



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

**January 14, 2020**

A business meeting of the Maine Workers' Compensation Board of Directors was held on Tuesday, January 14, 2020, at the Augusta Central Office in Augusta, Maine.

**PRESENT:** John Rohde (*Executive Director/Chair*), Ron Green, Glenn Burroughs, Richelle Wallace, Tom Davis, Gary Koocher, and Emery Deabay, and Richard Hewes (*General Counsel*)

**I. CALL TO ORDER**

Executive Director Rohde called the meeting to order at 10:06 a.m.

**II. APPROVAL OF MINUTES**

**1. Draft Minutes of 12/10/2019**

Director Wallace MOVED TO ACCEPT THE MINUTES OF 12/10/19; Director Koocher seconded. **MOTION PASSED 7-0.**

**III. SUBCOMMITTEE REPORTS**

**1. Personnel Subcommittee**

The Personnel subcommittee met prior to the Board meeting to review the advocate study results. Executive Director Rohde presented the advocate study to the Labor and Housing Committee on January 8, 2020. There will be more discussion as research identified in the study is carried out. The budget is due at the end of the summer and that will be the best place to address the issues discussed in the study.

Elizabeth Brogan, Esq. asked whether an increase for the advocates would raise the assessment cap. The Board will be considering the assessment cap as a matter of course regardless of the advocate study.

**2. IME Subcommittee**

The Independent Medical Examiner subcommittee met prior to the Board meeting to discuss the application of a new employment rehabilitation provider and the application of an independent medical examiner.

Haley Atkinson has applied to become an employment rehabilitation provider to replace a retiring provider on the Board's list.

Director Burroughs MOVED TO APPOINT HALEY ATKINSON AS AN EMPLOYMENT REHABILITATION PROVIDER; Director Koocher seconded. **MOTION PASSED 7-0.**

Dr. Frank Graf has reapplied to be on the independent medical examiner list. He was removed at the January Board meeting for failing to complete and return the survey sent out to all IME providers in October 2019. He has since submitted a new application. Director Koocher has additional materials he would like to provide to the Board before it votes on Dr. Graf's application.

Director Green MOVED TO TABLE THE MATTER UNTIL THE FEBRUARY MEETING; Director Koocher seconded. **MOTION PASSED 5-2** (*Directors Burroughs and Deabay opposed.*)

Director Burroughs asked to go on record as being vehemently against tabling the motion but respects the right of the Board to vote.

The motion was tabled. Executive Director Rohde asked that the additional information be submitted no later than January 29, 2020 so there will be time to review it before the next Board meeting.

## **IV. EXECUTIVE DIRECTOR REPORT**

### **1. Advocate Study**

As mentioned earlier, Executive Director Rohde provided an update to the Labor and Housing Committee with regards to the Advocate study. It is not yet known if there will be a hearing for the presentation of the LD 756 report.

### **2. Reports**

The Annual report with the Bureau of Insurance and the Bureau of Labor Standards is in process and will be submitted for printing by the end of the month. The Permanent Impairment (PI) report for this year will likely be the same as last year due to the changes in reporting of PI ratings at lump sum settlements. As such, there is no additional PI rating information available for this year.

### **3. Medical Fee Schedule**

The ASC, outpatient, and professional services relative values were updated effective January 1, 2020. The next triannual review of the medical fee schedule is due in 2020. Deputy Director Kimberlee McCarson has contacted the Maine Health Data Organization again for a report on medical fees.

### **4. Proof of Coverage**

IAIABC has updated its proof of coverage filing requirements. A revised rule may be required to ensure we are current with these requirements. There may also be an issue with respect to incorporating the IAIABC data dictionary. The Board has not yet connected with the Bureau of Unemployment regarding information that would be used to ensure employers have coverage.

### **5. Technology**

As previously reported, Deputy Director Lindsay Lizzotte has been working with the Office of Information Technology (OIT) to upgrade the database. The Budget subcommittee will need to have the technology portion of the budget ready this spring.

## **V. GENERAL COUNSEL REPORT**

### **1. Staffing**

General Counsel Richard Hewes reported that the Abuse Unit is fully staffed again with the addition of Maryanne Prince as an Attorney Advocate. She previously worked at the Department of Labor as a hearing officer. The MAE Unit is still short two auditors. Interviews have been conducted and the board anticipates hiring two candidates soon.

### **2. Appellate Division and Law Court**

In 2019, the Appellate Division issued 41 decisions. Thirty-one were affirmed and 10 were remanded. Eighteen Appellate Division decisions were appealed to the Law Court. The Law Court denied 12 of those appeals, one was withdrawn and two were dismissed. Three appeals have not been disposed of by the Law Court.

## **VI. OLD BUSINESS**

### **1. LD 756 (PL 2019, C. 344) Studies**

Executive Director Rohde reported that the Advocate Study has been completed and submitted. The work search/vocational rehabilitation and uninsured employer working groups have not been able to reach consensus. Drafts of both reports are being prepared for review by the working groups. Matt Marks of AGC provided a letter yesterday with additional comments regarding the working group's activity.

## **VII. NEW BUSINESS**

### **1. 3Q2019 Compliance Report Draft**

Carrie Ellis presented a draft of the 3<sup>rd</sup> Quarter 2019 Compliance Report. This is the first quarter that data has been produced on wages and fringe benefits. Director Deabay noted that all of the benchmarks are low with the exception of notice of controversy (NOC) and asked what is being done to bring those numbers up such as penalties or enforcement. The MAE Unit has been meeting to discuss how to improve compliance and will be making changes going forward.

Director Koocher **MOVED TO ACCEPT THE 3<sup>rd</sup> QUARTER COMPLIANCE REPORT.** Director Wallace seconded. **MOTION PASSED 7-0**

### **2. Forms**

Executive Director Rohde reported that after LD 756 was enacted, forms were reviewed to ensure they met the needs of the statute. Changes have been proposed to the WCB-4 MOD (modification)/DISC (discontinuance) form and the WCB-3 MOP (memorandum of payment) form. The WCB-4 form has been divided into two forms, WCB-4M and WCB-4D. The MOP form has additional categories such as cost of living adjustments and fringe benefit changes. Areas for benefit adjustment and benefit type information has been added to the MOP and Modification forms. The basic data blocks will be moved to

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standard positions on all forms. Revised forms will be presented at the February meeting for approval. A “phase in” period will be given once the new forms are approved.

**3. NCCI Report**

The 2019 NCCI Medical Data Report and Opioid Supplement were reviewed and discussed. One area of interest is that the Board has a single conversion factor for professional services but NCCI data shows variations within subcategories.

**VIII. ADJOURNMENT**

Director Koocher MOVED TO ADJOURN; Director Deabay seconded. **MOTION PASSED 6-1.** (*Director Burroughs abstained.*)

The meeting formally adjourned at 10:43 a.m.