



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

**October 8, 2024**

A business meeting of the Maine Workers' Compensation Board of Directors was conducted remotely via Zoom and in person at the Board's Portland Regional Office at 56 Northport Drive, Portland, on Tuesday, October 8, 2024.

**BOARD MEMBERS PRESENT:** John Rohde (*Executive Director/Chair*), Penny Picard, Glenn Burroughs, Ron Green, Serina DeWolfe, and Lynne Gaudette (*Directors*), and Richard Hewes (*General Counsel*) attended in person.

**CALL TO ORDER**

Executive Director Rohde called the meeting to order at 10:05 a.m. with over 30 people participating in person and via Zoom. Executive Director Rohde reviewed the hybrid meeting format, remote participation procedures, and welcomed everyone attending in person. Board members and staff introduced themselves for the recording.

**I. APPROVAL OF MINUTES**

**1. Draft Minutes of 8/28/2024 Board of Director's Business Meeting**

Director Gaudette MOVED TO ACCEPT THE MINUTES OF THE AUGUST 28, 2024 BOARD MEETING AS WRITTEN; Director Green SECONDED. **MOTION PASSED 6-0.**

**2. Draft Minutes of 9/10/2024 Board of Director's Business Meeting**

Director Burroughs MOVED TO ACCEPT THE MINUTES OF THE SEPTEMBER 10, 2024 BOARD MEETING AS WRITTEN; Director Picard SECONDED. **MOTION PASSED 6-0.**

**II. SUBCOMMITTEE REPORTS**

**1. Personnel Subcommittee**

Director DeWolfe reported that the job posting for the Augusta ALJ positions will be available today and open until October 23rd. The subcommittee will also continue to meet with Senior Staff to discuss staffing and personnel needs.

**2. Budget Subcommittee**

The Budget Subcommittee met on October 1, 2024. Jake LaChance from the Maine State Chamber of Commerce also joined the meeting. Director Gendreau is on vacation, so the

budget discussion scheduled for today will be held over to the November meeting. Director Green noted that Director Gendreau is proposing to bring the full budget back before the Board.

**3. IME Subcommittee**

The IME Subcommittee will be interviewing the four randomly selected doctors over the next few weeks. There is not an update yet for proposed changes to the IME rules.

**III. EXECUTIVE DIRECTOR REPORT**

**1. Settlement Question**

Executive Director Rohde received an email from Senator Tipping inquiring about claims that are settled. A question has arisen about employers demanding that employees release claims for latent injuries that may arise in the future, such as cancer claims, but which relate back to the claimant's tenure at the employer before the settlement. As part of a lump sum settlement, a firefighter signed settlement documents that included a waiver of rights to potential cancer claims and claims made by the employee's spouse. Senator Tipping wondered whether legislation will be needed to prevent such broad waivers. The Board does not think legislation (or rulemaking) is necessary at this time because provisions of this type may already be unenforceable under the Act. The Board will monitor this issue.

**IV. GENERAL COUNSEL REPORT**

**1. Law Court Decisions**

The Law Court has issued its decision in *Michaud v. Caribou Ford-Mercury Inc.* The Appellate Division's decision was vacated. The Law Court also issued a decision in a case where a worker from Massachusetts was working in Maine and was killed in an afterhours fight by a co-worker. The Law Court ruled that the decedent's widow could not sue the co-worker. Co-workers are immune from civil liability outside of the workers' compensation system in the same way that employers are exempt except that co-workers can be sued for workplace sexual harassment and assault.

**2. Advocate Division**

The Advocate Division is still facing a backlog of cases. The Board plans to contract with a private attorney who will work on cases and help reduce the backlog.

**V. OLD BUSINESS**

**1. Vacancy Provision**

Executive Director Rohde had a follow up conversation with the Governor's Office (GO) about the suggested changes to the vacancy provision. The Chamber and the AFL-CIO are able to submit lists now and if a vacancy arises, the GO would confirm that the lists are up to date. However, the confirmation process is unavoidable. In terms of the stand-by member suggestion, this is not something currently done with other boards. The Board will continue to discuss/work on this provision.

## VI. NEW BUSINESS

### 1. 2025 Meeting Schedule

The proposed 2025 meeting schedule was reviewed.

Director Burroughs MOVED TO CHANGE THE NOVEMBER 2025 MEETING DATE FROM TUESDAY, NOVEMBER 11, 2025 (VETERANS' DAY) TO WEDNESDAY, NOVEMBER 12, 2025 AND ACCEPT THE REST OF THE SCHEDULE AS PROPOSED; Director Picard SECONDED. **MOTION PASSED 6-0.**

The remote option for meetings will switch from Zoom to Teams for 2025.

Director Burroughs MOVED TO RECESS UNTIL 11:00 A.M. Director Picard SECONDED. **MOTION PASSED 6-0.** The record was paused at 10:41 a.m. and resumed at 11:01 a.m.

## VII. MOTION FOR FURTHER FINDINGS AND CONCLUSIONS

*Weiss v. Maine Soapstone Company* - 39-A MRSA §213 (1)(A)

The Board previously issued a decision on the petition brought by Jerome Weiss against Maine Soapstone Company. Following an evidentiary hearing on May 14, 2024 at the Caribou Regional Office, the Board of Directors denied the petition in a May 22, 2024 decision. The employee filed a motion and proposed further findings of fact and conclusions of law and the employer filed a response. Notice of the hearing was published and the parties were afforded the opportunity to view the proceeding via Zoom or in person. The directors considered the motion.

General Counsel Hewes provided a summary of the motions. This hearing is not open to new evidence or testimony from the parties. The primary issue for consideration is whether the Directors' May 22, 2024 decision, as written, provides an adequate basis for appellate review. Director Burroughs opined that there are no different facts that should be adopted to change the decision. Director Picard said she has reviewed the case materials and the motion and does not believe there is a basis to grant the pending motion. Director Green concurred.

Director Picard MOVED TO DENY THE EMPLOYEE'S MOTION FOR FURTHER FINDINGS. Director Burroughs SECONDED. **MOTION PASSED 6-0.**

General Counsel Hewes will prepare a written draft of the decision for signature and notify the parties.

## VIII. ADJOURNMENT

Director Picard MOVED TO ADJOURN; Director DeWolfe SECONDED. **MOTION PASSED 5-1.** (*Director Burroughs opposed.*)

The meeting formally adjourned at 11:05 a.m.