



STATE OF MAINE
WORKERS' COMPENSATION BOARD
Board of Directors' Business Meeting

December 13, 2022

A business meeting of the Maine Workers' Compensation Board of Directors was conducted on Tuesday, December 13, 2022 via Zoom and in person at the Board's Central Office at 442 Civic Center Drive, Augusta.

PRESENT: John Rohde (*Executive Director/Chair*), Ron Green, Glenn Burroughs, Richelle Wallace, Lynne Gaudette, and Penny Picard (*Directors*), Richard Hewes (*General Counsel*)
REMOTE VIA ZOOM: Serina DeWolfe (*Director*)

I. CALL TO ORDER

Executive Director Rohde called the meeting to order at 10:02 a.m. with 24 people participating both remotely and in person. Executive Director Rohde reviewed the hybrid meeting format and remote participation procedures. Board members and staff introduced themselves for the recording.

II. APPROVAL OF MINUTES

1. Draft Minutes of 8/23/2022 and 11/15/2022 Board of Director's Business Meetings

Director Wallace MOVED TO ACCEPT THE MINUTES OF THE 08/23/2022 and 11/15/2022 BOARD MEETING AS WRITTEN;

Director Burroughs SECONDED.

Directors Green and Wallace clarified that the minutes from August 23rd meeting contain an excerpt from the transcript of that meeting. The excerpt relates to the Board's discussion of the budget, which was taken up during the segment of the meeting that pertained to the Budget Subcommittee.

MOTION PASSED 7-0.

III. SUBCOMMITTEE REPORTS

1. Personnel Subcommittee

Director Picard reported that the Administrative Law Judge billet in Caribou and the Director of Audit position are ready for posting. The deputy director position (formerly the Hearing Officer position) is still in the process of being reclassified. The Board is still looking for new office space for the Portland Regional Office. Additionally, training was held with the paralegals so that they may assist with mediations.

2. IME Subcommittee

Director Gaudette reported that the IME subcommittee met to discuss the integrity of the Section 312 process. Elizabeth Brogan and Nathan Jury joined that meeting. All agreed that maintaining the integrity of the IME program is essential. The IME subcommittee will further evaluate the application and onboarding process for prospective section 312 doctors and make sure that annual IME performance reviews are focused on maintaining unbiased high-quality physicians. They will meet again to discuss potential changes to Chapter 4. The subcommittee will report back to the full Board of Directors after it completes its discussion.

The Board has received an application from a doctor who is interested in becoming a Board approved Section 312 examiner. An interview will be scheduled after the subcommittee finishes its review of the evaluation and application processes.

IV. EXECUTIVE DIRECTOR REPORT

1. Personnel

As Director Picard noted, two positions are being posted and a Deputy Director position is being reclassified. The Portland Regional office had several days without heat in the office. Staff was directed to work from home on those days. Training was conducted for the paralegals with the goal of having them assist with mediations. This will help with the advocate workload and hopefully avoid mediation continuances due to scheduling conflicts.

2. Medical Fee Schedule

The Medical Fee Schedule will be updated and effective on January 1, 2023 based on the information from Medicare. Deputy Director Kimberlee McCarson updates the fee schedule every year.

3. Legislation

The Legislature is back in session, but committee assignments have not been completed. A list of bill titles should be published by the Revisor's office soon.

V. GENERAL COUNSEL REPORT

1. Personnel

General Counsel Richard Hewes noted that the paralegal training involved mock mediations. He thanked Sandy Osterby and Rita Bean for their help with the case studies used.

2. Section 213 Petitions

The hardship petition filed in *Audette v. City of Lewiston* has been dismissed at the Employee's request. A new hardship petition has been received, however. The case is *Weiss v. Maine Soapstone Co.* The Employee is *pro se* in this filing. As the file was just received, more information will be available in the future.

VI. OLD BUSINESS

1. Chapter 5 Rulemaking

Director Green MOVED TO TAKE THE CHAPTER 5 RULEMAKING DISCUSSION OFF THE TABLE FOR A VOTE;

Director Burroughs SECONDED. **MOTION PASSED 7-0.**

Executive Director Rohde noted a draft went out to Board members and the stakeholder group to discuss the latest revisions. The Board will be voting today to send this out for public comment and begin the formal rulemaking process. As noted in previous meetings, if anyone has a comment on the proposed rule, they will need to submit those once the public comment period begins. Comments and discussions from stakeholder or Board meetings were used to craft the proposed rule, but they are not carried over into the public comment period for purposes of the rulemaking process.

Executive Director Rohde received questions about possible language changes from Dr. Mark Holbrook. Among them was a question about combining psychiatric and substance abuse releases into one form. Director Burroughs noted that federal guidelines for these types of releases might come into play and combining them is not recommended. Directors agreed to add “Except as set forth in section 1.06(5) to the last bullet on the duties of health care providers page and to add “Please note” to the beginning of the third sentence in the “Voluntary” paragraph of the release related to psychological matters.

Director Wallace asked if there were changes to Chapter 4 to discuss. Executive Director Rohde said that the IME Subcommittee is still working on Chapter 4.

Director Burroughs MOVED TO SEND THE PROPOSED CHAPTER 5, WITH THE INCLUSION OF COMMENTS DISCUSSED AND AGREED UPON TODAY, OUT FOR PUBLIC COMMENT; Director Gaudette SECONDED. **MOTION PASSED 7-0.**

VII. ADJOURNMENT

As there was no new business to discuss, Director Wallace MOVED TO ADJOURN; Director Picard SECONDED.

MOTION PASSED 6-1. (*Director Burroughs opposed.*)

The meeting formally adjourned at 10:22 a.m.