

*Tennessee Advisory Council on Workers' Compensation*  
**MINUTES**  
*Thursday, May 24, 2012, 10:00 a.m.*  
*Legislative Plaza, Room 30*  
*Nashville, Tennessee*

**Members present:**

Voting Members

Chairman David H. Lillard, Jr.  
J. Anthony Farmer via telephone  
Jerry Lee  
Bob Pitts  
Dan Pohlgeers  
Gary Selvy via telephone

Nonvoting Members

David Davenport  
Bruce Fox via telephone  
Keith Graves  
Abbie Hudgens  
Lynn Lawyer  
Jerry Mayo  
Gregg Ramos  
Mike Shinnick

Lynn Ivanick, Administrator

Also present from Treasury, introduced, presenting or available to speak:

Christy Allen, Assistant Treasurer, State Treasury Department  
Ben Simpson, Claims Service Counselor, State Treasury Department  
Landon Lackey, Director of Workers' Compensation, Dept. of Labor & Workforce  
Development  
Mary Jean King, BYNAC actuary for Council  
Danny Litton, SAS actuary for TN Department of Commerce and Insurance  
Amy Quinn, NCCI State relations executive for Tennessee  
Karen Ayres, NCCI actuary  
Tom Redel, AON

At 10:10 a.m., Chairman David H. Lillard, Jr., State Treasurer, called the meeting to order.

Roll was called by Ms. Ivanick, and Chairman Lillard declared a quorum was present. The Chairman introduced and welcomed everyone to the meeting.

Ms. Ivanick read a resolution to conduct the meeting via teleconference. A **motion** was made by Mr. Jerry Lee and **seconded** by Mr. Dan Pohlgeers to adopt the resolution. A voice vote was taken and the Chair declared the resolution adopted.

The first item of business was the approval of the minutes of March 26, 2012. Mr. Bob Pitts made a **motion** to accept the minutes as amended, which was **seconded** by Mr. Pohlgeers. On the second line of the third page, "120" was changed to "20%" to correct a typographical error, and Chairman Lillard called for a voice vote on the minutes as amended. The minutes were unanimously approved as amended.

Chairman Lillard opened the next item of business, the Summary of the 1<sup>st</sup> Quarter from NCCI, for discussion or comment. Mr. Pitts thanked NCCI for continuing to file the report, and the item was acknowledged.

**The next item** was an update on the proposed Medical Fee Schedule Rule amendments. Council member Ms. Abbie Hudgens introduced Mr. Landon Lackey to make a presentation. The original effective date of June has been pushed back to August 9, 2012 by a stay imposed by the Joint Government Operations Committee. This affects NCCI's law only filing in that the filing will have to be pushed back. There may have been some misunderstanding from the physician lobby comments, but all are working together to accomplish the best overall scenario.

Chairman Lillard asked if there were any questions of Mr. Lackey and recognized Mr. Pitts to speak. Mr. Pitts stated that the lobbyists' comments were not intended to delay the rule, and an amicable resolution had been reached with all parties.

Mr. Shinnick was recognized by the Chair and inquired of Mr. Lackey if the date was going to be August 9 as a certainty, or if another date was foreseeable. Mr. Lackey indicated that August 9 was the date certain. Even if the Committee gave a negative recommendation on the rule, it would still be in effect until June 20, 2013, but a negative recommendation is not expected.

The Chair called for any further questions, and, there being none, the Chair thanked Mr. Lackey for his presentation.

**The next item** was a presentation by Amy Quinn and Karen Ayres of NCCI. Ms. Quinn introduced herself as the NCCI State Relations Executive for Tennessee and indicated that NCCI was there to request approval of a 5.1 rate decrease in loss costs. She introduced Ms. Karen Ayres, NCCI actuary for the State of Tennessee.

The Chair thanked Ms. Quinn and welcomed Ms. Ayres for presentation of a summary of NCCI's filing for the 5.1% decrease which had been submitted to the Department of Insurance. Ms. Ayres indicated that the NCCI filing was made up of two separate fee schedule change components – the January 1, 2012 Medicare annual update (-1.5%) and the amended medical fee schedule rules (-3.7%).

Because these two changes impacted just the medical component, when the loss costs for the individual occupational classifications are adjusted, the indemnity and medical split of each class are reflected individually. The changes range from a 4.8% decrease for classes in the miscellaneous industry group to a decrease of 5.4% for those in goods and services. The bigger percentage of the change comes from the proposed changes to physician services, prescription drugs and ambulance service fees. NCCI estimated the impact of the rule changes to be a decrease of 5.6% on medical costs only, and given the indemnity/medical split in Tennessee, an overall decrease of 3.7%.

The filing had a proposed effective date of August 1, but NCCI will work with the Department of Commerce and Insurance to amend the final rate pages to reflect any later decision regarding an effective date.

The Chair asked if there were any questions for the presenter and seeing none, introduced the **next speaker**, Ms. Mary Jean King, actuary for the Advisory Council.

Ms. King reiterated that since it is a law only filing, BYNAC only measured the impact of the rules changes to the medical fee schedule and did not include any review of any other component of the workers' compensation loss costs. The method used by NCCI of measuring the impact uses the maximum allowable reimbursement and frequency of each procedure. It also assumes that the frequency distribution by procedure code will stay the same after the change and that the volume of services will also stay the same. Based on BYNAC's review, the method is reasonable, and all the calculations were done in accordance with the actuarial standards of practice. Ms. King further explained other actuarial assumptions.

The Chair thanked Ms. King for her presentation and introduced the **next speaker**, Danny Litton, SAS, actuary for Department of Commerce and Insurance. Mr. Litton stated that SAS has reviewed the NCCI filing and felt the results of the analysis were reasonable. Mr. Litton discussed the factors and assumptions SAS considered in its analysis.

The Chair recognized Mr. Shinnick, who indicated that he had received and would send the written report. The Chair asked that the report be sent and **made part of the record** if there was no objection. There was no objection. The Chair thanked Mr. Litton for his presentation.

The **next item** of business was the discussion of the filing and the Council's recommendation. The Chair indicated that the Council's comment period expires June 19, 2012.

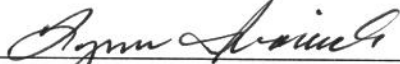
The Chair recognized Mr. Pitts, who asked for further clarification regarding the reasoning for going back to the average wholesale price of the original manufacturer on repackaged drugs. Mr. Lackey explained the basis for the decision and indicated other states were experiencing the same issue.

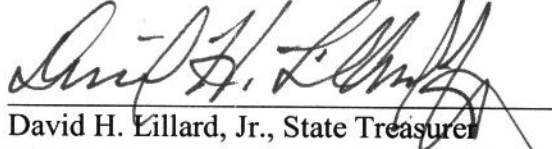
Mr. Mayo was recognized and indicated that although the filing proposes a negative rate, the insurance industry supports the filing.

The Chair outlined the Council's options, and Mr. Pitts **moved** that since NCCI's request was deemed reasonable by all actuaries, the Council go on record in support of the request to the Commissioner. The Chair called for a **second** which was done by Mr. Lee. The Chair called for discussion, and Mr. Shinnick inquired as to the recommendation reflecting the change in dates. Mr. Pitts inquired if that was the only change. Mr. Shinnick indicated that it was, and Mr. Pitts amended the motion, and Mr. Lee amended the second.

The roll was called, and there was a unanimous vote in favor of the motion, as amended to reflect a possible change in the effective date, and the motion was adopted.

The Chair called for further comments, and seeing none, thanked all the participants for their presentations and indicated that the agenda for the day was concluded. The Chair inquired as to any other business to come before the Council and, seeing none, acknowledged a motion to adjourn from Mr. Pitts; the Chair adjourned the meeting at 11:25 a.m. without objection and subject to call of the Chair.

  
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Lynn Vanick, Administrator  
Advisory Council on Workers'  
Compensation

  
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David H. Lillard, Jr., State Treasurer  
Chairman, Advisory Council on Workers'  
Compensation