

Joint Statement from Worker's Compensation Practitioners

November 16, 2016

Via Hand-Delivery

Governor Scott Walker
115 East, State Capitol
Madison, WI 53702

Dear Governor Walker:

We are the Presidents of the Wisconsin Defense Counsel, Wisconsin Association for Justice, and the Wisconsin Association of Worker's Compensation Attorneys. We write on behalf of our organizations to express our concerns about changes proposed to the Worker's Compensation Division as part of the five percent reduction proposal in the 2017-19 Biennial Budget.

In a Worker's Compensation trial, all parties need the guarantee of an impartial proceeding and a just result. Employers and insurance carriers deserve to know, especially when faced with potentially six and seven figure liability awards, that the proceedings are conducted with accuracy and precision.

The budgetary request at issue would eliminate the statutorily-required court reporters from worker's compensation trials conducted by the Division of Hearings and Appeals. The budget process is not the proper venue for this proposal. This substantive and far reaching change of the worker's compensation statutes—like all historical changes to the worker's compensation system—deserves input from all stakeholders through the Worker's Compensation Advisory Council (WCAC).

Under the current system, court reporters regularly attend worker's compensation trials. They handle exhibits, help ensure proper decorum, and assist in streamlining efficient trials. Significantly, they create and prepare the transcript, which becomes the legitimate and official transcript for decision-makers and appellate courts.

An audio recording of a trial, by its nature, cannot perform the functions of a court reporter. A tape recorder simply records sound. It does not distinguish who the speaker is, cannot direct witnesses to speak louder or more clearly, and is not guaranteed to function properly. Even if the audio recording is completely intelligible, it still would likely result in the need for transcription: transcripts are needed for appeals to the Labor and Industry Review Commission and to the Circuit Court. System costs would increase if forced to "re-do" the proceedings because of an unintelligible or inaccurate transcript.

If court reporters are eliminated, worker's compensation parties may choose to hire their own reporters. If parties decide to each hire a reporter, there will likely be disputes regarding which transcript is accurate or if either is "official." There may be further issues if the Department's audio recording is considered "official" if its transcript differs from the parties' transcripts.

Further, current worker's compensation court reporters have the benefit of understanding worker's compensation terminology. They understand the worker's compensation system because of their regular interactions with it. Outside court reporters are, by and large, not familiar with the system. This could lead to a number of problems including inconsistencies in transcripts, mistyped phrases and longer proceedings.

In addition, it does not appear that there are any provisions for audio recordings in the statutes or in the code, which will result in inconsistencies and confusion.

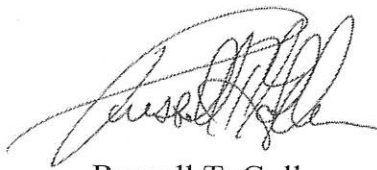
If this budget proposal is adopted, workers, employers, and worker's compensation insurers will all bear increased costs from transcript disputes. **These stakeholders—including the businesses of our state—should not face financial liability as a result of potentially inaccurate audio recordings.** Additionally, both state and private costs would increase under this proposal if trials have to be re-litigated due to audio issues. Given that this change is unlikely to save any significant General Purpose Revenue (GPR) and would result in increased costs and substantive changes to Wisconsin Worker's Compensation law, we believe this does not belong in the budget, particularly without being vetted by the WCAC.

Thank you for your consideration.

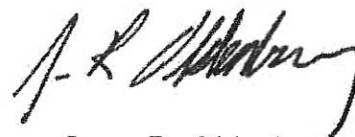
Very truly yours,



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cc: Secretary Scott Neitzel
Mr. Brian Hayes, Division Administrator