



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

November 14, 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, November 14, 2023.

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

I. CALL TO ORDER

Executive Director Rohde called the meeting to order at 10:01 a.m. with over 30 people participating in person and via Zoom. 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 10/10/2023 Board of Director's Business Meeting

Director Green MOVED TO ACCEPT THE MINUTES OF THE 10/10/2023 BOARD MEETING AS WRITTEN; Director Gaudette SECONDED. **MOTION PASSED 6-0.**

III. SUBCOMMITTEE REPORTS

1. IME Subcommittee

The IME Subcommittee conducted its first one-and-one meeting with an IME doctor. The meeting with Dr. Bradford was interesting. He offered his perspective about the process, which was helpful. The subcommittee plans to interview three more examiners as part of this year's annual review and four each year going forward. .

2. Budget Subcommittee

Director Green reviewed the status of the assessment cap and reiterated that setting it has presented challenges over the years.

Director Green MOVED TO ADOPT THE PROPOSED AMENDMENT TO §154, WHICH WILL TIE ASSESSMENT CAPS TO EXPENSES ALLOCATED BY THE LEGISLATURE; Director Burroughs SECONDED.

Executive Director Rohde read the language submitted and discussion continued. Director Green noted that the discussions every year about the assessment cap create bad feelings. It would be better to tie the assessment to the budget. Director Picard noted that Management feels the cap is a good “double check” and would like to keep it in place. Additionally, Management would like to have more time to review the budget when budget discussions begin each year. Director Gaudette added that the directors should be more involved in formulating budgets to ensure that management directors are better informed about the Board’s fiscal situation. Director Green pointed out that the pending motion only addresses the assessment cap, not the budget.

A suggestion from Elizabeth Brogan about requiring a super majority vote on annual budgets was discussed. This would be a major change, especially in light of the change to the Board structure that was necessitated by gridlock in 2004, that is being raised very late in the process. The Board can, if it chooses, continue discussions on this subject but the deadline for action on assessment legislation is today.

Director Green again pointed out that the motion under discussion is only regarding the assessment cap, not the budget.

Executive Director Rohde said the current proposal links the assessment cap to the budget and does not eliminate cap.

Director Burroughs MOVED THE QUESTION. Director DeWolfe seconded. **Motion PASSED 6-0**

Director Greed MOVED TO ADOPT THE DRAFT LANGUAGE FOR REVISIONS TO §154 AS WRITTEN; Director Burroughs SECONDED. **MOTION PASSED 4-2.**
(Directors Picard and Gaudette opposed.)

IV. EXECUTIVE DIRECTOR REPORT

1. Training

The training update was provided by Katie Trost. CompCon 2024 has been approved by the Maine Bar Association. There is discussion about making it a longer (multi-day) seminar.

2. Portland Office

The move is currently targeted for the end of November.

3. NCCI Medical Data Report

The annual report from NCCI was received this morning. Data will be reviewed and discussed further at future meetings.

4. OSHA

Deputy General Counsel Seanna Crasnick provided an update regarding a recent meeting with OSHA and the possibility of sharing information across OSHA, Workers’

Compensation Board, Department of Labor, and Maine Revenue Services. OSHA was pleased with our work on the Purvis case.

5. Independent Contractor Statements

The new process for filing online statements is going well so far. Those with a determination expiring within the first year of the new process will receive a letter approximately a month before expiration to advise them of the new process.

V. GENERAL COUNSEL REPORT

1. Personnel

There are numerous vacant positions in Portland Advocate office which are proving difficult to fill. Low wages for these positions may be contributing to the issue. Postings for vacancies have been extended. The Lewiston Advocate Division office is also short-staffed with one advocate position vacant and the other advocate out on medical leave. Lewiston also has a paralegal position vacant.

The Abuse Investigation Unit has 2 advocate attorney vacancies and a vacant paralegal position. The shortage of support personnel is making it very difficult for the remaining attorney advocates to keep up with caseloads. Additionally, staff shortages at the Bureau of Human Resources are slowing down the process for posting, interviewing, and hiring candidates.

Directors asked if exit interviews are being conducted and about the reasons for the high rate of turnover. Salary is primarily the issue with staff leaving for higher paying jobs.

The Board may need to contract with a private law firm again to assist with the caseloads. The first firm approached about such a contract was not interested.

VI. OLD BUSINESS

1. Legislation

The LD 1896 stakeholder group met on October 18th. During that meeting, Senator Nangle agreed to some specifics to allow NCCI to provide cost estimates for the proposal. Estimates will be reviewed and discussed at the next stakeholder group meeting on November 15th.

The Board learned from the data call that some entities may not be able to implement section 212(4) because they are not tracking whether cases are being paid pursuant to section 212 or 213. The Board will be following up with these entities to ensure plans are in place before the first COLAs may be due in 2025.

2. Chapter 4

The public comment period for proposed changes to Chapter 4 of the Board's rules has closed with no comments received.

Director Gaudette MOVED TO ADOPT THE CHANGES TO CHAPTER 4 AS PROPOSED; Director Picard SECONDED. **MOTION PASSED 6-0.**

VII. NEW BUSINESS

1. 2024 Board Meeting Schedule

Director Picard MOVED TO ACCEPT 2024 BOARD MEETING SCHEDULE AS PROPOSED; Director Green SECONDED. **MOTION PASSED 6-0.**

VIII. ADJOURNMENT

Director Picard MOVED TO ADJOURN; Director DeWolfe SECONDED.

MOTION PASSED 4-2. (*Directors Green and Burroughs opposed.*)

The meeting formally adjourned at 10:37 a.m.