



Kansas Building Industry Workers' Compensation Fund

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Written Testimony before the Committee on Commerce

February 18, 2015

Senate Bill No. 167

**Presented by Roy T. Artman
Kansas Building Industry Workers Compensation Fund**

The Honorable Julia Lynn and Distinguished Committee Members:

I would like to thank you for the opportunity to submit written testimony in opposition to Senate Bill No. 167. My name is Roy T. Artman and I'm here today as a representative of the Kansas Building Industry Workers Compensation Fund (Fund). I serve as general legal counsel to the Fund and work directly with its' claims department. In this capacity, I represent the Fund in litigated claims before the Division of Workers Compensation. As to my background, I graduated from Washburn University School of Law and have been a practicing attorney since 1991. I have represented employers, group funded entities, injured workers, as well as the Kansas Workers Compensation Fund.

The American Medical Association Guides to the Evaluation of Permanent Impairment is the recognized international standard used to determine permanent impairment. It is designed to be used as support for legal systems seeking to compensate those with serious workplace injuries. The Sixth Edition was published in December 2007, and is currently utilized by more than 20 states, the Federal Workers Compensation Act, as well as the Longshore and Harbor Workers Compensation Act. The Sixth Edition addressed many of the criticisms of prior editions and reflected significant evolution in the impairment evaluation process. Some of the stakeholders in the workers compensation arena have suggested that the Sixth Edition significantly reduces the impairment rating values and is unfair to injured workers. Although some impairment values have been altered resulting in lower impairments, overall the Sixth Edition is an improvements as it integrates scientific and medical advancements and provides a more valid and reproducible framework of determining permanent impairment.

The goal of any medical or surgical intervention is to improve the level of functioning and well-being of the patient. In the Fourth Edition, ratings for treatment to surgery remain the same despite any changes in signs or symptoms that may follow the surgery. With advancements in medical and surgical interventions have come improved outcomes and therefore decreasing impairments in many situations. Impairment ratings should accurately reflect real outcomes and be based on scientific evidence when possible. A return to the Fourth Edition would ignore the advances in medical science treatment and set Kansas back in time fifteen years. It should be noted that the Sixth Edition expands the number of ratable conditions which were not ratable in prior editions. This expansion better serves injured workers in Kansas. The bottom line is the Sixth Edition provides a consistent methodology with a more rationale basis for determining impairment.

In addition, it is well known that the plaintiff's bar, and others, are alluding that a civil court challenge of the "exclusive remedy" provisions of the workers compensation act will occur if the Sixth Edition remains in place. This position and threat of litigation is not new and has been brewing since the 2011 amendments to the act. The move to the Sixth Edition is not the catalyst that will result in civil action being instituted. The Sixth Edition was written by physicians, impartial to the workers compensation system, with the intent of providing fair and accurate impairment ratings. The plaintiff's bar, as stakeholders in the workers compensation system, will no doubt challenge the exclusive remedy provision of the act, but the case will not turn on which edition of the guides are in place.

For the above and foregoing reasons and on behalf of the Fund, I would ask that the Committee not report SB 167 favorably for passage. Again, thank you for your consideration and the opportunity to address you today. I would be happy to answers any questions by the committee.