

3601 Vincennes Road, Indianapolis, Indiana 46268
Phone: 317.875.5250 | Fax: 317.879.8408

www.namic.org

122 C Street N.W., Suite 540, Washington, D.C. 20001
Phone: 202.628.1558 | Fax: 202.628.1601

Oregon State Legislature
Oregon State Capitol
Senate Committee on Workforce
900 Court Street NE
Salem, OR 97301

April 7, 2015

Sent via email to: matthew.germer@state.or.us and carrie.ward@state.or.us

Re: SB 701, WC IME - NAMIC's Written Testimony in Opposition

Dear Senator Dembrow, Chair; Senator Thatcher, Vice-Chair; and members of the Senate Committee on Workforce:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to the committee for the April 8, 2015 public hearing. Unfortunately, I will be in another state at a previously scheduled legislative meeting at the time of this hearing, so I will be unavailable to attend. Please accept these written comments in lieu of my testimony at the hearing. This letter need not be formally read into the committee hearing record, but please reference the letter as a submission to the committee at the hearing.

NAMIC is the largest property/casualty insurance trade association in the country, serving regional and local mutual insurance companies on main streets across America as well as many of the country's largest national insurers.

The 1,400 NAMIC member companies serve more than 135 million auto, home and business policyholders and write more than \$196 billion in annual premiums, accounting for 50 percent of the automobile/homeowners market and 31 percent of the business insurance market. NAMIC has 153 members who write property/casualty insurance in the State of Oregon, which represents 46 percent of the insurance marketplace.

Through our advocacy programs we promote public policy solutions that benefit NAMIC companies and the consumers we serve. Our educational programs enable us to become better leaders in our companies and the insurance industry for the benefit of our policyholders.

NAMIC's members appreciate the importance of streamlining and economizing the independent medical examination (IME) process for injured workers, and commend the bill sponsor for his sincere desire to improve the law in this area. However, NAMIC is concerned that SB 701 will actually be detrimental to injured workers and an unnecessary WC insurance rate cost-driver for employers.

1) NAMIC is concerned that the proposed legislation will delay the timely treatment of injured workers.

The proposed legislation would modify the medical review process for independent medical examinations of injured workers so as to provide for random selection of qualified physicians to conduct independent medical examinations in workers' compensation claims.

NAMIC is concerned that this proposed revision to how IMEs are currently handled will create an elaborate and time-consuming process for selecting qualified physician for an independent medical examination. Although "randomization" may sound like a reasonable idea in theory, the practical reality of the situation is that it will create a new tier of administrative bureaucracy that is likely to hinder, not facilitate, the timely selection of IME physicians. Delaying IME provider selection will only delays medical treatment of injured workers, which is detrimental to the injured workers medical recovery and ability to return to work.

Moreover, the proposed "randomization" process is rife with potential for administrative law due process challenges, because a party can contest whether the IME physician was "actually" selected randomly. Unnecessary legal conflict over the selection of the IME physician is not in the best interest of injured workers, workers' compensation insurers, employers, or the WC system.

2) As the time-tested adage goes, "if it isn't broken, don't try to fix it", especially when the proposed fix may actually break it.

Pursuant to ORS 656.325, any provider performing a workers' compensation independent medical examination (IME) must be pre-approved by the Director of the Department of Consumer and Business Services. Consequently, an IME provider's medical competence and expertise is thoroughly addressed by a state agency to protect injured workers. The current process of pre-approving IME physicians that may be selected by a WC insurer to perform the medical evaluation has created a large and diverse pool of medical providers ready to perform an IME in a timely and cost-effective manner.

Additionally, NAMIC is concerned that there is no evidence to support the contention that the current IME provider pre-approval process is flawed and not properly working, or that any purported concerns with the current system couldn't be addressed in a way that doesn't require the adoption of a dramatic change to the current system, like the one proposed by SB 701. Why fix what isn't broken?

Since the current procedure for selecting and appointing a qualified, pre-approved IME physician is clear, straightforward, and readily implemented with minimal conflict, NAMIC believes that it makes sense to "stay the course" and not create a new and untested IME physician selection process that could be rife with administrative problems.

3) NAMIC is concerned that the proposed "randomization" process needlessly denies workers' compensation insurers the right to select a pre-approved provider to perform an IME.

Workers' compensation insurers should continue to have the right to *manage* their WC claims. The ability to select a pre-approved medical physician that works well with the insurer and performs timely IMEs in a fair, efficient, and cost-effective manner is important to insurers, employers and

injured workers. The proposed legislation is premised upon an unfounded premise that “randomization” will lead to better medical services and more fair evaluations for injured workers. There is no evidence to support this contention.

If the supporters of the bill believe that certain pre-approved IME medical providers are failing to maintain medical independence and professional integrity in their IME medical services, this issue should be raised directly with the Director of the Department of Consumer and Business Services, and the Oregon Medical Board. Fundamentally altering the IME provider selection process is not an appropriate way to address any alleged lack of professionalism by certain IME physicians.

4) NAMIC is also concerned that the proposed legislation will hinder WC insurers in their efforts to reasonably manage medical costs.

NAMIC is concerned that the proposed legislation will turn a straightforward IME selection process into a convoluted procedure, where costly conflict and needless administrative delays will burden the system and increase WC claims costs to the detriment of employers and injured workers.

For the aforementioned reasons, NAMIC respectfully requests that the Senate Committee on Workforce **VOTE NO on SB 701.**

Thank you for your time and consideration of NAMIC’s written testimony. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you have any questions pertaining to my written testimony.

Respectfully,



Christian J. Rataj, Esq.
NAMIC’s Senior Director State Affairs -Western Region