

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 W. Washington
The Auditorium
Phoenix, Arizona 85007
Thursday, May 26, 2011 – 1:00 p.m.

Present:	Brian Delfs	Chairman
	David Parker	Vice Chairman
	John A. McCarthy, Jr.	Member
	Kathleen Oster	Member
	Susan Strickler	Member
	Laura McGrory	Director
	Andrew Wade	Chief Legal Counsel
	Darin Perkins	Director, ADOSH
	Renee Pastor	Self Insurance Manager
	David Sosa	Special Fund Monitor
	Terry Ann Apodaca	Special Fund
	Noreen Thorsen	Claims Manager
	Melissa Smith	Compliance Supervisor
	Michael Hawthorne	Chief Financial Officer
	Jeri McAnerny	Tax Accountant
	Kamen Kovatchev	Accounting
	Stephen Ball	Legal Counsel
	Miral Sigurani	Legal Counsel
	Kathy Harris	Legal Counsel
	Teresa Hilton	Commission Secretary

Chairman Delfs convened the Commission meeting at 1:00 p.m. noting a quorum present. A list of attendees for the Physician's and Pharmaceutical Fee Schedule hearing who chose to sign in is attached. A court reporter was also present and a transcript of the public hearing portion of the meeting will be included with the minutes when available. Also in attendance was Eda Barolli of Snell & Wilmer.

Public Hearing to accept comments and other information regarding the 2011-2012 Physicians' and Pharmaceutical Fee Schedule pursuant to A.R.S. §23-908(B). During this hearing, the Commission may also discuss the fee schedule and information relevant to the annual update

Chairman Delfs welcomed interested parties to the public hearing and advised that notice was provided to the public inviting comments. He also advised that the record will remain open for public comment until June 9, 2011 at 5:00 p.m. At a later scheduled meeting, the Commission will discuss and may take action on the fee schedule update. A court reporter was present for this agenda item.

Director McGrory summarized the 2011 Staff Recommendations and highlighted some of the issues and proposed changes to the Physicians' Fee Schedule. The following attendees addressed the Commission: Chic Older, Executive Vice President, Arizona Medical Association; Anthony Yeung, M.D., Desert Institute for Spine Care; and Dan Lieberman, M.D., Arizona Center for Neurosurgery.

Chairman Delfs thanked all of the speakers, and in particular Chic Older for his participation in the Network Work Group, and stated that all comments received will be considered by the Commission. He reminded those present that the record would remain open until June 9, 2011 at 5:00 p.m. for additional comments. He closed the hearing at 1:47 p.m. The Commission continued with its regularly scheduled meeting.

Approval of Minutes of May 19, 2011 Meeting

The Commission unanimously approved the Minutes of May 19, 2011 on motion of Mr. Parker, second of Mr. McCarthy.

Discussion & Action of Proposed OSHA Citations and Penalties

Limon Enterprises Inc.
2929 N. 39th Street, Unit 6
Phoenix, AZ 85018

Complaint
Yrs/Business - 1
Empl. Cov. by Insp. - 14

SERIOUS – Citation 1, item 1 – One employee was operating the forklift without formal training and certification. (1910.178(l)(1)(i)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, item 2 – Employees were working on a roof 20' above the ground and were not utilizing a fall protection system. (1926.501(b)(11)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, item 3 – Employees were not instructed on the hazards associated with working at elevated heights 6' or more above the ground. (1926.503(a)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, item 4 – Employees were using 20' extension ladders and the employer did not ensure that each employee had been trained by a competent person in the proper construction, use, placement and care of the ladders. (1926.1060(a)).

Div. Proposal - \$ 750.00

Formula Amt. - \$ 750.00

TOTAL PENALTY - \$3,000.00

TOTAL FORMULA AMT. - \$3,000.00

Mr. Perkins summarized the citations and proposed penalty as listed. He responded to questions from the Commissioners. Following discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$3,000.00 on motion of Mr. McCarthy, second of Ms. Oster.

Discussion & Action of Request for Renewal of Self Insurance Authority

Catholic Healthcare West – Renee Pastor presented staff's renewal report along with current Moody's, Fitch, and Dunn and Bradstreet bond and credit ratings. Ms. Pastor advised that Administration is recommending renewal of workers' compensation self-insurance authority based on the financial stability, large size with assets above \$11.8 billion, a clean audit report, acceptable bond scores and an acceptable credit rating. The Commission unanimously approved renewal of self-insurance authority on motion of Mr. Parker, second of Ms. Strickler.

Chairman Delfs left the meeting at this point, and Vice Chairman Parker took over as chair.

Wendy's International, Inc. – Ms. Pastor presented staff's renewal report along with current Moody's and Dunn and Bradstreet bond and credit ratings. Ms. Pastor advised that Administration is recommending renewal of workers' compensation self-insurance authority based on the financial stability with worldwide assets of just over \$4.7 billion, a clean audit report, acceptable bond and credit ratings. The Commission unanimously approved continuance of self-insurance authority on motion of Mr. McCarthy, second of Ms. Strickler.

Weyerhaeuser Company – Ms. Pastor presented staff's renewal report along with current Moody's, Fitch, Standard & Poor, and Dunn and Bradstreet bond and credit ratings. Ms. Pastor advised that Administration is recommending renewal of workers' compensation self-insurance authority with an additional deposit of \$449,934 due to the loss over the prior years; but recommends renewal due to their return to profitability, large size with assets of just over \$13.4 billion, a clean audit report and acceptable credit ratings. The Commission unanimously granted continuance of self-insurance authority with an additional deposit of \$449,934 on motion of Ms. Oster, second of Mr. McCarthy.

Discussion & Action of Proposed Civil Penalties against Uninsured Employers

2C10/11-1272 Family Pies, L.L.C. dba Rosati's Pizza

Andrew Wade advised that with regard to the above listed employer, a compliance investigation confirmed that they were operating (or had operated) a business with employees, but without workers' compensation insurance. Mr. Wade stated that giving consideration to the factors of A.R.S. §23-907(K), a civil penalty of \$1,000.00 is recommended. He provided information about this employer and responded to questions from the Commissioners. The Commission unanimously approved a civil penalty of \$1,000.00 against employer #1272 on motion of Mr. McCarthy, second of Ms. Strickler.

Discussion &/or Action regarding Legislation

Ms. McGrory advised that there was nothing new to report.

Discussion & Action regarding HB 2584, and Establishment of Directed Care Evaluation Committee

Ms. McGrory provided the Commissioners with information regarding House Bill 2584 and the establishment of a pilot program under A.R.S. §23-1070(F). She explained the requirements of the new language and the responsibilities of the agency, which include the creation of a committee to provide recommendations to the Commission regarding criteria and protocol for evaluation of the pilot program. She provided a list of names and resumes to the Commission for consideration to serve on this committee. Mr. Parker questioned whether a representative of a self-insured public entity should serve on the committee. Ms. McGrory explained her recommendations and offered to bring back additional names for the Commission's consideration. Following discussion, consideration of this agenda item was tabled.

Discussion &/or Action regarding Budget and Operations of the Industrial Commission

Ms. McGrory provided a summary of the administrative fund revenues and cash flow and responded to questions regarding the same. She advised that staff is continuing to work on future projections which will be provided at a later date.

Announcements and Scheduling of Future Meetings

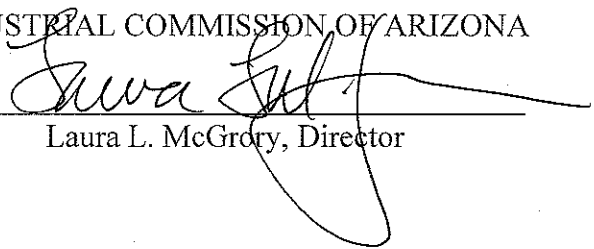
Mr. Wade advised that the Randall Maruca, in his official capacity as the State Labor Director, has been named in a lawsuit that challenges Senate Bills 1363 and 1365. Mr. Wade stated he will provide further information at the next Commission meeting.

Ms. Hilton reminded the Commissioners that the next meeting is scheduled for Thursday, June 2, 2011 with additional meetings scheduled for Thursday, June 16th and Wednesday, June 22nd.

There being no further business to come before the Commission and no further public comment, Vice Chairman Parker adjourned the meeting at 2:45 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura L. McGrory, Director

ATTEST:

Teresa Hilton
Teresa Hilton, Commission Secretary

THE INDUSTRIAL COMMISSION OF ARIZONA

800 West Washington Street
Phoenix, Arizona 85007

PUBLIC MEETING

Subject: 2011-2012 Physician's Fee Schedule
Date: Thursday, May 26, 2011
Time: 1:00 p.m.
Location: Auditorium

ATTENDEES ARE INVITED TO SIGN IN

PLEASE PRINT

NAME E-MAIL REPRESENTING

LORENA WAGNER COURT REPORTER

Don Litty Coventry Health Care

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ANYONE WISHING TO ADDRESS THE COMMISSION, PLEASE
FILL OUT A "REQUEST TO SPEAK" FORM

THE INDUSTRIAL COMMISSION OF ARIZONA

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PLEASE PRINT

NAME	E-MAIL	REPRESENTING
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FILL OUT A "REQUEST TO SPEAK" FORM