

# 2020 Annual Report



**NORTH CAROLINA  
INDUSTRIAL COMMISSION**

# LETTER FROM THE CHAIR



On behalf of my fellow Commissioners, Deputy Commissioners, and the employees of the Commission, I am pleased to provide the Industrial Commission's Annual Report.

Established in 1929, the Industrial Commission adjudicates and administers the North Carolina Workers' Compensation Act. In 1949, the General Assembly authorized the Commission to adjudicate and administer the North Carolina State Tort Claims Act. In addition, the Commission has jurisdiction over the Public Safety Employees' Death Benefits Act, the Childhood Vaccine-Related Injury Compensation Program, and the Compensation to Persons Erroneously Convicted of Felonies statute.

The last quarter of Fiscal Year 2019-20 presented many challenges as the Commission responded to the COVID-19 pandemic. In March, we began working remotely to the greatest extent possible, and we continue to work remotely today. In these difficult times, our talented and dedicated employees have continued to meet the demands of hearing cases and administering the Acts and programs under our jurisdiction, while striving to provide excellent customer service.

During the pandemic, the Commission has greatly benefited from our existing electronic document filing system which has enabled stakeholders to continue to file forms, pleadings, and settlement agreements without interruption. In addition, the Commission has implemented new procedures and adopted guidelines to support efficient and safe operations, including: (1) the use of videoconference technology (Webex) to conduct full evidentiary hearings, (2) procedures to protect the health and safety of hearing participants when good cause is shown for an in-person hearing, (3) the adoption of emergency and temporary rule amendments to support remote mediations, and (4) policy changes to avoid in-person contact such as allowing settlement agreements to be signed electronically via DocuSign or similar technology and accepting written affirmation without notarization. Stakeholders have been provided regular and detailed updates regarding all new procedures and guidelines via the Commission's website. In addition, a new service allows updates to be received via email.

In the past year, the Commission has made significant progress in the development of a case management system that will replace several legacy software systems. Hundreds of hours have been invested by the Commission's project team and the implementation vendor to create a system that will improve internal efficiency as well as benefit stakeholders by providing increased information online, including real-time updates to case dockets and the ability for parties to view case file documents.

As we continue to build on the Commission's successes and navigate the pandemic, I am confident we will emerge as an even stronger agency.

Philip A. Baddour, III  
Chair  
North Carolina Industrial Commission

# NORTH CAROLINA INDUSTRIAL COMMISSION

**Philip A. Baddour, III**, Chair  
**Myra L. Griffin**, Vice-Chair

**Charlton L. Allen**, Commissioner  
**Kenneth L. Goodman**, Commissioner

**James C. Gillen**, Commissioner  
**Christopher C. Loutit**, Commissioner

**Pamela T. Young**, Chief Operating Officer  
**Meredith R. Henderson**, Executive Secretary  
**Robert J. Harris**, Senior Deputy Commissioner  
**Emily Baucom**, Clerk of the Industrial Commission  
**Shannon Wharry**, Director of Compliance Division  
**Sam Constance**, Division Chief, Criminal Investigations and Employee Classification Division  
**Tammy R. Nance**, Director of Claims Administration  
**John C. Schafer**, Dispute Resolution Coordinator

# TABLE OF CONTENTS

A. North Carolina Industrial Commission—Overview including Statistics at a Glance, Full Commission Section, and Recommendations.....	5
B. Claims Administration Section.....	11
C. Clerk’s Office .....	17
D. Compliance Division .....	20
E. Criminal Investigations and Employee Classification Division.....	22
F. Deputy Commissioner Section.....	26
G. Executive Secretary’s Office .....	29
H. Workers’ Compensation Information Specialists.....	31
I. Information Technology Section .....	32
J. Mediation Section .....	34
K. Medical Fees Section.....	36
L. Medical Rehabilitation Nurses Section.....	38

# North Carolina Industrial Commission – At a Glance

## Report for FY 2019-20

Workers' Compensation Claims Filed	59,410
Orders Issued on Medical Motions	2,245
Deputy Commissioner Section Workers' Compensation and Tort Hearings Heard	1,171 <sup>1</sup>
Penalty and Contempt Matters Resolved at the Deputy Commissioner Level	1,404
Total Appeals to the Full Commission	489
Cases Referred to Mediation	9,671
Orders on Compromise Settlement Agreements	12,326
Mediation Settlement Rate	73.19%
Form 26A <i>Employer's Admission of Employee's Right to Permanent Partial Disability</i> Agreements Received	5,923
Orders filed on Form 24 <i>Application to Terminate or Suspend Payment of Compensation</i>	1,518
Orders filed on Form 23 <i>Application to Reinstate Payment of Disability Compensation</i>	234
Cases Handled by the Medical Rehabilitation Nurses Section	36
Medical Bills Reviewed	944
Fraud Cases Reported	9,254
Non-Insured Penalties Collected	\$3,126,034

<sup>1</sup> This figure does not include cases heard regarding penalty or contempt matters.

# THE NORTH CAROLINA INDUSTRIAL COMMISSION

## Mission Statement

The employees of the North Carolina Industrial Commission are committed to providing excellent customer service through the efficient administration of claims, facilitation of dispute resolution, fair and impartial adjudication of contested cases, careful application of the law, and prompt and courteous responsiveness to all stakeholders.

## About the Commission

The North Carolina Industrial Commission is an agency of the State of North Carolina, created by the General Assembly in 1929 to administer the North Carolina Workers' Compensation Act. In 1949, the Industrial Commission was also given authority by the General Assembly to administer the Tort Claims Act. Additionally, the Industrial Commission is charged with efficiently administering the Public Safety Employees' Death Benefits Act, the Childhood Vaccine-Related Injury Compensation Program, and claims under N.C. Gen. Stat. § 148-82 *et seq.* for Compensation to Persons Erroneously Convicted of Felonies.

The Full Commission consists of six Commissioners who are required by statute to devote their entire time to the duties of the Industrial Commission. The Commissioners are appointed by the Governor for staggered six-year terms and confirmed by the General Assembly. The Commissioners sit in panels of three to review appeals from decisions made by Deputy Commissioners located throughout the State to hear workers' compensation and tort claims cases. The Full Commission conducts a *de novo* review of all appeals and is thus the ultimate fact-finding body at the Commission. Appeals from Full Commission decisions are heard by the North Carolina Court of Appeals.

## Full Commission Section Summary for FY 2019-20

Appeals in Workers' Compensation and Tort Claims	424
Interlocutory Appeals	47
Medical Motion Appeals	18
Total Appeals to Full Commission	489
Full Commission Orders	651

## Management and Operations

The Chair of the Full Commission is, by statute, the Chief Executive Officer and Chief Judicial Officer of the Industrial Commission. The Chair has the authority to direct and oversee the Industrial Commission and may delegate duties as needed for proper management of the Industrial Commission.

## Major Activities and Initiatives

### Working Remotely During the Pandemic

In response to the COVID-19 pandemic, Industrial Commission employees have worked remotely since March 2020 to the greatest extent possible. The Commission's IT Department facilitated a smooth transition, allowing the Commission to continue to meet all business demands without interruption.

The Commission's existing electronic filing system (EDFP) not only enables stakeholders to continue to file forms, motions, responses, agreements, and other documents electronically, but it also enables Commission employees to access these filings remotely. This facilitates the prompt processing of forms and other documents and the prompt adjudication of cases.

### Remote Hearings

As part of its COVID-19 response, the Commission's Deputy Commissioners are conducting full evidentiary hearings using videoconference technology (Webex). This has allowed the Commission to continue to efficiently adjudicate cases and to avoid a pandemic-related backlog. The Commission is currently docketing all Deputy Commissioner hearings via Webex, however the presiding Deputy Commissioner may grant an in-person hearing upon a showing of good cause.

To assist the parties and other hearing participants in preparing for Webex hearings, the Commission has published Webex hearing instructions on its website. Additionally, each Deputy Commissioner is conducting a telephonic pre-trial conference with the parties to review procedures and to answer any questions.

At the onset of the pandemic, the Full Commission heard appeals via teleconference but has recently transitioned to videoconference.

### In-Person Hearing Safety Precautions

While the State court system is under emergency directives, the Industrial Commission is holding in-person hearings in limited cases when ordered by the presiding Deputy Commissioner for good cause shown.

The Industrial Commission has adopted health and safety guidelines for in-person hearings based on guidance from the CDC and the NC Department of Health and Human Services and upon consideration of Chief Justice Beasley's July 16, 2020 Order and Emergency Directive 21 related to face coverings in courthouses.

### Remote Mediation Rules

The Commission has adopted emergency and temporary rule amendments to support remote mediations and is in the process of permanent rulemaking. The rule amendments incorporate the Supreme Court's default manner of attendance at mediations - either in-person or remote. The rule modification prevents the need for future rule changes and ensures the Commission's rule will always be "substantially similar" to the Supreme Court rule, as required by N.C. Gen. Stat. § 97-80(c).

### Policy Changes to Avoid In-Person Contact

The Commission has adopted several policies to assist stakeholders in avoiding in-person contact while interacting with the Commission. Settlement Agreements submitted for review may now be signed via DocuSign or similar technology. Additionally, consistent with Chief

Justice Beasley's emergency directive, documents previously requiring notarization may now be submitted with a written affirmation.

### **Stakeholder Communication**

The Commission consulted closely with stakeholder representatives when developing its pandemic-related response. Stakeholders have been kept apprised of all new procedures and guidelines through regular and detailed updates on the Commission's website. In addition, a new service allows updates to be received via email.

### **Case Management System**

Pursuant to Section 15.19 of Session Law 2017-57, the Commission has undertaken a comprehensive overhaul of its outdated case management system. The Commission selected a vendor and awarded the contract on July 31, 2019. Work began on the new case management system in September 2019, and the new system is projected to go-live by the first quarter of 2021.

By implementing a consolidated case management system, the Commission will replace several old mainframe and client-server systems, moving the Commission to modern case management software and a cloud-based storage solution. Features available to external stakeholders at go-live will include a new filing portal, online forms, online request functionalities, and updated docket information. In a later phase, following the Commission's initial transition and adjustment to the new system, other features will be made available to allow external users to access their case data and documents. This initiative will greatly enhance the Commission's ability to carry out its mission to provide excellent customer service.

### **Notable Legislation**

#### ***House Bill 283, Session Law 2019-228, Section 2***

The General Assembly amended N.C. Gen. Stat. § 143-166.3, directing the Industrial Commission to award an additional death benefit in the amount of \$100,000 when any covered person is murdered in the line of duty. It also amends N.C. Gen. Stat. § 143-166.2 by defining "murdered in the line of duty" as the death of a covered person who was killed in the line of duty in a manner reasonably determined by the Industrial Commission to be directly caused by the intentional harmful act of another person. Section 2 applies to qualifying deaths on or after July 1, 2016.

#### ***House Bill 228, Session Law 2019-191, Sections 41 & 42***

Effective October 1, 2019, the General Assembly amended N.C. Gen. Stat. § 8-53 concerning communications between health care providers and patients to extend the applicability of the statute to a person authorized to practice under Article 1 of Chapter 90.

Effective October 1, 2019, the General Assembly amended N.C. Gen. Stat. § 90-411 concerning record copy fees by clarifying that charges for medical records and reports related to claims under Chapter 97 shall be governed by the fees established by the Industrial Commission pursuant to N.C. Gen. Stat. § 97-26.1.

#### ***Senate Bill 681, Session Law 2020-78, Section 16.1***

Effective July 1, 2020, the General Assembly amended N.C. Gen. Stat. § 143-293 to allow the Industrial Commission to send Full Commission decisions and orders by electronic mail to the parties.

### **Senate Bill 308, Session Law 2020-74, Section 24**

Effective July 1, 2020, the General Assembly amended N.C. Gen. Stat. § 97-133(a)(3a)c. to deem an individual self-insurer and a group self-insurer a member of the Association Aggregate Security System upon licensure and to require payment of the initial assessment over a determined period.

### **House Bill 1043, Session Law 2020-4**

Effective May 4, 2020, the General Assembly established the Coronavirus Relief Fund and allocated funds to OSBM for continuity of operations in State government. Expenditures incurred during the period of March 1, 2020 through December 30, 2020 for certain purchases, including but not limited to purchasing critical information technology equipment and software licensing, are eligible for funding.

### **Senate Bill 704, Session Law 2020-3**

On May 4, 2020, the General Assembly passed the COVID-19 Recovery Act amending the Emergency Management Act to allow remote meetings and remote public hearings during an emergency declaration.

Effective March 10, 2020 through August 1, 2020, the General Assembly authorized state agencies to exercise regulatory flexibility during the Coronavirus emergency where an agency determines that, due to the impacts of the Coronavirus, it is in the public interest, including the public health, safety, and welfare and the economic well-being of the citizens and businesses of the State, to delay or modify the collection of any fees, fines, or late payments assessed by the agency under its statutes, including interest associated with any fees, fines, or late payments.

### **House Bill 1105, Session Law 2020-97, Section 3.20(a)**

Effective August 1, 2020, the General Assembly reauthorized State agencies to delay the collection of fees, fines, or late payments where the agency determines that due to the impacts of the Coronavirus, it is in the public interest, including the public health, safety, and welfare and the economic well-being of the citizens and businesses of the State, to do so.

## **Recommendations**

The following legislative recommendations are provided in accordance with N.C. Gen. Stat. § 97-78(e):

- The Industrial Commission recommends that the General Assembly consider amending N.C. Gen. Stat. § 97-88.2 to specify that the sworn law enforcement who are employed to conduct the investigations mandated by N.C. Gen. Stat. § 97-88.2 have full law enforcement authority so they can safely and effectively carry out their investigations and take actions to protect their safety and the safety of others.
- The Industrial Commission recommends removing the two-term limit for Deputy Commissioners in N.C. Gen. Stat. § 97-79(b) so that the Chair of the Commission has the option of continuing the service of experienced Deputy Commissioners.
- The Industrial Commission recommends that there be parity and consistency in the manner in which business entities are treated in N.C. Gen. Stat. § 97-2(2) regarding individuals who count as an “employee.” This will alleviate confusion and make compliance with the workers’ compensation laws easier to determine and enforce.

## Rulemaking Update

After obtaining extensive stakeholder feedback, the Commission began formal rulemaking for permanent amendments to 16 rules and one new rule. Two separate public hearings were held (the first for seven of the rule amendments and the one new rule<sup>2</sup> and the second for nine<sup>3</sup> of the rule amendments). On September 24, 2020, the Commission voted to adopt the 16 rule amendments and one new rule. The Commission is in the process of submitting these rules to the Rules Review Commission and it is expected that the Rules Review Commission will consider these rules at its November 19, 2020 meeting.

The Commission also undertook emergency and temporary rulemaking for one of its mediation rules, 11 NCAC 23G .0104, in order to remain compliant with N.C. Gen. Stat. § 97-80(c), which requires the Commission's mediation rules to be "substantially similar" to the *Rules for Mediated Settlement Conferences and Other Settlement Procedures in Superior Court Civil Actions*, and in light of pandemic-related health and safety concerns surrounding in-person mediations and a June 3, 2020 amendment to the *Rules for Mediated Settlement Conferences and Other Settlement Procedures in Superior Court Civil Actions* related to the pandemic.

The Commission intends to make the rule change to 11 NCAC 23G .0104 permanent so that the Commission's rule incorporates the *Rules for Mediated Settlement Conferences and Other Settlement Procedures in Superior Court Civil Actions* with regard to the presumptive manner of attendance at mediations (in-person versus remote attendance). The Commission has begun the permanent rulemaking process for this rule.

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<sup>2</sup> The seven rule amendments were for 11 NCAC 23A .0104, .0408, .0409, .0501, and .0903; 11 NCAC 23E .0104; and 11 NCAC 23L .0103 and the proposed new rule is cited as 11 NCAC 23B .0106.

<sup>3</sup> The nine rule amendments were for 11 NCAC 23A .0108, .0109, and .0302; 11 NCAC 23B .0104 and .0105; and 11 NCAC 23L .0101, .0102, .0103, and .0105.

# CLAIMS ADMINISTRATION SECTION

## **Mission Statement**

The Claims Administration Section seeks to provide prompt, accurate, and efficient claims service to employees, employers, insurance companies, third party administrators, and the citizens of North Carolina.

## **About the Claims Administration Section**

The Claims Administration Section processes documents filed at the inception of a workers' compensation claim and during its pendency. At the outset of a new claim, the Claims Administration Section is responsible for researching insurance coverage, assigning Industrial Commission file numbers, identifying any discrepancies in information provided by employers, insurers, and/or injured workers, and notifying injured workers of their rights under the Workers' Compensation Act. As the claim progresses, the Claims Administration Section processes forms filed by insurers and employers relative to the acceptance or denial of claims, initiation and termination of benefits, and return to work status. The Claims Administration Section also processes occupational disease claims, including conducting research necessary to identify insurance coverage in claims with multiple employers.

Additionally, the Claims Administration Section reviews form agreements for payment of death, disfigurement, and permanent partial disability compensation. In conjunction with those agreements, the Claims Administration Section also reviews applications for lump sum payments. At the request of the parties, the Claims Administration Section will provide an advisory opinion in disfigurement claims to assist the parties in reaching agreement on fair and equitable compensation for disfigurement. The Claims Administration Section also handles attorney representation letters, requests for copies of files, interim attorney fee requests, Forms 51, and motions to extend the time to accept or deny a claim. In addition, the Claims Administration Section assesses penalties against employers/insurers who fail to file a Form 60, 61, or 63 within 30 days of receipt of notice by the Industrial Commission of the filing of a Form 18.

The Claims Administration Section provides monthly "action" reports to every carrier/third party administrator/self-insured employer who has complied with Rule 302 by providing the Industrial Commission with their contact information. This monthly report lists all of the entity's claims in which either a Form 18, 19, 60, 61, or 63 was filed during the preceding month. In addition, a separate monthly report of workplace fatalities is provided to the North Carolina Department of Labor. Finally, the Claims Administration Section also operates as a call center to answer inquiries from injured workers, employers/insurers, and attorneys concerning proper form filing, insurance coverage, the status of pending form agreements, and other general questions regarding the Workers' Compensation Act.

## **Most Frequently Processed Claims Administration-Related Forms**

Employers/insurers are required to file a Form 19 First Report of Injury (FROI) when an injured worker is out of work more than one day OR when more than \$2,000 has been paid in medical benefits.<sup>4</sup> All FROI's must be filed electronically via the Electronic Data Interchange (EDI).

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<sup>4</sup> The Industrial Commission is currently in the process of formal rulemaking to increase this amount from \$2,000 to \$4,000.

A Form 18 is entitled a *Notice of Accident to Employer and Claim of Employee, Representative, or Dependent*. A Form 18 must be filed by the injured worker or his/her legal representative within two years of the date of injury or occupational disease<sup>5</sup>, or within two years of the last payment of medical compensation when no other compensation has been paid, or the claim may be barred.

A Form 18B is entitled a *Claim by Employee, Representative, or Dependent for Benefits for Lung Disease*. It is not to be used for other occupational disease claims or for injuries by accident.

A Form 26A is entitled an *Employer's Admission of Employee's Right to Permanent Partial Disability*. This form is used when the parties agree on the amount of permanent partial disability benefits to be paid to the employee pursuant to N.C. Gen. Stat. § 97-31 once he/she reaches maximum medical improvement.

A Form 60, 61, or 63 is filed by an employer/insurer in response to a claim for benefits made by an injured worker or his/her representative. One of these three forms must be filed with the Commission via the Electronic Document Filing Portal (EDFP) to admit, deny, or pay without prejudice within 30 days following notice from the Commission of the filing of a Form 18. Failure to file a Form 60, 61, or 63 within 30 days will result in the imposition of sanctions pursuant to N.C. Gen. Stat. § 97-18(j).

### **Compliance with N.C. Gen. Stat. § 97-18(j)**

When Claims Administration processes a Form 18, it sends a letter to the insurer/third party administrator or self-insured employer advising that it has 30 days to file a Form 60, 61, or 63. The Industrial Commission tracks the filing of these forms, and if defendants fail to file a Form 60, 61, or 63 within 30 days following notice that a Form 18 was filed, Claims Administration will enter an Order directing defendants: (1) to file a Form 60, 61, or 63; and (2) to pay a sanction in the amount of \$400. Failure to comply with this Order within 30 days shall result in the imposition of further sanctions, including assessment of an additional \$200 penalty.

If defendants believe that the sanction was assessed in error, Claims Administration conducts further investigation to determine whether the sanction is indeed warranted. If it is found that defendants in fact complied with N.C. Gen. Stat. § 97-18(j), the sanctions Order will be rescinded. The most common reason for erroneous assessment of a sanction is the existence of duplicate files, which occurs when two or more claims are created for the same injury due to variations in information provided by the parties at the outset of the claim. Once discovered, these files are merged under one IC file number. If examination of the duplicate file shows that a Form 60, 61, or 63 was timely filed, the sanctions Order will be rescinded.

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<sup>5</sup> For an occupational disease claim, the two-year filing requirement is either two years from the date of diagnosis, or two years from being informed by competent medical authority that the condition is work-related, whichever is later.

## Claims Administration Section's Response to the COVID-19 Pandemic

On March 20, 2020, the Claims Administration Section began working primarily remotely. Claims employees were provided a laptop equipped with software that enabled them to mail claims correspondence from home and to answer phone calls as if they were in the office. Claims employees were also provided technological tools that allowed them to process electronically filed forms while working remotely. Claims employees have continued to work in the office on a limited basis to process incoming mail so that forms received by mail are processed as promptly as electronically filed forms.

Since the inception of the COVID-19 pandemic, the Claims Administration Section has seen a decrease in the number of forms filed when compared to the same period last year. The following charts show a 2019 and 2020 comparison of Forms 18, 19, 60, 61, and 63, starting in March and broken down thereafter by month:

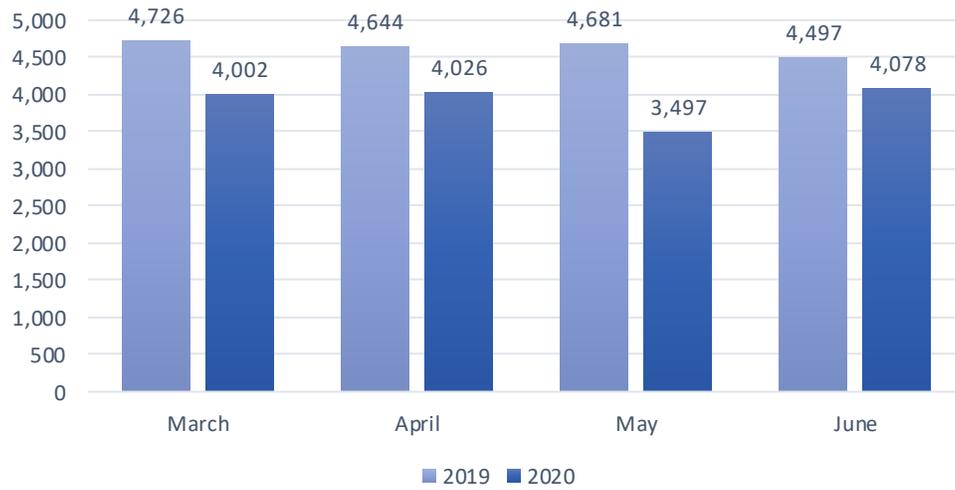
### Form 18 Filings



### Form 19 Filings



### Form 60, 61, and 63 Filings



There also has been a decrease in the number of Forms 26A filed with the Commission. For the period from March 1, 2019 through June 30, 2019, there were 2,116 Forms 26A filed. By comparison, from March 1, 2020 through June 30, 2020, only 1,938 Forms 26A were filed.

## Claims Administration Section Summary FY 2019-20

Total Claims Opened	59,410
Claims Opened via Form 18 Filing	7,391
Total Forms 18 Filed	17,710
Claims Opened via Form 19 Filing	52,019
Total Forms 19 Filed	110,043
Forms 60, 61, or 63 Processed	46,655
Forms 60 Processed	9,297
Forms 61 Processed	17,345
Forms 63 (Indemnity) Processed	6,831
Forms 63 (Medical Only) Processed	13,182
Forms 26A Received	5,923
Forms 26A Approved	5,840
Death Claims Filed	192
Telephone Calls Answered	19,421
Sanctions Collected for Violation of N.C. Gen. Stat. § 97-18(j)	\$783,200

## Forms Compliance Summary Pursuant to N.C. Gen. Stat. § 97-78(g) for FY 2019-20

Total of Forms 18 Processed	15,643
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Forms 60, 61 or 63 Processed before Form 18 Filed	4,574
Forms 60, 61 or 63 Filed within 30 Days of Notice of Form 18	<u>7,398</u>
<b>Total Number of Compliant Forms</b>	<b>11,972</b>
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Forms 60, 61 or 63 Filed between 31 and 60 Days of Notice of Form 18	1,289
Forms 60, 61 or 63 Filed between 61 and 90 Days of Notice of Form 18	501
Forms 60, 61 or 63 Filed 91 or More Days after Notice of Form 18	501
Forms 18 with no Forms 60, 61 or 63 Processed by End of FY 2018-19	<u>1,380</u>
<b>Total Number of Claims Not in Compliance</b>	<b>3,671</b>

## Forms Compliance Summary Pursuant to N.C. Gen. Stat. § 97-78(g)<sup>6</sup> for Calendar Year 2019

Total of Forms 18 Processed Calendar Year 2019	17,393
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Forms 60, 61 or 63 Processed before Form 18 Filed	5,003
Forms 60, 61 or 63 Filed within 30 Days of Notice of Form 18	<u>8,533</u>
<b>Total Number of Compliant Forms</b>	<b>13,536</b>
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Forms 60, 61 or 63 Filed between 31 and 60 Days of Notice of Form 18	1,378
Forms 60, 61 or 63 Filed between 61 and 90 Days of Notice of Form 18	414
Forms 60, 61 or 63 Filed 91 or More Days after Notice of Form 18	532
Forms 18 with no Forms 60, 61 or 63 Processed by End of Calendar Year 2019	<u>1,533</u>
<b>Total Number of Claims Not in Compliance</b>	<b>3,857</b>

<sup>6</sup> Specific information for each claim not compliant with N.C. Gen. Stat. § 97-18(j) is provided in Addendum A and Addendum B to this Annual Report.

# CLERK'S OFFICE

## Mission Statement

The Clerk's Office ensures all filings intended for the Executive Secretary's Office, the Deputy Commissioner Section, and the Full Commission are promptly and appropriately catalogued in the Commission's electronic document repository and routed to the appropriate Commission staff. All cases to be heard by the Commission are timely placed on a docket and moved through the system efficiently and expeditiously.

## About the Clerk's Office

The Clerk's Office was established to be the clearinghouse for documents filed pursuant to Rule 11 NCAC 23A .0108, which requires most documents filed with the Commission to be transmitted electronically. The Clerk's Office ensures filings are properly identified and delivered electronically to the appropriate Commission staff. The Clerk's Office is also responsible for filing and serving all Full Commission decisions, as well as some decisions from the Deputy Commissioner Section. In addition, the Clerk's Office provides customer support to stakeholders who have questions about filing procedures or who may initially misfile documents. Ultimately, the Clerk's Office is responsible for the integrity of the Commission's files. In addition to overseeing the Clerk's Office and administering Rule 11 NCAC 23A .0108, the Clerk of the Commission acknowledges appeals to the Court of Appeals and rules on various administrative motions, including attorney withdrawals, motions to withdraw requests for hearing, and motions to consolidate cases for hearing. Documents filed via the Commission's Electronic Document Filing Portal (EDFP) now average 32,484 per month. Beginning in 2019, it became mandatory for attorneys to use EDFP to file documents in claims filed under the State Tort Claims Act.

Docketing responsibilities of the Clerk's Office include processing requests for hearings and appeals, as well as processing related documents filed in all types of cases administered by the Commission, including workers' compensation and State tort claims. For cases appealed to the Full Commission, the Clerk's Office organizes the evidentiary exhibits of record, orders official hearing transcripts, and provides copies of the transcripts to the parties. The section assembles exhibits and filings into electronic working files for each case on appeal and prepares and electronically distributes the Full Commission hearing calendars. The section also serves as the custodian for recordings of Commission hearings and coordinates assignments of court reporters for hearings before the Deputy Commissioners and the Full Commission. In addition, the Clerk's Office provides trial court administration for workers' compensation cases for the Deputy Commissioner Section. The Clerk's Office also maintains the Commission's attorney database by adding new attorneys and updating attorney contact information upon receipt. Finally, the Clerk's Office processes requests for copies of files and certified copies of files.

The Clerk's Office continues to support the Commission's goal of becoming a paperless organization. Since most documents are filed with the Commission electronically, there has been a dramatic decrease in the amount of incoming paper documents required to be scanned by the Clerk's Office's scanning department. This change has allowed staff to allocate more time to projects scanning older paper files to decrease the Commission's paper storage space, with the goal of a future cost savings. This fiscal year the Clerk has been part of the core team focused on the implementation of a new case management system which will improve customer service and allow for new claims to be filed electronically.

### **The Clerk's Office's Response to the COVID-19 Pandemic**

The Clerk's Office response to the COVID-19 pandemic, much like the rest of the Industrial Commission's, has been to encourage staff to work from home while still providing a high level of customer service to both our internal and external customers. During the pandemic, the Clerk's Office has maintained one employee working full-time onsite who has taken on the responsibility for sorting and stamping the Commission's incoming paper mail. Additionally, the Clerk's Office has two staff people who alternate working from the office three days a week to scan and electronically deliver mailed filings to Clerk's Office staff working remotely. Staff then index and upload the filings to the appropriate matters. Because the bulk of Commission filings are now received electronically, the transition to temporary teleworking involved only a few logistical barriers which staff easily overcame with the assistance of the IT Section.

## Clerk's Office Summary for FY 2019-20

Requests that Claim be Assigned for Hearing	6,643
Requests for Hearing in Non-Insured Cases	162
Amended Requests that Claim be Assigned for Hearing	348
Administrative Appeals to Deputy Commissioners	443
Appeals (Requests for Hearing) in Penalty Assessment Cases	121
Responses to Hearing Requests	5,886
Attorney Representation Letters and Other Correspondence	13,200
Requests for Copies of Files	8,015
Tort Claims Filed	860
Appeals to the Full Commission	489
Cases Sent for Transcription	367
Full Commission Calendars Generated	48
Orders on Administrative Motions / Attorney Withdrawal	0 <sup>7</sup>
Certified Copies of Files	37
Scanned Documents Uploaded to Electronic Case Files	20,512

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<sup>7</sup> Motions normally the responsibility of the Clerk of the Commission (i.e., attorney withdrawal motions and other administrative motions) were handled by Special Deputy Commissioners in the Executive Secretary's Office during FY 2019-20 to allow the Clerk to devote more time to the new case management system project.

# COMPLIANCE DIVISION

## **Mission Statement**

The Compliance Division seeks to effectively work with businesses operating in North Carolina to ensure compliance with the insurance requirements of the North Carolina Workers' Compensation Act.

## **About the Compliance Division**

The Compliance Division identifies and investigates cases involving employers who are operating as non-insured employers in violation of N.C. Gen. Stat. § 97-93 and N.C. Gen. Stat. § 97-94. An employer is non-insured if the employer is subject to the North Carolina Workers' Compensation Act but does not carry workers' compensation insurance and does not obtain a license from the Commissioner of Insurance as a self-insured employer. The Compliance Division investigates referrals to determine whether an employer is subject to the Workers' Compensation Act and, if so, whether the employer is compliant in terms of insurance requirements. An administrative penalty can be assessed for a period that the employer was subject to the Act but not compliant with insurance requirements. The Compliance Division also assists the North Carolina Department of Justice with the enforcement and collection of penalty assessments and facilitates adjudication of contested penalty cases and settlements.

The Compliance Division uses a database known as the Noncompliant Employer Tracking System (NETS). NETS is a software tool that analyzes data sources from other State agencies to identify potential noncompliant employers who may be in violation of the North Carolina Workers' Compensation Act's requirement to maintain workers' compensation insurance coverage. The Compliance Division also receives alerts from the Industrial Commission's Employee Classification Section that are generated by the Employee Classification Application (ECA), which is a computer application that also utilizes data from multiple State agencies.

The Industrial Commission initially assessed \$10,883,688<sup>8</sup> in penalties for FY 2019-20. After alternative penalties were calculated under N.C. Gen. Stat. § 97-94(b2), the amount assessed was reduced by \$103,291, thus resulting in a modified assessed amount of \$10,780,397 in penalties for FY 2019-20. The Industrial Commission's collection of penalties in FY 2019-20 totaled \$3,126,064.<sup>9</sup> The collection of penalties and fines was impacted by the July 1, 2018 legislative changes to N.C. Gen. Stat. § 97-94, as well as the COVID-19 pandemic.

The Compliance Division brought 2,697 non-insured employers into compliance by ensuring that these employers obtained workers' compensation insurance coverage.

## **Compliance Division's Response to the COVID-19 Pandemic**

In response to COVID-19, the Compliance Division has been granting employers extensions and delaying start dates for payment plans for non-insured penalties. The extensions and delayed payment plan start dates are generally for 90 days but may be extended upon request. Employers are not required to submit financial statements or other documentation to obtain an extension or delayed start date, but all requests are required to be in writing.

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<sup>8</sup> This amount includes penalties assessed as a result of alerts referred by the Employee Classification Section to the Compliance Division and investigated by the Compliance Division and Criminal Investigations Division.

<sup>9</sup> This amount includes penalties collected from alerts referred by the Employee Classification Section to the Compliance Division and investigated by the Compliance Division and Criminal Investigations Division. This total includes, in part, amounts collected during FY 2019-20 due to penalties assessed in prior fiscal years.

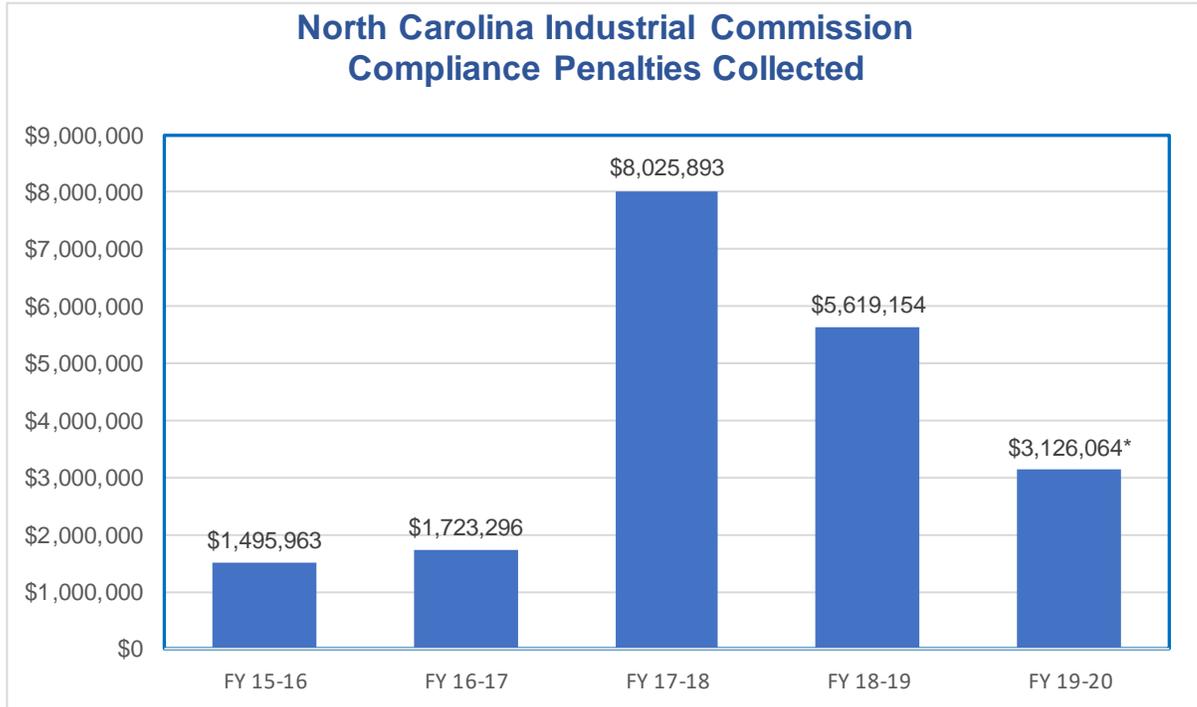
## Non-Insured Cases for FY 2019-20

Non-Insured Hearings Docketed before the Industrial Commission

235

Non-Insured Resolved by Compliance Division  
(Penalties Assessed or Case Otherwise Closed)

4,422



\* This amount reflects the effects of the 2018 legislative changes to N.C. Gen. Stat. § 97-94(b) and the Industrial Commission's exercise of regulatory flexibility during the COVID-19 pandemic under S.L. 2020-3, Section 4.38.

# CRIMINAL INVESTIGATIONS AND EMPLOYEE CLASSIFICATION DIVISION

## **Mission Statement**

The Criminal Investigations and Employee Classification Division serves the citizens of North Carolina by investigating potential criminal violations of the Workers' Compensation Act and by identifying and investigating businesses that engage in employee misclassification.

## **About the Criminal Investigations and Employee Classification Division**

The Industrial Commission combined its Criminal Investigations and Employee Classification Sections into the Criminal Investigations and Employee Classification Division. This reorganization provides expanded resources to investigate allegations of employee misclassification.

## CRIMINAL INVESTIGATIONS

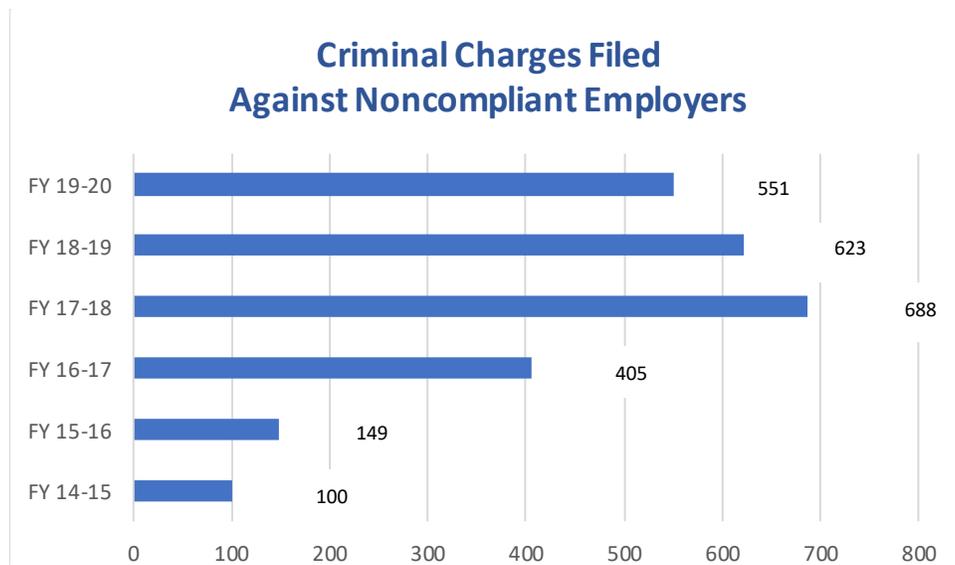
### **About Criminal Investigations**

Criminal Investigations operates as a law enforcement agency and is responsible for conducting criminal investigations in cases of suspected workers' compensation fraud and violations related to workers' compensation claims involving employees, employers, insurers, health care providers, attorneys, and vocational rehabilitation providers. Investigators examine all criminal complaints filed with the Commission regarding failure of employers to maintain workers' compensation insurance (N.C. Gen. Stat. § 97-94(d)); fraud on the part of employees with regard to obtaining workers' compensation benefits (N.C. Gen. Stat. § 97-88.2); fraud on the part of employers with regard to deducting workers' compensation premiums from employees' salaries (N.C. Gen. Stat. § 97-21); medical payment fraud; and any other claims arising out of violations of Chapter 97 by employees or employers. Criminal Investigations works with judicial officials and other law enforcement agencies throughout the State to resolve cases related to the above matters in criminal court.

The staff consists of six sworn law enforcement officers and two administrative positions. During FY 2019-20, Criminal Investigations processed a total of 9,254 cases, including 524 misdemeanor charges and three felony charges for failure to maintain workers' compensation insurance in violation of N.C. Gen. Stat. § 97-94(d). In addition, Criminal Investigations processed the following: one misdemeanor and seven felony charges of workers' compensation fraud in violation of N.C. Gen. Stat. § 97-88.2; ten felony charges of obtaining property by false pretenses in violation of N.C. Gen. Stat. § 14-100; three felony charges of uttering a forged document in violation of N.C. Gen. Stat. § 14-120; and three felony charges for forgery of document in violation of N.C. Gen. Stat. § 14-119(a). These cases were pursued through field investigations and administrative analysis of data utilizing the NETS and the Employment Classification Application (ECA) system and other available technology.

## Persons Investigated for Fraud under the Workers' Compensation Act for FY 2019-20<sup>10</sup>

	Employees	Employers	Insurers	Health Care Providers	Attorneys	Rehabilitation Providers	Totals
<b>Number of Fraud Cases Reported</b>	159	9,083 <sup>11</sup>	8	1	3	0	9,254
<b>Number of Fraud Cases Pending</b>	37	495	0	0	0	0	532
<b>Number of Fraud Cases Closed</b>	122	8,588	8	1	3	0	8,722



<sup>10</sup> The summary is provided in accordance with N.C. Gen. Stat. § 97-88.2(e).

<sup>11</sup> The 9,083 cases addressed allegations of fraud such as an employer not carrying workers' compensation insurance and unlawful deductions made by employers. These cases are generated from NETS and the ECA, calls received on the investigation hotline, and proactive enforcement operations.

# EMPLOYEE CLASSIFICATION

## About the Employee Classification Section

Employee misclassification is defined in N.C. Gen. Stat. § 143-786(a)(5) as avoiding tax liabilities and other obligations imposed by Chapters 95, 96, 97, 105, or 143 of the North Carolina General Statutes by misclassifying an employee as an independent contractor. Pursuant to Session Law 2017-203, the Employee Classification Section was established within the Industrial Commission under the Employee Fair Classification Act. The Employee Classification Section's statutory mandate includes, among other duties, receiving and investigating reports of employee misclassification; coordinating with and assisting all relevant State agencies in recovering any back taxes, wages, benefits, penalties, or other monies owed as a result of an employer engaging in employee misclassification; coordinating with relevant State agencies and district attorneys' offices in the prosecution of employers and individuals who fail to pay civil assessments or penalties assessed as a result of the employer's or individual's involvement in employee misclassification; and providing all relevant information pertaining to each instance of reported employee misclassification to the North Carolina Department of Labor, North Carolina Division of Employment Security, North Carolina Department of Revenue, and North Carolina Industrial Commission to facilitate investigation of potential violations of Chapters 95, 96, 97, 105, or 143 of the North Carolina General Statutes.

The Employee Classification Section collaborates with the Commission's sworn law enforcement officers, the Commission's Compliance Division, and other State agencies, as well as utilizes the Employee Classification Application (ECA), to identify and investigate potential employee misclassification. The ECA was developed in collaboration with SAS, Inc., the Government Data Analytics Center (GDAC), and other State agencies.

## Employee Classification Section Statistics

In Fiscal Year 2019-20, a total of 5,129 employee misclassification reports/alerts came through the ECA. The Criminal Investigations and Employee Classification Division, along with the Compliance Division of the Industrial Commission, investigated and resolved 3,515 of the reports/alerts. Of the 3,515 reports/alerts resolved, 2,732 employers were found to be subject to the Workers' Compensation Act, non-insured, and brought into compliance. Of the 2,732 non-insured employers, 383 employers were referred by the Compliance Division to the Commission's Deputy Commissioner Section for consideration of a penalty assessment.

A total of \$6,766,467 in penalty assessments was made initially by the Industrial Commission against non-insured employers based upon referrals from the Employee Classification Section. After alternative penalties were calculated under N.C. Gen. Stat. § 97-94(b2), the amount assessed was reduced by \$789,167.17, thus resulting in a modified assessed amount of \$5,977,299.83 in penalties for FY 2019-20 based upon referrals from the Employee Classification Section. A total of \$166,974.19<sup>12</sup> in penalty collections was made by the Industrial Commission from non-insured employers in FY 2019-20 based upon referrals from the Employee Classification Section.

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<sup>12</sup> This amount is included in the Compliance Division's total penalties collected for FY 2019-20.

## **North Carolina Division of Employment Security Statistics Related to Employee Misclassification**

The Employee Classification Section shares information of employee misclassification identified during field investigations and reports/alerts through the ECA with the North Carolina Division of Employee Security.

As a result of audits performed by the North Carolina Division of Employment Security, 8,354 workers were found by the Division of Employment Security to be misclassified from the third quarter of 2019 through the second quarter of 2020. This resulted in \$1,062,446.23 in taxes assessed by the Division of Employment Security.

## **North Carolina Department of Labor Statistics Related to Employee Misclassification**

The North Carolina Department of Labor provided information from 139 of their investigations involving suspected employee misclassification to be entered into the ECA by the Employee Classification Section. Additionally, the North Carolina Department of Labor Wage and Hour Bureau referred five callers to the Employee Classification Section.

As a result of investigations performed by the North Carolina Department of Labor, \$40,631 in wages were determined to be due to employees who were found by the Department of Labor to be misclassified, \$27,726 in wages were paid to employees who were found by the Department of Labor to be misclassified, \$10,184 in penalties were assessed by the Department of Labor in these cases, and \$3,951 in penalties were collected by the Department of Labor in these cases.

## **North Carolina Department of Revenue Statistics Related to Employee Misclassification**

The North Carolina Department of Revenue currently does not have initiatives that are specifically designed to identify cases of employee misclassification. However, the Department of Revenue's Schedule C Initiative and 4% ITIN Withholding Initiative may identify employers who are misclassifying workers as independent contractors. The Department of Revenue may attempt to reclassify the workers, depending on the facts of the case. The Schedule C Initiative performs audits of taxpayers who have overstated expenses or understated income based upon their Federal Schedule C. The 4% ITIN Withholding Initiative identifies and audits taxpayers who have made payment to an ITIN holder under a 1099-Misc but have failed to withhold 4% in income tax. In Fiscal Year 2019-20, the Department of Revenue's 4% ITIN Withholding audits resulted in \$5,157,098 in additional tax, penalties and interest due, and its Schedule C Initiative audits resulted in \$9,150,254 in additional tax, penalties, and interest due.

# DEPUTY COMMISSIONER SECTION

## **Mission Statement**

The Deputy Commissioners, Special Deputy Commissioners, paralegals, and legal assistants of the North Carolina Industrial Commission endeavor to fairly, impartially, and efficiently adjudicate contested claims by careful application of the law, by adherence to rules and procedures, and by providing timely and exemplary customer service to all parties.

## **About the Deputy Commissioner Section**

Deputy Commissioners hear and decide contested cases involving employees, employers, and insurance carriers under the Workers' Compensation Act. In addition, Deputy Commissioners hear and decide contested tort claims involving citizens and the State of North Carolina under the State Tort Claims Act. The Deputy Commissioners provide parties an opportunity to be heard in a professional, ethical, and courteous manner, and render legally sound and impartial decisions after thoroughly considering the facts of the case and applying the law.

In addition to conducting full evidentiary hearings throughout the State, Deputy Commissioners hear administrative motions, conduct administrative appeal hearings, review complex form agreements, review settlement agreements, and handle other matters.

## **Deputy Commissioner Section's Response to the COVID-19 Pandemic**

The Deputy Commissioner Section has historically conducted in-person hearings. Due to the Coronavirus pandemic, regular full evidentiary hearings temporarily ceased beginning March 16, 2020. Deputy Commissioner hearings on medical motions arising under N.C. Gen. Stat. § 97-25(f) continued with parties appearing by teleconference or, in some cases, via Webex videoconference. All stipulated and proposed exhibits were required to be submitted electronically pursuant to Rule 11 NCAC 23A .0108 at least 48 hours in advance of the hearing to ensure that all parties could view the exhibits.

Deputy Commissioners resumed hearing all types of cases except contempt, penalty, and inmate tort claims in June 2020 using videoconference technology (Webex). This policy is consistent with Chief Justice Cheri Beasley's May 21, 2020 Order directing judicial officials to "make use of remote hearing technology to the greatest extent possible to limit in-person appearances" and has enabled the Commission to avoid a pandemic-related backlog.

Penalty enforcement and penalty appeal hearings held pursuant to N.C. Gen. Stat. § 97-94(c) initially resumed on June 26, 2020 as in-person hearings but are currently being held via Webex.

Inmate tort hearings resumed on September 3, 2020 using remote technology that allows the inmate to appear at the hearing via a dedicated system without having to leave the correctional facility.

Deputy Commissioners are holding in-person hearings in limited cases when ordered by the presiding Deputy Commissioner for good cause shown.

## **Employer Noncompliance**

In FY 2019-20, the Deputy Commissioner Section assessed 1,228 penalties against non-insured employers. In addition, the Deputy Commissioner Section disposed of 416 matters in contempt proceedings, the majority of which were related to penalty enforcement.

## Claims Set for Hearings

Number of Claims Docketed for Hearings	5,606 <sup>13</sup>
Cases Heard	1,171 <sup>14</sup>

## Summary of Final Determinations Entered and Cases Settled

Compromise Settlement Agreements Approved	1,927
Final Determinations Entered (Opinion & Awards and Decisions & Orders)	864
Cases Dismissed with Prejudice	662
Cases Dismissed without Prejudice	171
Cases Continued and/or Removed from the Hearing Docket	3,381
Public Safety Employees' Death Benefits Act Determinations	15

## Penalty & Contempt Proceedings

Penalties Assessed	1,228
Penalty Matters Docketed for Hearing	988
Contempt Matters Docketed for Hearing	416

<sup>13</sup>This figure excludes penalty and contempt matters.

<sup>14</sup> This figure excludes penalty and contempt matters.

## REPORT PURSUANT TO N.C. GEN. STAT. § 97-78(g)(2) REGARDING EXPEDITIOUS RESOLUTION OF DISPUTES FOR MEDICAL COMPENSATION

### Expeditious Resolution of Emergency and Expedited Medical Motions

The Deputy Commissioner Section disposed of 298 Emergency and Expedited Medical Motions in FY 2019-20. N.C. Gen. Stat. § 97-25 requires that Expedited Medical Motions be fully resolved within 75 days of filing, including calendaring, conducting a full evidentiary hearing, completing all discovery, and the filing of an Opinion and Award. Importantly, the statute further requires that the discovery phase, including depositions of physicians and experts, be completed within 60 days of filing the Motion. Deputy Commissioners disposed of 298 Emergency and Expedited Medical Motions within the statutorily-mandated time frames and none were outside the statutorily-mandated time frames.

### Full Evidentiary Medical Motions/Emergency Medical Motions

Expedited Medical Motions	252
Emergency Medical Motions	46
<b>Total Medical Motions</b>	<b>298</b>

# EXECUTIVE SECRETARY'S OFFICE

## Mission Statement

The Executive Secretary's Office is committed to assisting all parties to workers' compensation claims in a professional manner through informed administrative rulings, consistent processes, and prompt and courteous communication.

## About the Executive Secretary's Office

The Executive Secretary's Office handles administrative review of issues for the Industrial Commission. This office is responsible for the review and approval or disapproval of the vast majority of Compromise Settlement Agreements filed with the Industrial Commission. This section is responsible for reviewing and deciding the Form 24 *Application to Terminate or Suspend Payment of Compensation* and the Form 23 *Application to Reinstate Payment of Disability Compensation*. Telephone hearings are often held in regard to these applications. In addition, Orders are issued after review of Administrative Motions, Third Party Settlements, and a variety of other issues.

## Executive Secretary's Office COVID-19 Response

In response to the COVID-19 pandemic, the Executive Secretary's Office took the following measures:

- All staff transitioned to working from home with limited visits to the office to handle any paper mail. Staff frequently utilized Microsoft Teams for online staff meetings.
- All staff programmed out-of-office voicemail greetings that provided email addresses and instructions for effective communication during the pandemic.
- The staff was allocated and began using a dedicated teleconference line for informal telephone hearings and other communications when necessary to protect employee's personal telephone numbers. The conference line was also used for staff meetings that did not require Microsoft Teams.
- The staff worked with the Chair and other sections to address questions and develop policies on emerging issues such as written affirmations replacing notarizations, electronic signatures, and medical treatment provided via telehealth.

Because the Executive Secretary's Office handles motions administratively and only conducts informal telephonic hearings, it was able to continue reviewing motions and issuing orders without pandemic-related rescheduling or delays.

## Executive Secretary's Office Summary for FY 2019-20

Orders on Compromise Settlement Agreements	10,399
Orders on Third Party Distributions	760
Orders/Dispositions on Forms 24 <i>Application to Terminate or Suspend Payment of Compensation</i>	1,518
Orders/Dispositions on Forms 23 <i>Application to Reinstate Payment of Disability Compensation</i>	234
Orders on Medical Motions	1,947
Orders/Dispositions on Administrative Motions	4,106 <sup>15</sup>
Orders on Motions to Withdraw as Counsel	1,406 <sup>16</sup>
<b>Total Orders/Dispositions</b>	<b>20,370</b>

### REPORT PURSUANT TO N.C. GEN. STAT. § 97-78(g)(2) REGARDING EXPEDITIOUS RESOLUTION OF DISPUTES FOR MEDICAL COMPENSATION

The Executive Secretary's Office issued 1,947 Orders on Medical Motions for FY 2019-20. One of the Orders was filed more than 75 days after the filing of the motion requesting relief. This motion was filed on August 1, 2019, and the Order was issued on December 6, 2019, due to clerical oversight.

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<sup>15</sup> This number increased from last fiscal year because the Executive Secretary's Office handled several types of motions usually handled by the Clerk's Office to allow the Clerk time to dedicate to the Commission's new case management system project

<sup>16</sup> This year, due to the Commission's case management project, the Executive Secretary's Office ruled on the attorney withdrawal motions previously handled by the Clerk's Office. This number was reported in the Clerk's Office section of the FY 2018-19 Annual Report.

# WORKERS' COMPENSATION INFORMATION SPECIALISTS

## Mission Statement

The Information Specialists strive to provide callers and visitors with accurate and helpful information in a prompt and courteous manner.

## About the Workers' Compensation Information Specialists

The Ombudsman<sup>17</sup> Program is operated in accordance with N.C. Gen. Stat. § 97-79(f) to provide unrepresented claimants, employers, and other parties with information about Industrial Commission policies and procedures. In addition, the Information Specialists provide information regarding tort claims against State agencies and other matters under the jurisdiction of the Industrial Commission.

Number of Calls Answered (English)	10,598
Number of Calls Answered (Spanish)	1,308
Total Calls Answered and Returned	11,906
Number of Walk-Ins Assisted	8
Correspondence (Letters & E-mails) Answered	2,535
Informational Packets Mailed	228

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<sup>17</sup> The Industrial Commission working title for an "Ombudsman" is an "Information Specialist."

# INFORMATION TECHNOLOGY SECTION

## Mission Statement

The Information Technology (“IT”) Section seeks to identify, facilitate, innovate, implement, and support the information systems technology hardware and software solutions which enable the North Carolina Industrial Commission to fulfill all aspects of its Mission Statement.

## What We Do

To accomplish its mission, the IT Section has the following objectives:

- Provide excellent customer service to the Commission’s internal and external customers.
- Identify, design, facilitate, innovate, implement, and support hardware and software solutions.
- Safeguard the information, information systems, and information systems infrastructure of the Commission.
- Design, develop, manage, and maintain the information technology systems management and strategies for the Commission.

In support of these objectives, the IT Section has the following responsibilities:

- Develop plans and procedures for technical and operational processes.
- Develop software programs and upgrades.
- Manage and maintain agency software applications and software licenses.
- Maintain and upgrade information systems technology hardware.
- Administer databases.
- Manage data security and access.
- Provide technology training and internal end-user hardware, software, and network support.

## Accomplishment Summary for FY 2019-20

The IT Section continues to work with each Commission section to anticipate, innovate, identify, and/or address each section’s information systems technology hardware and software needs and solutions. The IT Section continues to work to improve and/or enhance information technology services for Industrial Commission external and internal customers.

## Case Management System Project

The Commission selected a vendor and awarded the contract on July 31, 2019. Work began on the new case management system in September 2019, and the new system is projected to go-live by the first quarter of 2021.

The new case management system is replacing several old mainframe and client-server systems that were developed in-house and are running on State-owned hardware. The new cloud-based system will improve operating efficiency and provide new functionality for both internal and external users.

## Website Modernization Project

The IT Section has begun work on redesigning and modernizing the Industrial Commission’s website.

### **Voice Over IP (VoIP) Phone System Project**

The IT Section has replaced the Industrial Commission's Nortel Phone PBX-based phone system with a new Cisco VoIP-based solution. The new VoIP solution provides the Industrial Commission and its customers with improved functionality and greater reliability.

### **Charlotte Regional Office Relocation Project**

The IT Section successfully managed the transition of all technology, network, and telephone hardware during the move of the Industrial Commission's Charlotte regional office to their new offices.

### **Information Technology Section's Response to the COVID-19 Pandemic**

The North Carolina State of Emergency declared for the COVID-19 pandemic brought many challenges for the IT Section as it assisted the Commission in shifting to a teleworking environment. The teleworking and remote hearing platforms heavily rely on technology. Some of the IT initiatives necessary for preparing the Commission to operate remotely and continue to meet its mission included:

- Preparing users for teleworking by purchasing, configuring, and rolling out new laptop computers and desktop computers.
- Establishing the Commission's call centers with emergency messages and contact instructions.
- Deploying hardware and software for virtual call center phones to users and providing training for the same.
- Providing training and support for Commission staff on use of MS Teams for video conference meetings.
- Managing website updates to keep stakeholders informed of operational changes at the Commission.
- Providing additional remote support functions to address issues with home internet service and VPN access to the State network.
- Assisting and training Commissioners and Deputy Commissioners in conducting remote virtual hearings via Webex.
- Maintaining a physical presence in the office to address equipment issues and continuing to provide on-site support services that could not otherwise be delivered remotely.

# MEDIATION SECTION

## Mission Statement

The Mediation Section endeavors to effectively, fairly, and efficiently administer the Industrial Commission’s mediation program, with the goal of empowering the parties in pending cases to take an active role in the resolution of their disputes in order to minimize the need for hearings and appeals, expedite the dispute resolution process, and enable the Industrial Commission to devote its adjudicatory resources to those cases not conducive to settlement.

## About the Mediation Section

When a claim is contested, the parties are generally referred to mediation as a way of resolving the claim without a formal hearing. Cases usually bypass mediation when an injured worker is not represented by an attorney. The Mediation Section oversees this process by educating the stakeholders concerning mediation theories and procedures, ruling on any motions related to mediation, and ensuring that the parties and mediators adhere to certain timelines, move the case forward, and submit the required forms and reports. While the mediators who serve in these cases are generally not State employees, they must complete a formal mediation training program and be certified by the Dispute Resolution Commission. Pursuant to Rule 11 NCAC 23G .0203, the Mediation Section issues \$200.00 fee invoices for the processing of the *Report of Mediator* form in workers’ compensation cases.

Under the current Superior Court rule and the temporary amendment to the Commission’s attendance rule, all Industrial Commission mediations are being conducted remotely unless all parties and persons required to attend the mediation, including the mediator, agree to conduct the mediation in person, or unless the Commission orders that the mediation shall be conducted in-person following a motion filed with the Dispute Resolution Coordinator.

Over many years, the Commission’s mediation program has been successful despite a wide variety of changes in the workers’ compensation field. However, the changes have never been as challenging as the present. Despite the pandemic, workers’ compensation settlement rates have remained high. The settlement rate at mediation increased from 73.04% in the 2018-19 fiscal year to 73.19% in the 2019-20 fiscal year. Likewise, the overall settlement rate, which includes those cases that are resolved prior to scheduled mediation conferences, increased from 76.53% to 76.71%. For the 6<sup>th</sup> straight fiscal year, the settlement rate at mediation exceeded 72.5%. Prior to the 2014-15 fiscal year the annual settlement rate at mediation conferences had exceeded 72.5% only once during the initial 20 years of the program.

## Mediation Section Summary for FY 2019-20

Cases Referred to Mediation	9,671
Settlement Rate at Mediation Conferences	73.19%
Overall Settlement Rate	76.71%
Report of Mediator Processing Fees	\$1,738,200

## Mediation Section's Response to the COVID-19 Pandemic

Following the adoption of an emergency amendment to Rule 11 NCAC 23G .0104, which was approved by the Codifier of Rules effective as of June 16, 2020, the Commission adopted a temporary amendment to Rule 11 NCAC 23G .0104, which was approved by the Rules Review Commission effective August 28, 2020. Under this temporary rule amendment, all Industrial Commission mediations shall be conducted remotely, unless all parties and persons required to attend the mediation, including the mediator, agree to conduct the mediation in person, or unless the Industrial Commission orders that the mediation shall be conducted in person following a motion filed with the Dispute Resolution Coordinator pursuant to Rule 11 NCAC 23G .0104(b) and Rule 11 NCAC 23G .0111.

These emergency and temporary rule amendments were adopted by the Industrial Commission after the North Carolina Supreme Court entered an Order on June 3, 2020, amending Rule 4(a)(2) of the *Rules for Mediated Settlement Conferences and Other Settlement Procedures in Superior Court Civil Actions*, making attendance via remote technology the default method of attendance in Superior Court case mediations. Pursuant to N.C. Gen. Stat. §97-80(c), the Industrial Commission's mediation rules must be substantially similar to the mediation rules approved by the Supreme Court for use in the Superior Court division. The temporary amendment, which is now in effect, satisfies the statutory requirement. This rule amendment will proceed through permanent rulemaking under the Administrative Procedure Act over the course of the next several months.

With mediation conferences being conducted using remote technology, the Commission has taken several steps to assist mediation participants with the new procedures. For example, the Commission posted and distributed a version of the MSC8 *Mediated Settlement Agreement* form which can be easily completed with the participants in different locations. In addition, the Dispute Resolution Coordinator, Deputy Commissioner John Schafer, is easily accessible to the mediation participants if questions or issues arise during the remote mediation process.

# MEDICAL FEES SECTION

## Mission Statement

The Medical Fees Section is committed to providing prompt and efficient service by performing timely and accurate bill processing, answering inquiries regarding the Industrial Commission's Medical Fee Schedule, and assisting with the resolution of medical fee disputes.

## About the Medical Fees Section

The Medical Fees Section reviews bills for medical services provided as a result of a workers' compensation claim when a carrier or employer needs assistance. Medical bills are reviewed and adjusted in accordance with the Industrial Commission's Medical Fee Schedule and then returned to the insurance carrier, third-party administrator, or self-insurer handling the claim. The Medical Fees Section also responds to medical bill inquiries, resolves medical fee disputes, and assists in updating the Medical Fee Schedule. In accordance with N.C. Gen. Stat. § 97-26(i), the Industrial Commission has adopted a Medical Provider Fee Dispute Resolution Procedure by rule (11 NCAC 23A .0614).

## Medical Fees Section's Response to the COVID-19 Pandemic

In response to the COVID-19 pandemic, the Medical Fees Section transitioned all employees to work from home with limited visits to the office to handle any paper mail. Further, all staff programmed out-of-office voicemail greetings that provided email addresses and instructions for effective communication during the pandemic.

## Medical Bills Processed

<b>Total Bills Processed</b>	944
Inpatient Hospital	304
Physician	628
Miscellaneous, Dental, and Chiropractic	12

## Summary of Medical Provider Fee Disputes Processed

<b>Total Cases Received</b>	<b>170</b>
Paid	60
Resolved, Payment Pending	12
Referred for Legal Review	0
Unfounded	20
Closed	0
Pending	78
Amount Paid to Providers Following Fee Dispute Resolution	\$139,010.78

# MEDICAL REHABILITATION NURSES SECTION

## Mission Statement

The North Carolina Industrial Commission Medical Rehabilitation Nurses Section administers the mandatory training courses for Rehabilitation Professionals and collaboratively facilitates and coordinates high quality and effective medical care and rehabilitation such that an injured worker's maximum level of functionality is optimized, both physically and mentally.

## About the Medical Rehabilitation Nurses Section

The Nurses Section is responsible for the provision of NCIC Mandatory Rehabilitation Professional Training, acknowledgment of the Form 25N *Notice of Assignment of Rehabilitation Professional*, and the maintenance of the NCIC Registry of Workers' Compensation Rehabilitation Professionals. The mandatory training is required for all Rehabilitation Professionals who work on workers' compensation cases in North Carolina. The mandate requires a comprehensive initial training course for all Rehabilitation Professionals and a "refresher" course that must be taken every five years to maintain "Qualified" status.

The Nurses Section is also tasked with providing medical rehabilitation consultative services to a variety of North Carolina workers' compensation audiences, including injured workers, insurance carriers, attorneys, Rehabilitation Professionals, and health care providers when ordered or requested. The Nurses Section assists with case management and medical rehabilitation needs in the event difficulties interfere with the ongoing progress of returning injured workers to their maximum functional capabilities.

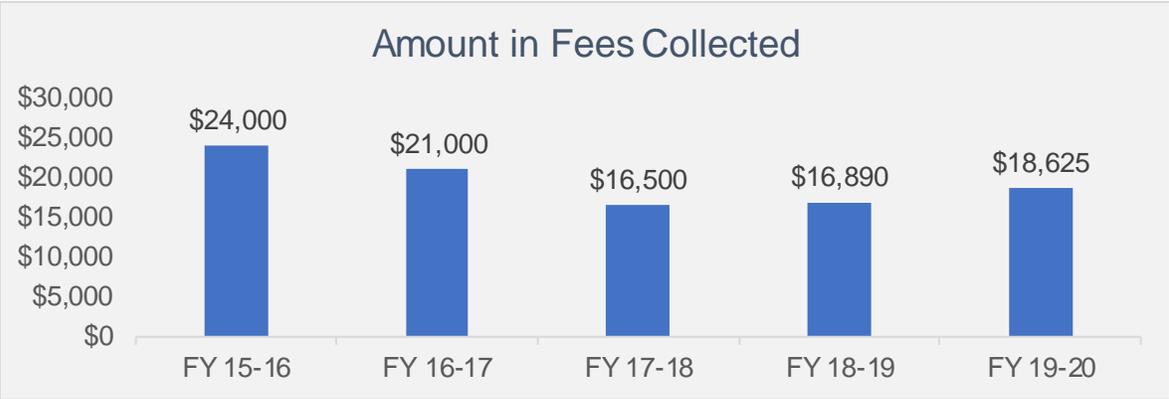
## Medical Rehabilitation Nurses Section's Response to the COVID-19 Pandemic

In response to the COVID-19 pandemic, the Medical Rehabilitation Nurses Section took the following measures:

- All staff transitioned to working from home with limited visits to the office to handle any paper mail.
- All staff programmed out-of-office voicemail greetings that provided email addresses and instructions for effective communication during the pandemic.
- The Commission's Rehabilitation Nurse Consultant consulted with rehabilitation case management companies regarding how to provide case management services during the pandemic while adhering to the *Rules for Rehabilitation Professionals in Workers' Compensation Claims*. The topics addressed included the following:
  - How to obtain injured employee signatures on necessary forms remotely.
  - How to participate in telehealth appointments and document necessary medical information.
  - How to communicate with physicians when unable to attend appointments or if injured employees declined case manager attendance.
- The Commission's Rehabilitation Nurse Consultant provided rehabilitation case management companies with informal review of their COVID-19 plans upon request.

# Nurses Section Summary of FY 2019-20

Total Cases	36
<hr/>	
Acknowledged Forms 25N ( <i>Notice of Assignment of Rehabilitation Professional</i> )	12,880
<hr/>	
Rehabilitation Professionals Trained	284
<hr/>	



## Industrial Commission

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