

Advisory Council on Workers' Compensation and Occupational Disease Disablement

Annual Report 2016

Presented to:

**The Honorable Susana Martinez,
Governor**

**The Honorable John. G. Franchini,
Superintendent of Insurance**

and

Senate President Pro – Tempore

Speaker of the House

Senate Majority Floor Leader

House Majority Floor Leader

Senate Minority Floor Leader

House Minority Floor Leader

Chair, Senate Finance Committee

Chair, Senate Judiciary

**Chair, Senate Corporations and
Transportation Committee**

**Chair, House Appropriations and
Finance Committee**

**Chair, House Business and Employment
Committee**

Chair, House Judiciary



Submitted by:

**James Magoffe, Chair
Kevin J. McGinley, Vice Chair
Courtenay Eichhorst, Member
Taylor Horst, Member
Tom Willis, Member**

Annual Report of the Advisory Council on Workers' Compensation and Occupational Disease Disablement - 2016

The Advisory Council on Workers' Compensation and Occupational Disease Disablement is a statutory body created by the Workers' Compensation Law of New Mexico. Members are appointed by the Governor to represent both employers and workers. Our duty is to report annually to the Governor and Legislature concerning the state of the workers' compensation system and to make recommendations regarding rules and legislation.

Mission

The mission of the Advisory Council on Workers' Compensation and Occupational Disease Disablement is:

- to monitor the performance of the workers' compensation and occupational disease and disablement system;
- to make recommendations to the Governor, Legislature, regulatory agencies and participating industries, related to the adoption of rules and legislation and the method and form of statistical data collections;
- to ensure the quick and efficient delivery of indemnity and medical benefits to injured and disabled workers at a reasonable cost to employers.

Council Members

The Council currently has five appointed members. The Director of the Workers' Compensation Administration serves as an ex officio, non-voting member. The Council is made up of three representatives from labor and three representatives from the business community. There is currently a vacant labor representative position.

Status of the Workers' Compensation Administration

The New Mexico Workers' Compensation Administration (WCA) has been fully engaged to meet its primary goal of making a better workplace for New Mexico through responsive and effective services. The WCA's mission is: *To assure the quick and efficient delivery of indemnity and medical benefits to injured workers at a reasonable cost to employers.*

2016 Legislative Efforts

The Advisory Council endorsed several bills during the 2016 legislative session. Senate Bill 214, the so-called "intoxication bill," sponsored by Sen. Jacob Candelaria (D-Bernalillo), passed both Houses

and was signed into law by Gov. Susana Martinez in March. While the new law does not affect medical or survivor benefits, it allows a workers' compensation judge to reduce indemnity benefits from between 10 percent and 90 percent, proportional to the degree a worker's intoxication contributes to the accident causing injury or death.

Other initiatives introduced but not passed included the issue of return to work benefits and employee misconduct.

The Advisory Council also unanimously supported appropriations for conducting a workers' compensation system study, as the last system study was conducted more than a decade ago. While funds were appropriated during the 2016 session for such a study, the agency chose not to move forward with the study at this time, given the financial climate and statewide budgetary shortfall.

The Council continues to oppose the issue of reallocating funds taken from the workers' compensation assessment, which is supposed to be for purposes of funding the workers' compensation system. Over the last 10-plus years, nearly \$30 million has been transferred out of the WCA to other agency funds (according to WCA audited financial statements, 2005-2015). In FY 2016, the WCA was directed to transfer \$2 million dollars from its operational budget to the Department of Workforce Solutions (DWFS). For FY 2017, the cumulative transfer amount, thus far, is \$8.5 million.

The Advisory Council stands firm in its belief the fund should be exclusively reserved and not be diverted from its intended purpose to support the workers and employers of New Mexico through the Workers' Compensation Administration. The Advisory Council voted unanimously in favor of keeping funds in the system.

2017 Legislative Initiatives

The Advisory Council plans to work with Sen. Jacob Candelaria (D-Bernalillo) again during the 2017 New Mexico Legislature to introduce legislation it thinks will improve the workers' compensation system. The bills address "employee responsibility," and attempt to block indemnity benefits for injured workers who were dismissed for misconduct.

Another bill will address the issue of "subrogation" in workers' compensation claims, in an attempt to allow workers' compensation carriers to seek relief from wrongdoers who injure employees in the work place.

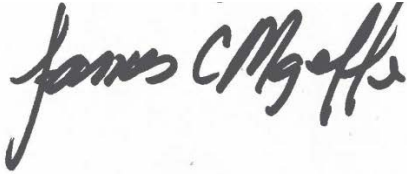
Conclusion

The New Mexico Workers' Compensation Administration is stable and working on initiatives to remain responsive to the dynamic challenges of the overall system and the current economic environment.

This report was approved by the Advisory Council on Workers' Compensation and Occupational Disease Disablement via email communication December 22, 2016.

Respectfully submitted:

James C. Magoffe

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Kevin J. McGinley

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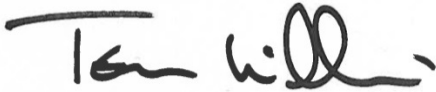
Courtenay Eichhorst

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Taylor Horst

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Thomas M. Willis

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