



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

February 12, 2019

A business meeting of the Maine Workers' Compensation Board of Directors was held on Tuesday, February 12, 2019, at the Workers' Compensation Board, Augusta Central Office.

PRESENT: John Rohde (*Chair*), Ron Green, Glenn Burroughs, Emery Deabay, Richelle Wallace, Tom Davis (*by phone*), and Gary Koocher.

I. CALL TO ORDER

Executive Director Rohde called the meeting to order at 10:04 a.m.

II. APPROVAL OF MINUTES

1. Draft Minutes of 1/8/2019 Meeting

Director Koocher MOVED TO ACCEPT THE MINUTES OF THE 1/08/19 MEETING; Director Green seconded. **MOTION PASSES 6-0-1** (*Chair abstained*).

III. SUBCOMMITTEE REPORTS

1. Budget Subcommittee

The Budget subcommittee met prior to the Board meeting to discuss policies on expenditures such as traveling, purchasing, etc. The Workers' Compensation Board operates under the Department of Administration and Financial Services' (DAFS) policies. It was recommended that the Board adopt additional policies. Drafts of the policies are being prepared.

2. Personnel Subcommittee

The Personnel subcommittee met prior to the Board meeting to discuss the vacant General Counsel position. Applications for General Counsel will be accepted until February 20, 2019. The Personnel Subcommittee will conduct interviews during the first week in March. The Board should be able to vote on a new General Counsel at the March 12th meeting.

IV. EXECUTIVE DIRECTOR AND GENERAL COUNSEL REPORT

Executive Director Rohde gave a combined update on the Executive Director and General Counsel topics.

1. Executive Director

John Rohde has been sworn in as the Executive Director/Chair of the Workers' Compensation Board. The Annual Report has been delivered to the printer and is due to the Legislature by February 15, 2019. The annual Permanent Impairment report was filed on January 31, 2019. PI Ratings are generally collected from Lump Sum Settlements. Due to changes in the Rules, PI Ratings are no longer required for Lump Sum Settlements. As a result the primary source of PI Rating information will dry up and we will need to find a new way to procure that information.

2. Bureau of Budget

Executive Director Rohde attended the Chamber of Commerce Leadership Summit. The Executive Director invited the Board members to attend the NCCI meeting on March 14, 2019.

3. Bad Weather Policy

An inclement weather policy is still being drafted. Court Call is willing to work with the Board on using their system for these meetings, if needed.

4. Comp Summit

Executive Director Rohde will meet with Bud Bernstein about the schedule for this year. The Board suggested scheduling the business meeting on Monday during Comp Summit.

V. OLD BUSINESS

1. §213 Petitions

The scheduling order for the Moulton petition was sent out in January. Deadlines were set to allow the case to be heard in April. Pre-hearing briefs should be available a week prior to the Board meeting.

The Sapranova §213 petition has an Employer's Motion to Dismiss before the Board. Discussion was held about the petition, the motion, and the status of the Appellate case.

Director Koocher MOVED TO GRANT THE EMPLOYER'S MOTION TO DISMISS THE EMPLOYEE'S §213 PETITION AS READ; Director Wallace seconded.
MOTION PASSES 4-3.

2. Psychiatric/Psychological Release Form

The wording of form WCB-220-A was discussed again with regard to injured employees having representation when the form is completed. Members of the public in attendance contend that this form slows down claims handling and recommended that the Board change the wording regarding employee representation. The Executive Director reported that based on feedback from the Advocates, Troubleshooters and ALJ's this issue does not come up very often. While there is a narrow problem of accessing records that

should be available without a release, it is not worth engaging in rulemaking on just that point. If other changes are made being proposed to Chapter 5, it can be considered then.

VI. NEW BUSINESS

1. Legislation

Executive Director Rohde reviewed the bills that have been submitted to date with regard to workers' compensation.

LD 291 An Act Regarding Responsibility for the Overpayment of Claims. This bill is primarily intended for health care. The Bureau of Insurance's testimony will be that this was only intended to apply to healthcare and should exempt workers' compensation.

LD 407 An Act To Promote Universal Health Care, Including Dental, Vision and Hearing Care. In the bill, as currently written, medical payments would be taken out of the comp system entirely.

LD 298 An Act To Establish a Conditional Presumption of Compensability for Corrections Employees in Cases of Impairment from Hypertension or Heart Disease. This bill has come up before but does not have data to support the need for a presumption.

Director Koocher MOVED TO OPPOSE LD 298 AS READ; Director Davis seconded. **MOTION FAILS 3-4.**

Director Deabay MOVED TO TABLE A VOTE ON LD 298 UNTIL THE BOARD HAS MORE INFORMATION, Director Koocher seconded. **MOTION PASSES 5-0-2** (*Directors Koocher and Wallace abstained*).

LD 312 An Act To Reduce the Cost of Workers' Compensation Insurance for Small Employers is being handled by the Bureau of Insurance.

LD 580 An Act To Improve the Advocate Program Established by the Workers' Compensation Board is a concept draft. The Board has no position at this time.

LD 600 An Act To Achieve Mental Health Parity in Workers' Compensation amends the standards for mental stress injuries.

Director Deabay MOVED TO SUPPORT LD 600 AS OUGHT TO PASS, Director Burroughs seconded. **MOTION PASSES 4-3.**

LD 601 An Act To Create Fairness by Reinstating the Cost-of-living Adjustment for Workers' Compensation Benefits. Executive Director Rohde has asked NCCI for a cost estimate on this bill.

Director Burroughs MOVED TO SUPPORT LD 601 AS OUGHT TO PASS, Director Green seconded. **MOTION PASSES 4-3.**

LD 756 An Act To Improve the Maine Workers' Compensation Act of 1992 is a concept draft. The Board has no position at this time.

LD 758 An Act To Clarify Work Search Requirements for Workers' Compensation.

Director Deabay MOVED TO SUPPORT LD 758 AS OUGHT TO PASS, Director Burroughs seconded. **MOTION PASSES 4-3.**

VII. ADJOURNMENT

Director Koocher MOVED TO ADJOURN; Director Deabay seconded. **MOTION PASSES 6-0-1** (*Chair abstained*).

The meeting formally was adjourned at 11:55 a.m.