



WORKERS' COMPENSATION
ADVISORY COUNCIL MEETING

March 23, 2017

Members Present:

Sheral Kellar
Charles Davoli
Julie Cherry
Shannon Dartez
Shannon Lindsey
Pierce Nunley, MD
"Bray" Williams
Dr. James Quillin
Mark Kruse
Edwin Murray
Maria Losavio (late)
Michael Morris (late)
Alejandro Perkins (late)

Members Absent:

Dr. Daniel Gallagher

MINUTES

- I. **WELCOME** (timestamp 9:55:53)
- II. **MINUTES**
 - a. Julie Cherry motion to accept
 - b. Mark Kruse second
 - c. All in favor
- III. **NOIs** (timestamp 9:57:04)
 - a. **40 LAC §2328, 2715, 2718 and 40 LAC § 5507**
 1. Notice was published on the website about stopping the NOI
 2. Letters were sent to oversight committee
 - b. **Second Injury Questionnaire/Form- Pauline Williams**
 1. 2010 legislative session
 - HIPAA violation discussion
 2. 1st time being promulgated
 3. Post hire medical questionnaire
 - Page 1- 1208.1 fraud & general info
 - Page 2- 32 presumed conditions in statute; diagnoses & procedures
 - Page 3- specific due to statute requirement of "actual knowledge"
 - Page 4- prompt person's memory
 - Page 5- restates 1208.1 and signature requirements

4. Should only be part of HR personnel file.

5. Two changes since 2010

- Correct spelling of hypertension
- Page 5- reworded “understand” language

6. Discussion

- *Charles Davoli*- Is it available in Spanish?
 - *Pauline Williams*- Yes
- *Shannon Lindsey*- why remove “understand” provision?
 - *Pauline Williams*- employer doesn’t feel qualified to certify that statement
 - *Shannon Lindsey*- suggest “express understanding”
 - *Michael Morris*- there are 3 certifications of 1208.1 already
- *Sheral Kellar*- are both signatures required?
 - *Pauline Williams*- yes
- *Shannon Dartez*- need stronger statement on page 1 about offer of employment required; know examples of form included in application packet.
 - *Sheral Kellar*- can an instruction sheet solve the issue?
 - *Shannon Dartez*- currently onerous on employee to notice it should be post hire
 - *Shannon Lindsey*- include certification by employer of post-hire on page 5
- *Pauline Williams*- be careful of employment law issue
- *Maria Losavio*- doesn’t want employer signing off on “understand”
- *Dr. Nunley*- agree with “express understanding”
- *Joe Jolissaint (audience)*- put line for employer to put hire date
- *Robin Krumholt (audience)* - page 1 add “post-hire”; page 2 say “do you have or ever had...”
- *Sheral Kellar*- will revise and bring back to council prior to starting NOI

7. **SIB Form B/ PNI form (timestamp 10:21:30)**

- After SIB claim approved, insurer sends periodic request reimbursement
- Change 1- took off letterhead
- Change 2- add JCN# (Jurisdictional number)
- Change 3- gave additional info of what is needed and added “total” line
- Change 4- “questions” changed to “third party recovery”; insurer alert of possible third party
- Discussion
 - *Charles Davoli*- used on reimbursement of settlements? How are they paid out?
 - i. *Pauline Williams*- Yes. Pay out in installments based on budget. Any settlements above \$50,000

will be evaluated on quarterly installments. Board takes action on Third party; statute say pro rata basis.

c. Records Request Form- André de la Fuente (timestamp 10:21:30)

1. Put employee on notice that records are being sought
2. Alert employer about ADA violations
3. Uniform form for records request
4. Currently don't charge for request; limit on funds & personnel

**Meridith Trahant is now acting SIB Director

5. André de la Fuente-

- Won't charge for exclusive 1002 & 1003 request since it's 1 or 2 pages.
- Won't accept request by fax due to fee requirement
- *Michael Morris*- combine 2 & 3 check box in part 1 of Section 1.
- *Rhonda Coffee (audience)*- is the "other documents" box subject to request fee?
 - *Meridith Trahant*- yes
- *Julie Cherry*- what will "general public" be able to request due to confidentiality?
 - *Meridith Trahant*- only what's public unless has authorization which is bound by what employee signs off on.
 - *Julie Cherry*- add "no employee authorization" under Section 3.
- *Joe Jolissaint (audience)* - If public information, then don't need authorization?
 - *Sheral Kellar*- yes
 - *Joe Jolissaint*- How do you request about Employer? Used to be told it wasn't public information.
 - *André de la Fuente*- maybe under "other documents"?
 - *Julie Cherry*- if use this form for employer, staff may reject due to sections left blank.

6. *Maria Losavio*- maybe up certification fee from \$1 and copying fee.

7. *Sheral Kellar*- change hearing rules to fees

8. Employee Authorization form-(timestamp 10:46:45)

- Maybe limit to confidential information on certain forms?
- *Maria Losavio*- opening paragraph is small font; what about medical records? Violate HIPPA?
- *Alejandro Perkins*- single out language of denying access.
- *Maria Losavio*- language says "conditional"
 - *Meridith Trahant*- language pulled from ADA
- *Shannon Lindsey*- employee signature needed for affirmative or negative next to check boxes.; waiver

- *Chief Judge Diane Lundeen (audience)*- rework check box language
- *Robin Krumholt (audience)*- do we need HIPPA medical authorization?
 - *Meridith Trahant*- HIPPA only covers covered health care providers.
 - *Sheral Kellar*- change section 1 to Employer/Requestor
 - *Julie Cherry*- # 7 in Section 1 is not employer/requestor
- *Meridith Trahant*- 50-80 request per day received; 408 request per year are pulled from offsite which has a \$20 charge for each file; storage flat fee is also \$60,000/yr.

IV. EFFECT OF 19TH JDC DECISION AND WHAT IT MEANS GOING FORWARD

a. Meridith Trahant (timestamp 11:02:15)

1. Barber vs. LWC case
2. 1009 process was stopped
3. Suspensive appeal has been filed
4. NOI public hearing will not be held on March 31st.

V. PRE-FILED BILLS (timestamp 11:05:33)

a. HB35

1. By Representative Carpenter
2. Familiarize by April 27th
3. Sponsored by firefighter's retirement system

b. Pharmacy formulary bill will be filed by LASIE for ODG Appendix A

VI. MISCLASSIFICATION JOINT TASK FORCE (timestamp 11:08:20)

a. Plans for joint training

1. UI- tax agents & OWC Fraud- Compliance Investigators
2. By April/May

VII. DISCUSSION OF Arrant v. Wayne Acree PLS, Inc., 187 So.3d 417 (2016)

(timestamp 11:08:20)

- a. Director didn't have authority to set prescription by rule
- b. *Maria Losavio*- be more aware of limited authority. Can we remove from/edit hearing rules?
- c. *Trey Mustian (audience)*- should do legislatively; a bill is prepared to give time period for appeal of 1009; amend R.S. 23§1203.1

VIII. OTHER BUSINESS (timestamp 11:18:30)

a. LWC 2018 Educational Conference

1. Held at Renaissance on February 1-2, 2018

b. Next council meeting is April 27th

IX. PUBLIC COMMENT

X. ADJOURNMENT at 10:56am

- a. Shannon D. motion; Charles Davoli second
- b. All in favor