Louisiana Department of Insurance

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Louisiana Property and Casualty Insurance Commission

Message from the Chairman

I am pleased to present the 2018-2019 Annual Report of the Louisiana Property and Casualty Insurance Commission (LPCIC). The members of the commission represent consumers, the insurance industry, agencies across state government, and law enforcement. Our goal is to improve the state’s insurance market by reviewing and examining issues affecting the availability and affordability of property and casualty insurance in the state of Louisiana.

Currently, Louisiana has the second highest auto insurance rates in the nation as determined by several sources. This Annual Report includes information from several public websites that provide auto insurance information and use different methods to calculate average insurance premiums. Regardless of the method used, Louisiana is the second highest.

The Louisiana commercial auto insurance market is in crisis. Businesses leave the state because they are unable to obtain or afford auto insurance. Some insurers are going so far as to exclude coverage for vehicles operated in certain parishes.

There are many reasons for our high insurance rates, but there is an opportunity for you to effect a real solution to a major part of the insurance and highway safety problem. The Professional Insurance Agents of Louisiana (PIA), through Representative Huval, is sponsoring Distracted Driving Legislation in the upcoming legislative session. According to the National Highway Traffic Safety Administration (NHTSA), each year distracted driving related motor vehicle crashes kill over 3,331 people and injure over 387,000. Even with significant under reporting of distracted driving, these numbers are staggering and hard to ignore. People are dying.

The commission has had a productive year with presentations and discussions on a range of subjects. I trust that you will find this report useful as a source of information in developing legislation and public policy.

Louis G. Fey, Jr., CPCU, CIC, CRM, AIC
Membership and Staff

Members of the Louisiana Property and Casualty Insurance Commission as of January 31, 2019:

Louis G. Fey, Jr., Chairman
Professional Insurance Agents of Louisiana

Jeff Albright, Vice Chairman
Independent Insurance Agents & Brokers of Louisiana

The Honorable Noble Ellington
Designee—Office of the Governor

The Honorable James J. Donelon
Commissioner of Insurance

The Honorable Kirk Talbot
House Insurance Committee Chair

The Honorable Dan Morrish
Senate Insurance Committee Member

The Honorable Mike Huval
House Insurance Committee Member

The Honorable Ronnie Johns
Senate Insurance Committee Member

Raymond Aleman, Jr.
Commissioner’s Appointee

Lisa Freeman
Louisiana Highway Safety Commission

The Honorable Earl Taylor
Louisiana District Attorneys Association

The Honorable Karen St. Germain
Commissioner of Motor Vehicles

Sheral Kellar
Louisiana Workforce Commission (OWCA Director)

The Honorable Gregory Champagne
Law Enforcement Representative (Sheriff of St. Charles)

Michael Guy
Attorney General’s Designee

Ron Henderson
Deputy Commissioner of Consumer Advocacy, LDI

Julius W. “Will” Grubbs, Jr.
Consumer Representative, Speaker of the House

Christopher S. Haik
Consumer Representative, President of the Senate

Marc Carter
LAFAC, Inc. Representative

Leslie Sallean
Louisiana Surplus Lines Association Representative

Shawn Collins
NAMIC Representative

Noryn Ward
PCI Representative

Joe O’Connor
Property Insurance Association of Louisiana

Paul Buffone
LWCC Representative

Staff:  Thomas D. Travis, Director
Ron Williams, Assistant Director
State of the Market: Quick Facts (as of December 31, 2018)

Automobile:

- The voluntary market remains competitive but challenging for both private passenger auto (PPA) and commercial auto (CA).
- There is little competition for some commercial trucking programs, e.g. logging, school bus.
- The Greater New Orleans and Baton Rouge areas continue to pay the highest rates.
- Market-wide insurance premium increase for 2018:
  - PPA—2.1% following 8.7% in 2017
  - CA—7.2% following 5.5% in 2017
- In 2016, Louisiana ranked highest in PPA combined average cost of insurance at $1,496.11 for liability and physical damage coverages according to the most recent NAIC data.

Homeowners’:

- The voluntary market remains competitive after its re-establishment following 2005.
- Insurance market stabilized due to increased number of insurers.
- Twenty-eight (28) new insurers writing in Louisiana that were not here in 2005.
- Residual market share of Louisiana Citizens continues to decrease due to depopulation program and increased competition.
- Citizens’ market share for the homeowners’ market decreased from 9.8% to 0.5% since 2008, which is a 95% decrease in the homeowners’ market share since 2008. (Note: this market share is the homeowner line of business and does not include residents insured under fire or allied lines (e.g. wind only).
- Statewide average market-wide homeowner insurance premium increase of only 0.7% in 2018 following 1.6% in 2017.
- Louisiana ranked first in the average cost of homeowners’ insurance in 2016 at $1,967; Florida ranked third at $1,918; Texas ranked second at $1,937 according to the most recent NAIC data.
- Homeowners’ rates increases from 2007-2016 were at a slightly lower rate than the national average during that period.

Workers’ Compensation:

- Claim frequency decreased in recent years, but medical severity has changed little.
- Market-wide insurance premium decrease of 1.2% in 2018, which decreased across all industry groups, according to the most recent NCCI data.
- Statewide 5.6% decrease in NCCI loss costs approved for 2019 after a 0.4% increase in 2018 loss costs, the first increase in 5 years.
- Over the last 10 years, workers’ compensation loss costs have decreased by 17%.
- Over the last 20 years, workers’ compensation loss costs have decreased by 51%.
History and Purpose of the LPCIC

In 1997, the Louisiana Legislature created the Council on Automobile Insurance Rates and Enforcement (CAIRE) whose thorough studies of automobile insurance and enforcement issues led the legislature to expand CAIRE’s areas of study in 2001 to homeowners’ and workers’ compensation insurance and to name it the Louisiana Property and Casualty Insurance Commission (Act 187 of the 2001 Regular Session).

The primary purpose of the commission is “to review and examine the availability and affordability of property and casualty insurance in the state of Louisiana.”

Act 590 of the 2003 Regular Session amended the LPCIC membership, which then consisted of 22 members. A representative of law enforcement selected jointly by the superintendent of the Louisiana State Police, the secretary of the Department of Public Safety and Corrections, the president of the Louisiana Association of Chiefs of Police and the president of the Louisiana Sheriffs’ Association serves on the commission. The Act also added Representatives of two national trade organizations and one state organization to the membership.

Act 459 of the 2007 Regular Session abolished the Louisiana Insurance Rating Commission effective January 1, 2008, and provided an appointee for the commissioner of insurance.

Act 317 of the 2012 Regular Session provided for two additional members of the LPCIC—the deputy commissioner of insurance for consumer advocacy and a representative of the Louisiana Surplus Lines Association.

Act 223 of the 2014 Regular Session added another member—a representative of the National Association of Mutual Insurance Companies (NAMIC).

The LPCIC now consists of 24 members.
Review of Recommendations for 2018

1. Uniform Construction Code

   The LPCIC recommended that the legislature resist any efforts to weaken or diminish the current Louisiana State Uniform Construction Code and enact legislation to strengthen the Uniform Construction Code and its enforcement.

   Representative Garafalo, with Reps. Carmody and Moreno, introduced HB 455\(^1\) relative to short-term rental of dwellings to provide for safety requirements and inspections of dwellings rented for less than 30 days through online services.

   Senator Fannin introduced SB 196\(^2\) (Act 364) relative to the powers of the state fire marshal to consider practical and economic factors in permitting alternatives to certain standards in the Uniform Construction Code.

2. Distracted Driving

   The LPCIC recommended 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.

   Representative Huval, with Reps. Steve Carter and Talbot, introduced HB 619 to address the continuing problem of distracted driving in Louisiana. The bill would have made most use of a handheld wireless telecommunications device a violation of the motor vehicle safety laws of this state. It is similar to legislation enacted in Oregon,\(^3\) Texas,\(^4\) Washington,\(^5\) Hawaii,\(^6\) Georgia,\(^7\) and California.\(^8\)

3. Civil Jury Threshold

   The LPCIC recommended that the legislature reduce the civil jury threshold.

   Louisiana Code of Civil Procedure article 1372 provides for a civil jury trial threshold of $50,000, exclusive of interest and costs. It remains the highest of 14 such thresholds in the United States. The next highest is Maryland at $15,000.

   There was no bill introduced in 2018 to reduce or eliminate the civil jury trial threshold.

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\(^3\) [https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureDocument/HB2597/Enrolled](https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureDocument/HB2597/Enrolled)

\(^4\) [https://capitol.texas.gov/tlodocs/85R/billtext/pdf/HB00062F.pdf](https://capitol.texas.gov/tlodocs/85R/billtext/pdf/HB00062F.pdf)


\(^6\) [https://www.capitol.hawaii.gov/session2013/bills/HB980_SD2_.pdf](https://www.capitol.hawaii.gov/session2013/bills/HB980_SD2_.pdf)


\(^8\) [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1785](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1785)
4. Direct Action

*The LPCIC recommended that the legislature 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.*

Of the few states with direct action statutes, Louisiana has the strongest such statute that permits the naming of an insurer as a defendant in a civil action even when the insured defendant is amenable to process and solvent.

Senator Luneau introduced **SB 139** to expand direct action to permit the filing against an insurer only when the defendant insured is a small business employing 50 or fewer people. The bill failed on the Senate floor.⁹

5. Collateral Source Rule

*The LPCIC recommended that the legislature modify the collateral source rule.*

Representative Thibaut introduced **HB 789** to place limits on the application of the collateral source rule in cases where health insurance, Medicare, or workers’ compensation pays medical expenses. The bill did not advance from the House Civil Law and Procedure Committee.¹⁰

6. Opioid Abuse

*The LPCIC recommended that the legislature enact a requirement for the use of a closed pharmacy formulary in workers’ compensation claims.*

There was no bill on the subject of a workers’ compensation pharmacy formulary introduced in 2018.

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Review of Study Issues for 2018

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.

The commission heard a presentation from Toby Unwin, co-founder and CIO of Premonition, on the use of data analysis in the legal profession. Premonition, in addition to the analysis of judges, lawyers, and law firms, can apply its capabilities to the analysis of claims and legal data for workers’ compensation and other types of insurance claims to produce a data-driven decision-making process for insurers during or in anticipation of litigation. Mr. Unwin also discussed with the commission members how analytics could quantify the effects of many of the issues that are the subject of debate among lawyers and policy makers such as the civil jury threshold.

2. Cybersecurity and Insurance

The LPCIC will continue to 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. Private Flood Insurance and NFIP Reauthorization

The LPCIC will monitor and study the affordability and availability of private flood insurance and proposals for increased reliance upon the private market in the renewal of the NFIP.

There is no long-term reauthorization of the National Flood Insurance Program (NFIP). Congress may reauthorize the NFIP before the 2020 election, but it appears that it may be subject to short-term extensions for the foreseeable future.

5. 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.

6. 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.

11 https://www.premonition.ai/
Recommendations for 2019

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:

- Reduce the civil jury threshold.
- 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.
- Modify the collateral source rule to limit the ability of a plaintiff to recover damages for expenses that are not due or payable a write-off pursuant to a healthcare provider agreement with an insurer or other health coverage issuer.
- 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).
- 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.
- 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.
- Amend La. R.S. 32:295.1(E) to admit seat belt use as evidence of comparative negligence.
- 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.
- 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.
Study Issues for 2019

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 to 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.
Appendix A

Meeting Agendas

- Agenda for October 18, 2018
- Agenda for November 14, 2018
- Agenda for December 13, 2018
- Agenda for January 17, 2019
Louisiana Property and Casualty Insurance Commission
Notice of Meeting and Agenda
Thursday, October 18, 2018 at 10:00 A.M.
Department of Insurance—Plaza Hearing Room—Poydras Building

I. Call to Order—Chairman

II. Roll Call—Director

III. Discussions and Presentations

A. Federal issues update by Brooke Stringer, Financial Policy and Legislative Advisor, NAIC. (15-30 minutes)

B. Presentation by Clarissa Preston and Shannon Johnson on issues with the availability and affordability of insurance for school bus drivers. (30 minutes)

C. Discussion of the work plan and priorities for the LPCIC for 2018-19.

IV. Any Other Matters and Public Comments

V. Dates for Future Meetings—November 14, 2014, December 13, 2017, and January 17, 2018. All at 10:00 a.m. in the Plaza Hearing Room, Poydras Building, 1702 N. Third Street, Baton Rouge (Louisiana Department of Insurance).

VI. Adjournment
I. Call to Order—Chairman

II. Roll Call—Director

III. Discussions and Presentations

A. Presentation on the potential use of data analysis to evaluate the effects on insurance rates of various legal issues in Louisiana (e.g., direct action, jury threshold, prescription and peremption, etc.) by Toby Unwin, CIO and Co-Founder of Premonition (www.Premonition.ai)

B. Discussion on legal issues that affect the cost of property and casualty insurance. What are the problem areas? What effects are they perceived to have? What are alternatives?—Chairman Fey with Toby Unwin.

IV. Any Other Matters and Public Comments

V. Dates for Future Meetings—December 13, 2018, and January 17, 2019. All at 10:00 a.m. in the Plaza Hearing Room, Poydras Building, 1702 N. Third Street, Baton Rouge (Louisiana Department of Insurance).

VI. Adjournment
Louisiana Property and Casualty Insurance Commission
Notice of Meeting and Agenda
Thursday, December 13, 2018 at 10:00 A.M.
Department of Insurance—Plaza Hearing Room—Poydras Building

I. Call to Order—Chairman

II. Roll Call—Director

III. Discussions and Presentations

A. Presentation (by telephone) on the recent ILR report on the *Costs and Compensation of the U.S. Tort System* by Dr. Lars Powell of the University of Alabama.

B. Presentation by Dr. Michael Dunaway of the University of Louisiana at Lafayette on the Louisiana Business Emergency Operations Center, in his capacity as director, and on cyber issues facing the private sector, in his capacity as a member of the Louisiana Cyber Commission and chair of the private sector committee.

IV. Any Other Matters and Public Comments

V. Dates for Future Meetings—January 17, 2019. All at 10:00 a.m. in the Plaza Hearing Room, Poydras Building, 1702 N. Third Street, Baton Rouge (Louisiana Department of Insurance).

VI. Adjournment
Louisiana Property and Casualty Insurance Commission
Notice of Meeting and Agenda (Revised)
Thursday, January 17, 2019 at 10:00 A.M.
Department of Insurance—Plaza Hearing Room—Poydras Building

I. Call to Order—Chairman

II. Roll Call—Director

III. Discussions and Presentations

A. Presentation by the Louisiana Insurance Guaranty Association (LIGA) on the association and recent trends in property and casualty insurance claims, including litigation.

B. Discussion of and voting on recommendations for the Annual Report.
(The following list of topics is drawn from the 2018 recommendations. Members may propose additions, deletions, or amendments. The public may comment before each vote.)

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 system for future medical care similar to the Future Medical Care Fund as provided in La. R.S. 13:5106(B)(3)(c).
e) 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).

f) 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.

g) 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.

h) Amend La. R.S. 32:295.1(E) to admit seat belt use as evidence of comparative negligence.

i) 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.

j) 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.

C. **Discussion and voting on study topics for the coming year.** (The following list of topics is drawn from the 2018 study topics. Members may propose additions, deletions, or amendments. The public may comment before each vote.)

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 to 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.

IV. Any Other Matters and Public Comments

V. Dates for Future Meetings—Dates for 2019-2020 meetings to be determined.

All meetings are held in the Plaza Hearing Room, Poydras Building, 1702 N. Third Street, Baton Rouge, Louisiana 70802 (Louisiana Department of Insurance).

VI. Adjournment
Appendix B

Meeting Minutes

- Minutes for October 18, 2018
- Minutes for November 14, 2018
- Minutes for December 13, 2018
- Minutes for January 17, 2019
  - LIGA Proposals for Civil Justice Reform Discussion
Present were the following:


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

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

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

The Chairman welcomed everyone in attendance.

Presentation by telephone from Brooke Stringer, Financial Policy and Legislative Advisor, NAIC Executive Office, Washington, DC

Ms. Stringer discussed current federal legislation and other actions affecting insurance. Given the current political situation, it did not look like much insurance related legislation would pass in the current congress, including a long-term National Flood Insurance Program (NFIP) extension. There are many bills related to insurance subjects that will likely be introduced in the new congress convening in 2019 on the subjects of: flood insurance, regulation of air ambulance costs, surprise medical bills (balance billing), autonomous/highly-automated vehicles, and other issues.

Presentation by Clarissa Preston of the National African-American Insurance Association (NAAIA), Shannon Johnson of the Flowers Insurance Agency, and Donna Swanson of the Swanson Insurance Agency

Ms. Johnson and Ms. Swanson discussed the difficulties of finding insurance coverage for school bus drivers. Many school boards use contract drivers and buses to provide transportation. The premium for school bus coverage has more than tripled since 2013, with similar increases for other commercial coverages such as dump trucks, hotshot trucks, and tow trucks. They discussed the immediate impact on the businesses that they try to insure and on the economy.

There being no objection, the Chairman adjourned the meeting at 11:15 a.m.
Louisiana Property and Casualty Insurance Commission
Minutes of the Meeting of the Commission
Wednesday, November 14, 2018 @ 10:00 A.M.
Department of Insurance—Plaza Hearing Room—Poydras Building

Present were the following:


Commission and LDI Staff: Tom Travis, Charles Hansberry, Danielle Blanchard

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

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

The Chairman welcomed everyone in attendance.

Presentation by Toby Unwin, CIO and Co-Founder of Premonition

Mr. Unwin made a presentation on the uses of data and artificial intelligence to analyze the performance of law firms and lawyers and how this technology could aid in the analysis of the costs and benefits of civil legal and procedural rules.

There being no objection, the Chairman adjourned the meeting at 11:20 a.m.
Present were the following:

Members: Lou Fey (Chairman), Rep. Talbot, Ray Aleman Jr., Shawn Collins, Marc Carter, Jamie Bourg (for Paul Buffone), Will Grubbs Jr., Michael Guy, Meredith Trahant (for Sheral Kellar), Ron Henderson, Mike Barron (for Lisa Freeman), and Joe O’Connor

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 12 members, one short of a quorum.

The Chairman welcomed everyone in attendance.

Presentation by telephone from Dr. Lars Powell of the University of Alabama on the recent Institute for Legal Reform report on the Costs and Compensation of the U.S. Tort System

Dr. Powell discussed the methods used to assemble the report and the conclusions of the study. The report did not study the effects of particular laws. The report did break out the costs of the tort system in each state in three areas of liability (General/Professional, Medical Malpractice, and Automobile), and the report provided total costs as a percentage of state GDP (2.9% in Louisiana) and per household ($4,015 in Louisiana).

Presentation by Dr. Michael Dunaway of the University of Louisiana at Lafayette on the Louisiana Business Emergency Operations Center (BEOC) and the Louisiana Cyber Commission

Dr. Dunaway discussed the BEOC as a means for the state’s emergency management system to interface with the private sector during declared emergencies. He also discussed the activities of the Private Sector and Economic Development Committee of the Louisiana Cybersecurity Commission, which has as its primary goal the facilitation of economic development by promoting a cyber-safe Louisiana for businesses and consumers.

There being no objection, the Chairman adjourned the meeting at 11:15 a.m.
Present were the following:


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:


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 to 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.
LOUISIANA PROPERTY AND CASUALTY INSURANCE COMMISSION

January 17, 2019

LIGA Proposals for Civil Justice Reform Discussion

1. **Problem**: Plaintiff’s attorneys do not respond to discovery requests, do not respond to Rule 10.1 Conference, do not respond to a Motion to Compel, and then file “bare bones” responses on the eve of a Motion to Compel hearing and argue that a new 10.1 conference is required before moving forward with the Motion to Compel. Increases cost of defense and delays resolution of case by six months, especially in simple cases that would be easy to settle if we could get the basic information necessary, e.g., medical records.

   **Solution**: Language in Motion to Compel article, La.C.C.P. Art. 1469, requiring payment of court costs and reasonable attorney fees if, at the time the Motion was filed, sufficient discovery responses were not received. Also, additional language could be included in the Article confirming that a second Rule 10.1 conference is not a prerequisite to moving forward with the Motion to Compel hearing notwithstanding the receipt of supplemental responses, especially if the supplemental responses are incomplete or deficient.

2. **Problem**: Cases sit for too long without any actions taken to move the matter towards resolution.

   **Solution**: Change abandonment period from three (3) years to two (2) years.

3. **Problem**: Too many lawsuits are being filed without a legal basis for the claim.

   **Solution**: Award costs to prevailing party at a Motion for Summary Judgment “unless the court finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust.” [Quoted language is from the Motion to Compel article, La.C.C.P. Art. 1469.]

4. **Problem**: Plaintiff’s attorneys “request service” within 90 days, but never properly effect service. The result is that Defendants are sometimes unable to move forward with a Motion for Summary Judgment, Exception, or other dispositive Motion because they are unable to serve a co-Defendant that the Court feels may have an adverse interest in the case.

   **Solution**: Require a request for service within 90 days, and a peremption period of one (1) year to properly effectuate service on all named parties, or their claims against the unserved parties will be dismissed with prejudice (without the need for a contradictory hearing). This also solves another potential issue of Defendants being named in a lawsuit, but not knowing about the lawsuit for several years (because service was requested but not perfected on them for an extended period of time).

5. **Problem**: The penalty provision in the offer of judgment article does not provide enough incentive to settle claims.

   **Solution**: Change the language of the statute to allow for costs and attorney’s fees if an offer is not accepted and the Judgment falls within the set parameters.
6. **Problem:** The relationship between Plaintiff attorneys and “expert” physicians is uncomfortably close.
   **Solution:** Require as a uniform rule that all physicians tendered as an expert maintain and provide a list of all cases they have worked on and attorneys they have worked for, (including a listing of compensation paid by each attorney?), for the past ten (10) years.

7. **Problem:** The Collateral Source Rule is abused, when a Plaintiff has Medicare, Medicaid, or health insurance, but opts not to use that insurance, and contracts with companies that run up medical expenses and costs that Plaintiff never intends to pay. The providers are aware that the matter is in litigation, and “bill” costs multiple times in excess of amounts they could bill to insurers or the federal government, and include items on their bills that would not be reimbursed by an insurer or federal/state payor (referrals to medical device companies, surgical centers, etc., that they own, and other prohibited practices).
   **Solution:** If a Plaintiff has any form of health insurance available and opts not to use that insurance, then the Collateral Source Rule should not apply.

8. **Problem:** Case is dismissed at Plaintiff’s costs, and Defendant wants a Judgment of Dismissal, but the Clerk will not submit the Judgment to the Court until the costs are paid and the Plaintiff’s counsel will not pay the court costs. To obtain the Judgment of Dismissal, Defendant has to pay the court costs.
   **Solution:** If not paid within ninety (90) days, the Clerk must collect pending court costs for a pending Judgment of Dismissal from any counsel when he makes his next filing in any other case.
Appendix C

Automobile Insurance Rate Comparisons

- Car Insurance Rates by State
  - CarInsurance.com
  - Insure.com
  - TheZebra.com
<table>
<thead>
<tr>
<th>Rank</th>
<th>State</th>
<th>Average Rate</th>
<th>Rank</th>
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<th>Average Rate</th>
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CarInsurance.com commissioned Quadrant Information Services to provide a report of average auto insurance rates for a 2016 Honda Accord for nearly every ZIP code in the United States. We calculated rates using data for up to six large carriers (Allstate, Farmers, GEICO, Nationwide, Progressive and State Farm).

Averages rates are based on full coverage insurance for a married 40-year-old male who commutes 12 miles to work each day, with policy limits of 100/300/100 ($100,000 for injury liability for one person, $300,000 for all injuries and $100,000 for property damage in an accident) and a $500 deductible on collision and comprehensive coverage. The rate includes uninsured motorist coverage.

This hypothetical driver has a clean record and good credit. Average rates are for comparative purposes.

Your own rate will depend on your personal factors and vehicle.
### Insure.com 2019 State Automobile Insurance Rates

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https://www.insure.com/car-insurance/car-insurance-rates.html

Insure.com commissioned Quadrant Information Services to calculate auto insurance rates from six large carriers (Allstate, Farmers, GEICO, Nationwide, Progressive and State Farm) in 10 ZIP codes per state.

Rates are based on full coverage for a single, 40-year-old male who commutes 12 miles to work each day, with policy limits of 100/300/50 ($100,000 for injury liability for one person, $300,000 for all injuries and $50,000 for property damage in an accident) and a $500 deductible on collision and comprehensive coverage. The hypothetical driver has a clean record and good credit. The rate includes uninsured motorist coverage. Actual consumer rates will depend on individual driver factors.

Insure.com averaged rates in each state for the cheapest-to-insure 2019 model-year versions of America’s 20 best-selling vehicles and ranked each state by that average. To keep from skewing the data with high-end luxury and sports vehicles, the study averaged rates for the 20 best-selling vehicles in U.S. as of Dec. 2018. Each model was rated on its cheapest-to-insure trim level. You can see rates for more than 3,000 models in Insure.com’s Most and Least Expensive Vehicles to Insure tool. This year’s 20 best-selling vehicles include:

Ford F-Series  Honda CR-V  Honda Accord  Jeep Wrangler
Chevy Silverado  Toyota Camry  Ford Escape  Jeep Cherokee
Ram Truck  Chevy Equinox  Ford Explorer  Jeep Grand Cherokee
Toyota RAV4  Honda Civic  Toyota Tacoma  GMC Sierra
Nissan Rogue  Toyota Corolla  Toyota Highlander  Nissan Sentra

Source: autoNXT best-selling vehicles in America 2018

This apples-to-apples comparison is different than other research, such as the rate comparison conducted by the National Association of Insurance Commissioners (NAIC). The NAIC’s numbers display the average amount that state residents spend for auto insurance, regardless of the type of car they insure or amount of coverage they purchase.
## The Zebra Auto Insurance Rates by State | Most Expensive to Least

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<tr>
<th>Rank</th>
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In the past year, car insurance rates have risen across 41 states (including Washington, DC), and fallen in just 10 states. Colorado saw the highest year-over-year rate increase of 19%, and Montana saw the greatest decrease of 21%. Michigan still leads as the most expensive state for car insurance, and Maine trails as the least expensive.

Between September and December 2018, The Zebra conducted comprehensive auto insurance pricing analysis using its proprietary quote engine, comprising data from insurance rating platforms and public rate filings. The Zebra examined more than 61 million rates to explore pricing trends across all Unite States zip codes including Washington, D.C.

Analysis used a consistent base profile for the insured driver: a 30-year old single male driving a 2014 Honda EX with a good driving history, and coverage limits of $50,000 bodily injury liability per person/$100,000 bodily injury liability per accident/$50,000 property damage liability per accident with a $500 deductible for comprehensive and collision.

For coverage level data, optional coverage (that must be rejected in writing) is included where applicable, including uninsured motorist coverage and personal injury protection.

For vehicle make and model data, analysis referenced the most popular vehicles in the U.S. by 2017 year-end sales according to Goodcarbad.net’s data.

Some rate data may vary slightly throughout report based on rounding.
Appendix D

NAAIA Presentation on the Commercial Auto Market in Louisiana
Introduction

- Clarissa Preston, CIC (NAAIA)
- Shannon Johnson (Flowers Insurance Agency)
- Donna Swanson (Swanson Insurance Agency)
Commercial Auto Risks

Commercial Auto classifications range from:

- Public Transportation
  - School buses, charter buses, passenger vans, non-emergency medical transport
- Hotshots
- Dump trucks
- Tow trucks
- Long Hauls
- Any vehicle used in the course of daily business activities
In the Last 5 Years, Several Commercial Auto Insurers Exited The Market
Former Commercial Auto Carriers

- Ace
- Associated Industries
- Canal indemnity
- Hallmark
- Mesa Underwriters Specialty
- United Specialty
- Western World
- Wesco
Why Are They Leaving?

- Unable to sustain amount of claims and lawsuits
- Increased personal injury advertising
- Jury threshold is extremely high compared to the rest of the country - Damages must be worth at least $50,000
- Poor road conditions
- High rates of underinsured on uninsured drivers due to cost
Current Commercial Auto Carriers

- Atlas Financial
- Berkshire Hathaway
- Houston Specialty
- National Fire Marine
- Prime
- Progressive
- State National Insurance Company
- Wilshire
## Rate Increases over 5 Years - Unaffordability

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|          | $11,000-$12,000                      | }
Results of Rate Increase

- No affordable options
- Risk driving without insurance
- Businesses have closed
- Agents losing business
- Businesses moving to neighboring states just to get insurance
- Agents getting non-resident licenses in other states to service the business
- Not an attractive place to start a business that involves commercial transportation
## Admitted Commercial Auto Carriers

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<td>Westport Insurance</td>
<td></td>
<td>State Farm - Captive</td>
</tr>
</tbody>
</table>
We Need Your Help!

• Affordable rates
• Contact former carriers
• Tort reform
• Offer safety trainings
• Incentives for claim free
Questions & Comments
Appendix E

LABEOC Presentation

- Louisiana Business Emergency Operations Center
WELCOME

LA•BEOC
Louisiana Business Emergency Operations Center

NIMSAT
National Incident Management Systems
And Advanced Technologies
University of Louisiana at Lafayette

LED
Louisiana Economic Development
Informatics Research Institute

Research in data science to unleash the potential of Big Data to benefit society in such areas as health sciences, crisis response, public safety and community resilience, and smart & connected communities.
Louisiana Business Emergency Operations Center

A Public / Private Sector Partnership and Information-Sharing Portal to:

- Establish a Common Operating Picture
- Support State disaster recovery when public resources are exhausted.

And a resource to enable businesses to:

- PROVIDE information
- OBTAIN information
- Identify REQUIREMENTS
- Provide RESOURCES

www.labeoc.org
Industry Organizations, Associations & Registered Businesses

Stakeholder Associations:
- Association of Contingency Planners
- Associated Wholesale Grocers
- Associated Grocers
- Baton Rouge Area Foundation
- Louisiana Credit Union League
- Louisiana Hotel and Lodging Association
- Louisiana Motor Transport Association
- Louisiana Office of Financial Institutions
- Louisiana Oil Marketers and Convenience Store Association
- Louisiana Pulp and Paper Association
- Louisiana Restaurant Association
- Louisiana Retailers Association
- Louisiana Telecommunications Association
- Louisiana Mid-Continent Oil & Gas Association (LMOGA)
- Louisiana Association of Business and Industry
- Louisiana Bankers Association
- Louisiana Chemical Association
- Louisiana Hospital Association
- Louisiana Technology Council
- National Federation of Independent Business
- Ports Association of Louisiana
- LA VOAD

Economic Development Organizations (EDO):
- Greater New Orleans, Inc.
- South Louisiana Economic Council (SLEC)
- Baton Rouge Area Chamber
- One Acadiana
- Acadiana Economic Development
- Lafayette Economic Development Authority
- Southwest Louisiana Economic Development Alliance
- Central Louisiana Economic Development Alliance
- Central Louisiana Chamber of Commerce
- Northeast Louisiana Economic Alliance
- North Louisiana Economic Partnership

Utility Allies
- Entergy Louisiana Economic Dev. Office
- AEP-Southwest
- Cleco

U.S. Department of Homeland Security
- Protective Security Advisor

Registered Businesses (LA BEOC Portal): ~ 2,200
(13,100 contacts representing 4,923,000 employees)
State EOC / LA BEOC Activation and Coordination

Information and Data Flow

SEOC to BEOC

Louisiana State Emergency Operations Center

Abdalla Hall
UL Research Park

Contracts and Donations

Situation and Status
BEOC to Private Sector
Supply Chain Interdependency Analysis

Human Geography Mapping of Crisis Leadership Networks

Points of Distribution (POD) location optimization

Consequence Analysis of Natural Gas Pipeline Disruptions

LABEOC Open for Business App piloted during DR-4277-LA

Fuel Demand & Supply Prediction for Regional Evacuation

Louisiana Hazard Information Portal

Research Projects in Risk Management, Emergency Preparedness, and Community Resilience

“Research for a Reason”
EXECUTIVE DEPARTMENT

PROCLAMATION NUMBER 111 JBE 2016

STATE OF EMERGENCY – HEAVY RAIN AND FLOODING

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, et seq., confers upon the Governor of the State of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or manmade causes, in order to ensure that preparations of this State will be adequate to deal with such emergencies or disasters and to preserve the lives and property of the people of the State of Louisiana;

WHEREAS, when the Governor determines that a disaster or emergency has occurred, or the threat thereof is imminent, La. R.S. 29:724(3)(b) empowers the Governor to declare a state of emergency by executive order or proclamation, or both;

WHEREAS, a flash flood watch is in effect for all of southeastern Louisiana until at least Saturday morning, with rainfall accumulations of seven to ten inches likely, with some areas expected to receive more

LABEOC Activations under
State and Federal Disaster Declarations

2010 - Deepwater Horizon Oil Spill
2011 - Mississippi River Flooding (DR-4041-LA)
2012 - Hurricane Isaac (DR-4084-LA)
2013 - Tropical Storm Lee (DR-4041-LA)
2014 - Hurricane Isaac (DR-4228-LA)
2015 - Severe Storms and Flooding (DR-4228-LA)
2016 - Great Floods of Louisiana (DR-4262 / 4277-LA)
2017 - St. James and St. John Parish tornados
2018 - Livingston and Orleans Parish tornados (DR-4300)
Regional Smart Transportation Network
Charter & Mission

Louisiana Supply Chain and Transportation Council (SCTC)

2017 Senate Concurrent Resolution No. 99

“Increase resilience in various modes of transportation through increased communication, collaboration, information technologies, and new innovations in transportation resilience.”

- Undertake projects and make recommendations to improve commercial transportation to make the Louisiana economy more resilient to disaster;
- Increase effectiveness of relationships between local, state, and federal transportation agencies, carriers, shippers and receivers.
- Provide advanced geospatial planning and coordination to predict points of failure and to inform in real time routes remaining open after a disaster;
- Support funding and resources to increase utilization of technology and new innovations in water, rail, road, and air modes of transportation.
Louisiana Cybersecurity Commission

Private Sector & Economic Development Committee

Enhancing Cybersecurity in the Private Sector for a Secure and Resilient Economy

Executive Order 17-31
Louisiana Cybersecurity Commission

Goal Nr 9: Facilitate economic development by promoting a cyber-safe Louisiana for businesses and consumers.
Guiding principle: Cybersecurity—like preparedness, response, and recovery from natural and human-caused disasters—is a “Whole of Community” enterprise.

Planning assumption: Louisiana’s business environment—like the natural environment—is at constant risk: Cyber hazards constitute the “new normal” of business operations.

Recommendations:
1. Establish an enduring state-wide program for cybersecurity as a long-term investment strategy in the stability, security and resilience of the Louisiana economy and business environment.

2. The program should incorporate training and education in cybersecurity for business at the regional, local, and entity levels, and be designed with input from the business community.

3. Committee recommends endorsement/adoPTION of the NIST Cybersecurity Framework and the Baldridge “Cybersecurity Excellence Builder” program as the foundation of a statewide program.
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