



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

July 11, 2023

A business meeting of the Maine Workers' Compensation Board of Directors was conducted remotely via Zoom and in person at the Board's Central Office at 442 Civic Center Drive, Augusta on Tuesday, July 11, 2023.

PRESENT: John Rohde (*Executive Director/Chair*), Glenn Burroughs, Ron Green, Lynne Gaudette, Serina DeWolfe (*Directors*), and Richard Hewes (*General Counsel*)

PRESENT VIA ZOOM: Penny Picard, (*Director*)

ABSENT: Richelle Wallace (*Director*)

I. CALL TO ORDER

Executive Director Rohde called the meeting to order at 10:05 a.m. with over 35 people participating. 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 6/13/2023 Board of Director's Business Meeting

Director Green MOVED TO ACCEPT THE MINUTES OF THE 6/13/2023 BOARD MEETING AS WRITTEN; Director Burroughs SECONDED.
MOTION PASSED 6-0.

III. SUBCOMMITTEE REPORTS

1. IME Subcommittee

The IME Subcommittee is waiting on the remaining questionnaires from the independent medical examiners which are due by July 14th. There are no other items to report on at this time.

2. Personnel Subcommittee

Director DeWolfe reported the Personnel Subcommittee interviewed seven applicants for the mediator vacancy in Portland.

Director DeWolfe MOVED TO HIRE JENNIFER HARROW-MORTELLITI AS A MEDIATOR IN THE PORTLAND OFFICE; Director Gaudette SECONDED.
MOTION PASSED 6-0.

3. Budget Subcommittee

A Budget Subcommittee meeting was not needed this month.

IV. EXECUTIVE DIRECTOR REPORT

1. Portland Office Move

The lease for the new Portland Regional office space has been signed. The Board hopes to move in mid-October.

V. GENERAL COUNSEL REPORT

1. Personnel

Charles Fyler has been hired as an attorney advocate in the Augusta Advocate office. His first day will be July 17th. The job posting for the vacant attorney advocate position in Lewiston will be extended. There is an open paralegal position in Portland and interviews are being conducted.

2. Maine Bar Association

The Maine Bar Association, along with Board staff, will be presenting a one-day conference at the Augusta Civic Center to provide a continuing legal education course on workers' compensation topics that will allow for CLE credit. It will be held on September 29th. More information can be found on the Maine Bar Association's website.

VI. OLD BUSINESS

1. Legislation

Updates were provided on previously discussed bills:

LD 1123 is still with the Appropriations committee.

LD 1302 is still on the special study table waiting to be funded by the Legislature. The fiscal note on the study is \$3,500.

LD 1803 (submitted by the Board) has been passed to be enacted in both the House and Senate. Board staff has begun preparing for how to implement the predetermination piece of the bill. There will be a transition period as we move to the new system for independent contractor predeterminations.

LD 1896 has been requested to be carried over to the next session by the Labor and Housing Committee. Liz Brogan asked if the Board still intended to form a stakeholder group to discuss impacts of the bill to the workers' compensation system. Executive Director Rohde will hold stakeholder meetings this fall.

2. Rulemaking

The Board has received public comments on the proposed changes to Chapter 5 of the Board Rules. Executive Director Rohde discussed all three comments. Questions from meeting participants were welcomed and discussed. At this time, the Board can adopt the rules as proposed, amend them, or vote not to adopt them. The deadline to take action is within 120 days of the end of the comment period.

Director Burroughs MOVED TO ADOPT THE PROPOSED CHANGES TO CHAPTER 5 AS WRITTEN; Director Gaudette SECONDED. **MOTION PASSED 6-0.**

The Board has proposed a change to Chapter 4 of the Board's Rules. In the IME section, the proposed change would add a subsection that confirms that independent medical examiners will provide impartial and objective medical findings. This will begin the process of rulemaking for the proposed change.

Director Burroughs MOVED TO PROPOSE THE CHANGES TO CHAPTER 5 AS WRITTEN; Director Gaudette SECONDED. **MOTION PASSED 6-0.**

VII. NEW BUSINESS

1. 2022 Annual Compliance Report

Carrie Pomeroy reviewed the annual compliance report. The scope of the report is very large. Compliance is below benchmarks with the exception of initial notices of controversy (NOCs). NOCs are at 93% compliance.

Compliance by size of insurer was a category added by request of the Board members. The small size group (under 25 filings per year) is only 1.5% of the total and has very little impact on overall compliance. Generally, compliance increases as the size of the filings increases with the exception of the largest filing group.

Carrie noted that on page 6, National Interstate Insurance should not have been included and that will be corrected before publishing the final report.

Lost time first reports of injury (FROI) are at an all-time low for compliance at 76%. The Board's Monitoring Auditing and Enforcement Unit is looking at the specifics for this benchmark. Timely payments are below benchmarks, but most injured employees are getting payments in a reasonable time frame. Memorandum of payment (MOP) filings are still below benchmarks, but the penalty process is improving compliance.

Page 11 shows wage statements and fringe benefit filings are also below benchmark. A new penalty process for late filings was initiated and this seems to be improving compliance.

Director Gaudette MOVED TO ACCEPT THE 2022 ANNUAL COMPLIANCE REPORT AS WRITTEN WITH THE CHANGE TO PAGE 6 AS DISCUSSED; Director Green SECONDED. **MOTION PASSED 6-0.**

2. 2023 First Quarter Compliance Report

Carrie Pomeroy reviewed the 2023 First Quarter Compliance Report. FROIs are still 5% below benchmark, payments are close to benchmark, wage and fringe benefit filings are at or close to benchmark.

Director Gaudette noted the improvement of wage and fringe benefit filings and thanked insurers, especially the small ones, for bringing that number up.

Director Gaudette MOVED TO ACCEPT THE 2022 ANNUAL COMPLIANCE REPORT AS WRITTEN; Director Picard SECONDED. **MOTION PASSED 6-0.**

3. Board Vacancy

Director Picard reported that Director Richelle Wallace is resigning. Executive Director Rohde noted for the participants that a Board vacancy from the Management side must be filled with a recommendation from the Chamber of Commerce and then approved by the Labor and Housing Committee. If we are not able to confirm a replacement in the Fall, the next opportunity will be in the Spring.

VIII. ADJOURNMENT

Director Burroughs MOVED TO ADJOURN; Director Gaudette SECONDED.

MOTION PASSED 4-2. (*Directors Burroughs and Green opposed.*)

The meeting formally adjourned at 10:45 a.m.