

Workers' Compensation Board

Meeting Minutes

September 26-27, 2013

Thursday, September 26, 2013

I. Call to order

Director Monagle, acting as Chair of the Alaska Workers' Compensation Board, called the Board to order at 9:06 am on Thursday, September 26, 2013, in Anchorage, Alaska.

II. Invocation and Pledge of Allegiance

III. Roll call

Director Monagle conducted a roll call. The following Board members were present:

Stacy Allen	Sara Lefebvre	Patricia Vollendorf
Brad Austin	Krista Lord	Robert Weel
Pamela Cline	Ron Nalikak	Zeb Woodman
Chuck Collins	Amy Steele	
Linda Hutchings	Mark Talbert	
David Kester	Rick Traini	

Director Monagle noted that Michael O'Connor was absent.

[There is a vacant labor seat in Anchorage (3rd judicial district) and in Fairbanks (4th judicial district)]

IV. Agenda Approval

A motion to approve the agenda was made by member Weel, and seconded by member Kester. The agenda was approved by unanimous vote.

V. Approval of Meeting Minutes

A motion to adopt the minutes from the May 16-17, 2013 regular Board Meeting, and accept the minutes from the July 26, 2013 and August 26, 2013 workgroup meetings was made by member Weel and seconded by member Hutchings. Corrections were noted and the minutes as corrected were adopted and accepted by unanimous vote.

VI. Approval of Board Designees

A motion to approve the list of Board designees, adding Matthew Slodowy, Workers' Compensation Hearing Officer I, Teresa Nelson, Workers' Compensation Officer I, and Brian Zematis, Workers' Compensation Technician, was made by member Hutchings, and seconded by member Weel. The amended list of Board designees was approved by unanimous vote.

VII. Director's Report

Director Monagle provided a brief summary of the public hearings held by the Board workgroup in June, and the follow-up meetings held by the workgroup in July and August. He thanked the workgroup members for their work, and noted that stakeholders were very appreciative of the opportunity to engage the Board and Division in their communities. He noted that public comments had been previously distributed to the Board.

Director Monagle noted that terms were expiring on March 1, 2014 for members Kester, Lord, Talbert, and Woodman. He encouraged these members to submit a letter of interest to Boards and Commissions through the Director if they wish to continue their service on the Workers' Compensation Board.

The director spoke of ongoing problems getting Board members to serve as panelists at hearings. He asked Board members to be responsive to requests from Division staff to serve their turn as a panelist. The Board asked that there be a second monthly scheduling email sent by the Division so that Board members were aware of unfilled hearing dates.

Budget - Administrative Officer Alan Ezzell provided an overview of the FY13 budget, ending June 30, 2013; the status of the ongoing FY14 budget; and the preliminary draft of the FY15 budget, which begins July 1, 2014. The Division came in under budget in FY13, but with rising administrative costs, funding could become very tight in FY14. The Office of Management and budget has mandated a hold-the-line budget for FY15. Although the final budget is not yet out, the Division expects that budgets will continue to tighten in the coming years.

The Division is fully staffed at this time. Barbara Ward, the Appeals Commission Clerk, has tendered her resignation, effective early October. This is the only pending vacancy.

The Division's new case management system, ICERS, went into production at the end of July. The Division continues to work through some development issues, bugs, and enhancements, and expects most of those issues to be resolved by the end of the calendar year. Trading partners have the option of voluntarily transitioning to electronic reporting, and the Division is seeing some of the countrywide insurers who are already reporting electronically in other states making the transition. The Division expects more trading partners to make this transition over the next year.

Break 10:00am-10:18am

VIII. Public Comment Period 10:15 am -11:00 am

Deborah Ryan, Alaska Chiropractic Society - Ms. Ryan expressed concern over the recommendation to adopt treatment guidelines. The concern was expressed in response to the workgroup meetings over the past Summer and recommendations to

adopt national treatment guidelines. Director Monagle indicated this would be a subject of Board discussion on Friday the 27th, and explained to Ms. Ryan that this would require legislative action.

IX. Old Business from Previous Meeting

Director Monagle reviewed legislation still pending before the 28th Legislature that will come back up in January 2014 when the legislature resumes.

Following the discussion on pending legislation, member Kester stated he would like to see the Board consider the second independent medical exam (SIME) process under 8 AAC 45.090 and 8 AAC 45.092. Director Monagle acknowledged that this was an issue discussed by the workgroup, but not moved forward as recommended legislative items because the Board already has authority to promulgate regulations on this matter. Director Monagle said this is an item that he will put on the agenda for the January 2014 Board meeting.

Director Monagle reviewed Alaska Administrative Order 266 with the Board. He indicated that upon review, the Division had identified regulations dealing with the SIME selection process, civil penalties in failure to insure cases, and self-insured employers as regulations warranting closer scrutiny under AAO 266.

X. Training: Presentation by Shannon Hilton, Registered Nurse Practitioner, Anchorage Neurosurgery Associates

Ms. Hilton reviewed how an orthopedic evaluation is conducted.

Lunch Break 12:20 pm-2:02 p.m.

XI. Training (Continued)

Janel Wright, Chief of Adjudications

Ms. Wright reviewed with the Board

- How to conduct legal research using statutes and regulations
- Frequently cited sections of statute and regulations
- Board member code-of-conduct
- Hearing officer code-of-conduct
- Executive ethics
- Conflicts of interest
- Disqualifications
- Recusals
- Causation deliberations

Meeting Adjourned 4:45 pm

Friday, September 27, 2013

I. Call to Order

Director Monagle resumed the Board meeting at 9:04 am on Friday, September 27, 2013, in Anchorage, Alaska. The following Board members were present:

Stacy Allen	Sarah Lefebvre	Patricia Vollendorf
Brad Austin	Krista Lord	Zeb Woodman
Pamela Cline	Ron Nalikak	
Chuck Collins	Amy Steele	
Linda Hutchings	Mark Talbert	
David Kester	Rick Traini	

Member Robert Weel was excused for the morning; member Michael O'Connor was absent.

II. New Business

Review of Board workgroup recommendations.

Director Monagle delivered a PowerPoint presentation on the status of the workers' compensation system in Alaska. This was substantially the same presentation delivered during the public listening sessions in June. *This presentation is available on the Division's website.*

Break 10:05-10:28 a.m.

Director Monagle shared a survey with the Board. The survey compared the maximum allowable reimbursement rates (MAR) for the top 25 common procedure terminology (CPT) codes, as identified by the National Council on Compensation Insurance (NCCI) in their January 2013 medical data call. The survey compared the MAR for Alaska Medicare, the Alaska median healthcare allowance, and workers' compensation fee schedules in Alaska and Washington State. *This presentation is available on the Division's website, and has been expanded to include Oregon and Idaho.*

Director Monagle presented a draft resolution for Board consideration, containing the final recommendations made by the workgroup at their August 26, 2013 meeting (initial draft attached). The Board reviewed and discussed the resolution. The Board had robust discussions on several of the recommendations contained therein, most notably CMS fee schedules, IAIABC policy recommendations on opioid use, treatment guidelines, and the hiring of a medical director.

Lunch Break 12:03 pm-1:35 p.m.

It was noted on record that member Bob Weel joined the Board after lunch.

The Board resumed its discussion of the draft resolution. The Board reached consensus on removing the recommendations pertaining to treatment guidelines and a medical director. In addition, the Board consented on several language changes, adding a separate fee schedule recommendation for air ambulance services, a recommendation that fee schedule conversion factors be evaluated every two years, and a recommendation that the Board be authorized to incorporate additional resource materials by reference.

There was some discussion on the need to obtain consensus or whether action should be based on majority vote. Member Traini recommended basing the resolution on consensus, which would carry more weight with legislators. The majority of the Board agreed with member Traini's viewpoint. It was agreed that the only items that would be set out in the resolution are those items on which the Board has reached consensus.

The Board then considered the draft resolution dealing with reemployment benefits. Director Monagle summarized the workgroup's recommendations, noting that the workgroup had come forward with two options, with the primary difference between the two being whether or not to bring reemployment evaluations in-house.

Break 3:10 pm – 3:26 pm

The Board resumed its consideration of the draft resolution, pertaining to reemployment benefits under the third section of recommendations. There was consensus to drop option A under item number three, and go with option B. There was also discussion whether the Division of Vocational Rehabilitation could provide reemployment services, or whether insurers could select their own specialists, just like they do with EIME's. Finally, there was discussion on the recommended increase to the maximum reemployment benefit from \$13,300 to \$18,600, with an annual consumer price index (CPI) adjustment.

While support staff the final changes to the proposed resolution, Director Monagle stated that one of the valuable outcomes from the June listening sessions was the positive feedback the Board received from stakeholders. He recommended that the Board consider making the workgroup a standing committee of the Board. Since there is no longer an active Ad Hoc Committee, this might be a good vehicle for moving forward legislative proposals. After discussion, member Hutchings moved that the workgroup be made a standing committee of the Board, seconded by member Nalikak. The committee would be comprised of 2 industry members and 1 industry alternative, and 2 labor members and 1 labor alternatives, with members to be nominated at the January meeting by industry and labor. The motion passed unanimously.

The proposed resolution, as amended was taken back up. A whereas clause was added, and after several final edits were made to the draft document, a motion to approve resolution number 13-01, recommending legislative action to address Alaska's high workers' compensation costs, was made by member Hutchings and seconded by member Weel. The motion was passed by unanimous vote. All board members signed the resolution, and a copy of the signed resolution was distributed to all Board members.

Several board members asked if board material could be emailed out ahead of the meetings for review. Director Monagle said the Division would make every effort to do so.

The next Board meeting is January 9th & 10th, 2014.

Meeting Adjourned 4:55 pm