



## WEST VIRGINIA INSURANCE BULLETIN No. 21 - 06

*Insurance Bulletins are issued when the Commissioner renders formal opinions, guidance or expectations on matters or issues, explains how new statutes or rules will be implemented or applied, or advises of interpretation or application of existing statutes or rules.*

### ► Permanent Total Disability Review Board ◀

Effective January 1, 2022, the Offices of the Insurance Commissioner's Permanent Total Disability Review Board ("PTDRB") will no longer accept applications from self-insured employers or private carriers to evaluate claimants for permanent total disability benefits.

W.Va. Code §23-4-6(j) provides, in relevant part, that, upon termination of the Workers' Compensation Commission, "[t]he Interdisciplinary Examining Board shall terminate... and all administrative and adjudicatory functions performed by the Interdisciplinary Examining Board shall be performed by the following reviewing bodies for those claims over which they have administrative jurisdiction: (1) The insurance commissioner or his or her designated representative ... (2) private carriers; or (3) self-insured employers." Since the termination of the Workers' Compensation Commission, the Insurance Commissioner has maintained the PTDRB, which is comprised of the same qualified and professional membership as the preceding Interdisciplinary Examining Board. The PTDRB has continued to receive and review referral applications related to the determination of permanent total disability benefits from self-insured employers and private carriers, for a monetary fee, as well as from the state-administered workers' compensation funds. The Insurance Commissioner has strongly supported and encouraged the PTDRB, has appreciated providing this important service to self-insured employers and private carriers, when needed, and has been privileged to receive the guidance and expertise of the members of the PTDRB. The professionalism, skill, and dedication of the members of the PTDRB, both past and present, is unmatched and has been praised by all parties to the litigation process. Nevertheless, due to the dwindling number of applications to the PTDRB, the Insurance Commissioner has made the difficult decision to discontinue the practice of accepting applications from outside parties to the PTDRB.

The provisions of W.Va. Code §23-4-6 will continue to apply to evaluations for permanent total disability benefits and, as noted in W.Va. Code §23-4-6(j), reviewing bodies must employ or otherwise engage adequate resources, including medical professionals, to undertake evaluations of applications for permanent total disability benefits. Reviewing bodies shall properly apply all standards for determining medical impairment and for determining whether a claimant is eligible for an award of permanent total disability benefits. Please e-mail any questions concerning this Insurance Bulletin to [OICBulletins@wv.gov](mailto:OICBulletins@wv.gov) or call (304) 558-0401.

**Issued: September 7, 2021**

