

BWC Board of Directors
Friday, July 25, 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
David Caldwell
Larry Price

Members Absent: None

Others Present: John Williams, Assistant Attorney General; Ron O'Keefe,
Fiduciary Counsel

CALL TO ORDER

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

ROLL CALL

Roll call was taken and all members were present.

MINUTES OF JUNE 26, 2008 MEETING AND JUNE 27, 2008 MEETING

Upon motion of Mr. Bryan, seconded by Mr. Harris, the two sets of minutes for June were approved unanimously by roll call vote.

AGENDA

Mr. Lhota announced that the next order of business would be executive session, and that a break should be inserted into the agenda. Mr. Price raised a point of personal privilege and asked to be excused from a portion of the meeting.

Motion was made by Mr. Caldwell, and seconded by Ms. Falls, as follows: that the Board of Directors enter into executive session for the purpose of discussing pending litigation, personnel matters and security matters. Roll call was taken and the motion passed 11-0. The Board entered executive session at 8:05 am.

Motion was made by Mr. Bryan, seconded by Mr. Harris, as follows: that the Board of Directors end executive session and reconvene in public meeting. Roll call was taken, and the motion passed 10-0. The Board reconvened at approximately 9:30 am. Mr. Price excused himself during the Executive Session.

COMMITTEE REPORTS

Actuarial Committee:

Presentation was made by the committee chairman, Mr. Bryan. Mr. Bryan presented one action item. Tom Sico, Assistant General Counsel, discussed thirteen general rating rules, contained in Chapter 4123-17. In general such rules are exempt from public hearing and the five year rule review. The aforementioned thirteen rules, however, are not. Of the thirteen rules, ten are to remain unchanged, and three are to be changed.

Motion was made by Mr. Bryan, seconded by Mr. Matesich, as follows: that the Bureau of Worker's Compensation Board of Directors approve the Administrator's recommendations on the five year rule review of thirteen rules of Chapter 4123-17 of the Administrative Code. The motion consents to the Administrator retaining ten rules without change, and amending rules 4123-17-01, 4123-17-10, and 4123-17-27 as presented and amended at the Actuarial Committee on July 21, 2008. Roll call was taken and the motion passed 10-0.

Discussion was made of the Oliver Wyman reserves report education session. At the August meetings, there shall also be a Deloitte report and reserves review. A decision will be made whether to approve the report. Ms. Falls inquired as to when the Oliver Wyman recommendation will be available. John Pedrick, Chief Actuarial Officer, indicated in about two weeks. Mr. Bryan noted that he will be meeting with the Chairman of the Workers' Compensation Council next month to discuss coordination of the actuarial reviews that the Board and the Council must both perform.

Audit Committee:

Presentation was made by the committee chair, Mr. Haffey. The committee had considered changes to the HPP MCO Open Enrollment Rule. After some discussion at the committee, revisions were made to the language of rule. The revisions were presented to the committee, which approved the resulting language.

Motion was made by Mr. Haffey, seconded by Mr. Fulton as follows: that the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendation to amend Rule 4123-6-05.2 of the Administrative Code, "Employer Access to the HPP-employer Enrollment and Selection of MCO," relating to the time for open enrollment following an MCO merger. The motion consents to the Administrator amending rule 4123-6-05.2 as presented at the Audit Committee. Roll call was taken and the motion passed 10-0.

Presentation was made at the committee meeting by Robert Coury, Chief of Medical Services and Compliance, with regard to provider fee reimbursement schedules, to be introduced this meeting, with comments to be received, processed, and given to Mr. Coury, and reported on at the August 2008 meeting. Judy Brabb, Manager of Medical Policy, collaborated on this work as well. Tracy Valentino, Chief of Fiscal and Planning, and Ray Mazzotta, Chief Operating Officer, provided financial projections and proposed budgets. There was an external audit update for fiscal year ending June 30, 2008, based on Mr. Haffey's discussion with Joe Patrick of Schneider Downs.

The first phase of the fiscal year end audit concluded with no significant issues. Joe Bell, Chief of Internal Audit, provided an office of Budget and Management update. With regard to Schneider Downs, Mr. Bryan inquired as to whether the actuarial firm Pinnacle reviews the reserves for Schneider Downs, and whether Pinnacle's work could be provided to the Actuarial Committee. Ms. Valentino answered that Pinnacle does work with Schneider Downs. Although their work has not been provided historically to the Actuarial Committee, Ms. Valentino will attempt to arrange that it be provided at a future meeting. Mr. Matesich requested that if this information is available, it be provided at a joint Actuarial and Audit Committee Meeting.

Investment Committee:

Presentation was made by committee chair, Mr. Smith. Discussion was made of options for investment with regard to the Public Work Relief Employees' Compensation Fund and the Marine Industry Fund. Education topics for future Investment Committee meetings were further discussed.

Governance Committee:

Presentation was made by the committee chair, Ms. Falls. Discussion was made of the self assessment process for the Board. This process demonstrates leadership and a commitment to continuous improvement on the part of the Board. Ron O'Keefe, fiduciary counsel, guided the Board through this process and assisted with the compilation and summary of the results. There was a fourteen question survey that has been completed by every director on the Board. A summary of the director responses was discussed. The overall score was 4.6 out of 5, illustrating a high level of strength and satisfaction. Response was one hundred percent. A report was included and incorporated into the minutes by reference. Recommendations for improvement were included. According to Mr. O'Keefe this was a useful exercise in corporate governance. The process was thorough, beneficial, and illustrative of a best practice for governance.

Motion was made by Ms. Falls, seconded by Mr. Hummel, as follows: that the Workers' Compensation Board of Directors adopt the recommendation of the Governance Committee and approve the Summary of Director Responses of the Workers' Compensation Board of Directors' Self-Assessment. Roll call was taken and the motion passed 10-0.

Discussion was made of the education calendar for fiscal year 2009, including long range planning. Compliance with House Bill 100 was emphasized. Motion was made by Ms. Falls and seconded by Mr. Harris, as follows: that the Workers' Compensation Board of Directors approve and adopt the education calendar for the Board for fiscal year 2009 in the form submitted and amended as recommended by the Governance Committee. Roll call was taken and the motion passed 10-0.

Don Berno, Board Liaison, Peggy Concilla, Workers' Compensation Council Liaison, and Ann Shannon, BWC Legal Counsel, were congratulated for their work on the compilation of mandatory report deadlines. The document was reviewed and will be distributed to all committees for follow up.

The next Governance Committee meeting shall be September 25, 2008 at 8:00 AM. The 9:00 am to 11:00 am time slot shall usually be set aside on Thursdays for the Governance Committee meetings. However, in September the Governance Committee meeting will precede the public forum that has been scheduled for that day.

Mr. Lhota recessed the meeting at 10:00 am for a fifteen minute break. Mr. Lhota reconvened the meeting at 10:15 am.

DEEP DIVE

David Boyd, Director, Self Insured Department, made a presentation on the self insurance program. An executive summary is incorporated by reference, as well as a power point presentation. Mr. Boyd provided an overview of the mandates of RC 4123.35. The discussion included a wide variety of topics including underwriting, auditing, self insured medical only, and self insured bankruptcy.

Discussion was further made of application and renewal, self insured review panel and audits of self insuring employers. Mr. Hummel raised concerns with regard to noncompliance audits. With noncompliance, there are recommendations for change made, follow up in six months, with a plan of action to implement. If implementation of changes does not occur, self insuring status may be revoked. Discussion was made of the self insured complaint process. Ms. Falls and Mr. Matesich raised issues concerning claimant knowledge of the process, as well as internal employer complaint processes. The Administrator's Designee for hearing such complaints is Joy Bush, Executive Director, Employer Management Services. The self insuring employer evaluation board hears unresolved complaints, as provided for by RC 4123.352 and OAC 4123-19-13.

Mr. Price returned to the meeting at 10:45 am.

Mr. Smith raised the issue of evaluating the self insured complaint process. Mr. Harris inquired as to whether claimants are aware that they may file complaints. There was further inquiry as to what the Bureau does concerning outreach to claimant organizations. Mr. Boyd indicated that members of his department speak at various union meetings throughout the year to try to help raise awareness. Mr. Caldwell raised the issue as to whether or not it should be mandatory for employers to post notices regarding claimants' rights under the self-insured process. Mr. Sico stated it could probably be made mandatory by administrative rule.

Discussion was made of the self insured employer guaranty fund. The fund provides compensation payments in the event a self insured employer either defaults or becomes bankrupt. Mr. Fulton inquired as to the case load of the teams assigned to these claims, in comparison to the caseload of a state fund team. Mr. Boyd will gather data related to this inquiry. Discussion was made of self insured employer assessments and calculations of said assessments. Letters of credit and bankruptcy collections were discussed as well. Mr. Hummel inquired as to whether there was a flow of employers from self insurance to state fund. Mr. Boyd indicated that this is rare. Mr. Matesich inquired as to cost savings associated with self insurance. Mr. Boyd indicated that the savings may be four to one. Mr. Fulton inquired as to whether current self insured employers assist in any way with the evaluation of applications for self insurance. Mr. Boyd responded no. Mr. Pedrick discussed the dynamics of self insurance costs. Self insurance costs have different pricing dynamics from state fund. Mention was made of the Deloitte study and recommendations that will be made regarding self-insurance.

Presentation was made by Bill Holt of Chrysler LLC. The presentation was from the self insuring employer's perspective. Mr. Holt stated that self insurance was a privilege, not a right, and discussed the responsibilities of self insuring employers. The major benefit of self insurance is the opportunity for an employer to handle their own claims. The self insurance guaranty fund is a big issue. Mr. Caldwell voiced concerns over abuses in the self insurance system. For example, if a claim is denied many claimants do not know they can appeal. Mr. Price is concerned about

this as well. Mr. Lhota mentioned that the September 2008 public forum will address self insurance issues.

MONTHLY FINANCIAL REPORT

Ms. Valentino presented the financial statements, which are incorporated into the minutes by reference. It was noted that the June 30, 2008 statements contain unaudited figures. There is a format change to the financial statements. The report is now the Enterprise Report. The new report shall serve as a vehicle for operational reporting. Ms. Falls assisted with the development of the new format. All financial statements were discussed. Mr. Matesich complimented the Bureau staff on the new reporting. Ms. Valentino indicated that Barb Ingram, Director of Accounting, played an integral role in the preparations for the new format.

ADMINISTRATOR BRIEFING

Marsha Ryan, Bureau Administrator, stated her appreciation of the Board's patience with the appointment process for nominations to fill Board vacancies. Mr. Fulton, Mr. Hummel, and Mr. Price's appointments of one year terms have expired. However, they continue to serve in their positions until expiration of 60 days, or new appointments are made. Although there have been several attempts by the Workers' Compensation Board of Directors Nominating Committee to meet, they have not been able to have a quorum. The Workers' Compensation Board of Directors Nominating Committee shall meet July 29, 2008 with a quorum present, to move forward with the appointment process. Ms. Ryan noted that it is important that the appointment process begin several months prior to the expiration of director terms, which will be part of recommendations that she will be making.

Ms. Ryan discussed the creation of the employer compliance unit. The unit's purpose is to pursue employers failing to obtain or pay for coverage. The unit represents a new dedication to compliance, and will rigorously pursue delinquent employers. Ms. Ryan discussed the ongoing liquidation of the coin fund. There was brief discussion of a review of topics for actuarial review by Mr. Pedrick.

Ms. Ryan further discussed a formal stakeholder process to be put in place to handle difficult issues, in particular, group rating. There will be work teams for this. In addition, the Bureau is seeking to hire a consultant for this. Ms. Ryan announced that Leo Genders, Chief Information Officer, will be leaving the Bureau to pursue another professional opportunity. Ms. Ryan wished him well, and thanked him for his service and contribution to the Bureau. A statement containing the Governor's position on the paid sick leave proposals was distributed to the Directors.

A Workers' Compensation University discussion was led by Ryan Rekestis of the Communications Department. Discussion was made of improvements to the program, as well as additions to the curriculum. The Directors were invited to attend.

Mr. Harris complimented the Bureau staff on taking action with noncomplying employers. Mr. Fulton complimented the Bureau's outreach with regard to group rating matters and its evolution.

Mr. Price noted that had he been present for the entire meeting, he would have voted in favor of all motions that were before the Board.

ADJOURNMENT

Upon motion by Mr. Caldwell, seconded by Mr. Bryan, the Board adjourned at 12:30 pm. Roll call was taken and the motion passed 11-0.

Minutes taken by Tom Woodruff, Bureau Staff Counsel