory Council

Others attending: See attached list

The minutes of January 11, 1996 were handed out to the committee and staff. They will be approved at the next meeting. Also a list of key department staff for the Kansas Insurance Department was distributed to the committee. (see Attachment 1)

Terry Leatherman, representing the Kansas Chamber of Commerce and Industry, asked the committee to introduce a bill regarding the classification of direct sellers in the unemployment compensation law. These direct sellers include those such as Mary Kay or Amway salespeople who work out of their home selling products or services. They ask that Kansas adopt a federal definition of direct sellers that would classify these salespeople as independent contractors for unemployment compensation purposes. A motion was made by Rep. Presta to introduce the bill. It was seconded by Rep. Geringer. The motion carried.

Chairman Lane introduced Phil Harness, the new Director of Worker Compensation, to the committee. He began by giving a short overview of the '93 Reform legislation, what it is doing and what it is not doing. In his written report to the committee is five recommendations for revisions in the law that the Workers Compensation Advisory Council have requested. (see Attachment 2) The Senate will introduce the bills needed for these changes.

He had a second hand-out with an update from the new section of Workers Comp, the Fraud and Abuse Section. (see Attachment 3) He also mentioned a booklet that all legislators would receive in their mail today from the Division of Workers Compensation. It includes statistical information about the division. He stated that there are still cases coming through the division that occurred before the new law, and the effect the reform will have on the system is not totally known. He concluded by answering questions from the committee.

Steve Richards, member of the Workers Comp Advisory Council, talked a little about being a member of the Council. He was involved in the reform measure in 1992, and was recently appointed to the council. He feels that the process of negotiations that takes place between the business and labor community in council meetings is working very well.

Wayne Maichel, member of the Workers Comp Advisory Council, spoke about the work done by the council. He agreed that the benefit review conferences are not working out. Terry Leatherman and he will be presenting to the council meeting today, a new process they hope will make these conferences work better. He feels that the council should continue. He answered questions from the committee.

Terry Letterman appeared as a member of the Workers Comp Advisory Council. He feels that the massive task that needed to be worked out in the '93 Reform Act will be avoided in the future if changes in the law are made as they are needed.

The committee was adjourned at 9:40 a.m.

The next meeting is scheduled for January 18, 1996.

HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE
GUEST LIST

DATE January 17, 1996

NAME	REPRESENTING
Barb Long	Workgas Comp.
Phil Haddess	" "
David Shufelt	KDHR - Workers Comp
Callie Denton	KS Insurance Dept
Algia M. Vaughn	" "
Rich McKee	KS Livestock Assoc.
JANET STUBBS	KS BLDG. IND. ASSN.
Bill Curtis	KS Assoc of School Bds
JOHN KIEFHABER	KS. HEALTH CARE ASSN.
Kathy Kirk	OJA
DON SNOODGRASS	Kansas FIOD DEALERS ASSN.
Jessie S. Stenamer	State Farm
Christy A. Caldwell	Topeka Chamber of Commerce
Bill Overbey	Junction City - Crossroads
Steve Ref	" " "
FRED LUCKY	KANSAS HOSPITAL KSSN
Mark Powers	J.C. Leadership
Buck Wilson	" "
Mark Overbey	KDHR / A.G.

Kansas Insurance Department

420 S. W. 9th Street
Topeka, Kansas 66612
(913) 296-3071
Consumer Hotline 1-800-432-2484

Key Department Staff

Robert L. Kennedy, Jr. 296-7804
Assistant Commissioner

Brian Moline 296-7806
General Counsel

Tom Wilder 296-7807
Director
Government and Public Affairs

Joe Scranton 296-7822
Director, Consumer Information

Kathy Greenlee 296-7827
Consumer Assistance Supervisor

Bill Wempe 296-7845
Fire & Casualty Supervisor

Rich Huncker 296-7850
Accident and Health Supervisor

Marlyn Burch 296-7856
Life Supervisor

Ed Mailen 296-7858
Agents and Brokers Supervisor

Don Gaskill 296-7821
Chief Financial Examiner

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Attachment 1*

REPORT TO HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE

BY PHILIP S. HARNESS, WORKERS COMPENSATION DIRECTOR
AND CHAIRMAN OF WORKERS COMPENSATION ADVISORY COUNCIL

January 17, 1996

The Workers Compensation Advisory Council was established by the 1993 reform legislation and was enacted as K.S.A. 44-596. The members are:

*Philip S. Harness, Director of Workers Compensation
Ray Lagpacan, Beech Aircraft
Terry Leatherman, Kansas Chamber of Commerce & Industry
Wayne Maichel, Kansas AFL-CIO
William Moore, Teamsters Local Union #696
John Ostrowski, McCullough, Wareheim & Labunker
Bill Knox, United Rubber Workers #307
*Daniel Messelt, Charleson-Wilson Agency
Jim DeHoff, Kansas AFL-CIO
Christine Davis, PKM Steel Service, Inc.
Stephen Richards, Yellow Corporation
Kip A. Kubin, Payne & Jones, Chartered

*The representative from the insurance industry and the Director of Workers Compensation are non-voting members.

While many issues have been reviewed, and are still undergoing review, those issues which have been agreed upon and passed by the Advisory Council are as follows:

1. K.S.A. 44-531 should be amended to eliminate the current two (2) year prohibition against lump sum settlements in favor of a nine (9) month limitation; and the prohibition should be eliminated entirely if the employee returns to work for another employer.
2. References to the AMA Guides should be discarded in favor the "competent medical evidence" test as an evidentiary test for the administrative law judges who determine impairment.
3. K.S.A. 44-534a should be amended to delete the requirement that a benefit review conference must be held within fifteen (15) days after receipt of the application for preliminary hearing, in favor of making the benefit review conferences discretionary.
4. In order to address the backlog of undecided cases at the Workers Compensation Appeals Board level, any board member should be empowered to hear and decide an appeal from a preliminary hearing, randomly assigned, and the author of all

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decisions, whether they are appeals from preliminary hearings, awards or otherwise, should be listed.

5. K.S.A. 44-508 and/or 44-543 should be amended so that non-compensated officers and directors of non-profit organizations would come under the protection of the Workers Compensation Act, but may elect out if those officers and directors do not wish to be covered.

The next meeting of the Advisory Council is set for January 17, 1996.

FRAUD AND ABUSE UPDATE

During the past calendar year, our Investigations section has received 266 reports of possible fraudulent or abusive acts of practices. Six hundred twelve (612) reports have been received since January 1994. Thirty of the closed investigations have been referred on for criminal filing or administrative action. The Division is seeking over \$10,000 in administrative fines against violators as well as restitution where applicable.

Nineteen ninety five (1995) marks the second full year of data available which allows us to examine where the reports of alleged wrong-doing are coming from. For some rough comparisons, I would direct your attention to the hand out provided to you. In both years, the largest numbers of complaints received were allegations of wrong doing by claimants, followed closely in both years by complaints against employers.

As you might expect, the most populous counties are location

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of the most reports.

I have also assigned personnel to address the problems of uninsured employers in our state. Over 300 inquiries have been made since late in December of 1995. Of that number 100 required additional investigation to verify insurance coverage. Of the uninsured employers, close to 50% obtained workers compensation coverage after our contact while 17 administrative actions are now pending against the remainder with the goal of that litigation being compliance with the mandate to carry workers compensation insurance.

WAR STORIES

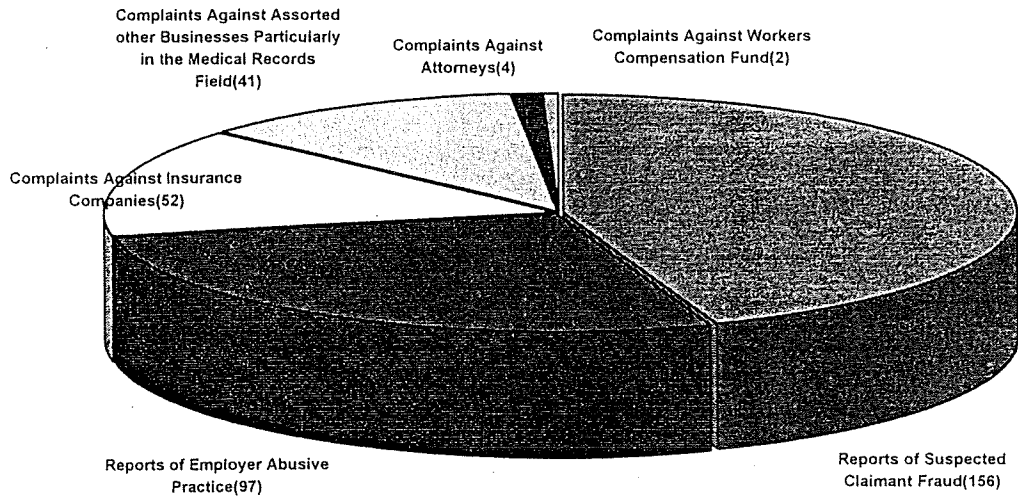
- 1) Nursing. Home administrator operating business without insurance. Employee gets injured. Our investigation shows that this person tried to get claimant, Drs. assistant and claimant's husband to change documents to reflect that the accident happened after the effective date of the new

insurance policy.

- 2) In Shawnee County, an individual was placed on diversion as the result of accepting TTD payments from an employer while opening a rather profitable construction company.
- 3) Another criminal case was filed by the Douglas County D.A. as the result of an individual working while drawing TTD benefits.
- 4) We are still seeing a significant time lapse between the time a judge enters an order and when the checks for medical or benefits are sent. Even Self-Insured are noted among the administrative filings for this violation.
- 5) We have worked closely with the Kansas Insurance Department to ensure that fraudulent insurance products masquerading as Workers Compensation insurance, are not sold in our state.

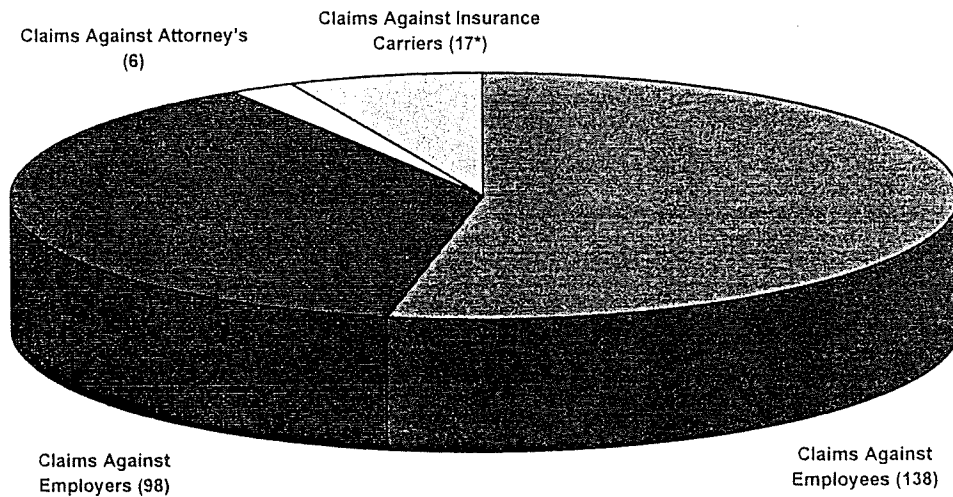
Investigations Opened

For Period January 17, 1994 Thru December 31, 1994



Reported Fraud/Abuse Cases By Complaint

1995



*Claims investigated then forward to Insurance Commissioner for further investigation.