



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

February 8, 2022

A business meeting of the Maine Workers' Compensation Board of Directors was conducted on Tuesday, February 8, 2022 via Zoom.

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

I. CALL TO ORDER

Executive Director Rohde called the meeting to order at 10:02 a.m. with over 20 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 1/11/2022 Board of Director's Business Meeting

Director Burroughs MOVED TO ACCEPT THE MINUTES OF THE 1/11/2022 BOARD MEETING AS WRITTEN; Director Picard seconded.
MOTION PASSED 7-0.

III. SUBCOMMITTEE REPORTS

1. IME Subcommittee

Director Gaudette reported that the IME Subcommittee met on February 2nd to review the tracking of Independent Medical Examiners (IMEs). Based on the most recent data, the timeliness of the IMEs is improving. The subcommittee will continue monitoring and make recommendations as needed.

Discussion was also held on the portion of the PTSD bill that requires a representative when mental health records are requested. This requirement often leads to delays when

an injured employee does not have a lawyer. General Counsel Richard Hewes will put together a group to discuss ways to improve processing of this release.

2. Personnel Subcommittee

Director DeWolfe reported the Personnel Subcommittee met to discuss the need for a contract Administrative Law Judge (ALJ) for a case that involves the spouse of a Board employee. The Appellate Division vacated the decision (*McElwee, contract ALJ*) and remanded the case for additional proceedings.

Director DeWolfe MOVED TO ENTER INTO AN AGREEMENT WITH DAWN PELLETIER, NOT TO EXCEED \$5,000.00, TO BE A CONTRACT ADMINISTRATIVE LAW JUDGE; Director Picard seconded.
MOTION PASSED 7-0.

3. Budget Subcommittee

Executive Director Rohde reported that when the Supplemental Budget is be printed there will be a line for about \$250,000 to cover increased Statewide Cost Allocation Plan (STACAP) charges. These costs are associated with the move to Civic Center Drive (which is not a State owned building). This should cover the previous difference and allow the next biennial budget to accurately show STACAP charges. Directors Green and Wallace agreed that figuring out the STACAP rates can be difficult.

IV. EXECUTIVE DIRECTOR REPORT

1. Annual Report

The annual report is being finalized and will be distributed next week.

2. Personnel

ALJ Collier retired at the end of January. ALJ Collier has been with the Board since 1997 and we wish him well in his retirement. Lindsey Sands will start as the new ALJ in the Lewiston office on February 14th. ALJ Rooks will move to the Portland office to fill Tim Collier's position.

The contract to allow the Board to hire outside workers' compensation attorneys on a contract basis to assist with the advocate division is with Purchases for final approval. These attorneys will assist the Advocate Division while the newly hired advocates complete training and pass the Maine Bar exam.

3. Employee Misclassification

General Counsel Richard Hewes and Deputy General Counsel Seanna Crasnick have continued to meet with the Department of Labor to coordinate employee misclassification and information sharing efforts.

4. COVID-19

January had the highest number of first reports of injury (FROI) to date with 737.

V. GENERAL COUNSEL REPORT

1. Appellate Week

Last week was an Appellate hearing week with five appeals heard. The Appellate Division has published four decisions already this year.

2. Mental Health Records Release

General Counsel Hewes will be coordinating a review of the mental health records release, in particular the requirement that the employee be represented. This requirement can cause delays in getting medical records.

VI. OLD BUSINESS

Executive Director Rohde provided an update on Legislation. The Labor and Housing Committee voted on LD 1879 (the PTSD presumption) as ought to pass as amended. The vote was unanimous. The amendment extends the sunset provision for an additional three years instead of repealing it. Additionally, in five more years a second report will be due for firefighters and EMTS, a second report will be due in five and ten years for dispatchers as they were only recently added to the PTSD presumption.

A work session on LD 1881, which deals with medical marijuana use, is scheduled for tomorrow. Executive Director Rohde was able to speak with the bill's sponsor, Representative Dillingham, regarding the intent of the bill. The intent is to allow injured employees to use medical marijuana with a valid medical card without jeopardizing workers' compensation benefits. The bill has provisions for employers that fall under federal jurisdiction and jobs that specifically prohibit marijuana use. There are no proposed amendments at this time.

As previously discussed, there are still bills from last session at Appropriations. There has been no change at this time.

VII. NEW BUSINESS

No new business was scheduled for this meeting.

VIII. ADJOURNMENT

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

The meeting formally adjourned at 10:22 a.m.