



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

October 11, 2022

A business meeting of the Maine Workers' Compensation Board of Directors was conducted on Tuesday, October 11, 2022 via Zoom and in person at the Board's Central Office on 442 Civic Center Drive, Augusta.

PRESENT: John Rohde (*Executive Director/Chair*), Lynne Gaudette, Ron Green, Glenn Burroughs, Richelle Wallace, 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 10:06 a.m. with 31 people participating 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. PLAQUE PRESENTATION

Director Burroughs MOVED TO GO OUT OF ORDER OF THE AGENDA. Director Picard seconded. **MOTION PASSED 7-0.**

Executive Director Rohde welcomed Bud Bernstein to the meeting and presented a plaque and gift on behalf of the Board. The Board members thanked him for his service to Workers' Compensation via Comp Summit for the past 28 years.

Mr. Bernstein said he has been blessed with great employees who will continue with Comp Summit next year.

III. APPROVAL OF MINUTES

1. Draft Minutes of 8/23/2022 and 9/13/2022 Board of Director's Business Meetings

Director Green MOVED TO ACCEPT BOTH THE MINUTES OF THE 8/23/2022 AND 9/13/2022 BOARD MEETING AS WRITTEN; Director Burroughs seconded.

Director Wallace also asked for confirmation that Director Green was the one who asked why "Management did not support the motion" question in the first paragraph after "motion passed 4-3" in the August minutes. Director Wallace also stated that on the third page of the August 23rd minutes, third paragraph after "motion passed 4-3" she feels that

what is in the draft minutes is not what she intended to say regarding the annual assessment cap. She intended to say “4% per year for the next 4 years” and this one is “13%.” She stated she was not intentionally comparing 4% to 13%.

Executive Director Rohde MOVED TO AMEND THE 8/23/2022 MINUTES to include “4% per year for 4 years” and to include “13% for two years.” Director Gaudette seconded. Discussion was held about the wording of those paragraphs. Director Green confirmed he did ask the initial question regarding Management’s vote. Director Burroughs asked the follow up question.

Director Green asked if the meeting had been recorded. If so, could we listen to what was said? As meetings are recorded, Executive Director Rohde suggested this item be tabled until the November meeting in order to listen to the recording and confirm the text.

Director Green MOVED TO TABLE THE 8/23/2022 BOARD MEETING MINUTES. Director Burroughs seconded. Discussion continued.

Director Burroughs MOVED TO ACCEPT THE MINUTES OF THE 9/13/2022 BOARD MEETING AS WRITTEN; Director Green seconded. Director Gaudette noted a typo on page 3 “HIPA” should be “HIPAA.” The typo will be corrected. **MOTION PASSED 7-0.**

Director Burroughs MOVED TO TABLE THE AUGUST BOARD MEETING MINUTES UNTIL THEY ARE ACCEPTABLE TO BOTH SIDES. Director Green seconded. **Motion passed 7-0.**

IV. SUBCOMMITTEE REPORTS

1. Personnel Subcommittee

Director Picard reported that Hearing Officer Dunn’s position is being reclassified as Hearing Officer Dunn is retiring at the end of this year. Additionally, Administrative Law Judge Tom Pelletier has informed the Board he will be retiring in February of 2023. The Personnel subcommittee will post these positions as soon as possible. The Board is still looking for new office space for the Portland Regional Office.

V. EXECUTIVE DIRECTOR REPORT

1. Medical Fee Schedule

The inpatient section of the Medical Fee Schedule was updated as of October 1st. As per usual, the other sections will be updated on January 1, 2023.

2. NCCI Medical Data Report

NCCI releases this report annually. The report will be shared with the Board members once it is available.

VI. GENERAL COUNSEL REPORT

1. Personnel

General Counsel Richard Hewes reported that two new attorneys have joined the Advocate Division. Maurice Libner has joined us after retiring from private practice and will be the Advocate in Lewiston. Taylor DiDonato is a recent law school graduate and will be an Advocate in Portland.

VII. OLD BUSINESS

1. Chapter 5 Rulemaking

The subcommittee helped to compile the draft presented today, though there is ongoing discussion regarding a few items. Executive Director Rohde recapped the rulemaking process and noted that once formal rulemaking begins, parties may make official feedback on proposed rule changes. Feedback provided to the subcommittee is not official. Additionally, the draft being reviewed is not available online as formal rulemaking has not begun. Interested parties may request a copy via email.

The M-1 form has been revised. With regard to the release forms, the requirement for representation has been removed. Discussion has been ongoing regarding having one release form with all providers listed or a separate form for each provider when requesting the release of psychological records. The Board members agree that one form, with multiple providers listed when needed, is the easier option for the employee.

VIII. NEW BUSINESS

1. 2nd Quarter 2022 Draft Compliance Report

Carrie Pomeroy presented a draft of the 2Q2022 Compliance report. She reported there are no significant changes from the previous report and benchmarks remain down. Monitoring was hoping to see better MOP (Memorandum of Payment) compliance with the new penalty system, but it is about the same as last quarter.

Director Gaudette would like to have the Board take a more in depth look at the areas with lowest compliance. Monitoring provides valuable data, and the Board should utilize it more to improve compliance. She would also like to have a more in depth conversation with those insurers to identify why they are unable to comply. Director Picard added that she'd like to break down the ratio of claims to identify problem insurers and avoid penalizing those insurers who are better at meeting benchmarks.

If an insurer is doing poorly with compliance, they usually move up the audit list, but Monitoring will look at more detailed breakdowns.

Director Burroughs asked what reasons are being given for lack of compliance? Is it training? Turnover? Carrie has not had any requests for training and noted that there is training available on our website. Turnover at the insurance companies has been an issue.

Tamii Rose, who was attending via Zoom, asked if there was a way to change our current wage statement form to an Excel form that had autofill and calculation capabilities. The wage statement is currently a fillable PDF form. There was discussion about the form and Tamii will email Lindsay Lizzotte an Excel sample. The Board will consider changing the form.

Director Burroughs MOVED TO ACCEPT THE 2nd Quarter 2022 COMPLIANCE REPORT AS WRITTEN; Director Wallace SECONDED. **MOTION PASSED 7-0.**

IX. ADJOURNMENT

Executive Director Rohde, Director Burroughs, and the other members present again thanked Bud Bernstein for his work on Comp Summit and wished him well in retirement.

Director Green MOVED TO ADJOURN; Director Picard SECONDED. **MOTION PASSED 6-1.** (*Director Burroughs opposed.*)

The meeting formally adjourned at 11:41 a.m.