

# REGULAR MEETING OF THE OKLAHOMA WORKERS' COMPENSATION COMMISSION

Thursday, December 13, 2018  
1:30 p.m.  
Commission Chambers  
1915 N. Stiles Avenue, 2<sup>nd</sup> Floor  
Oklahoma City, Oklahoma  
[www.wcc.ok.gov](http://www.wcc.ok.gov)

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## AGENDA

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**CALL TO ORDER** ..... **Chairman Mark Liotta**

**ROLL CALL** ..... **Chairman Mark Liotta**

OPEN MEETING ACT STATEMENT

### 1. MINUTES

The drafted minutes of the November 15, 2018 and December 7, 2018, public meetings of the Commission will be considered for approval.

**THE FOLLOWING MATTERS ARE PRESENTED FOR CONSIDERATION AND ACTION, IF ANY, DEEMED APPROPRIATE BY THE COMMISSION. PUBLIC COMMENTS ARE LIMITED TO THE AGENDA ITEMS LISTED.**

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

The Commission will consider 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, 2019, the Legislature will have until the end of the 2019 legislative session to approve or disapprove the rules.

#### **Possible Action:**

Possible action may include, but is not limited to: taking no action; approving the opening of the permanent rulemaking process by publishing Notices of Rulemaking Intent in *The Oklahoma Register* and scheduling of a public hearing; not approving the opening of the rulemaking process; or continuing the matter.

**3. 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 will consider a vote to approve the currently outstanding vouchers. All vouchers listed within this Consent Agenda have been made available to each Commissioner prior to today's meeting, are considered routine, and will be enacted by one motion of the Commission. If separate discussion is desired, that item may be removed from the Consent Agenda and voted upon separately.

**Possible Action:**

Possible action may include, but is not limited to: taking no action; approving some, all, or none of the vouchers listed in this Consent Agenda; continuing the matter.

**4. Proposed 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.

The Commission will consider approving the list of physicians presented at the meeting that have been vetted by the Medical Director and recommended to have their applications approved.

**Possible Action:**

Possible action may include, but is not limited to: taking no action, continuing the matter, or approving some, all or none of the physicians for the Commission.

**5. Proposed Approval of Medical Case Managers for the Commission**

Section 113 of title of 85A requires a list of qualified case managers be developed, maintained and periodically reviewed by the Commission. The period of qualification for case managers is two (2) years.

The Commission will consider approving the list of case managers presented at the meeting that have been vetted by the Medical Director and recommended to have their applications approved.

**Possible Action:**

Possible action may include, but is not limited to: taking no action, continuing the matter, or approving some, all or none of the case managers for the Commission.

**6. Discussion and Consideration of Distribution of Surplus Monies to Members of the Oklahoma Health Care Association (#75175)**

Oklahoma Health Care Association, a group self-insurance association, is requesting a partial distribution of surplus back to its members in the amount of \$1,000,000 which will be payable from the following three fiscal fund years ending on June 30th: FY 15 (\$200,000), FY 17 (\$500,000), and FY 18 (\$300,000). The Fund's June 30, 2017, financial statement shows an overall surplus for the Fund of more than \$4,188,000 for all years combined. Its financial surplus for fiscal year ending on June 30, 2017, was \$5,346,263 for all years combined.

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 submit the distribution request to the Commission, with all supporting documents. The Commission will consider approving the distribution of surplus monies to members of the Oklahoma Health Care Association.

**Possible Action:**

Possible action may include, but is not limited to: taking no action, continuing the matter, approving some, all or none of the distribution of the surplus monies to the members of the Oklahoma Health Care Association.

**7. Discussion and Consideration of Reducing or Releasing the Security Deposit of HealthSouth Corporation, a Former Own Risk Employer Permit #18181**

A security deposit posted with the Commission as required by 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 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.

A security deposit may be released at the Commission's discretion upon application by the employer and submission of current financial statements and a signed and notarized affidavit, from a duly authorized officer of the employer, affirming that all workers' compensation claims incurred under the own risk permit of the employer have been permanently closed, and the statute of repose for reopening the claims has passed. The

Commission will consider reducing or releasing the security deposit of HealthSouth Corporation, a former own risk employer.

**Possible Action:**

Possible action may include, but is not limited to: taking no action, continuing the matter, or reducing, releasing, or not reducing or releasing the security deposit of HealthSouth Corporation, a former own risk employer.

**8. Discussion and Consideration of Current Commission Policies**

The Commission will discuss and consider the following current Commission policy or policies and determine if any updates are necessary: (1) WCC-10 Work Related Injury or Illness Policy.

**Possible Action:**

Possible action may include, but is not limited to: taking no action; continuing the matter; approving the one or more policies; not approving the one or more policies; or approving a modified version of the one or more policies listed in the above item.

**9. Discussion and Consideration of Adoption of Proposed Commission Forms**

The Commission is proposing changes to its current forms, including the CC-Form 36 Affidavit of Exempt Status, Certificate to Joint Petition, Copier Charge Account Maintenance Form, and the Online Attorney Leave Request Form. The Commission is also considering the adoption of a new Online Attorney Mailing and Email Address Change Form. On November 7, 2018, the Commission issued an alert notifying the public of its intent to change its forms. The Commission’s comment period ran from November 7, 2018 through December 7, 2018. The Commission solicited comments from the public, including comments via email at [rules@wcc.ok.gov](mailto:rules@wcc.ok.gov). The Commission held a public hearing on the proposed forms on December 7, 2018.

**Possible Action:**

Possible action may include, but is not limited to: taking no action; continuing the matter; adopting some, all, or none of the forms as proposed or as modified at the meeting.

**10. Announcements**

The Commission’s next regularly scheduled business meeting is on January 10, 2019. The Commission’s next regularly scheduled appeals meeting is on February 1, 2019.

**ADJOURNMENT.....Chairman Mark Liotta**