WORKERS' COMPENSATION BOARD OF DIRECTORS
WEDNESDAY DECEMBER 19, 2007
DRAFT
WILLIAM GREEN BUILDING
THE NEIL SCHULTZ CONFERENCE CENTER
30 WEST SPRING ST., 2ND FLOOR (MEZZANINE)
COLUMBUS, OHIO 43215

Members Present:	William Lhota, Chair
	James Harris, Vice Chair
	Charles Bryan
	David Caldwell
	Alison Falls
	Philip Fulton
	James Hummel
	Jim Matesich
	Larry Price
	Robert Smith
	Kenneth Haffey
Members Absent:	None

Others present at the request of the Board:

Marsha Ryan, Administrator
Tracy Valentino
Lee Damsel
Bruce Dunn
John Pedrick
Tina Kielmeyer
James Barnes
Kim Robinson
Mark Mastrangelo
Gerald Waterman
Eric Harrell
Tom Connor

CALL TO ORDER

Mr. Lhota called the meeting to order at 9:30 AM, Wednesday, December 19, 2007 and roll call was taken. At the onset of the meeting all members were present except for Larry Price.

BOARD TRAINING, DECEMBER 19, 2007

House Bill 100 mandated training continued Wednesday morning.

Larry Price joined the meeting at 9:40 AM.

Tracy Valentino, Chief Fiscal and Planning Officer, delivered a presentation on financial matters of the Bureau. The presentation focused on financial reporting, with a discussion of both Generally Accepted Accounting Principles (GAAP) and Statutory Accounting Principles (SAP). The Bureau is a proprietary enterprise fund, utilizing accrual basis accounting, which includes recording revenue as it is earned and expenses as they are incurred. The primary purpose of SAP is to monitor solvency. Monopolistic state funds, including Ohio, follow GAAP. Under GAAP, bonds are reported at fair value, and change in fair value is recorded as an unrealized gain or loss in the Statement of Operations. Under SAP, bonds in good standing are reported at amortized cost in the balance sheet. Mr. Bryan inquired as to what is meant by a bond being impaired. Ms. Valentino indicated that the Bureau performs research before making a determination as to whether or not a bond is permanently impaired. Mr. Lhota asked about securities with no market. Ms. Valentino indicated that the Bureau relies upon information provided by firms, for data on the market value of a security.
There was discussion on the differences with reporting stocks, real estate, and loss reserves. Mr. Matesich inquired as to whether real estate was treated at cost. Ms. Valentino stated yes. Mr. Smith asked why premiums were collected in arrears. The reason is that the Ohio Revised Code mandates that premiums be collected in this manner. Mr. Fulton inquired as to how employer paid medical only claims and salary continuation practices would impact loss reserves. Ms. Valentino stated that estimated loss reserves are based upon historical activity of claims costs. Mr. Bryan explained the process for estimating loss reserves. Mr. Smith expressed his concern about potential abuse of estimating losses. Mr. Haffey stated that auditing in the insurance industry focuses on the estimation of loss reserves. The discounting of reserves is consideration of the time value of money. Ms. Valentino provided a history as well as the basis for determining discount rates. The relationship between net assets and the discount rate is an inverse relationship. As discount rates decrease, aggregate reserves increase. Mr. Fulton discussed the impact of the discount rate on lump sum settlement of workers' compensation claims. As the discount rate decreases, the value of the claim increases for settlement purposes. Ms. Falls requested that the Board evaluate the process of setting a discount rate. Mr. Bryan agreed, and recommended a joint committee meeting between the Actuarial Committee and Investment Committee. There was discussion on payment streams.

Mr. Smith discussed the point of the liberal nature of Ohio workers' compensation benefits and the impact of the discount rate. Mr. Fulton questioned the validity of the characterization of workers' compensation benefits as liberal. Ms. Falls inquired as to whether the average duration dollar was a weighted average. Ms. Valentino stated yes. John Pedrick, Bureau Chief Actuarial Officer, indicated that if reserves were not discounted, the duration would be longer. The most significant difference between GAAP and statutory accounting is loss reserving. The discount rate impacts the reserve premium levels, expenses, net assets, as well as profitability ratios.

Tina Kielmeyer, Bureau Chief of Customer Service, began a presentation on claims related processes. In addition to Ms. Kielmeyer, James Barnes, Bureau Chief Legal Counsel, Tom Connor of the Industrial Commission, and Mark Mastrangelo, Gerald Waterman and Eric Harrell of the Attorney General's office all participated in the presentation. Claims operations focuses on the lifecycle of a claim. The life cycle includes notification of an alleged injury or occupational disease, initial decision, outcome management, and claims outcome. Mr. Barnes presented a high level summary of the legal requirements for the administrative processing of claims. Mr. Barnes provided legal definitions, including what constitutes a compensable injury and occupational disease. Mr. Harris inquired as to whether or not there is a definition of substantial aggravation. Mr. Barnes stated that the Ohio Revised Code provides a definition of substantial aggravation, but it is expected that this issue will be litigated. Discussion was made of medical only claims versus lost time claims. The vast majority of claims are medical only. Nearly eighty-six percent of state fund initial claims are medical only. Mr. Harris requested claim filing statistics clarified in more detail. Mr. Price inquired as to why there is a declining trend for claim filing. Mr. Barnes stated there are many variables that may be impacting this issue. Mr. Matesich inquired as to whether or not the declining trend was economic related or safety related. Administrator Ryan indicated that the data was currently unavailable but the Bureau is working towards obtaining it.

Fifty-four percent of claims are filed by managed care organizations. Mr. Caldwell asked whether claims that are filed online have receipt verification. Mr. Barnes confirmed that receipt verification for a claim that is filed online can be printed. Mr. Barnes covered the details of the investigation of a claim. Mr. Matesich inquired as to how a pro se claimant or small employer would obtain guidance on the claims process. Mr. Barnes indicated that guidance can come from a number of sources including claims service specialists, employer service specialists, and the Ombudsman's office. Ms. Kielmeyer elaborated on the educational benefits of Workers' Compensation University for Ohio employers. Ms. Kielmeyer also advised that the Bureau offers an educational program to new employers.

Tom Connor of the Industrial Commission discussed the administrative appeals process. The Industrial Commission only becomes involved in contested issues. Parties to a claim may appeal an issue as a matter of right to the first two levels, the district hearing officer level and the staff hearing officer level. The third level of appeal, before the three commissioners, is discretionary. The Industrial Commission possesses jurisdiction over self insured claims, attorney fee disputes, as well as violations of specific safety requirement matters. Administrative appeals are addressed in RC 4123.511.

Mark Mastrangelo of the Attorney General's office discussed workers' compensation appeals to court, as addressed in RC 4123.512. Original allowance appeals have decreased while additional allowance litigation has increased. Mr. Mastrangelo explained that workers' compensation trials are de novo, and the jury is unaware of the underlying administrative outcome. The burden of proof rests with the claimant. Gerald Waterman of the Attorney General's office discussed extent of disability mandamus actions. In a mandamus action the standard of judicial review is whether or not the

Industrial Commission grossly abused its discretion, or acted contrary to law. A mandamus action is filed in Franklin County, typically, with the tenth district court of appeals. There is argument presented by the relator and respondent, before a magistrate. The magistrate's decision may be appealed to the judges of the court of appeals. There is rarely argument before the actual court of appeals. A party may appeal to the Supreme Court as a matter of right. There are generally no oral arguments before the Supreme Court of Ohio in these cases. Eric Harrell of the Attorney General's office discussed class action suits.

RECESS:

Motion to recess was made by Mr. Matesich and seconded by Mr. Caldwell at approximately 12:00 PM. The motion passed 11-0.

WORKERS' COMPENSATION BOARD OF DIRECTORS
THURSDAY, DECEMBER 20, 2007, 8:00 AM
DRAFT
WILLIAM GREEN BUILDING
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30 WEST SPRING ST., 2ND FLOOR (MEZZANINE)
COLUMBUS, OHIO 43215

Members Present: William Lhota, Chair
James Harris, Vice Chair
Charles Bryan
David Caldwell
Alison Falls
Philip Fulton
James Hummel
Jim Matesich
Larry Price
Robert Smith
Kenneth Haffey

Members Absent: None

Others present at the request of the Board:
Tracy Valentino
John Pedrick
Robert Coury
Marsha Ryan, Administrator

CALL TO ORDER
Mr. Lhota reconvened the meeting at 8:00 AM.

ROLL CALL
Roll call was taken and all members were present.

MINUTES OF NOVEMBER 20 AND NOVEMBER 21, 2007 MEETING
Mr. Lhota suggested a change on page six, paragraph one, on line six from the bottom of paragraph one. Mr. Lhota indicated that the words, "too compelling" be deleted, and the word, "interferes" be inserted. On page ten, Mr. Bryan indicated the deletion of "voting was as follows." Upon motion by Mr. Caldwell and seconded by Mr. Price, the minutes, as amended, were approved 11-0.

COMMITTEE REPORTS

Actuarial Committee:

Mr. Bryan presented on behalf of the Actuarial Committee. A motion was made by Mr. Bryan and seconded by Mr. Matesich, as follows: that the Bureau of Workers' Compensation Board of Directors approve changes to the state agency rate rule 4123-17-35 of the Administrative Code. The motion consents to the Administrator amending the state agency rate rule with respect to managed care organization fees as presented here today.

Discussion on the motion ensued.

Mr. Fulton raised concern with the Bureau paying the managed care organizations for increased costs as opposed to the managed care organization absorbing those costs when there is a negotiated contract between the managed care organizations and the Bureau. Mr. Pedrick and Robert Coury, Bureau Chief of Medical Services and Compliance, discussed public fund employers and their share of the administrative costs of the managed care organizations. Costs of public employers are paid by public employers. The actual costs of managed care organization services to state agencies are slightly higher than the 7.25% rate that has been requested as payment by the public employers. However, Mr. Coury noted that it is difficult for public employers to alter their budgets in the middle of a fiscal year or budget biennium. There was a discussion of the issue of loss adjustment expense. Mr. Fulton noted his opinion that increases in costs of a managed care organization should be borne by the managed care organization. The issue of "true up" with state agencies was discussed, where the state agencies' premium rates and their share of the administrative costs for managed care organizations would be adjusted to reflect actual costs. An issue raised was how to fairly allocate managed care costs to public employers. The current contract is based on a percentage of premium, so MCO costs are allocated to all employers, including state agencies and universities using the current 7.25 percent. With the new contract MCO costs will be allocated to employers using the activity measures within the new contract.

Mr. Smith expressed his concern about the discrepancy between public employers and private employers. Mr. Fulton expressed his belief that the current method treats the two employer groups differently. Mr. Matesich inquired as to who absorbs the cost of the "true up" if not the public employers? Mr. Pedrick indicated that the accounting for the cost would be through the Ohio State Insurance Fund, if not the public employer. Mr. Harris inquired as to when the Bureau engaged in discussions with the public employers regarding this matter. Mr. Pedrick indicated that discussions have taken place over the past two weeks with representatives of the state agencies.

Mr. Fulton considered the presentation of an amendment to the motion of Mr. Bryan. The amendment would have removed the "true up" portion of the rule change. Mr. Barnes advised that neither the Bureau nor the Board of Directors may waive charging the public employers their portion of the fees due to the managed care organizations. Mr. Fulton withdrew a proposed amendment, but requested the Bureau to continue to educate the Board on this issue.

The voting on Mr. Bryan's motion was as follows:

LHOTA	YES	FALLS	YES	HUMMEL	YES
MATESICH	YES	HARRIS	YES	CALDWELL	YES
FULTON	YES	PRICE	YES	BRYAN	YES
HAFFEY	YES	SMITH	YES		

The motion passed 11-0.

Mr. Bryan noted that Mr. Hummel would be assisting the Bureau in the evaluation process for the RFP to obtain actuarial consultants required by uncodified section 512.50 of HB 100. Mr. Bryan discussed MIRA II, and its implementation. He emphasized that the implementation of the new reserving system is a very complex project. The anticipated implementation date is July 1, 2008.

Audit Committee:
Mr. Haffey discussed the Audit Committee meeting. Mr. Haffey stated that the rules regarding the Marine and Coal Industries were considered with a change to substitute the words "Board of Directors" for "Oversight Commission".

Upon motion by Mr. Haffey, seconded by Mr. Fulton, a motion was made as follows: that the Bureau of Workers' Compensation Board of Directors approve changes to the Marine Industry Rules of Chapter 4123-20 of the Administrative Code pursuant to the five year rule review. The motion consents to the Administrator amending Rule 4123-20-03 and retaining the remaining six rules of Chapter 4123-20 as presented here today. The voting was as follows:

LHOTA	YES	FALLS	YES	HUMMEL	YES
MATESICH	YES	HARRIS	YES	CALDWELL	YES
FULTON	YES	PRICE	YES	BRYAN	YES
HAFFEY	YES	SMITH	YES		

The motion passed 11-0.

Upon motion by Mr. Haffey and seconded by Mr. Fulton, a motion was made as follows: that the Bureau of Workers' Compensation Board of Directors approve changes to the Coal Industry Rules of Chapter 4123-21 of the Administrative Code pursuant to the five year rule review. The motion consents to the Administrator amending rules 4123-21-03 and 4123-21-06, and retaining the remaining six rules of chapter 4123-21 as presented here today. The voting was as follows:

LHOTA	YES	FALLS	YES	HUMMEL	YES
MATESICH	YES	HARRIS	YES	CALDWELL	YES

FULTON	YES	PRICE	YES	BRYAN	YES
HAFFEY	YES	SMITH	YES		

The motion passed 11-0.

Mr. Haffey continued with an update on the Audit Committee meeting held on December 19, 2007. Leo Genders, Bureau Chief Information Officer, and Tom Wersell, Bureau Director Special Investigations, made a presentation on the Bureau's emergency response plan, the readiness of the Bureau to execute it, and the regular testing that is conducted of the computer system. There was further discussion of internal controls and referrals of the Bureau. Joe Bell, Bureau Chief of Internal Audit provided the committee with a legislative update.

Governance Committee:
Ms. Falls reported on the Governance Committee activity and its calendar. There was no meeting in December of 2007. There is a preliminary calendar for 2008. On January 23, 2008 at 4:00 PM, there will be a meeting for drafting governance guidelines. The guidelines will address best practices for a board of directors, outline the principles of House Bill 100, and will codify how the Bureau's Board operates. The first three meetings of 2008 will be held in the William Green building in Columbus. The meeting for April of 2008 will be held in the Bureau's Mansfield Service Office.

Investment Committee:
Mr. Smith reported on Investment Committee activity. A motion was made by Mr. Smith, and seconded by Mr. Price, as follows: that the Workers' Compensation Board of Directors authorize the Bureau's Chief Investment Officer to implement a securities lending program, for the reasons set forth in the securities lending presentation dated December 19, 2007, and that section IV. C. vi of the current Bureau Investment Policy Statement be amended or deleted as necessary to implement the securities lending program. The voting was as follows:

LHOTA	YES	FALLS	YES	HUMMEL	YES
MATESICH	YES	HARRIS	YES	CALDWELL	YES
FULTON	YES	PRICE	YES	BRYAN	YES
HAFFEY	YES	SMITH	YES		

The motion passed 11-0.

Mr. Bryan and Mr. Price emphasized the importance of guidelines and the recognition of risk involved with securities lending. Ms. Falls stated securities lending is a financial intermediation.

Motion was made by Mr. Smith, and seconded by Ms. Falls, as follows: that the Workers' Compensation Board of Directors adopt and approve the recommendation of the Investment Committee to authorize the Administrator to issue separate new requests for proposals for passive indexed investment managers for three large asset class mandates within the State Insurance Fund, Disabled Workers Fund and Coal Workers Fund, for reasons set forth in the memorandum of the Bureau's Chief Investment Officer dated December 10, 2007. The separate requests for proposals would be for the Long Duration Fixed Income, U.S. TIPS, and Large Cap U.S. Equity asset classes. The voting was as follows:

LHOTA	YES	FALLS	YES	HUMMEL	YES
MATESICH	YES	HARRIS	YES	CALDWELL	YES
FULTON	YES	PRICE	YES	BRYAN	YES
HAFFEY	YES	SMITH	YES		

Roll call was taken and the motion passed 11-0.

Motion was made by Mr. Smith and seconded by Mr. Price as follows: that the Workers' Compensation Board of Directors adopt and approve the recommendation of the Investment Committee to adopt the Lehman Long Government/Credit Index as the long duration fixed income benchmark, replacing the existing Lehman customized U.S. Long Government/Credit Index benchmark, for the reasons set forth in the memorandum of the Bureau's Chief Investment Officer dated December 10, 2007, and to amend section V.A of the Investment Policy Statement to reflect the change to the Lehman Long Government/Credit Index as the long duration fixed income benchmark. Roll call was taken and the vote was as follows:

LHOTA	YES	FALLS	YES	HUMMEL	YES
MATESICH	YES	HARRIS	NO	CALDWELL	NO
FULTON	YES	PRICE	YES	BRYAN	YES
HAFFEY	YES	SMITH	YES		

The motion passed 9-2.

Mr. Harris and Mr. Caldwell expressed their disagreement with authorizing the Bureau to invest in overseas markets. Mr. Bryan pointed out that there is some concern with respect to investments made outside of the United States, and they should be limited to a moderate amount. Mr. Matesich emphasized that foreign investments may benefit Ohio's employers and injured workers by maximizing return on investments. Ms. Falls added that diversification is important in any portfolio, this approach will reduce fees to the Bureau and will enhance the returns on our investments.

A motion was made by Mr. Smith and seconded by Mr. Bryan as follows: that the Workers' Compensation Board of Directors adopt and approve the recommendation of the Investment Committee to amend the Bureau Statement of Investment Policy and Guidelines to replace references to the former Workers' Compensation Oversight

Commission and various statutory citations to reflect changes adopted in Amended Substitute House Bill 100 of the 127th General Assembly, as set forth in the red-lined version of the Investment Policy Statement presented to the Board on December 20, 2007. Roll call was taken and voting was as follows:

LHOTA	YES	FALLS	YES	HUMMEL	YES
MATESICH	YES	HARRIS	YES	CALDWELL	YES
FULTON	YES	PRICE	YES	BRYAN	YES
HAFFEY	YES	SMITH	YES		

The motion passed 11-0.

Mr. Smith indicated there was discussion regarding the upcoming interviews with proposed finalist candidates of the full service Investment Consultant RFP and that the entire Board is invited to attend the interview sessions scheduled for January 9, 2008 at the William Green Building.

PUBLIC EMPLOYEE RETIREMENT SYSTEM AND DEFERRED COMPENSATION

There was a presentation provided by Seth Conley and Brenda Hall of the Public Employees Retirement System (PERS). Participation in PERS is mandatory since public employees do not pay into social security. There is a windfall elimination provision, whereby social security can be reduced by PERS benefits. The deadline for Board members to select one of the three PERS offered retirement plans is February 19, 2008. There was a comparison of the three plans. The three plans are traditional, member directed and combined. Health insurance is the only benefit not guaranteed. The member directed plan is the better plan design for cashing out funds. There was a discussion of issues on plan selection. Appointed officials that are confirmed by the Senate and elected officials may purchase an additional .35 years for every year of service. For purposes of calculation and estimation of benefits, Board members may call 800-222-7377.

Matt Gill and Cedric Gaaskjolen of the Deferred Compensation program made a presentation to the Board. The deferred compensation program is an employer sponsored supplemental retirement benefit plan regulated by Section 457 of the Internal Revenue Code. There is no age penalty for access to funds at separation. It is a self managed plan. There is a $15,500.00 per year maximum contribution if you are under the age of 50 and a $20,500.00 per year maximum contribution if you are over the age of 50.

The Board recessed at 10:03 AM for a break and reconvened at 10:20 AM.

MONTHLY FINANCIAL REPORT

Tracy Valentino, Chief Fiscal and Planning Officer, and David Hollingsworth, Bureau consultant, presented to the Board on financial matters. Mr. Bryan raised the issue of overcharging employers. Ms. Valentino indicated that premium collections had declined by one hundred million dollars since the previous year. Ms. Valentino discussed operations review, cash flow analysis, and the financial summary. There was additional discussion of changing the practice of collecting premiums in arrears. There is legal research pending, with regard to this issue. Mr. Lhota indicated that he would like to see data obtained reflecting the sale of securities. Ms. Valentino indicated that the operating ratio was down sixteen points, due to realignment of the portfolio. Cash flow is positive, operating expenses are stable, and loss reserves are declining. There is unfavorable premium development. Ms. Falls asked if the presentation ratios were under GAAP. Ms. Valentino said yes, explaining that GASB is "government GAAP".

ADMINISTRATOR BRIEFING

Marsha Ryan, Bureau Administrator, indicated that the session of the General Assembly had ended for the year. Ms. Ryan indicated that the six legislative members of the Workers' Compensation Council have been appointed but that the remaining five non-legislative members have yet to be appointed. One of the major purposes of the Workers' Compensation Council is to review legislation affecting workers' compensation. Once the Workers' Compensation Council is fully formed, pending legislation will be referred to the Council. The Bureau has hired a liaison to interface with the Workers' Compensation Council, Peggy Concilla. Administrator Ryan introduced Ms. Concilla to the Board.

There was discussion concerning pending legislation that addressed mine safety funding. Further, there was discussion concerning proposed legislation affecting interstate jurisdiction, as well as concurrent jurisdiction between Ohio and the federal government concerning the Marine Industry Fund. Ms. Ryan noted that the collectibles from Noe's investments were transferred and sold this week through the Ohio Attorney General's office. Mr. Coury provided additional explanation regarding the managed care organization contract, and his memorandum dated December 5, 2007 regarding same. There are twenty-five basic services provided by managed care organizations. The services include medical case management, utilization review, first level alternative dispute resolution, adjudication of bills, rehabilitation, and the facilitation of communication between providers and employers. There is an overall four percent net income for managed care organizations. The new contract places more money in performance payment, in such areas as returning claimants to work. Mr. Fulton stated that he is pleased with the Bureau's handling of the negotiations with the managed care organizations. However, Mr. Fulton noted that he would like to see more medical care providers return to the workers' compensation system. Mr. Harris indicated agreement with this, and requested that the Board address this issue at some point. Mr. Coury stated that he is working on that issue, particularly through outreach to medical care providers. Mr. Coury further stated that he has already been asked by the Administrator to develop a plan to address the issue of bringing doctors back in to the workers' compensation system.

Administrator Ryan reported that Governor Ted Strickland will deliver his State of the State address on February 6, 2008. She further noted that the Governor may include remarks about BWC's Board of Directors in his address.

ADJOURNMENT

The meeting was adjourned at 11:20 AM

Prepared by Tom Woodruff, BWC Staff Counsel