



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

**June 13, 2023**

A business meeting of the Maine Workers' Compensation Board of Directors was conducted remotely via Zoom and in person at the Board's Central Office at 442 Civic Center Drive, Augusta on Tuesday, June 13, 2023.

**PRESENT:** John Rohde (*Executive Director/Chair*), Glenn Burroughs, Ron Green, Lynne Gaudette, (*Directors*), and Richard Hewes (*General Counsel*)

**PRESENT VIA ZOOM:** Penny Picard, Richelle Wallace (*Directors*)

**ABSENT:** Serina DeWolfe (*Director*)

## **I. CALL TO ORDER**

Executive Director Rohde called the meeting to order at 10:02 a.m. with over 25 people participating. Executive Director Rohde reviewed the hybrid meeting format and remote participation procedures. Board members and staff introduced themselves for the recording.

## **II. APPROVAL OF MINUTES**

### **1. Draft Minutes of 5/9/2023 Board of Director's Business Meeting**

Director Gaudette MOVED TO ACCEPT THE MINUTES OF THE 5/9/2023 BOARD MEETING AS WRITTEN; Director Burroughs SECONDED.  
**MOTION PASSED 6-0.**

## **III. SUBCOMMITTEE REPORTS**

### **1. Budget Subcommittee**

Director Green reported that the Budget subcommittee met to discuss the progress of the Portland Regional Office move to a new space. Director Wallace added that Deputy Director Jan Adams, along with Bureau of General Services (BGS), are working hard to conclude a competitive lease in a tight market.

The Board hopes to move into the new space this September. The new location will be in generally the same area as the present Portland Regional Office and will be accessible via public transportation.

**2. Personnel Subcommittee**

Director Picard reported the Personnel Subcommittee met to review applications for the mediator position open in Portland. Seven candidates have been chosen for interview. The subcommittee hopes to have a recommendation for the Board at the July meeting.

**3. IME Subcommittee**

Director Gaudette reported that the questionnaires for the annual review of Independent Medical Examiners have been finalized and will be mailed out this week. The doctors have a month to respond. The subcommittee will then schedule follow ups based on the responses. Director Picard asked about the deadline for responses which is July 14<sup>th</sup>.

**IV. EXECUTIVE DIRECTOR REPORT**

**1. Medical Fee Schedule**

This year is a comprehensive review year for the medical fee schedule. Deputy Director Kimberlee McCarson has done the preliminary work and more will be brought before the Board in the coming months.

**2. Rulemaking**

Executive Director Rohde is working on the written comments received to proposed Chapter 5 changes.

**3. OSHA Case**

A ruling recently came down from OSHA regarding a Maine contractor that was involved in a fatal roofing accident. The contractor argued that the workers he paid were independent contractors and not employees, therefore he was not liable for safety violations. OSHA disagreed and held him responsible both personally and as a company. The fine is approximately 1.5 million dollars.

**4. IAIABC**

Deputy Director Lindsay Lizzotte is now a part of the EDI claims and coverage committees with IAIABC.

**V. GENERAL COUNSEL REPORT**

**1. Personnel**

An Advocate in the Augusta office has resigned. The Board will be working to fill this vacancy as quickly as possible. Sarah Becker has been hired to fill the vacant Abuse Attorney position. Sarah previously worked for the Board and will now be based out of the Bangor office. There are two open paralegal positions that the Advocate Division is working to fill.

**2. Maine Bar Association**

The Maine Bar Association, along with Board staff, are working to put together a one-day conference to help replace Comp Summit. The conference will provide workers' compensation specific training and allow for CLE credit. It will be held at the end of

September at the Augusta Civic Center. More information will be forthcoming as plans progress.

### **3. Annual Regulatory Agenda**

The Annual Regulatory Agenda has been prepared and is due to the Legislature by July 8, 2023. The proposed regulatory agenda was sent to the Directors prior to the meeting for review. Director Gaudette asked if the Board was permitted to make changes if they are not on the regulatory agenda. General Counsel Hewes noted that we are not, but the agenda is written as comprehensively as possible to anticipate any potential rule changes.

Director Green MOVED TO ACCEPT THE ANNUAL REGULATORY AGENDA AS WRITTEN; Director Gaudette SECONDED. **MOTION PASSED 6-0.**

## **VI. OLD BUSINESS**

### **1. Legislation**

Updates were provided on previously discussed bills:

LD 53 will become effective 90 days after the current special session adjourns. LD 53 creates a path for civil suits for sexual harassment or sexual assault and related intentional torts that happen in the workplace. The bill limits liability to the individual accused of harassment or assault, not the employer.

LD 1123 has been engrossed by both the House and the Senate. There should be a final vote soon.

LD 1302 has been changed to be a study of PTSD cases in line workers. It is currently on the special study table waiting to be funded by the Legislature. The fiscal note on the study is \$3,500.

LD 1803 (submitted by the Board) has been passed to be enacted in both the House and Senate. Board staff has begun preparing for how to implement the predetermination piece of the bill. There will be a transition period as we move to the new system for independent contractor predeterminations.

LD 1896 has been requested to be carried over to the next session by the Labor and Housing Committee.

Notes on other bills of interest:

LD 1453, physical therapy billing, the proposed change to referrals will be kept in, the language regarding billing will not be changed.

LD 1267 had an amendment proposed that included Title 39-A. It stated that when an insurer is paying a provider bill, they must provide an alternative to payment by electronic credit card. The sponsor of the bill withdrew the amendment but indicated

there has been an issue with chiropractic bills in the workers' compensation context. Executive Director Rohde will follow up with the Maine Chiropractic Association.

LD 1964, the paid family medical leave bill, is still in committee.

## **VII. NEW BUSINESS**

There was no new business.

## **VIII. ADJOURNMENT**

Director Wallace MOVED TO ADJOURN; Director Picard SECONDED.

**MOTION PASSED 5-1.** (*Director Burroughs opposed.*)

The meeting formally adjourned at 10:27 a.m.