

**Louisiana Property and Casualty Insurance Commission**  
**Minutes of the Meeting of the Commission**

**Thursday, January 17, 2019 @ 10:00 A.M.**

**Department of Insurance—Plaza Hearing Room—Poydras Building**

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Present were the following:

Members: Lou Fey (Chairman), Sen. Morrish, Rep. Huval, Rep. Talbot, Ray Aleman Jr., Shawn Collins, Marc Carter, Capt. Bostick (for Sheriff Champagne), Michael Guy, Chris Haik, Alison Ocmand (for Sheral Kellar), Ron Henderson, Leslie Sallean, Mike Barron (for Lisa Freeman), Noryn Ward, Joe O'Connor, Noble Ellington, Earl Taylor.

Commission and LDI Staff: Tom Travis, Warren Byrd, Charles Hansberry

The Chairman called the meeting to order at 10:00 a.m.

The Director called the roll and reported the presence of 18 members and a quorum.

The Chairman welcomed everyone in attendance.

Presentation by the Louisiana Insurance Guaranty Association (LIGA) on the association and recent trends in property and casualty insurance claims, including litigation by John Welles, Executive Director, and Stephanie Laborde, General Counsel.

LIGA presented mostly on civil procedure issues that create problems for the association in attempting to litigate and close claims. (See attached LIGA Proposals for Civil Justice Reform Discussion).

Discussion of and voting on recommendations for the Annual Report.

After an opportunity for discussion and public comment the commission adopted the following recommendations for its Annual Report:

1. Uniform Construction Code. The LPCIC recommends the maintenance and strengthening of the Louisiana State Uniform Construction Code.
2. Highway Safety. The LPCIC recommends that the legislature ban the manual use by the operator of a motor vehicle while in motion of all electronic devices not permanently installed in the vehicle.
3. Civil Justice Reforms. The LPCIC recommends that the legislature:
  - a) Reduce the civil jury threshold.
  - b) Repeal the direct action statute or amend it to limit the instances for naming an insurer as a defendant to those where the insured is unable to be served with process.
  - c) Modify the collateral source rule to limit the ability of a plaintiff to recover damages for expenses that are not due or payable when there is a write-off pursuant to a healthcare provider agreement with an insurer or other health coverage issuer.
  - d) Enact a limit on general damages in all personal injury actions of \$500,000 as provided for the state and political subdivisions in La. R.S. 13:5106(B)(3)(c).

- e) Amend La. C.C. P. art. 1812(C)(4) to provide for only one written finding of general damages for each plaintiff on a special verdict form.
- f) Enact a statutory collateral source rule to limit the ability of a plaintiff to collect in damages the difference between medical expenses actually incurred or paid and “usual and customary” or billed charges for which the plaintiff has no liability.
- g) Amend La. R.S. 32:295.1(E) to admit seat belt use as evidence of comparative negligence.
- h) Amend La. C.E. art. 411 to prohibit the reference to the name of an insurer or the retention of counsel by the insurer in a civil proceeding involving an insurer that issues a policy to a party to the suit.
- i) Amend La. R.S. 32:866(A) to prohibit the recovery of general damages for an owner or operator of a motor vehicle who fails to maintain compulsory liability insurance.

4. Opioid Abuse. The LPCIC recommends that the legislature enact a requirement for the use of a closed pharmacy formulary in workers’ compensation claims.

After an opportunity for discussion and public comment the commission adopted the following study topics to focus on in the coming year:

1. Insurance and Technology. The LPCIC will monitor and study issues related to the effects of technology on the business of insurance and insurance coverage.
2. Cybersecurity and Insurance. The LPCIC will continue monitor and study issues related to cybersecurity and insurance.
3. Highly Automated Vehicles (HAV) and Driverless Vehicles. The LPCIC will study regulatory and insurance issues that arise with the development of driverless vehicles.
4. Federal and International Actions Affecting Insurance and Insurance Regulation. The LPCIC will monitor and study the effects of federal laws and regulations and international actions on the affordability and availability of property and casualty insurance.
5. Automobile Insurance Market. The LPCIC will study the automobile insurance market to determine solutions to the problems with availability and affordability of private passenger and commercial automobile insurance.

There being no objection, the Chairman adjourned the meeting at 11:55 a.m.