

Sunset Public Hearing Questions for
MEDICAL ADVISORY COMMITTEE
 Created by Section 50-6-135, *Tennessee Code Annotated*
 (Sunset termination June 2015)

ANSWERS IN BOLD

1. Provide a brief introduction to the committee, including information about its creation, purpose, statutory duties, staff, and administrative attachments. **The Medical Advisory Committee is comprised of practitioners in the medical community having experience in the treatment of workers' compensation injuries, representatives of the insurance industry, employer representatives, and employee representatives. Their duties are to assist the administrator in the development of treatment guidelines and advise the administrator on issues relating to medical care in the workers' compensation system. Improving the quality of medical care provided to injured workers, ensuring more timely care, reducing the burden of administrative requirements for workers' compensation medical providers, and decreasing the overall cost of medical care in workers' compensation claims are among the reasons the Medical Advisory Committee was created.**

2. Provide a list of members of the committee. For each member, please indicate who appointed the member and how the member's presence on the committee complies with Section 50-6-135, *Tennessee Code Annotated*. Please indicate if there are any vacancies and explain what is being done to fill those vacancies.

Employers

Rob Behnke, CPCU Director of Risk Management Cracker Barrel Old Country Store P.O. Box 787 Lebanon, TN 37088-0787	Male	W	<60
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Jerry Barrix Wade Electric Company 503 Airways Blvd. Jackson, TN 38301-5739	Male	W	<60
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Gaye Fortner, President and CEO HealthCare 21 Business Coalition 625 Market Street Suite 900 Knoxville, TN 37902	Female	W	<60
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Employee Representative Lisa Hartman, RN 507 E. Kings Road Smyrna, TN 37167	Female	W	<60
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Insurance

Misty D. Williams, RN, BSN, CCM, AIC	Female	W	<60
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**Workers' Compensation Medical/Claim Unit Manager
Travelers
PO Box 682165
Franklin, TN 37068**

**Ginny Howard, Claim Manager II Female W <60
Zurich North American
26 Century Blvd.
Suite 305 N
Nashville, TN 37214**

**Occupational Medicine
David Tutor, M D Male W <60
East TN Urgent Care
PO Box 11484
Knoxville, TN 37939**

The second occupational medicine physician who was recommended to serve on this committee declined to accept due to time constraints.

**Chiropractic
Dr. Keith Graves Male W <60
2819 Dogwood Place
Nashville, TN 37204**

**Pharmacy
Jason Carter, Pharm D Male W <60
Chief Pharmacist & State Opioid Treatment Authority
TN Department of Health and Substance Abuse Services
500 Deadrick Street 6th Floor
Nashville, TN 37243**

**Anesthesiology/Pain Management
Tracy Jackson, MD Female W <60
VUMC Interventional Pain Center
One Hundred Oaks
719 E. Thompson Lane
Suite 22209
Nashville, TN 37201-3105**

**Health Department
John Dreyzehner, MD, MPH, FACOEM Male W <60
Commissioner, TN Department of Health
710 James Robertson Parkway
Nashville, TN 37243**

**Orthopaedics
Douglas Weikert, MD Male W <60
Vanderbilt Orthopaedics
Division of Hand and Microvascular Surgery**

**1215 21st Avenue South
MCE Suite 4200
Nashville, TN 37232-8774**

Randall Holcomb, MD Male W >60
OrthoMemphis
6286 Briarcrest Avenue
Memphis, TN 38120

Neurosurgery
John Brophy MD Male W <60
Semmes-Murphy Clinic PC
1325 Eastmoreland
Suite 580
Memphis, TN 38104

Psychiatry
James Gregory Kyser, MD Male W <60
1500 Church Street
Suite 200
Nashville, TN 37203

Dr. Robert Snyder Male W >60
Medical Director
Workers' Compensation Division Medical Director
Tennessee Department of Labor and Workforce Development
220 French Landing Drive
Nashville, TN 37243
(TCA 50-6-135(a)(2) The medical director shall serve as a nonvoting ex-officio member of the committee.)

Dr. James B. Talmage Male W <60
Assistant Medical Director, Division of Workers' Compensation
Occupational Health Center
315 N. Washington Avenue, Suite 165
Cookeville, TN 38501
(0800-02-23-.02(4) The medical director and any assistant medical director(s) shall also serve as ex-officio, non-voting members of the committee.)

Dr. Jeffrey Hazlewood Male W <60
100 Physician's Way Suite 250
Lebanon, TN 37090
(0800-02-23-.02(4) The medical director and any assistant medical director(s) shall also serve as ex-officio, non-voting members of the committee.)

Appointing authority for all current members:
Abbie Hudgens, ARM, AIC
Workers' Compensation Division Administrator
Tennessee Department of Labor and Workforce Development

**220 French Landing Drive
Nashville, TN 37243**

Regarding vacancies, the Administrator is in the process of contacting groups and individuals for recommendations for a replacement for this vacancy.

3. Does the committee's membership include public/citizen members? Female members? Members of a racial minority? Members who are sixty years of age or older? **See list above in question 2.**
4. How many times has the committee met since July 1, 2014? **Twice.** How many committee members were present at each meeting? **On August 14th there were nine (9) members present. On October 21st there were eleven (11) members present and one participating by telephone for a total of twelve (12).**
5. What per diem or travel reimbursement do committee members receive? How much has been paid to date (beginning July 1, 2014)? **Members are entitled to travel expenses. Travel and food expenses for August and October total one thousand three dollars and twenty-four cents (\$1,003.24).**
6. What were the committee's expected revenues (by source) and expenditures (by object) for fiscal year 2015? **No revenues are expected. The only expenses expected are listed in question 5. for travel.** Is the committee expected to carry a fund balance? **No. The expenses were paid from the general state fund.**
7. Is the committee subject to Sunshine law requirements (per Section 8-44-1020 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? **Yes.** If so, what procedures does the committee have for informing the public of its meetings and making its minutes available to the public? **Three notices are posted at the Legislative Plaza at least ten (10) days prior to the meeting. There is a notification list for anyone wishing to be notified by email. The committee members and minutes are posted on the Division's website. <http://state.tn.us/labor-wfd/bdmedadvcomm.shtml> .**
8. How does the committee ensure that its members are operating in an impartial manner and that there are no conflicts of interest? **The Division has a strict conflict of interest policy applicable to the Committee to prohibit any circumstances where a member's individual interest impairs or gives the appearance of impairing his or her ability to make unbiased decisions.** If the committee operates under a formal conflict of interest policy, please attach a copy of that policy. **See attached Exhibit 1 for conflict of interest policy.**
9. Has the committee promulgated rules and regulations? **Yes.** If so, please cite the reference. **Rule 0800-02-23. See below.**

0800-02-23.-01 PURPOSE AND SCOPE.

The administrator's medical advisory committee serves to provide guidance to the administrator on issues related to the effective and efficient treatment

of injured workers as well as the proper source of reference for determining permanent impairment ratings so that the administrator can provide leadership to the division and its various programs in advancing the goal of ensuring that all injured workers' receive the best and most cost effective treatment possible to facilitate a meaningful recovery from injury and swift return to the workforce.

Authority: Public Chapter 289 (2013); Sections 24, 106. Administrative History: Original rule filed July 2, 2014; effective September 30, 2014.

0800-02-23-.02 APPOINTING OF MEMBERS AND COMPOSITION OF COMMITTEE.

(1) The administrator will make appointments to the committee of persons meeting the requirements of Tennessee Workers' Compensation law and will establish a maximum number of committee members.

(2) In addition to representatives of employees, employers and the insurance industry, the membership of the committee may include professionals who practice in the following specialties:

- (a) Orthopedics;
- (b) Physical medicine;
- (c) Neurosurgery;
- (d) Psychiatry;
- (e) Occupational Medicine;
- (f) General Surgery;
- (g) Chiropractic; and
- (h) Pharmacy.

(3) The commissioner of the department of health, or the commissioner's designee, shall be a member of the committee.

(4) The medical director and any assistant medical director(s) shall also serve as ex-officio, nonvoting member(s) of the committee.

Authority: Public Chapter 289 (2013); Sections 24, 106. Administrative History: Original rule filed July 2, 2014; effective September 30, 2014.

0800-02-23-.03 TERMS.

(1) Except as provided in subsection (4), the terms of all committee members shall officially begin on January 1 of the year of appointment and expire, four (4) years later, on December 31.

(2) Committee members may be reappointed by the administrator upon expiration of a term and are not term limited.

(3) A committee member appointed shall begin service of their term immediately.

(4) The medical director and any assistant medical director(s) shall begin service immediately upon acceptance of the position of medical director or assistant medical director and shall continue until employment as the medical director or assistant medical director(s) ends.

Authority: Public Chapter 289 (2013); Sections 24, 106. Administrative History: Original rule filed July 2, 2014; effective September 30, 2014.

0800-02-23-.04 MEETINGS.

(1) The medical advisory committee shall meet at the discretion of the administrator.

(2) Meetings shall be held in a central location but members shall be allowed to participate by phone or by videoconference with approval of the administrator.

(3) Members who participate by phone or by videoconference shall be counted as physically present for the purpose of establishing a quorum of members for the transaction of business.

A quorum shall be established at any time where one-third (1/3) of all committee members are present. Participation by proxy of a voting member shall be allowed for establishing a quorum but only with the express permission of the administrator.

(4) The committee shall keep minutes of its meetings which the Division shall post on its website.

Authority: Public Chapter 289 (2013); Sections 24, 106. Administrative History: Original rule filed July 2, 2014; effective September 30, 2014.

0800-02-23-.05 COMMITTEE LEADERSHIP AND SUBCOMMITTEES.

(1) The committee shall have authority to select leadership including a chairperson, cochairperson, secretary and any other leadership position the committee deems necessary for the transaction of business.

(2) The committee shall consult with the administrator in selecting leaders.

(3) The administrator may establish subcommittees as necessary to advance committee goals.

(4) There shall be no requirement that any subcommittee established by the administrator keep minutes of subcommittee meetings.

Authority: Public Chapter 289 (2013); Sections 24, 106. Administrative History: Original rule filed July 2, 2014; effective September 30, 2014.

10. Does the committee have a website? **Yes.** Is so, please provide the web address. <http://state.tn.us/labor-wfd/bdmedadvcomm.shtml> What kind of public information is provided on the website? **The names of the members, a contact person, and copies of the minutes are posted on this website.**

11. Describe the nature and extent of the committee's activities to date. **The committee has recommended its first medical treatment guideline to the Administrator. The guideline addresses pain management, and the latest editions to the appendix are being finalized though the guideline will not take effect until January 1, 2016. Additionally, by a majority, the committee advised the Administrator to focus on a comprehensive or global set of guidelines, from both proprietary and public domain sources. Discussions regarding closed formularies and an analysis of them have begun.**

12. Has the committee developed and implemented quantitative performance measures for ensuring it is meeting its goals? (Please answer either yes or no). **No. The role of the Medical Advisory Committee is to "assist the administrator in the development of treatment guidelines and advise the administrator on issues relating to medical care in the workers' compensation system" which is not easily quantifiable. The evidence of the quality of the committee's assistance and advice will be in the quality of the treatment guidelines and the division's approaches to issues related to medical care. Both subjects will be addressed each year in the report that**

the division is required to submit to members of the General Assembly on the impact of the Workers' compensation Reform Act of 2013 on the workers' compensation system. If the committee has developed and implemented quantitative performance measures, answer questions 13 through 20. If the committee has not developed quantitative performance measures, proceed to No. 21.

13. What are your key performance measures for ensuring that your committee is meeting its goals? Describe so that someone unfamiliar with the program can understand what you are trying to measure and why it is important to the operation of your program.
14. What aspect[s] of the program are you measuring?
15. Who collects relevant data and how is this data collected (e.g., what types information systems and/or software programs are used) and how often is the data collected? List the specific resources (e.g., report, other document, database, customer survey) of the raw data used for the performance measure.
16. How is the actual performance measure calculated? If a specific mathematical formula is used, provide it. If possible, provide the calculations and supporting documentation detailing your process for arriving at the actual performance measure.
17. Is the reported performance measure result a real number or an estimate? If an estimate, explain why it is necessary to use an estimate. If an estimate, is the performance measure result recalculated, revised, and formally reported once the data for an actual calculation is available?
18. Who reviews the performance measures and associated data/calculations? Describe any process to verify that the measure and calculations are appropriate and accurate.
19. Are there written procedures related to collecting the data or calculating and reviewing/verifying the performance measure? Provide copies of any procedures.
20. Describe any concerns about your committee's performance measures and any changes or improvements you think need to be made in the process.
21. Provide an explanation of any items related to the committee that may require legislative attention, including your proposed legislative changes. **Pursuant to §50-6-135(a)(1) the committee will assist the administrator in the development of treatment guidelines and will advise the administrator on issues relating to medical care in workers' compensation. Treatment guidelines are to go into effect on January 1, 2016, per statute.**
22. Should the committee be continued? **Yes.** To what extent and in what ways would the absence of the board affect the public health, safety, or welfare of the citizens of the State of Tennessee? **Following the treatment guidelines to be recommended by this committee and approved by the Administrator will**

circumvent the utilization review process and thereby avoid the interruption or denial of care. Eliminating the administrative burden associated with utilization review may safeguard an injured worker's access to quality medical care. The guidelines will promote best practices and educate physicians on effective, safe management of issues such as chronic pain.

23. Please list all committee programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity. **The Medical Advisory Committee does not receive federal assistance. The Division is aware of the Title VI requirements. The Division does make all attempts to comply with Title VI requirements when appointing committee members.**

If the committee does receive federal assistance, please answer questions 24 through 31. If the committee does not receive federal assistance, proceed directly to question 30.

24. Does the committee prepare a Title VI plan? If yes, please provide a copy of the most recent plan.
25. Does the committee have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues.
26. To which state or federal agency (if any) does the committee report concerning Title VI? Please describe the information your council submits to the state or federal government and/or provide a copy of the most recent report submitted.
27. Describe the committee's actions to ensure that association staff and clients/program participants understand the requirements of Title VI.
28. Describe the committee's actions to ensure it is meeting Title VI requirements. Specifically, describe any association monitoring or tracking activities related to Title VI, and how frequently these activities occur.
29. Please describe the committee's procedures for handling Title VI complaints. Has your association received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).
30. Please provide a breakdown of current committee staff by title, ethnicity, and gender.

Suzy Douglas, Nurse Consultant	W	F
Kelly Burns, Workers' Comp. Specialist II	W	F
Margaret Collier, Administrative Assistant 4	W	F

NOTE: Supporting the committee is one of the job duties and programs though not the only duty of these employees.

31. Please list all committee contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner. **There are no committee contracts. In the event that there was a procurement process that resulted in a contract for the services required by the committee, any request for proposals would include language requiring that contractors to not discriminate on the basis of race, color, creed, national origin, sex, age, or disability.**

Names of persons presenting this information at hearing:

Troy Haley, Administrative Attorney and Legislative Liaison
Abbie Hudgens, Administrator of Division of Workers' Compensation
Dr. Robert Snyder, Medical Director of Division
Suzy Douglas, Nurse Consultant of Division

Division of Workers' Compensation
220 French Landing Dr. 1-B
Nashville, TN 37243
615-532-0179
615-532-5928 fax
troy.haley@tn.gov



**STATE OF TENNESSEE
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT**

DEPARTMENTAL POLICY AND PROCEDURES

**Subject: Conflict of Interest
Effective Date: May 6, 2014**

PURPOSE: To assure that the interests and activities of all members serving on a departmental board, commission, or committee, do not conflict or give the appearance of conflicting with the provision of unbiased service to the public.

POLICY: All members serving on a departmental board, commission, or committee will comply with the attached Conflict of Interest Policy.

PROCEDURES: All members serving on a departmental board, commission, or committee will receive a copy of the Conflict of Interest Policy, Conflict of Interest Policy Acknowledgment form, and Conflict of Interest Disclosure form. All members will be required to sign the Conflict of Interest Policy Acknowledgment form, and complete the Conflict of Interest Disclosure form annually. Said forms will be returned to the Commissioner's Designees who will keep the signed copies on file.

The Commissioner's Designees* and their respective departmental boards, commissions, and committees will be as follows:

- * Administrator of the Division of Occupational Safety and Health
Occupational Safety and Health Review Commission;
- * Administrator of the Division of Workers Compensation
Medical Advisory Committee and Medical Payment Committee;
- * Administrator of the Division of Workforce Services
Workforce Development Board; and
- * Administrator of Workplace Regulations and Compliance
Board of Boiler Rules, Elevator and Amusement Device Safety Board, and Prevailing Wage Commission.

The Commissioner's Designees shall make copies of the aforementioned forms. The Commissioner's Designees shall provide copies of said forms to the presiding officers of the governing bodies. Said forms shall be available for public review.

Prior to the transaction of business by any governing body, all members shall be reminded by the presiding officer or legal counsel to disclose their financial or personal interests in accordance with the Conflict of Interest Policy.



**STATE OF TENNESSEE
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
220 FRENCH LANDING DRIVE
NASHVILLE, TENNESSEE 37243**

CONFLICT OF INTEREST POLICY

1. Purpose. To assure that the individual interests of members do not conflict or give the appearance of conflicting with their duties while serving in their respective positions.

2. Applicability. This policy shall apply to all individuals serving on the following: Board of Boiler Rules, Elevator and Amusement Device Safety Board, Medical Advisory Committee, Medical Payment Committee, Occupational Safety and Health Review Commission, Prevailing Wage Commission, and Workforce Development Board.

3. Definitions.

3.1 Conflict of Interest. A circumstance in which a member's individual interest impairs, or gives the appearance of impairing, his or her ability to make unbiased decisions or provide unbiased public services. Also, any matter before the governing body in which a member has a financial or personal interest, which is in conflict or gives the appearance of conflict with the discharge of the member's duties.

3.2 Financial interest means ownership by a member of five percent (5%) or more of the stock of a corporation or any other business entity, or where the company is a business entity, which does not use stock for ownership, the legal or beneficial ownership of five percent (5%) or more of the business. This interest applies to the member or the member's relatives. For the purposes of this policy, a relative includes spouses, parents, siblings, or children.

3.3 Personal interest means an interest in any contract, employment or work in which the member has a public duty to vote for, let out, overlook, or in any manner to superintend any work or any contract which comes before the governing body.

4. Conduct.

A. A member shall not engage in conduct, which impairs, or gives the appearance of impairing, the member's ability to make an unbiased decision or provide unbiased public service.

B. A member shall not knowingly take any action, which might prejudice his or her ability, or another member's ability, to make an unbiased decision on any matter in which the member or the member's relatives have a financial or personal interest.

C. A member shall abstain from voting on any matter involving a person or entity in which the member or the member's relatives have a financial or personal interest.

D. A member who is employed by, or has contracted to provide services to a person or entity seeking specific approval or action, shall abstain from voting on the approval or action.

E. A member shall not participate as an expert witness in a contested case before his or her governing body.

F. A member shall not solicit or accept any gift, gratuity, favor, entertainment, loan, or unusual discount from any person or entity, which has obtained or is seeking to obtain a decision on any matter from the governing body. This prohibition does not include food or drink or other entertainment as part of a meal or event if the value of such items does not exceed Fifty-eight Dollars (\$58.00) per occasion; nor does it include items of insignificant value routinely given in the ordinary course of business.

G. A member shall not accept honoraria or other compensation for activities, which are, or should be, performed as part of one's official duties, except as provided by the Comprehensive Travel Regulations of the Department of Finance and Administration.

5. Disclosure.

A. All members shall annually review the Conflict of Interest Policy, and submit their Conflict of Interest Policy Acknowledgment forms and Conflict of Interest Disclosure forms to the Commissioner's Designees. The Commissioner's Designees shall provide copies of said forms to the presiding officers of the Boards, Commissions, and Committees. Said forms shall be available for public review.

B. Prior to the transaction of business by any Board, Commission, or Committee, all members shall be reminded by the presiding officer or legal counsel to disclose their financial or personal interests in accordance with the Conflict of Interest Policy.

C. Any member, upon determining that a matter taken up by a Board, Commission, or Committee presents a conflict of interest under this policy shall immediately notify the presiding officer and publicly acknowledge such conflict.

D. All members shall make every reasonable effort to avoid even the appearance of a conflict of interest.

E. The vote of any such member having a conflict of interest who does not so inform the Board, Commission, or Committee of such conflict may be avoidable if challenged. When a challenge is made, the Board, Commission, or Committee shall investigate the matter, determine whether or not a conflict exists, and decide what should be done given the circumstances.