

**Industrial Commission's Advisory Committee
On Workers' Compensation
Minutes
February 6, 2019**

Members Present

Ray Anchustegui
Dave Anderson
James Arnold
Richard Burleigh
Brad Cederblom
Dr. Paul Collins
John Greenfield
Shellie Martin
Joe Maloney
Mike McPeck

Members Absent

Craig Mello
Gardner Skinner
Brian Whitlock
Dane Higdem, Chairman
Ex-Officio: Senator Jim Patrick
Ex-Officio: Representative Scott Syme

Industrial Commission

Thomas P. Baskin, Chairman
Aaron White, Commissioner
Thomas E. Limbaugh, Commissioner
Mindy Montgomery, Director
Kamerron Monroe, Secretary

Opening Remarks and Introductions:

Jamie Arnold opened the meeting at 9:00 a.m. and led with introductions. Mr. Arnold next requested introductions of Committee members and public attendees.

Minutes of November 14, 2018:

The minutes of November 14, 2018 were presented for review and approval. Upon motion of Dave Anderson, seconded by Dr. Paul Collins, the minutes of November 14, 2018 were approved. The minutes were adopted by unanimous vote.

Industrial Commission Report:

➤ Status of 2019 Rules and Legislation. Commissioner Limbaugh provided an update on rules and legislation. Commissioner Limbaugh summarized the rulemaking process the Commission went through this last year. The Commission proceeded with EDI Housekeeping and Electronic Payment Transfers. The House Committee on Commerce and Human Resources approved EDI Housekeeping rules and Electronic Payments Transfer rules. The Senate Committee on Commerce and Human Resources approved EDI Housekeeping. The Senate Committee on Commerce and Human Resources approved Electronic Payment Transfers for insurance carriers but rejected the portion stating, “include the full text in English, Spanish, and any other language common to the claimant population.” Electronic Payment Transfers rule for self-insurance carriers will be heard by the Senate Committee on Commerce and Human Resources next week and the Commission expects this portion will also be rejected. Commissioner Limbaugh thanked Patti Vaughn for her outstanding job on presenting the rules.

Commissioner Limbaugh reported on legislation that was not sponsored by the Commission but affects our stakeholders. Commissioner Limbaugh explained they are currently tracking an inmate agriculture worker bill and PTSD for First Responders bill. Commissioner Limbaugh stated the PTSD bill does have a sunset date of 2023. Commissioner Limbaugh stated the inmate agriculture worker bill was brought last session and had died. The Commission sees the liability that may be present with the bill. The Commission has discussed these pieces of legislation with the Governor's office but has not received any directive.

Dr. Collins apologized that he may be late to the game but he shared his concern that someone will use this diagnosis for profit. The Commission is not yet aware when the Hearing will be on the PTSD bill. Mike McPeek shared additional comments he had on the PTSD bill. Mr. McPeek was concerned about equal protection and creating special legislation, the difference between PTSD and PTSI not restricted to a psychologist or psychiatrist, and the effect this bill would have on municipalities. PTSD is a lifetime diagnosis and treatment which will be expensive. Mr. McPeek was also concerned that people who are not classified in the DSM V as first responders are included in this bill. There was discussion among the group about the date of manifestation as the bill has a manifestation date of July 1, 2019.

Dr. Collins stated he was not against the concept but was concerned about the possibility of fraud. Mr. Arnold pointed out that fraud is possible with any injury. Dr. Collins thought there should be an independent party making the diagnosis.

Commissioner Limbaugh stated that the Commission has shared their concerns with the Governor's office. Commissioner Limbaugh stated that when they saw the bill it had no sunset date and this bill in front of them today does include a sunset date.

➤ Medical Fee Invitation to Bid. Patti Vaughn informed the Committee that the Commission has created an Invitation to Bid to secure a vendor to create a similar report to the one Milliman created for the Commission last year. The Commission hopes to award a contract by March for an April deliverable. The Commission will review the findings of the report and if there is a need for changes. Ms. Vaughn asked if there were any questions. There were none.

Updates:

➤ Chinden Campus Relocation. Director Mindy Montgomery updated the Advisory Committee on the Industrial Commission's move to the Chinden Campus. The Commission is scheduled to move July 8th. The next Advisory Committee Meeting will be on May 8th at the Clearwater location, at that meeting we will be prepared with more information.

➤ Industrial Special Indemnity Fund- Annual Report CY 2018. Mr. Jim Kile presented the Industrial Special Indemnity Fund Annual Report. Mr. Kile gave an informative report on the numbers the ISIF saw this last. Mr. Kile explained the information and exact numbers could be found in the handout provided. Mr. Kile stated the ISIF fiscal report would be available in July and most likely would be presented at the August Advisory Committee meeting.

Mike McPeek inquired about hybrid settlements that Mr. Kile had mentioned in the past, if there were any new wrinkles that had come up with these settlements. Mr. Kile stated that in the right case, it can be better for the Claimant to settle on a long-term approach versus a big upfront settlement. ISIF will act as the annuity and guarantee the money for about 10 years with the upfront cash varying.

Commissioner Limbaugh asked Mr. Kile if he could provide a financial statement with this report, as it states in statute. Commissioner Limbaugh opined it would be interesting to see the change year to year. Mr. Kile indicated he would do so and prepare one for a future meeting.

Jamie Arnold opined that greater flexibility in settlements is good for claimants because every case is different. Mr. Arnold stated that to him it seems to be a win-win situation and has appreciated the chance to discuss flexible settlements.

Other Issues/Announcements:

➤ **IIC Modernization.** Chairman Baskin provided some background on the Industrial Commission's IT Modernization Project. Chairman Baskin stated that the agency was looking to move towards the 21st Century and needs an assessment to analysis what the agency needs to do to make this possible. Chairman Baskin stated the Commission has contracted with WorkComp Strategies to help with this modernization project. Chairman Baskin introduced Matt Bryant of WorkComp Strategies.

Mr. Bryant explained the role of his company in the Industrial Commission's IT Modernization project. Mr. Bryant gave a summary of his background and experience. Mr. Bryant explained that right now his company was doing analysis to figure out what works and doesn't work for the agency and stakeholders. Mr. Bryant intends to seek feedback from stakeholders to complete this analysis. Mr. Bryant explained their goal is to examine how the Industrial Commission can be more effective and serve their constituents better. Mr. Bryant used e-filing as an example of what WorkComp Strategies hopes to accomplish. This project will take about a year. Mr. Bryant asked if there were any questions.

Mr. Arnold opined that Idaho is ready for e-filing, his experience has been with iCourt and it has been interesting. Mr. McPeek stated that federal filling has been very nice to use and we might look to them as a model. Mr. Bryant opined that they would investigate all their options and incorporate the experiences from other states when looking for an e-filing vendor.

Dr. Collins compared the discussion to an aviation system, stating that we need to make sure the system is helpful for the entire group. Mr. Bryant stated that in Virginia they gave claimants accounts but were worried there would be pushback because claimants do not always have access to the internet. Interestingly, when they opened the system up they found claimants to be the most engaged customer base.

Mr. McPeek asked if there had been a selection in the software yet. Mr. Bryant indicated that there had not been, there is not a workers' compensation package you can buy off the shelf to meet our needs, they will probably need to create a custom system.

Public Comment: Mr. Kent Day suggested we look at the state filing system and the problems they have to avoid them. The system is constantly down and after people have filed documents the courts do not always get notification of it. Mr. Day compared it to the Tyler Technology system Idaho uses. Mr. Arnold stated that it has come a long way as there has been more training in counties to effectively work through the bumps they were experiencing.

Mr. Bryant concluded that WorkComp Strategies was excited to be here and were interested in learning the Idaho workers' compensation system.

➤ IIC Announcements. Patti Vaughn informed the Committee that the Commission will be hosting an EDI Workshop and that registration is open. There will be a cap on the number of attendees. DOI has approved the course for continuing education credits. If anyone had any questions, they could contact Richelle Flores.

CIWCS that is usually held in July will be held June 4-7 this year to accommodate the move. MS. Vaughn indicated that there are still openings in the May CIWCS in Blackfoot.

Preparation for Future Meeting:

➤ Topics for Future Meetings. Dr. Collins indicated he would be interested in talking about narcotic pain prescriptions for the next meeting. Shellie Martin indicated she would be interested in seeing narcotic prescription legislation in other states. Mr. McPeck stated there was some research on the matter and he would be interested in discussing it, too. Dr. Collins opined narcotic pain prescriptions are a real problem in the workers' compensation system.

Next Meeting Date: May 8th

Public Comment: Chris Wagner raised a concern about indemnity only settlements now needing a conditional search with CMS. Mr. Wagner asked if that is now a requirement? Chairman Baskin stated he has not heard that but wouldn't be surprised. Chairman Baskin stated that he didn't think we made it a condition for sureties, it seems to be a claimant's problem or the TPAs. Mr. Wagner stated he had one settlement where the attorney on their end had an indemnity only case and it was kicked back, and they still were required to do a search. Chairman Baskin asked if the settlement involved past medicals. Chairman Baskin stated that if the settlement is only a portion and doesn't treat past medicals than it should not be an issue.

Commissioner Limbaugh informed the Committee that the Industrial Commission has received their budget. The Commission will be one of the eight (8) agencies that are a part of the Governor's initiative to consolidate IT services, meaning the Commission will be losing their IT Department. IT Services will now be handled by ITS. The Commission does not yet know what that will look like but wanted to make everyone aware of the change.

There being no further discussion and no further business, Ms. Martin moved to adjourn the meeting; seconded by Mike McPeck. The motion carried by unanimous vote. The meeting adjourned at 10:22 a.m.