

**Louisiana Property and Casualty Insurance Commission**  
**Minutes of the Meeting of the Commission**  
**Wednesday, January 10, 2018 @ 10:00 A.M.**  
**Department of Insurance – Plaza Hearing Room**

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Present were the following:

Members: Lou Fey (Chairman), Jeff Albright (Vice Chairman), Sen. Morrish, Rep. Talbot, Shawn Collins, Marc Carter, Jamie Bourg (for Paul Buffone), Will Grubbs, Michael Guy, Chris Haik, Director Kellar, Ron Henderson, April Carter (for Leslie Sallean), Mike Barron (for Dr. Katara Williams), Noryn Ward

Commission and LDI Staff: Tom Travis, Warren Byrd, Laura Nola, Pat Bell, and Charles Hansberry.

The Chairman called the meeting to order at 10:05 a.m.

The Director called the roll and reported the presence of a quorum.

The Chairman welcomed everyone in attendance.

Presentation by Carlos Luna, Director of Governmental Affairs, MDGuidelines, publisher of the ACOEM (American College of Occupational and Environmental Medicine) medical treatment guidelines and pharmacy formulary, on the ACOEM pharmacy formulary.

Mr. Luna reviewed the history of ACOEM and the MDGuidelines published by ReedGroup. (Presentation Slides appended to the Annual Report). He discussed the value of evidence-based medicine.

Director Kellar discussed current issues with the Louisiana medical treatment guidelines in workers' compensation, especially the current litigation over the status of the guidelines and its effect on any attempts to add a formulary while such litigation is pending at the Louisiana Supreme Court. She also discussed other legislation enacted in 2017 to limit opioid prescriptions.

Representative Talbot stated his intent to introduce a formulary bill in 2018.

Senator Morrish asked Mr. Luna about evidence-based medicine and medical marijuana. Mr. Luna replied that it is very difficult to do high quality, long-term research on an illegal controlled substance, of which would preclude it from a formulary. Mr. Ken Eichler from ODG added that current banking laws prohibit paying for marijuana through electronic systems, which effectively eliminates the ability of an insurer to reimburse for the treatment.

Consideration of recommendations and study topics for the Annual Report.

The Director began the discussion by presenting a list of suggested recommendations derived from previous years.

### **1. Uniform Construction Code**

*The LPCIC recommends that the legislature resist any efforts to weaken or diminish the current Louisiana State Uniform Construction Code and enact legislation to strengthen the Uniform Construction Code and its enforcement.*

After an opportunity for discussion and public comment, the commission adopted the recommendation without objection on the motion of Mr. Albright and a second by Mr. Carter.

### **2. Distracted Driving**

*The LPCIC recommends that the legislature ban the manual use by the operator of a motor vehicle while in motion of all electronic devices not permanently installed in the vehicle.*

After an opportunity for discussion and public comment, the commission adopted the recommendation without objection on the motion of Mr. Carter and a second by Commissioner St. Germain.

### **3. Civil Jury Threshold**

*The LPCIC recommends that the legislature reduce or eliminate the civil jury threshold.*

After an opportunity for discussion and public comment, the commission adopted the recommendation over the objection of Director Kellar on the motion of Mr. Albright and a second by Mr. Carter.

### **4. Direct Action**

*The LPCIC recommends that the legislature repeal the direct action statute or amend it to limit the instances for naming an insurer as a defendant to those where the insured is unable to be served with process.*

After an opportunity for discussion and public comment, the commission adopted the recommendation without objection on the motion of Rep. Talbot and a second by Sen. Morrish.

### **5. Collateral Source Rule**

*The LPCIC recommends that the legislature modify the collateral source rule.*

After an opportunity for discussion and public comment, the commission adopted the recommendation without objection on the motion of Rep. Talbot and a second by Mr. Albright.

## **6. Opioid Abuse**

*The LPCIC recommends that the legislature enact a requirement for the use of a closed pharmacy formulary in workers' compensation claims.*

After an opportunity for discussion and public comment, the commission adopted the recommendation over the objection of Director Kellar on the motion of Rep. Talbot and a second by Mr. Albright.

The Director presented a list of suggested study topics.

### **1. Insurance and Technology**

*The LPCIC will study issues related to insurance and technology.*

### **2. Cybersecurity and Insurance**

*The LPCIC will monitor and study issues related to cybersecurity and insurance.*

### **3. Highly Automated Vehicles (HAV) and Driverless Vehicles**

*The LPCIC will study regulatory and insurance issues that arise with the development of driverless vehicles.*

### **4. Private Flood Insurance and NFIP Reauthorization**

*The LPCIC will monitor and study the affordability and availability of private flood insurance and proposals for increased reliance upon the private market in the renewal of the NFIP.*

### **5. Federal and International Actions Affecting Insurance and Insurance Regulation**

*The LPCIC will monitor and study the effects of federal laws and regulations and international actions on the affordability and availability of property and casualty insurance.*

After an opportunity for discussion and public comment, the commission adopted the study topics without objection on the motion of Rep. Talbot and a second by Mr. Albright and Director Kellar.

There being no objection, the Chairman adjourned the meeting at 11:40 a.m.