

GOVERNANCE COMMITTEE

Thursday, November 19, 2009, 8:00 a.m.

William Green Building

30 West Spring Street, 2nd Floor (Mezzanine)

Columbus, Ohio 43215

Members Present: Alison Falls, Chair
Larry Price, Vice Chair
William Lhota

Members Absent: None

Other Directors Present: James Harris, David Caldwell, Kenneth Haffey (arrived 8:40), Robert Smith, James Matesich (arrived 8:38), James Hummel, Thomas Pitts

Counsel Present: John Williams, Assistant Attorney General

CALL TO ORDER

Ms. Falls called the meeting to order at 8:00 AM and the roll call was taken.

MINUTES OF OCTOBER 29, 2009

Mr. Lhota advised that the motion referenced on page 2, paragraph 5 regarding the amendment of Rule 4123-6-37.1 was made by Mr. Price rather than Mr. Pitts. The minutes were approved as amended by unanimous roll call vote on a motion by Mr. Price, seconded by Mr. Lhota.

REVIEW/APPROVE AGENDA

Ms. Falls reviewed the agenda and noted no changes.

The agenda was approved by unanimous roll call vote on a motion by Mr. Lhota, seconded by Mr. Price.

NEW BUSINESS / ACTION ITEMS

1. **MOTIONS FOR BOARD CONSIDERATION**
 - A. **FOR SECOND READING**
 1. **Governance Guidelines**

Ms. Falls initially noted Fiduciary Counsel Ron O’Keefe was intending to be present at today’s meetings but cannot attend due to illness.

The Committee commenced a thorough page-by-page review of the amended Guidelines and attached Exhibits lasting thirty (30) minutes. The following specific topics and further changes to the Guidelines were discussed as follows:

- Page 9, the last sentence of the “Agenda Development & Distribution” paragraph was revised to delete the language “and the Board member is dissatisfied with the result” as unnecessary;
- Page 10, the language concerning waiver of second reading now conforms to the motion made at the October 2009 meeting;
- Page 10-11, the “Minutes” paragraph has been enhanced;
- Page 11, in the final paragraph, the sentence “A motion is required to come out of executive session, with a roll call vote taken in public” will be deleted and replaced by “A motion to adjourn the executive session and return to public session is not necessary.” This language is similar to that used in the current Attorney General publication regarding open meetings. Mr. Price requested this change be specifically noted in the Guidelines to avoid confusion as to the revised procedure.
- Page 12, the “Education” section now notes that Committee education session will satisfy the requirement for Board education if a majority of Board members are present.
- Page 13, with respect to the final paragraph, Mr. Price suggested that a procedure be in place for chairing a five- member Committee if both the Chair and Vice-Chair are absent. It was decided that the Board Chair will appoint an acting Chair for that meeting. This language will be added to the Guidelines.
- Mr. Lhota noted a discrepancy that Audit, Actuarial and Investment Committee descriptions contain language that additional Committee members, who do not serve on the Board, may be appointed to those Committees by the Board. Governance Committee, and Medical Services and Safety Committee, do not have such language in their descriptive paragraphs on pages 15-16. Ms. Falls agreed this should be added to Medical Services and Safety, but believes it would be inconsistent with the function of the Governance Committee to include outside parties.

- Exhibit H, Schedule of Mandatory Reports, should be corrected to read that Safety & Hygiene reports to the Medical Services and Safety Committee, and the Chief Investment Officer presents the investment report.

A motion was made by Mr. Price that the Governance Committee of the Workers' Compensation Board of Directors approve the Governance Guidelines as amended, and refer the amended Governance Guidelines to the Board for review and approval. The motion was seconded by Mr. Lhota, and approved by unanimous roll call vote.

Mr. Price asked if the Guidelines could be put in a binder for easy reference. Administrator Marsha Ryan stated this will be done for the Board members, and the Guidelines will also be available on-line.

The Committee members expressed satisfaction with the Guidelines, commending Board Liaison Don Berno and Legal Counsel Ann Shannon for their assistance. Director Lhota said he serves on several boards, and in his opinion, these guidelines are "best in class." Ms. Falls noted the annual review process for the Guidelines is beneficial because it affords the opportunity to take a fresh look, incorporate all of the Boards' discussions as well as taking time to thoroughly review and discuss proposed changes at the Committee meetings.

B. Refer previously approved Governance Committee Charter to Board

Ms. Falls noted the Governance Committee charter was approved at the October meeting and will be referred to Board for approval.

2. Motions to refer to Committees

A. Refer Committee charters

There were no additional comments made with respect to the Actuarial, Investment and Medical Services and Safety Committee charters.

Ms. Falls recommended that the language under item 12 of the Audit Committee charter should conform to the language of the Governance Guidelines on page 15, regarding review of funding ratio and net leverage ratio. Mr. Berno will make these changes.

Ms. Falls clarified that the Governance Committee is commenting on the various charters and referring them back to their respective Committees, which will then vote to approve the charter.

Mr. Price moved that the Governance Committee of the Workers' Compensation Board of Directors approve the amended Actuarial Committee charter and refer it to the Actuarial Committee for review and approval. The motion was seconded by Mr. Lhota and approved by unanimous roll call vote.

Mr. Price moved that the Governance Committee of the Workers' Compensation Board of Directors approve the amended Audit Committee charter and refer it to the Audit Committee for review and approval. The motion was seconded by Mr. Lhota and approved by unanimous roll call vote.

Mr. Price moved that the Governance Committee of the Workers' Compensation Board of Directors approve the amended Investment Committee charter and refer it to the Investment Committee for review and approval. The motion was seconded by Mr. Lhota and approved by unanimous roll call vote.

Mr. Price moved that the Governance Committee of the Workers' Compensation Board of Directors approve the amended Medical Services and Safety Committee charter and refer it to the Medical Services and Safety Committee for review and approval. The motion was seconded by Mr. Lhota and approved by unanimous roll call vote.

DISCUSSION ITEMS

1. Guard/Safeguard Definition

Don Bentley, Technical Director, Division of Safety and Hygiene, reviewed a discussion memo and recommendations concerning the usage of the terms "guard" and "safeguard" in Ohio Administrative Code Rules 4123:1-3 and 4123:1-5. In accordance with stakeholder input, the recommendation is to retain the current definition of "guard", and promulgate a definition of "safeguard" only to clarify the distinction between "guard" and "safeguard".

Per a question from Mr. Hummel, OSHA does not define the term "guard" except with respect to power presses, and does not define the term "safeguard" at all.

Mr. Caldwell stated his understanding is that "safeguard" refers to an act, while "guard" refers to an apparatus. Mr. Bentley agreed these distinctions are correct, which is why the definition of "guard" should not be changed, and that "safeguard" is a very broad concept. Mr. Hummel and Mr. Caldwell believe that "safeguard" could even encompass an act such as safety training.

Per request of Mr. Pitts, Mr. Bentley will provide a list and quotes of the nine (9) uses of "safeguard" and its derivatives currently found in the workshops and factories provisions of the Ohio Administrative Code. In addition, Ms. Falls requested that the context of the citations also be provided.

Mr. Harris, as Chair of the Medical Services and Safety Committee, expressed his preference that the current definition of "guard" be maintained. Further discussion of a "safeguard" definition will be undertaken by the Medical Services and Safety Committee.

2. Rule Review Calendar

Ms. Falls noted transition of rule review, as appropriate, to the Medical Services and Safety Committee is ongoing and almost complete. The BWC staff will coordinate with Mr. Berno. Mr. Price asked how much of the rule review calendar has been completed. With exception of the last two items, which will be reviewed at this month's Medical Services and Safety Committee meeting, all scheduled 5-year rule reviews on the calendar have been completed. Mr. Price expressed his appreciation for such excellent results.

3. Committee Calendar

Ms. Falls noted that the December meeting will include a review of the D&O insurance policy, and that a mid-year review of the Board self-assessment and Administrator's performance will take place at the January meeting. There are currently no action items requiring a Governance Committee meeting in February or March. She anticipated the Governance Committee would meet 6 times a year.

It was also noted that the Board will meet with the Governor at 1:00 PM on Friday, May 28, 2010 to discuss the Administrator's review.

ADJOURNMENT

Mr. Lhota moved to adjourn the meeting at 8:55 AM, seconded by Mr. Price and approved by unanimous roll call vote.

Prepared by Jill Whitworth, Staff Counsel
November 19, 2009