

REGULAR MEETING OF THE  
OKLAHOMA WORKERS' COMPENSATION  
COMMISSION

Thursday, February 19, 2015  
1:30 p.m.  
Commission Chambers  
1915 N. Stiles Ave.  
Oklahoma City, Oklahoma  
www.wcc.ok.gov

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*AGENDA*

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**CALL TO ORDER..... Mr. Wilson, Chair**

**ROLL CALL ..... Mr. Wilson, Chair**

**NOTICE OF COMPLIANCE..... Holly Miller**

**MINUTES**

- a. The drafted Minutes of Special Commission Meeting on February 12, 2015, will be considered for approval.

**THE FOLLOWING MATTERS ARE PRESENTED FOR CONSIDERATION AND ACTION, IF ANY, DEEMED APPROPRIATE BY THE COMMISSION.**

**1. Proposed 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.

The following physician and case manager have 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.

**Possible Action:**

Possible action may include, but is not limited to: taking no action, continuing the matter, approving or not approving the independent medical examiner and/or case manager for the Commission.

**2. Proposed Commission Approval of Group Self-Insurance Application for New Membership**

Commission Rule 810:25-11-3 states a new membership to a self-insurance group may not become effective without Commission approval. All applications for membership are filed with the Commission. The application includes evidence of the execution of the indemnity agreement, power of attorney, and joint and several liability agreement, as required by 810:25-11-15, with signed approval of the applicant by the association, and is accompanied by a current balance sheet and income statement. The Commission will consider approving the following applicant to the self-insurance group association to which it is applying for membership:

**Oklahoma Health Care Association (# 75175)  
Harmony Home Care, Inc.**

**Possible Action:**

Possible action may include, but is not limited to: taking no action, continuing the matter, or approving or not approving Harmony Home Care, Inc. to the Oklahoma Health Care Association.

**3. Discussion and Consideration of Reducing or Releasing the Letter of Credit of Key Personnel, a Former Own Risk Employer**

A security deposit posted with the Commission as required by 810:25-9-4 must remain in place, at its existing amount, for two years after an individual own risk employer voluntarily leaves self-insurance. A security deposit may be reduced at the Commission's discretion after the two year waiting period upon application by the employer and submission of current financial statements and workers' compensation loss runs.

A security deposit may be released at the Commission's discretion upon application by the employer and submission of current financial statements and a signed and notarized affidavit, from a duly authorized officer of the employer, affirming that all workers' compensation claims incurred under the own risk permit of the employer have been permanently closed, and the statute of repose for reopening the claims has passed.

**Possible Action:**

Possible action may include, but is not limited to: taking no action, continuing the matter, or reducing or releasing the letter of credit of Key Personnel.

**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 will consider a vote to approve the currently outstanding vouchers.

All vouchers listed within this Consent Agenda have been made available to each Commissioner prior to today's meeting, are considered routine, and will be enacted by one motion of the Commission. If separate discussion is desired, that item may be removed from the Consent Agenda and separately voted upon.

**Possible Action:**

Possible action may include, but is not limited to: taking no action; approving some, all or none of the vouchers listed in this Consent Agenda; or continuing the matter.

**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 will consider a vote to approve the currently outstanding vouchers.

**Possible Action:**

Possible action may include, but is not limited to: taking no action; approving some, all or none of the vouchers listed in the Consent Agenda; or continuing the matter.

6. **Reports**

**THE FOLLOWING REPORTS ARE PRESENTED FOR INFORMATIONAL PURPOSES ONLY. NO ACTION WILL BE TAKEN.**

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

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.

Between now and the next regular Commission meeting, the Commission will be considering the public comments and determining if changes are needed to the emergency and permanent rules and/or forms. 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 will report on the individual own risk employer permits issued by the Insurance Division.

**THE FOLLOWING MATTERS ARE PRESENTED FOR CONSIDERATION.**

7. **Possible 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 is 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 has 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. **Possible 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 *Kartral McKnight, et al., v. The Oklahoma Workers' Compensation Commission*, and related claims and charges filed with the U.S. Equal Employment Opportunity Commission**

**9. Possible 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**

**A. Motion and Vote 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).

**B. Vote to Reconvene in Open Session**

**10. Possible Action:**

a. Possible action may include but is not limited to taking no action; continuing the matter; or instructing counsel to make any necessary filings in the bankruptcy proceeding; or taking other actions as discussed and recommended by counsel in Executive Session.

b. No action is anticipated nor will be taken by the Commission with regard to the following pending lawsuits and claims against the Commission: *Angela Sanders v. The Oklahoma Workers' Compensation Commission* and *Kartral McKnight, et al., v. The Oklahoma Workers' Compensation Commission*.

c. Discussion and possible action on hiring, salary or employment of future Law Clerk Candidate A, Candidate B, and/or Candidate C discussed in Executive Session.

d. No action is anticipated nor will be taken by the Commission with regard to the employment evaluations, promotion or performance of Commission's Administrative Law Judges Shane Curtin, Mike Egan, Tara Inhofe or Tish Sommer.

**11. Any Matter Not Known About or Which Could Not Have Been Reasonably Foreseen Prior to Posting the Agenda**

**12. Announcements**

Commission's next regularly scheduled meeting will be rescheduled at a date to be determined.

**ADJOURNMENT.....Mr. Wilson, Chair**