

BWC Board of Directors

Governance Committee Agenda

Feb. 25, 2008

Cleveland Sheraton Airport Hotel

3:30 p.m. – 5:30 p.m.

Call to Order

Alison Falls, Chair

Roll Call

Mike Sourek, Scribe

Approve Minutes of January 23, 2008 meeting

Alison Falls, Chair

New Business/Action Items

1. Governance Guidelines
Alison Falls

Discussion Items*

1. Process and Form for Administrator evaluation
2. Calendar
 - Future Calendar Topics

* Not all discussion items may have materials included.

Adjourn

Next Meeting: March 27, 2008, 8:30 am, OCOSH Building, Pickerington, Ohio

**BWC Board of Directors
Governance Committee**

Weds., Jan. 23, 2008, 4:00 P.M.

William Green Building
The Neil Schultz Conference Center
30 West Spring Street, 2nd Floor (Mezzanine)
Columbus, Ohio 43215

Members Present: Alison Falls, Chair
Bill Lhota
Robert Smith

Members Absent: None

Call to Order

Ms. Falls called the meeting to order at 4 p. m. and the roll call was taken. Also present were Workers' Compensation Board Directors Charles Bryan, Philip Fulton, James Matesich, and Larry Price.

Minutes of Nov. 16, 2007

Mr. Lhota discussed a number of clarifications and edits to the minutes.

Ms. Falls requested that on page 6 there be added to the agenda item "Calendar" that she and Mr. Berno committed to present a calendar for 2008 for the Governance Committee. The calendar is included in the packet for today's meeting.

Mr. Smith moved that the minutes of November 16, 2007, be approved as amended. Mr. Lhota seconded and the amended minutes were approved by a unanimous voice vote.

New Business

Governance Guidelines

Ms. Falls requested the article "Making Board Minutes Count" from the National Association of Corporate Directors (NACD) monthly magazine, be distributed to all board members .

Ms. Falls thanked Ann Shannon, BWC Legal Counsel, for drafting of the "Ohio Bureau of Workers' Compensation Board Governance Guidelines." Ms. Falls asked Ms. Shannon to review the Guidelines, and requested the Directors present to share their comments on its various sections.

Ms. Shannon first noted that the guidelines were written for reading by both Board members and an outside audience of readers.

There was a full and substantive discussion of the draft guidelines. Specifically, the committee members were satisfied that all the relevant provisions of HB 100 were addressed, issues discussed in the memo from the Board's fiduciary counsel, Ron O'Keefe, were included, communications process between the Board, BWC staff and the public were clear, concise and met the statutory requirements of public records retention, agenda development for Committee and Board meetings, functioning of the Board during meetings, and the detection, investigation and prevention of wrongdoing met the current best standards of corporate governance.

To conclude this portion of the meeting, Ms. Falls stated the draft of the governance guidelines will be shared with the Workers' Compensation Board of Directors on January 25; Mr. Price will revise provisions regarding the conduct of Workers' Compensation Board meetings; the revisions will incorporate the memo of Mr. O'Keefe. The Governance Committee will examine a revised draft at their February meeting. This revised draft will include all suggestions made during the January meeting, and recommendations of fiduciary counsel as the Committee feels appropriate.

Discussion Items

Membership in the National Association of Corporate Directors (NACD)

Ms. Falls offered information and asked for discussion about the benefits and cost for the Workers' Compensation Board to join the National Association of Corporate Directors (NACD).

Ms. Falls and Mr. Bryan reported that they are individual members of the NACD. He commented that NACD provides many valuable services, especially on the level of integrity which a board should meet. Mr. Smith stated he favored membership, but cautioned that the focus of NACD is corporate governance and that state pension and insurance funds should not be run like a business. Ms. Falls also noted the value of NACD's focus on best practices but observed that the NACD has few Ohio corporate board members. The information on the cost of joining as a Board vs. the cost of individual membership was discussed. The Committee asked that BWC explore providing an individual membership for Don Berno, Board Liaison.

Committee Charter Review

Ms. Falls solicited input and discussion of any further, final changes to the Governance Committee charter.

Mr. Lhota questioned the rationale for including the Board Chair as a member of the Governance Committee. Ms. Falls stated it was added because the board chair is often the Governance Committee chair; the Governance Committee is a leadership function; and it keeps the chair "in the loop". Mr. Price endorsed the membership of the Board Chair on the Governance Committee.

Mr. Matesich asked why the Chief Audit Officer is selected by the Audit Committee, whereas there are different provisions in other charters regarding senior management. Mr. Smith replied this provision comes from HB 100. Ms. Shannon further reported that the Ohio Revised Code provides different roles for the Workers' Compensation Board in hiring and termination of specific members of senior management.

Mr. Lhota moved that the Governance Committee recommend to the Workers' Compensation Board that it approve the Governance Committee charter as amended. Mr. Smith seconded and the motion was approved by a unanimous voice vote.

Mr. Lhota recommended that voting procedures in other charters be changed so that the Chair of the Workers' Compensation Board vote does not create a tie. The language states: "The Board Chair if not a member is an ex-officio member, shall not vote if his/her vote will create a tie vote when serving as ex-officio".

Calendar

Ms. Falls reported that the next meeting would be February 25 in Cleveland. Agenda topics will include the process and form for the Administrator's evaluation, the questionnaire for the Board self-assessment, and a review of a revised draft of the Governance Guidelines, which will include comments made by the Committee members, other Board members as well as Fiduciary Counsel.

Adjournment

There was a motion by Mr. Smith, second by Mr. Lhota, and the meeting was adjourned by Ms. Falls at 6:30 pm.

Prepared by: Larry Rhodebeck, Staff Counsel
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February 6, 2008

**OHIO BUREAU OF WORKERS' COMPENSATION
BOARD
GOVERNANCE GUIDELINES**

Draft: February 14, 2008

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INTRODUCTION AND PURPOSE

The Ohio Bureau of Workers' Compensation ("BWC") is a state agency that provides medical and compensation benefits to Ohio employees for work-related injuries, diseases and deaths. Ohio employers pay premiums for these benefits to Ohio's State Insurance Fund. In addition to benefits paid, the BWC makes available and provides loss prevention services to Ohio employers. Ohio's workers' compensation system has the largest exclusive state fund in the nation and is the second largest underwriter of workers' compensation insurance in the country.

The BWC Board of Directors ("Board") was created by Ohio law and its authority and responsibilities are set forth in detail in the Ohio Revised Code.¹ The primary areas of Board focus are to establish the overall administrative policy of the BWC, to review the progress of the BWC in meeting its cost and quality objectives and to provide advice and consent regarding actions proposed by the BWC Administrator, who is responsible for the management of the day-to-day operations of the agency.² The Board operates in collaboration with other state entities, including the Office of the Attorney General, the Inspector General, the Workers' Compensation Council, Workers' Compensation Board of Directors Nominating Committee and the Industrial Commission.

The members of the BWC Board are obligated by law to adhere to the highest standards of judgment and care when making decisions or taking actions that may affect the financial integrity and soundness of the workers' compensation fund.³ In order to properly discharge the Board's fiduciary responsibilities, the Board should be guided by three primary considerations with respect to matters that come before it: (1) the provisions of Ohio law that directly impact the Board's activities; (2) the duty of loyalty to protect the workers' compensation fund and to act in the interests of all the stakeholders of the BWC, taken as a whole; and (3) the duty of care in ensuring that all Board decisions and actions are the result of an informed deliberative process in which the significant information items relevant to the proposed decision or action are identified and considered by the Board.

Accordingly, it is incumbent upon the Board to operate with the integrity appropriate to its fiduciary duties as it oversees the business of BWC. The Board aspires to implement the best practices of corporate governance and to incorporate all significant developments in this area into its policies and procedures. The Board has adopted the measures set forth in this document to describe the governance structure and guidelines by which the Board shall conduct its business. It is the intention of the Board to review these guidelines at least annually.

BOARD COMPOSITION AND RESPONSIBILITIES

The BWC Board of Directors consists of eleven (11) members appointed by the Governor of Ohio. Board members are selected with the advice and consent of the Ohio Senate from a list of candidates prepared by the Workers' Compensation Board of Directors Nominating Committee. It is provided by statute that one member of the Board shall be a representative of employees; two members of the Board shall be representatives of employee organizations; three members of the Board shall be representatives of employers with one of the three representing self-insuring employers; two members of the Board shall be investments and securities experts; one member of the Board shall be a certified public accountant (CPA); one member of the Board shall be an actuary; and one member of the Board shall represent the public.⁴ The Governor of Ohio selects the Chair of the Board of Directors.

Initially, the employee representative, one of the employer representatives, and the public representative serve a one year term. Another employer representative, one of the employee organization representatives, one of the investment and securities expert and the CPA representative serve a two year term. The third employer representative, the other employee organization representative, the other investment and securities expert, and the actuary representative serve a three year term. At the expiration of these initial terms, the subsequent terms of office are three years. There are no term limits. Ohio law sets forth detailed procedures for the filling of vacancies occurring as a result of the expiration of a Board member's term of office or otherwise.⁵

Board members shall aspire to maintain the highest ethical standards and integrity in fulfilling their responsibilities, and shall demonstrate a willingness to act on and be accountable for Board decisions. Members shall strive to utilize their diverse backgrounds, talents and experiences to provide wise, informed and thoughtful counsel to BWC management. Members shall demonstrate loyalty and commitment to the success of the BWC. It is expected that members may hold differing points of view on issues before the Board and are encouraged to express their points of view. Regardless of their particular points of view, members shall at all times act in the best interests of the BWC and its stakeholders as a whole. Members shall devote an appropriate amount of effort in preparation for meetings, participate fully in the activities of the Board and its Committees, and shall strive to be prompt and regular in attendance at Board meetings. Board members shall be compensated for their attendance at Board and Committee meetings, and shall be reimbursed for all reasonable and necessary expenses while engaged in the performance of their duties, all as provided by statute.⁶

Under Ohio law,⁷ the Board's responsibilities include the following:

- establish overall administrative policy for BWC;
- review BWC's progress in meeting cost and quality objectives, and its compliance with the Ohio Revised Code;

- submit an annual report to the Ohio General Assembly, the Governor, and the Workers' Compensation Council regarding BWC operations and progress;
- review all independent financial audits of BWC;
- study issues as requested by the Governor or the Administrator;
- contract with an actuarial firm, outside investment consultant and independent fiduciary counsel to assist the Board in fulfilling its duties;
- review investment policy annually, approve investment policy changes for BWC, prohibit investments that are contrary to Board-approved investment policy, vote to open investment classes, and adopt due diligence standards for BWC employees;
- submit an annual report on the performance and value of BWC investments to the Governor and the Ohio General Assembly;
- advise and consent on rules that BWC wishes to pursue;
- meet with the Governor of Ohio annually to discuss the Administrator's performance;
- develop and participate in an education program for the Board members;
- submit the education program to the Workers' Compensation Council for approval;
- contract with an actuarial consultant to prepare an annual actuarial report, an actuarial investigation of employers' experience and injured workers' benefits every five years, and actuarial analysis of legislation expected to have measurable financial impact on the system; and
- contract with an independent auditor to conduct a fiduciary performance audit of BWC's investment program at least once every ten years.

Annually the Board shall discuss its evaluation of the Administrator's performance amongst itself and with the Governor. The Board shall design and oversee a process for this evaluation of the Administrator.

In general, the Board is responsible for approving the strategic direction proposed by BWC management. In order to approve any such plans, it is necessary and appropriate for the Board to develop a depth of knowledge regarding BWC operations that shall enable the Board to analyze the effectiveness and feasibility of the strategic proposals of the Administrator. In addition, the Board shall monitor the performance of BWC as it works to fulfill the business approach adopted by the agency. As the Board monitors BWC performance, it shall be necessary for the Board to review and approve BWC's financial objectives, plans and actions, as well as reviewing and approving any transactions not in the ordinary course of business. To enable successful fulfillment of BWC objectives, the Board shall ensure that BWC is structured to encourage ethical behavior, to require compliance with the law, and that sound accounting principles, actuarial standards and auditing practices are instituted.

The Board and its members have fiduciary responsibilities to the BWC. In exercising their fiduciary responsibilities, Board members shall be guided by the specific provisions of Ohio law relative to the Board and the BWC. They shall perform their duties with the care that an ordinary prudent person in a like position would use in similar circumstances

and shall take all necessary actions to be informed and exercise appropriate judgment (duty of good care). Furthermore, they shall perform their duties in good faith and in a manner reasonably believed to be in the best interest of BWC (duty of loyalty). To assist the Board in fulfilling its fiduciary responsibilities, the Board shall retain independent fiduciary counsel.⁸

BWC shall obtain fiduciary liability insurance for the Board, which coverage shall include standard Directors and Officers liability insurance coverage as well as coverage for the Board's fiduciary responsibilities.

The Board of Directors may be required to provide information to the Workers' Compensation Council as it fulfills its duties. Such information shall be provided with all due speed. The Board of Directors shall provide its annual report, as well as its actuary report to the Workers' Compensation Council. The Board shall submit its education program to the Workers' Compensation Council for approval. The Workers' Compensation Council is a separate entity from the BWC Board of Directors. It was statutorily created to review the overall soundness of the workers' compensation system, and to analyze any proposed legislation that might affect the workers' compensation system.

BOARD PROCEDURES

Board of Directors' Meetings:

The Board of Directors conducts its business through open and public meetings in compliance with the Ohio Open Meetings Act. Members of the public and press are invited to attend these meetings. Advance notice of the time and place of all meetings shall be provided to the media and shall be posted on BWC's web site. Notice shall be provided subject to a test of reasonableness. Minutes of all Board and Committee public meetings shall be taken and maintained. Robert's Rules of Order is generally followed. The Chair of the Board presides at Board meetings. In the event that the Chair is unable to attend, the Vice Chair of the Board shall conduct the Board meeting.

Conduct at Meetings:

A Board member desiring to speak shall address the Board Chair and, upon recognition by the Board Chair, shall confine discussion to the issue before the Board and shall avoid discussion of personalities, indecorous language, and shall refrain from personal attacks or verbal abuse. A Board member, once recognized, shall not be interrupted while speaking unless called to order by the Board Chair, unless a point of order is raised by another Board member, or unless the speaker chooses to yield to questions from another member. If a Board member is called to order while speaking, that member shall cease speaking immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in order, the member shall remain silent or make additional remarks in accordance with the rules of the Board.

A Board member desiring to question a BWC staff member shall address such questions to the Board Chair, the Administrator or the appropriate Board Committee Chair. Such person shall be entitled either to answer the inquiries or to designate some member of the BWC staff for that purpose. Board members shall treat with respect members of the BWC staff, who shall observe the same rules of decorum as the BWC Board members.

Whenever possible, motions and amendments to motions should be in writing and distributed to all Board members prior to the Board and Committee meetings.

Minutes of Board Meetings and Committee Meetings

The minutes record the formal actions taken by the Board and Committees and a summary of important reports and discussions. Minutes should contain appropriate details of the meetings, and should reflect the Board's fulfillment of applicable fiduciary standards of conduct. In its decision-making processes, the Board shall give thoughtful attention to the issues before it; the minutes shall indicate the full consideration given by the Board. The minutes should also demonstrate the Board's adherence to its own Governance Guidelines. Board members may request that specific comments be included in the minutes. Minutes should usually be reviewed and voted on for approval at the next subsequent Board meeting. Therefore, the minutes shall be furnished to the Board members in the subsequent Board package. Once approved, the minutes constitute the official record of the Board's actions and decisions.

Agenda Development & Distribution

The Board Chair, in cooperation with the Administrator and/or the Board Liaison, shall prepare the agenda for the Board meeting. Ample opportunity shall be given for any Board member to submit suggestions or requests for agenda topics to the Board Chair. A week prior to each regular Board meeting informational material shall be delivered to the Board, including a preliminary agenda and supporting documents to be considered at the meeting. This same process shall be followed for Committee meetings. A Board member may request that an agenda item be deferred, removed or added by making the request to the Board or Committee Chair. The request to defer, remove or add an agenda item shall be considered by the Board or Committee Chair and implemented where practical. Should the Board member's request to defer, remove or add an agenda item be refused, and the Board member is dissatisfied with the result, the Board member may make a motion to have the full Board consider the request by vote.

Rules/New Business Submittal Process

Generally, BWC staff should submit proposed rules and new business items to the Board Liaison at least two weeks prior to the upcoming Board meeting or Committee meeting. It is recognized that unforeseen circumstances may prevent such advance submission. For issues concerning the various Committees, the Board Chair, with the advice and consent of the Committee Chair, shall determine whether issues are presented to the Board for resolution.

Administrator's Report

At the Board's monthly meeting, the Administrator shall regularly provide a report. This agenda item provides an opportunity for the Administrator to present information on issues of interest to the Board and others.

Reports by Board Committees

At the Board's monthly meeting, the Committee Chairs shall regularly provide a report of the activities of the Committees. This agenda item enables Committee Chairs or designated representatives to report any actions taken by Committees and to request Board approval of Committee recommendations as appropriate.

Executive Session

Consistent with Ohio law⁹, the Board and its Committees may convene in Executive Session (i.e. exclude the public from attendance) under a limited set of circumstances. The proper purposes for Executive Session are to discuss the following issues:

- personnel (to consider appointment, employment, performance evaluation, dismissal, discipline, promotion, demotion or compensation of a public employee or official, or to consider the investigation of charges or complaints against a public employee or official);
- property (to consider the purchase or sale of property if disclosure of the information would result in a competitive advantage to the other side);
- court action (to discuss pending or imminent court action with legal counsel);
- collective bargaining (to prepare for, conduct or review collective bargaining strategy);
- confidential matters (to discuss matters required to be kept confidential by federal law, rules or state statute); and
- security arrangements (to discuss details of security arrangements and emergency response protocols where disclosure could be expected to jeopardize the security of the Board of Directors).

No official action may be taken in Executive Session. Attendance at Executive Sessions is limited to Board members and others invited by the Board Chair or Committee Chair as necessary. If official action is necessary, matters discussed in Executive Session shall be followed by a public vote.

Committee Meetings

Committee meetings are conducted as often as determined necessary by majority vote of the Board of Directors. Only members of the Committee may participate in voting on Committee matters. All members of the Board may attend and participate in discussion at Committee meetings. The Committee Chair shall develop the agenda for the Committee meetings. Ample opportunity shall be given for any Board member to submit suggestions or requests for agenda topics to the Committee Chair. Committee agendas and supporting documents shall be provided to the Board and appropriate BWC staff prior to the Committee meeting. Minutes of Committee meetings shall include identification of Committee members and other Board members present, agenda items

and official actions taken by the Committee. Committee minutes shall follow all the requirements for minutes for the full Board meetings, as noted above in “Minutes of Board Meetings and Committee Meetings”.

Communication Guidelines

As a general rule, it is the Board’s position that the BWC Administrator, or BWC management appointed for such purpose by the Administrator, speaks for the agency as a whole.

Communications from the public can be made by written submission of comments sent to the Board Liaison at BWC. In addition, members of the public can provide written submission of comments to BWC’s website at OhioBWC.com. Comments on pending legislation should be limited to those necessary to conduct the business of the Board of Directors. Comments beyond that should be directed to members of the Ohio General Assembly or the Workers’ Compensation Council. The Chair of the Board of Directors reserves the right to limit comments from the public during meetings.

Communications received directly by Board members shall be forwarded to the Board Liaison. The Board member receiving such communication shall work with the Board Liaison to prepare the appropriate response. The Board Liaison shall be responsible for retention of the Board’s public records and communications with the public.

Public Input Process

The Administrator, in consultation with the Board, shall annually create a plan for public forums to solicit views from the public on various issues, to be held periodically throughout the coming year. Each public forum shall address a topic or topics deemed by the Administrator to be of interest to BWC stakeholders. Members of the public shall be provided notice of and have an opportunity to provide comments and/or register to speak at such forums. The Administrator may also invite certain stakeholders with an interest in the topic to speak. Written comments provided during the meeting shall be posted on the BWC web page.

Director Education Program¹⁰

The Board of Directors shall develop an education program for its members with the oversight of the Governance Committee. The education program shall contain an orientation component for newly appointed members, as well as a continuing education component for members who have served at least one year. For orientation of new members, information regarding all activities of BWC shall be provided, as well as information regarding the roles of the Board and its Committees. The curriculum for the education program shall include:

- information about Board member duties and responsibilities;
- information concerning compensation and benefits paid under Chapters 4121, 4123, 4127, and 4131 of the Ohio Revised Code;
- ethics;
- governance processes and procedures;
- actuarial soundness;

- investments; and
- any other topic reasonably related to the duties of the Board.

The Board of Directors shall submit the education program it develops to the Workers' Compensation Council for approval. All sessions, classes, and other events for the education program developed by the Board and approved by the Workers' Compensation Council shall be held in the State of Ohio.

BOARD COMMITTEES – COMPOSITION AND RESPONSIBILITIES

By law¹¹, the Board of Directors shall establish three Committees: the Audit Committee, the Actuarial Committee, and the Investment Committee. Additional Committees may be established by the Board of Directors as needed. Currently, the Board of Directors has established a Governance Committee in addition to the statutorily mandated Committees. Committee members, Vice Chairs and Chairs should be rotated where practical, while also providing some overlap to prevent loss of expertise and experience. Generally, rotation of Committee members shall be considered every year as new Board members are appointed. Any change to a Committee appointment shall be approved by the majority vote of the Board.

The Committee Chairs shall conduct Committee meetings. In the absence of a Committee Chair, the Vice Chair of the Committee shall preside over the Committee meeting. Additional detail regarding the Board's Committees, including the roles and responsibilities of all Committees, are further defined by the Committee Charters, as approved by the Committees and adopted by the Board. The Charters of the Board's Committees are attached hereto as Exhibit A.

Audit Committee

The Audit Committee shall consist of a minimum of three members. One member shall be the appointed certified public accountant member of the Board. The Board, by majority vote, shall appoint two additional members to serve on the Audit Committee and may appoint additional members, who are not Board members, as the Board determines necessary. Members of the Audit Committee serve at the pleasure of the Board and the Board, by majority vote, may remove any member except the member of the Committee who is the certified public accountant member of the Board.

The Audit Committee performs several functions mandated by law. It recommends to the Board the accounting firm that performs the annual audits required by R.C. §4123.47. It also recommends to the Board the accounting firm that the Board uses when conducting audits under R.C. §4121.125. The Audit Committee reviews the results of each annual audit and management review, assessing and developing appropriate courses of action to correct any problems that may arise. The Audit Committee also monitors the implementation of any action plans it creates, and reviews all internal audit reports on a regular basis. Finally, the Audit Committee assists the Board in providing oversight of the integrity of BWC's financial statements.

Actuarial Committee

The Actuarial Committee consists of a minimum of five members. One member shall be the appointed actuary member of the Board. The Board, by majority vote, shall appoint four additional members. The Board may also appoint additional members who may or may not be on the Board. Members of the Actuarial Committee serve at the pleasure of the Board and the Board, by majority vote, may remove any member except the member of the Committee who is the actuary member of the Board.

The Actuarial Committee performs several functions mandated by law. It recommends actuarial consultants for the Board to use for actuarial analysis of BWC funds. In addition, the Actuarial Committee reviews the calculations on rate schedules and performance prepared by the actuarial consultants retained by the Board.

Investment Committee

The Investment Committee consists of a minimum of five members. Two of the members shall be the members of the Board who serve as the investment and securities experts on the Board. The Board, by majority vote, shall appoint three additional members to serve on the Investment Committee and may appoint additional members, either from the Board or someone not on the Board. Each additional non-Board member appointed shall have at least one of the following qualifications: a) experience managing another state's pension or workers' compensation funds; or b) expertise that the Board determines is needed to make investment decisions. Members of the Investment Committee serve at the pleasure of the Board and the Board, by majority vote, may remove any member except the members of the Committee who are the investment and securities expert members of the Board.

The Investment Committee performs several functions mandated by law. It develops the investment policy for BWC, and submits it to the Board for approval. The Investment Committee must assure that BWC invests in accordance with its investment policy, and that the best possible return on investment is achieved while protecting the solvency of the State Insurance Fund. The Investment Committee monitors implementation by BWC of the investment policy. It recommends an outside investment consultant for the Board. Finally, the Investment Committee reviews the performance of BWC's Chief Investment Officer and the investment consultants retained by BWC.

Governance Committee

The Governance Committee was established by the Board of Directors under its authority to create additional Committees as it deemed necessary.¹² The Governance Committee consists of a minimum of three members. One member is the Chair of the Board of Directors. The Board, by majority vote shall appoint two additional members. Members of the Governance Committee serve at the pleasure of the Board of Directors; members may be added or removed by a majority vote of the Board.

The Governance Committee is responsible for developing governance policies and advising as to best governance practices for the Board. The Governance Committee coordinates and facilitates the Board's annual performance evaluation of the

Administrator. In addition, it oversees the Board's educational programs. The Governance Committee recommends the selection of independent fiduciary counsel to the Board for its approval. The Governance Committee also makes recommendations to the Board Chair for Committee memberships, Committee Chairs, the Vice Chair of the Board, and Vice Chairs of the Committees.

BOARD GOVERNANCE -- GENERAL

Ethics

The Board of Directors is committed to following ethical standards that promote the integrity of the workers' compensation system in Ohio. The Board is charged to comply fully with all federal and state laws applicable to the BWC. In particular, it is necessary that Board members become familiar with the various ethics laws provided in the Ohio Revised Code, as well as the Governor's Executive Orders addressing ethics, in order to be compliant with the applicable ethics requirements. The Board is also subject to BWC's Code of Ethics, as found in the BWC Employee Handbook. The Board views the requirements of Ohio law and BWC policy with respect to ethics as a minimum measure for its standard of conduct. It is the aspiration of the Board to perform its duties in accordance with the highest ethical standards.

Board Oversight Process Guidelines

In order for the Board to fulfill its fiduciary responsibilities regarding oversight of the Bureau of Workers' Compensation (BWC), it must receive accurate and reliable information from the Administrator and BWC staff. Further, the Board must do its part in promoting the provision of quality information by making sure that measures are in place to ensure, to the extent practicable, that it is receiving the best information available. A related responsibility of the BWC, as an Ohio state governmental agency, is to develop, implement, and enforce policies and procedures that prevent or reduce the risk of wrongful acts and omissions by its officers and employees. In furtherance of the Board's oversight role, the Board has regularly scheduled meetings in which information exchange between it and BWC takes place. In addition, Charters have been established for all Committees and the Governance Committee was created to oversee governance issues. Furthermore, information exchange between the Board and the IG's office has been established. The Board Chair shall periodically contact the IG to invite sharing of information regarding IG investigations relative to the BWC. It was acknowledged in this connection that, in some cases, the IG may not be able to share information due to the confidentiality and other constraints imposed by statute on the IG's office. The Board Oversight Process Guidelines are attached hereto as Exhibit B.

As detailed in its charter, the Audit Committee is the arm of the Board that has the formal responsibility of interacting with the Auditor of State and other agencies or within the Ohio and federal governmental systems. In the event there is an internal BWC investigation which is not referred to the deputy IG, and the Administrator has determined that there is no need for confidentiality with respect to such matter, the Audit Committee could be informed of such matter at a regular meeting. If there is a need for confidentiality, as determined by the Administrator, in consultation with the Board Chair,

the Audit Chair would be informed of such matter, and the Audit Chair could make a judgment if there is a need to inform others on the Board or let the investigation take its course. The policy underlying this procedure is that, in any such event, either the Board or the Board Chair and Audit Chair shall know what is occurring.

Referral Process for Wrongdoing

The Board of Directors is fully committed to the detection, investigation and prevention of wrongdoing at BWC. In the event a Board member receives information concerning possible wrongdoing at BWC, it is the member's obligation to promptly notify the Board Chair and the Administrator of the information so that the matter can be fully investigated and handled. In some instances, matters may be referred to the Inspector General's (IG) office for investigation.

The Board of Directors shall comply with BWC's Employee Handbook regarding requirements for the reporting of wrongdoing. In addition, the Board shall also follow the Governor of Ohio's requirements for the reporting of wrongdoing, as contained in the memorandum from the Governor's Chief Legal Counsel Kent Markus dated October 11, 2007.

BWC staff is responsible for keeping the Board of Directors fully informed of investigations and their outcomes. To this end, the Administrator shall provide updates to the Board as necessary. In some instances, updates regarding investigations of wrongdoing shall be provided in executive session, as permitted by Ohio law.

Whistleblowing

R.C. § 124.341 establishes the procedures and responsibilities incumbent upon all state agency employees with respect to the reporting of wrongdoing, as well as the responsibilities of supervisory personnel within state agencies with respect to whistleblowing occurrences, including referral of the report to the appropriate authority and the protection of the whistleblower. The Board shall similarly follow such procedures and observe the requirements of Ohio law regarding whistleblowing.

Exhibit A

**OBWC Board of Directors
Governance Committee Charter
January 25, 2008**

Purpose

The Committee shall assist the Ohio Bureau of Worker's Compensation Board of Directors in fulfilling its oversight responsibilities relating to developing and implementing sound governance policies and practices. The Committee is responsible for:

- reviewing and recommending to the Board the adoption of governance guidelines and committee charters;
- overseeing compliance with federal and state laws, ethics, regulations and policies;
- developing a process for the Board's assessment of its performance and the performance of Board committees and a self assessment by Directors; and
- recommending director assignments to Board committees; making recommendations for Board Vice-chair and committee chairs for the Chair's consideration.
- coordinate annual review process of the Administrator with the Board.

Membership

The Committee shall be composed of a minimum of three (3) members. One member shall be the Chair of the Ohio Bureau of Workers' Compensation Board of Directors. The Board, by majority vote shall appoint two additional members. The Chair and Vice-Chair is designated by the Board based on the recommendation of the Board chair.

The Committee Chair will be responsible for scheduling all meetings of the Committee and providing the Committee with a written agenda for each meeting. The Committee encourages all Board members to attend their meetings. The Governance Committee is a standing committee of the Ohio Bureau of Workers' Compensation (BWC) Board of Directors. The Committee will have a staff liaison designated to assist it in carrying out its duties. This Board liaison will be responsible for all communication, handling of responses and public record requests of the Board.

Meetings

The committee shall meet quarterly or more frequently as it shall determine is necessary to carry out its duties and responsibilities. The Chair will schedule regular meetings; additional meetings may be held at the request of two or more members of the Committee, or the Chair of the Board. A majority of the members shall constitute a quorum. At least one meeting shall be in executive session for the purpose of the performance review of the Administrator.

Duties and Responsibilities

In carrying out its oversight responsibilities, the Committee shall:

1. At least annually review the Board's Governance Guidelines and the charters of the Board's standing committees, and making such recommendations as the Committee determines necessary or appropriate; and consistent with HB 100, including recommendations concerning the structure, composition, membership and function of the Board and its committees, subject to Board approval.
2. Make recommendations for Board Vice-chair, committee chairs and committee members for the Chair's consideration and the Board's approval.
3. Develop and coordinate the annual self-assessment of the Board and its Committees.
5. Make recommendations to the Board for retaining fiduciary counsel.
6. The Committee shall oversee the process for the annual report by the Board for submission to the Governor, General Assembly or the Workers' Compensation Council as required by ORC 4121.12(F)(3).
7. Oversee compliance with laws, ethics, regulations and policies.
8. Oversee the BWC orientation process for newly appointed members of the BWC Board and assist the Board in its implementation. The Committee shall also regularly assess the adequacy of and need for additional continuing director education programs. At a minimum, the education components must meet the requirements of ORC 4121.12(F)(16). These requirements include: orientation for new members; continuing education for those Board members who have served for more than one year; board member duties and responsibilities; compensation and benefits; ethics; governance processes and procedures; actuarial soundness; investments; and any other subject matter the board believes is reasonably related to the duties of a board member.
9. Make reports to the Board following their meetings.
10. Coordinate with other Board committees on issues of common interest.
11. Perform such other duties required by law or otherwise as are necessary or appropriate to further the Committee's purposes, or as the Board may from time to time assign to the Committee.

Draft reviewed Oct. 4, 2007 and Oct. 14, 2007 Approved as edited 112107; Alison Falls, Chair Revised 012308

Actuarial Committee Charter

January 24, 2008

Purpose

The Actuarial Committee has been established to assist the Ohio Bureau of Workers' Compensation Committee Board of Directors in fulfilling their responsibilities through:

- monitoring the actuarial soundness and financial condition of the funds and reviewing rates, reserves and level of net assets
- oversight of the integrity of the actuarial audit process
- compliance with legal and regulatory requirements
- monitor the design and effectiveness of the actuarial studies
- confirm external actuarial consultants' qualifications and independence
- review performance of independent external actuarial work product

Membership

The Committee shall be composed of a minimum of five (5) members. One member shall be the appointed actuary member of the Board. The Board, by majority vote shall appoint four additional members. The Board may also appoint additional members who may or may not be on the Board. Members of the Actuarial Committee serve at the pleasure of the Board and the Board, by majority vote, may remove any member except the member of the committee who is the actuary member of the Board.

Each committee member will be independent from management. The Chair and Vice Chair is designated by the Board, based on the recommendation of the Board Chair. The Board Chair if not a member is an ex-officio member, shall not vote if his/her vote will create a tie vote when serving as ex-officio.

The Committee Chair will be responsible for scheduling all meetings of the Committee and providing the Committee with a written agenda for each meeting. The Committee will have a staff liaison designated to assist it in carrying out its duties.

Meetings

By majority vote the Committee will recommend to the Board of Directors their meeting schedule. There shall be not less than nine (9) meetings each year. Reports shall be made to the Board after each meeting. The Committee also has the authority to convene additional meetings, as circumstances require. The Committee will invite members of management, external actuarial firms, internal actuarial staff and/or others to attend meetings and provide pertinent information, as necessary. Subject to open meeting laws, the Committee will hold executive sessions and private meetings with actuaries and auditors, when required in the performance of their duties. A quorum will be a majority of the Committee members.

Duties and Responsibilities

The Actuarial Committee shall have responsibility for the following:

1. Recommend actuarial consultants for the Board to use for the funds specified in the Ohio Revised Code.
2. Review calculation on rate schedules and performance prepared by the actuarial consultants with whom the Board contracts.
3. Supervise for the Board's consideration the preparation of an annual report of the actuarial valuation of the assets, liabilities and funding requirements of the state insurance funds to be submitted to the Workers' Compensation Council and the Senate and House.
4. Coordinate with other Board Committees on issues of common interest.
5. At least once every five (5) years have actuarial investigation of experience of employers; mortality, service and injury rate of employees; payment of benefits in order to update the assumptions on the annual actuarial report.
6. Have actuarial analysis prepared of any legislation expected to have measurable financial impact on the system, within 60 days after introduction of legislation.
7. Consult in the appointment of and oversee the work of any actuarial firm engaged by Ohio Bureau of Workers' Compensation to complete actuarial studies.
8. Recommend retention and oversight of consultants, experts, independent counsel and actuaries to advise the Committee on any of its responsibilities or assist in the conduct of an investigation.
9. Seek any information it requires from employees – all of whom are directed to cooperate with the Committee's requests, or the request of internal or external parties working for the Committee. These parties include the internal actuaries, all external actuaries, consultants, investigators and any other specialties working for the Committee.
10. Make recommendations to the Board of Directors of the Ohio Bureau of Workers' Compensation for Board decisions.
11. At least annually, this charter must be reviewed by the Actuarial Committee and any proposed changes submitted to the Governance Committee and to the Board for approval

Actuarial Committee Charter.doc Draft 092607 Review & Approved 112107, Chuck Bryan, Chair Revised 012408

OBWC Board of Directors

Audit Committee Charter

January 25, 2008

Purpose

The Audit Committee has been established to assist the Board of Directors of the Ohio Bureau of Workers' Compensation in fulfilling its fiduciary oversight responsibilities through:

- oversight of the integrity of financial reporting process;
- compliance with legal and regulatory requirements;
- monitoring the design and effectiveness of the system of internal control;
- confirming external auditor's qualifications and independence; and
- reviewing performance of the internal audit function and independent auditors.

Membership

The Committee shall be composed of a minimum of three (3) members. One member shall be the appointed certified public accountant member of the board. The Board, by majority vote, shall appoint two additional members to serve on the Audit Committee and may appoint additional members, who are not Board members, as the Board determines necessary. Members of the Audit Committee serve at the pleasure of the board and the board, by majority vote, may remove any member except the member of the committee who is the certified public accountant member of the board.

Each committee member will be independent from management. The Chair and Vice Chair is designated by the Board, based on the recommendation of the Board Chair. The Board Chair if not a member is an ex-officio member, shall not vote if his/her vote will create a tie vote when serving as ex-officio.

The Committee Chair will be responsible for scheduling all meetings of the Committee and providing the Committee with a written agenda for each meeting. The Committee will have a staff liaison designated to assist it in carrying out its duties.

Meetings

The Audit Committee shall meet at least nine (9) times annually, or as frequently as needed and will provide activity reports to the Board of Directors. The Committee will invite members of management, external auditors, internal auditors and/or others to attend meetings and provide pertinent information, as necessary. Subject to open meeting laws, the Committee will hold executive sessions with external auditors, when deemed appropriate in the performance of their duties. A quorum shall consist of a majority of the Committee members. The Committee will have a staff liaison designated to help it carry out its duties.

Duties and responsibilities

The Audit Committee shall have responsibility for the following:

1. Oversight of the integrity of the financial information reporting process:
 - a. Review with management and the external auditor significant financial reporting issues and judgments made in connection with the preparation of the financial statements.
 - b. Review with management and the external auditor the results of the audit.
2. Review all internal audit reports on regular basis.
3. Review results of each annual audit and management review; if problems exist, assess appropriate course of action to correct, and develop action plan. Monitor implementation of any action plans created to correct problems noted in annual audit.
4. Serve as the primary liaison for Bureau of Workers' Compensation Board of Directors and providing a forum for handling all matters related to audits, examinations, investigations or inquiries of the Auditor of State and other appropriate State or Federal agencies
5. Develop an oversight process to assess the adequacy and effectiveness of internal controls and provide the mechanisms for periodic assessment of system of internal controls on an ongoing basis.
6. Oversee the assessment of internal administrative and accounting controls by both the external independent financial statement auditor and internal auditor.
7. Consult on the appointment and/or removal of the Chief of Internal Audit and have oversight on the work of the Internal Audit Division.
8. Ensure the independence of the external auditor and approve all auditing, other attestations services and pre-approve non-audit services performed by the external auditor.
9. After every meeting, report to the Board of Directors of the Bureau of Workers' Compensation on all activities, findings and recommendations of the Committee.
10. Establish policies and procedures to function effectively.
11. At least once every 10 years, have an independent auditor conduct a fiduciary performance audit of BWC's investment program, policies and procedures. Provide a copy of audit to the Auditor of State.
12. Recommend to the Board an accounting firm to perform the annual audit required under R.C. 4123.47. Recommend an auditing firm for the Board to use when conducting audits under R.C. 4121.125.
13. Retain and oversee consultants, experts, independent counsel, and accountants to advise the Committee on any of its responsibilities or assist in the conduct of an investigation.
14. Seek any information it requires from employees—all of whom are directed to cooperate with the Committee's requests, or the requests of internal or external parties working for the Committee. These parties include, but are not limited to internal auditors, all external auditors, consultants, investigators and any other specialists working for the Committee.
15. All Committee actions must be ratified or adopted by the Board of Directors of the Bureau of Workers' Compensation to be effective.

16. Coordinate with the other Board Committees on items of common interest.
17. At least annually, this charter must be reviewed by the Audit Committee and any proposed changes submitted to the Governance Committee and to the Board for approval.

Audit Committee Charter.doc
Draft 092607
Review & Approved 112107, Ken Haffey, Chair
Revised 012408
Revised 012508

**OBWC Board of Directors
Investment Committee Charter**

January 24, 2008

Purpose

The purpose of the Investment Committee is to ensure that the assets of the Ohio Bureau of Workers' Compensation (OBWC) are effectively managed in accordance with the laws of the State of Ohio, and the Ohio Bureau of Workers' Compensation Statement of Investment Policy and Guidelines. The Investment Committee:

- provides assistance to the Board of Directors in the review and oversight of the State Insurance Fund and each Ancillary Fund (collectively the Funds) assets; and is
- responsible for developing and monitoring the implementation of the BWC's investment policy.

Membership

The Committee shall be composed of a minimum of five (5) members. Two of the members shall be the members of the Board who serve as the investment and securities experts on the Board. The Board, by majority vote, shall appoint three additional members to serve on the Investment Committee and may appoint additional members, either from the Board or someone not on the Board. Each additional non-Board member appointed must have at least one of the following qualifications: a) experience managing another state's pension funds or workers' compensation funds; or b) expertise that the Board determines is needed to make investment decisions.

The Chair and Vice Chair is designated by the Board, based on the recommendation of the Board Chair. The Board Chair if not a member is an ex-officio member, shall not vote if his/her vote will create a tie vote when serving as ex-officio.

Members of the Investment Committee serve at the pleasure of the Board and the Board, by majority vote, may remove any member except the members of the Committee who are the investment and securities expert members of the Board.

Meetings

The Investment Committee will meet at least nine (9) times annually; additional meetings may be scheduled as the Committee or its chairperson deem advisable. The Investment Committee is governed by the same rules regarding meetings, notice, quorum and voting requirements as are applicable to the Board. A quorum at any Investment Committee meeting will consist of a majority of the Committee members.

The Chair of the Committee will be responsible for establishing the agendas for the meetings of the Committee. An agenda, together with information/background materials, will be sent to members of the Committee prior to each meeting. Minutes for all meetings of the Committee will be prepared to document all actions to the Committee's discharge of its responsibilities. The Committee will have a staff liaison designated to help it carry out its duties.

Duties and Responsibilities

The Investment Committee is charged with overseeing all investment-related matters and activities of the BWC. The Committee evaluates proposals requiring Board action and makes recommendations for consideration by the Board. The Committee shall:

1. Develop and recommend the strategic asset allocation and investment policy for the Funds and submit to the Board for approval. The Committee will periodically review the investment policy in light of any changes in actuarial variables, market conditions, etc. and make recommendations for any changes, as appropriate to the Board for approval. Assist the Board to assure that the investment policy is reviewed and approved at least annually, published, and copies are made available to interested parties.
2. Evaluate and recommend an outside investment consultant to assist the Investment Committee in its duties. Submit a contract with the recommended investment consultant to the Board for approval.
3. Review the annual report on the investment performance of the funds and the value of each investment class and submit to the Board for approval. Once approved, this report must be submitted to the Governor, the president and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives.
4. Recommend investment counsel to the Board for engagement.
5. Recommend to the Board for approval the criteria and procedures for the selection of the Investment Managers and General Partners. Approve the final selection, funding and termination of all Investment Managers and General Partners.
6. Monitor implementation of the investment policy by the Administrator and the Chief Investment Officer. Review performance of the Chief Investment Officer and any investment consultants retained by the BWC to assure compliance with the investment policy and effective management of the Funds.
7. Develop and recommend rules on due diligence standards for employees of BWC to follow when investing in each asset class. Develop and recommend policies and procedures to review and monitor the performance and value of each asset class. Submit these recommendations to the Board for approval.
8. Monitor and review the investment performance of the Funds on a quarterly basis to determine achievement of objectives and compliance with this investment policy.
9. Recommend prohibited investments, on a prospective basis, the Committee finds to be contrary to the investment objectives of the Funds and submit to the Board for approval.
10. Recommend the opening and closing of each investment class and submit to the Board for approval.
11. Report all activities/recommendations to the Board following each meeting of the Investment Committee.
12. The Investment Committee will coordinate with other Board committees on items of common interest.

13. At least annually, this charter must be reviewed by the Investment Committee and any proposed changes submitted to the Governance Committee and to the Board for approval.

InvestmentCommitteeCharter.doc
Draft 092607
Review & Approved 112107, Bob Smith, Chair
Revised 012408

Exhibit B

Board of Directors
Ohio Bureau of Workers' Compensation
Oversight Process Guidelines

Introduction

In order for the Board to fulfill its fiduciary responsibilities regarding oversight of the Bureau of Workers' Compensation (BWC), it must receive accurate and reliable information from the Administrator and BWC staff. Further, the Board must do its part in promoting the provision of quality information by making sure that measures are in place to ensure, to the extent practicable, that it is receiving the best information available. The legal precedent applicable to corporate boards in the private sector is exemplified by the holding of the Delaware Chancery Court in the Caremark case, which suggests that, in order to properly discharge its oversight responsibilities, the Board should take appropriate steps to ensure, to the extent practicable, the quality of the information received regarding the entity.¹² A related responsibility of the BWC, as an Ohio state governmental agency, is to develop, implement, and enforce policies and procedures that prevent or reduce the risk of wrongful acts and omissions by its officers and employees.¹³

Ohio Law

As the board of a governmental agency, the BWC Board does not have the same control over the entity it governs that, for example, the board of directors of a private corporation would have with respect to the entity. Ohio law provides for the Office of Inspector General, whose statutory responsibility is to conduct investigations into matters involving any Ohio state governmental agency or official.¹⁴ Further, Ohio law provides for a Deputy Inspector General to be assigned to the BWC, one of only two Ohio state government agencies to which such an assignment has been mandated by law.¹⁵ The Inspector General may not be permitted to share information with the Board or the Administrator with respect to investigations that are ongoing or in process; however, the Inspector General is required to (a) consult with state agencies and advise them in developing, implementing, and enforcing policies and procedures that will prevent or reduce the risk of wrongful acts and omissions by their state officers or state employees; and (b) after detecting a wrongful act or omission, review and evaluate the relevant policies and procedures of the state agency in which the wrongful act or omission occurred, and advise the state agency as to any changes that should be made in its policies and procedures so as to prevent recurrences of similar wrongful acts or omissions.¹⁶

Information learned by the Inspector General in the course of investigations involving the BWC may be relevant to the Board in fulfilling its oversight responsibility. In this connection, it has been suggested that an informal arrangement be made with the Inspector General that provides for the sharing of relevant information with the Board

Chair as the Inspector General may deem appropriate (see “Additional Reporting Procedures – Office of the Inspector General,” below).

The purpose of these Oversight Process Guidelines is to summarize the measures that the BWC Board has put in place to promote the provision of quality information to the Board and to identify the processes that are in place which are not within the Board’s control but which are designed to prevent or reduce the risk of wrongful acts and omissions by BWC officers or employees.

Board and Committee Structure and Meetings

The recent steps that the new Board has taken in furtherance of its oversight responsibilities include:

- Separate monthly meetings of the Board and its standing statutory Committees, being the Actuarial, Audit and Investment Committees, have been scheduled through the end of 2008.
 - The Administrator shall attend each Board meeting and those specific Committee meetings as requested by the Board Chair or the appropriate Committee Chair.
 - The BWC staff appropriate for the matters scheduled for discussion shall be available to be present at and/or participate in meetings of the Board and its Committees at the request of the Board Chair or the appropriate Committee Chair to the Administrator.
 - The Chief Legal Officer of the BWC and a representative of the Attorney General’s office shall attend each Board meeting and those specific Committee meetings as requested by the Board Chair or the appropriate Committee Chair.
- Charters for each of the standing statutory Committees of the Board, setting forth the specific responsibilities of each Committee, have been prepared, discussed and adopted by each Committee and ratified by the Board.
- The Board has formed a Governance Committee, the responsibilities of which include: advising the Board Chair as to the utilization of best practices in corporate governance; the retention of fiduciary counsel to the Board; and the coordination with the Administrator of educational sessions for the new Board members as to the workings and administration of the BWC and their fiduciary responsibilities as members of the BWC Board.
- Independent fiduciary counsel to the Board has been appointed and reports to the Board Chair and the Governance Committee. Fiduciary counsel made a presentation to the Board during its November 21, 2007 meeting regarding the fiduciary duties of Board members.

BWC Internal Compliance Resources and Procedures

Internal Auditor. The BWC has an Internal Audit Division headed by the Internal Auditor. The Internal Auditor reports to the Administrator on a weekly basis and at least monthly to the Board's Audit Committee.

Ethics Officer. There is an Ethics Officer for the BWC. The Ethics Officer is responsible for educating staff members regarding ethics issues to ensure compliance with the BWC Ethics Policy. The BWC Code of Ethics and Gift Acceptance Policy are contained in the BWC Employee Handbook. Further, there is an email address monitored by the Ethics Officer to which BWC employees can send questions and receive responses regarding ethics matters (Ethics4BWC@bwc.state.oh.us). The Ethics Officer, with support from the BWC Legal Division, also responds to ethics questions posed by staff members and is also BWC's liaison with the Governor's Office on ethics issues.

Complaint Process; Deputy Inspector General. There is a process within the Bureau for the receipt, handling and investigation of employee complaints of suspected wrongdoing as well as complaints from persons outside the BWC. This process and the follow-up on complaints received are supervised by the Deputy Inspector General dedicated to the BWC who reports directly to the Inspector General.

Coordination. The Internal Auditor, Ethics Officer and Deputy Inspector General share information and coordinate activities as appropriate. The Ethics Officer also leads the BWC Special Investigations Unit,¹⁷ which has regular communication with the onsite Deputy Inspector General.

Additional Reporting Procedures

Office of the Inspector General

Fiduciary counsel to the Board was requested to review the statutory powers of the office of the IG and determine whether and to what extent the office of the IG has preempted the Board's responsibility with respect to investigations regarding wrongdoing within the BWC. The Ohio legislature has established an office of deputy IG which is given specific investigative powers by statute with respect to allegations of wrongdoing at the BWC. In that connection, counsel also advised that the duties of the Board are to cooperate with the deputy IG with respect to any such investigation. Counsel further noted that Ohio law is silent with respect to the specific responsibility of the BWC Board to establish, maintain and oversee a proactive investigative program, independent of the Administrator or the deputy IG, targeted to internal wrongdoing.

Accordingly, in keeping with the Board's oversight responsibilities, the Board Chair shall periodically contact the IG to invite sharing of information regarding IG investigations relative to the BWC. It was acknowledged in this connection that, in some cases, the IG may not be able to share information due to the confidentiality and other constraints imposed by statute on the IG's office.

Audit Committee

The Audit Committee Charter provides that the Audit Committee “Will serve as the primary liaison for the BWC Board and provide a forum for handling of matters related to audits, examinations, investigations or inquiries of the Auditor of State and other appropriate State or Federal Agencies.” (Charter at Item 4.) Accordingly, the Audit Committee is the arm of the Board that has the formal responsibility of interacting, on behalf of the Board, with the Auditor of State and other agencies or within the Ohio and federal governmental systems.

In the event there is an internal BWC investigation which is not referred to the deputy IG, and the Administrator has determined that there is no need for confidentiality with respect to such matter, the Audit Committee may be informed of such matter at a regular meeting. If there is a need for confidentiality, as determined by the Administrator, in consultation with the Board Chair, the Audit Chair shall be informed of such matter, and the Audit Chair shall determine whether and when it would be appropriate to inform others on the Board. The policy underlying this procedure is that, in any such event, either the Board or the Board Chair and Audit Chair will know what is occurring.

Procedures for Notification of Employee Wrongdoing and/or Suspected Illegal Activity

The Governor's office has distributed a memorandum dated October 11, 2007, regarding procedures for all state agencies with respect to notification of employee wrongdoing and/or suspected illegal activity, and that the BWC has incorporated the procedures set forth therein within the BWC's internal procedures.

Whistleblowing

Ohio Revised Code Section 124.341 provides for the procedures and responsibilities of all state agency employees with respect to the reporting of wrongdoing, as well as the responsibilities of supervisory personnel within state agencies with respect to whistleblowing occurrences, including referral of the report to the appropriate authority and the protection of the whistleblower.

Edited by: Ann M. Shannon, BWC Legal Counsel
h:/word/admin/GOVERNANCE GUIDELINES 4
2/14/08

-
- ¹ Ohio Revised Code Section 4121.12 (F)
 - ² Ohio Revised Code Section 4121.121 (B)
 - ³ Ohio Attorney General Opinion No. 89-033 (1989)
 - ⁴ Ohio Revised Code Section 4121.12 (A)
 - ⁵ Ohio Revised Code Section 4121.12 (C)
 - ⁶ Ohio Revised Code Section 4121.12 (D)
 - ⁷ Ohio Revised Code Section 4121.12 (F)
 - ⁸ Ohio Revised Code Section 4121.12 (F) (6) (c)
 - ⁹ Ohio Revised Code Section 121.22
 - ¹⁰ Ohio Revised Code Section 4121.12(F)(16)
 - ¹¹ Ohio Revised Code Section 4121.129
 - ¹² Ohio Revised Code Section 4121.12 (G) (2)

¹² *Stone v. Ritter*, 911 A.2d 362 (Del. 2006), citing *In Re Caremark Int'l Inc. Derivative Litigation.*, 698 A.2d 959, 971 (Del. Ch. 1996)

¹³ ORC Section 121.45 (A)

¹⁴ ORC Section 121.42

¹⁵ ORC Section 121.52

¹⁶ ORC Sections 121.42 (I) and (J)

¹⁷ ORC Section 121.131

From: Alison Falls, Chair, Governance Committee

To: The BWC Governance Committee

cc. Marsha Ryan, Ron O'Keefe, John Williams, James Barnes, Ann Shannon

At the upcoming Governance Committee meeting on the afternoon of Monday, February 25th, we will be discussing a proposed form for the Board's evaluation of the Administrator. However, before we engage in a discussion of this proposed form, I would first like to discuss the process, including the role of our Fiduciary Counsel, and timing.

THE ADMINISTRATOR'S PERFORMANCE EVALUATION

Process:

The BWC Board of Directors is required by law to discuss the performance of the Administrator with the Governor on an annual basis. The role of the Governance Committee is to design a confidential process that provides for input from all Board members regarding their opinion on the performance of the Administrator. Our Fiduciary Counsel, Ron O'Keefe will assist us in the orchestration of the process with respect to requesting input from every Board member. The end product will be the preparation and delivery of the required evaluation report of the Administrator to the Governor by the Board Chair.

I propose that the process unfold as follows:

- The Governance Committee will design a draft of the evaluation form to be completed by the Board members.
- The Governance Committee will make a presentation to the Board regarding the form, and a Board discussion will be held regarding the content of the form and the evaluation process.
- Once the form is finalized, a copy of the final evaluation form will be delivered to each Board member, with a request to complete the form and return it by a certain date to Fiduciary Counsel.
- Fiduciary counsel will be available to provide guidance to individual Board members with respect to their completion of the Administrator evaluation form.
- Once the forms have been returned, Fiduciary Counsel will create a report summarizing the responses of the individual Board members with respect to the assessment of the Administrator's performance and review with the Governance Committee.**
- The Governance Committee will then discuss that summary report with the full Board.**

- The Board will reach agreement on the report of the evaluation of the Administrator's performance. The Governance Committee will then make any necessary and appropriate revisions to the draft written report as discussed with the Board and will, with assistance of counsel, produce a final report.**
- The BWC Board Chair will present the written report of the Administrator's performance to the Governor in a meeting between them, currently scheduled for May 2008, and will be prepared to discuss the report with the Governor at that time.
- All performance evaluation discussions will be held in Executive Session**, whether at the Board or the Governance Committee. We will seek guidance and clarification as respects issues regarding Executive Session and attorney/client confidentiality as needed throughout the process from Fiduciary Counsel and AG Counsel.

** Denotes activities that are expected to take place in an Executive Session of the Board or the Governance Committee.

Timing

- February: The Governance Committee will discuss the process and the evaluation form. A preliminary recommendation will be made to the Board for further discussion. Modifications to the process and the form will be made based on these discussions and clarifications from internal and external counsels.
- March: The Governance Committee will finalize its recommendation re the process and the form. The Board will receive the form and be informed of the due date for return of all evaluation forms to Fiduciary Counsel.
- April: A summary of the Board's input for the Administrator's evaluation will be discussed in Executive Session by the Governance Committee with the Board. The Board will conclude its discussion and agree on a summary performance evaluation. The Chair will then review the Board's performance evaluation with the Administrator in a separate private meeting.
- May: The Board Chair will deliver the summary Board performance evaluation of the Administrator to Governor Strickland and discuss it with him.

I look forward to our discussion later this month. It is very important that we get the design of the process right at the start and that the Governance Committee and all Board members believe it is an open and constructive process, while at the same time preserving the confidentiality of the performance evaluation process for the Administrator.

BWC BOARD OF DIRECTORS ADMINISTRATOR'S EVALUATION

**FLEXIBLE PERFORMANCE AGREEMENT with Governor signed on August 31, 2007,
is attached for Board Review and includes progress remarks as of 1/16/08.**

Key Components of Flexible Performance Agreement: Results and Measures

1. Make Ohio's Workers' compensation System more competitive regionally and nationally by reducing base rates overall, while also maintaining the highest level of quality care for injured workers.
 - a. FY 08 Target: Implement multi-year plan for addressing premium discounts
2. By 2011, Ohio's employers will have access to a robust and informative reserving system, enabling them to better understand the costs associated with workers' compensation claims.
 - a. FY08 Target: Achieve acceptance by stakeholders of new reserving product
3. BWC "assessments" (cost for administrative work performed by BWC) will represent a smaller percentage of the premium dollar paid by Ohio employers.
 - a. No FY 08 target
4. By 2010, the BWC will have created the system capacity to effectively evaluate the quality and costs of the managed care system for injured workers.
 - a. FY 08 Target: Pharmacy benefits contract mirrors "best rate" for similar contracts

Rank the following questions on a scale from 1 – 5, with 5 being the highest. Comments may be provided.

LEADERSHIP

- **Demonstrates energy and tenacity in facing difficulty and challenges.**
- **Creates an environment where employees are empowered to do their best work and achieve superior results.**
- **Shares, adopts, and champions best practices for improved outcomes.**
- **Drives continuous improvement in all organization processes.**
- **Utilizes the senior team to achieve the business objectives of the BWC.**
- **Challenges status quo thinking and assumptions.**
- **Acts decisively.**

1 2 3 4 5

PLANNING

- Takes and maintains “ownership” of the strategic plan and BWC’s direction.
- Directs the development of tactical plans and assures that measurement systems are in place to support strategy implementation.
- Understands and anticipates industry trends, opportunities and barriers and their impact on Ohio’s Workers’ Compensation System.
- Helps varied audiences understand the BWC vision.

1 2 3 4 5

INTERACTION WITH EXTERNAL PARTIES (INCLUDES THE LEGISLATURE & STAKEHOLDERS)

- Builds and supports the development of relationships with current and potential partners.
- Initiates partnership approaches among BWC stakeholders to achieve common goals.
- Views impact on entire system when making decisions and recommendations.
- Demonstrates broad knowledge of workers’ compensation system.
- Articulates the strategic plan and vision to stakeholders.

1 2 3 4 5

INTEGRITY AND ETHICS

- Acts in accordance with the BWC and State of Ohio Ethics Code.
- Models a high standard of common honesty and decent human behavior.
- Actively promotes the code of ethics to employees.
- Interfaces appropriately with Inspector General.
- Accepts responsibility for own actions.

1 2 3 4 5

BOARD OF DIRECTORS

- **Focuses the Board on the right topics.**
- **Exposes senior management to the Board.**
- **Provides timely and substantive material to the Board prior to meetings.**
- **Fosters interaction and communication with the board.**
- **Seeks advice and consent of the Board as mandated.**
- **Executes Board decisions in timely manner.**

1 2 3 4 5

In your opinion, what was the number one accomplishment of Administrator Ryan in 2007?

In your opinion, what is the number one challenge for Administrator Ryan in 2008?

Date: February 26, 2007

From: The BWC Governance Committee

To: The BWC Board of Directors

cc. Marsha Ryan, Ron O'Keefe, John Williams, James Barnes, Ann Shannon

The BWC Board of Directors is required by law to discuss the performance of the Administrator with the Governor on an annual basis. The role of the Governance Committee is to design a process that provides for input from all Board members regarding their opinion on the performance of the Administrator. The objective is to create a robust process and a well-informed performance appraisal of the BWC Administrator for discussion with the Governor.

On Monday, February 25th, the Governance Committee met and discussed the process, timing and evaluation form for the Board's evaluation of the Administrator. At the outset, it should be noted:

- The Governance Committee believes that creating the process of the evaluation of the Administrator's performance is an important element of the BWC's governance process going forward. It is very important that the Governance Committee and the Board design an objective and constructive process.
- The Administrator has provided significant input to the design of the evaluation form. The Administrator's 2007/2008 Flexible Performance Contract with the Governor is the baseline standard for the evaluation. In addition, the Administrator and the Governance Committee believe that subjective performance-related questions, such as those regarding leadership, planning, integrity, etc., should be posed in order to elicit feedback from the Board that would be constructive in helping the Administrator and the BWC achieve the agreed-upon objectives.
- The Governance Committee has asked our Fiduciary Counsel, Ron O'Keefe, to assist the Board in the orchestration of the mechanics of the evaluation process, as discussed below. Our recommendation is that the completed evaluation forms be returned by the Directors to our Fiduciary Counsel. This is intended to help assure that the input of the Board members is received and simply compiled for our reference by an objective third party without interpretation.
- We expect that all discussions related to the Administrator's performance evaluation will be held in Executive Session**, whether at the Board or the Governance Committee level. This means that only qualified Board or Committee members and those invited to participate by the Board or Committee will participate in these discussions. We will seek guidance and clarification with respect to issues regarding Executive Session and/or attorney/client privilege as appropriate through out the process from both AG Counsel and Fiduciary Counsel.

The BWC Governance Committee proposes the following process and timing for the Administrator's annual review, subject to the Board's discussion and approval:

- February 25, 2008: The Governance Committee will outline a process for the evaluation of the Administrator and discuss a draft of the evaluation form to be completed by the Board members.
- February 29, 2008: The Governance Committee will make a presentation to the Board regarding the process for the evaluation of the Administrator and the evaluation form. The Board discussion will refine and amend the proposed process and the proposed evaluation form.
- March 27, 2008: The Governance Committee will review and finalize the proposed process for the evaluation of the Administrator and the evaluation form.
- March 28, 2008: The Governance Committee will make a presentation to the Board regarding its recommendation for the Administrator's evaluation process and the content of the evaluation form.
 - As approved, the evaluation form will be delivered to each Board member.
 - Each Board member will be asked to complete the form and return, signed and dated, to Fiduciary Counsel no later than April 11, 2008.
 - Fiduciary counsel will be available, through request made to the Board Chair, to assist individual Board members with respect to questions they may have regarding their completion of the Administrator's evaluation form. **
 - The Administrator will make a presentation to the Board with respect to her accomplishment of results to date. Board members will have an opportunity to ask questions and request additional information with respect to the evaluation process and the performance of the BWC. **
- April 14-16, 2008: Once the completed forms have been received, Fiduciary Counsel will create an overview report compiling the input of each Board member, and will discuss the overview report with the Board Chair.
- April 25, 2008: The Board Chair will discuss with the Board the results of the Board's evaluation of the Administrator. **
 - The Board will review and discuss the various perspectives reflected in the compilation report with a view towards resolving apparent differences and/or moving toward a consensus view on the report of the evaluation of the Administrator's performance. **
 - The Board will discuss the evaluation report with Administrator Ryan. **

- The Board will reconvene in an open meeting for any vote on the Administrator's performance evaluation report, as may be appropriate or required.

May 28th, noon – 1:30: The BWC Board will discuss and present the performance report of the Administrator to the Governor. **

** Denotes activities that are expected to take place in an Executive Session of the Board or the Governance Committee.