



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

January 12, 2021

A business meeting of the Maine Workers' Compensation Board of Directors was conducted on Tuesday, January 12, 2021 via Zoom.

PRESENT: John Rohde (*Executive Director/Chair*), Ron Green, Glenn Burroughs, Richelle Wallace, Tom Davis, Gary Koocher (*Directors*), and Richard Hewes (*General Counsel*).
Director Emery Deabay was not able to be present for this meeting.

I. CALL TO ORDER

Executive Director Rohde called the meeting to order at 10:05 a.m. with over 35 people participating remotely. Executive Director Rohde reviewed the Zoom meeting platform and procedures. Board members and staff introduced themselves for the recording. Voting is to be conducted by roll call vote instead of a show of hands.

II. APPROVAL OF MINUTES

1. Draft Minutes of 12/8/2020 Board of Director's Business Meeting

Director Burroughs MOVED TO ACCEPT THE MINUTES OF 12/08/2020 AS WRITTEN; Director Green seconded. **MOTION PASSED 6-0.**

III. SUBCOMMITTEE REPORTS

The Personnel subcommittee met on January 7, 2021 via Zoom. The Budget subcommittee met on January 11, 2021. The IME Subcommittee did not meet in January.

1. Personnel Subcommittee

The Personnel Subcommittee met to discuss current staffing at the Board. The Board is still carrying a number of vacant positions. Personnel is very thin in some departments, but the Board will hold off as long as possible in filling them due to budget considerations during the pandemic. There may be another Administrative Law Judge retiring in 2021 which will require more planning. The Portland Regional Office is currently down one judge due to ALJ Jerome's retirement last month.

2. Budget Subcommittee

The Budget Subcommittee also met to discuss the vacancies at the Board with a focus on spending and how to fill the positions when needed. Additionally, the Budget Subcommittee prepared a draft of financial policies and procedures governing payment of travel, lodging and meals, subscriptions and contributions and to specify the conditions under which those costs will be paid, whether directly or through reimbursement. Though the Board is a quasi-independent agency, it generally operates as a General Fund agency and follows the same financial policies.

Director Green MOVED TO ADOPT THE MAINE WORKERS' COMPENSATION BOARD FINANCIAL POLICIES AND PROCEDURES, EFFECTIVE JANUARY 12, 2021, AS PRESENTED TO THE WORKERS' COMPENSATION BOARD OF DIRECTORS AT THEIR MEETING ON JANUARY 12, 2021; Director Wallace seconded. **MOTION PASSED 6-0.**

IV. EXECUTIVE DIRECTOR REPORT

1. Medical Fee Schedule

Executive Director Rohde reported the three year review of Medical Fee Schedule was completed and changes were effective as of January 1, 2021. As previously discussed, the base rates and conversion factors for professional and outpatient fees did not change.

2. Legislation

The 130th Legislature is now in session. A list of titles was released and there are seven titles listed under Workers' Compensation. At least 4 of these titles deal with corrections officers. The bills themselves have not been printed yet. More information will be provided as it becomes available.

2. COVID Reports

As of January 4, the Board had received 2,407 lost time first reports of injuries related to COVID-19. In November and December there were 597 lost time reports filed. Healthcare and long term care occupations, particularly nurses, DSPs, and CNAs, continue to account for the highest number of first reports filed. Board staff are tracking the disposition of those cases, as well

V. GENERAL COUNSEL REPORT

1. Law Court

General Counsel Richard Hewes reported the Law Court has issued decisions in two cases related to Title 39A.

In *Somers v. S.D. Warren*, the insurer terminated partial incapacity benefits because the employee received 520 weeks of benefits, the durational limit. The employer did not give the employee written 21-day notice, which was required by a rule that has since been changed. The employer contended that notice was not provided because benefits were ended pursuant to a Board order that authorized the termination. The employee filed for reinstatement of benefits because the 21-day process was not followed. The ALJ denied

the employee's petition for reinstatement. The Board's Appellate Division reversed. The Law Court affirmed the Appellate decision. Benefits were ordered.

In *Potter v. Cooke Aquaculture*, the Law Court addressed whether the claimant was an "employee" covered by the Workers' Compensation Act or a "seaman" under the federal Jones Act. In *Potter*, the amount of time in service to a vessel in navigation was the key to resolving the issue. The Board's decisions held that Ms. Potter was an employee and, therefore, entitled to workers' compensation benefits Maine's Act. The Law Court affirmed.

VI. OLD BUSINESS

There was no old business.

VII. NEW BUSINESS

The 3rd Quarter 2020 Compliance report draft was presented by Carrie Pomeroy from Monitoring. Overall, the benchmarks were met, but there were some slower responses than usual. The report is before the uptick in COVID-related claims (November and December) which will be reflected in the 4th quarter. There continues to be room for improvement in compliance.

Director Green MOVED TO ACCEPT THE 3RD QUARTER COMPLIANCE REPORT AS WRITTEN; Director Burroughs seconded. **MOTION PASSED 6-0.**

VIII. ADJOURNMENT

Director Green MOVED TO ADJOURN; Director Burroughs seconded. **MOTION PASSED 6-0.**

The meeting formally adjourned at 10:28 a.m.