



WORKERS' COMPENSATION  
ADVISORY COUNCIL MEETING  
September 26, 2019

**Members Present:**

Sheral Kellar  
Charles Davoli  
Michael Morris  
Vincent Forte, MD  
Shannon Dartez  
Marc Zimmermann, Ph.D.  
Philip Hunter  
Larry Stokes, Ph.D.  
Shannon Lindsey  
"Bray" Williams  
Kevin Darr, MD [Late]  
Julie Cherry [Late]

**Members Absent:**

Edwin Murray  
Maria Losavio  
Alejandro Perkins  
Mark Kruse, D.C.

**MINUTES**

- I. WELCOME** start at 9:40 am
- II. MINUTES**
  - a. February
  - b. April
  - c. August
  - d. Shannon Dartez- Motioned
    - 1.Marc Zimmerman- 2<sup>nd</sup>
    - 2.All approved
- III. INTRODUCTION OF NEW WCAC MEMBER**
  - a. Dr. Kevin Darr
  - b. –Pass–
- IV. TELE-MEDICINE IN WORKERS' COMPENSATION**
  - a. –Pass–
- V. LEGISLATIVE CHANGES TO 1123 AND 1124.1**
  - a. **Vice- Chair Charles Davoli** present
    - i. more appropriate for judges in the area to set an independent medical exam (IME);

- ii. repeals 1124.1
- b. **Shana Veade** [OWCA] - read through proposed changes
- c. **Brenda Gannuch** [OWCA] - spoke about judges' comments from the WC Judges meeting.
  - i. Causation issues
  - ii. Note active 1008 but don't communicate with District until IME set.
    - **Chair Sheral Kellar**- if filed too close to trial date, either delays trial or causes one party to file Motion to Quash.
- d. **Philip Hunter**- is there a list of doctors that a judge is bound by?
  - i. **Chair Sheral Kellar**- no. but lists that they have, are ones of doctors known to be willing to do an IME.
- e. **Philip Hunter**- What about placing language in statute about parties agreeing to an IME?
  - i. **Shana Veade** [OWCA]- will review
- f. **Shannon Lindsey**- issues with how to handle procedurally & the word "physician"
  - i. **Vice-Chair Charles Davoli**- "medical practitioner" was too broad. Look at RS. 23:1317.1 regarding when IME setting.
  - ii. **Chair Sheral Kellar**- mediators currently allowed to mediate pre-trial 1008
  - iii. **Shannon Lindsey**- 1015 form goes to WC District court instead of medical services? Aren't they already over worked?
    - **Philip Hunter**- 1008 could manipulate Right
    - **Vice-Chair Charles Davoli**- Rule 5953: objection then interlocutory judgment
    - **Chair Sheral Kellar**- logistics on how to handle 1015s may mean more personnel.

### III. *(Revisit)* INTRODUCTION OF NEW WCAC MEMBER

- a. Dr. Kevin Darr
  - i. Orthopedic from Covington

### VI. 1008s FILED SOLELY TO SUBPOENA MEDICAL RECORDS

- a. Ms. Heidel Schneider, esq.
  - i. Never filed 1008 on sole issue of subpoena
- b. **Chair Sheral Kellar**- accept all filings in District Office
- c. **Meridith Trahant** [OWCA]- Elizabeth Soileau vs Walmart Stores, Inc. 2019-C-0040
  - i. R.S. 23:1314 has to be met or dismissed due to prematurity
    - R.S. 23:1127- reasonable access
    - R.S. 23:1293 (B)- benefits has to be paid
- d. **Vice-Chair Charles Davoli**- is problem at provider not releasing or the fact WC is exempt from HIPAA?
- e. **"Bray" Williams**- would like 1008 for subpoena
- f. **Vice-Chair Charles Davoli**- this is used to extend discovery deadline or go on fishing expedition
- g. **Chair Sheral Kellar**- 1008 used to seek medical records?

- i. **Michael Morris**- 1010A is a vehicle to obtain records
- h. **Vice-Chair Charles Davoli**- Amend R.S. 23:1314?
  - i. **“Bray” Williams**- No right of action can be raised by the judge
  - ii. **Shannon Lindsey**- could be providing legal advice
    - What would discovery device look like and if happened outside 1008, how do issues get adjudicated?
    - **Meridith Trahant** [OWCA]- R.S. 23:1310.3 allows filing a form outside relief sought
      - 1. **Shannon Lindsey**- protective order outside 1008 or would 1008 be the order?
      - 2. **Meridith Trahant** [OWCA]- need to evaluate
      - 3. **Chair Sheral Kellar**- Form goes to Records while order goes to Court.
      - 4. **Shannon Lindsey**- timeline considered in this process?
        - **Meridith Trahant** [OWCA]- look at Code of Civil Procedure & Code of Evidence
- i. **Shannon Dartez**- look at employment records being released as well
- j. **Chair Sheral Kellar**- Shannon Lindsey, Bray Williams, Philip Hunter, and Shannon Dartz to send language that can be added to RS. 23:1314.

## VII. FAXING FILING CONFIRMATION AND NOTICE OF FEES

- a. Form to be created at office
- b. Response to complaint from Covington
- c. Sending to fax filing party
  - i. 5 days to send fees & originals
- d. Stevenson v. Progressive Security Insurance Company, 2018 CA 1105
- e. **Shannon Lindsey**- problem with “received” vs “filed”
  - i. **Chair Sheral Kellar**- will get with Caroline Minor on uniformity
- f. **Philip Hunter**- seems unfair to dismiss case because \$50 didn’t arrive in 5 days.

## VIII. STATUS OF RFP FOR UPDATE TO MEDICAL FEE REIMBURSEMENT SCHEDULE

- a. Logistics
  - i. End of October submit
  - ii. 25 days later advertise & post in Register and Advocate
  - iii. 25 days to receive proposals
  - iv. Scored by any member of agency and other parties
  - v. Recommendation letter discussed
  - vi. The award letter goes out
- b. Rule change in advance of update
- c. Suggested ways to handle
  - i. What to do pending process?
    - Pay by report in interim?
  - ii. Patching for 25yrs up to this point
    - Would be complete overhaul

**IX. OTHER BUSINESS**

- a. **Vice-Chair Charles Davoli-** Chronic Pain NOI update?
  - i. **Chair Sheral Kellar-** published September 20<sup>th</sup>
  - ii. **Michael Morris-** public hearing will be requested
- b. **Meridith Trahant** [OWCA]- payments for records management can be paid online
- c. **Darrick Lee** [OWCA]- introduced Ariel Dixon and Devionne Butler as Fraud attorneys.

**X. PUBLIC COMMENT**

- a. **Heidel Schneider** [audience]- draft IME changes loses “may” if an unrelated 1008 is filed.
- b. **Andy Condrey with Gray Insurance** [audience]- subpoena should be more procedural/ administrative
  - i. **Philip Hunter-** go to court on unrelated issues i.e. gyno information
  - ii. **Shannon Lindsey-** provider not giving info because the claimant isn’t legally bound to sign that
  - iii. **Meridith Trahant** [OWCA]- evaluate pro se litigants

**XI. NEXT MEETING DATE**

- a. October 24<sup>th</sup>
- b. No meeting in November or December
- c. 2020 Tentative meeting dates given to WCAC members
  - i. Attendance given to governor & Chair/Vice-chair will notify specific members of lack of attendance.

**XII. ADJOURNMENT** at 11:06am