



**Written Testimony of Michael Vovakes
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Department of Labor & Industry

before the House Labor and Industry Committee

Harrisburg, Pennsylvania

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Good morning Chairwoman Gingrich, Chairman Galloway, Committee Members and Committee Staff. I appreciate the opportunity to testify today before the House Labor and Industry Committee regarding workers compensation treatment guidelines in Pennsylvania and House Bill 1800.

Workers' compensation represents a long-standing agreement between employers and employees; an understanding that in exchange for the inability to sue one's employer for injuries sustained on the job, an injured worker will receive compensation for lost wages and necessary medical treatments, so the employee if possible, can return to work. Inherent in this agreement is the understanding that an injured worker will receive the best possible care, receiving not only the required treatment, but the reasonable, necessary and related treatment prescribed by a physician.

The Department of Labor & Industry opposes medical treatment guidelines and House Bill 1800 for several reasons – the primary one being that such a change is nothing more than a solution in search of a problem. Workers' compensation in Pennsylvania is currently achieving unprecedented results in terms of meeting the needs of both injured workers and their employers. Injured worker satisfaction of treatment is at record levels, while workers' compensation insurance rates have declined for five consecutive years.

The most recent annual medical access study performed by the Bureau of Workers' Compensation showed that approximately 90 percent of all injured workers believe that they received timely, appropriate and satisfactory medical care for their work related injuries. These findings are supported by the recent study conducted by the Workers' Compensation Research Institute (WCRI), a national, independent, not-for-profit research organization that provides high-quality, objective information about public policy issues involving workers' compensation.

The WCRI study documented that four in five injured workers in Pennsylvania reported overall satisfaction with the medical care that they received. This success in providing appropriate treatment has been coupled with annual decreases in the assessments on workers' compensation insurance carriers, which result in lower workers' compensation insurance premiums for Pennsylvania employers. These assessments have been lowered for each of the past seven consecutive years. Additional cost savings are expected to be realized as we evaluate the effects of the physician dispensing legislation enacted as Act 184 of 2014.

The Department of Labor & Industry has several other concerns specific to House Bill 1800:

House Bill 1800 effectively switches the burden from the insurance carrier to the physician and ultimately the injured worker, requiring them to justify any treatment that exceeds the guidelines, prior to providing the treatment, or risk not being compensated.

Currently, the treatment provided to an injured worker is based on the worker's injury, needs, and the obtainable outcome(s). Accordingly, should an insurance carrier believe that treatment is excessive or unnecessary, it may request a utilization review.

The present system is designed to provide a shield to the insurance industry, giving them the ability to challenge treatments, and ultimately when appropriately determined, receive relief from charges. Flipping this assumption – requiring treatment to coincide with specific guidelines – inhibits care from the beginning, and only after an arduous process may additional treatment be given.

Under current law, an injured worker can be required to treat with a physician of the employer's choosing for the first 90 days after injury. Only if the disability continues and the need for care lasts longer than 90 days is an individual currently able to seek additional or different forms of care for the injury. Individuals who sustain work-related injuries that are serious enough to require more than 90 days of treatment should be allowed the liberty to seek alternative methods to deal with their injury and not be confined to a few options that are prescribed by a board if their original means of treatment is not giving them the results that are desired after the first 90 days of treatment.

This legislation also creates a board that would be empowered to alter nationally recognized treatment guidelines. This six-member board would be empowered to modify treatment guidelines that will govern treatment for all injured workers, yet the legislation gives no policy guidance to the board in developing these standards. This board is similar to other such appointed panels, which have resulted in repeated litigation regarding their authority and the exercise of their duties. Additional concerns regarding this board include:

- The language would create a non-funded mandate on the department. The department will be required to provide administrative support, professional support and meeting space, among other necessary logistics for this Board, but is provided no appropriation to cover those costs.
- The bill provides that the board members will serve without remuneration. This will deter qualified individuals from serving, as it could take significant time away from their practices.
- The way the treatment guidelines would be created could cause a lack of stability and the guidelines could change frequently with the changing of appointments to the board that issues the guidelines.
- With appointments to the board having six-year terms, this means that every six years treatment guidelines could change, thus, creating issues with stability of the guidelines and causing confusion among stakeholders and medical practitioners. This lack of continuity would negatively affect the treatment of workers injuries.

The current process for certification of utilization review organizations (UROs) does not require training in treatment guidelines. Although training could be required and obtained, if the treatment guidelines are substantially altered from the national standard, or change frequently, training will be difficult, at best. Current UROs are not certified to implement treatment guidelines. The accreditation of UROs will result in increased fees charged to carriers by UROs, since the UROs will be required to satisfy the criteria of a nationally recognized accrediting organization.

The current workers' compensation system in place in Pennsylvania is already designed to keep the cost of injury care in check. The provisions of Act 44 of 1993 and Act 57 of 1996 and the resulting cost containment regulations have been important steps in controlling medical costs while ensuring that injured workers receive proper and timely treatment for their work-related injuries. The fact that injured workers are overwhelmingly satisfied with the treatment that they receive, while assessments on carriers and premiums charged to employers continue to be reduced, is proof that Pennsylvania's workers' compensation system is already on the correct path and is balancing the needs of injured workers with cost containment concerns.

To conclude, I would again like to thank this committee for the opportunity to testify today regarding workers' compensation treatment guidelines in Pennsylvania and House Bill 1800.

The Department of Labor & Industry will remain devoted to provide workers who sustain an injury or work-related illness with the most treatment options available, while controlling workers compensation insurance costs to employers in Pennsylvania.

Thank you, and I would be glad to answer any questions that you may have.