

## *Minutes*

*Tennessee Advisory Council on Workers' Compensation  
Monday, March 20, 2017 at 1:30 p.m. Central  
Legislative Plaza, Room 16  
301 Sixth Avenue North  
Nashville, Tennessee 37243*

**Present:**

**Voting Members**

State Treasurer David H. Lillard, Jr., Chairman

Kerry Dove

Bruce Fox

Brian Hunt

Bob Pitts

Paul Shaffer

**Non-Voting Members**

Jason Denton

Keith Graves

John Harris – by telephone

Lynn Lawyer

Sam Murrell – by telephone

Gregg Ramos

Pam Smith

**Ex Officio Members**

Representative Jimmy Eldridge

Abbie Hudgens, Administrator, Bureau of Workers' Compensation

Mike Shinnick, as designee for Commissioner Julie McPeak

**Also present:**

Christy Allen, Asst. State Treasurer (Legal, Compliance & Audit)

Troy Haley, Legislative Liaison, Bureau of Workers' Compensation

Larry Scroggs, Administrator, Advisory Council

**Chairman David Lillard** called the meeting to order at approximately 1:30 p.m. Central. After the roll was called and a physical quorum established, the Chair welcomed the members of the Advisory Council and others in attendance. The Chairman noted that the primary purpose of the meeting was for the Advisory Council to fulfill its statutory duty to consider and make recommendations relative to the remaining proposed legislation affecting the workers' compensation system. The Chairman indicated four (4) bills remained for consideration, having

been referred to the Advisory Council by the **Senate Commerce and Labor Committee** and the **House Consumer and Human Resources Committee**, and that the Advisory Council's recommendations would be reported back to the respective committees in accordance with T.C.A. § 50-6-121(k).

The Chair then addressed the first item on the agenda which was the approval of the minutes of the Advisory Council's February 27, 2017 meeting. **Council member Kerry Dove** moved for approval. His motion was seconded by **Council member Bruce Fox**. The Chair asked for a roll call vote which resulted in a **unanimous vote to approve the minutes** of the February 27, 2017 meeting.

The Chair recognized **Troy Haley**, Legislative Liaison for the Bureau of Workers' Compensation, for a presentation on **SB1214/HB0325** (Norris-Hawk and Eldridge). **Abbie Hudgens**, BWC Administrator and an *Ex Officio* member of the Advisory Council, was also present. This **Administration bill** would: (1) eliminate unnecessary filing of coverage forms with the BWC; (2) establish a vocational recovery assistance program for workers who are injured on the job and who are unable to return to their former occupation; (3) address certain timeframe issues in the Workers' Compensation Appeals Board determination process and add an opportunity for oral argument before the Appeals Board; (4) establish fines for entering false information on a construction service provider's application to the Secretary of State's Exemption Registry; and (5) establish a requirement for construction service providers to furnish proof of workers' compensation insurance coverage at job sites.

**Council member Fox** moved, seconded by **Council member Kerry Dove**, to report to the respective legislative committees the Council's favorable recommendation for passage of **SB1214/HB0325**. The motion was unanimously approved by the voting members present. Voting *for* the motion were **Council members Dove, Fox, Brian Hunt, Bob Pitts and Paul Shaffer**. Therefore, **the Council made a favorable recommendation for passage of the proposed bill**.

The Chair recognized **Representative Jimmy Eldridge**, *Ex Officio* member of the Council and House bill sponsor, who advised the members that **SB0177/HB0157** (Overbey-Eldridge) should be **taken off notice** from the Council's calendar.

The Chair also noted that at the request of its Senate sponsor, **Senator Richard Briggs**, **SB0297/HB0666** (Briggs-Hill M) was being **deferred** to the next meeting of the Advisory Council.

The Chair recognized **Representative Mike Carter** and **Michelle Consiglio-Young**, Assistant General Counsel/Legislative Liaison for the Administrative Office of the Courts, on **SB0261/HB0939** (Johnson-Carter). At the Council's previous meeting on February 27, 2017, Ms. Consiglio-Young presented an overview of the proposed legislation which was filed on behalf of the Tennessee Supreme Court. As introduced, the bill requires workers' compensation cases appealed from the Court of Workers' Compensation Claims to proceed through the Workers'

Compensation Appeals Board before seeking a *discretionary* appeal, instead of an *appeal by right* (current law), to the Supreme Court. It amends T.C.A. § 9-8-307 and 403, § 50-6-217, 225, 239 and other sections. Concerns were expressed relative to the issue of eliminating the existing *appeal by right* by **Council members Fox and Gregg Ramos**. **Council member Pitts** also indicated employers would have the same concerns as employees' representatives in that they would be reluctant to relinquish the *appeal by right*. At the recommendation of **Council member Fox** and other members, and with the concurrence of the House bill sponsor, **Representative Carter**, the bill was **deferred** until the next meeting of the Council in order to permit further discussion and development of possible amendments.

The Chair proceeded to the next Agenda item and recognized **BWC Administrator Abbie Hudgens** for a presentation on the Bureau's Draft Revision of the ***Medical Fee Schedule Rules for Treatment***. Administrator Hudgens indicated the Bureau had been engaged in a three-year review and planning process for revision of the schedule. She explained the objectives of the changes proposed were to: (1) reduce complexities in the current fee schedule and simplify billing; (2) provide new codes for services needed for appropriate care; (3) clarify when Medicare definitions should apply; (4) increase clarity and consistency; (5) make changes revenue neutral; (6) change penalty provisions to be consistent with statute; and (6) provide provisions for e-billing, which is part of the 2013 reform. Three packets of detailed proposed revisions prepared for Rulemaking Hearings were distributed to Council members.

Administrator Hudgens explained the major proposed changes involve: (1) changing payments to hospitals and Level 1 trauma centers to simplify billing; (2) adding billing codes for payment to physicians for a causation opinion, for drug and alcohol counseling, or for extra time spent with a case manager; (3) disallowing charges for a records search if no records are found; (4) changing definitions to align with most recent changes to Medicare definitions; (5) adding language for compliance with e-billing; and (6) removing the mandate for utilization review for PT/OT after 12 visits; psychological treatments, and retrospective review of emergency ambulance transport.

During the course of Ms. Hudgens' presentation, **Assistant Treasurer Christy Allen** assumed the chair as **Chairman Lillard** excused himself to attend another meeting.

Several Council members posed questions to Ms. Hudgens and **BWC Medical Director Dr. Robert Snyder**. **Council member Dove** asked if the proposed revisions, particularly related to billing codes, were modeled after any other states or were created by the BWC. He also asked what data was used to eliminate utilization review for certain proposed services. Mr. Dove observed the more visits that are made available tend to lengthen the course of treatment. **Council member Brian Hunt** commented about pain management and counseling needed to withdraw from opioid use. **Council member Fox** noted that delays in authorization for treatment needed to be reduced in order to ensure prompt resolution of recommended courses of treatment. **Council members Hunt and Dr. Keith Graves** discussed chiropractic treatment

guidelines and limits on the number of authorized visits. **Dr. Snyder** responded to several questions of members. He noted that quicker decisions on causation lead to better patient care and treatment results, and he reiterated the goal of the Bureau was to ensure the best quality care.

Upon further discussion of the Bureau's proposed changes, Council members asked if Administrator Hudgens was willing to defer further consideration until the next meeting to give members time to review the more detailed materials prepared for Rulemaking Hearings. Administrator Hudgens indicated her amenability to the request, and therefore, the Council deferred further deliberation to the next meeting.

The Chair asked if there was any other business to come before the Advisory Council, and seeing none, entertained a motion by **Council member Dove** to adjourn, seconded by **Council member Shaffer**. The meeting was adjourned at approximately 2:30 p.m. without objection. The Chair thanked the members for their service to the State of Tennessee as members of the Advisory Council.

/s/ \_\_\_\_\_  
Larry Scroggs, Administrator,  
Advisory Council on Workers'  
Compensation

/s/ \_\_\_\_\_  
David H. Lillard, Jr., State Treasurer  
Chairman, Advisory Council on  
Workers' Compensation