

Supporters Optimistic That Formulary Bill Will Pass

By J. Todd Foster (Reporter)

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Despite opposition from what he calls a pro-labor advisory council, a Louisiana state lawmaker expressed confidence Tuesday that his bill calling for a drug formulary would pass and make a major strike against Louisiana's opioids crisis.

[House Bill 592](#), by Rep. Kirk Talbot, R-River Ridge, is scheduled to go before the Labor and Industrial Relations Committee on May 10 following its nearly unanimous rejection by the Workers' Compensation Advisory Committee.

"Contrary to what some of those members believe, we don't need permission to run a bill," Talbot said. "This is an epidemic. More people are dying in New Orleans from opioid overdoses than from being shot and murdered. This is not a business-friendly bill. This is a humanitarian-friendly bill."

HB 592 is co-sponsored by Rep. Taylor Barras, R-New Iberia, Speaker of the House, Rep. Paula Davis and Rep. Lance Harris. The vice chairman of that committee, Rep. Chris Broadwater, R-Hammond, also has introduced a formulary bill, [HB 529](#), but it differs from Talbot's proposed legislation.

Talbot's bill calls for the Office of Workers' Compensation Administration to adopt the latest version of the formulary of the Official Disability Guidelines, published by the Work Loss Data Institute. The formulary would apply to new claims after Jan. 1 or, for legacy claims prior to Jan. 1, on or after July 1, 2018.

"We don't have time to go and make up our own formulary," Talbot said. "Our neighbor next door, Texas, has one that's working. We need to get on this and do it sooner rather than later. A lot of this epidemic originates with workers' compensation. It's people getting hurt on the job and getting addicted to opioids.

"This isn't druggies. These are people like you or I who have an injury from no fault of their own and they get overprescribed and addicted to opioids. It's destroying lives," Talbot said.

Gary Patureau, executive director of the Louisiana Association of Self Insured Workers, and Metairie defense attorney Jeff Napolitano said Tuesday they also are confident that the ODG formulary bill will advance, despite the lack of support from the advisory council.

The 17-member council has only two employer representatives, they said, following the January 2016 inauguration of Democratic Gov. John Bel Edwards, a former plaintiffs' attorney.

"I think the governor may be hard pressed to veto it if it actually went through. Who's gonna campaign against opioid abuse reform?" Napolitano said. "It's clear Louisiana has a problem when you look at us nationwide. We issue more painkiller prescriptions per year than we have citizens. It's pretty ridiculous."

LASIE issued a seven-page [report](#) Friday, "Putting a Bridle on the Louisiana Opioid Epidemic: The Case for a Workers' Comp Drug Formulary."

It cites statistics from the Workers Compensation Research Institute showing Louisiana's injured workers ranked first in the nation in opioid use and took twice as much as the median worker in 25 study states. The June 2016 WCRI report said Louisiana workers used more than 3,400 milligrams of morphine equivalents per claim and called that amount "striking."

"The advantage with House Bill 592 is that we're already set up and ready to go," Napolitano said. "It's plug and play as opposed to having to develop a formulary. Who knows how long that might take? ODG has a proven track record in the states using it." Those states are Texas, Tennessee, Arizona, Oklahoma, New Mexico and North Dakota.

Opponents of HB 592, including the vast majority of members of the advisory council, said the ODG model focuses too much on cost savings and makes workers' compensation claimants the face of the opioids crisis when the problem cuts across the population as a whole.

Julie T. Cherry, secretary of the Louisiana AFL-CIO and an advisory committee member, said a formulary could be abused to put more hurdles in the way of injured workers.

“One of the problems is the bill calls for a closed formulary, and not just a formulary. Some payers will just use the process to play games to deny or delay treatment, and we know one of the things that’s critical is not only that injured workers receive the right care but that they receive it in a timely fashion,” she said.

Ken Eichler, vice president of the Work Loss Data Institute, said many formulary opponents have the misconception that a drug that requires preauthorization is automatically denied, even with supporting medical documentation.

“Workers’ compensation will not deny access to any medication that can be medically substantiated. Our formulary only mandates a stop and pause to allow for a substantiation of the drug and to protect injured workers against potentially risky or unnecessary drugs. The bottom line is that injured workers can get access to get any drug that can be substantiated,” Eichler said.

He predicts HB 592 has a “good shot” of passing because of the depth of Louisiana’s opioid problem and because of the ODG model’s success in Texas. Before Texas adopted the formulary, there were 15,000 workers taking more than 90 morphine equivalent doses of opioids a day; now there are fewer than 500, Eichler said.

“This is something that can help and does not hurt,” he said.

Louisiana has been debating the adoption of a formulary since 2008, LASIE’s Patureau said.

“We should be all about preventing opioid abuse and getting people back to work. We do this extremely poorly in Louisiana, no matter what anyone at OWCA says. Just read the WCRI reports,” Patureau said. “This is a specific, proven, tested solution in the workers’ compensation arena. We have a tremendous challenge in Louisiana, and we consider this the best-tested solution. That’s why we think the governor will certainly consider the bill.”

The governor’s press office and the OWCA did not respond to emails seeking comment Tuesday.

Mark Pew, senior vice president at Prium, cautioned that a formulary is not a silver bullet against opioid abuse. Medical schools also need to better educate their students about chronic pain and alternative treatments such as yoga and exercise, he said.

Pew added that [Senate Bill 55](#) in Louisiana would help curb opioid abuse because it requires all prescribers to review patient records through the prescription drug monitoring program and to review the records every 90 days if treatment continues.

The Senate passed HB 55 by a 33-0 vote on April 24 and referred it to the House Health and Welfare Committee. Louisiana’s legislative session ends June 8.

WCRI found Louisiana second only to Arkansas in the percentage (85%) of injured workers with pain medications who were prescribed opioids.

“A drug formulary is the best way to help remedy the opioids crisis that’s affecting Louisiana,” said Steve Bennett, associate counsel for the American Insurance Association. “The formulary should be a key cornerstone. Within that, you can place extra limits on initial prescription amounts, maximum daily dosage amounts and the maximum duration before you’d need court approval to go over a certain length of time.”

The 25 WCRI study states were Arkansas, California, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia and Wisconsin. They represent more than two-thirds of the workers’ compensation benefits paid in the nation, WCRI said.