



WORKERS' COMPENSATION
ADVISORY COUNCIL MEETING
OCTOBER 27, 2016

Members Present:

Sheral Kellar, Director
Richard Bray Williams, Gen. Public (5th PSC)
Shannon Dartez, Rep. Employees
Julie Cherry, Rep. Labor
Shannon Lindsey, Gen. Public (1st PSC)
Charles Davoli, Rep. Labor
Michael Morris, Rep. Self-Insured Industries
Sen. Edwin Murray, Rep. Gen. Public (3rd PSC)
Ray Peters, Rep. Employers

Members Absent:

Alejandro Perkins, Rep. Employers
Daniel Gallagher, M.D., Rep. State Med. Society
Pierce Nunley, M.D., Rep. La. Ortho Assn.
Mark B. Kruse, D.C., Rep. La. Psych Assoc.
James Quillin, PHD, M.P., Rep. La. Psych Assoc.
Joe Shine, PT

MINUTES

- i. Call to Order at 9:33am
- ii. Introduction of Workers' Compensation Advisory Council Members and their representation
 - o Each member has a binder with BIO of Advisory Council Members, along with an executive summary of the Office of Workers' Compensation Administration.
- Open Meetings Laws – La. R.S. 42:12-28
 - Meredith Trahant speaks on Rights to Observe
 - **Public Body**
 - o **Meeting**
 - o **Notice**
 - o **Agenda Items**
 - o **Voting**
 - o **Civil Penalties**
 - o **Other Issues**
- iii. Discussion of By-Laws and Rules for Conduct of Advisory Council Meeting
 - o **Purpose of the council** is to review and make recommendations to the governor, through the Louisiana Workforce Commission, on any proposed rules, affecting the administration or resolution of claims provided for the Workers' Compensation Act.
 - o **The Council** also shall monitor and, at least thirty days prior to the convening of the regular session of the legislature, report to the governor and the legislature on the implementation and administration of the Workers' Compensation Act and make specific recommendations thereon.
 - o Not asking the Council Members to vote on the passing of these By-Laws, only asking to look at them between this meeting and the next meeting. Then make suggestions on how you think they could be changed, supplemented, or some things deleted and we will vote on the next meeting. Some Council Members that's been on the council for a while may have some ideas about things that might need to be incorporated in the by-laws and if so, I'd like to hear from you.

- **Julie Cherry** – There were a couple of things: the first is our informal agreement with those chairs whether or not those pieces of the legislation will be heard. I'm not positive of that, but I think house and senate rules of address how members. Members having the right to have their legislation heard no matter what we've done, and I suggest we consult those rules to be sure that we are in conformance because we really don't have any control. The chair has a certain amount of control, but I believe the rules address that to the member's benefit that goes to house chambers. The second thing I mentioned to you, we talked about the possibility of how legislation changes during the process and how difficult it may be to get the full council back together. And I suggest to the council that we consider some provision in our By-laws for accepting the committee to convene in the events that substantial changes and that we possibly consider giving back the authority to reconsider our positions on such legislations.
 - **Bray Williams** – Julie do you have any thoughts on how you would construct that executive committee?
 - Julie Cherry – I think that would be up to this body, I think it should be balanced as to this body and I think it should be from members of this body.
- **Michael Morris** – Possible email electronic, is it possible to have another mechanism in place to take advantage of other means of voting or other input from the direct body? And in the past, I do feel like we've been able to make it through the session. I'm not aware of incidences where in the past where we haven't been able to reconvene and actually look at the legislation as it currently stacked.
- **Director Kellar** – For example, in this last session SB44 was a bill put forth by Senator Gatti and it changed every week and it substantially changed. You know that we worked with Senator Gatti to come up with some resolution of some issues we had with the bill, but you and I worked with the Senator. The council did not convene to vote yea or nay on the changes that were made during the course of the session. Because we never met again to vote whether or not we accepted the changes he had made, no one from the council went back to the table after those changes were made. So the committee that was reviewing the legislation didn't know what the council opinion was about because after the first vote we never went to the table. We need some mechanism to revote or reconsider legislation that changes and you know it can change every week.
- **Director Kellar**- need quorum to vote
 - **Shannon**- meeting of executive committees subject to same open meetings law?
 - **Meredith**- review 3rd paragraph on 1st page of R.S. 42:13
- **Director Kellar**- send any edits so they can be review by next meeting
- **Gary Patreau** (*audience*)- if committee is put together to study legislation, then have meetings of their own on that legislation, wouldn't they be still subject to open meetings law? In the past there have been subcommittees which require same notice as open meetings, yes?
- **Director Kellar**- difference is those were not really subcommittees since they tend to include members of the public and council. They didn't include in the entire council so a quorum was not met. Meredith will look into if this body creates a subcommittee on any subject will it be subject to open meetings law.

- iv. Announcement Regarding Members of the Director's Advisory Council (**time stamp 9:57:00**)
 - a. 5 individuals have been considered but no recent discussion has taken place to insure remaining interest

- Appellate court judge
- WC judge
- Plaintiff attorney
- Defense attorney
- Doctor

v. Appointment of Vice- Chair (time stamp 9:58:00)

- a. Chuck Davoli will be appointed
- b. Statute doesn't address vice-chair
- c. **Davoli**- as you see in the handout from IAIABC, there are a number of issues in the system and I committee to help communicating solutions.

vi. Town Hall Meetings (time stamp 10:02:13)

- a. 7 town hall meetings were conducted in September 2016. This was done to review challenges of process to implement Medical Treatment Guidelines. They need to be more user friendly. Process means LAC 40:2715

- Tacit denial- healthcare provider has no idea when to count the 5 days
- Delays to appeal is too quick- 15days not long enough to gather information/documents
 - Suggestion is to make 30 days
- No official record of what is submitted to Medical Director
 - Ex: no "official" record for judge to review
- Requirement for variances not clear- statute and rules may be in conflict
- Prescription medication subject to MTGs?
 - BR town hall meeting- issue submitted to Supreme Court; have not accepted writ yet
 - Split in circuit on decision
- Office visit
 - Alexandria town hall- choice of physician issue
- 1009 approved then payor raises issue of causation
 - Suggestion is to "raise it or waive it"
- 1010 that requests multiple items (i.e. fusions, etc.)
 - What does medical director approval approve
- Why go through process if 1010 doesn't guarantee payment
- Healthcare provider gets approval from payor's UR company but gets denial from payor, which do they use?

- b. Transcripts will be on the website and provided to council members

- **Ray Peters**- will a summary be provided?

- c. **Michael Morris**- some may be more statutory issues but some could be fixed in rule.

vii. Formation of Task Force (timestamp 10:17:34)

- a. Disability and Vocational Rehabilitation

- Old taskforce was dissolved
- Ray Peters is chair of committee
- **Pauline Williams** (*audience*)- Assessment to LRS is federally matched and OWC doesn't control how the funds are spent

- b. Drug Task Force

- Progress of Opioid Commission/HCR 113

- **Cindy Bishop** (*audience*) - pursuant to legislation by Senator LeBas. 1st meeting was organizational and minutes can be provided. Nov. 7th is next meeting and will be in B.R. Other organizations use CDC guidelines
 - Copy of closed drug formulary Representative Chris Broadwater
 - Director will be chair.
 - Michael Morris, Dr. Gallagher, Shannon Lindsey
 - c. 2715
 - **Michael Morris**- address town hall meetings issues
 - Court (Judge Johnson) reviewing if 2715 is unconstitutional in May 2016
 - Meredith Trahan, Michael Morris, Charles Davoli, Greg Hubachek, Will Green
 - Dr. Peter Zimmerman is interested
 - d. Workplace Safety
 - **Corey Gaines** (*audience*) - handout includes minutes from last meeting. Meet quarterly and 3rd year in action. Did a transportation industry study to review the differences between the high performers and low performers.
 - Projects should have a safety plan.
 - **Charles Davoli** – created to support safety efforts. There was also a construction industry study. Scientific elements were identified that made a place more safe. Public contract doesn't have to have safety requirement.
 - Charles Davoli to be chair
 - **Julie Cherry**- how do we revise RFP for state contracts?
 - e. Employer Misclassification/Fraud
 - Last year there was a bill that didn't pass (Rep. Smith)
 - **Julie Cherry**- national issue
 - Edwin Murray and Julie Cherry on taskforce
 - f. Legislative
- viii. Other Business
 - a. **Chuck Davoli**- handout on opioid and no problem with drug formulary
 - b. Kids Chance Fundraiser handout
- ix. Public Comment
 - a. Richard Hebert is Medical Director of LUBA
- x. Adjournment at 11:40am