

# SENATE BILL REPORT

## ESSB 5290

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As Amended by House, April 3, 2007

**Title:** An act relating to industrial insurance medical and chiropractic advisory committees for the department of labor and industries.

**Brief Description:** Establishing industrial insurance medical and chiropractic advisory committees.

**Sponsors:** Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Keiser, Kohl-Welles and Clements; by request of Department of Labor & Industries).

**Brief History:**

**Committee Activity:** Labor, Commerce, Research & Development: 1/15/07, 2/06/07 [DPS].  
Passed Senate: 3/08/07, 49-0.

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### SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

**Majority Report:** That Substitute Senate Bill No. 5290 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Clements, Ranking Minority Member; Franklin, Hewitt, Holmquist, Murray and Prentice.

**Staff:** Jennifer Strus (786-7316)

**Background:** The Department of Labor and Industries (L&I) Medical Director's staff periodically gather evidence and information about emerging medical techniques and devices that might be helpful for injured workers. After this review, the Medical Director decides whether or not a technique or device will be paid through the worker's compensation system for an injured worker.

WAC 296-20-01001 requires the Washington State Medical Association to appoint an advisory and utilization review committee to assist the Medical Director in making the above decisions and advise L&I regarding policies affecting medical care and rehabilitation, quality control and supervision of medical care, and the establishment of rules. The committee is to meet monthly and L&I can reimburse members for each meeting. This group has disbanded because L&I cannot sufficiently reimburse the members for their time on this committee.

WAC 296-20-100 requires the Director of L&I to appoint a chiropractic advisory committee to advise L&I on policies affecting chiropractic care, quality assurance, clinical management of

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cases, utilization review and the establishment of rules. The committee is to meet on a monthly basis and L&I may reimburse the members for travel and incidental expenses.

**Summary of Engrossed Substitute Bill:** L&I must establish two separate advisory committees: the Industrial Insurance Medical Advisory Committee and the Industrial Insurance Chiropractic Advisory Committee.

Industrial Insurance Medical Advisory Committee (MAC): The MAC is to advise L&I on matters related to providing safe, effective and cost-effective treatments for injured workers. These matters can include the development of practice guidelines and coverage criteria, review of coverage decisions and technology assessments, review of medical programs, and review of rules pertaining to health care issues. The MAC may also provide peer-review and advise and assist L&I in resolving controversies, disputes, and problems between L&I and medical care providers. In advising L&I, MAC must consider the best available scientific evidence and the expert opinion of the MAC members.

MAC is comprised of up to 12 members appointed by the L&I Director. In making the appointments, the L&I Director must select the members from the nominations received from statewide clinical groups, specialties, and associations. At least two members must be physicians recognized for their expertise in evidence-based medicine. The Director may choose two additional members who are experts in occupational medicine. The MAC must choose its chair from among its members.

The Worker's Compensation Advisory Committee (WCAC) may ask the MAC to consider specific medical issues that have arisen multiple times in WCAC meetings. The MAC is not required to act on the request.

Industrial Insurance Chiropractic Advisory Committee (CAC): The CAC is to advise L&I on matters related to providing safe, effective, and cost-effective chiropractic treatments for injured workers. The CAC may also provide peer-review, advise, and assist L&I in resolving controversies, disputes, and problems between L&I and chiropractic care providers.

The CAC is comprised of nine members appointed by the L&I Director. The Director must consider nominations from recognized statewide chiropractic groups such as the Washington State Chiropractic Association. At least two members must be chiropractors recognized for their expertise in evidence-based practice or occupational health. The CAC must choose its chair from among its members.

Provisions Applicable to Both Committees: MAC and CAC members are immune from liability for official acts performed in good faith for the committee and may be compensated for their participation on the committee pursuant to a personal services contract entered into between the member and L&I.

MAC and CAC members must disclose all potential financial conflicts of interest. As a condition of appointment, each member must agree to abide by the terms and conditions regarding conflicts of interest as determined by the L&I Director.

The L&I Director must determine when and how often the committee will meet. MAC and CAC meetings are subject to the Open Public Meetings Act.

As necessary, MAC and CAC must coordinate with the State Health Technology Assessment Program and the State Prescription Drug Program. Decisions of these two programs hold greater weight than decisions by either MAC or CAC.

L&I will provide administrative staff to both committees.

L&I and the MAC and CAC committees are to report to the Legislature on specific items by June 30, 2011, including whether the committees in their current configuration should continue.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: L&I needs the assistance of medical experts in determining which procedures and processes are most appropriate for injured workers. The Washington State Medical Association (WSMA) assisted for a while, but because L&I could not pay them, they disbanded. This bill, which will allow L&I to pay them for their time, should obviate that problem. The chiropractic committee members that currently work well with L&I have never been paid and it will be of great help to those members to be paid. L&I wants the use of these groups to be a transparent process and that is why the Open Public Meetings Act applies. The bill should stay substantially the way it is written; nonmedical people should not be added to the list of committee members. In addition, this committee should not be subordinate to the Workers' Compensation Advisory Committee (WCAC) - it should be independent from the WCAC. The work done by these committees should be professional not political.

OTHER: The reason WSMA disbanded was because of tension between L&I staff and the medical community. Both committees created in this bill should be allowed to provide feedback to L&I about relationships between L&I and the medical community. Pain management specialists should be added to the listed group of specialists in the bill. There should be an ex officio member of labor on both committees.

**Persons Testifying:** PRO: Vickie Kennedy, L&I; Kris Tefft, Association of Washington Business; Rick Slunaker, Associated General Contractors; Lori Bielinski, Washington State Chiropractic Association.

OTHER: Robby Stern, Washington State Labor Council.

**House Amendment(s):** The MAC may consult with nationally recognized experts in evidence-based health care on especially controversial issues.

The members of the MAC and CAC cannot be L&I employees.

The chair and ranking minority member of the House and Senate Labor Committees may request a report from MAC or CAC on a medical issue related to workers' compensation, but neither committee is required to respond to the request.