



DOSH / Industrial Insurance Committee

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The DOSH & Industrial Insurance Monitoring Committee meets quarterly and is tasked with tracking activities by the Department of Labor and Industries' Occupational Safety and Health, and Industrial Insurance Divisions. Issues relating to workplace health and safety, and workers' compensation are fundamental to the lives and livelihood of our members. The committee in recent years has been exploring ways to improve these important areas of public policy for workers, especially those in industries where abuse is rife. I am happy to report that progress is being made in legislative spaces, albeit slowly, though there is much to do to especially for workers in high-hazard industries like construction and agriculture.

The 2020 Legislature passed two important pieces of workers' compensation legislation that should improve the experience injured workers have when trying to navigate a complicated system. HB 2409 (Kilduff, D-University Place) establishes licensure and certification standards for the third-party administrators used by employers who self-insure workers' compensation coverage. This will provide L&I a tool to hold them accountable to new standards of practice that are also included in the legislation. The bill also updates penalties for violations of the law that have not been addressed in over 30 years. For too long many TPAs have mistreated injured workers to suppress claims or deny needed treatments to save their clients money. This new law will ensure that there are more eyes examining their behavior, and increase their risk for poor treatment of workers.

SB 6440 (Stanford, D-Bothell), as originally introduced, would have put limits on the use of independent medical examinations in workers' compensation cases. These IMEs are meant to provide medical clarity for complicated cases, but are too often used to delay treatments, or prolong claims management in an effort to game workers' compensation premium experience ratings. Further, employer attorneys used a litany of IME reports to confound juries in litigation and to undermine the credibility of attending physicians – the doctors who know their patients and the cases best. Unfortunately, SB 6440 was significantly watered down so it could pass out of the Senate, and while it did retain some policy regarding fees, telemedicine and examination report sharing, the bulk of the bill created a workgroup to study the issue and to make recommendations for the 2021 Legislature. Our intent is to aggressively pursue further IME reforms in 2021, limit how often they can be used, and ensure injured workers are able to record their experiences, which is allowed in private litigation for personal injuries.

With the ongoing COVID-19 pandemic, our attention must be drawn toward the immediate needs of workers who labor in industries that do not afford telework or work-from-home arrangements. Grocery workers, hospital employees, construction workers, transit operators, firefighters, and truck drivers all provide services that are essential for the rest of us to keep living. One group that has been particularly impacted by the pandemic on the job are the farm workers who harvest the food that sustains us, and the workers in packing houses and food processing facilities further down the supply chain. A lack of personal protective equipment and a high rate of coronavirus infection has resulted in more deaths of these workers. Coupled with the wildfires that are raging east of the mountains, the health and safety of this portion of the workforce is at severe risk.

The Committee has discussed the need for L&I to adopt policies that better protect workers in the food supply chain by adopting standards for workers laboring outside and who are exposed to wildfire smoke and ash, and to strengthen workers' rights to proper PPE on the job. You will have an opportunity to consider resolutions at this convention addressing both of these issues. Further, the WSLC and its affiliates will be pursuing

legislation in 2021 to strength worker protections during public health emergencies to ensure that no worker goes without the equipment necessary to safely perform their jobs, and to not have to experience retaliation for demanding it.

Finally, the committee has also explored the needs of temporary workers who we know are more likely to be injured on the job than their permanent counterparts. SB 6122 (Keiser, D-Kent) would have required training and more attention paid to safety by temporary staffing agencies. While it failed to receive a final vote in the House, we expect a version of this policy to return next session and will be supporting its passage.