

STATE OF NEW MEXICO  
ADVISORY COUNCIL ON WORKERS' COMPENSATION  
AND OCCUPATIONAL DISEASE DISABLEMENT

**\*\*MINUTES\*\***

MEETING DATE: November 4, 2021  
In person and virtual via Facebook Live  
Workers' Compensation Administration, 2410 Centre SE, Albuquerque,  
NM 87106

Members Present: Sara Ranney, Lillian Santillanes, Kevin McGinley, Darrell Deaguero,  
Marni Goodrich, and Acting Director Leigh Martinez, as ex-officio.  
Absent: Courtenay Eichorst.

1. Call to Order and Introductions: 2:07 p.m.
2. Approval of agenda: Darrell Deaguero made a motion to approve, seconded by Lillian Santillanes. Agenda approved.
3. Approval of minutes: Darrell Deaguero made a motion to approve the minutes, seconded by Lillian Santillanes. Minutes approved.
4. Status of Agency report:  
Acting Director Leigh Martinez reported that the majority of WCA reported back to the office in July, though most of the legal operations remain electronic and remote, and there is no backlog of cases. The 2022 Fee Schedule is currently in its comment period, with the last day for written comments set for Nov. 5. The public hearing for oral comments was held Oct. 13. Next steps will be to publish its response to public comments, issue the Director's Order and publish the final document for 2022. The agency continues to work to fill staff openings. Notably the Assistant General Counsel position was filled by Sandra Gardner, who was the Enforcement Bureau Chief. The agency has added a jobs page to its website.  
The governor's office has appointed Robert Doucette director for the agency, and his term begins Dec. 6. Doucette was formerly a deputy director with the agency. Since leaving the agency he served at the New Mexico Office of the Superintendent of Insurance, and with Sandoval County. Ms. Martinez will continue to serve as deputy director of support services once the new director begins.  
There are currently 20-22 staff positions open.
5. Advisory Council Chair Report:  
Vice Chair McGinley said the council had a legislative committee meeting, which included him, Courtenay Eichorst and Sara Ranney from the council, and invitees included Ronda Gilliland from Mechanical Contractors Association, worker attorney Bob Scott, Randy Aiken from Builders Trust, Jeremiah Ritchey from NM Mutual, and workers' attorney Jeff Brown, who was invited but unable to attend. The goal was to see what items business and labor could agree on to put forward with the legislature. The council will not be pushing for any legislation for the upcoming session because it will be a short, 30-day session. At the meeting, there was discussion about the sweeping of funds from the WCA to give to the NM Dept. of Workforce Solutions, which has become an annual occurrence. They also discussed

the WCA's computer upgrade. Sara Ranney noted the council agrees with the agency that there should be a computer upgrade which would allow for metrics and measurements to guide the agency. The committee supports this.

Leigh Martinez added background information on how at the last legislative session, the WCA was appropriated \$2 million to upgrade the IT systems. The two-phase plan consists of first modernizing the internal system so it would allow for cross-bureau functionality. The second phase would be to implement IAIABC's 3.1 data system into the electronic system, a significant upgrade that will allow the agency to collect more data points to get the agency on a more level playing field with its national counterparts. The agency's plan has been approved by the Dept. of Information Technology and currently the search is on for a project manager. The next step will be to see if further appropriation is allotted. Martinez has been told that the Dept. of Workforce Solutions (DWS) omitted the request for a funds sweep from their proposal, so the WCA omitted the funds removal from their budget. The WCA won't know for sure if those omissions will carry through until final budgets are released. McGinley said the council looks forward to working with the WCA's general counsel for the upcoming session. The council will work to ensure the legislative members understand the council's role. The council will continue to hold stakeholder meetings.

6. Advisory Council Annual Report:

The council is required to file an annual report by January 1. Council members will pull together materials for the next council meeting which can be added to the report.

7. Public comment:

David Proffit, workers' attorney, wondered if council members received the email correspondence he had sent, about 130 pages, back in February, 2021. The document outlines the chronic areas of conflict in the workers' compensation system. He would like any proposed bills to be fair-minded. He views the stakeholders in workers' compensation to be the injured workers, who are inexperienced, and the employers/insurers, who are experienced with the system. He encouraged the labor members of the council to understand the dynamics and the conflicts.

Merilee Danneman suggested that the Advisory Council consider having a legislator do a memorial, to say how important the council is. She left a copy of a document with each council member, which outlines issues of concern. It is on her website, titled "Saving Workers' Comp."

<https://www.triplespacedagain.com/wordpress/?p=1183>

McGinley thought the council could possibly do a PowerPoint presentation for the legislature to educate them on what the council and the workers' compensation system are.

Gerry Hanrahan, workers' attorney, gave a brief overview of the history of workers' compensation in New Mexico. He considered the reforms of 1990 to have gone too far in helping the insurance industry as opposed to injured workers. In 1999 the workers' improvement committee came up with some recommendations. In 2001, the Advisory Council picked up some of them and they became law. When the committee pointed out that injured worker benefits were not being tracked statistically, then director Stephen Kennedy, asked for a study, and the Rand study took place. The study noted that permanent partial disability benefits in New Mexico were inadequate. He pointed out that the 2021 WCA Annual Report on page 49, Figure 5.8,

shows that New Mexico insurance industry profits are higher than those nationwide. He suggested the council look into this. Attorneys and doctors are taking a hit on their payments, as fees have not risen with inflation. He suggested the council set up subcommittees to look at possible ways to improve the system.

Dan Giralmo from New Mexico Mutual noted there was more to the insurance industry's numbers than what appeared to be profit. The industry must put aside money for future losses. In 95% of claims, the system works.

Jeremiah Ritchie, general counsel of New Mexico Mutual pointed out that the New Mexico Office of the Superintendent of Insurance oversees insurers in the state.

Merillee Danneman suggested the council members attend the New Mexico Workers' Compensation Association's annual meeting to learn about workers' compensation.

Randy Aiken from Builders Trust wanted the council to know that some employers are self-insured, and not covered by commercial insurance.

8. Next meeting:  
December 9 at 2 p.m.
9. The meeting adjourned at 3:16 p.m., on a motion from Lillian Santillanes, seconded by Darrell Deaguero.