



STATE OF OKLAHOMA

WORKERS' COMPENSATION COMMISSION

MINUTES

of the

WORKERS' COMPENSATION COMMISSION

FOR THE STATE OF OKLAHOMA

for the

January 16, 2014

Regular Public Meeting

MINUTES OF THE MEETING OF THE WORKERS' COMPENSATION COMMISSION
FOR THE STATE OF OKLAHOMA, JANUARY 16, 2014

NOTICE OF THIS MEETING WAS FILED WITH THE SECRETARY OF STATE ON THURSDAY, DECEMBER 12, 2013.

The members of the Workers' Compensation Commission for the state of Oklahoma met in the Court En Banc, Denver Davison Building, 1915 N. Stiles Ave., Oklahoma City, Oklahoma, on January 16, 2014.

Members present: Troy Wilson – Chairman, Robert Gilliland, and Denise Engle.

Absent: None.

Others present: Rick Farmer, Executive Director; Holly Miller, Executive Secretary; Ted Rossier, General Counsel; Thomas Lewis, Information Officer; members of the Workers' Compensation Court, and guests.

Chairman Wilson expressed appreciation for those in attendance and welcomed them and said the agenda has been posted for this meeting. Legal Counsel advised the Commission that the public comments period regarding the proposed administrative rules was over and if they reopened the public comments period, they would be in violation of the law so we will not be able to take public comments on the rules at this time. However, the Commission welcomes written comments throughout the year on the emergency rules under which the Commission is now operating. Consideration will be given to comments in regard to permanent rules later.

After the roll was taken, the Chairman announced that a quorum was present and affirmed that all documents had been filed. The meeting was called to order at approximately 1:38 p.m. He asked Ted Rossier, General Counsel to the Commission to read the Statement of Compliance with the Open Meetings Act.

A visitor interrupted the meeting out of order saying he was a member of the Bar Association and he opposed the meeting on the basis that he did not believe proper notice was provided and that it violated the Open Meeting Act. No explanation was offered as he abruptly left the proceedings.

Approval of Minutes

Chairman Wilson moved and Commissioner Gilliland seconded to approve the minutes of the December 17, 2013 Special Meeting of the Workers' Compensation Commission.

Those voting aye: Commissioners Engle, Gilliland, and Wilson. No: None. Abstentions: None. Absent: None. The motion carried.

Chairman Wilson moved and Commissioner Engle seconded to approve the minutes of the January 2, 2014 Special Meeting of the Workers' Compensation Commission.

Those voting aye: Commissioners Engle, Gilliland, and Wilson. No: None. Abstentions: None. Absent: None. The motion passed.

Director's Report

Chairman Wilson recognized Dr. Rick Farmer, Executive Director, to give a report. He expressed appreciation to the Commissioners for their hard work and explained that the Commission has been primarily focused on two things: promulgating the rules today, and to be ready to be operational by February 1. We have stayed focused on that task. Ted Rossier and Tish Sommer have worked hard to develop the rules, along with each of the Commissioners and the members of the Court which will soon be the Court of Existing Claims (CEC). Last week the WCC had a dry run, coordinated by Commissioner Gilliland, to simulate the process and there is another one scheduled for tomorrow and I suspect that our next trial run will show us that we are two weeks ahead of schedule.

The website went live yesterday. We have a temporary address, which is www.ok.gov/wcc. In a few days, the permanent address will be www.wcc.ok.gov. The new web address should be operational by Monday or Tuesday. We do not expect to do a lot of hiring over the next couple of weeks, and have worked hard to save those expenses in our budget until it is absolutely necessary. We have a ramp up schedule to add people as the Commission grows. Senate Bill 1062 transferred one responsibility to the Commission from the Department of Labor, and that was insurance compliance. We have three staff coming from there and we are working on an MOU with them for their forms and systems.

We are currently working with the Court of Existing Claims to be able to share space and set up the operations. Four of us visited the Tulsa office last week at separate visits, to visit with them to understand their functions and needs. There is a budget hearing in the House on Tuesday, January 21, which we will be a part of and one in the Senate the last week of February. We are pleased to possibly be under budget for FY-14 and are we are working with the Court to develop be under budget for FY-15.

Commissioners' Reports

Chairman Wilson recognized Commissioner Bob Gilliland to give a report. Bob said numerous meetings had taken place with staff to make sure the startup of the Commission is successful. Commissioner Gilliland said he has focused primarily on the proposed rules and Commission forms. Tish Sommers, Ted Rossier and others have contributed tirelessly in these areas. The rules and forms have been completed. Docketing plans have been made and will be completed prior to the necessity of using that system. I have the responsibility for the Administrative Law Judge (ALJ) hiring and the law clerks. Applications have been received and more are on the way. The Commission is on target to hire the necessary qualified ALJs and Law Clerks. We have prepared a job description and standards for the ALJs. There will also be a Practice and Procedures Guide for Contested Case Hearings and Medical Fee Dispute Resolution Hearings. There is a plan in place for order writing. A letter has been sent to each mediator telling them they will remain on the mediator list if they do not ask to be removed from the list by January 24. We have heard only of a couple of addresses that needed to be updated but other than that, there have been no such requests.

Chairman Wilson recognized Commissioner Denise Engle to give a report. Commissioner Engle said she that even though they each have their own area of responsibility, we have all been involved in the rules process. She said she has worked with interested parties and the Insurance Department – Dan Byrd is here to represent the Insurance Department – and I have spoken with several of you about self-insured entities to develop harmonious language regarding the rules specific to the financial responsibility requirements for the self-insured. It has taken a lot of give and take to come up with some language, but remember these are emergency rules and we will continue through the year to look at how those may need to change in the future. Of course, Commissioner Gilliland is primarily tasked with this area of responsibility, but I have been assisting staff with form related questions as they arise. Another issue I have been tasked with is space. The Commission will continue to maintain some offices at the 50 NE 23rd Street, OKC location through the end of June. During that time, I will continue to seek ways for the entire Commission to be moved to the Denver Davison Building as soon as reasonably practicable. I have been addressing the Counselor Program (Ombudsman) and I am in the early stages of developing a more user-friendly program for addressing claimant, employers' and medical providers' questions or concerns. A new postcard to notify claimants of the Counselor Division is prepared. I am working on various communication methods and tools to aide in educating the various participants in the new processes – as soon as Commissioner Gilliland gets it all figured out. You heard about our website and it has been a challenge, but OK.gov said it should be up and running next week. We will have pertinent documents to the Commission on the website. We have several things on it already and we will continue to develop and expand what is available on the website. As to website ability prior to that, we have been graciously allowed to post our proposed rules on both the Workers' Compensation Court and the Insurance Department's websites. We have mentioned that in at least two public meetings and they have

been posted for a number of weeks. Of course, if you have questions or comments for the Commission, please feel free to contact us.

Chairman Wilson next gave his report and said that the preliminary budget has been created and sent to the Governor's office. We are in the process of seeking agreement on it with the direct support of the CEC and the Commission. He would like to emphasize that the time constraints under which the Commission has been operating have been limited and he cannot imagine accomplishing a project like this without Tish Sommer. Also, Norma McRae has been of great assistance and special mention must go to Ted Rossier from the Attorney General's office. He has worked many hours to help us prepare the rules. We would not be anywhere near where we are if it were not for Judge Taylor and Judge Harkey. There has been a lot of hard work over the last 45 days by Tish Sommer, Judge Taylor, Judge Harkey, and Ted Rossier—to help prepare the rules and forms with Commissioner Gilliland. It would not have been possible to make so much progress without their diligent efforts.

We are working with an interesting time frame through FY-14 but at the same time we have had to work through some issues with the judiciary and need to be cooperative in how we deal with and share funds and personnel. If we were not willing to do this, the expense associated with each operating its own organization would be significant. We are looking at saving the state of Oklahoma millions of dollars. It is not possible in every situation in every case to make a transition as significant as this one and I do not think in the history of Oklahoma there has been a transition such as this. We have agreed to resolve any issue and avoid any conflict.

I enjoy making these types of comments because I get to express my thanks in a way that is different setting than just a greeting in the hall. This was a much bigger project than I realized – getting the forms up and running in such a short time period. We wanted to start with an initial set of forms and at a later date we will have a finalized set of forms. Tish Sommer said the final version of the forms is ready and it is her understanding that they will be voted on today. Chairman Wilson asked if there were other comments from the Commissioners on the forms.

Commissioner Engle asked everyone to keep in mind that we are trying to make this as smooth a transition as possible so we have used current forms and modified them as much as possible but in the mode of expediency, we have moved those forms forward for the adjusters and others that will have to handle those claims so they should not be unfamiliar with the forms although the processes are changing.

Commissioner Gilliland said the forms are good not only for the insurance carriers but also for the lawyers. We do not want to create a new system but we want to see that everyone comes on board seamlessly, so we have done it the way we have to help people handle the transition. If anyone has comments on ways to make the process more user friendly, we want to do that so please let us know if you have suggestions.

Jason Smitherman, Director of Risk Management with the city of Oklahoma City asked if the Form-2 will be available for vendors to download into their system. Commissioner Engle answered that the forms will be downloaded on the website today.

Approval of the Forms

Chairman Wilson moved and Commissioner Engle seconded that the new forms for the Workers' Compensation Commission be adopted.

Those voting aye: Commissioners Engle, Gilliland, and Wilson. No: None. Abstentions: None. Absent: None. The motion passed.

Approval of the Rules

Chairman Wilson moved and Commissioner Engle seconded that the proposed emergency rules be adopted.

Those voting aye: Commissioners Engle, Gilliland, and Wilson. No: None. Abstentions: None. Absent: None. The motion passed.

Ted Rossier announced that the rules and the summary of the public comments on the rules and the process will be available on the website.

Executive Session

Commissioner Engle moved and Commissioner Gilliland seconded to adjourn for Executive Session.

Those voting aye: Commissioners Engle, Gilliland, and Wilson. No: None. Abstentions: None. Absent: None. The motion passed.

Open Session

Following Executive Session, Chairman Wilson moved to re-convene in Open Session and Commissioner Gilliland seconded.

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Those voting aye: Commissioners Engle, Gilliland, and Wilson. No: None. Abstentions: None. Absent: None. The motion passed.

Adjournment

Chairman Wilson announced that the next regular meeting of the Commission will be February 20, 2014 at 1:30 p.m.