

**THE LABOR COMMISSION  
WORKERS' COMPENSATION ADVISORY COUNCIL**

**Wednesday, January 9, 2013 – 12:00 P.M.  
Room 319, Heber M. Wells Bldg.  
Salt Lake City, Utah**

**The following Advisory Council members were in attendance:**

David Bird, Esq., Parsons Behle and Latimer  
Dennis Lloyd, Workers Compensation Fund  
Brian Kelm, Esq.  
Richard J. Thorn, President/CEO, Associated General Contractors - Utah Chapter  
Edward Holmes, M.D., Summit View Medical  
Brandon Dew, Central Utah Federation of Labor  
Sen. Karen Mayne  
Jeff Rowley, Salt Lake County  
Brandt Goble, Painters and Tapers Local 77  
K. Dawn Atkin, Esq., Atkin & Associates  
Tracey Klausmeier, Utah Dept of Insurance

**The following Advisory Council members were excused:**

Rep. Mike Morley  
Kathleen Bissell, Liberty Mutual  
Reo Castleton, President, SL Cnty Fire Dept Local 1696  
Dave Davis, President, Utah Food Industry Association  
Todd Bingham, President, Utah Manufacturers Association

**Others Present:**

Sherrie Hayashi, Commissioner  
Alan Hennebold, Deputy Commissioner  
Ron Dressler, Director, Division of Industrial Accidents, Labor Commission  
Maggie Karpeck, NCCI  
David Lamb, Utah Labor Commission, Administration Division Director  
Sara Danielson, Utah Labor Commission, Administrative Assistant  
Stan Mead, Gallaher Settlement  
Richard Burke, Esq.  
Elena Bensor, PIO, Labor Commission  
Heather Gunnarson, Labor Commission Adjudication Division

**WELCOME**

**Welcome –Commissioner, Sherrie Hayashi** brought the meeting to order at 12:04 p.m.

**1. Miscellaneous Business:**

Commissioner Hayashi asked if there were any corrections to the minutes from the Council's October 10, 2012, meeting. Brandon Dew moved to approve the minutes, Dawn Atkin seconded the motion. The motion passed unanimously.

Commissioner Hayashi stated that an updated Council membership list was available. She asked that the contact information be reviewed and any corrections be given to Ron Dressler.

**2. Legislation and Rules:**

**Workers Compensation and Directors or Officers** – Senator Vickers was contacted by telephone and he explained his proposed legislation. His proposal is for corporate officers of a corporation without employees to be able to “opt out” of the workers compensation system without having to get a waiver. Currently the only way for corporate officers to opt out of the system is by getting a waiver. Discussion was had. The council expressed concern about this proposed legislation undoing the work done to have those companies with numerous officers (construction companies particularly) and no employees having an advantage over competitors by not having workers compensation insurance. There was also discussion of a time limit for the validity of the “opt out” option. It was also mentioned that even if officers “opt out”, a hiring party could still require them to have a waiver to work for them.

Alan Hennebold offered the Labor Commission to take the lead in fine tuning the language to satisfy the council’s concerns. Once a final draft of the proposed language is available, a copy will be distributed to the council for comment.

**Commission rulemaking authority over Medical Fee Standards and Electronic Data Interchange (EDI) / Carrier Reporting** – Senator Mayne is sponsoring a bill that would give the Commission rulemaking authority to govern medical fee standards and to cover the changing technology of reporting to the Commission. Alan Hennebold explained that for years the Commission has published a Medical Fee Guideline, however, in reviewing the statutes, he is not sure that the Commission has authority to do this. Also, with the changing technology, it has become apparent that authority needs to be given to the Commission to change with the technology. This proposed legislation would allow the Commission to receive 1<sup>st</sup> reports of injury from the employer and /or the insurance carrier electronically.

Discussion was had. It was determined that when the final language of the bill is established, it will be distributed to the council and a vote to support or not support will be taken via email.

**Coordination of benefits** – Senator Mayne is also sponsoring a bill that has been a year and half in the making to have private medical insurance pay the medical bills of an injured worker when the injury is being disputed as being a workers’ compensation injury. Discussion was had. A point of discussion for the future was brought up as the interest rate and the discount rate for workers’ compensation claims in general.

Jeff Rowley made a motion to support this proposed legislation. Brian Kelm seconded the motion. The motion passed unanimously.

**Recodification of Industrial Accident Rules** – Alan Hennebold explained that the Industrial Accident rules have been reorganized from 13 rules to 5 rules. The reorganization places similar subject rules together. This will allow users to more easily find the rules pertaining to them. Once the reorganization has been completed, a review of the substance will be undertaken.

**Other proposals** – Heather Gunnarson, Director of the Commission’s Adjudication Division, addressed the council regarding a Medical Director for the Adjudication Division. She stated that this position could be in charge of: training medical panels; recruiting doctors to be on medical panels; review/screen cases for referral to medical panels; could be a part-time or full-time position. She asked the council to begin thinking about what this position might do and how to fund this position. She stated that she would like to act sooner rather than later to establish this position. Some discussion was had.

### **3. NCCI State Advisory Update –**

Maggie Karpuk gave a Powerpoint presentation on the “State of Workers’ Compensation in Utah”. She stated that compared to other states, Utah is on the low end of paying indemnity benefits and about in the middle in paying medical benefits, placing Utah at the lower end. She stated that Utah is good at getting the medical part of claims taken care of. Utah is doing well in workers compensation.

### **4. Workplace Safety Account –**

Elena Bensor, PIO for the Commission and the Workplace Safety Grant Coordinator, stated that the 2013 Grant applications will be available next week. She asked if there was a volunteer from the council to take Tom Bingham's place on the grant review committee. Rich Thorn offered to participate. She also asked for the council to "spread the word" about the grant program.

**5. Labor Commission Budget/Premium Surcharge Funds –**

David Lamb distributed the financial sheets for the UEF, ERF, IARA, and the Workplace Safety Account. He reviewed the information contained thereon.

Ron Dressler explained that the Tax Commission shows a decrease in Self-Insured tax revenue of over 40% between the years 2009 and 2011. The Commission is reviewing the information provided.

**6. Other Business –**

Alan Hennebold announced his retirement at the end of March 2013. The Commissioner stated that his position would be posted for public application sometime in the next couple of weeks. She encouraged the Council to refer qualified candidates.

Commissioner Hayashi reminded the members of the rest of the meetings scheduled for 2013. She particularly highlighted the change for a September meeting instead of the usual October meeting.

Dawn Atkin moved to adjourn the meeting. Jeff Rowley seconded the motion.

Meeting adjourned at 2:15 pm.