

REMARKS TO INDUSTRY, BUSINESS AND LABOR COMMITTEE

By Sylvan Loegering - April 28, 2008

Mr. Chairman, members of the committee, Mr. Furness. I understand that you wish to gather information from injured workers about Workforce Safety and Insurance with the goal of drafting legislation that will correct problems with the system. I stand before you today, not as an injured worker, but as a father, an uncle, a relative and a friend of numerous injured workers who have been treated unjustly by WSI. I've never been an activist but I have reached the point where I can no longer stand idly by. I recently became involved in the North Dakota Injured Workers Support Group which is set up to help North Dakota workers in 2 ways. First, provide assistance for injured workers who are currently dealing with WSI. Second, to work for changes in North Dakota laws regarding workers' compensation so injured workers will receive the sure and certain relief that has been promised to them. The other day Chairman Berg had a list of desirable changes to the way WSI does its business. There could be additions to that list, but I'll only mention one. We get asked often how a WSI employee who has not seen a patient and who has little or no medical training can have the authority to override advice and treatment recommendations of a licensed practitioner who has examined the patient. Perhaps that is covered under the suggestion of peer review but only if the reviewer is a peer to the practitioner recommending a course of treatment.

As you consider the ideas suggested to you, I urge you to consider some broad, general principles. For starters, JUSTICE. If an injured worker lies about an injury to get benefits he loses those benefits and is subject to other penalties. That is how it should be. But, if any employer, any WSI employee, any doctor or any one else lies about a case in order to reduce benefits the penalties should be equally sure and certain.

Then there is FAIRNESS. Injured workers should receive the same level of diagnosis, treatment and care as patients who go to medical providers for injuries not related to work.

Another is EQUALITY. If WSI functions like an insurance company by collecting premiums and accepting responsibility for medical expenses and/or other benefits then it should be required to follow the same standards as any other insurance company. Every insurance company issues a policy and a statement of benefits so premium payers know what they are getting for their money. Policies and premiums have to be approved before an insurance company can do business in the state. If a company treats policyholders unfairly, it can be fined or even lose its license. My question is, "Where are similar standards for WSI?"

The fourth, and most important, principle is ACCOUNTABILITY. If you, as a boss, give someone a task, if you ask a friend to do you a favor or want someone to behave in a certain way, you don't always get what you expect. You get what you inspect. In its present form, WSI reminds me of a large yacht with an unbreakable hull and an infinite amount of fuel cruising around Lake Sacajawea or Devil's Lake. It was originally sent out to make the lake safer by clearing debris, finding submerged obstacles and helping boaters. The crew decided to do things their own way. If they happen to hit a few fishing boats along the way, the boats are destroyed, people are hurt, or worse, and the yacht goes on undamaged. The rest of us, in other boats or on the shore, can only watch, horrified, as the carnage continues. Even the owner of the ship is helpless. This issue of ACCOUNTABILITY is so huge that the North Dakota Injured Workers'

Support Group has chosen that topic as the only issue to which they are applying immediate, concerted efforts and they are using the only tool presently available to them. That tool is the initiated measure presently in its petition stage. Our support, or lack of it, for future legislative proposals will depend on their final form and other options that may be available.

With those principles in mind, I'd like to make a few suggestions. Mr. Furness, I have no reason to doubt your intentions, your integrity or your ability and I certainly don't doubt your bravery. You have taken on an awesome task. The way I see it, the abuses at WSI that are causing problems are not there because of legislation. They have been developed internally and are systemic. I know one of your early tasks is understanding what has been happening. Along that line may I suggest you review the record of medical practitioners used by WSI over recent years for case review, independent medical exams, testimony at hearings, etc. Look for correlation between the money they are paid and the percent of cases they find in favor of or against the injured worker. As you take internal steps to correct problems, please install some kind of monitoring system to be sure the system doesn't regress under future management. If you feel a need to make personnel changes, please don't automatically start with individuals that the management finds uncooperative or untrustworthy. Instead, I'd ask you to root out individuals or groups that are resistant to changes that would help WSI achieve its mission and also make things better for injured workers. May I add (and I don't know that this is the case) that if those resisting change are among the Board of Directors, so be it. I hope you can change their minds or find some way to encourage their resignations.

Members of the committee, I'd encourage you to draft legislation that will be appropriate whether the initiated measure becomes law or whether it doesn't. As you propose legislation, please include a system of oversight. Without oversight WSI could just as easily become inefficient and lax instead of efficient and unfair. Methods used by other insurance companies in certain areas could be good models. I can't help it think with the many detailed ideas for improvement, one might wonder, "Where do we start?" You may decide that the place to start is to start over. Whatever the case, as you consider possible legislation, please keep in mind the principles of JUSTICE, FAIRNESS, EQUALITY, AND ACCOUNTABILITY.

Finally, I'd like to address how we determine whether or not WSI is well managed. The mission of WSI is to provide sure and certain relief to workers who are injured on the job. I believe that the yardstick should not be speed of handling claims, size of premiums, money in the bank or poll ratings. I agree those things are important, but until WSI is providing sure and certain relief to every injured worker that deserves it, it is falling short of its assignment. I believe that IBL Committee members, Mr Furness, other legislators and we, as citizens, should not rest until North Dakota has a workers' compensation program that is a source of comfort and aid through sure and certain relief to injured workers instead of a source of frustration, anger, depression and despair.

Thank you for your time.