

Minutes

Tennessee Advisory Council on Workers' Compensation

Wednesday, August 27, 2019 at 1:30 p.m. Central

Cordell Hull Building, SHR I

425 Fifth Avenue North

Nashville, Tennessee 37243

Members Present:

Voting Members

David Lillard, State Treasurer, Chair

Kerry Dove

Bruce Fox (by telephone)

Brian Hunt

Bob Pitts

Non-Voting Members

Joy Baker

Jason Denton

Sandra Fletchall (by telephone)

Dr. Keith Graves

John Harris (by telephone)

Gregg Ramos

Misty Williams

Ex-Officio Members

Abbie Hudgens, Administrator, Bureau of Workers' Compensation

Mike Shinnick, TDC&I Designee

Also Attending

Troy Haley, BWC Legislative Liaison

Alison Cleaves, Asst. State Treasurer

Larry Scroggs, ACWC Administrator

The Chair, David Lillard, called the meeting to order at approximately 1:35 p.m. (CDT) and welcomed the members. He explained that voting member **Bob Pitts** was enroute to the meeting and that upon his arrival a physical quorum of voting members would be established. In the interim, **the Chair** stated the meeting would proceed as informational.

The Chair addressed the first item under New Business, recognizing **Mike Shinnick**, workers' compensation manager for the Department of Commerce and Insurance. Mr. Shinnick presented an *Overview of Tennessee's Workers' Compensation Market Conditions and Environment*, noting this was his 15th such presentation before the Council. Mr. Shinnick explained that preliminary data confirmed that national property and casualty underwriting results for private carriers were continuing to trend favorably, and since 2008 workers' compensation insurers reflected similar results. Mr. Shinnick cited

the word, “**Delivering,**” to describe workers’ compensation insurance performance, stating the word was featured at the *NCCI 2019 Annual Issues Symposium* to depict 2018 performance. Other significant points by Mr. Shinnick relative to the countrywide market: the average indemnity claim severity over a two-year period is stable at a 3.7% increase; medical lost-time severity is projected to decrease to 1% for 2018; claim frequency is continuing to decline; and pretax operating gain for carriers is reflecting the best result over a 20 year period, at 26%. In the Tennessee voluntary workers’ compensation insurance market, premiums for 2018 totaled \$757,789,880. Mr. Shinnick also cited the recent stable history of the Tennessee assigned risk or residual workers’ compensation insurance market. There were no insolvencies among assigned risk carriers in 2018. He reported that *Bright Horizons*, an assigned risk depopulation initiative, was helping reduce premium cost in the assigned risk market in Tennessee. Mr. Shinnick’s complete presentation may be viewed at the Advisory Council’s website. ***(see below)**

Note: at approximately 2 p.m., Mr. **Pitts** arrived, and a physical quorum was established. **The Chair** then returned to the first item on the agenda, which was to approve the minutes of the previous meeting held on March 18, 2019. The minutes were approved on a unanimous vote, upon motion by Council member **Pitts**, seconded by Council member **Brian Hunt**.

The Chair addressed the second agenda item under New Business, recognizing **Hannah Wohltjen** and **Jessica Benton** of *Elevate Consulting, LLC* the new statistical analyst for the Advisory Council. They presented a *Statistical Analysis of 2018 Workers’ Compensation Data*, based on data compiled by the Bureau of Workers’ Compensation, Tennessee Department of Labor and Workforce Development. Their report addressed six key questions: Who is receiving workers’ compensation? What types of benefits are individuals receiving? Are individual recipients returning to work? What are trends in conclusion types? Are cases progressing in a timely manner? How much are individuals being compensated?

Their conclusions were generally that: the median age of employee-claimants with permanent injury claims concluded between 2009 and 2018 is 47. Sixty-two percent (62%) had a high school diploma or equivalent, and thirty-six percent (36%) of the injuries occurred in Middle Tennessee. Medical expenses and permanent partial disability (PPD) were the most common types of benefits from 2009-2018. The majority of those receiving workers’ compensation benefits returned to work. The vast majority of cases were concluded by settlement. The median number of weeks from injury to conclusion was 68 weeks. The median total compensation amount for pre-*Workers’ Compensation Reform Act of 2013* claims exceeded that of post-Act claims, and the median number of weeks for receiving benefits for pre-Act claims exceeded that of post-Act claims. The highest median compensation was paid to claimants between 45-59 years old, with less than a high school education, who reside in Middle Tennessee.

Council members **Jason Denton**, **Gregg Ramos**, **Bob Pitts**, **Brian Hunt** and **Kerry Dove** asked questions concerning the method of data collection, population factors and demographic changes. In response to Council member **Denton’s** specific question about SD1 and SD2 forms, Ms. Benton responded that while the SD1 form generally applies to pre-Reform Act claims, some SD1 forms were used post-Reform before the SD2 form came into regular use for post-Reform claims, suggesting that another full year of data collection would provide a clearer picture of pre-Reform and post-Reform data. Ms. Benton also indicated a somewhat higher concentration of population in Middle Tennessee could explain the greater numbers of claims from that Grand Division. The complete report of *Elevate Consulting, LLC* may be viewed at the Advisory Council website. ***(see below)**

The Chair then addressed the third agenda item, a presentation by **Eddie Herrera**, Director of Plan Administration for the *National Council on Compensation Insurance* (NCCI), entitled the *Workers’*

Compensation Plan Report. Mr. Herrera focused on the residual or assigned risk market for workers' compensation coverage. Some 12,659 policies were issued in 2018, with a premium volume of \$65,742.426. The average workers' compensation insurance premium is \$3,830. Sixty-seven percent (67%) of the policies have an average premium of \$1,059. Policies written for construction of residential dwellings not exceeding three stories in height occupy the top rank at 13.8%. Tennessee has three servicing carriers and seven direct assignment carriers in the residual market. Note: The residual market written premiums amount to \$65.7 million for 2018. The market share is 8%. Council member **Pitts** asked Mr. Herrera if Tennessee's premium level, exceeded only by Georgia, Illinois and Virginia, was a problem. Mr. Herrera noted Mr. Shinnick's presentation indicated premiums were decreasing in Tennessee so he was not sure there was a problem. Mr. **Shinnick** responded that a possible factor that may increase Tennessee's premium amount is that temporary help firms make up fifty percent (50%) of the residual market and that a high level of construction activity in the state may also be a contributing factor. Mr. Herrera's presentation may be viewed at the Advisory Council website. ***(see below)**

The Chair next addressed the fourth agenda item under new business, which was an overview of the *Tennessee Workers' Compensation Voluntary Loss Cost Filing*, proposed to be effective March 1, 2020. The presentation was by **Dan Cunningham**, Director and Actuary for NCCI. Mr. Cunningham explained that NCCI's loss cost projection had been filed today. He stated that an overall voluntary market loss cost level of -9.5% is proposed, compared to the NCCI filing that became effective March 1, 2019 of -19.0%. Mr. Cunningham indicated the NCCI projection for March 1, 2020 was based on an analysis of experience and development, trend, benefits and loss-based expense. Experience and development involves premium and loss experience for policy years 2016 and 2017. Policy year data consists of the premium and losses derived from all policies written in a given year. Mr. Cunningham said the use of the two years accurately reflects premium volume and is responsive to recent trends. In response to a question by Council member **Gregg Ramos**, Mr. Cunningham confirmed that there has been a steady decline in indemnity and medical loss ratios since 2010. A similar trend is evident in claim frequency, although the decrease for the last year reviewed was not as low as some years. There was a slight increase in claim severity, which Mr. Cunningham indicated may not continue. Mr. Cunningham explained that an *Assigned Risk Rate Filing* has not yet been made but that he anticipates a slight increase in the loss cost multiplier (LCM) that will ultimately be proposed to be effective March 1, 2020. The assigned risk LCM which became effective March 1, 2019 was 1.707. Mr. Cunningham's report may be viewed at the Advisory Council website. ***(see below)**

The Chair thanked the presenters for their presentations and asked if any Council members had further questions or comments, and also whether any member of the public in attendance had questions or comments. There being none, the meeting was adjourned at approximately 3:25 p.m.

***Advisory Council website:** <https://treasury.tn.gov/Explore-Your-TN-Treasury/About-the-Treasury/Boards-Commissions/Advisory-Council-on-Workers'-Compensation>
(Go to Explore, and then click on *Boards Commissions*)

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

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