

**THE LABOR COMMISSION
WORKERS' COMPENSATION ADVISORY COUNCIL**

**Wednesday, August 17, 2016 – 12:00 P.M.
Room 319A, Utah Labor Commission Offices
Salt Lake City, Utah**

The following Advisory Council members were in attendance:

Dennis Lloyd, Workers Compensation Fund (for Ray Pickup)
Tracy Klausmeier, Utah Dept of Insurance
K. Dawn Atkin, Esq., Atkin & Associates
Jeff Rowley, Salt Lake County by telephone
Dave Davis, President, Utah Food Industry Association
Brian Kelm, attorney
Richard Brewster, Operating Engineers Local Union No. 3
Todd Bingham, President, Utah Manufacturers Association
David Bird, Esq., Parsons Behle and Latimer
Brandt Goble, Painters and Tapers Local 77
Rich Thorn, Associated General Contractors
Reo Castleton,
Sen. Mayne

The following Advisory Council members were excused:

Michele Balady, Travelers
Rep. Dunnigan
Ed Holmes, MD

Others Present:

Jacson Maughan, Deputy Commissioner
Ron Dressler, Division Director, Industrial Accidents, Labor Commission
Sara Danielson, Utah Labor Commission, Administrative Assistant
Maggie Karpuc, NCCI
Maggie Hulls, Industrial Accident Admin Asst.
Julie Clark
Glenn Wright
Andrew McAllister
Brad Thurman, Industrial Accidents Division, Labor Commission
Paula Stauffer, WCF
Jinx Dabney was present by telephone
Jacob (Jake) Barnhart, PIO, Labor Commission

WELCOME

Welcome –Acting Commissioner, Jacson Maughan brought the meeting to order at 12:02 p.m. Acting Commissioner Maughan welcomed everyone.

Miscellaneous Business:

Acting Commissioner Maughan asked if Council Members had had an opportunity to review the minutes of the last meeting. He asked for a motion to approve the minutes. Todd Bingham made the motion. The voting was unanimous in the affirmative.

Workplace Safety Grants:

Ron Dressler stated that in a review of the Workplace Safety statute, he and Jake Barnhart were reminded that this Council could make recommendations for Safety Programs. He asked that if anyone had a recommendation or idea for a safety program to email that to either Jake or him by November 1, 2016.

Supreme Court Decision on Attorney Fees:

Acting Commissioner Maughan asked for discussion of the recent Supreme Court decision removing the Labor Commission's authority to set attorney fees. Discussion was held.

Concerns raised:

1. Injured workers may be harmed if fees increase because attorney fees come out of the benefits received.
2. Injured workers with medical-only claims may not have representation because fees can no longer be awarded.
3. If attorney fees are not mentioned in an Order for workers compensation benefits (even without a dollar amount), Social Security Disability may reduce benefits because it may assume all benefits awarded will be paid to the injured worker.
4. The Council, in looking to address the fee issue, may be creating a solution for a problem that does not exist.

Dennis Lloyd requested Maggie Karpuk from NCCI provide information regarding how this decision could affect premiums. Maggie stated that NCCI is looking at this and will provide a note in its report to the Insurance Department in October. As soon as the report has been filed, she will provide detailed information to Ron Dressler to provide to the Council.

David Bird made a motion for the Commission to create a subgroup of the council to look at options and see if there is a problem with representation of injured workers and possibly a survey of injured workers to obtain information regarding the fees they are paying for attorney representation. Jeff Rowley seconded the motion. Voting was unanimous in the affirmative.

Workplace Safety Grants:

Jake Barnhart stated that the press release for the new grant year will be sent out September 1 and a due date of September 30, 2016. This will allow for a second request if not enough grants are submitted. He stated that he has contacted the Salt Lake School District about a possible multi-media contest in the high schools. Todd Bingham suggested giving companies recognition for their efforts in producing safety videos or trainings.

ERF Privatization Update:

Ron Dressler stated that AON Risk has been hired to look at a loss portfolio transfer for the ERF. It is hoped that prior to the Legislative Session we will have information so that legislation could be put forward. Cary Chapel is the lead consultant.

Legislation and Rules:

Ron Dressler stated that the Commission's Medical Fee Guide would be ready for the September Council meeting. As for the nurse practitioner and opioid prescription rules, the Commission is looking to incorporate the rules already in place with DOPL and the Utah Clinical Guides for prescribing opioids. The exact language will be ready for the September meeting with an anticipated effective date of December 1, 2016.

Acting Commissioner Maughan stated that the rules affected by the Supreme Court decision regarding attorney fees were repealed by emergency rule and it is now time to formally repeal those rules. The Commission will proceed with the normal rule making process for those rule changes.

Acting Commissioner Maughan stated that he was not aware of any legislation being proposed that would affect workers compensation. He asked that if the council members heard of any legislation to please keep the Commission informed.

Reappointments of Advisory Council Representative:

Acting Commissioner Maughan stated that Rodd Bingham, Dave Dais, Dawn Atkin, Brian Kelm and Brandt Goble had accepted reappointment to the Council. He stated that an objection to Dr. Holmes being reappointed had been received and the council had been given a copy of the objection as requested. He asked that any comments regarding Dr. Holmes' reappointment be directed to him via email or telephone by September 6. He stated that Dr. Holmes has also been given an opportunity to comment on the concerns raised. It was noted that Dr. Holmes is a non-voting member of the council and that the Commissioner is the one that will make the decision of Dr. Holmes' reappointment.

Nest Meeting:

September 14, 2016. The actuarial report will be presented. Brandt Goble stated that he would be unable to attend that meeting.

Meeting adjourned at 1:38 pm.