

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, March 27, 2025 – 1:00 p.m.

Present:	Dennis P. Kavanaugh	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	D. Alan Everett	Commissioner
	Maria Cecilia Valdez	Commissioner
	Orion J. Godfrey	Commissioner
	Gaetano J. Testini	Director
	Afshan Peimani	Chief Legal Counsel
	Lisa Padgett	Deputy Director (Telephonic)
	Charles Carpenter	Legislative Affairs Chief/Public Information Officer
	Renee Pastor	Self-Insurance (Telephonic)
	Valerie Ruiz	MRO Manager
	Melissa Spurgeon	Labor Director
	Christina Sanchez	Labor Supervisor
	Vincent Argana	Labor Investigator
	Kimberly Gooby	Labor Investigator
	Brian Hudson	ADOSH Director
	Victoria Medina	ADOSH Supervisor
	Crystal Wilder	ADOSH Admin
	Yvonne Borunda	Legal Admin
	Kara Dimas	Commission Secretary

Chairman Kavanaugh convened the meeting at 1:00 p.m. In attendance, confirmed by roll call were Geneva Haber and Taylor Thomas (Snell and Wilmer); Anne Ryman (ABC15); Lindsey Wheeler (Premier Risk Management); Angélica Terrazas (T2 for IWP); and Cynthia Everlith (Dr. Mark Greenfield). Also in attendance on the telephone, confirmed by roll call Sara Hussak and Maria Robinson (City of Tucson); Karla Bailey and Monica Welch (City of Yuma); Roshell Lee (Securis Insurance Pool).

Approval of Minutes of March 20, 2025 Regular Meeting Minutes.

Chairman Kavanaugh deferred approval of the March 20, 2025 Minutes to the next meeting.

Consent Agenda:

All items following under this agenda item are consent matters and will be considered by a single motion with no discussion unless a Commissioner asks to remove an item on the consent agenda to be discussed and voted on separately. The Commission may move into Executive Session under A.R.S. § 38-431.03(A)(2) to discuss records exempt by law from public inspection. Legal action involving a final vote or decision shall not be taken in Executive Session. If such action is required, then it will be taken in General Session.

- a. Approval of Requests for Renewal of Self-Insurance Authority.

1. City of Tucson
2. City of Yuma
3. Securis Insurance Pool, Inc.

Vice Chair Hennelly requested all three of the self-insured renewals be moved to the regular agenda for discussion.

Approval of Requests for Renewal of Self-Insurance Authority.

1. City of Tucson
2. City of Yuma
3. Securis Insurance Pool, Inc.

Vice Chair Hennelly asked Ms. Pastor to explain the self-insured EMod or EMR as it is now called.

Ms. Pastor explained the EMods in the past used the NCCI rates but for the first time the EMods were calculated using the Commission's EMR rates. The City of Tucson for 2024 has .87 EMod, the City of Yuma has .94 EMod and Securis has .78 EMod and are seeing rates come down with the integration of the Commission's data. This was the outcome she expected, and she was thrilled to see it. For the denials, she reviewed them and did not see anything out of the ordinary. The City of Tucson and the City of Yuma have an external third-party administrator adjusting the claims, and Securis has a separate risk management side which makes independent judgments.

Vice Chair Hennelly appreciated Ms. Pastor addressing his questions.

Chairman Kavanaugh noted the City of Tucson and Yuma are requesting consultation services for ADOSH and was curious if the process has started.

Ms. Pastor explained the process has started and they are awaiting letters, she has spoken with ADOSH and it is in the process and she has the ability to track this. Tucson and Yuma have worked with consultation on several occasions.

Chairman Kavanaugh asked if there were any comments. He noted he did not have a request to speak.

Vice Chair Hennelly moved to approve the self-insurance authority for the City of Tucson and Commissioner Godfrey seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Commissioner Valdez moved to approve the self-insurance authority for the City of Yuma and Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Commissioner Godfrey moved to approve the self-insurance authority for the Securis Insurance Pool, Inc. and Vice Chair Hennelly seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Discussion and Action regarding the 2025/2026 Arizona Physicians' and Pharmaceutical Fee Schedule.

Ms. Ruiz thanked the Commission for the opportunity to present the final staff recommendations for the 2025-2026 Physicians' and Pharmaceutical Fee Schedule. Ms. Ruiz also thanked the stakeholders, from Valley Schools Workers Compensation Group and provider Mark A Greenfield, DO, PC who provided written input that improved and updated the Fee Schedule this year. She also wanted to thank those who attended our previous stakeholder meetings and those who participated in stakeholder meetings in previous years. Our stakeholders initiated most of the updates in this year's Fee Schedule update, so again, thank you for expressing your thoughts, ideas, and concerns.

The 2025/2026 Fee Schedule update will be effective on May 1st of this year.

First, the staff recommended including the updated service codes, relative value units (also known as RVUs), and reimbursement values as presented in the tables accompanying the published recommendations. The methodology used in calculating reimbursement values is outlined in detail in the recommendations. The recommended 2025/2026 Fee Schedule will continue to use the Centers for Medicare and Medicaid Services, or CMS's, surgical global periods, assign RVUs to consultation services, and delineate codes that are unique to Arizona.

Staff recommended maintaining the Resource Based Relative Value Scale also known as RBRVS, conversion factors used in the 2025/2026 Fee Schedule for all service categories.

Second, the staff recommend adopting the service codes and reimbursement values as presented in the Healthcare Common Procedure Coding System, also known as HCPCS, table accompanying the published recommendations. The reimbursement values are based on the reimbursement values published by CMS in the January 2025 Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies Fee Schedule. Staff recommended maintaining separate values for rural and nonrural areas and utilizing the methodology established by CMS to designate rural and nonrural areas in Arizona. HCPCS codes that did not have a value assigned by CMS were assigned a reimbursement value based on data from FAIR Health. The values were then multiplied by a conversion factor of 1.4 resulting in the reimbursement values listed in the table.

Third, the staff recommend adopting the Arizona Specific Codes and the assigned reimbursement values in the accompanying table.

Fourth, the staff continues to recommend designating Medi-Span® as the source for determining the Average Wholesale Price (AWP).

Fifth, the staff recommended adopting the deletions and additions to the 2025 edition of the American Medical Association's Current Procedural Terminology publication, also known as the CPT®

Sixth, the staff recommended amending the Introduction Guidelines by adding The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR), and the International Classification of Diseases, also known as (ICD)-10 Version: 2019, to the list of resources that are incorporated by reference.

Seventh, the staff recommended adding subsection A(15), which provides additional guidance for mental health providers when establishing a diagnosis for injured workers. Mental health providers should use the most current published edition of The Diagnostic and Statistical Manual of Mental Disorders to define and classify mental disorders when establishing the appropriate ICD-10 Codes.

Eighth, the staff recommended adding additional acronyms to the Introduction Section K for clarity.

Ninth, the staff recommended amending the Physical Medicine and Rehabilitation Guidelines by updating the language to clarify appropriate reimbursement practices.

Tenth, the staff recommended amending the Evaluation and Management Guidelines by updating the language to correspond with the updates to the Evaluation and Management Guidelines in the 2025 CPT®.

Eleventh, the staff received feedback from stakeholders on the 2025 Arizona Physicians' and Pharmaceutical Fee Schedule Proposal. Following the feedback, staff met with stakeholders to discuss areas of concern. Staff recommended updating the language in the guidelines to add clarification to reimbursement for DME items and services that are listed as By Report, have no listed value, or are not included in the fee schedule.

The Medical Resource Office recommended the Commission adopt the proposed revisions to the Pharmaceutical Fee Schedule as presented.

Chairman Kavanaugh asked if there were any questions or comments, hearing none.

Commissioner Valdez moved to approve staff recommendations to approve the 2025/2026 Fee Schedule as presented and approve the Resolution of Authorization and Commissioner Godfrey seconded the motion. Chairman Kavanaugh complimented Ms. Ruiz on her work done working with stakeholders on this complex process. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Discussion and Action regarding Proposed Retaliation Penalty.

1. RT-2425-0091 Southwest Airlines Co.

Ms. Spurgeon summarized the Labor Department's investigation into the Earned Paid Sick Time (EPST) Retaliation claim. Ms. Spurgeon recommended that the Commission approve issuance of a Penalty in the amount of \$12,000.00 for violation of A.R.S. § 23-364.

Chairman Kavanaugh asked if the Commissioners had any questions. He noted he did not have a request to speak.

Commissioner Everett moved to approve issuance of a Penalty for Retaliation in the amount of \$12,000.00 to Southwest Airlines Co. Commissioner Valdez seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

2. RT-2425-0092 Southwest Airlines Co.

Ms. Spurgeon summarized the Labor Department's investigation into the Earned Paid Sick Time (EPST) Retaliation claim. Ms. Spurgeon recommended that the Commission approve issuance of a Penalty in the amount of \$11,700.00 for violation of A.R.S. § 23-364.

Chairman Kavanaugh commented that there have been multiple Southwest Airlines cases over the past couple of years and a majority of those cases fell under the 2019 Collective Bargaining Agreement. Now there is a 2023 Collective Bargaining Agreement, and crafting the new Collective Bargaining Agreement Southwest could have inserted a sentence to opt out of the Arizona jurisdiction. He confirmed that in the new Collective Bargaining Agreement they did not do that.

Ms. Spurgeon agreed that there is no express waiver of the earned paid sick time requirements in the 2023 Collective Bargaining Agreement.

Chairman Kavanaugh and Ms. Spurgeon discussed in all the responses to the Labor Department they have never offered any reason why they did not choose to do that.

Chairman Kavanaugh asked if the Commissioners had any questions. He noted he did not have a request to speak.

Vice Chair Hennelly moved to approve issuance of a Penalty for Retaliation in the amount of \$11,700.00 to Southwest Airlines Co. Commissioner Godfrey seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

3. RT-2425-0083 Stetson Desert Project L.L.C. dba Le Girls Gentleman's Club

Ms. Spurgeon summarized the Labor Department's investigation into the Earned Paid Sick Time (EPST) Retaliation claim. Ms. Spurgeon recommended that the Commission approve issuance of a Penalty in the amount of \$20,245.64.00 for violation of A.R.S. § 23-364 and in addition a \$250.00 civil penalty pursuant to A.R.S. § 23-364(F).

Chairman Kavanaugh asked if the Commissioners had any questions.

Chairman Kavanaugh and Ms. Spurgeon discussed if the division as part of their investigation if they check to make sure the employer has workers' compensation insurance to help identify uninsured employers and are currently working on adding that to their process.

Commissioner Valdez moved to approve issuance of a Penalty for Retaliation in the amount of \$20,245.64 and a \$250.00 civil penalty to Stetson Desert Project L.L.C. dba Le Girls Gentleman's Club. Vice Chair Hennelly seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Discussion and Action of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties.

Chairman Kavanaugh discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties.

Magnus Contracting LLC
1300 South Litchfield Road
Goodyear, AZ 85338

Site Location: 6924 E McDonald Dr
Paradise Valley, AZ 85253
Inspection No: FC-2025-JR339-0085
Inspection Date: July 29, 2024

Fatality/Catastrophe
Years in Business: 4
Empl. Covered by Inspection: 2

Mr. Hudson summarized ADOSH's investigation and reviewed the file. ADOSH did not recommend a citation for Magnus Contracting LLC.

Chairman Kavanaugh checked if anyone would like to comment.

Vice Chair Hennelly and Mr. Hudson discussed the delay in bringing this file to the Commission and if it was determined why the load would have shifted.

The Commission took no action.

Sellers & Sons, Inc.
7301 S Rainbow Rd
Buckeye, AZ 85326

Inspection No: RF-2025-KS402-0005
Inspection Date: October 1, 2024
Site Location: 100 W Washington St
Phoenix, AZ 85003

Referral-Employer Reported
Years in Business: 39
Empl. Covered by Inspection: 4

SERIOUS – Citation 1 - Item 1 –

- a) Electrical Room: Two employees were connecting electrical circuits while on top of ductwork that was approximately 12' above the ground without fall protection. 29 CFR 1926.501(b)(1)
Div. Proposal - \$8,067.00 Formula Amt. - \$8,067.00

SERIOUS – Citation 1 - Item 2a –

- a) Electrical Room: Two employees used a 10' A-frame ladder to access ductwork that was approximately 12' high to connect circuits for newly installed electrical panels and it did not extend 3' above the landing surface of the duct. 29 CFR 1926.1053(b)(1)
Div. Proposal - \$8,067.00 Formula Amt. - \$8,067.00

SERIOUS – Citation 1 - Item 2b –

- a) Electrical Room: Two employees used the top or top step of a 10' A-frame ladder to access ductwork that was approximately 12' high to connect circuits for newly installed electrical panels. 29 CFR 1926.1053(b)(13)
Div. Proposal - \$0.00 Formula Amt. - \$8,067.00
TOTAL PENALTY - \$16,134.00 TOTAL FORMULA AMT. - \$24,201.00

Mr. Hudson discussed ADOSH's inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh noted he did not have a request to speak.

Commissioner Everett moved to approve the citation and proposed penalties as presented and Commissioner Valdez seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Discussion, Action, and Potential Resolution regarding Proposed Rulemaking to Amend Title 20, Chapter 5, Article 6.

Ms. Peimani noted this rulemaking is to keep the Commission up-to-date when the Federal standards change and the state needs to adopt the changes, that is all that will be updated.

Commissioner Valdez moved to accept the recommendation of staff for Article 6 and authorize the Legal Division to proceed with the proposed rulemaking by filing a request with the Governor's Office for permission to proceed with rulemaking, and upon receiving permission to file a Notice of Proposed Rulemaking and Notice of Docket Opening with the Secretary of State. Commissioner Godfrey seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through May 2025.

Mr. Testini commented on the First Quarterly Director's Cup, the event was cornhole and the Labor Division won. The next event will be in June and will be a Yahtzee Tournament.

Mr. Carpenter updated the Commissioners noting this is the last week for bills to be heard in the other chamber and committee. The ones that look like they are going to continue: bill 2032, bill 1156, bill 1157, bill 1159, bill 1182 and bill 1551.

Public Comment.

There was no public comment.

The meeting was adjourned at 1:52 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


Gaetano J. Testini, Director

ATTEST:


Kara Dimas, Commission Secretary