



STATE OF OKLAHOMA

**WORKERS' COMPENSATION COMMISSION**

M I N U T E S

of the

WORKERS' COMPENSATION COMMISSION  
FOR THE STATE OF OKLAHOMA

for the  
February 19, 2015  
Regular Public Meeting

MINUTES OF THE MEETING OF THE WORKERS' COMPENSATION COMMISSION  
FOR THE STATE OF OKLAHOMA

NOTICE OF THIS MEETING WAS FILED WITH THE SECRETARY OF STATE ON WEDNESDAY, DECEMBER 29, 2014.

The members of the Workers' Compensation Commission for the state of Oklahoma met at 1915 N. Stiles Ave., Oklahoma City, Oklahoma, on February 19, 2015.

Members present: Chairman Troy Wilson, Commissioner Denise Engle.

Absent: Commissioner Bob Gilliland.

Others in attendance on behalf of the Commission: Rick Farmer, Clif Cypert, Andrea Bair, Dr. Jay Cannon, Neal Leader, Kim Bailey, and Holly Miller.

Chairman Wilson expressed appreciation for those in attendance. After the roll was taken, he announced the presence of a quorum and the Statement of Compliance with the Open Meetings Act was read. The meeting was called to order at approximately 1:30 p.m.

**Approval of Minutes**

Chairman Wilson presented the minutes of the February 12, 2015 public meeting for approval.

**Motion:** Commissioner Engle moved to approve the minutes of the February 12, 2015 special public meeting.

**Second:** Chairman Wilson.

Those voting aye: Commissioner Engle, Chairman Wilson.

Absent: Commissioner Gilliland.

**The motion carried.**

**1. Approval of Additional Independent Medical Examiner and Case Manager for the Commission**

Title 85A OS § 112 requires the Workers' Compensation Commission to create, maintain and review a list of licensed physicians who shall serve as independent medical examiners (IMEs). The Commission shall, to the best of its ability, include the most experienced and competent physicians in the specific fields of expertise utilized most often in the treatment of injured employees. The period of qualification shall be two (2) years. Likewise, for case managers, 85A O.S. § 113 requires a list of qualified case managers be developed, maintained and periodically reviewed by the Commission.

Dr. Jay Cannon, Medical Director, presented the following physician and case manager for the Commission's consideration and stated that each candidate has been vetted by the Medical Director and the staff in Medical Services for the Commission's approval:

**IME** Dr. Steve Sweeney, D.C. **Medical Case Manager** Susan Brinkley, R.N.

**Motion:** Commissioner Engle moved to approve Dr. Steve Sweeney, D.C. as an IME and Susan Brinkley, R.N. for Medical Case Manager with the Commission.

**Second:** Chairman Wilson.

Those voting aye: Commissioner Engle, Chairman Wilson.

Absent: Commissioner Gilliland.

**The motion carried.**

#### **4. Consent Agenda for Travel Vouchers Currently Outstanding**

*85A O.S. §23 states any commissioner or employee of the Commission shall be entitled to receive his or her necessary traveling expenses as provided in the State Travel Reimbursement Act. The expenses shall be certified by the person who incurred them and shall be allowed and paid on presentation of vouchers approved by the Commission. In accordance with this section, the Commission considered a vote to approve the currently outstanding vouchers.*

Chairman Wilson recognized Clif Cypert, Deputy Director, to present a recommendation that the Commission approve the vouchers listed in this Consent Agenda, identified as Agenda Item 4 and included as part of these minutes.

**Motion:** Chairman Wilson moved to approve the vouchers listed in the Consent Agenda.

**Second:** Commissioner Engle.

Those voting aye: Commissioner Engle, Chairman Wilson.

Absent: Commissioner Gilliland.

**The motion carried.**

#### **5. Consent Agenda for Payments Made from the Workers' Compensation Fund Currently Outstanding**

*85A O.S. §22(A)(5) states that all expenditures in the administration of the act shall be allowed and paid from the Workers' Compensation Fund on the presentation of itemized vouchers approved by the Commission. In accordance with this section, the Commission considered a vote to approve the currently outstanding vouchers.*

Chairman Wilson recognized Clif Cypert, Deputy Director, to explain his recommendation to the Commission to approve the vouchers listed in the Consent Agenda, identified as Agenda Item 5 and included as part of these minutes.

**Motion:** Commissioner Engle moved to approve the vouchers listed in the Consent Agenda.

**Second:** Chairman Wilson.

Those voting aye: Commissioner Engle, Chairman Wilson.

Absent: Commissioner Gilliland.

**The motion carried.**

## **6. Reports**

The following reports were presented for informational purposes only. No action was taken.

### **Report on the Permanent and Emergency Rulemaking Process and the Forms Revision Process**

Kim Bailey, General Counsel, reported that February 16, 2015, was the end of the thirty (30) day comment period for the proposed emergency and permanent rules and the forms. The Commission's public hearing on the proposed rules and forms was held February 18, 2015, at the State Capitol.

The Commission will consider adopting proposed emergency and permanent rules and forms at its March regular meeting.

### **Report from Andrea Bair, Deputy Insurance Services**

Andrea Bair, Deputy Insurance services presented the following report to the Commission:

The following Own Risk employers have completed their annual renewal since the Commission's last regular meeting:

BECCO CONTRACTORS INC (OWN RISK #19301)  
CITY OF BROKEN ARROW (OWN RISK #14157)  
CITY OF ENID (OWN RISK #11837)  
CITY OF MIDWEST CITY (OWN RISK #13308)  
FEDEX FREIGHT INC (OWN RISK #16728)  
MACYS INC (OWN RISK #19792)  
ONE GAS INC (OWN RISK #20152)  
SUNOCO INC (OWN RISK #12510)  
TARGET CORP (OWN RISK #17227)  
FEDERAL EXPRESS CORP (OWN RISK #16593)  
DOLESE BROS CO (OWN RISK #8206)  
CUMMINS CONSTRUCTION CO INC (18863)  
CITY OF DUNCAN (OWN RISK #11051)

Insurance Services staff has taken steps to increase communications and simplifying reporting with self-insurers the department regulates while maintaining deadlines and budget. Examples include:

- Renewal communication is mailed to TPAs and Employers 120 days before renewal. It has streamlined the renewal process.
- Actual Paid Losses and Group premiums are reported annually online. This information was previously sent via mail. Staff were performing data entry tasks. Now, the employer or group administrator inputs the information online and receives a confirmation number. I have the information to assess when establishing the calculating the annual MITF rate.
- The application for self-insured renewal is in its final stages and will be implemented in the next few weeks.

- Assessments on Qualified Employers and Carriers will be made by March 1, as required by statute.

Staffing changes and office move are currently being coordinated.

**7. Executive Session for Confidential Communications Between the Commission and Its Attorneys Concerning Ongoing Investigation by Commission's Compliance Division and the Related Ongoing Bankruptcy Involving Texoma Peanut Company, Pursuant to Title 25 O.S. § 307(B)(4)**

Pursuant to 25 O.S. § 307(B)(4), an Executive Session was proposed for the purpose of conducting confidential communications between the Commission and its attorneys concerning ongoing investigation by the Commission's Compliance Division and the bankruptcy involving the Texoma Peanut Company, a former self-insured.

The Commission's counsel from the Attorney General's Office advised that public disclosure of the communications relating to this investigation and bankruptcy will seriously impair the ability of the Commission and its counsel to take appropriate action related to the ongoing investigation and bankruptcy proceeding and to protect the employees of Texoma Peanut Company.

**8. Executive Session Pursuant to 25 O.S. § 307(B)(4) for the purpose of conducting confidential communications between the Commission and its attorneys concerning pending lawsuits and claims against the Commission, including *Angela Sanders v. The Oklahoma Workers' Compensation Commission* and *Katral McKnight, et al., v. The Oklahoma Workers' Compensation Commission*, and related claims and charges filed with the U.S. Equal Employment Opportunity Commission.**

**9. Executive Session Pursuant to Title 25 O.S. § 307(B)(1) for the Purpose of Discussing the Hiring, Salary or Employment of Law Clerk Candidate A, Candidate B and/or Candidate C for the Commission and for the Purpose of Discussing Employment Evaluations, Promotion, or Performance of Commission's Administrative Law Judges: Shane Curtin, Mike Egan, Tara Inhofe and Tish Sommer.**

***Motion:*** Chairman Wilson moved to (i) determine that disclosure of the communications will seriously impair the ability of the commission to take appropriate action in the ongoing investigation and bankruptcy proceeding of Texoma Peanut Company; and the above-referenced pending claims against the commission in Agenda Item No. 8; and (ii) Go into Executive Session for purposes of:

- a. Discussing the ongoing compliance investigation and ongoing bankruptcy of Texoma Peanut and pending claims against the Commission referenced in Agenda Item No. 8, under §307(B)(4); and
- b. Discussing the hiring, salary or employment of law clerk Candidate A, Candidate B and/or Candidate C; and employment evaluations, promotion, or performance of the Administrative Law Judges Shane Curtin, Mike Egan, Tara Inhofe and Tish Sommer, under § 307(B)(1).

***Second:*** Commissioner Engle.

Those voting aye: Commissioner Engle, Chairman Wilson.

Absent: Commissioner Gilliland.

**The motion carried.**

**Vote to Reconvene in Open Session**

*Motion:* Chairman Wilson moved to reconvene the public meeting in Open Session.

*Second:* Commissioner Engle.

Those voting aye: Commissioner Engle, Chairman Wilson.

Absent: Commissioner Gilliland.

**The motion carried.**

**Announcement**

Chairman Wilson announced that the Commission's next regularly scheduled meeting is Thursday, February 19, 2015.

**Adjournment**

*Motion* to adjourn: Commissioner Engle.

*Second:* Chairman Wilson.

Those voting aye: Commissioner Engle, Chairman Wilson.

Absent: Commissioner Gilliland.

**The motion carried.**