

# 2023 Annual Report

## ADVISORY COUNCIL ON WORKERS' COMPENSATION AND OCCUPATIONAL DISEASE DISABLEMENT

Presented to:  
The Honorable  
Michelle Lujan Grisham, Governor

The Honorable Alice T. Kane,  
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 Commerce & Economic Development Committee  
Chair, House Judiciary



# Annual Report of the Advisory Council on Workers' Compensation and Occupational Disease Disablement – 2023

The Advisory Council on Workers' Compensation and Occupational Disease Disablement is a statutory body created by the Workers' Compensation Law of New Mexico. The Governor represents members 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 Workers' Compensation Act requires that the Advisory Council on Workers' Compensation and Occupational Disease Disablement consist of three employer representatives and three worker representatives. It is important that appointments to the Workers' Compensation Advisory Council comply with the Workers' Compensation Act in identifying qualified leadership and in maintaining the essential balance between employer and worker interests to ensure the long-term integrity of the workers' compensation system for New Mexico.

In addition to the six appointed members, the Director of the Workers' Compensation Administration serves as an ex officio, non-voting member.

Courtenay Eichhorst, Darrell Deaguero and Sara Ranney represent labor, while Marni Goodrich and Buffy Jackson represent business. There remains one vacant business representative. Council Chair Marni Goodrich is director of business operations at Yearout Mechanical, a full-service design-build mechanical and plumbing services provider. Vice chair Sara Ranney is with the International Association of Firefighters Local 244 and is an engine company lieutenant. Darrell Deaguero is president of Laborers Union, Local 16, the construction workers' union. Courtenay Eichhorst is business manager of U.A. Local 412. Buffy Jackson is owner of Home Instead, a non-medical, in-home care agency for seniors, in Las Cruces.

## 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.

### 2023 Legislative Efforts

House Memorial 83 (Rep. Pamelya Herndon, D-Bernalillo) created a task force to study the workers' attorney fee cap, the number of claims in reaching the cap, the average attorney fee received per claim and the impact of a fee cap on access to justice. HM 83 passed, and work on the task force continues, to culminate in a report to this Advisory Council in the sprint of 2024.

There were several legislative proposals during the 2023 session, none of which passed.

- House Bill 455 (Rep. Pamelya Herndon, D-Bernalillo) proposed an increase in discovery fee amounts and the fee cap for attorney fees.
- House Bill 329 (Rep. Tara L. Lujan, D-Santa Fe) would have allowed for an increase in penalty amounts for violations of the Workers' Compensation Act.
- House Bill 330 (Reps. Tara L. Lujan, D-Santa Fe and Patricia Roybal Caballero, D-Bernalillo) would have removed the language that exempts employers of farm and ranch laborers from the requirement to carry workers' compensation insurance. The exemption was deemed unconstitutional by the New

Mexico Supreme Court in 2016.

- Senate Bill 369 (Sen. Harold Pope, D-Bernalillo) would have amended the New Mexico Occupational Disease Disablement Law, Article 3, by adding new medical conditions that are rebuttably presumed to be related to a firefighter's job duties, such as lung cancer.
- House Bill 427 (Rep. Eliseo Lee Alcon, D-Cibola & McKinley) would have amended the New Mexico Occupational Disease Disablement Law, Article 3, to give law enforcement and other "first responders" a rebuttable presumption of causation, akin to firefighters, relative to a diagnosis of PTSD.

## Reallocation of Funds

Over the last 17 years, millions have been transferred out of the WCA to other New Mexico state agency funds. 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. The New Mexico Department of Workforce Solutions did not request funds from the WCA fund in its FY24 budget, nor did the WCA include the transfer in its FY24 budget request. Nonetheless, a \$1 million transfer to DWS still occurred. The Advisory Council stands firm in its belief the fund should be exclusively reserved and not be diverted from its intended purpose, which is to support the workers and employers of New Mexico through the Workers' Compensation Administration. These funds are raised through assessments on workers and employers and the council feels strongly the money should stay with the WCA for the betterment of both workers and employers. We hope that these transfers end once and for all.

## 2024 Legislative Initiatives

Neither the Advisory Council, nor the Workers' Compensation Administration anticipates any industry-related legislation during the upcoming 30-day session..

## Conclusion

The New Mexico Workers' Compensation Administration is currently stable. We, the members of the Advisory Council on Workers' Compensation and Occupational Disease Disablement are dedicated to remaining responsive to the dynamic challenges of the overall system.

This report was approved at the November 16, 2023, open meeting.



Respectfully submitted:

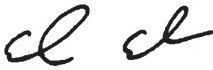
Marni Goodrich

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Sara Ranney

Handwritten signature of Sara Ranney in cursive script.

Courtenay Eichhorst

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Darrell DeAgüero

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Buffy Jackson

Handwritten signature of Buffy Jackson in cursive script.

