

**2011 ANNUAL REPORT**  
**OF THE**  
**ADVISORY COUNCIL ON WORKERS' COMPENSATION**

**Presented to:**

**The Honorable Mary Fallin**  
Governor

**The Honorable Steven W. Taylor**  
Chief Justice, Oklahoma Supreme Court

**The Honorable Brian Bingman**  
President Pro Tempore of the Senate

**The Honorable Kris Steele**  
Speaker of the House of Representatives



**COMMITTEE MEMBERSHIP**

Michael D. Carter, Chair  
Angela R. LeBlanc, Vice-Chair

Jim C. Curry  
Ellen C. Edwards  
Dave Koeneke  
Rochelle L. Guinn

Dan Simmons  
Robert J. Wienecke, M.D.  
Sterling Zearley

Presiding Judge Michael J. Harkey, Ex-officio Nonvoting Member  
Court Administrator Michael Clingman, Ex-officio Nonvoting Member

Issued February 2012

**COUNCIL STAFF**  
**Oklahoma Workers' Compensation Court**  
Tish Sommer, Special Counsel

# **2011 ANNUAL REPORT OF THE ADVISORY COUNCIL ON WORKERS' COMPENSATION**

## **I. INTRODUCTION**

This is the 2011 annual report of the Advisory Council on Workers' Compensation, an advisory body on workers' compensation created pursuant to 85 O.S., §374. The report identifies the activities and progress of the Council during calendar year 2011.

Current members of the Council are Michael D. Carter, Chair; Angela R. LeBlanc, Vice-Chair; Jim C. Curry; Ellen C. Edwards; Rochelle L. Guinn; Dave Koencke; Dan Simmons; Robert J. Wienecke, M.D.; and Sterling Zearley; and Ex-Officio nonvoting members Michael J. Harkey, Presiding Judge of the Workers' Compensation Court and Michael Clingman, Workers' Compensation Court Administrator. Members serving in 2011 also included Blake Virgin who was succeeded by Angela R. LeBlanc; T. Shane Curtin who was succeeded by Robert J. Wienecke, M.D.; and David Stockwell who was succeeded by Rochelle L. Guinn. A current membership list, including the appointing authority and expiration of term, is included in the appendices to this report. Staff for the Council is provided by the Workers' Compensation Court as provided in 85 O.S., §374(I).

## **II. STATUTORY DUTIES**

The duties of the Advisory Council are set forth in 85 O.S., §374, a copy of which is included in the appendices to this report. These duties include analyzing and reviewing the workers' compensation system, reports of the Court Administrator, and workers' compensation trends. The Council has the authority to recommend improvements and proper responses to developing trends, and to consult with the Workers' Compensation Court on oversight of independent medical examiners. Pursuant to SB 878 (2011), the Council has the additional responsibility of issuing a report to the Workers' Compensation Court Administrator on Oklahoma Treatment Guidelines produced by the Oklahoma Physician Advisory Committee. The Physician Advisory Committee is an advisory body to the workers' compensation system created pursuant to 85 O.S., §373.

## **III. 2011 ACTIVITIES**

During the first half of 2011, the Advisory Council on Workers' Compensation monitored workers' compensation legislation and had several presentations by members of Governor Mary Fallin's study group on workers' compensation. Roughly 35 measures pertaining to the workers' compensation system were tracked, reviewed and discussed as they advanced through the legislative process. Emphasis was given to SB 878 which repealed the Workers' Compensation Act and codified a new Workers' Compensation Code, effective August 26, 2011. The measure made comprehensive reforms to the workers' compensation system and impacted the statutory duties of the Council.

The new Workers' Compensation Code provides that effective March 1, 2012, the scope and duration of medical treatment in the workers' compensation system is to be governed by the Work Loss Data Institute's "Official Disability Guidelines" (ODG), except in certain instances where the Physician Advisory Committee is to develop and adopt Oklahoma Treatment Guidelines

(OTG). The OTG on the spine are to address the cervical, thoracic and lumbar spine for treatment either not addressed or addressed but not recommended by the Official Disability Guidelines. The OTG were made subject to a multi-tiered review process which includes a public hearing and review of the OTG by the Advisory Council and the Council's subsequent issuance of a report to the Workers' Compensation Court Administrator. Toward that end, the Council created a subcommittee at its November 17, 2011 regular meeting to address the public hearing process related to the Council's review of the OTG. The Council continues to monitor the Physician Advisory Committee's activities regarding the OTG.

Additional activity in 2011 included consultation with the Workers' Compensation Court on oversight of independent medical examiners. Although it was determined no action on the issue presently is required, the Council remains available to the Court Administrator should a need or desire for assistance arise. The Council also discussed the SB 878 provision for development of an electronic data interchange (EDI) system by the Workers' Compensation Court effective July 1, 2012. The purpose of EDI is to provide relevant data about the workers' compensation system and delivery of benefits to injured workers. At its meeting on November 17, 2011, the Council voted to support and recommend increasing the Court's funding to permit modernization of the Court's database consistent with SB 878. A copy of the Council's letter to leadership on that issue is included in the appendices to this report.

#### **IV. PUBLIC MEETINGS**

The Council scheduled six public meetings in 2011 and held four. A copy of the agendas and minutes for each of the meetings is in the appendices to this report, together with notices of cancellation and rescheduling as appropriate. All meetings were held at the Workers' Compensation Court's Oklahoma City location.

Upcoming regular meetings of the Council for calendar year 2012 are scheduled on the following dates:

February 9, 2012	May 10, 2012
March 8, 2012	September 13, 2012
April 5, 2012	November 8, 2012

All meetings are set for 2:00 p.m. in the second floor En Banc Courtroom at the Workers' Compensation Court, 1915 N. Stiles Avenue, Oklahoma City, Oklahoma; provided, the February 9, 2012 meeting location was changed to the Auditorium of the Oklahoma Judicial Center, 2100 N. Lincoln Boulevard, Oklahoma City, Oklahoma.

#### **V. CONCLUSION**

The Advisory Council on Workers' Compensation is pleased to submit this report. We appreciate the opportunity to contribute towards efforts to improve the state's workers' compensation system.

# **Appendices**



**ADVISORY COUNCIL ON WORKERS' COMPENSATION**  
 Appointed Pursuant to 85 O.S., §374

**MICHAEL D. CARTER**  
 Chairman  
 101 N. Robinson 13th Floor  
 Oklahoma City, OK 73102  
 (405) 235-4100

**COUNCIL MEMBERSHIP**  
**AS OF FEBRUARY 9, 2012**

**ANGELA R. LEBLANC**  
 Vice-Chair  
 10601 N. Pennsylvania Avenue  
 Oklahoma City, OK 73120  
 (405) 302-6712

**JIM C. CURRY**  
 501 N.E. 27<sup>th</sup>  
 Oklahoma City, OK 73105  
 (405) 528-2409

**ELLEN C. EDWARDS**  
 P.O. Box 52862  
 Tulsa, OK 74152  
 (918) 256-5545

**ROCHELLE L. GUINN**  
 300 Johnny Bench Drive  
 Oklahoma City, OK 73104  
 (405) 225-5266

**DAVE KOENEKE**  
 4323 N.W. 63<sup>rd</sup>, Suite 140  
 Oklahoma City, OK 73116  
 (405) 848-8626

**DAN SIMMONS**  
 4005 N.W. Expressway, Suite 300  
 Oklahoma City, OK 73123  
 (405) 302-3117

**ROBERT J. WIENECKE, M.D.**  
 4120 Memorial Road, Suite 300  
 Oklahoma City, OK 73120  
 (405) 748-3300

**STERLING ZEARLEY**  
 13 N.E. 28<sup>th</sup> Street  
 Oklahoma City, OK 73105  
 (405) 524-6764

**EX OFFICIO NONVOTING MEMBERS**

Michael J. Harkey  
 Presiding Judge  
 Workers' Compensation Court  
 (405) 522-8600

Michael Clingman  
 Administrator  
 Workers' Compensation Court  
 (405) 522-8600

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**TISH SOMMER**  
 Special Counsel  
 Workers' Compensation Court  
 1915 N. Stiles Avenue  
 Oklahoma City, OK 73105  
 (405) 522-8710

Name	Appointment Source	Expiration of Term
Michael D. Carter	President Pro Tempore	March 1, 2013
Angela R. LeBlanc	Governor	March 1, 2014
Jim C. Curry	Speaker of the House	March 1, 2012
Ellen C. Edwards	President Pro Tempore	March 1, 2012
Rochelle L. Guinn	Governor	March 1, 2013
Dave Koeneke	Speaker of the House	March 1, 2013
Dan Simmons	Governor	March 1, 2012
Robert J. Wienecke, M.D.	President Pro Tempore	March 1, 2014
Sterling Zearley	Speaker of the House	November 1, 2010

**Oklahoma Statutes Citationized****Title 85. Workers' Compensation****Chapter 17 - Miscellaneous Provisions****Section 374 - Advisory Council on Workers' Compensation**

Cite as: O.S. §, \_\_\_

- A. There is hereby created an Advisory Council on Workers' Compensation.
- B. The voting membership of the Advisory Council shall consist of nine (9) members. Any member serving on the effective date of this act shall serve the remainder of his or her term. The Administrator of the Workers' Compensation Court and presiding judge of the Workers' Compensation Court shall be ex officio nonvoting members.
1. The Governor shall appoint three (3) members representing employers in this state, one of whom shall be from a list of nominees provided by the predominant statewide broad-based business organization;
  2. The Speaker of the House of Representatives shall appoint three (3) members representing employees in this state, one of whom shall be from a list of nominees provided by the most representative labor organization in the state; and
  3. The President Pro Tempore of the Senate shall appoint three (3) members, two who are attorneys representing the legal profession in this state, one of whom shall be an attorney who practices primarily in the area of defense of workers' compensation claims, one of whom shall be an attorney who primarily represents claimants, and a medical doctor or doctor of osteopathy actively engaged in the treatment of injured workers.
- C. The term of office for appointees shall be as follows:
1. The term of office for three positions, one each appointed by the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall expire on March 1, 2012;
  2. The term of office for three positions, one each appointed by the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall expire on March 1, 2013; and
  3. The term of office for three positions, one each appointed by the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall expire on March 1, 2014.
- D. Thereafter, successors in office shall be appointed for a three-year term. Members shall be eligible to succeed themselves in office.
- E. Any person appointed to fill a vacancy shall be appointed for the unexpired portion of the term.
- F. The chair and the vice chair of the Advisory Council shall be appointed by the Governor.
- G. Members shall receive their traveling and other necessary expenses incurred in the performance of their duties as provided in the State Travel Reimbursement Act.
- H. Meetings of the Advisory Council shall be quarterly or as called by the chair or upon petition by a majority of the voting members. The presence of five (5) voting members constitutes a quorum. No action shall be taken by the Advisory Council without the affirmative vote of at least five (5) members.
- I. The Administrator shall provide office supplies and personnel of the Court to carry out any of the duties that have been entrusted to the Advisory Council.

J. The Advisory Council shall analyze and review the workers' compensation system, the reports of the Administrator, and trends in the field of workers' compensation. The Advisory Council may recommend improvements and proper responses to developing trends. The Advisory Council shall report its findings annually to the Governor, the Chief Justice of the Supreme Court, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

K. In addition to other duties required by this section, the Advisory Council shall consult with the Court regarding oversight of independent medical examiners as provided in Section 29 of this act.

L. The Advisory Council shall review the Oklahoma Treatment Guidelines as provided in the Workers' Compensation Code, and report the findings of such review to the Administrator as provided in the Workers' Compensation Code.

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Added by Laws 2011, SB 878, c. 318, § 74.

# **Cancellation Notice**

**The February 10, 2011 meeting of  
the Advisory Council on  
Workers' Compensation is  
cancelled for lack of a quorum.**

# Advisory Council on Workers' Compensation

## NOTICE OF REGULAR MEETING

The Advisory Council on Workers' Compensation  
has regularly scheduled a meeting on  
March 10, 2011  
2:00 p.m.  
at the  
2<sup>nd</sup> floor courtroom  
Workers' Compensation Court  
1915 N. Stiles  
Oklahoma City, Oklahoma

## AGENDA

1. Call to order.
2. Roll call and determination of quorum present.
3. Announcements and introductions.
4. Discussion and possible action regarding minutes of the November 10, 2010 regular meeting of the Advisory Council.
5. Discussion and possible action regarding approval of the 2010 Annual Report of the Advisory Council on Workers' Compensation.
6. Review and discussion of workers' compensation legislation, including presentation by attorney Bob Burke regarding Senate Bill 878 developed by a study group appointed by Governor Mary Fallin.
7. New Business.
8. Adjournment.

**MINUTES OF THE REGULAR MEETING OF THE ADVISORY COUNCIL ON WORKERS' COMPENSATION HELD ON MARCH 10, 2011 in the 2<sup>nd</sup> Floor Courtroom of the Workers' Compensation Court, 1915 N. Stiles Avenue, Oklahoma City, Oklahoma**

**PRESENT:** Blake Virgin, Jim Curry, Michael Carter, Dave Koeneke, Dan Simmons, and Ex-Officio Nonvoting Member Court Administrator Michael Clingman

**OTHERS PRESENT:** Tish Sommer, Workers' Compensation Court and Harry Monroe, Coventry Health Care

**Call to Order:** The meeting was called to order at 2:05 p.m. by Chairman Blake Virgin with a total of four members being present at the time. He noted the absence of a quorum. Without objection, he moved to Item 6 on the agenda for discussion of information not needing any action by the Council.

**Review and Discussion of Workers' Compensation Legislation, Including Presentation by Attorney Bob Burke Regarding Senate Bill No. 878 Developed by a Study Group Appointed by Governor Mary Fallin:** Bob Burke was recognized and discussed Senate Bill No. 878, a workers' compensation measure pending before the Oklahoma Legislature. His summary of reforms was distributed, together with a section by section summary of the bill and a tracking report of other measures. Mr. Burke said the bill was being developed by the Governor's working group on workers' compensation and that he and Council members Michael Carter and Ellen Edwards were among its members. He identified a number of changes as fundamental reforms and spoke specifically about proposals affecting medical cost containment, accountability, alternative dispute resolution and vocational rehabilitation. While most of the bill is agreed upon, he said there are four disputed areas: (1) use of the Official Disability Guidelines (ODG) to standardize duration and scope of care; (2) tying the fee schedule to a percentage of Medicare; (3) reducing periods of limitations; and (4) change of physician. Thereafter, Mr. Burke responded to questions and comments from Council members. Council members thanked him for the presentation.

**Roll Call and Determination of Quorum:** The Chairman noted an additional member had arrived and asked for a roll call. All members were present, except for Shane Curtin, Ellen Edwards, David Stockwell, Sterling Zearley, and ex-officio nonvoting member Presiding Judge Michael Harkey, who were unable to attend. A quorum was noted.

**Announcements and Introductions:** Advisory Council members and others in attendance identified themselves.

**Discussion and Possible Action Regarding Minutes of the November 10, 2010 Regular Meeting of the Advisory Council:** Vice-Chairman Jim Curry moved to approve the minutes as written. The motion was seconded by Dave Koeneke. Following a question by Michael Carter, the vote was as follows:

Mr. Virgin	aye	Mr. Koeneke	aye
Mr. Curry	aye	Mr. Simmons	aye
Mr. Carter	aye	Mr. Stockwell	absent
Mr. Curtin	absent	Mr. Zearley	absent
Ms. Edwards	absent		

There being at least five members present voting in favor of the motion, the motion was declared adopted.

**Discussion and Possible Action Regarding Approval of the 2010 Annual Report of the Advisory Council on Workers' Compensation:** Vice-Chairman Jim Curry moved to approve the Annual Report as written. The motion was seconded by Dan Simmons. There was no debate. The vote was as follows:

Mr. Virgin	aye	Mr. Koeneke	aye
Mr. Curry	aye	Mr. Simmons	aye
Mr. Carter	aye	Mr. Stockwell	absent
Mr. Curtin	absent	Mr. Zearley	absent
Ms. Edwards	absent		

There being at least five members present voting in favor of the motion, the motion was declared adopted. Staff was asked to distribute the Annual Report to the Governor, Chief Justice, President Pro Tempore of the Senate and Speaker of the House of Representatives.

**New Business:** Michael Carter recommended the Council discuss the Court's Independent Medical Examiner (IME) System at its next meeting. He explained this was one of the charges of the Council and that SB 878 proposed changes to the IME system. There was no objection.

**Adjournment:** There being no further business, the meeting adjourned at 2:34 p.m.

# **Advisory Council on Workers' Compensation**

## **NOTICE OF REGULAR MEETING**

The Advisory Council on Workers' Compensation  
has regularly scheduled a meeting on  
April 7, 2011  
2:00 p.m.  
at the  
2<sup>nd</sup> floor courtroom  
Workers' Compensation Court  
1915 N. Stiles  
Oklahoma City, Oklahoma

## **AGENDA**

1. Call to order.
2. Roll call and determination of quorum present.
3. Announcements and introductions.
4. Discussion and possible action regarding minutes of the March 10, 2011 regular meeting of the Advisory Council.
5. Review and discussion of pending workers' compensation legislation, including an update from attorney Bob Burke regarding Senate Bill 878.
6. Discussion and possible action regarding the Advisory Council's duty to consult with the Workers' Compensation Court regarding oversight of independent medical examiners.
7. New Business.
8. Adjournment.

**MINUTES OF THE REGULAR MEETING OF THE ADVISORY COUNCIL ON WORKERS' COMPENSATION HELD ON APRIL 7, 2011 in the 2<sup>nd</sup> Floor Courtroom of the Workers' Compensation Court, 1915 N. Stiles Avenue, Oklahoma City, Oklahoma**

**PRESENT:** Blake Virgin, Jim Curry, Michael Carter, Shane Curtin, Dan Simmons and David Stockwell

**OTHERS PRESENT:** Tish Sommer, Workers' Compensation Court and Hannah Forester, Sooner Strategies

**Call to Order:** The meeting was called to order at 2:10 p.m. by Chairman Blake Virgin.

**Roll Call and Determination of Quorum:** All members were present at roll call, except for Shane Curtin who arrived shortly thereafter, and Ellen Edwards, Dave Koenke, Sterling Zearley, and ex-officio nonvoting members Presiding Judge Michael Harkey and Court Administrator Michael Clingman, who were unable to attend. A quorum was noted.

**Announcements and Introductions:** Advisory Council members and others in attendance identified themselves. There were no announcements.

**Discussion and Possible Action Regarding Minutes of the March 10, 2011 Regular Meeting of the Advisory Council:** Vice-Chairman Jim Curry moved to approve the minutes as written. The motion was seconded by Dan Simmons. Following clarification of the number of votes necessary for Council action on the minutes, the vote was as follows:

Mr. Virgin	aye	Mr. Koenke	absent
Mr. Curry	aye	Mr. Simmons	aye
Mr. Carter	aye	Mr. Stockwell	aye
Mr. Curtin	absent at vote	Mr. Zearley	absent
Ms. Edwards	absent		

There being at least five members present voting in favor of the motion, the motion was declared adopted.

**Review and Discussion of Pending Workers' Compensation Legislation, Including An Update From Attorney Bob Burke Regarding Senate Bill No. 878.** Chairman Virgin asked Michael Carter to report on SB 878 since Bob Burke was unable to attend. Mr. Carter is a member of the Governor's working group on workers' compensation. He said the bill is advancing through the legislative process and negotiations among interested groups, including healthcare providers, are ongoing. Disputed issues include medical cost containment and possible required use of the Official Disability Guidelines (ODG) to standardize duration and scope of care for injured workers. Discussions include directing the Oklahoma Physician Advisory Committee to develop treatment guidelines based on the ODG, with oversight by another entity. The Advisory Council on Workers' Compensation is among entities being considered to provide the oversight. Dan Simmons commented on use of ODG by healthcare professionals and others. Mr. Carter responded to questions of Council members. Chairman Virgin thanked him for the report.

**Discussion and Possible Action Regarding the Advisory Council's Duty to Consult With the Workers' Compensation Court Regarding Oversight of Independent Medical Examiners.** Michael

Carter was recognized to discuss the agenda item. He said one of the Council's duties under 85 O.S., Section 112(I) is to consult with the Court on overseeing independent medical examiners (IME). Tish Sommer gave the legislative history of the statute and responded to questions of Council members. Mr. Carter said no action was necessary now but suggested the Council might revisit its duty to consult with the Court if the role of IMEs is changed by law during the current legislative session. There was no objection.

**New Business:** Michael Carter requested an agenda item for the Council's next meeting. He asked that it include discussion and possible action regarding the Council's support of increasing the Court's appropriation to allow funding to develop electronic filing and modernize the Court's database. He recommended that the Council send a letter to its appointing authorities. Chairman Virgin suggested the letter also be sent to the House and Senate Government Modernization Committees. Vice Chairman Curry suggested that other means of funding be explored because of the state's budget limitations. There was no objection to including the item on the next agenda.

**Adjournment:** There being no further business, the meeting adjourned at 2:37 p.m.

**Advisory Council on Workers' Compensation**

*Appointed pursuant to 85 O.S., §112*

**CANCELLATION NOTICE**

**THE MAY 12, 2011 MEETING  
OF THE ADVISORY COUNCIL  
ON WORKERS'  
COMPENSATION IS  
CANCELED  
FOR LACK OF A QUORUM**

**Advisory Council on Workers' Compensation**

*Appointed pursuant to 85 O.S., § 112*

July 25, 2011

**Facsimile Transmission**  
**(405) 522-3555**

The Honorable Glenn Coffee  
Oklahoma Secretary of State  
Room 101, State Capitol Bldg.  
Oklahoma City, OK 73105

RE: Advisory Council on Workers' Compensation—Notice of Meeting Date Change

Dear Mr. Secretary:

The Advisory Council on Workers' Compensation has rescheduled the September 15, 2011 regularly scheduled meeting for September 22, 2011. The meeting will be held at 2:00 p.m. at the Workers' Compensation Court, 1915 N. Stiles Avenue, Oklahoma City, Oklahoma.

Sincerely,



Laura Robinson  
For the Advisory Council on Workers' Compensation

# **Advisory Council on Workers' Compensation**

## **NOTICE OF REGULAR MEETING**

The Advisory Council on Workers' Compensation  
has regularly scheduled a meeting on  
September 22, 2011  
2:00 p.m.  
at the  
2<sup>nd</sup> floor courtroom  
Workers' Compensation Court  
1915 N. Stiles  
Oklahoma City, Oklahoma

## **AGENDA**

1. Call to order.
2. Roll call and determination of quorum present.
3. Announcements and introductions.
4. Discussion and possible action regarding minutes of the April 7, 2011 regular meeting of the Advisory Council.
5. Discussion and possible action regarding scheduling additional meeting dates in view of responsibilities pertaining to the Council under the Workers' Compensation Code.
6. New Business.
7. Adjournment.

**MINUTES OF THE REGULAR MEETING OF THE ADVISORY COUNCIL ON WORKERS' COMPENSATION HELD ON SEPTEMBER 22, 2011 in the 2<sup>nd</sup> Floor Courtroom of the Workers' Compensation Court, 1915 N. Stiles Avenue, Oklahoma City, Oklahoma**

**PRESENT:** Michael Carter, Angela LeBlanc, Jim Curry, Dave Koeneker, Dan Simmons and David Stockwell, and ex officio non-voting member, Michael Clingman

**OTHERS PRESENT:** Tish Sommer, Workers' Compensation Court; former Physician Advisory Committee Chair, LeRoy Young, D.O.; Bob Burke, J.D.; Tonya Lee, Medtronic/IMPAC; Dr. Frank Hackl, TIPS; and Yvonne Riddington, TIPS

**Call to Order:** The meeting was called to order at 2:00 p.m. by Chairman Michael Carter.

**Roll Call and Determination of Quorum:** All members were present at roll call, except for Shane Curtin, Ellen Edwards and Sterling Zearley, and ex-officio nonvoting member Presiding Judge Michael Harkey, who were unable to attend. A quorum was noted.

**Announcements and Introductions:** Chairman Michael Carter announced Governor Mary Fallin's appointment of Angela LeBlanc as Blake Virgin's successor and the Governor's designation of Ms. LeBlanc as Vice-Chair and himself as Chair of the Advisory Council. Others in attendance identified themselves.

**Discussion and Possible Action Regarding Minutes of the April 7, 2011 Regular Meeting of the Advisory Council:** Jim Curry moved to approve the minutes as written. The motion was seconded by Dan Simmons. The minutes were approved by unanimous consent and were declared adopted.

**Discussion and Possible Action Regarding Scheduling Additional Meeting Dates in View of Responsibilities Pertaining to the Council Under the Workers' Compensation Code.** Michael Carter referred to a handout which highlighted statutory provisions regarding the Council's responsibilities under the new Workers' Compensation Code -- reviewing the Physician Advisory Committee developed Oklahoma Treatment Guidelines before March 1, 2012 and consulting with the Workers' Compensation Court on a review process to oversee Independent Medical Examiners. Mr. Carter then recognized Dr. LeRoy Young, former Chair of the Physician Advisory Committee (PAC), to update the Council on the PAC's activities, and attorney Bob Burke to more fully discuss the statutory mandates.

Dr. Young advised the new Workers' Compensation Code dissolved the previous PAC effective August 26, 2011 and created a successor Physician Advisory Committee which was not yet fully constituted. The Governor has appointed three members (Dr. Young, Dr. William Gillock and Dr. John Munneke) and 6 appointments are pending; three each by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The Code provides the scope and duration of medical treatment will be governed by the Official Disability Guidelines (ODG) effective March 1, 2012 and that the PAC is to adopt Oklahoma Treatment Guidelines (OTG) by that date for medical treatment of the spine not addressed in or recommended by the ODG. At its July 2011 meeting, then PAC member Robert Remondino, M.D., was asked to develop recommendations for the OTG. Dr. Remondino delegated the task to Dr. Hendricks, an orthopedic surgeon in Tulsa. Work on the OTG is ongoing. Draft OTG may be considered at the PAC's

next meeting on October 21, 2011, and at a public hearing possibly in December 2011. Thereafter, the OTG would be submitted to the Advisory Council for review.

Bob Burke, former member of the Governor's working group on workers' compensation, summarized the statutory, four-level review process for adoption of the OTG by March 1, 2012. The process includes public hearings and review and action by the PAC, the Advisory Council on Workers' Compensation, and the Workers' Compensation Court Administrator. Thereafter, the OTG are submitted to the legislature for review. If not disapproved by the legislature, the guidelines become operative 30 days after adjournment by the legislature. Mr. Burke opined that if the OTG are not adopted by the March 1 deadline, existing treatment guidelines will remain effective, unless otherwise directed by the legislature. Mr. Burke responded to questions of Council members.

Chairman Carter said the Council's role regarding the OTG and scope of review is to assure compliance with the statutory mandates. He suggested the Council may schedule additional meetings as necessary to address the OTG, and that a subcommittee might be formed to address the Council's public hearing process.

**New Business:** Chairman Carter asked that the Council's next agenda include discussion and possible action regarding: (1) scheduling meetings; (2) appointing a subcommittee related to the public hearing process on the OTG; (3) the Council's support of increasing the Court's funding to permit development of electronic filing and modernization of the Court's database; (4) review of opt out from workers' compensation; and (5) consultation with the Court regarding its independent medical examiner system. There were no objections.

**Adjournment:** There being no further business, the meeting adjourned at 2:37 p.m.

Advisory Council on Workers' Compensation  
*Appointed Pursuant to 85 O.S., §374*

October 24, 2011

The Honorable Glenn Coffee  
Oklahoma Secretary of State  
Room 101, State Capitol Building  
Oklahoma City, OK 73105

Re: Advisory Council on Workers' Compensation  
Notice of Change of Regular Meeting Date

Dear Secretary Coffee:

This is to advise that the Advisory Council on Workers' Compensation has changed its November 10, 2011 regular meeting date to **November 17, 2011 at 2:00 p.m.** The meeting will be held at the Workers' Compensation Court, 1915 N. Stiles Avenue, Oklahoma City, Oklahoma.

Sincerely,



Tish Sommer  
For the Council

cc: Members of the Advisory Council on Workers' Compensation  
Presiding Judge Michael Harkey  
Court Administrator Michael Clingman

# **Advisory Council on Workers' Compensation**

## **NOTICE OF REGULAR MEETING**

The Advisory Council on Workers' Compensation  
has regularly scheduled a meeting on  
November 17, 2011  
2:00 p.m.  
at the  
2<sup>nd</sup> floor courtroom  
Workers' Compensation Court  
1915 N. Stiles  
Oklahoma City, Oklahoma

## **AGENDA**

1. Call to order.
2. Roll call and determination of quorum present.
3. Announcements and introductions.
4. Discussion and possible action on minutes of the September 22, 2011 regular meeting of the Advisory Council.
5. Discussion and possible action on proposed scheduling of regular meetings for the year 2012 as follows: February 9, March 8, April 5, May 10, September 13, and November 8, to begin at 2:00 p.m. on each date.
6. Discussion and possible action on forming a subcommittee to address the public hearing process related to the Council's review of Oklahoma Treatment Guidelines.
7. Discussion and possible action on the Council's support of increasing the Workers' Compensation Court's funding to permit development of electronic filing and modernization of the Court's database.
8. Discussion and possible action regarding the Advisory Council's duty to consult with the Workers' Compensation Court regarding oversight of independent medical examiners.
9. New Business.
10. Adjournment.

**MINUTES OF THE REGULAR MEETING OF THE ADVISORY COUNCIL ON WORKERS' COMPENSATION HELD ON NOVEMBER 17, 2011 in the 2<sup>nd</sup> Floor Courtroom of the Workers' Compensation Court, 1915 N. Stiles Avenue, Oklahoma City, Oklahoma**

**PRESENT:** Michael Carter, Angela LeBlanc, Jim Curry, Dave Koeneke, Dan Simmons and Robert Wienecke, M.D., and ex officio non-voting member, Michael Clingman

**OTHERS PRESENT:** Tish Sommer and Tom Hall of the Workers' Compensation Court; Richard Phillips and Anna Thompson representing Medtronic

**Call to Order:** The meeting was called to order at 2:05 p.m. by Chairman Michael Carter.

**Roll Call and Determination of Quorum:** All members were present at roll call, except for Ellen Edwards, David Stockwell and Sterling Zearley, and ex-officio nonvoting member Presiding Judge Michael Harkey, who were unable to attend. A quorum was noted.

**Announcements and Introductions:** Chairman Michael Carter welcomed Robert J. Wienecke, M.D. to the Council. He was appointed by President Pro Tempore Brian Bingman to succeed T. Shane Curtin. Others in attendance identified themselves.

**Discussion and Possible Action Regarding Minutes of the September 22, 2011 Regular Meeting of the Advisory Council:** Jim Curry moved to approve the minutes as written. The motion was seconded by Dave Koeneke. There was no discussion or debate. The minutes were approved by unanimous consent of all members present and were declared adopted.

**Discussion and Possible Action on Proposed Scheduling of Regular Meetings for the Year 2012 as Follows: February 9, March 8, April 5, May 10, September 13, and November 8, to Begin at 2:00 P.M. on Each Date:** Jim Curry moved to approve the dates for the regular meetings as recommended. The motion was seconded by Dan Simmons. There was no discussion or debate. The dates were approved by unanimous consent. Chairman Carter alerted members that special meetings might be scheduled, in addition to the regular meetings, as necessary to review the Oklahoma Treatment Guidelines produced by the Physician Advisory Committee. There was no objection to the special meetings being set by the Chairman with assistance from staff.

**Discussion and Possible Action on Forming a Subcommittee to Address the Public Hearing Process Related to the Council's Review of the Oklahoma Treatment Guidelines:** Explaining it would be helpful to better understand the public hearing process the Council must use in its review of the Oklahoma Treatment Guidelines, Chairman Carter formed a subcommittee for that purpose. Subcommittee members are Council members Michael Carter, Angela R. LeBlanc, Dave Koeneke and Jim Curry. The subcommittee will study the public hearing issue and report back to the Council.

**Discussion and Possible Action on the Council's Support of Increasing the Workers' Compensation Court's Funding to Permit Development of Electronic Filing and Modernization of the Court's Database:** At Chairman Carter's request, Michael Clingman described the new law provision concerning development of an electronic data interchange (EDI) system by July 1, 2012, with assistance from an EDI

Advisory Committee created pursuant to 85 O.S., §367. He addressed EDI programs established in other states, data use, and the anticipated cost to the Court and others for its development in Oklahoma. Mr. Clingman responded to questions of Council members. Jim Curry moved that a letter supporting modernization of the Court's database as provided by law and recommending appropriate funding to the Court for that purpose be prepared by the Council and sent to government leaders. The motion was seconded by Dave Koeneke. The motion was adopted by unanimous consent of all members present, and was declared adopted. Staff was asked to prepare the letter for signature.

**Discussion and Possible Action Regarding the Advisory Council's Duty to Consult with the Workers' Compensation Court Regarding Oversight of Independent Medical Examiners:** At Chairman Carter's request, Michael Clingman described the Court's independent medical examiner system and its status in view of the new Workers' Compensation Code. Mr. Clingman responded to questions of Council members. Jim Curry moved to request the Court Administrator to advise the Council when its assistance regarding oversight of the IME system is needed or desired. The motion was seconded by Dr. Wienecke. The motion was adopted by unanimous consent of all members present, and was declared adopted.

**New Business:** Chairman Carter asked that the Council's February 9, 2012 meeting include an agenda item for review of legislative measures filed for consideration during the 2012 legislative session. There was no objection.

**Adjournment:** Jim Curry moved to adjourn the meeting. The motion was seconded by Dr. Wienecke and was adopted by unanimous consent of all members present. The meeting adjourned at 2:44 p.m.

# Advisory Council on Workers' Compensation

*Appointed Pursuant to 85 O.S., § 374*

January 10, 2012

The Honorable Mary Fallin  
Governor  
State of Oklahoma

The Honorable Steven W. Taylor  
Chief Justice  
Oklahoma Supreme Court

The Honorable Brian Bingman  
President Pro Tempore  
Oklahoma State Senate

The Honorable Kris Steele  
Speaker  
Oklahoma House of Representatives

Re: Workers' Compensation Court Funding

Dear Governor Fallin, Chief Justice Taylor, Senator Bingman and Representative Steele:

The Advisory Council on Workers' Compensation is an advisory body created by law to analyze and review the workers' compensation system and recommend improvements and proper responses to developing trends. The Council is comprised of representatives of the business, labor and legal communities. Members are appointed by the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives.

**On Thursday, November 17, 2011, the Advisory Council voted to support and recommend increasing the Workers' Compensation Court's funding to permit modernization of the Court's database consistent with 85 O.S., Section 367.** The statute requires the Court Administrator to implement an electronic data interchange (EDI) system effective July 1, 2012 to provide relevant data about the workers' compensation system and delivery of benefits to injured workers. This recommendation was adopted unanimously by all Council members present at the November 17, 2011 meeting. The vote was as follows:

<b>Member</b>	<b>Vote</b>
Michael D. Carter, Chairman	Aye
Angela LeBlanc, Vice Chair	Aye
Jim Curry	Aye
Ellen C. Edwards	Not Present
Dave Koeneke	Aye
Dan Simmons	Aye
David Stockwell	Not Present
Robert Wienecke, M.D.	Aye
Sterling Zearley	Not Present

*Michael J. Harkey, Presiding Judge, Ex Officio Non-voting Member*

*Michael Clingman, Court Administrator, Ex Officio Non-voting Member*

**The Advisory Council urges support for the suggested funding increase for the Workers' Compensation Court.**

Sincerely,

A handwritten signature in black ink, appearing to read "Michael D. Carter", with a long horizontal flourish extending to the right.

Michael D. Carter  
Advisory Council Chairman  
For the Council

cc: Members of the Advisory Council on Workers' Compensation