

**GOVERNANCE COMMITTEE**

**Thursday, September 23, 2010, 4:00 p.m.**

**William Green Building**

30 West Spring Street, 2<sup>nd</sup> Floor (Mezzanine)

Columbus, Ohio 43215

---

---

Members Present: Alison Falls, Chair  
Larry Price, Vice Chair  
William Lhota  
Kenneth Haffey  
Thomas Pitts

Members Absent: None

Other Directors Present: James Harris, Robert Smith, James Hummel, Charles Bryan

Staff Present: Administrator Marsha P. Ryan  
Ann Shannon, Legal Counsel  
Donald C. Berno, Board Liaison

Scribe: Jill Whitworth

**CALL TO ORDER**

Ms. Falls called the meeting to order at 4:00 PM and the roll call was taken.

**MINUTES OF JUNE 17, 2010**

The minutes were approved without changes by unanimous roll call vote on a motion by Mr. Pitts, seconded by Mr. Price.

**REVIEW/ APPROVE AGENDA**

There were no changes to the agenda. The agenda was approved by unanimous roll call vote on a motion by Mr. Lhota, seconded by Mr. Haffey.

Ms. Falls commended the scribes for including additional information in the minutes regarding attendance of senior management as requested in the Board self-assessment document.

## **NEW BUSINESS / DISCUSSION ITEMS**

### **1. Review of Governance Guidelines**

Ann Shannon, Legal Counsel, presented a review of proposed changes to the Governance Guidelines. Her presentation included reference to the "Ohio Bureau of Workers' Compensation Board Governance Guidelines" of May 28, 2010, which is incorporated by reference into the minutes.

Ms. Shannon initially noted the addition of two Exhibits: Exhibit A, memorandum from Fiduciary Counsel Ron O'Keefe dated August 16, 2010, and Exhibit G, outline of Ohio ethics law by David Freel of the Ohio Ethics Commission.

Substantive changes to the Governance Guidelines were reviewed and discussed as follows:

- P. 6 per a suggestion from Mr. Lhota, the first paragraph will be further revised to reflect that only members of the Actuarial, Audit and Investment Committees are compensated for attendance at meetings of their respective committees.
- P. 8 a new paragraph was added by Fiduciary Counsel O'Keefe to clarify the nature of materials submitted to the Board.
- P. 10 language changes to reflect that any major policy decision requires two readings by the applicable committee.
- P. 11 inclusion of footnote 13 relating to a confidential memo of August 13, 2010, prepared by James Barnes, Chief Legal Counsel entitled "Executive Session (Evaluation of BWC Administrator / Board Self-Assessment)".

Mr. Lhota questioned why this document could not be made a public record. Ms. Shannon advised that legal advice is privileged and only the Board has the power to waive the privilege. Ms. Falls noted she was more inclined to transparency, but the decision would be left to the entire Committee and Board.

Mr. Lhota moved that the BWC Governance Committee recommend to the BWC Board of Directors that the Board waive the attorney-client privilege with respect to the August 13, 2010 memo from James Barnes entitled "Executive Session (Evaluation of BWC Administrator / Board Self-Assessment)". The motion was seconded by Mr. Haffey and approved by unanimous roll call vote.

- P. 12 Language was changed to reflect that if a Board member cannot participate in an educational session, the materials are provided and the director should review and follow up with any questions. Ms. Falls commented that Mr. Barnes prepared a memo clarifying that

education at the committee level serves the purpose of the required Board education, and suggested this memo be included as an Exhibit.

- P. 13 Language was changed to state that the Board shall acknowledge and respond to any letter sent to its attention. Mr. Lhota suggested adding the language “as indicated below”.
- P. 16 Language should be moved and changed to reflect that Medical Service and Safety Committee is now responsible for initial rule review. Mr. Lhota suggested the addition of language that the Governance Committee remains responsible for rule review not covered by any other committee.
- P. 17 Language was changed to include the attachment of additional Exhibits and that a Director must recuse himself or herself from both discussions and decisions where there could be a conflict of interest or appearance thereof. Ms. Ryan asked how this would be addressed if the conflict is not readily apparent at the start. It was determined to remove certain language, and clarify that recusal occurs as the issue arises.

## **2. Review of Committee Charters**

Ms. Falls noted that new SEC rules take effect in 2011, whereby Donald Berno, Board Liaison, gave a presentation on risk management and reviewed the various draft Committee charters. His presentation included reference to the draft Charter documents for the Actuarial, Audit, Governance, Investment, and Medical Services and Safety Committees, and a document entitled “Summary of Charter language addressing risk management” of September 23, 2010, which are incorporated by reference into the minutes.

There are two areas of BWC risk management: policy, which is addressed by the Board, and operational, which is addressed by BWC’s Administrator and management. The summary defines what the law requires of the Board and its committees concerning risk management.

Mr. Harris raised a question about whether fraud should be included. Ms. Ryan opined that fraud would be an operational risk. Ms. Falls clarified that the Board’s role is to approve risk management policies, while operational risk is addressed via reports from BWC management to the Board. Mr. Smith also noted such risks are communicated to the Board by Internal Audit. Ms. Falls stated that the primary purpose of the document is to acknowledge the Board’s responsibility with respect to risk management. Mr. Haffey agreed and suggested reviewing current topics at conferences. Mr. Berno noted that industry best practices are an evolving process.

With respect to the committee charters, a bullet point was added under “purpose” in each charter regarding fulfillment of the statutory requirement to fix and maintain the lowest possible premium consistent with the maintenance of a solvent state insurance fund. For the Actuarial Committee charter, Mr. Lhota noted under “membership” that in the future, more than one committee member could be an actuary. The language at the top of page 2 should be revised to clarify that the individual holding the actuary appointment cannot be removed from the Actuarial Committee.

With respect to the Governance Committee charter, item 6 under “Duties” should be revised to reflect that Medical Service & Safety (MS&S) is now the lead committee for rule review. Mr. Lhota noted that the membership requirements should be changed for both Governance and MS&S to five (5) members.

Discussion ensued with respect to the MS&S charter, including a suggestion by Ms. Falls that bullet points should be utilized under “Purpose” to show why the committee was created, and that safety does have an impact on the State Insurance Fund. Mr. Harris asked if all the rules MS&S reviews fall under the Health Partnership Program. Mr. Berno will follow up.

### **3. Committee Calendar**

Ms. Falls noted that there is currently no Committee business for October. Meetings will resume in November, with a second reading of the Committee charters and Governance Guidelines. Ms. Falls requested that the Governance Committee meeting be scheduled first in November, to provide input to the other Committee charters if necessary. The mid-year review of the Administrator’s performance evaluation and Board self-assessment will be held in Executive Session at the December meeting. Ms. Falls will ask Fiduciary Counsel Ron O’Keefe to attend.

### **ADJOURNMENT**

Mr. Pitts moved to adjourn the meeting at 5:10 PM, seconded by Mr. Haffey and approved by unanimous roll call vote.