Public Agency Compensation Trust Opposition Comments Re: SB 317
By Wayne Carlson, Executive Director

The fiscal impact for SB 317 is difficult to determine but will increase costs.

The bill imposes benefit penalties for unreasonably delaying payment to an injured employee or concealing, falsifying, or failing to provide evidence before a hearing which would have been useful to the injured employee. Benefit penalties increased substantially in the last session and this expands them. The claimants and the regulators have taken a more aggressive approach when fining in case of violations and this bill expands their abilities to seek substantial penalties.

SB317 clearly will increase claims costs by lowering the "clear and convincing" evidence standard for medical or psychiatric claims, instead allowing proof by medical psychological or psychiatric evidence thus bringing in a more subjective standard.

The bill also removes hearing officers from allowing discovery by deposition or interrogatories and limits the same for appeals officers. Depending upon the case, important evidence may be excluded thus impacting both parties which may also increase costs of claims.

The physician panel changes are challenging. We agree that providers who do not want to treat injured workers should not be on the panel. However, replacing physicians who have been removed from the panel with a new physician within 60 days seems like an unrealistic expectation as is having 12 providers for each certain specialty. An example would be ENT's. There is a lack of ENT specialists in general in Nevada. Very few of them will accept Workers Compensation. Often injured workers must be sent out of state for treatment with an ENT when required. The MCO Panel we use is short of ENTs across the state. The state panel has 1 ENT on it. There is no way to successfully create a list of 12 ENTs to satisfy what current legislation or this legislation is suggesting. The legislation does not resolve the main issue: a lack of providers and specialists who are interested in treating injured workers. If there is a way to interest more providers in treating injured workers it would help cure the challenge of limited provider choice.

The portion of the bill repealing the need for the treating physician to approve a PPD evaluation on heart/lung claims will allow for a much easier administration of the PPD award. There are challenges with getting the treating physician to sign off on the PPD evaluations because they lack understanding of the difference between the impairment

rating vs disability/inability to work. If the treating physicians refuse to sign, we are stuck between the proverbial rock and hard place, especially when there is an injured worker attorney involved.

For the above reasons we oppose this bill.