

Louisiana Property and Casualty Insurance Commission

Minutes of the Meeting of the Commission

Wednesday, November 16, 2016 @ 10:00 A.M.

Department of Insurance – Plaza Hearing Room

Present were the following:

Members: Commissioner Donelon, Lou Fey (Chairman), Jeff Albright (Vice Chairman), Rep. Talbot, Ray Aleman, Shawn Collins (for Lee Ann Alexander), Marc Carter, Will Grubbs Jr., Michael Guy, Chris Haik, Pauline Williams (for Dir. Sheral Keller), Ron Henderson, Leslie Sallean, Mike Baron (for Dr. Katara Williams), Ann Metraier.

Commission Staff: Tom Travis and Ron Williams.

LDI Staff: Warren Byrd, Ileana Ledet, Charles Hansberry, Patrick Bell.

Others: David Marcase (House Insurance Staff) and Phyllis Perron.

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

The Director called the roll and reported the absence of a quorum. (Later arriving members created a quorum.)

The Chairman welcomed everyone in attendance.

Presentation on the Louisiana State Uniform Construction Code:

Mark Joiner, Administrator, Louisiana State Uniform Construction Code Council

Butch Browning, State Fire Marshal

The Louisiana State Uniform Construction Code Council (LSUCCC) is the body vested by law with the task of maintaining the Louisiana State Uniform Construction Code (LSUCC), which is a statewide code based on national and international standards. The LSUCCC meets regularly in Baton Rouge and consists of 19 members with one representing the insurance industry. Louisiana is one of four states with a uniform statewide fire code. The state averages three to five deaths a year in commercial buildings usually attributable to a code compliance issue. The State Fire Marshal does about 20,000 plan reviews each year for life, safety, and egress compliance.

Mr. Joiner and Chief Browning impressed upon the members the importance of strong building codes and their enforcement to insurance rates and public safety.

Presentation on Medicare Secondary Payer Act: *Liability MSAs: Will they become a reality?*

Gary Patureau, Exec. Dir. of the Louisiana Association of Self-Insured Employers

Jennifer Jordan, JD, CMSP, General Counsel, MEDVAL, LLC (phone)

Christine McPherson Melancon, RN, CM, MSCC, CMSP, CNLCP, VP of Operations, Ez-MSA (phone)

The Medicare Secondary Payer (MSP) Act (42 U.S.C. 1395y(b)(2)) prevents Medicare from paying when there is another party liable for medical payments. In workers' compensation settlements, parties often allocate money to future medical care in a Medicare Set-Aside (MSA) that is sometimes approved by the Centers for Medicare and Medicaid Services (CMS). The practice is less common in liability cases. In workers' compensation cases a variety of issues have arisen particularly in areas where the calculation of future benefits is different in state law and in the guidance from CMS. In the liability arena, these issues only get worse with comparative fault, attorney fees and costs of obtaining a judgment or settlement, insurance policy limits, multiple types of damages, and other issues that complicate such cases. The consideration of Medicare issues has the potential to increase costs of insurance.

Mr. Patureau will work with the LPCIC on possible recommendations to the legislature on these issues.

Review of Legislative Recommendations for the 2016 Regular Session and the Annual Report:

The Director, Tom Travis, briefly reviewed a draft of the entry for the next Annual Report regarding the LPCIC recommendations to the legislature for 2016. There was no legislation passed on the subjects of residential property insurance mediation or civil jury threshold. There was none introduced on the subjects of direct action or uninsured/underinsured motorist (UM) coverage.

The legislature passed three bills related to recommendations in the Annual Report. Act 262 requires that temporary housing for temporary workers comply with the Louisiana Industrialized Building Act to the extent not subject to other rules. Act 472 increased fines for certain uses of wireless devices while operating a motor vehicle. Act 445 raised fines for the failure to wear a seatbelt.

The Annual Report was presented and briefly discussed.

There being no objection, the Chairman adjourned the meeting at 11:50 a.m.

Addendum: Biographies of the Presenters on the Medicare Secondary Payer Act

Jennifer Jordan, JD, CMSP

Jennifer Jordan is general counsel of MEDVAL, LLC, a consulting firm specializing in Medicare Secondary Payer (MSP) compliance issues in insurance settlements. She possesses extensive knowledge relative to Medicare set-aside allocation recommendation and administration, conditional payment recovery and negotiation, MMSEA reporting requirements, and the underlying statutory, regulatory and administrative policies that serve as the basis of the MSP programs administered by the Centers for Medicare and Medicaid Services. Jennifer has been recognized as an expert of MSP issues by the US Department of Justice, is a frequent presenter of continuing education programs nationwide, and has been an invited author for insurance industry publications nationwide, inclusive of serving as the Editor-in-Chief of The Complete Guide to Medicare Secondary Payer Compliance published by LexisNexis. Jennifer received a 2010 Workers' Compensation Notable Person Award from LexisNexis, recognizing her as a visionary for her efforts in attempting to educate the industry in order to overcome the challenges the MSP and CMS have created in insurance settlements. Jennifer possesses an economics degree from the Virginia Polytechnic Institute & State University, and a JD and an MBA from the University of Baltimore, where she was both on Law Review and Editor-in-Chief of the Intellectual Property Law Journal. Additionally, she maintains a life insurance license for structured settlement purposes and is certified by the International Commission on Health Care Certification as a Medicare Set-Aside Certified Consultant and by LASIE as a Certified Medicare Secondary Payer Professional.

Christine McPherson Melancon, RN, CM, MSCC, CMSP, CNLCP

Christine M. Melancon is the Vice President of operations for Ez-MSA, a company specializing in Medicare Set-Asides as well as other products which assist clients with Medicare Secondary Payer (MSP) compliance. Christine is a proud graduate of Charity Hospital School of Nursing in New Orleans, La., and is a registered nurse who holds certifications as a case manager (CCM), as well as a Medicare Set Aside Consultant Certified (MSCC), and was among the first in group of those who obtained the Certified Medicare Secondary Payer Professional (CMSP) designation. In addition, Christine has earned her designation as a Certified Nurse Life Care Planner (CNLCP). Christine is a member of NAMSAP (Annual Meeting Sub-Committee), the American Association of Nurse Life Care Planners, and the Louisiana Association of Self Insured Employers (LASIE). Christine is an MSCC certified instructor through the International Commission for Health Care Certification and has served as a mentor to a multitude of individuals new to MSP compliance issues, including allocators, brokers, adjusters, and attorneys.