

Retro Advisory Committee (RAC) Meeting

Labor and Industries, Tumwater, WA

Meeting Minutes

03/13/2025

Virtual (Zoom)

Trade Association Representatives:

Lauren Gubbe, Associated General Contractors
Victoria Montrose, Washington Hospitality Association
Tim Lundin, Archbright
Maria McClain, Association of Washington Business
Rose Gundersen, Washington Retail Association

Individual Firm Representatives:

Tom Walrath, T.E. Walrath Trucking, Inc. (Not Present)
John Cichosz, DJ's Electrical (Not Present)

Labor and Industries:

Jessica Nau, Retrospective Rating Program Manager, *Committee Chair*

Court Reporter:

Kelsey Walker, Capitol Pacific Reporting

Recorder:

Melissa Morales (*present*)

Guests: Alicia Milani, Amy Fregia, Andy Nicholas , Andy Shelton, Ann Bartholomew, April Ebeling , Art Dalessandro, Ashtyn Baker, Bambi Sotak, Ben Bower, Brandon Brown, Brandon Dion, Brian Ducey, Casey Sparber, Chelsea Roe, Cherell Fisher, Colleen Seed, Collin Head, Curran Bower, Dan Beaty, Dan Plunkett, Dee Millard, Emily Gillis, Eric Wood, Evelyn Meza, Greg Kabacy, Haley Schmidlin, Herbert Atienza, Holly Brown, Irina Razvina, Jeaneil Brown, Jeanine Keeseey, Jenn Kavanaugh, Jennifer Aldrich , Jennifer Gifford, Jessica Bass, Jessica Fleming, Joseph Conner, Joshua Ligosky , Justin Thayer, Karen Jost, Karen Lehnert, Karinsa Seim, Kaylynn Wollen , Kelly Boykin, Ken Smith, Kevin McDaniel , Kirsta Glenn, Kirsten Todd, Kris Johnson, Lezlie Martin, Lisa Sullivan, Lisa Vose, Lloyd Brooks, Logan Gillihan, Mark Phillips, Matt Tafoya, Megan Bjornberg, Melissa Shannon, Michelle Jensen, Michelle O'Brien , Mike Williams, Nicholas Kot, Nichole Runnels , Rachelle Bohler, Richard Clyne, Ruark Bohonos, Ryan Moore, Sarah Fishback-Duran, Sarah Wheeler, Scott Bradley, Shannon Elliott , Sheila Parker, Sheri Sundstrom, Si Sarton, Smith Duran, Stacie Neiswanger, Taja Blackhorn , Tara Withrow, Teresa Sheldon, Teri Baughman, Tim Beery, Trish Guadagnoli, Troy Parks

Welcome and Introductions: Jessica Nau

The meeting began with Jessica Nau asking for committee members introductions and reviewing the agenda and supplemental slides. Ms. Nau made a motion to approve the minutes from 2024 – April, August and October. Minutes approved.

Safety Message: Mike Williams

Mr. Williams discussed eye safety awareness on slides 6-8. With more than 2,000 eye injuries on the job site everyday where 10-20% will cause temporary or permanent vision loss, **Mr. Williams shared**, the best way to prevent eye injuries at work is to always wear the appropriate safety eyewear or shields when working with hazardous materials or in a hazardous environment.

Legislative Updates: Kirsta Glenn

Ms. Glenn presented slides 9-11. As of March 6th the following are active bills, **Ms. Glenn shared**, starting with House Bill 1002 – which is no longer moving forward - that recognizes PTSD as an occupational disease for county coroners, examiners and investigative personnel. **Ms. Glenn noted** the importance of the continuing efforts to create policy for PTSD coverage on more than certain occupations as an occupational disease and for corrections workers as well.

Ms. Glenn continued on to House Bill 1059/Senate Bill 5463 concerning the expansion of the Good Faith and Fair Dealing – stemming from a previously passed bill that had a Good Faith and Fair Dealing (GFFD) requirement for municipal and certain other employers – where if three violations are determined, then the employer can be decertified. **Ms. Glenn confirmed** that there have been no findings of violations yet.

Rose Gunderson, Washington Retail Association, asked “Some municipal governments, before being decertified or any actions, have voluntarily moved into state fund..what is the workload and how are you guys preparing for this workload of large employers?” **Ms. Glenn responded** that so far, only 2 municipal employers have switched over to state fund - with more than the GFFD being the deciding factor - and the State understands that they don’t have good faith in managing claims with new claims so holds for existing claims are considered. **Ms. Glenn continued** that the expansion was seen as a risk and hard to determine the impact with no current requests for additional claims managers at this time.

Ms. Gunderson shared “I would like to advocate that the program anticipate and prepare some kind of plan as this is covering all SI employers to prevent a delay in claim management. Also, the decertified process was not clear so a clear plan or update in the future is requested.” Ms. Nau stated that Ms. Gunderson’s questions have been noted and will be followed up on post-meeting.

Lloyd Brooks, Brookswright Solutions, noted via Zoom chat “More importantly, GFFD will be coming for Retro employers and groups after Self Insurance. SI Employers are already ahead of this as it has been before the legislature for three sessions now.”

Having only a slight impact on account managers, **Ms. Glenn continued** to House Bill 5023 which provides labor market protections for domestic workers (i.e. yard and household workers) where because the household who is hiring the worker would have to open a workers’ comp account and keep track of hours and pay premiums, LNI had a difficult time finding a way to fit this into the current worker’s compensation system and was therefore removed from the bill after some discussions with the legislative sponsors. **Ms. Glenn noted** that there is a workgroup that will be set up and will come back to make some recommendations.

Ms. Glenn discussed Senate Bill 5209 – an agency requested legislation – that lists L&I as a limited authority WA law enforcement agency while not granting new authority.

Ms. Glenn shared 2nd Substitute House Bill 1788 and 2nd Substitute Senate Bill 5548 concerning how the time loss rate is calculated for worker's comp bringing in more parity for a single parent with children and a couple with children. **Ms. Glenn noted** the calculation basis from the 1970s that felt a worker with a spouse deserved more compensation than a single worker still stands today so this bill would bring the single worker that has a child up to that parity with the couple with/without a child and increase the amount of time loss benefits being paid out. **Ms. Glenn continued** that part of the bill – which has since been removed due to cost - also included compensation at 100% for any employer-provided health insurance which prompted the employer to stop paying their portion so it is added into the worker's time loss benefit at the rate of time loss.

Lauren Gubbe, Associated General Contractors, shared via Zoom chat, "The first dependent 5% versus 2% for single parent. All other dependents remain at 2%. The issue with the healthcare was there was no guarantee the worker would purchase healthcare which was the whole intent".

Ms. Glenn discussed House Bill 1124 that, in response to a shortage in care access during Covid, increases the prescribing ability of psychologists and House Bill 1432 that improves access to appropriate mental health and substance abuse use resources.

Maria McClain, Association of Washington Business, asked via Zoom chat regarding HB 1059 "Will you work with the employer after one violation?" Ms. Glenn responded that yes they work with employers to help them adopt an effective process but also includes a penalty for each violation.

Ms. Glenn shared details about Senate House Bill 1571 that removes all qualifiers related to the presumption of occupational disease for heart problems as well as Senate Bill 5513/House Bill 1520 that expands the scope of practice for pharmacists.

Ms. Glenn provided an update on policy 5.81 on Limited Earning Power (LEP) that the worker does have to return to work in order to get the LEP and the second area is paying LEP through legal fixity instead of medical fixity.

Ms. McClain asked via Zoom chat "Which bill?" **Ms. Glenn stated** it was not a bill but a policy update that has been restored in December 2024 and given to the internal policy steering committee for review in February and then to policy council for review in March.

"Can we get a copy?" **Ms. McClain asked via Zoom chat. Ms. Glenn responded** that once the review is completed, they will be sending it out to external parties for feedback and allow opportunity to make changes before implementing the new policy July 1, 2025.

Mr. Brooks shared a link via Zoom chat "For objective insights on GFFD in the legislature and L&I policy activity on AI (without apparent stakeholding) <https://www.linkedin.com/company/brookswright-solutions/> .

WA Stay at Work (WSAW) Updates: Michelle O'Brien

Ms. O'Brien presented slides 12-15. Ms. O'Brien noted that effective January 2025, the agency has submitted requests in legislation to increase the incentives for Stay-at-Work, preferred worker, and the continuous employment incentive to encourage employers to participate in the program to reduce time

loss and pension while the worker is healing from their injuries completing modified duties. **Ms. O'Brien shared** that the incentives are working showing a steady increase in employer participation with the average applications being 90 per week.

Ms. O'Brien shared a slide where the incentive amounts for date of injury prior to 1/1/2025 showed 50% wages for up to 66 days worked (max \$10,000), up to \$2,500 for tools and equipment, \$1,000 for training and up to \$400 for clothing while the amounts for date of injury post 1/1/2025 showed a 50% wage for up to 120 days worked (max \$25,000), up to \$5,000 for tools and equipment, training up to \$2,000 and up to \$1,000 for clothing.

Ms. O'Brien discussed the update on the backlog of WSAW applications where Retro has provided some support on making sure the applications have all information needed before sending it over to the adjudicator who has had to chase this data down in the past. **Ms. O'Brien shared** that about 50% of applications are missing some kind of information and appreciates the Retro group, TPAs and Outreach for helping make sure the packets are complete and providing guidance. **Ms. O'Brien provided** information on the plan to reduce the large backlog of 2,800 applications such as any application under \$5,000 has a modified work process of limiting the search to medical documents that might change the decision instead of going through every single detail and has therefore decreased the log to 2,300. **Ms. O'Brien noted** the change in process for the WSAW team and after some adjustments, the average number of processed applications went from 60 in the first week to 120 per week. **Ms. O'Brien revealed** that gathering the data on the new pilot of employees helping adjudicators with the application packets will allow them to ask for more staff – either more on intake or adjudicators.

Ms. Nau added that they are using the data they collect to find common themes, such as a repeating missing piece of information that can be streamlined to be submitted with more ease and welcome any feedback on the progress made.

Victoria Montrose, Washington Hospitality Association asked “Are you able to share the top 1 or 2 things that are typically missing here?” Ms. O'Brien answered that time cards and approved light-duty job descriptions are the top missing items and gave appreciation for everyone's patience and support during this transitional period. Ms. O'Brien complimented April Ebeling's willingness to step in and cover for both Early Contact and WSAW while working through vacancies and a large backlog.

Ms. Nau shared that Julie Black will retire effective March 1st and will be filling in behind her temporarily until the position is filled in April/May. Ms. Nau asks for any feedback on inconsistencies or impacts from this transition on the Employer Services community.

Pensions Overview: Mark Phillips

Mr. Phillips presented slides 16-37. Mr. Phillips began by stating his goals for this presentation as giving information about LNI pensions and their impact on Retro and other State Fund employers as well as definitions, background and statistics. **Mr. Phillips continued** that he wanted to cover two types of factors: ones that increase and ones that decrease the propensity of a claim to become a pension.

Mr. Phillips noted that if anyone is interested in obtaining a copy of the annuity factors, to please reach out to the Department of Labor and Industries actuarial services where you will be in contact with Mr. Phillips himself.

Mr. Phillips shared that pensions, by definition, are a financial instrument that provide a guarantee pay out to cover the time loss amount for a worker who has been classified as permanently disabled or a widow of a deceased worker. **Mr. Phillips discussed** the longevity, costliness, and complexity of the total permanent disability claim with date of injuries ranging between 5 to 15 years old before being considered permanently disabled and qualifying for a pension. **Mr. Phillips mentioned** that a pension is not a means to become wealthy and not the desired outcome when the worker has the ability to return to work safely.

“May I offer a slight angle to the ‘nobody gets rich or gains economically’ when a pension happens?”, **Ms. Gunderson asked via Zoom chat**, “If there is a claimant attorney, that attorney receives a cut into that pension payment for as long as it lasts. Am I right?” **Mr. Brooks responded via Zoom chat** “ Yes – Worker attorneys profit on volume. Workers do not exist well on Pension Benefits but Law Firms do well on volume of WC Pension Annuities.” Mr. Phillips answered that was correct statement and that it’s not always the worker who benefits from the claim going to permanent disability status.

Mr. Phillips pointed out on a graph that the Retro community does show a lower pension rate – by 30% - than non-Retro communities due to the initiative programs such as Stay-At-Work or vocational opportunities.

Mr. Phillips noted the graph on slide 21 showing the bottom or red line as pensions that are reported over a 25 year timeline depicting 2024 as the lowest point with little to no claims as it usually takes 3 to 4 years before they show up in the system and 8 to 10 years before a TPD pension is granted. **Mr. Phillips pointed out** the upward facing arrow to show how Retro is faring better than others but there is still expenditures such as paying out medical and time loss benefits or vocational costs. **Mr. Phillips mentioned** the flat are on the blue line around 7.2 which is used for long-term average and projections of experienced periods when no other information is being received on TPD claims. **Mr. Phillips shared** the large number of actual claims that will have a TPD pension at the time the Retro adjustments are finished after 4.5 years.

While only accounting for 5% of the compensable claim counts, **Mr. Phillips shared** that TPD claims are the most expensive at the highest incurred costs which is an all-in on state fund benefits – not including supplemental pension fund, which would raise the total incurred costs for a TPD claim to \$2 million.

Mr. Phillips continued that an important thing to note is when a pension is granted versus not yet granted as when he is completing his analysis for the state fund, he has to produce an amount of reserves that LNI is expected to pay out on pensions with 60% of the liabilities at the state fund are going to cover the pension costs. **Mr. Phillips noted** that when it comes to the premium rates, over 25% of the total cost is going towards pensions with claims occurring next year not showing in the system until 2030 or 2032.

Ms. Gubbe stated via Zoom chat “COLAS are higher than working. We need legislation to align COLAS with CPI instead of the State’s Average Wage...sometimes COLAs have been double digit.” **Ms. Gubbe continued** that the supplemental pension fund increases but the COLAs are based on the state’s average wage which has been as high as 11%. **Ms. Gubbe shared** that it would be desirable to have the COLAs to be more aligned with CPI since no one receives performance raises like they have noticed on the COLAs. **Ms. Gubbe added** that the indicated rate for firefighters was going to be 32% which the state is subsidizing the rate increase to all state-fund employers in order to cap it at 25%. **Ms. Gubbe finished**

with her concern for how the PTSD claims costs will be funded going forward as these pensions could reach \$2-3 million putting more weight on the supplemental pension fund.

Kaylynn Wollen, AWC asked via Zoom chat “Do these graph/figures represent pensions from injury claims only or does this also include presumptive PTSD claims?”

Mr. Phillips answered that he is aware PTSD claims is a front and center issue and assured this is included in his analysis since the supplemental pension fund pays 85% annually to cover COLAs on pensions. **Mr. Phillips continued** that the more claims added, the more they will need to charge in premium rates to cover the non-pre-funded supplemental pension fund account which could be caused by some of the volatility of the statewide average rate calculation. **Mr. Phillips assured** his and his supervisor’s concern for this issue and hope to provide an update to Jessica in the future. **Ms. Nau asked** for clarification on Ms. Gubbe’s question and noted it as a takeaway for future RAC meeting topics.

Ms. Gubbe noted via Zoom chat “It seems like it will be timely to fix the COLA legislation.”

Mr. Phillips shared that of the over 40 years of pension information he has reviewed, the average age of injury was 53, average age of death was 70, average years on pension was 20 and average years on time loss is 27 years with pensions being canceled as a result of death, remarriage or dependents aging out of the system. **Mr. Phillips stated** the average time before a person receives a pension is 7 years with the current average age of pensioners at 60 years old with an average of 12 years on pension and 20 years on time loss.

Mr. Phillips noted the immense pressure for him and his team to deliver the correct pension amounts with an average of 250-300 new pensioners per quarter to average around 800 per year coming into the system. Mr. Phillips pointed out the decrease in active pensioners from 42,000 to 40,000 with some reduction due to COVID or other reasons.

Mr. Phillips began a quiz asking the following questions with several answer options posted in Zoom chat by various participants:

1. The oldest active pension is from an injury occurring in what year? 1929 due to a 93 year old living spouse that married a much older man – with 7 pensions with injuries before 1950.
2. The oldest pensioner to receive a monthly pension benefit check was how many years old? 114 and no, they are not still collecting the pension benefit.
3. The oldest age that a pensioner was at when they were injured is how many years old? 89 years old.

Mr. Phillips continued to share the main actuarial resource as the WA Pension System Review in 2008 which allows actuaries to compare themselves to other states as well as find features of a claim that make it seem more likely to become a pension. **Mr. Phillips shared** the main features as follows: length of time a claim is open and receiving time loss from the date of injury, age at injury with every year over 60 adding 10% probability of becoming a pension, high-risk industry employment due to the severity or types of injuries involved, higher than average time-loss monthly payment, claimant is from an economically distressed area in the state, claimant has early psychological treatments, injuries to the back or neck, claimant has opioid prescription, and Social Security benefits are being paid to the claimant.

“Pop Quiz for Mark,” **Mr. Brooks stated via Zoom chat**, “The Legislature WILL continue to expand WC benefits. Medical inflation WILL continue to increase. Workers WILL work and live longer. Workforce WILL continue to grow. AI WILL completely revolutionize “Work” in the next 10 years. Questions: Is the Department contemplating and preparing for the revolutionary worker hazard risk of the future or are we only considering historical trends. If not, why?”

Ms. Gubbe replied via Zoom chat “This is the best practice...standard insurance.”

Ms. Gunderson also replied via Zoom chat “I absolutely agree with Lauren’s comment that this approach is NOT a form of discrimination especially when it is for the benefit of workers.”

Cherrell Fisher, LNI Chief of Claims, stated via Zoom chat “I appreciate the idea and discussion around this – thank you!”

Ms. Gubbe asked if the actuaries share the data with the claims managers or a high-level adjudicator to know when a claim is more likely to head to pension and they can therefore be more proactive in preventative measures. Mr. Phillips agreed that although they have not been in contact with the claims floor yet, he could see it as real benefit and will take that back to the team to discuss for future trainings.

Jennifer Duran, WSAJ noted that this would lend itself to some discrimination based on these features alone and not what the attending physician is stating is needed as back injuries and opioid use during surgery is common for claimants.

Ms. Gubbe replied that it is best practice in standard insurance that you talk about these patterns and frontloading the worker with services and a more focused action plan with the physician would lead to less claims becoming pension.

Ms. Nau noted that these factors may already be in the claims manager rubric for identifying when a claim needs to be given to a higher level adjudicator and will connect back with Cherrell on the terms for identifying those complex claims.

Ms. Gunderson agreed with Ms. Gubbe’s statement on the features being non-discriminatory and is for the benefit of the worker.

Mr. Phillips continued to discuss the TPD clients as an increasing percentage of lost time or compensable claims even with efforts to address this issue in 2015.

Dating back to 1971, **Mr. Phillips shared** a graph depicting the average amount of time that a claim is open in the system by days with an increase post-COVID that is being addressed separately.

In regards to high risk industries, **Mr. Phillips discussed** the top five industries that account for 50% of pension claims due to the nature of the work and severity of possible injury: forest products, construction classes, transportation and warehousing, heavy industrial manufacturing and agriculture.

Ms. Gunderson asked “With the increase in data, are the PTSD pensions included in this?” “Yes, but is still a fairly new classification” **answered Mr. Phillips.**

Ms. Gunderson asked “Does it show average monthly wage? It would be interesting to also know. So you show FTE in that industry?” **Mr. Phillips replied** that the slide did show the basic propensity based off FTEs in that industry becoming pensions.

“So the column that TPDs funded is the number of TPDs.” **Ms. Gunderson asked. Mr. Phillips confirmed** that was correct.

“As a VRC,” **Ken Smith added via Zoom chat**, “we are seeing a huge shift in return to work and ability to work (at job of injury) as a result of early referrals, robust service provision in the vocational recovery phase, and removing the referral process from a CM to RCs (Referral Coordinators) based on firm capacity and a good QA program.”

Mr. Phillips continued to discuss the factors that decrease the probability (and cost) that a long-term time loss claim will become a pension such as Stay at Work and vocational rehabilitation, provided a Permanent Partial Disability Award (PPD), or provide a claims resolution “voluntary settlements” agreement or CSRA.

Karinsa Seim noted via Zoom chat “I see a few claims staying open for 5 plus years because the claimant is “sore” but no surgery, so would they be getting a pension.” **Mr. Smith responded via a Zoom chat comment** “It sounds as if the AP and the adjudication are factors in the delay of claim resolution. Being sore may be based on something medically objective, but if there are no OMFs it’s incumbent on the CM to take some actions (maybe obtain a preponderance of medical?).”

“Advocates are seeing a lot of denials on treatment that delay the MMI process and delay the IW from returning to work” **stated Smith Duran via Zoom chat. Mr. Smith replied via a Zoom chat comment** “Ms. Duran, we VRCs are also seeing a noticeable slowdown in the UR process. In fact, our firm is now seeing this as the main delay in moving along medical treatment.”

Mr. Brooks added via Zoom chat “WA has the most generous TPD compensation rates. Does any state have higher pension volumes?”

Ms. Gunderson noted she enjoyed the factors and presentation as we have to look at preventing TPDs due to high cost increases and asked if LNI could take a look at the policy side of return to work as being associated with the increase. **Ms. Gunderson shared** that IMEs have shown to be of low usage which is important as they ensure proper treatment has been given to the worker.

Ms. Nau responded to clarify that Ms. Gunderson is asking the Department to look at the root cause of the increase as there have been longer durations of time loss which is a factor in leading to higher propensity for a pension outcome. Ms. Nau shared that there is an internal work group that is currently looking into this issue from a policy, procedural and state level with no single root cause found but actually several contributing factors.

Ms. Gunderson replied that in terms of PTSD claims for law enforcement and firefighters where they are not eligible for PTSD until after 10 years of service – where as certain nurses only require 90 days of service – “why the big difference in policy and is there any justification?” **Ms. Nau responded** that as an agency, they take careful responsibility to forecast these kinds of impacts that inform the policy itself and that this is one of those factors the Department is paying attention to as well.

Mr. Phillips continued by sharing the impact of TPDs on the Retro adjustments and rates which are granted after the final adjustment (typically 45 months) resulting in higher LDFs on non-pension accident fund losses with full estimated costs. **Mr. Phillips shared** that pension claims resulting from fatalities use an average value of \$537,700 for Accident Fund loss and \$38,500 for Medical Aid loss and is changed yearly. **Mr. Phillips noted** that it's important to know that Retro loss limits help mitigate the high costs of TPD and Fatal pensions.

"Average TPD per claim in 2022 is \$1.4M per L&I data" **noted Ms. Gunderson via Zoom chat.**

Mr. Phillips finished by noting the most important takeaways which are early identification and management of claims that become TPDs to control worker's compensation costs, use of Stay at Work and Return to Work vocational services, and also looking at claim resolutions that do not result in a pension such as partial disability benefits or CRSA awards.

Light Duty Complaint Resolution Office Updates: Cherrell Fisher & Kelly Boykin

Ms. Fisher and Ms. Boykins presented slides 39-41.

Since starting light duty office in September, **Ms. Fisher began**, they have received 262 complaints with 237 completed where 102 were valid and 91 not valid. **Ms. Fisher continued** that of those valid, 56 were outside the workers' restrictions or the AP didn't approve. **Ms. Fisher provided** an example of a worker being released to a certain number of hours per day or days per week, however, the job offered has a schedule that exceeds the number of hours the provider recommends.

Ms. Fisher shared that of those not valid, 19 were found to be of an unreasonable commute or start date, 6 were not communicated, 1 was not meaningful, 5 were not the employer of record and 6 other various reasons. **Ms. Fisher noted** the office is now meeting their goal of resolving complaints within 10 business days with a status being currently up-to-date.

Maria McClain remarked via Zoom chat "We had a delay because the AP wanted the MH provider to approve, but the provider wanted a MH JA...although it wasn't necessary. This creating a barrier for RTW."

"Is the employer notified when there is a complaint or only after investigation?" **asked Lloyd Brooks via Zoom chat. Ms. Boykin answered** that when a complaint is received, it is documented in the claim but no formal notification is sent until the claim is resolved and the decision is shared with all parties.

"Are you sending out letters for all decisions?" **asked Dee Millard, ICM via Zoom chat. Ms. Fisher confirmed** that yes, a letter is sent out with every decision.

Ken Smith asked via Zoom chat, "How long is the review taking before you respond?" **Ms. Boykin shared** that it depended on how long the review takes, how long the claim file is or how complicated of an issue it is, but seeing as how they are up-to-date currently, they are meeting their 10 business days goal.

Ms. Duran noted via Zoom chat "16 affirmed means that the LD job was fair." **Ms. Boykin shared** the 16 affirmed means that the protested decision made by LD was upheld. **Ms. Fisher added** that this could have been for valid or not valid complaints.

Mr. Brooks asked via Zoom chat “So how then can an objective investigation occur without contacting the Employer?” **Ms. Boykin clarified** that they are not reaching out to the employer to notify them of a claim, however, they are reaching out to the employer - as well as the attorney/TPA or anyone else involved - for answers and information.

“What does the review consist of and who is on the review team?” **Jessica Fleming asked via Zoom chat.** **Ms. Boykin shared** that they review the LD offer in the file but do not undergo a full file review from day one while reaching out for necessary information which may cause delay in finalizing the reviews. **Ms. Boykin continued** that there are 4 reviewers – Beth Hurley as the main contact, Coral, who is the manager, and Colleen and Jeanine as WAC-5’s – that are joined by a subject matter expert team (i.e. VSSs, claims consultant supervisors, and claims people) to discuss the claims decision.

Victoria Montrose asked via Zoom chat “To clarify – “found not valid” means the light duty offer was not valid?” **Ms. Boykin confirmed** that is correct.

L&I Provider Quality Assurance: Troy Parks & Teri Baughman

Mr. Parks and Ms. Baughman presented slides 42-57.

Ms. Nau provided context for why this topic is on the agenda by sharing that Rose Gunderson had reached out last fall regarding a press release from LNI that covered a case in which it had been determined the injured worker had been fraudulently collecting wage replacement benefits. Ms. Gunderson was curious as how the department processed these internally when there were findings of fraud and if there were other areas involved – such systemic issues or physicians enabling workers - that could use a closer review. Ms. Nau took these questions internally with multiple different program areas and she found that referrals between different areas are handled on a case-by-case basis and is not automatic.

Ms. Nau confirmed that in cases that are involving physical capacity misrepresentation by an injured worker, LNI’s field Occupational Nurse Consultants (ONC) review the material with the provider and are in the best position to assess if there is a provider in need of further attention from the department. **Ms. Nau shared** that committee members have expressed interest in learning more about the Provider Quality Assurance Program and how the concerns about a provider are addressed by the department.

“Slide #42 has an email providercomplaint@lni.wa.gov” **stated Ms. Gunderson via Zoom chat.**

Mike Williams noted via Zoom chat “There is also a slide later on dedicated to how to submit complaints.”

Ms. Gunderson confirmed Jessica’s recap and added that she is also curious to know if doctors use objective data to determine or do they rely on what the claimant states.

Mr. Parks began by introducing himself and Ms. Baughman and providing a visual of the structure and purpose of Provider Quality, Compliance, and Credentialing which is to ensure worker access to quality of care as well as data driven and transparent decisions when looking at providers. **Mr. Parks continued**

that they want to ensure the accountability of providers to clarify services rendered and that services are provided in a medically necessary fashion.

Regarding the provider approval process, **Mr. Parks shared**, of ONCs having the final review of the applications working alongside a medical provider credentialing committee who make referrals to the associate medical director based on their case reviews as well as provide any enforcement of a corrective action needed for providers. **Mr. Parks showed** the program's integrity of completing provider billing audits to ensure they are adhering to the billing requirements and fee schedule parameters as well as looking at data analytics to see if any trends or spikes in billings or providers billing a certain way are happening.

Mr. Parks spoke more to Ms. Gunderson's question about the worker committing benefits fraud and that they work closely with the Department's fraud prevention and labor standards partners to identify any linkage of the provider to the worker's fraud component.

Mr. Parks covered complaint intake and processing of the ONCs conducting reviews of medical records as well as information from national provider data reports that show any actions that being taken by other payers and regulatory actions by licensing boards in various states. **Mr. Parks continued** that they are made aware of any malpractice cases and settlements that would warrant a further review of the provider as well as regulate according to WAC and RCWs promulgated by the Provider Quality Assurance (PQA).

Mr. Parks discussed the quality of interpreter services provided to workers and ensuring the billing standards are compliant. **Mr. Parks noted** the improvements being made such as documenting and streamlining the process of provider complaint handling including updating our workers' compensation system modernization (Wixom) and leveraging technology to modernize the system and detect fraud, waste or abuse that much easier.

Mr. Parks continued to share the team of 4 ONCs and one program staff under Ms. Baughman with their goal to provide a network of providers that help heal injured workers and return to work by meeting guidelines and standards of care that are curative – or promoting recovery of injury with the goal to restore a worker to pre-injury state - in nature.

With around 33,000 active providers as of February 2025, **Mr. Park's noted**, half are actively treating workers and show a breakdown of 60% physicians, 4% chiro, and 3% dentist. **Mr. Park's shared** that of the 144 Quality Reviews that have led to termination since 2013, 124 were Department of Health (DOH) enforcement actions, 6 were due to an expired medical license, 6 were for prescribing and 3 had a history of malpractice.

Ms. Gunderson asked "Could I ask about these, that data? All these seems like they're coming from a different source when you terminate them. Are there any cases of terminating because of your proactive investigation due to complaints?" **Mr. Parks confirmed** that the referrals that resulted in the DOH enforcement action were made from LNI to DOH and are discussed at their monthly meeting with DOH.

Ms. Baughman provided an update on the current status of her team with two new nurses starting in April. **Ms. Baughman shared** the Provider Quality Complaint emails: for Provider Complaints (ProviderComplaint@lni.wa.gov) and for IME Complaints (IMEComplaints@lni.wa.gov) where all

complaints are accepted and sent to the appropriate area while being logged into a SharePoint tracking site. **Ms. Baughman assured** that the inboxes are checked daily with a weekly team walkthrough and plan of action for each complaint.

Ms. Baughman discussed a visual of the Quality of Care form used internally when submitting a provider complaint noting the purpose of the form is to identify the provider type in the Medical Provider Network (MPN), detail the care concern, provide interventions and outreach, and add claim information or any pertinent information (i.e. RLOGs, MED notes). Providers should be hearing from a CM or claims nurse, **Ms. Baughman continued**, regarding any complaints filed with the Department to allow the provider to fix their issue before being brought before the credentialing committee for review.

“Are you teaching Providers when they are restricting for unrelated conditions or comorbidities? Or any other treatment?” **asked Ms. McClain via Zoom chat.** **Ms. Baughman shared** they have a variety of education provided by CMs, claims ONCs and the field managers as their unit does not provide this education directly.

Mr. Parks reviewed the examples of types of referrals that in the scope of referral reviews: prescribing issues, poor health outcomes or injury to worker, non-adherence to our treatment guidelines and Medical Aid Rules and Fee schedule (MARF), insufficient documentation to support treatment or lack of a treatment plan and failure to disclose enforcement or malpractice actions which is required per the provider agreement.

Ms. Baughman noted the types of referrals that are not in the scope of referral reviews: anything related to claim management, suppression or closure or if there is a denial of authorization request as well as billing fraud, waste and abuse.

Mr. Brooks shared via Zoom chat “Medical providers also have protest and appeal rights to L&I decisions which can then be adjudicated by the BIIA. Almost all of these appeals resolve in Mediation resulting in no public legal outcome.”

“Does the frequency of complaints on a provider raise the priority?” **asked Lauren Gubbe via Zoom chat.** **Ms. Baughman confirmed** as they track patterns and if a provider is seen with the same type of complaint, then it does raise the priority of those complaints.

Ms. McClain asked via Zoom chat “So if we see overtreatment, this is with the CM or ONC?” **Ms. Baughman answered** that a CM is preferred to reach out to the provider citing an example of a worker seeing a chiropractor for 50 visits and no movement on the claim needing a corrective action before being escalated to PQA for peer review.

“I would like to know why there is no established protocol or standard of referral from Fraud to your program. Since Fraud is not an expertise to determine whether the AP properly apply objective evidence to determine the worker’s physical ability, do you believe it is proper for them to refer in every one of those cases?” **asked Ms. Gunderson via Zoom chat.** **Mr. Parks noted** that they do have established protocols and referral processes with the Fraud partners especially in the Medicaid fraud area.

Ms. McClain noted via Zoom chat “I have 80 chiro.” **Mr. Brooks commented via Zoom chat** “These meetings are quarterly and open to public attendance: IICAC (Industrial Insurance Chiropractic

Committee) <https://lni.wa.gov/patient-care/advisory-committees/industrial-insurance-medical-advisory-committee-iimac>.

Ms. Baughman continued by describing the complaint processing steps of when a complaint is received, the ONC will review the file and write a review that is summarized and sent to the associate medical director who will review and choose an option. In regards to issues with applications, **Ms. Baughman shared**, such as a licensure action in the past, these applications are sent to the associate medical director for review instead of being given automatic approval.

All steps are tracked in SharePoint, **Ms. Baughman noted**, for monitoring of patterns and future plans of action for the provider or worker's care as well as pulling of prior claims to be summarized and peer reviewed when an unusual pattern in provider care is noticed which could lead to possible termination by the credentialing committee.

Ms. Baughman discussed the provider credentialing committee that consists of peers – from dentists to surgeons to naturopaths - who meet monthly to review the providers chosen by the associate medical director. Every panel has at least one provider from the same field and level as the provider being review, **Ms. Baughman shared**, where all documents are reviewed and a decision to approve, deny or any enforcement action is made but is not the final outcome.

WACs are considered during the enforcement action decision-making, **Ms. Baughman showed**, before the list of reviewed providers is sent to Dr. Gary Franklin, the Medical Director at LNI, for final recommendation.

If a provider's application is denied or they are terminated from the system, **Ms. Baughman remarked**, the provider will receive a letter notifying them of their termination and are offered 60 days to request reconsideration.

Ms. Baughman defined reconsideration as a document from the provider's attorney outlining their reasoning to remain in the network which is reviewed by the same panelists who send their decision back to Dr. Franklin for a final decision. This final decision, **Ms. Baughman pointed out**, can be appealed to the Board of Industrial Insurance Appeals (BIIA) and the provider is still considered to be in good standing until the Board reaches their decision – which could be several months or even years.

Ms. Baughman noted the confidentiality of the investigation to keep the credibility of the provider in mind.

As for education and outreach, **Ms. Baughman shared** a success story of a worker on opioids asking to go to detox and a SIMP program and with the provider refusing the care, a field nurse was able to contact the provider for review, decided to transfer care to another AP who agreed to detox and SIMP, and was able to follow the worker through the entire process and get them back to work.

Mr. Parks shared a year in review of the volume of complaints – not including IMEs - in 2024 with 335 total logged referrals/complaints: 166 from National Provider Databank (NPDB) alerts, 50 from opioid death, 47 from email inboxes, 28 from other (i.e. Medicaid, others), 23 from DOH, 12 from new applications with adverse actions, and 9 from Comagine Chronic Opioid Therapy.

Regarding IME quality reviews, **Mr. Parks continued**, ONCs complete initial reviews for all new examiners as well as pulling IME reports twice in the first year of practicing for follow-up review. In conjunction with the 3-year recertification cycle, **Mr. Parks noted** that during the re-credentialing process, an IME report sample is reviewed and a feedback letter is sent to the provider of any findings related to failure to follow impairment rating standards, a higher than usual number of non-billable addendums indicating poorly-written reports by the examiner or missing information on the IME report which is governed by a medical examiner handbook on levels of detail required.

Mr. Parks continued that a larger sample of reports may be reviewed if they show a pattern or history of complaints or concerns with an IME review team meeting monthly to discuss and make decisions on examiners and regulatory action needed.

Mr. Parks discussed the opportunities for improvement that Quality Assurance has found during IME reviews including a need for more resources and education for examiners, lack of guidance on PTSD diagnoses and Dental claims, peer review, how to address examiner behavioral complaints, impairment rating consistency, spinal impairment WAC outdated, how to address bias in reports (lack of objectivity), need for focused trainings by specialty and examiner “score card” on accuracy of impairment ratings/quality of reports.

Mr. Parks finished by covering how the efforts made by the QA are measured in things such as reduction in referrals and improved health outcome for the worker with constant identification of driving forces behind the quality of care (i.e. common attending provider, poor documentation, number of patients per provider, worker satisfaction). **Mr. Parks shared** his and Ms. Baughman’s contact information: Troy Parks – Provider Quality Compliance and Credentialing (PQCC) Manager troy.parks@lni.wa.gov 360-902-6821; Teri Baughman – Provider Quality Supervisor teri.baughman@lni.wa.gov 360-902-6823 for any thoughts/suggestions on ways to measure quality.

“This is definitely an excellent content that many of us have questions about because TPAs interact with APs with questionable decisions and unco-op on approving LD release” **Ms. Gunderson noted via Zoom chat.**

Ms. Nau noted that the regularly scheduled presentation would conclude without Retro updates and would field questions from chat for those that would like to stay.

Mr. Parks read Ms. Gunderson’s question from Zoom chat “Based on identifying gaps identified, what resources would you put on your wish list to improve your program?” **Mr. Parks replied** with technology and surveillance and utilization review as well as analytics to identify any potential issues and more staff and nurses to complete site visits with providers to ensure expectations of documentation and compliance are set.

Mr. Parks read Ms. Gubbe’s question via Zoom chat “Are the number of IME providers decreasing?” **Mr. Parks answered** they are averaging around 330 examiners over the last two years and no mass exit from examiners after legislation passed to allow workers to record visits – with some examiners placing conditions to record as well.

Ms. Duran asked via Zoom chat “Does LNI wait for DOH to investigate or do you terminate independent of the DOH investigation?” **Ms. Baughman responded via Zoom comment** “We do not wait for DOH to take action. We can terminate appropriate.”

Ms. Gubbe noted via Zoom chat “Joel’s goals...response time to light duty” and went on to clarify that during Mr. Park’s presentation about measuring quality, one of Joel’s goals is to get people back to work as soon as possible and one measurement would be how quickly LNI can facilitate that light duty. Mr. Parks agreed it was a great way to measure quality.

Mr. Brooks added via Zoom chat “My recommended solution continues to be educating the Employer/TPA community to report their concerns even if they never see an outcome. The Dept's focus is appropriately on education and coaching (just as the corrective process should occur for an employee with apparent unacceptable work behavior) Frequent "offenders" get more coaching and intervention from the Dept and are more likely to receive an enforcement action. Most professionals in our community are unaware of the complaint process or have no confidence in the process so they just complain amongst themselves. I recommend action.” **Mr. Parks agreed and stated** the Department is looking at ways to make it easier to report concerns as well as providing more outreach.

“Excellent and I believe you'll receive a lot of questions because we do have many questions re providers' quality.” **Mr. Parks read of Ms. Gunderson’s comment via Zoom chat.**

Mr. Brooks shared the following links via Zoom chat “IIMAC (Ind Ins Medical Advisory Committee) <https://lni.wa.gov/patient-care/advisory-committees/industrial-insurance-medical-advisory-committee-iimac>; ACHIEv (Advisory Committee on Healthcare Innovation and Evaluation) <https://lni.wa.gov/patient-care/advisory-committees/advisory-committee-on-health-care-innovation-and-evaluation#membership>”

“How long do you allow a provider to put a worker on light duty, have 3 that currently going on 6 plus years and no surgeries or objective findings” **Karinsa Seim? asked via Zoom chat. Mr. Parks referred to Cherrel Fisher who answered** that this is concerning and should be escalated to the CM or the Claims Unit Supervisor. Karinsa replied that they had but not to the operations manager yet.

Ms. Gunderson asked via Zoom chat “Shouldn’t that also go to RWO dispute unit?” **Ms. Fisher clarified** that if she is referring to the light-duty office, that it is for complaints or disagreements with light-duty job offer.

“In terms of resource, we will advocate on your behalf to grow your program. It's a good investment.” **Ms. Gunderson noted via Zoom chat.** Mr. Parks appreciated the support.

Jeaneil Brown, Archbright asked via Zoom chat “Would you look into if a provider does not respond to LD RTW options after multiple attempts when ER has LD work options available but continues to certify out of work?” Question was not answered but logged for future meetings.

Ms. Gubbe noted her appreciation for the PQCC work done so far and how the meeting content was more enjoyable.

Ms. Nau concluded the meeting by asking for any feedback on topics for next RAC meetings and encouraged to review the Retro updates as the meeting has hit its time limit.

Meeting adjourned.