

MINUTES
OF THE
NOVEMBER 21, 2019 REGULAR BUSINESS MEETING



OF THE
OKLAHOMA WORKERS' COMPENSATION COMMISSION

STATEMENT OF OKLAHOMA OPEN MEETING ACT COMPLIANCE

Notice of this Regular Meeting was filed with the Secretary of State's office on Monday, November 15, 2018 at 4:02 p.m., in compliance with the Open Meeting Act.

The agenda was posted at least 24 hours in advance of the meeting, in compliance with the Open Meeting Act. It was posted on the Commission website and at 1915 N. Stiles Ave., Oklahoma City, Oklahoma, the Commission's principal office.

MINUTES OF THE NOVEMBER 21, 2019 REGULAR BUSINESS MEETING OF THE OKLAHOMA WORKERS' COMPENSATION COMMISSION

The members of the Oklahoma Workers' Compensation Commission met at 1915 N. Stiles Ave., 2nd floor, Oklahoma City, Oklahoma, on November 21, 2019.

Members present: Chairman Mark Liotta, and Commissioner Megan Tilly.
Members absent: Commissioner Russell.

Others Present: Lauren Hammonds Johnson, WCC; Hopper Smith, WCC; Dana Esparza, WCC; Eric Russell, WCC; James Lawson, WCC; Collin Fowler, WCC; Dr. Jay Cannon, WCC and Andrea Delling, WCC.

Chairman Liotta expressed appreciation for those in attendance. After the roll was taken, he announced the presence of a quorum. The meeting was called to order at approximately 1:30 p.m.

1. Approval of Minutes

The drafted minutes of the October 17, 2019, Regular Business Meeting, November 7, 2019, Special Meeting and Public Hearing; November 7, 2019, Dual Special Meeting; and the November 8, 2019, Dual Special Meeting of the Commission were considered for approval.

Motion: Commissioner Tilly moved to approve the minutes of the October 17, 2019, Regular Business Meeting, November 7, 2019, Special Meeting and Public Hearing; November 7, 2019, Dual Special Meeting; and the November 8, 2019, Dual Special Meeting of the Commission public meetings.

Second: Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Tilly

The motion carried.

2. Discussion and Consideration of Adoption of Proposed Amendments to Commission Forms and Effective Dates

Title 85A O.S. § 22(a) provides “[t]he Commission shall vote on any substantive change to any form and the effective date of such substantive change.” The Commission considered adopting proposed amendments to CC-Form-100, CC-Form-1A, CC-Form-1A Spanish Version, and CC-Joint Petition, as well as setting the effective dates.

Motion: Commissioner Tilly moved to approve Forms as proposed.

Second: Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Tilly

The motion carried.

3. Discussion and Possible Action of Consent Agenda for Travel Vouchers Currently Outstanding

Title 85A O.S. § 23 states that 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.

Eric Russell was recognized, reported, gave his recommendation, and responded to questions of the Commissioners.

Motion: Commissioner Tilly moved to approve the Vouchers as presented.

Second: Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Tilly

The motion carried.

4. Discussion and Consideration of Reducing the Security Deposit of Southwestern Bell Telephone Company, a Former Own Risk Employer, Permit #00337

Pursuant to Commission Rule 810:25-9-19, a security deposit posted with the Commission as required by Commission Rule 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 or released 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. The Commission considered reducing the security deposit of Southwestern Bell Telephone Company.

James Lawson was recognized, reported, gave his recommendation, and responded to questions of the Commissioners.

Motion: Commissioner Tilly moved to approve reducing the security deposit of Southwestern Bell Telephone Company.

Second: Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Tilly

The motion carried.

5. Discussion and Possible Action on Releasing or Reducing the Security Deposit of J.C. Penney Corporation Inc., a Former Own Risk Employer, Permit #17682

Pursuant to Commission Rule 810:25-9-19, a security deposit posted with the Commission as required by Commission Rule 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 or released 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. The Commission considered releasing or reducing the security deposit of J.C. Penney Corporation Inc.

James Lawson was recognized, reported, gave his recommendation, and responded to questions of the Commissioners.

Motion: Commissioner Tilly moved to release the security deposit of J.C. Penney Corporation Inc. as recommended.

Second: Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Tilly

The motion carried.

6. Discussion and Possible Action on Distribution of Surplus Monies to Members of the Oklahoma Association of Electric Self-Insurers Fund (#75034)

Commission Rule 810:25-11-10 states that any surplus monies may be declared refundable by the association's board. The date and manner of the distribution shall be declared by the association's board, and the manner of distribution shall be in accordance with the association's bylaws. The board shall submit the distribution request to the Commission, with all supporting documents. The Commission Considered distributing the surplus monies to Members of the Oklahoma Association of Electric Self-Insurers Fund.

James Lawson was recognized, reported, gave his recommendation, and responded to questions of the Commissioners.

Motion: Commissioner Tilly moved to distribute the surplus monies to Members of the Oklahoma Association of Electric Self-Insurers Fund as recommended.

Second: Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Tilly

The motion carried.

7. Discussion and Possible Action on Distribution of Surplus Monies to Members of the Oklahoma Health Care Association Self-Insurers Fund (#75175)

Commission Rule 810:25-11-10 states that any surplus monies may be declared refundable by the association's board. The date and manner of the distribution shall be declared by the association's board and shall be in accordance with the association's bylaws. The board shall submitted the distribution request to the Commission, with all supporting documents.

James Lawson was recognized, reported, gave his recommendation, and responded to questions of the Commissioners.

Motion: Commissioner Tilly moved to distribute the surplus monies to the members of the Oklahoma Health Care Association Self-Insurers Fund as recommended.

Second: Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Tilly

The motion carried.

8. Discussion and Possible Action on Approval of Independent Medical Examiners for the Commission

Title 85A O.S. § 112 requires the Workers' Compensation Commission to create, maintain, and review a list of licensed physicians who shall serve as independent medical examiners ("IME"). 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 workers. The period of qualification for physicians shall be two (2) years.

Dr. Jay Cannon was recognized, reported, gave his recommendation, and responded to questions of the Commissioners.

Motion: Commissioner Tilly moved approve the Independent Medical Examiners as proposed.

Second: Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Tilly

The motion carried.

Motion: Commissioner Tilly moved to approve the Nurse Case Managers as proposed.

Second: Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Tilly

The motion carried.

9. Discussion and Possible Action on Commission Policies

The Commission will discuss and consider the adoption and/or modification of the following policies:

- a) WCC-12 – Facility Video Monitoring Policy

Collin Fowler was recognized, reported, gave his recommendation, and responded to questions of the Commissioners.

Motion: Commissioner Tilly continue this agenda item to the next meeting.

Second: Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Tilly

The motion carried.

- b) The Commission will also discuss either creating a social media policy pursuant to SB 198, or adopting a draft policy authored by the Oklahoma Attorney General's Office.

Lauren Hammonds Johnson was recognized, reported, gave her recommendation, and responded to questions of the Commissioners.

Motion: Commissioner Tilly moved approve the Social Media Policy language and directed the Director of Communications and General Counsel to format the document in accordance with existing WCC policies.

Second: Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Tilly

The motion carried.

10. Proposed Opening of the Permanent Rulemaking Process to Consider Amendments to the Commission's Permanent Rules

The Commission considered opening the Permanent Rulemaking process for amendments to the Commission's Permanent Rules. If proposed Permanent Rules are adopted and submitted for legislative review on or before April 1, 2020, the Legislature will have until the end of the 2020 legislative session to approve or disapprove the rules.

Lauren Hammonds Johnson was recognized, reported, gave her recommendation, and responded to questions of the Commissioners.

Motion: Commissioner Tilly moved open the Rule Making Process to consider changes to the Commission's Permanent Rules.

Second: Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Tilly

The motion carried.

7. New Business

“[A]ny matter not known about or which could not have been reasonably foreseen prior to the time of the posting.” 25 O.S. § 311.

There was no new business.

8. Announcements

The Commission’s next special appeals meeting is on Friday, November 22, 2019, at 9:00 a.m. The Commission’s next special business meeting is on Thursday, December 12, 2019, at 1:30 p.m.

ADJOURNMENT.....Chairman Mark Liotta

Motion: Commissioner Tilly moved to adjourn.

Second: Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Tilly

The motion carried. The meeting adjourned.