

**2013 HOUSE INDUSTRY, BUSINESS AND LABOR**

**HB 1053**

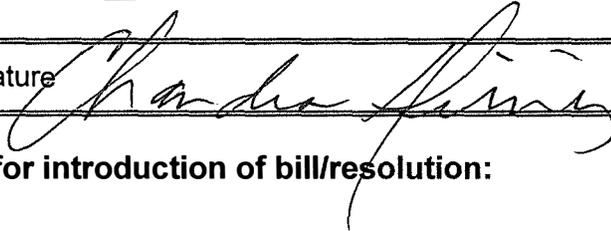
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee  
Peace Garden Room, State Capitol

HB 1053  
January 14, 2013  
Job 17132

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Restructuring of nonprofit mutual insurance companies

## Minutes:

No attached testimony

Hearing opened

**0:35 Jennifer Clark, Legislative Council, committee staff for the interim Workers' Compensation Review Committee:** Provided background on this bill. Referred to the case of an injured worker in Dickinson. What this bill proposes is create a new section of law saying that if WSI enters a relationship with a medical provider, that provider has an obligation to disclose that relationship when providing treatment. This bill is an attempt to establish transparency.

**2:35 Representative Becker:** What is the definition of the professional relationship?

**Jennifer Clark:** I am not aware of one in code. We'd use an everyday meaning for that.

**Representative Becker:** What is the consequence to the medical professional who does not disclose the WSI relationship?

**Clark:** Someone from WSI may know if there is a general penalty within Title 65, which is WSI. It is a violation of the law, but I am not aware of any criminal penalty.

**3:33 Support:**

**3:56 Renee Pfenning, North Dakota Building and Construction Trades Council:** We see this as a transparency issue. When you as an injured worker go to your physician, you want to know if your physician has a relationship with Workers' Compensation upfront.

**Representative Kasper:** The preferred provider network does not have discounts and seems to have limited if any benefits to companies. What is the reason for having a preferred provider program?

**Renee Pfenning:** We are not fans of the preferred provider program. The bill last week regarding annual reminders of the relationships, terms, and conditions would improve the program.

**Opposition:**

6:02 **Tom Balzer, North Dakota Motor Carriers Association** We have significant concerns with this piece of legislation. What does the term *relationship* mean? Does that mean that a provider has been paid by WSI before or that the provider has done work for WSI before? There is a lot of ambiguity in that particular term. The injured workers' advocates have lobbied for years about in-state independent medical examiners (IMEs) and the need for getting the IMEs in state. We do agree with the transparency aspect. However, we feel that by putting this provision in place and requiring doctors to notify patients, doctors would be less likely to engage in doing IMEs because they would have to notify every patient in the event that it is a work-related injury. They may be less likely to want to engage in IMEs, therefore limiting the number of in-state IMEs, which is what the injured workers' advocates have been for. Sometimes there is a lag in diagnosis or in notification to doctor that it is a work-related injury. If treatment has taken place before revelation that this is a work-related treatment, is the doctor supposed to notify the worker partway through treatment? The other issue is professionalism of doctors. The doctors carry a high oath in commitment to their patients, and they will treat their patients with the utmost care, regardless of their previous relationship with WSI. Therefore, we do not feel that this is a necessary piece of legislation.

8:45 **Representative Becker:** Relating to your first concern, do you feel that if there was a definition to *relationship*, that would take care of that? If the definition was in the bill, narrowly defining who falls under that professional relationship, it would theoretically be, for instance, a very limited number of providers who gain significant portion of their income from provider workers' comp, and those physicians would have the disclosure as part of their routine.

**Tom Balzer:** I believe that would help relieve some of the ambiguity. Narrowing that definition would help. From our standpoint, it's an issue of the IMEs. I think that when you have an IME relationship, that's probably the one that will sour the nature of the relationship the most.

10:08 **Representative Kreun:** Has there been a situation where the treatment was different, whether the doctor had worked with WSI before or not?

**Tom Balzer:** I would be unable to cite any examples. Given the medical profession, I doubt it, other than the sheer knowledge of how the workers' compensation system works.

**Representative Kreun:** Is this a solution looking for a problem?

**Tom Balzer:** I would agree with that assessment.

11:26 **LeRoy Volk:** Some individuals do not care for specific doctors. I do not like the idea of having to see a specified doctor.

**Neutral:**

12: 48 **Rob Forward, staff attorney for WSI:** Neutral position. The board of directors of WSI noted a few flaws in the wording of the statutes.

*Relationship* is not well defined and needs clarification. There does not appear to be duration on when this would stop applying to a particular provider. For example, if a provider had given WSI consultation services ten years ago and has not dealt with WSI in ten years, but they are now seeing an injured worker, are they still required to disclose that relationship to the patient? Should this more rightly apply or be dealt with within the statutes of the Board of Medical Examiners, not only for WSI but for all payers?

**Hearing closed.**

15:03 **Chairman Keiser:** What are the wishes of the committee? The interim committee vote was 3 to 2 to send this out. This is a difficult balancing act. Workers have questioned why we can't get in-state IMEs? Why do we have to travel out of state to see an IME? It has been very difficult to get physicians in a small state to take on a role of IME because they may have to rule as an IME against someone they know well. I did not support this bill because it creates more problems than it solves.

**Representative Ruby:** Motion for a "do not pass" for further discussion.

**Representative Kreun:** Second the motion

16:40 **Representative Ruby:** I had the same concerns with the definition of *relationship* and that there is no penalty.

**Representative Sukut:** Local doctors are already feeling encumbered with WSI paperwork, and this would be another issue which provides another requirement. In the view of most doctors, they handle patients with professionalism.

**Chairman Keiser:** The suggestion that this belongs with the Board of Medical Examiners is appropriate.

18:23 **Representative Boschee:** Is information posted somewhere listing providers and individuals can get that information?

**Rob Forward:** No.

**Roll call vote on "do not pass" motion: 14 yes, 1 no, 0 absent**

**Carrier: Representative Becker**

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/20/2012**

Bill/Resolution No.: HB 1053

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The proposed legislation requires medical providers that have entered into a professional relationship with WSI to inform injured workers they may treat, of the relationship with WSI.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

see attached

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

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**Agency:** WSI

**Telephone:** 328-6016

**Date Prepared:** 01/04/2013

**WORKFORCE SAFETY & INSURANCE**  
**2013 LEGISLATION**  
**SUMMARY OF ACTUARIAL INFORMATION**

**BILL NO: HB 1053**

**BILL DESCRIPTION: Medical Provider Disclosure (WCRC)**

**SUMMARY OF ACTUARIAL INFORMATION:** Workforce Safety & Insurance, together with its actuarial firm, Bickerstaff, Whatley, Ryan & Burkhalter Consulting Actuaries, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed legislation requires medical providers that have entered into a professional relationship with WSI to inform injured workers they may treat, of the relationship with WSI.

**FISCAL IMPACT:** No fiscal impact is anticipated.

**DATE: December 26, 2012**



**REPORT OF STANDING COMMITTEE**

**HB 1053: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **DO NOT PASS** (14 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING).  
HB 1053 was placed on the Eleventh order on the calendar.