

Minutes

*Tennessee Advisory Council on Workers' Compensation
Monday, April 3, 2017 at 1 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
John Garrett
Brian Hunt
Bob Pitts

Non-Voting Members

Jason Denton
Keith Graves
Sam Murrell – by telephone
Gregg Ramos
Pam Smith – by telephone

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)
Larry Scroggs, Administrator, Advisory Council

Chairman David Lillard called the meeting to order at approximately 1 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 two (2) 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 March 20, 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 March 20, 2017 meeting.

The Chair recognized **Senator Richard Briggs**, Senate sponsor of **SB0297/HB0666** (Briggs-Hill M), who explained that a proposed amendment with drafting code No. 006753 had been distributed to members of the Advisory Council present. Senator Briggs noted that the proposed amendment to the bill as introduced resulted from a collaborative effort by representatives of the affected parties. The bill as amended would in part impact the system of utilization review. **Dr. Robert Snyder**, Medical Director of the Bureau of Workers' Compensation, recommended that further amendatory language be inserted in Section 1 (j)(1)(B) of the proposed amendment. Dr. Snyder's suggested language would clarify that the system of utilization review would not apply to "diagnostic studies recommended by the treating physician in the event the initial treatment regimen, *non-surgical and without diagnostic procedures*, is not successful in returning the injured worker to employment." **Council member Bob Pitts** asked if Senator Briggs was amenable to inserting the proposed amendatory language in Section 1 (j)(1)(B). Senator Briggs responded affirmatively. Upon motion by **Council member Pitts**, seconded by **Council member Fox**, the Advisory Council members present voted **5-0** for the legislation to receive a **favorable recommendation for passage, provided the proposed amendatory language is inserted as agreed**.


The Chair next 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 meetings on February 27, 2017 and March 20, 2017, Ms. Consiglio-Young had presented the proposed legislation which she stated had been 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. **Council members** again focused on the bill's central feature, the proposed elimination of the *appeal by right* under current law, contained in Section 2 (D) of the bill as introduced. Upon motion by **Council member Pitts**, seconded by **Council member Dove**, the Advisory Council voted **3-2** that the legislation receive a favorable recommendation for passage, **conditioned upon the deletion of Section 2 (D)**, thus preserving the current *appeal by right*. Council members voting in favor of the motion were **Dove, Pitts and Brian Hunt**. Voting against were members **Fox and John Garrett**.

The Chair proceeded to the next agenda item and recognized **Abbie Hudgens**, Administrator of the Bureau of Workers' Compensation, for a presentation on the Bureau's Draft Revision of the **Medical Fee Schedules for Treatment**. Administrator Hudgens made a comprehensive presentation on the proposed revisions at the March 20, 2017 meeting of the Advisory Council and distributed detailed materials prepared for Rulemaking Hearings.

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.

Following discussion, upon motion by **Council member Pitts**, seconded by **Council member Garrett**, the Advisory Council voted **5-0 to favorably recommend for adoption the Bureau's proposed revisions to the Medical Fee Schedules for Treatment**.

The Chair asked if there was any other business to come before the Advisory Council, and seeing none, entertained a motion by **Council member Pitts** to adjourn, seconded by **Council member Garrett**. The meeting was adjourned at approximately 2:15 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