



WORKERS' COMPENSATION
ADVISORY COUNCIL MEETING
March 22, 2018

Members Present:

Sheral Kellar
Charles Davoli
Shannon Dartez
Shannon Lindsey
Jennifer Marusak
Jerry Jones, PT
Michael Morris
Edwin Murray
"Bray" Williams

Members Absent:

Julie Cherry
Maria Losavio
Arielle Collins, Pharm.D.
Mark Kruse, D.C.
Pierce Nunley, MD
Alejandro Perkins
Marc Zimmermann, Ph.D.

MINUTES

I. WELCOME start at 1:40pm

II. MINUTES (time stamp 14:12:34)

- a. January & February
 1. Shannon Dartez motion to accept
 2. Jennifer Marusak/Jerry Jones second
 3. All in favor

III. LEGISLATION (time stamp 14:13:10)

- ** Sheral Kellar Requested to add 1201.3 & 1209C (and 1301 & 1302)
- Charles Davoli motion
 - Shannon Dartez second
 - All in favor

- a. HB 257 by Rep. Gaines
 1. Trey Mustian, esq. presented
 2. 1201.3 & 1209C amendments
 3. Intent is to not allow new evidence at WCJ level. New evidence should be filed with a new 1010 and sent to payor.
 4. **Jason Picard** {OWCA Medical Director} - seeing new evidence being submitted at 1009 level that would affect decision.
 - **Michael Morris**- not fair if payor potentially subjected to attorney fees and penalties. Process would still move quickly.
 - **Diane Lundeen** {OWCA Chief Judge} - haven't seen Mover hit with fees and penalties. Current law allows records to be

supplemented even at appellate level. Judge would look at what payor had available at time of denial.

- **Trey Mustian**- payor can approve at any time even if new evidence submitted at 1009 level.
5. **Shannon Lindsey**- provider may decide not to submit a document since adjuster should have it from previous submissions but will submit it to Medical Director. So supplements should be allowed at 1009. Due process rights allow claimant to submit additional evidence.
 6. **Charles Davoli**- may be more of a notice issue since there are tons of payors: TPA, adjusters, self-insured employers, etc.
 7. **Trey Mustian, esq.**- have seen 1010's decided on previous documents not submitted with the 1010
 8. Should be 15 day prescriptive period for filing that is not res judicata
 9. Support a simple bill that addresses the Arrant decision to prove a 15 day prescriptive period for filing an appeal of the MD decision (provided not res judicata) and attach to 1209 language.
 - Jennifer Marusak motioned
 - Shannon Dartez second
 - 7 yes to 1 nay
- b. HB 53 by Rep. Talbot
1. Prohibit public servants from giving testimony in favor of/against some legislation. Prohibits public servants from using public funds to influence in favor of/against legislation.
 2. Died on house floor; pending refile
 3. **Charles Davoli**- how far can public employer go?
 - **Edwin Murray**- just provide facts; don't take a position
- c. HB 384 by Rep. Talbot
1. Regarding import of medicine from Canada
 2. **Jennifer Marusak**- big pharma is greatly opposing it so it will probably die;
 3. Report no action
 - Jennifer Marusak motioned
 - Charles Davoli second
 - All in favor
- d. HB 267 by Rep. Anders
1. Provides relative to prohibited acts for insurers and insurance producers
 2. Michael Morris- LWCC exception is current law and bill doesn't relate to WC
 3. Pass
 - Charles Davoli motioned
 - Shannon Dartez second
 - All in favor

- e. HB 451 by Rep. Pierre
1. All foreign and alien insurers should have office in this state and WC licensed adjuster domiciled in this state
 2. **Charles Davoli**- act last year required all licensing of all adjusters as of August 1st.
 3. Report favorably
 - Charles Davoli motioned
 - Shannon Dartez second
 - 7 yes to 1 nay

**1301 & 1302

1. Provides for email option of notice
2. Bill not filed yet by Rep. Pierre
3. **Shannon Dartez**- adds last sentence about Director possibly requesting additional information
4. **Michael Morris**- email does have sent option
5. **Shannon Lindsey**- what is classified as electronic means?
6. **Michael Morris**- isn't a "either/or" option?
 - **Shannon Dartez**- does seem to be an "or" option. A sentence be added that states "the provision of an electronic notice does not dispense of the requirement of the posting in subparagraph A".
7. Posters staying up have greater benefit than electronic means
 - Shannon Dartez motion
 - Charles Davoli second
 - All in favor

- f. SB 34 by Sen. Walsworth
1. Renumbered paragraph that mentioned Second Injury Board
 2. Charles Davoli- motion to pass favorable
 3. Report no action
 - Michael Morris- substitute motion
 - Shannon Dartez- second
 - All in favor

- g. SB 180 by Sen. Milkovich
1. Provides a tort remedy when treatment denied and it caused an aggravation of the employee's condition
 2. Would go to 19th JDC
 3. Michael Morris moved to oppose bill but no one seconded
 4. Report favorably
 - Charles Davoli motioned
 - Shannon Lindsey second
 - 7 yes to 1 nay

- h. SB 221 by Sen. Carter
 - 1. Carla Roberts {attorney with LA Senate} presented
 - 2. Change agency name back to Department of Labor from Louisiana Workforce Commission
 - 3. **Sheral Kellar**- amendment on staff title changes?
 - **Carla Roberts**- Amendment 4
 - 4. **Charles Davoli**- any fiscal note?
 - **Carla Roberts**- wasn't requested; original name change was \$100,000. Some old signs may still exist so cost less
 - 5. Report favorably
 - Charles Davoli motioned
 - Edwin Murray second
 - All in Favor

IV. SIB QUESTIONNAIRE NOI (time stamp 15:14:17)

- a. Form B was filed
- b. Public hearing will be April 24th at LWC headquarters
 - 1. Can submit written comments
- c. **Charles Davoli**- Can employers use their own form? Is this required form?
 - 1. **Meridith Trahant** {OWCA SIB Director}- If employer wants to use a questionnaire, they have to use this one. Other options are affidavit or deposition.

V. OTHER BUSINESS (time stamp 15:16:41)

- a. none

VI. PUBLIC COMMENT (time stamp 15:16:52)

- a. **Charles Davoli**- pertinent discussion after meeting about Broadspire and genetic testing. Cease and Desist order.

VII. NEXT MEETING DATE (time stamp 15:17:38)

- a. April 26th
 - 1. LaSalle Building from 9:30am- Noon
- b. House Labor agenda. Meeting next Thursday
- c. **Cindy Bishop** {audience} - what did council decide on HB 53 & HB 384?

VIII. ADJOURNMENT at 2:51pm

- a. Shannon Dartez- Motioned
- b. Jennifer Marusak- Second