



SB 73 Testimony before the
Senate Committee on Commerce
Larry Karns, Workers Compensation Director
Kansas Department of Labor
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Chairperson Lynn and Members of the Committee:

My name is Larry Karns. I am the Director of the Kansas Department of Labor, Division of Workers Compensation. I am here today to testify regarding the changes to the Kansas Workers Compensation Act proposed by SB 73. The Kansas Department of Labor, Division of Workers Compensation is charged with the administration of the Kansas Workers Compensation Act and the adjudication of issues regarding work injuries in Kansas. The Kansas Workers Compensation Act requires employers to provide workers compensation benefits for employees who sustain work related injuries. Benefits include medical care and monetary benefits.

Since 1993 the Kansas Workers Compensation Act has statutorily mandated the use of the *AMA Guides for the Evaluation of Permanent Impairment*. If some degree of permanent impairment results from a work related injury, in most cases, the monetary compensation to be awarded to the injured employee is determined using physician impairment ratings. To provide uniformity, the ratings are required to be based on the *AMA Guidelines to the Evaluation of Permanent Impairment*. Initially, when first adopted by the legislature in 1993, the use of the then current *Third Edition of the AMA Guides* was required. In 1996 the legislature mandated the use of the newer Fourth Edition. The Fourth Edition of the Guidelines is now out of print. The AMA over the years has adopted a Fifth, and now the current Sixth Edition. SB 73 updates the edition of the *AMA Guides* to be utilized by physicians to the current Sixth Edition.

The Bill clarifies the legislature's restriction on workers compensation benefits for undocumented workers. Under our Act for covered injuries, if an employee sustains a specified percentage of wage loss, they may be eligible for enhanced workers compensation benefits. As undocumented workers cannot legally be employed, while they are provided medical care and monetary benefits for any permanent impairment suffered, the enhanced benefit base of percentage of wage loss is not afforded to them.

In instances where a workers compensation administrative law judge is asked to recuse him or herself from hearing a case and the judge declines to recuse, that decision can be appealed to our district courts. In 1993 to provide for expertise and uniformity in workers compensation decisions, appeals of workers compensation cases were transferred from the state district courts' civil jurisdiction to the then created Workers Compensation Appeals Board. Appeals from the

Workers Compensation Appeals Board go directly to the Kansas Court of Appeals. The proposed change moves the jurisdiction for appeals of recusal decisions to the Workers Compensation Appeals Board in line with the 1993 reforms.

SB 73 addresses a concern of the Division on Workers Compensation with regard to employers who self insure their workers compensation liability. The Kansas Workers Compensation Act currently addresses the bonds posted as collateral to ensure the payment of workers compensation claims by self insurers who in this difficult economy become insolvent. SB 73 adds a reference to letters of credit also posted by some self insureds.

Lastly, SB 73 eliminates a remaining reference in the Kansas Workers Compensation Act to the requirement for the employee to file a written claim for compensation within 200 days of their injury. The requirement for a written claim to be presented within 200 days was taken out of the Act by the 2011 legislative reforms. This change eliminates the remaining reference to the no longer required 200 day written claim.

I would be pleased to address any questions.

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