



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

May 9, 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, May 9, 2023.

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

PRESENT VIA ZOOM: Serina DeWolfe (*Director*)

I. CALL TO ORDER

Executive Director Rohde called the meeting to order at 10:02 a.m. with over 20 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 4/11/2023 Board of Director's Business Meeting

Director Wallace MOVED TO ACCEPT THE MINUTES OF THE 4/11/2023 BOARD MEETING AS WRITTEN; Director Burroughs SECONDED.

MOTION PASSED 5-0-2. (*Directors Green and Picard abstained as they were not present for the April meeting.*)

III. SUBCOMMITTEE REPORTS

1. Personnel Subcommittee

Director DeWolfe reported that there will be a mediator vacancy as of May 26th.

Executive Director Rohde added that the Portland lease negotiations are moving forward with the new owner of the building. The Board hopes to move to the new office space this fall.

2. IME Subcommittee

Director Burroughs reported that the IME Subcommittee met to finalize the questionnaires being sent to the independent medical examiners. The subcommittee will review the responses and meet with some of the doctors for more detailed follow-up.

3. Budget Subcommittee

Director Green reported that the Budget Subcommittee met to continue work on the annual assessment. The subcommittee has been reviewing trends and is trying to establish a long-term plan to make the assessment rate more stable and predictable.

Executive Director Rohde explained the annual assessment process. Traditionally, the Board has only considered and set the rate for one year at a time. Going forward, the Subcommittee is trying to plan further out to maintain a more level rate from year to year. This means developing a process to look beyond just the current year. Adjustments may be needed as the process is put into use. The goal is to have a more predictable assessment rate.

Director Wallace added that the Board will still be meeting and voting on the actual assessment rate each year. Discussion was held regarding the proposed rate of 2.34% for fiscal year 2024.

Director Green MOVED TO ACCEPT THE BUDGET SUBCOMMITTEE'S RECOMMENDATION TO REDUCE THE FISCAL YEAR 2024 ADMINISTRATIVE FUND ASSESSMENT FROM THE STATUTORY CAP OF \$14,700,000 TO AN ACTUAL ASSESSMENT OF \$12,250,000 AND TO AUTHORIZE BOARD STAFF TO RAISE \$5,755,672 FROM SELF-INSURED EMPLOYERS AND TO CHARGE INSURED EMPLOYERS A RATE OF 2.34% BASED ON AN ESTIMATED INSURED MARKET OF \$277,099,037; Director Wallace SECONDED.

Discussion continued. Director Wallace noted that while the rate is down this year, the amount assessed is higher as we are forecasting an increase in the premium base. As always, the amount an individual employer pays will depend on its premium for the year. Executive Director Rohde added that the process can be complicated as the market is based on a calendar year, but the assessment is based on a fiscal year.

Elizabeth Brogan noted the total assessment amount last year was \$11,000,000 and this year is \$12,250,000. She asked if the calculations and supporting information will be posted online.

Executive Director Rohde clarified that while some of the information used in the assessment calculation process is confidential, the assessment fact sheet and how the assessment is calculated will be available on the Board's website.

MOTION PASSED 7-0.

IV. EXECUTIVE DIRECTOR REPORT

1. Benefits Administration/MAE

A new email account has been set up to allow insurers to ask questions directly to the MAE unit and auditors. New training modules are being prepared and should be posted on the Board's website this summer.

2. IAIABC

Deputy Director Lindsay Lizzotte attended the IAIABC annual convention and will be representing the Board on one of the IAIABC committees as well.

V. GENERAL COUNSEL REPORT

1. Personnel

A new advocate has been hired for the Caribou Office. Michele Kenney has accepted the position. The open advocate position in Portland has been filled by Chelsea Marcous, who previously worked as an advocate in Caribou.

VI. OLD BUSINESS

1. Legislation

Updates were provided on previously discussed bills and one new bill:

LD 1302, the line workers' PTSD presumption bill, is set for a work session on May 10, 2023. The sponsor testified in favor of the bill at the public hearing. Some opposition has been expressed to adding another presumption to the Act.

LD 1385 has not been scheduled for a work session at this time.

LD 1803 (submitted by the Board) had one suggestion regarding the wording in the predetermination section. That suggestion will be incorporated as a committee amendment. Part of the predetermination portion will provide a way to search our website to see if a person has done the declaration for predetermination of independent contractor status. Liz Brogan expressed some concerns over how accessible the information will be and how far back it will be available. These issues will be addressed as the bill moves forward.

LD 1896 An Act to Index Workers' Compensation Benefits to the Rate of Inflation is an after-deadline bill scheduled for public hearing on May 11th. The amendment would tie benefit increases to the Consumer Price Index (CPI). Directors expressed concern that this would apply retroactively to prior injuries, which were not rated for this COLA, or prospectively to future injuries. NCCI will do a cost estimate, which could take several weeks.

Director Gaudette MOVED TO OPPOSE LD 1896; Director Picard seconded. Discussion continued. **MOTION FAILED 4-3 3-4** (*Directors Burroughs, DeWolfe, Green and Rohde opposed.*).

Executive Director Rohde will testify that the Board did not reach consensus but that concerns were expressed about the financial impact of the bill.

VII. NEW BUSINESS

There was no new business.

VIII. ADJOURNMENT

Director Gaudette MOVED TO ADJOURN; Director Picard SECONDED.

MOTION PASSED 6-1. (*Director Burroughs opposed.*)

The meeting formally adjourned at 10:42 a.m.