

BWC Board of Directors

Governance Committee Agenda

March 27, 2008

OCOSH

Room B

8:30 am – 9:30 am

Call to Order

Alison Falls, Chair

Roll Call

Larry Rhodebeck, Scribe

Approve Minutes of February 25, 2008 meeting

Alison Falls, Chair

Discussion Items

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

Adjourn

Next Meeting: May 28, 2008 4:00 – 6:00 pm, William Green Building, L-2 Room 3

**BWC Board of Directors
Governance Committee**

Mon., Feb. 25, 2008
Sheraton Hotel
5300 Riverside Dr.
Cleveland, OH 44135

Members Present: Alison Falls, Chair
Bill Lhota
Robert Smith

Other Board Members Present: Kenneth Haffey

Other Attendees: Ron O'Keefe, John Williams

Call to order

Ms. Falls called the meeting to order at 3:30 P.M. The agenda for the meeting was reviewed, and there were no changes to the agenda. Ms. Falls indicated that if time permitted, she would like to open the floor to discussion of additional topics.

Minutes of the Jan 23, 2008 Meeting

The minutes of the January 23, 2008 meeting were briefly discussed. Mr. Lhota pointed out that the minutes indicated "NACB" in three to four places where the minutes should have reflected "NACD." Ms. Falls indicated that she found some typos that she would provide to Don Berno, Board Liaison, for correction. With these amendments, Mr. Lhota moved for approval of the minutes from the January 23, 2008 meeting. Mr. Smith seconded, and the minutes were approved by a unanimous vote.

New business/Action items

**Review and adoption of Ohio Bureau of Workers' Compensation Board
Governance Guidelines**

The members of the Governance Committee thanked Ann Shannon, BWC Legal Counsel, Ron O'Keefe, Board Fiduciary Counsel and Mr. Berno for their exceptional work in assisting the Committee in the creation of these guidelines.

The Committee reviewed the draft Governance Guidelines. The discussion was thorough, with a review of every section with respect to intent, specific language as well as format & typos. Their changes as approved for the Board consideration are attached as Appendix A, and are incorporated by reference.

The Committee discussion was intended to insure that the Guidelines reflected the legislation governing the BWC (especially those that addressed the Board's responsibilities), that the Board oversight process guidelines were clear and precise, and that the Committee and Board processes

for establishing agendas and conducting their meetings would, to the extent possible, meet the high standards of current corporate governance practice.

The Committee also requested staff to correct typographical errors and make format changes.

A motion was made by Mr. Smith to recommend the Ohio Bureau of Workers' Compensation Board Governance Guidelines, with changes noted above and as indicated in Appendix A, for approval by the Board of Directors. The motion was seconded by Mr. Lhota, and the motion passed by unanimous vote.

Administrator's evaluation process and timing

The discussion focused on the February 27, 2008 memorandum from Ms. Falls to the BWC Governance Committee. The memorandum outlines a proposed process and timing for the Administrator's performance evaluation. Ms. Falls noted that HB 100 requires that the Board meet annually with the Governor to review the Administrator's performance.

The changes to the document are indicated in Appendix B and are incorporated by reference. The Committee agreed that the role of the Governance Committee is to design a process that provides for input from all Board members regarding the Administrator's performance.

Mr. Smith said he thought the framework of the underlying evaluation process was very goal oriented, not personal. He was pleased that the evaluation reflected the Flexible Performance Agreement between Administrator Ryan and Governor Strickland. Mr. Smith also noted the structure of the evaluation process will provide an understanding of how individual Board members approach evaluations. This structure makes the evaluation richer. Mr. Smith indicated the evaluation form had no explanation of the rating scale.

Ms. Falls stated some Board member(s) have been restricted in their ability to participate in the Administrator's evaluation in recent ethics opinions. She emphasized the process must insure that these opinions from the Ethics Commission are followed. Mr. O'Keefe confirmed he would be able to provide advice to Board members in light of these recent opinions.

The Committee focused on several issues: the process to request Board input, either formal or informal, the compilation of input, either verbal or in writing, and the steps that would be completed after the input for the Administrator's evaluation was received. The Committee agreed that Mr. O'Keefe would play a key role to advise the Board on the process and then facilitate the compilation of the forms, rather than summarize the responses. This compilation would be provided directly to the Board Chair. The Board Chair would then lead the discussion with the Board of the Administrator's evaluation, solicit additional input and finalize. The Board would discuss the evaluation with the Administrator, and then the Board would meet with the Governor. Ms. Falls inquired as to whether or not an Executive Session could be held to review the performance evaluation with the Administrator. Mr. Williams indicated that it was his legal opinion that an Executive Session could be held, as the issue was a personnel matter. Mr. Lhota moved that this evaluation process as outlined in Ms. Fall's memorandum, as amended above, be recommended to the Board of Directors for approval. Mr. Smith seconded the motion, and the motion passed by a unanimous vote.

Administrator Ryan noted the Board is scheduled to meet with Governor Strickland to discuss the evaluation on Wednesday, May 28th between 1:00 P.M. and 2:30 P.M., which is the Wednesday before a scheduled Board of Directors meeting.

After brief discussion regarding the Board of Directors Governance Committee calendar, Mr. Smith moved to schedule the May Board of Directors Governance Committee meeting for Wednesday, May 28th at 4:00 P.M., and the scheduled April meeting of the Board of Directors Governance Committee would be cancelled. Ms. Falls seconded this motion, and the motion passed by a unanimous vote.

BWC Board of Directors Administrator's Evaluation (Form)

A discussion commenced as to the BWC Board of Directors Administrator's Evaluation form, led by Ms. Falls. Ms. Falls noted that the form was created by Administrator Ryan, with the exception of the last two questions added at Ms. Fall's suggestion.

Mr. Smith began the discussion by stating he generally liked the form, and the last two questions suggested by Ms. Falls were good in that they asked for Board members' specific input on priorities. Mr. Lhota also agreed with the general format of the form.

Ms. Falls noted that there were no words associated with the scales used on the form, and asked for discussion on the merits to add qualitative wording to the numerical ratings, e.g. "5 – Superior, 4 – Exceeds, 3 – Acceptable, 2 – Needs Improvement, and 1 – Unacceptable." Mr. Smith and Mr. Lhota compared their private practice use of evaluation forms. Mr. Smith noted his firm used a four point scale, but conceded that the public may not accept the scale because a "2" rating meant acceptable. Mr. Lhota's firm used a similar five point scale.

Ms. Falls noted some typographical changes to the form. Staff will make the necessary corrections.

Finally, Ms. Falls indicated that there was an issue as to whether or not to have a signature line for the Board member completing the evaluation form to sign. At this juncture, it was decided the signature line will remain, and the decision of whether or not to retain the signature line will remain at the Board of Directors' discretion.

The Evaluation Form, as amended was approved for consideration by the Board.

Discussion items

At 4:57 P.M., Ms. Falls wished to discuss two items: a Board of Directors Self Assessment Form, and the Board of Directors Governance Committee's calendar. The Committee concurred.

Board of Directors Self Assessment Form

Ms. Falls distributed a draft of the Board of Directors' Self Assessment Form to the members, and a discussion commenced on the form.

Ms. Falls stated the form was a process oriented form. Mr. Smith supported the form's concept, indicating that it established the same standards as that to which the Administrator and the organization must adhere.

Mr. Smith remarked on the scales used on the form, specifically: whether a 3, 4, or 5 scale would be appropriate, and whether the scales should be condensed into one scale for each question. Mr. Lhota believed the form was an excellent draft, stating the form goes directly to what the Board is trying to accomplish. Ms. Falls stated there should be consistency between this form and with the BWC Board of Directors Administrator's Evaluation form.

Mr. Lhota discussed the timing of the form, as the other Directors may not be aware of it. Mr. O'Keefe recommended that the self assessment not be completed until after the Administrator's evaluation completed. Administrator Ryan remarked that the July/August time frame will mark the one year anniversary of the Board of Directors.

Ms. Falls indicated that further discussion of this form would be added to a future Board of Directors Governance Committee agenda.

Calendar

Ms. Falls proceeded to discuss the Governance Committee's calendar. She noted that March is the initiation of the Administrator's evaluation process, and in May, it was now the intent to reinstate a discussion of a potential Board of Director's Self Assessment process. June/August involves the Board's Education Program, and in November, there is an annual review of the Committee Charters scheduled.

Ms. Falls addressed the members, as well as the Administrator and legal counsel as to anything else they could foresee on the calendar. Administrator Ryan noted to Ms. Falls that three appointments/reappointments to the Board of Directors will be done in June. Thus, a new appointment may appear at the June meeting, which does involve the Board Education Program and Committee assignments. Administrator Ryan also indicated she would work with the Workers' Compensation Council to coordinate the Board Education Program with them.

Mr. Williams made some brief statements regarding the Worker's Compensation Council and how it was created.

Mr. Lhota mentioned that the ethics filings by Board members are due on April 15th. Mr. Lhota discussed the ethics opinion from the Ohio Ethics Commission related to some of the Board members, and Mr. Lhota indicated his own potential conflict had been resolved. Ms. Falls requested that the Ohio Workers' Compensation Board Governance Guidelines should have an amendment mentioned regarding annual ethics training and internal review of Board conflicts of interest.

Adjournment

Mr. Lhota moved for an adjournment of the meeting and the motion was seconded by Mr. Smith. There was a unanimous vote to adjourn at 5:22 P.M..

Prepared by: Michael J. Sourek, BWC Staff Counsel
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March 4, 2008

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.

BOARD OF DIRECTORS ADMINISTRATOR'S EVALUATION

Rank the following questions on a scale from 1 – 5
1=unacceptable 2=needs improvement 3=acceptable 4=excellent 5=superior
Comments may be provided.

PERFORMANCE OBJECTIVES (Per the flexible performance agreement with Governor signed on August 31, 2007. See attached with progress updates.)

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

1 2 3 4 5

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

1 2 3 4 5

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**

1 2 3 4 5

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

1 2 3 4 5

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?

Signature _____ **Date** _____

Return completed evaluation to:
Ron O’Keefe * Hahn Loeser + Parks LLP * 200 Public Square, Suite 3300 * Cleveland, Ohio 44114

FEBRUARY 28, 2008

6-month Governance Committee Calendar

Date	Month	Notes
Thurs. 27th	1. Framework for Administrator evaluation and Board input 8:30 am - 9:30 am OCOSH, Pickerington, Ohio	
	April	
	No Meeting	
	May	
Wed. 28th	1. Begin Board self-evaluation process 4:00 pm, Columbus, Level 2, Room 3	
	June	
Wed. 25th	1. Review Board education program, FY 08/09 2. Possible review of committee assignments 4:00 PM, Columbus, Level 2, Room 3	
	July	
	No Meeting	
	August	
Wed. 27th	> Placeholder to submit education report to WCC 4:00 pm, Columbus, Level 2, Room 3	