

An important update from...

Oklahoma Workers' Compensation Commission



The Workers' Comp Clarion

Volume 13, April 2nd, 2019



The Chairman's Corner

Division Spotlight: Compliance

By Mark Liotta, Chairman

In addition to providing an unbiased, fair and efficient forum for the hearing of disputed work injury cases and their appeals, the Workers' Compensation Commission (WCC) is also tasked with two regulatory roles: Permitting and Compliance.

As the WCC continues its effort to streamline processes and search for efficiencies, the agency has now turned its focus to its Compliance Division. This division was transferred from the Department of Labor to the WCC by the Legislature in 2014. Unless exempted under statute, all Oklahoma employers are required to provide workers' compensation coverage. Any company not properly providing coverage is placing their employees at risk for loss of statutorily required medical and other benefits. An offending company is also obtaining an unfair advantage over their competitors who follow the law and pay for the required coverage. The purpose of

the Compliance Division is to investigate all entities which the WCC may have reason to believe are not properly providing coverage.

The WCC is currently reviewing all compliance policies and practices to ensure a fair and efficient process exists, and all employers are given every reasonable opportunity to come into compliance voluntarily. In March of 2019, the division's personnel structure was changed to allow a more comprehensively managed effort. Significantly, in addition to managing personnel and preliminary investigations, the position of Division Director will now also manage compliance cases throughout the legal process. This change necessitates the position being filled by a qualified attorney. Additionally, the WCC will continue its current contract for services with the Attorney General's office to pursue these cases.

The WCC currently employs 4 investigators, 3 in OKC and 1 in Tulsa, all of whom maintain full caseloads. The investigator's role is to pursue leads regarding an employer who may not be fully compliant, and build a case file which reflects the employer's compliance, or non-compliance. The division's investigators are expected to interact with all subject entities professionally, with courtesy and tact. The WCC has the statutory authority to fine an organization up to \$1000 per day of non-compliance, which is evidence of the Legislature's serious interest in ensuring compliance.

It is not in the interest of the WCC to punish companies and put them out of business, but to ensure all Oklahoma's workers are under the protection of the workers' compensation statutes.

Although the WCC's investigative files are exempted from the State's Open Records Act, the Compliance Division follows a transparent process. There are numerous ways the WCC may become aware of a business or organization which may be non-compliant; a complaint from the public, or from an employee of the business, or an injury claim for which there is no identifiable coverage. Once a case is assigned, the investigators will research the organization under consideration. A case may not be pursued for a number of reasons; the company may have been non-compliant, but has been out of business for some time, the company has no employees, or the company is otherwise lawfully exempt. If any deficiency in coverage is suspected from evidence, a "preliminary determination letter" is issued notifying the entity an investigation is under way. The entity is given reasonable time to respond. Unless evidence for coverage and corroborating records are provided, a subpoena for business records can be issued. If there is no response, or no evidence of coverage, a

“proposed judgment” for potential penalty is issued, and by statute, employers are allowed 20 days to respond.

If the organization responds at this point, they may enter into a consent agreement with the WCC, or request a hearing before an administrative law judge (ALJ) to explain their circumstances. If the latter, the ALJ will decide the outcome and issue a final order. This order is then appealable to the WCC’s en banc appellate panel.

If the organization fails to respond, the proposed judgement becomes final, and the entity has one final opportunity to request a “show cause” hearing before an ALJ as to why they did not respond. The ALJ may modify the order if, in the opinion of the ALJ, sufficient cause is provided. If there is no further response, the organization is subject to collections, and the WCC may pursue an injunction to cease operations until compliance is achieved.

Throughout the process, the organization in question is given at least 6 opportunities to respond and show coverage, or to explain the reason for lack of coverage before an ALJ. Once the order goes final for the last time, it becomes a debt to the State and is not subject to reduction or revocation.

Again, it is not in the interest of the WCC to fine excessively, or to drive companies out of business, but rather to encourage compliance and bring Oklahoma’s workers under the protection of the statutes.



Legislative update

New Law Brings Clarity to Medical Marijuana Reimbursement

By Commissioner Jordan Russell

The Oklahoma Legislature acted swiftly at the start of the 2019 legislative session to bring much-anticipated clarity to the question of whether employers or insurance companies would be required in the Oklahoma workers’ compensation system to provide medical marijuana to injured workers if authorized by their treating physician. The answer, according to the Legislature, is “no.”

Unlike many states' medical marijuana laws, Oklahoma's State Question 788 as to whether employers or insurance carriers were required to pay for medical marijuana if a treating physician recommend the regimen as reasonably necessary medical treatment. A joint House and Senate taskforce held several meetings over the interim to evaluate the new medical marijuana laws and regulations. Those efforts resulted in what lawmakers dubbed a medical marijuana "Unity Bill." House Bill 2612 authored by Rep. Jon Echols and Senator Greg McCortney sailed through the legislative process addressing many of the concerns brought about in the interim study. The bill has already been approved by the Legislature and was signed by Governor Kevin Stitt on March 12, 2019.

House Bill 2612, Section 6, Subsection I clarifies that Oklahoma's medical marijuana laws will not require an "employer, a government medical assistance program, private health insurer, worker's compensation carrier or self-insured employer providing worker's compensation benefits to reimburse a person for costs associated with the use of medical marijuana."

[Click Here](#)

The full text of the new law can be read here.

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Notes From The Doctor:

The Green New Deal

By. Dr. Jay Canon, Medical Director

The Green New Deal has arrived in Oklahoma in the form of medical marijuana. The proliferation of advertising and store front shops appearing on every other corner reminds me of the California Gold Rush of 1849 or the Oklahoma Oil Boom of the 1920s. Physicians and legislators are moving carefully ahead in attempting to find the best way to implement the use of marijuana in the care of patients.

The state medical societies have presented and continue to provide medical education for physicians in how to recommend and use medical marijuana. No one knows for sure how Workers' Compensation claimants will be effected by the use of these products.

Compensability is always questioned if there is the suggestion that substance abuse may have contributed to the injury in the claim. There is not a specific quantitative test for marijuana levels that might be contributory to impairment such as there is with alcohol. This presents a problem when determining if marijuana contributed to an injury.

House Bill 2612 passed the House February 28, the Senate March 11, and has been signed into law by Governor Kevin Stitt. This is the first major piece of medical marijuana legislation to be signed into Oklahoma law. The bill defines a wide array of power granted to the Oklahoma Medical Marijuana Authority (OMMA) under the Oklahoma Department of Health to establish guidelines for production, inspection, packaging and labeling requirements as well as product testing. Only licensed Oklahoma allopathic and osteopathic physicians may provide a medical marijuana recommendation for a medical marijuana patient license under this act (Section 427.10 of Title 63). That means only those who hold MD or DO degrees. This legislation is a good first step in providing clarity. The Federal Government would help all of the states dealing with this issue by removing marijuana from the list of Schedule 1 drugs, which by their definition have no medical value.

All who care for patients with pain hope that this treatment will be of value. Just how this will play out in Workers' Compensation remains to be seen. There will be interesting discussion ongoing throughout the year. This topic will be included in the Annual Workers' Compensation Educational Conference in the fall.



Employee Spotlight

By Collin Fowler, Director of Communication and Administration

This segment of our newsletter is devoted to highlighting some of the wonderful people who work for the WCC. It is important to note, the Commission is more than the dour, grey walls of the Denver Davison Building, or even the laws which created the Commission. In a very real way, the employees of the WCC are at the heart of what defines us.

Their hard work and commitment is what turns the lofty ideas of policy into the reality of administration. Here we examine the parts to appreciate the whole.

Compliance is a critical component of the regulatory operations here at the WCC. Before the reforms of 2013, which created the Commission, the regulation of workers' compensation compliance was the purview of the Oklahoma Department of Labor. Since that time, the WCC has successfully grown into the role of ensuring Oklahomans are being protected by workers' comp insurance. Due to volume, the work of our compliance division has reached a critical mass, and now requires a full time attorney to manage their case load.

Enter Ian Steedman, who will be taking over the role of Compliance Division Director, and transitioning into managing the commission's legal case load. Ian has some experience with workers' compensation from his private practice representing claimants. He also has worked with the respondent side from his experience in risk management at Hobby Lobby. Ian's time as a small business owner has also given him a unique perspective in the realm of compliance cases.

Mr. Steedman is a transplant to our great State from sunny shores of Australia. His father, a native Englishman, traveled extensively for his profession in the oil and gas industry. This brought young Ian to Oklahoma while in high school. Ian stated, "Australians and Oklahomans are really very similar. I felt right at home, other than the fact that there are no beaches." When his father's career called him to move on to the oil-rich Middle East, Ian

elected to remain here in Oklahoma to finish high school. When he finished, he remained close and matriculated to Oklahoma State University, graduating with a degree in business. Ian learned business from the ground up in American retail, where he also learned personnel management. He would then go on to earn his law degree from the University of Oklahoma. Chairman Liotta stated, "Ian's demonstrated ability to manage personnel issues, his real-world workers' compensation experience, and his legal acumen comprise the significant qualities which he brings to this position".

It was at Oklahoma State where he would meet his wife Angie. In 32 years of marriage, Ian and Angie have raised five talented and beautiful daughters. For Ian, coming to this country, building a career, and starting a family has all been a part of what he calls his, "American Dream."

We are very excited to have Ian Steedman as a part of our team, and we look forward to his continued success as the director of our Compliance Division.

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Governor Kevin Stitt re-appoints Jordan K. Russell to the Workers' Compensation Commission

Press Release From The Governor's Office

Governor Kevin Stitt announced the re-appointment of Jordan K. Russell to the Workers' Compensation Commission.

Pending Senate confirmation, Russell will serve a six year term, effective August 26, 2019.

"Commissioner Russell is a dedicated public servant who has worked hard to bring transparency, efficiency and effectiveness to the Workers' Compensation Commission," said Stitt. "Continued success in our workers' comp system is a foundation for Oklahoma becoming a top ten state for business growth and employment opportunity. I look forward to working alongside Commissioner Russell and the WCC as we move Oklahoma forward."

“I look forward to continuing to serve my State at the Workers’ Compensation Commission and am grateful to Governor Stitt for placing his faith in me,” said Commissioner Russell.

The Oklahoma’s workers’ compensation system was reformed in 2013 by the Administrative Workers’ Compensation Act. The Act created the WCC, an executive branch agency designed to bring accountability and efficiency to the process by replacing the Workers’ Compensation Court. The WCC adjudicates cases by Oklahoma employees injured on the job or by their employers, and regulates companies who choose to self-insure their workers’ compensation obligations.

Commissioner Russell, along with two other commissioners, serves as an administrator of the WCC and sits on an en banc panel to decide appeals of decisions from WCC administrative law judges. During his term, Commissioner Russell has seen Oklahoma become the top state in the country for falling premium rates while helping injured workers receive faster access to medical care and timely resolution of their claims.

Russell, a 4th generation native of Freedom, Oklahoma, was first appointed to the WCC on October 4, 2016. He came to the WCC after serving three legislative sessions as policy director and counsel to former Speaker of the House Jeffrey Hickman and a previous successful law practice. He and his wife Jessica Russell have two children



Visiting the Commission's Website

By Collin Fowler Director of Communication and Administration

Here at the Workers' Compensation Commission we are always looking for ways provide better service to the public. One of the ways we look to do that is by updating and improving the information provided on our website (<https://www.ok.gov/wcc/>). If you are having trouble finding something or have some suggestions on how we can improve our service please contact me at communications@wcc.ok.gov and let me know what's on your mind.

Oklahoma Workers' Compensation Commission



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