

## UTAH LABOR COMMISSION

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### REPORT ON ALJ COMMUNICATION WITH LABOR COMMISSION MEDICAL PANELS

July 10, 2012

One month ago, on June 14, the Utah Labor Commission informed workers' compensation stakeholders of concerns regarding ALJ communications with Commission medical panels. Specifically, the Commission advised that, in some cases, ALJs had rejected and destroyed medical panel reports and instructed the panels to submit modified reports, all without notice to the parties involved in the case.

The Commission immediately stopped this conduct. The Commission also began the process of identifying the extent of the conduct, the reasons behind it, and the steps necessary to correct it. In this document the Commission reports its findings and summarizes its corrective actions.

**Initial information.** The Commission learned on Wednesday, June 6, that in at least one case an ALJ had rejected a medical panel's report and instructed the panel to change the report in some respects--all of this being done without notice to the parties. The problem was compounded by the ALJ's decision to destroy the initial report.

On further inquiry, the Commission learned that the ALJ had taken similar action in two other cases, and that this had been done with the knowledge of her supervisor, the Director of the Adjudication Division. Given the nature of the changes requested by the ALJ and Director, it did not appear that they intended to influence the panels' ultimate opinions but, rather, wanted the medical panels to clarify their conclusions. Thus, the ALJ and Director's conduct violated requirements for openness and transparency but did not indicate an improper or malicious purpose.

**Immediate action.** The Commission immediately concluded that the ALJ and Director's actions were contrary to statute and Commission policy. The actions undermined confidence in the fairness and integrity of the adjudicative process, and deprived the parties of the ability to protect their rights. The Commission therefore took the following immediate actions:

- Each ALJ was instructed verbally and in writing that the subject actions are impermissible and must not occur in the future.
- The Commission verified the specific cases in which the subject actions had occurred. Those cases were reassigned to other ALJs
- The attorneys involved in those cases were notified of the situation and were provided copies of the original panel reports.
- The ALJ and Director who had been involved in the subject actions were placed on administrative leave pending further action.

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**Independent audit.** Recognizing that confidence in the Commission's adjudicative system could not begin to be restored without an independent assessment of this situation, the Commission requested that John Pearce, Governor Herbert's General Counsel, arrange for an outside audit. The audit team began work immediately, free from direction or control by the Commission and with full authority to pursue their investigation as they saw fit. The auditors had full access to all records, Commission staff, and medical panelists in order to define with certainty the extent of the problem and to recommend action to preclude future occurrences.

The audit is attached to this report. Sections identifying attorney performance appraisals of individual ALJs, have been redacted, but the audit conclusion regarding those appraisals are included in full. And while the audit speaks for itself, its primary findings are as follows:

1. The subject conduct was limited to two ALJs and five cases<sup>1</sup> during a 4 ½ month period between late January to early June.
2. Improper communications between ALJs and medical panels could be reduced with better training for the panels.
3. Addressing the results of ALJ performance surveys can limit future concerns.

**Corrective actions.** The audit recommends that the Commission take a series of actions to address its findings. The Commission has already implemented the audit recommendations to notify the litigants in the affected cases and, in all but one of those cases, has been able to recover the original panel report and provide it to the parties.

The Commission has also established a clear policy prohibiting questionable communication between ALJs and medical panels in the future.

The Commission has determined that the ALJ and Director's conduct in the subject cases was inappropriate. Specifically, that conduct violated explicit and implicit statutory requirements in the Utah Workers' Compensation Act and the Utah Administrative Procedures Act. It also violated Commission policy. The Commission is in the process of taking appropriate personnel actions based on this inappropriate conduct and other factors.

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<sup>1</sup> With the Commission's assistance, the audit team identified two earlier cases in which the subject conduct had occurred. The two cases, together with the three cases already identified by the Commission, make a total of five cases. Parties to all five cases have been notified and the original medical panel report has been recovered and distributed in all but one of the cases.

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The Commission likewise agrees with the audit that annual surveys of ALJ performance are a useful management tool. While they have obvious limitations and do not provide a complete picture of an ALJ's performance, the surveys can identify strengths and weakness and allow for timely and appropriate corrections. The surveys will be integrated into ALJ performance plans that are to be drafted during July 2012.

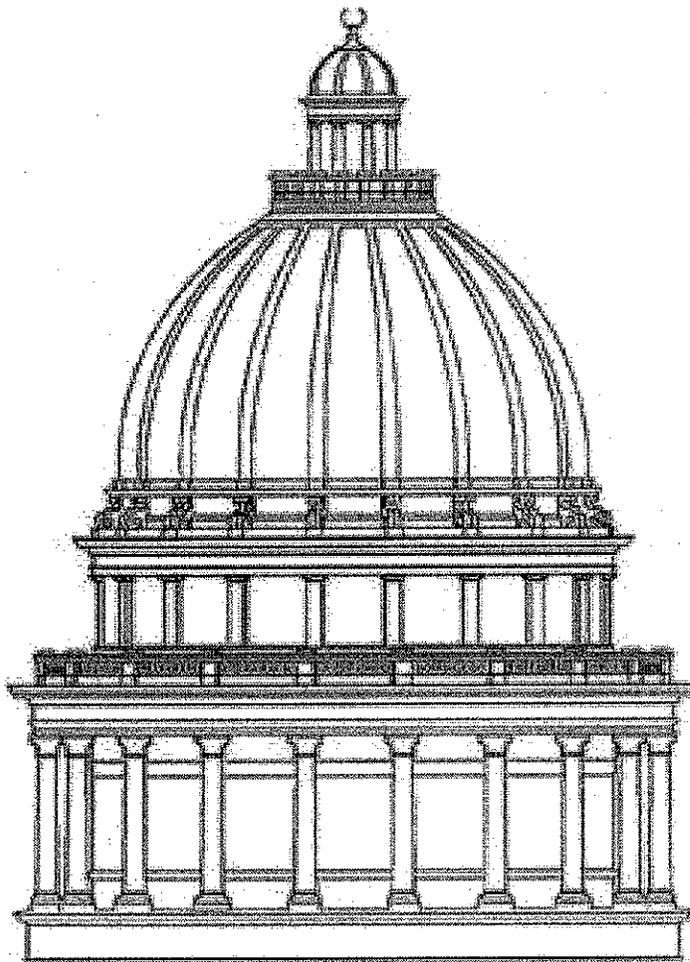
The Commission agrees with the audit's finding of a systemic insufficiency of training for medical panelists and welcomes assistance and oversight by the Workers' Compensation Advisory Council in correcting that deficiency. The Commission will present this issue to the Advisory Council at its upcoming meeting.

The Commission also recognizes the need to address concerns that have come to the surface as a result of this episode, but which were beyond the scope of the audit's investigation and recommendations. Some stakeholders question larger aspects of the Commission's medical panel system--in particular: 1) impartiality of panelists and 2) the quality of panel opinions. Stakeholders also express concerns regarding impartiality and proper judicial demeanor among ALJs. Some of these concerns are being addressed through changes to Division management and greater attention to ALJ survey results. However, the Commission also anticipates a systematic review of the entire medical panel system with the possibility of amendments to existing rules and statutes.

**Conclusion.** The information in this report supplements what has previously been stated. Once again the Commission states its regret for this situation. But actions already taken, and to be taken in the future, will correct this particular problem and improve the entire adjudicative system. As previously predicted, this process has already been time-consuming and difficult, and further effort is still required. But the result will be worth the effort. The Commission encourages anyone with concerns or comments on this subject to participate in this process for improvement.

3 July 2012

**A Performance Audit of  
ALJ Communication with the Labor  
Commission's Medical Panels**



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## EXECUTIVE SUMMARY

### **Finding 1: ALJ Changes to Medical Panel Reports Are Limited to Two Judges.**

An administrative law judge (ALJ) for the Labor Commission's Adjudication Division (division) instructed three Medical Panel chairs to change their medical reports without notifying participating parties in five cases. It does not appear that any other ALJ has had similar contact with the Medical Panel regarding their own hearings. All instances of this questionable communication appear to have occurred from January 2012 to June 2012.

The presiding ALJ, who also serves as the division's director, encouraged questionable communication with Medical Panel chairs in an effort to train the Medical Panel chairs how to properly write usable reports. We recommend that the Labor Commission (Commission) notify participating parties involved in the five cases and improve controls to prevent such communication going forward.

### **Finding 2: Medical Panel Training May Reduce Questionable Communication from ALJs.**

The Commission could increase the effectiveness and consistency of the Medical Panel by providing clearly defined training for Medical Panel chairs. Almost 40 percent of Medical Panel chairs do not believe that the current training is sufficient. The Commission could rely on existing resources, such as the Workers' Compensation Advisory Council, to help create a training program that is transparent and appropriate.

### **Finding 3: Addressing ALJ Survey Results May Limit Future Concerns.**

The division may have avoided the questionable communication cited in **Finding 1** had the division director used the survey results to help correct potential problems at their genesis. The Commission conducts annual surveys of ALJs; however, the division director does not use the survey results to manage ALJ performance. [line redacted]

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# Introduction

## SCOPE AND OBJECTIVES

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The Governor's legal council asked for an independent review of communication between the Labor Commission's (Commission) Adjudication Division (division) and the Commission's Medical Panel. Specifically, this performance audit focused on determining the extent of questionable communication between administrative law judges (ALJ) and the Medical Panel without notifying participating parties.

**Finding 1** addresses this objective directly, while **Finding 2** and **Finding 3** make recommendations to potentially prevent questionable communication in the future. This audit did not make determinations on the appropriateness of the communication between the ALJs and the Medical Panel, though it appears questionable, nor was this audit intended to recommend personnel actions. Such determinations are the responsibility of the Labor Commission.

## METHODOLOGY

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Field work for this audit was conducted during June 2012. In order to accomplish the audit's scope and objectives, the auditors conducted the following field work:

- Reviewed applicable State statute, Administrative Rules, and policies and procedures.
- Reviewed policies and procedures from six surrounding states.
- Reviewed all cases for which a "Medical Panel report received" was deleted from the division's database during fiscal year 2010, fiscal year 2011, and fiscal year 2012.
- Interviewed three Medical Panel chairs that appeared to have been contacted by an ALJ, based on our review of the division data.
- Surveyed all doctors who have served as Medical Panel chairs during fiscal year 2010, fiscal year 2011, and fiscal year 2012 (the survey had an 81.3 percent response rate).
- Interviewed the longest tenured Medical Panel chair.
- Interviewed all seven Commission ALJs and three division clerks.
- Interviewed eight attorneys who represent stakeholders in workers' compensation hearings.

The field work for this review was conducted independent from the Governor's Office, the Labor Commission, and all stakeholders. We received full cooperation from all parties involved during the course of this audit, including the Labor Commission, the Medical Panel, stakeholders, and all seven ALJs. No outside influence or impairment impacted the findings contained in this report.

## BACKGROUND

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The Labor Commission (Commission) "...is the regulatory agency responsible for preserving the balance established by the legislature for protecting the health, safety, and economic well-being of employees and employers." The Labor Commissioner oversees six divisions, including:

- Antidiscrimination and Labor Division
- Occupational Safety and Health Division
- Adjudication Division
- Individual Accidents Division
- Boiler, Elevator, and Coal Mine Safety Division
- Administrative Services Division

The Adjudication Division (division), within the Commission, consists of seven administrative law judges (ALJ) who hear cases regarding labor disputes. One of the seven ALJs serves as the presiding ALJ/division director. According to the division, a person may request a hearing for the following reasons:

- Appeal a workers' compensation claim denial
- Appeal the Antidiscrimination and Labor Division's employment or housing discrimination decision
- Appeal an Occupational Safety and Health Division Citation and Notice of Penalty
- Appeal an Industrial Accidents Division penalty assessment for failure to maintain workers' compensation insurance
- Request ongoing workers' compensation payments be reduced or terminated under *Utah Code* § 34A-2-410.5
- Resolve disputes over failure to cooperate with, or diligently pursue, a reemployment plan in a permanent total disability compensation case

*Utah Code* 34A-2-601 allows an ALJ to appoint a Medical Panel, which is most frequently used when the treating physician and the insurance carrier's independent medical examiner disagree. An ALJ has the option to select one of the 13 medical doctors approved by the Commission to serve as Medical Panel chair for appropriate cases. Commission-approved medical doctors specialize in areas of occupational medicine, orthopedics, medical toxicology, pain management, neurology, and general practice. The Medical Panel chair has the option to select other medical doctors to assist with each case.

According to statute,

*"An administrative law judge shall promptly distribute full copies of a [Medical Panel] report submitted to the administrative law judge... to:*

- (A) The applicant;*
- (B) The employer;*
- (C) The employer's insurance carrier; and*
- (D) An attorney employed by a person [listed above]"*

Each party has 20 days from the date of the letter to object to the Medical Panel report. The ALJ will use the Medical Panel report as a key piece of evidence in making the final decision on the case. An ALJ will rarely issue an opinion that does not coincide with the Medical Panel report.

## Finding 1

### ALJ Changes to Medical Panel Reports Are Limited to Two Judges

An administrative law judge (ALJ) for the Labor Commission's Adjudication Division (division) instructed three Medical Panel chairs to change their medical reports without notifying participating parties in five cases. It does not appear that any other ALJ has had similar contact with the Medical Panel regarding their own hearings. All instances of this questionable communication appear to have occurred from January 2012 to June 2012.

The presiding ALJ, who also serves as the division's director, encouraged questionable communication with Medical Panel chairs in an effort to train the Medical Panel chairs how to properly write usable reports. We recommend that the Labor Commission notify participating parties involved in the five cases and improve controls to prevent such communication going forward.

#### One ALJ Requested Changes to Five Medical Panel Reports Without Notifying Parties

One of the Commission's ALJs contacted three Medical Panel chairs on a total of five separate occasions with instructions to resubmit their reports after making specified changes from January 2012 through June 2012. The ALJ did not notify the participating parties that she had requested these changes, nor did she submit the request in writing. Additionally, this ALJ destroyed the original reports and asked a clerk to remove the records of receipt from the Commission's database. The Commission identified three incidents of this questionable communication, which we verified through a review of each case and through interviews with the assigned ALJ, the presiding ALJ, the Medical Panel chairs, and the attorneys involved. A clerk's note in the Commission database states the following regarding the original Medical Panel report:

*"Shredded [Medical Panel] report from [Medical Panel chair] and returned status to 'Medical Panel' per [ALJ]..."*

We discovered and verified two additional cases from early 2012 through a review of cases from fiscal year 2010, fiscal year 2011, and fiscal year 2012. Similarly, the same ALJ initiated the contact with the Medical Panel chairs in each instance and requested changes to the Medical Panel report. In each instance, the notation for the receipt of the

All questionable communication occurred between January 2012 and June 2012.

original Medical Panel report was deleted from the Commission's database and reentered after the revised report was received. In one case, the clerk entered the following note in the Commission's database:

*"[Medical Panel chair] to rewrite med panel report; case remains in panel status..."*

The Medical Panel chairs in both additional cases said that the ALJ asked them to resubmit their Medical Panel reports after making specified changes; however, there is no record of notification to any of the participating parties regarding the requested changes. The division did not have copies of the original Medical Panel reports; however, one of the Medical Panel chairs provided the original and revised copies of his report, which had considerable differences. The other Medical Panel chair did not retain a copy of the original Medical Panel report.

Medical Panel chairs do not believe changes impacted report outcomes.

Though the Medical Panel chairs did not believe the changes necessarily impacted the outcomes of the reports, concerns exist regarding an impartial ALJ destroying independent reports and requesting changes without notifying the participating parties. Some of the changes requested by the ALJ included the following:

- Removing treatment guidelines cited in the report to, according to the presiding ALJ, avoid the appearance that the division supported those specific guidelines in future cases.
- Removing prior diagnoses from a treating physician and independent medical examiner.
- Clarifying statements that encouraged the injured worker to exercise and take an active role in his recovery.
- Removing of a statement in the Medical Panel report that contradicted the court's findings of fact.
- Removing of justification as to why the Medical Panel answered definitive questions.
- Changing language from "possible but highly unlikely" to "no," among other similar changes.
- Modifying style in order to, according to the ALJ and Medical Panel chairs, increase the report's readability.

Two Medical Panel chairs who made changes to reports appreciated feedback

Two of the three Medical Panel chairs whom the ALJ instructed to change their reports had served as chairs for less than one year, and interpreted the communication as helpful instructions from their “employer.” While we do not condone the questionable communication and actions initiated by the ALJ and presiding ALJ, it appears that new Medical Panel chairs could use additional training on how to best report their findings. Training for veteran panelists could also increase consistency. **Finding 2** addresses this concern in greater detail.

### **The Presiding ALJ Sanctioned Medical Panel Change Requests**

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One ALJ and the presiding ALJ asked Medical Panel chairs to change their reports

The presiding ALJ, who also serves as the division director, encouraged changes to the Medical Panel reports as a way to train Medical Panel chairs to write useful reports. The presiding ALJ explained to one Medical Panel chair, who had initially resisted making the changes requested by the ALJ assigned to the hearing, that the changes were necessary in order to clarify the Medical Panel findings. The presiding ALJ was concerned that use of specific treatment study guidelines may appear as if the division endorsed that guideline.

The presiding law judge thought communication was part of the deliberative process

The presiding ALJ does not believe the changes to the Medical Panel report affected the overall outcomes, but believed it was his responsibility to train the chairs how to write their reports more effectively. Additionally, he believes that the communication was part of the “deliberative process” that he believes should exist between an ALJ and a Medical Panel chair. We recommend that the Commission determine the appropriateness of such action.

### **No Other ALJ Requested Changes To Medical Panel Reports**

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After analyzing cases reviewed by the Medical Panel during fiscal year 2010, fiscal year 2011, and fiscal year 2012; conducting a survey of all Medical Panel chairs; and interviewing all ALJs and clerks, it does not appear that any other ALJ has destroyed Medical Panel reports or requested changes to a Medical Panel report without issuing written notice to all participating parties. The three Medical Panel chairs who reported being asked by an ALJ to make changes to their reports without written notification were the same Medical Panel chairs for each of the five cases discovered during the case review.

## **Recommendations**

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- 1.1 We recommend that the Labor Commission notify all participating parties in the five cases in which an ALJ requested changes to the Medical Panel report.
  
- 1.2 We recommend that the Labor Commission strengthen controls to limit questionable communication between an ALJ and the Medical Panel by:
  - a. Creating clear policy that defines appropriate communication,
  - b. Establishing a formal training program for Medical Panel chairs (see **Finding 2**), and
  - c. Using ALJ survey results to identify and correct concerns with ALJ decorum (see **Finding 3**).
  
- 1.3 We recommend that the Labor Commission determine the appropriateness of the actions of the ALJ and presiding ALJ who requested changes to Medical Panel reports and destroyed original copies without notifying participating parties.

## Finding 2

# Medical Panel Training May Reduce Questionable Communication from ALJs

The Labor Commission (Commission) could increase the effectiveness and consistency of the Medical Panel by providing clearly defined training for Medical Panel chairs. Almost 40 percent of Medical Panel chairs do not believe that the current training is sufficient. The Commission could rely on existing resources, such as the Workers' Compensation Advisory Council, to help create a training program that is transparent and appropriate.

### **Thirty-Eight Percent of Medical Panel Chairs Believe Current Training is Insufficient**

Many Medical Panel chairs want additional training on how to perform job duties.

Five out of 13 Medical Panel chairs surveyed said they believe training for Medical Panel chairs is insufficient. While we do not believe this justifies the questionable communication reported in **Finding 1**, increased training and direction for Medical Panel chairs could increase overall consistency and reduce opportunities for administrative law judges (ALJ) to initiate questionable contact with Medical Panel chairs.

Current training consists of an annual luncheon with Medical Panel chairs and ALJs, which has generally not been well-attended. Past luncheons addressed issues that have arisen with Medical Panel reports and reviewed the expectations of ALJs regarding Medical Panel reports.

### **Reference Materials May Improve Medical Panel Reports' Usability and Consistency**

Differences exist between medical and legal definitions.

When a Medical Panel chair receives a new case, the only material available to help him/her is the referral letter sent from the ALJ. Due to the differences in medical and legal language, some Medical Panel chairs attempt to answer legal questions that are outside the realm of their responsibility and expertise as physicians. This, at times, creates potential disagreements with a Medical Panel report that may reduce its overall effectiveness.

While the division wants the Medical Panel to remain medical experts and the judges remain legal experts, it may be useful for Medical Panel chairs to have additional reference materials available while they write the Medical Panel reports. This material may include definitions of legal

terms and standards for medical causation. Providing reference materials to Medical Panel chairs may prevent future questionable communication from ALJs because relevant information is readily available to the Medical Panel as it is needed.

## **New Medical Panel Chairs Want Training**

New Medical Panel chairs have expressed an interest in more training to ensure they are meeting the Commission's expectations. New Medical Panel chairs do not receive immediate training on how to write reports, evaluate medical causation, and perform other aspects of their job function. Therefore, two of the Medical Panel chairs who were requested by an ALJ to change their reports appreciated the feedback.

Increased training emphasis may decrease questionable communication

Again, while we do not believe the lack of Medical Panel chair training justifies the questionable communication reported in **Finding 1**, we believe training for new Medical Panel chairs may prevent some problems with reports about which ALJs, petitioners, and respondents have expressed concerns.

While newer Medical Panel chairs want additional orientation and training, some of the veteran Medical Panel chairs also do not believe the training is sufficient. Forty percent of Medical Panel chairs who have served for more than six years believe that training is insufficient. Therefore, we recommend that the Commission place a greater emphasis on training Medical Panel chairs.

## **The Workers' Compensation Advisory Council Could Provide Guidance on Developing a Training Program**

The advisory council may help ensure fair, transparent training exists

The Commission may benefit from utilizing existing resources to provide guidance on developing an effective and transparent training program. The Workers' Compensation Advisory Council consists of 10 voting members, five who represent employers and five who represent employees. Four additional non-voting members, who represent insurance companies and medical professionals, and two legislative liaisons also participate on this council. The purpose of this council is to "... [Advise] the Commission on matters of legislation, rules, and enforcement of the Workers' Compensation Act."

We recommend that the Commission consult with this advisory council to establish orientation for new Medical Panel chairs and ongoing training for more tenured chairs. The Commission could increase public

confidence by implementing transparent training standards that were approved by the advisory council. Written documentation of training and/or reference material given to panel chairs will allow all parties to be assured of the division's fairness and impartiality.

## **Recommendations**

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- 2.1 We recommend that the Labor Commission coordinate with the Workers' Compensation Advisory Council to create a plan to orient new Medical Panel chairs and provide ongoing training for tenured chairs.
- 2.2 We recommend that the Labor Commission coordinate with the Workers' Compensation Advisory Council to provide training/reference materials, such as a glossary, for Medical Panel chairs to use while writing reports.
- 2.3 We recommend that the Labor Commission coordinate with the Workers' Compensation Advisory Council to consider mandating regular training in order for participation as a Medical Panel chair.

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### Finding 3

## Addressing ALJ Survey Results May Limit Future Concerns

The Adjudication Division (division) may have avoided the questionable communication cited in **Finding 1** had the division director used the survey results to help correct potential problems at their genesis. The Labor Commission (Commission) conducts annual surveys of administrative law judges (ALJ); however, the division director does not use the survey results to manage ALJ performance.

[redacted]

Figure 3.1 shows the average annual survey results from respondents by category for each ALJ.

**Figure 3.1. Average Annual Survey Results from 2007 to 2010 (Respondents Only).**

[redacted]

Question	Judge A	Judge B	Judge C	Judge D	Judge E	Judge F	Judge G
Behavior free of impropriety							
Behavior free of bias							
Avoids ex parte communications							
Understands rules of procedure/evidence							
Understands substantive law							
Perceives legal and factual issues							
Prepared for hearing							
Maintains proper decorum/demeanor							
Issues opinions without delay							
Decisions are clear and well written							
Overall evaluation							

[table contents redacted]

[Section redacted]

ATJ survey results are not considered in performance evaluations

The questionable communication cited **Finding 1** may have been prevented had the division director addressed these concerns as they arose – as early as 2006. [redacted]

(Heading redacted)

Question	Other ALJ Average	Deviation
Behavior free of impropriety	4.25	
Behavior free of bias	4.11	table
Avoids ex parte communications	4.47	content
Understands rules of procedure/evidence	3.65	Section redacted
Understands substantive law	3.61	
Perceives legal and factual issues	3.69	
Prepared for hearing	4.07	
Maintains proper decorum/demeanor	4.28	
Issues opinions without delay	3.54	
Decisions are clear and well written	3.74	
Overall evaluation	3.87	

Section redacted

In order to resolve potential concerns as they arise, we recommend that the division incorporate the survey results in future performance evaluations.

### **Recommendation**

3.1 We recommend that the presiding ALJ incorporate survey results into annual ALJ performance evaluations and address potential concerns as they arise.

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# **Labor Commission Response**

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## Labor Commission Response

### LABOR COMMISSION RESPONSE TO PERFORMANCE AUDIT OF ALJ COMMUNICATIONS WITH THE LABOR COMMISSION'S MEDICAL PANEL

**Background.** The Labor Commission has a duty to maintain the fairness of the workers' compensation adjudicative system. Litigants, stakeholders, and the Utah public are entitled to no less.

The workers' compensation system places great reliance on its medical panels—-independent physicians appointed by administrative law judges (ALJs) to evaluate the medical issues of the most difficult workers' compensation cases. Three weeks ago the Commission learned of conduct which called into question the integrity of the relationship between ALJs and medical panels. Specifically, it appeared that, in a few instances, panels had been asked, without notice to the litigants, to modify some aspects of their reports.

The Commission immediately stopped this practice, but questions remained whether the practice might have been more widespread and affected the outcome of some cases. To answer these questions, and to maintain confidence in the workers' compensation system, the Commission and Governor Herbert's office, working through John Pearce, Governor Herbert's legal counsel, concluded that a full and prompt investigation by independent auditors was necessary.

The Governor's Office quickly established the independent audit team. The auditors were free to design the audit, determine methodology, and follow issues and questions as they arose. The Commission provided unrestricted access to all personnel, records, and any other information.

The Commission has now received and reviewed the audit report. This response to the audit is short for the simple reason that the Commission fully accepts the audit's findings. And, as discussed below, the Commission has either already implemented the audit recommendations or is in the process of implementing those recommendations.

#### **Finding One: "ALJ Changes to Medical Panel Reports Are limited to Two Judges."**

The Commission is gratified that the questionable communications involved only two (out of seven) ALJs and a relatively small number of cases over a short period of time.

Recommendation 1.1. The Commission has implemented audit recommendations to notify the litigants in the affected cases, and in all but one of those cases has been able to recover the original panel report and provide it to the parties. Efforts continue to recover the original panel report in the remaining case.

Recommendation 1.2. The Commission has also established a clear policy prohibiting questionable communication between ALJs and medical panels in the future.

Recommendation 1.3. The Commission is completing its evaluation of the propriety of the conduct of Commission staff involved in the subject episodes.

**Finding Two: "Medical Panel Training May Reduce Questionable Communications from ALJs."**

Recommendations 2.1, 2.2 and 2.3. The audit finds a systemic insufficiency in the training that has been provided to medical panelists. The audit suggests greater involvement by the Workers' Compensation Advisory Council to establish a plan to orient new panel members, provide reference materials, and also provide periodic training for all panelists. The Commission has placed this topic on the agenda of the Advisory Council's next meeting, already scheduled for Wednesday, July 11, 2012.

**Finding Three: "Addressing ALJ Survey Results May Limit Future Concerns."**

Recommendation 3.1. The Commission agrees that results of annual surveys of ALJ performance are a useful management tool. The Commission has conducted these surveys for the last six years, and while they have obvious limitations and do not provide a complete picture of an ALJ's entire performance, the surveys can identify strengths and weakness and allow for timely and appropriate corrections. The surveys will be integrated into ALJ performance plans that are to be drafted during July 2012.

**Conclusion.** As a final note, the Commission expresses its appreciation to the audit team, who proceeded with professionalism and thoroughness to promptly produce a report that identifies and quantifies the immediate concerns as well as underlying problems, and provides important recommendations to correct those problems.