

BWC Board of Directors
Thursday, June 26, 2008, 9:30 AM
William Green Building
Neil Schultz Conference Center
30 W. Spring St., 2nd Floor (Mezzanine)
Columbus, OH 43215

Members Present: William Lhota, Chairman
James Harris, Vice Chairman
Alison Falls
Philip Fulton
James Matesich
Larry Price
David Caldwell
Robert Smith
Ken Haffey
James Hummel
Charles Bryan

Members Absent: None

CALL TO ORDER

Mr. Lhota called the meeting to order at 9:30 am. All members were present. Mr. Lhota introduced each director individually.

PUBLIC FORUM – PROVIDER ISSUES

Mr. Lhota emphasized openness and transparency with regard to public forums and the Board of Directors. Such transparency is characterized by verbal discussion, and serves as invaluable guidance to protect stakeholders from loss, as well as benefit the citizens of Ohio in general. It was noted that Bureau staff followed up with everyone that spoke at the April 2008 public forum. Today's public forum shall focus on benefit plans, scope of coverage and rehabilitation, as well as reimbursement method and effective delivery of managed care.

Speakers were pre-registered for five minute presentations. The forum was additionally videotaped, and incorporated into the minutes. Mr. Lhota sincerely thanked everybody for attending and contributing to the forum. Mr. Lhota noted that it is important for the Board to hear from people, and requested that written remarks be sent to the Board.

RECESS:

Mr. Lhota recessed the meeting at 11:20 am.

BWC Board of Directors
Friday, June 27, 2008, 8:00 AM
William Green Building
Neil Schultz Conference Center
30 W. Spring St., 2nd Floor (Mezzanine)
Columbus, OH 43215

Members Present: William Lhota, Chairman
James Harris, Vice Chairman
Charles Bryan
Alison Falls
Philip Fulton
James Hummel
James Matesich
Robert Smith
Kenneth Haffey
Larry Price
David Caldwell

Members Absent: None

Others Present: John Williams, Assistant Attorney General

CALL TO ORDER

Mr. Lhota reconvened the meeting at 8:00 am.

ROLL CALL

Roll call was taken and all members were present.

MINUTES OF MAY 30, 2008 MEETING

Upon motion of Mr. Harris, seconded by Mr. Hummel, the three sets of minutes for May, 2008 were approved unanimously.

AGENDA

Mr. Lhota announced that subsequent to the Governance Committee report, there shall be discussion and approval of the 2009 calendar, as well as changes for 2008.

Motion was made by Mr. Price, and seconded by Mr. Matesich, that the Board of Directors enter into executive session for the purpose of discussing pending litigation. Roll call was taken and the motion passed 11-0. The Board entered executive session at 9:05 am.

Motion was made by Mr. Bryan, seconded by Ms. Falls, as follows: that the Board of Directors end executive session and reconvene in public meeting. Roll call was taken, and the motion passed 11-0. The Board reconvened at 9:25 am.

COMMITTEE REPORTS

Actuarial Committee:

Presentation was made by the committee chairman, Mr. Bryan. He reported that the committee discussed the comprehensive rating plan report that was presented by the Bureau. The report was included, and is incorporated into the minutes. Mr. Bryan introduced motion that was essentially a two part motion, with the first part focusing on approving the plan to improve experience rating, and the second part focusing on the private employer credibility table. Discussion was made by the Board concerning this matter. Mr. Matesich expressed concern over pieces of information yet to be discovered by Deloitte and the external consultant. However, the discussion as led by Mr. Fulton tempered his concerns, as it is clear that the Board will be able to address new pieces of information as they arise. Mr. Price indicated that the Bureau staff did an outstanding job in obtaining stakeholder input and supplying information. The report and supporting documentation is laced with references to workers' compensation system stakeholders. It clearly illustrates accountability on the part of the Board and the Bureau staff and notes that outreach to the stakeholders has been done.

Motion was made by Mr. Bryan, and seconded by Mr. Smith, as follows: that the Bureau Board of Directors consents to the Administrator's recommendation relating to the development of the elements of a comprehensive rating plan, and that the Board of Directors approve changes to the private employer credibility table of Rule 4123-17-05.1 of the Administrative Code. This motion consents to the Administrator proceeding with the development of the elements of the comprehensive rating plan as presented at the actuarial committee. The Administrator shall provide the Board with periodic updates on the development of the rating plan, and shall present to the Board any rule changes relating to the plan at the appropriate times during the development of the plan. In addition, the motion consents to the amendment of Rule 4123-17-05.1, "credibility and maximum value of a loss," to be effective July 1, 2009, applicable to the payroll reporting period of July 1, 2009, through June 30, 2010, with a maximum credibility of 77 per cent, as provided in the appendix to the rule. Roll call was taken and the motion passed 11-0.

There will be a more complete report on MIRA II for the next meeting to permit additional testing and use of the system.

Audit Committee:

Presentation was made by the committee chair, Kenneth Haffey. Motion was made by Mr. Haffey, and seconded by Mr. Fulton, as follows: that the Bureau of Workers Compensation Board of Directors approve the Administrator's Recommendation to amend Rule 4123-6-16 of the Administrative Code, "Dispute Resolution for HPP Issues," relating to the time for the Bureau to issue an order after an independent medical examination. This motion

consents to the Administrator amending Rule 4123-6-16 as presented at the Audit Committee. Roll call was taken, and the motion passed 11-0.

Tracy Valentino, Chief of Fiscal and Planning, made a presentation on the fiscal year 2009 administrative budget. Motion was made by Mr. Haffey, seconded by Mr. Harris, as follows: that the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendation for the fiscal year 2009 annual administrative budget. This motion consents to a fiscal year 2009 budget of \$308.8 million dollars for the operation of the Bureau of Workers' Compensation and the Bureau of Workers' Compensation Board of Directors as presented at the Audit Committee. Roll call was taken, and the motion passed 11-0.

Mr. Haffey reported that Joe Bell, Chief of Internal Audit, presented the fiscal 2009 audit plan, which is a comprehensive plan. Mr. Haffey noted that Joe Montgomery, from the Office of the Inspector General, made a presentation in executive session regarding personnel matters. Finally, Tom Stevens, Bureau Data Security Supervisor, made a presentation to the Audit Committee on computer privacy.

Investment Committee:

Presentation was made by committee chair, Mr. Smith. Mr. Smith reported that the committee discussed a brochure regarding the Investment Policy Statement. Although some additional edits need to be done to the document, it will be useful as a reference tool regarding the Bureau's Investment Policy Statement. The committee also discussed the RFQ that had been issued for a commingled passive index fund manager for the Public Work-Relief Employers' Fund and the Marine Industry Fundfund. There was discussion with regard to Mercer Consulting conducting further investigation and fact finding with respect to alternatives in addition to Barclays and State Street.

Motion was made by Mr. Smith, seconded by Ms. Falls, as follows: that the Workers' Compensation Board of Directors adopt and approve the recommendation of the Investment Committee to delay the issuance of requests for proposals ("RFPs") for commingled passive indexed investment managers, previously approved by the Board in May 2008, for the reasons set forth in the memorandum of the Bureau's Chief Investment Officer dated June 13, 2008, and to allow consideration of revisions to the Statement of Investment Policy and Guidelines. Roll call was taken and the motion passed 11-0.

Finally, Mr. Smith reported that the committee heard a report by Mercer Consulting regarding the First Quarter 2008 Performance Report. The committee had requested a few formatting changes for future reports from Mercer.

Governance Committee:

Presentation was made by the committee chair, Ms. Falls. The committee discussed the self assessment process for the Board. This process demonstrates leadership and commitment to continuous self improvement on the part of the Board. The Governance Committee is recommending that Ron O'Keefe, the Board's fiduciary counsel, shall guide

the Board through this process. There is a fourteen question survey to be completed by every director on the Board.

Motion was made by Ms. Falls, seconded by Mr. Matesich, as follows: that the Workers' Compensation Board of Directors adopt the recommendation of the Governance Committee and approve the Board self-assessment process and form. Roll call was taken and the motion passed 11-0.

Discussion was made of the schedule of mandatory reports for the Board and the Administrator. It is important that this schedule receives a high level of attention. A high level of attention will be accomplished, in part, by assigning oversight of reports to specific committees. The committees will be responsible for working with appropriate Bureau staff and setting time tables for completion of the reports. In addition, the Governance Committee will make amendments to the Governance Guidelines during the annual review of that document to reflect this process. Motion was made by Ms. Falls, seconded by Mr. Smith, as follows: that the Workers' Compensation Board of Directors adopt the recommendation of the Governance Committee and approve the schedule and process for the various committees to oversee completion of the mandatory reports of the Board of Directors. Roll call was taken and the motion passed 11-0.

Discussion was made of the educational programs for the Board by Marsha Ryan, Bureau Administrator. The Board has committed a great deal of time to the educational programs, and there have been many favorable comments regarding the educational programs.

Discussion was made of committee membership. Ms. Falls reported that the role of the Governance Committee on committee membership is to advise and consult the Board Chair with respect to assignments. During the Governance Committee, some changes to committee assignments were discussed.

Chairman Lhota asked whether the Board would entertain a motion regarding committee assignments as follows: that the Workers' Compensation Board of Directors approve the following new committee assignments: for the Audit Committee, add Director Harris and Director Matesich; for the Actuarial Committee, add Director Caldwell and remove Director Harris; for the Governance Committee, add Director Hummel and Director Price, and designate Director Price as the new Vice Chair. In all other respects, the committee assignments as previously approved by the Board will remain the same. The motion was made by Mr. Smith, seconded by Mr. Bryan. Roll call was taken and the motion passed 11-0.

Calendar

Changes and modifications were made to the Board of Director and Board Committee meeting calendar for the years 2008 and 2009. For December 2008, the Board moved its meetings to December 17 and December 18. For the year 2009, the Board moved its meetings for February to the 19 and 20; for March, to the 19 and 20; for April, to the 29 and 30; for July, to the 30 and 31; for October, to the 29 and 30; and in December, to the 16 and 17.

MONTHLY FINANCIAL REPORT

Tracy Valentino, Chief of Fiscal and Planning, presented to the Board. A handout was included, and is incorporated by reference into the minutes. Discussion was made of all relevant financial statements included in the written materials referred to herein. Mr. Bryan verified with Ms. Valentino that the net operating loss of almost one billion dollars through May 31, 2008, accumulated over the entire year thus far. Ms. Valentino indicated that this was not unexpected, based upon premiums and discounting reserves. Discussion of this issue in conjunction with investment income ensued. Ms. Falls directed comments to actual figures on page four of the handout, in reference to prior year figures on page three. In June of 2007 there were 2.3 billion in net assets. In May of 2008; there is nearly 2.4 billion in net assets. Mr. Matesich inquired as to whether there can be an evaluation of unusual operating expenses. Ms. Valentino stated yes. Mr. Haffey discussed normalization of figures. Mr. Bryan discussed premium collection in arrears. Ms. Valentino stated that private employers pay premiums six months in arrears, whereas public employers pay premiums one year in arrears.

ADMINISTRATOR BRIEFING

Ms. Ryan discussed the provision of Senate Bill 323 to provide mine safety funding to the Department of Natural Resources. The Bureau will be working with the Department of Natural Resources on mine safety rules and will also attempt to identify opportunities for the Bureau's Division of Safety and Hygiene to work on mine safety projects. There will further be the establishment of audit standards for the funding.

Ms. Ryan updated the Board on Governor Strickland's procurement reform effort. By working with the Department of Administrative Services, state agencies are expected to save the state of Ohio thirty-five to seventy million dollars.

Ms. Ryan discussed provider fee schedules. In evaluating the fee schedules, numerous variables have been evaluated. Bureau staff has looked at \$310 million in annual payments. Medicare reimbursement methodology is being reviewed. In July of 2008, the Bureau plans to post recommended changes on its website for public comment. There will be a full discussion at the Board meeting in August of 2008 regarding the proposed fee schedule. Mr. Bryan inquired as to whether the Bureau's fee schedule can be compared to the fee schedules of private insurers and Medicare. Robert Coury, Chief of Medical Services and Compliance, provided an explanation of the Bureau fee schedule. Mr. Coury noted that the Bureau pays, in a rough estimate, approximately 140%, on average, of what Medicare pays. Primarily, this difference is a result of the additional administrative costs to providers associated with Ohio due process requirements. Mr. Coury has looked at the fee schedules of other third party payers, including other monopolistic workers' compensation states. Additionally, Mr. Coury has evaluated the fee schedules of private payers that have been willing to disclose their fee schedules. Mr. Coury will continue to compile information for future Board meetings.

Ms. Ryan thanked Mr. Hummel for attending the MIRA II implementation meeting with John Pedrick, Chief Actuarial Officer. Also in attendance at the meeting with Fair Isaac

were members of the General Assembly and various stakeholders. Implementation will be July 1, 2008.

Ms. Ryan reported that Mark Lay's sentencing is scheduled for next week. Memorandums regarding sentencing have been submitted by the attorneys for Lay and the prosecuting attorney.

At the July 2008 Board and committee meetings, there shall be discussion of financial projections, the budget, MIRA II implementation, the Mercer educational session, and a Deep Dive on self insurance. In addition, the Bureau is planning to conduct a public forum on self insurance in September 2009.

DEEP DIVE

James Barnes, Chief Legal Officer, made a presentation to the Board regarding the Adjudicating Committee process, and the recent Kaizen event that led to substantial improvement in the adjudication process for handling employer premium disputes. A power point presentation was included, and is incorporated into the minutes. Ms. Ryan introduced Mr. Barnes and explained that the redesign of the Adjudication Committee procedure was from the process perspective.

Kaizen is a process improvement methodology, designed to be utilized in a much shorter timeframe than traditional process improvement methodologies. RC 4123.291 provides the legal basis for the creation of the Adjudicating Committee. This Committee renders decisions that impact an employer's premiums and/or risk experience. The right to a hearing before the Committee ensures that employers receive due process. Decisions of the Committee may be appealed to the Administrator's Designee for further hearing. James Barnes serves as the Administrator's Designee in those hearings. RC 4123.291 further provides for the Board of Directors to set policy for the Adjudicating Committee, based upon recommendations by the Actuarial Committee. House Bill 100 also requires the Board of Directors to set specific criteria for manual overrides. The Bureau is the first state agency in Ohio to conduct a Kaizen event. BWC is in the process of finalizing proposed policies for review and approval by the Board at its September 2008 meeting.

The Kaizen event has led to dramatic operational improvement. Team-based energy and creativity has driven immediate process improvement, and has led to increased ownership of the process, implementation, and core process value. Ms. Falls inquired as to why employer protests have increased over the past few years. Mr. Barnes indicated that multiple variables have contributed to this, including no dividends in recent years, the condition of the economy, and group rating issues. Mr. Price addressed the issue of setting hearings within sixty days of the protest. There was a discussion of the timeliness and consistency of decisions. Many issues with timeliness are beyond the Bureau's control. There was further detailed, in depth discussion of process improvement and metrics for measuring such improvement. Ms. Falls inquired as to who initially addresses the issues that employers may raise. Mr. Barnes indicated that Employer Services initially addresses the issues.

Mr. Haffey inquired as to whether there was discussion amongst employees at the Bureau concerning the improvement of the program. Mr. Barnes indicated yes. Mr. Fulton would like to see a copy of the protest form. Mr. Fulton further inquired as to whether the HPP Alternative Dispute Resolution process would undergo a Kaizen event. Ms. Ryan answered that this is under consideration, as are other programs. Ms. Ryan discussed the core group for the Kaizen event. Mr. Harris inquired as to whether the process aspect was a factor in choosing the Adjudicating Committee for this purpose. Ms. Ryan indicated yes.

Don Berno, Board Liaison, distributed to the Directors a draft of the new Board of Directors informational brochure, which incorporated their comments. The next Board meeting is scheduled for July 25, 2008.

ADJOURNMENT

Upon motion by Mr. Bryan, seconded by Mr. Matesich, the Board adjourned at 10:30 am. Roll call was taken and the motion passed 11-0.

Minutes taken by Tom Woodruff, Bureau Staff Counsel