

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2432

2001 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2432

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2432

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date February 12, 2001.

Tape Number	Side A	Side B	Meter #
1	X		38 to end
		x	0 to 10.0
(Feb. 14/01) 1		x	18 to 22
Committee Clerk Signature <i>Linda Christenson</i>			

Minutes:

The meeting was called to order. All committee members, except SENATOR ESPEGARD, present. Hearing was opened on SB 2432 relating to the privacy of workers' compensation records and hearings.

SENATOR LINDA CHRISTENSON, District 18, in favor. This bill relates to privacy in the context of workers' compensation. Overstrike the wording in lines 21 to 23, page 1, because "others" is considered too broad, in reading the statute it is evident that pertinent parties already have access to the information. We ask that the social security number also be struck. Regarding the idea that certain information may be released to a particular group of people: when you are talking about a worker who has filed a claim for disability we are looking at people who need to reach out and need support. We are asking that their names and very limited information be released in aggregate form so that these groups may contact them and support them. These groups have to be approved by the board, won't be just any group. We urge do pass.

SENATOR KREBSBACH: What claimant interest groups are we talking about?

L. CHRISTENSON: C.A.R.E.

SENATOR MUTCH: Individual has to sign a release?

L. CHRISTENSON: Yes

DAVID KIMNITZ, ND AFL-CIO, under the law who the "other persons" are is not clear. It could be anybody. The Bureau and its agents have access to the files. To protect confidentiality this language should be stricken as well as the social security number. Compromise was reached to give access to legitimate interest group at the discretion of the board. No way of knowing who needs assistance, so we agreed to name and address being released in aggregate list. Urge do pass.

SEBALD VETTER, C.A.R.E., Member of the board of customer service committee at Workers' Comp. We don't feel it is right for businesses to call and find out who is on workmen's comp. These people would not be hired, that is not right and this bill will correct this. Urge do pass.

DAN FINNEMAN, on his own behalf. Paragraph one, claimant may not get information that others have access to, both the bureau and the claimant should be able to study records. I object to availability at the discretion of the bureau, it should also be at the discretion of the bureau and the claimant. If I want copy of my medical record, I have to pay for it and sign a waiver, if the bureau requests it they get it free of charge. I urge careful consideration of this bill and do pass.

BRENT EDISON, VP, Legal and Special Investigations for ND Workers Compensation Bureau. Written testimony attached. In opposition to this bill. Summary of actuarial information and WC board of directors list included. Board supports HB 1153 which is more balanced than this one.

SENATOR EVERY: Is the board unanimous in its opposition to this bill? Do they unanimously support HB 1153?

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2432

Hearing Date February 12, 2001.

B EDISON: Yes; don't know.

CHUCK PETERSON, GNDA, opposing this bill. Written testimony attached. This bill limits the bureaus' work with contractors needing information. Board will be placed in the difficult position of deciding who will get the information. How will it be used? I as a worker wouldn't like to have my name given to any group without my knowledge.

MICHAEL WOLF, NDAC, oppose this bill, mainly the release of names and addresses to interest groups.

Feb. 13, 2001. Tape 3-A-23.9 to 26.4 . Committee reconvened, all members except SENATOR ESPEGARD present. Discussion held.

SENATOR KLEIN: Move do not pass. SENATOR KREBSBACH: Second.

Roll call vote: 4 yes; 2 no; 1 absent not voting. Carrier: SENATOR MUTCH.

FISCAL NOTE

Requested by Legislative Council
02/01/2001

Bill/Resolution No.: SB 2432

Amendment to:

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

NORTH DAKOTA WORKERS COMPENSATION 2001 LEGISLATION SUMMARY OF ACTUARIAL INFORMATION

BILL DESCRIPTION: Confidentiality of Claim Information

BILL NO: SB 2432

SUMMARY OF ACTUARIAL INFORMATION: North Dakota Workers Compensation, together with its actuary, Glenn Evans of Pacific Actuarial Consultants, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed bill removes subsection 4 of 65-05-32 which provides access to files for persons rendering assistance to the Bureau; removes social security number from the claim specific information that is available to the public; and provides for claimants' names and addresses be released to claimant interest groups with board approval.

FISCAL IMPACT: Anticipate no significant impact. May serve to increase administrative costs.

DATE: January 30, 2001

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Paul R. Kramer	Agency:	ND Workers Compensation
Phone Number:	328-3856	Date Prepared:	02/01/2001

Roll Call Vote #: /

BILL/RESOLUTION NO. 2432

Senate Industry, Business and Labor Committee

☐ Subcommittee on _____
or _____

☐ Conference Committee

Legislative Council Amendment Number

Action Taken DNP

Motion Made By Sen Klein Seconded By Sen Kirkpatrick

[illegible]

Total (Yes) 4 No 2

Absent /

Floor Assignment See Mutch

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 14, 2001 8:21 a.m.

Module No: SR-27-3268
Carrier: Mutch
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2432: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends
DO NOT PASS (4 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2432 was
placed on the Eleventh order on the calendar.

2001 TESTIMONY

SB 2432

SENATE BILL No. 2432

**Fifty-Seventh Legislative Assembly
Before the Senate Industry, Business and Labor Committee
February 12, 2001
Testimony of Brent J. Edison
North Dakota Workers Compensation**

Mr. Chairman, Members of the Committee:

My name is Brent Edison. I am the Vice President of Legal and Special Investigations for North Dakota Workers Compensation (NDWC) and I am here to testify in opposition to 2001 Senate Bill No. 2432. The Workers Compensation Board of Directors unanimously opposes this bill and requests a "DO NOT PASS" recommendation.

NDWC has responded to the privacy concerns of injured workers by introducing House Bill No. 1153. Like Senate Bill No. 2432, House Bill No. 1153 removes "social security number" from the items of information that may be released to the public. House Bill No. 1153 also limits employer access to an injured worker's claim file to a "need to know" basis and provides for criminal penalties if there is a violation.

NDWC believes House Bill No. 1153 strikes an appropriate balance between an injured worker's privacy interests and NDWC's need for access to information sufficient to properly adjudicate the claim. Unfortunately, Senate Bill No. 2432 does not take the same balanced approach. Senate Bill No. 2432 would forbid NDWC from making claim file information available to "persons ... rendering assistance to the bureau..." but would permit NDWC to release lists of injured workers' names and addresses to "claimant interest groups approved by the board." (Current law prohibits NDWC from making injured workers' addresses available to the public).

Section 65-05-32 allows NDWC "agents or employees [acting] in the performance of their official duties" to have access to claim file information. Subsection 4 of section 65-

05-32 also allows access to "persons ... rendering assistance to the bureau at any stage of the proceedings on any matter pertaining to the administration of this title." If subsection 4 is removed, and persons rendering assistance are no longer given specific authorization to review claim file information, the result will be uncertainty and litigation as to whether persons rendering assistance to NDWC are "agents" or "employees." NDWC believes this would hamper NDWC in its ability to adjudicate claims. While persons rendering assistance could perhaps be designated "agents" for purposes of adjudicating the claim, NDWC believes it would be better to leave subsection 4 as it is than to risk the potential unintended consequences of a change.

NDWC also believes it would not be in the best interest of injured workers to allow lists of their names and addresses to be released to un-defined "claimant interest groups" for unspecified purposes. NDWC is concerned the lists could be used for purposes that have nothing to do with the Workers Compensation Act.

This concludes my testimony on Senate Bill No. 2432. I respectfully request a "DO NOT PASS" recommendation on this bill and I will be happy to respond to any questions at this time.

NORTH DAKOTA WORKERS COMPENSATION
2001 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL DESCRIPTION: Confidentiality of Claim Information

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DATE: January 30, 2001

NDWC Board of Directors

Legislation enacted in 1997 created a customer-based Board of Directors. The Governor appointed ten members to the Board in January of 1998. The Board consists of six members representing employers of different sizes, three members representing employees, and one member representing the medical association.

The role of the Board is to ensure continuity of leadership at NDWC and to ensure that NDWC operates efficiently and effectively, rather than like an unresponsive bureaucracy. The Board has adopted the Carver Model of Board governance, which provides a clear structure for Board leadership and organizational accountability to the Board. This structure includes regular performance monitoring reports and an internal auditor that reports to the Board so the Board can ensure continued improvements are being made in all key areas of NDWC operations and services.

While NDWC has achieved tremendous improvements, it also recognizes the need to ensure that every aspect of its operation meets or exceeds private industry standards. Recognizing that no competition exists in the North Dakota workers' compensation market that would force NDWC to "operate efficiently or cease to exist", NDWC and its Board believe they have a special obligation to maintain the highest standards of performance and efficiency.

David H. Ystebo, Chairman
(Risk Management Program)
Employer: Cass Clay Creamery, Inc., Fargo
Terms: January 1998 – December 1998
January 1999 – December 2004

Charles P. Dahl, M.D.
(Medical-Non-voting member)
Employer: Bone & Joint Center, Bismarck
Term: January 1998 – December 2002

Sindy Keller
(Employee)
Employer: Service Oil, Inc., West Fargo

Terms: January 1998 – December 2000
January 2001 – December 2006

Cal Kolling
(Over \$25,000 premium)
Employer: TMI Systems Designs Corp., Dickinson
Term: January 2001 – December 2006

Nancy A. Slotten
(Over \$25,000 premium)
Employer: Border States Paving, Inc., Fargo
Term: January 1999 – December 2002

Robert M. Indvik, Vice Chairman
(At-Large Employer)
Employer: Bottineau County, Bottineau
Terms: January 1998 – December 2000
January 2001 – December 2006

Richard M. Johnsen, Jr.
(\$10,000-\$25,000 premium)
Employer: Johnsen Trailer Sales, Inc. Bismarck
Term: January 1998- December 2002

Evan Mandigo
(Employee)
Employer: Basin Electric Power Cooperative,
Bismarck
Terms: January 1998 – December 1998
January 1999 - December 2004

Denny Schneider
(Under \$10,000 premium)
Employer: Denny's Supermarket, Inc., Grafton
Term: January 1999- December 2004

Kenneth A. Sokoloski
(Employee/AFL/CIO/WC Benefits)
Employer: PACE Union, Mandan
Term: January 1998 – December 2002

2-12-2001 STATEMENT BY CHUCK PETERSON, REPRESENTING
GNDA, REGARDING SB 2432 WORKER COMPENSATION
LEGISLATION.

Chairman Mutch and members of the Senate Industry, Businesses and Labor Committee. I am Chuck Peterson, a member of GNDA, and a North Dakota businessman. Thank you for the opportunity to provide testimony in regarding SB 2432.

The Greater North Dakota Association is the voice of business and the principle advocate of positive change in North Dakota. As a member of GNDA we represent over 1000 business and professional organizations from all areas of North Dakota. GNDA is governed by a 25 member Board of Directors elected by our membership.

I also speak for the Associated General Contractors, the North Dakota Petroleum Council, the North Dakota Retail Petroleum Marketers Association, the North Dakota Motor Carriers Association, and the Automobile Dealers and Implement Dealers Association.

This legislation will limit the ability of contractor for the Worker Compensation Bureau to have access to information that will enable them to provide service to the Bureau. This legislation will require a release from each claimant each time a vender receives information that will be needed to function in behalf of the Worker Compensation Bureau. We see this as having a negative impact on the ability of the Bureau to contract for third party services.

This legislation provides that the Bureau may not release the worker's social security number. Another bill entered in this session will eliminate the availability of the worker's social security number.

SB 2432 provides. ability of the board to release information in aggregate form, which includes names and address, to claimant interest groups. We question that the board will be able to determine if all of the claimants may want their names and address released in aggregate to parties alleged to be claimant interest groups. It is highly probable that all claimants would not wish this to occur.

We urge a no vote to this legislation.



COPY

.....
Rehabilitation Center
Accredited by the Commission on Accreditation
of Rehabilitation Facilities

February 1, 2001

North Dakota Workers Compensation Bureau
500 East Broadway
Bismarck, ND 58504

ATTENTION: EVETTE BOSCH

REGARDING: BETTY WAGNER
CLAIM #: 89-333824

Dear Ms. Bosch:

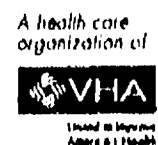
I came across a notice of decision denying benefits for Betty Wagner dated January 17, 2001.

I have been Betty's physician for the work related injuries that she sustained dating back to 1989. I've seen her dozens of times since then. I am a Board Certified Psychiatrist. I have excellent credentials and superior ethical standards. I am licensed by the state of North Dakota of which workers comp is an agency.

The letter in question dated January 17, 2000 regarding Betty Wagner unfairly describes her situation. It is so clear to me that whoever is making these statements has a bias opinion with the ultimate goal of saving costs to this agency. They have not examined Betty Wagner. They have not followed her over the course of her development of shoulder problems since the initial injury. The letter itself misrepresents my opinion.

In the letter that I wrote dated July 12, 2000. What should have been quoted was my summary at the end of that letter "in summary

Medcenter One, Inc.
300 North Seventh Street
P.O. Box 5525
Bismarck, North Dakota 58506-5525
Telephone 701/323-6176

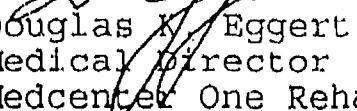


February 1, 2001
North Dakota Workers Compensation Bureau
Re: Betty Wagner
Page 2

it is my opinion that her right shoulder problem is solely or at a minimum largely related to her employment in the late 1980's and 1990. Anyone with any medical training would know that an initial injury could be the seeds for progressive deterioration of the tissues traumatized as is the case with Betty Wagner.

I therefore feel that it is unethical for another health care professional to simply review records and make these sort of judgments when I have cared for Betty as her current condition has evolved from the initial insults when they originated. With all the press that workers comp has been receiving regarding its unfair treatment of patients, I would have expected you to be more careful in Betty Wagner's case. I would, therefore, advise you to reconsider this denial and pay appropriate respect to my opinions.

Sincerely,


Douglas K. Eggert, M. D.
Medical Director
Medcenter One Rehabilitation Center

DKE:vju