



STATE OF MAINE
WORKERS' COMPENSATION BOARD
Board of Directors' Business Meeting

October 8, 2019

A business meeting of the Maine Workers' Compensation Board of Directors was held on Tuesday, October 8, 2019, at the Portland Regional Office in Portland, Maine.

PRESENT: John Rohde (*Executive Director/Chair*), Richard Hewes (*General Counsel*), Ron Green, Glenn Burroughs, Richelle Wallace, Tom Davis, Gary Koocher, and Emery Deabay (*via telephone*).

I. CALL TO ORDER

Executive Director Rohde called the meeting to order at 10:04 a.m.

II. APPROVAL OF MINUTES

1. Draft Minutes of 8/26/2019

Director Burroughs MOVED TO ACCEPT THE MINUTES OF 8/26/19; Director Green seconded. **MOTION PASSED 7-0.**

III. SUBCOMMITTEE REPORTS

1. IME Subcommittee

The Independent Medical Examiner Subcommittee met prior to the Board meeting to discuss the current list of IME doctors. Kimberlee McC Carson will be sending out surveys to the doctors to find out which ones are still interested in remaining on the list and whether they are eligible to serve as IMEs. An annual performance review process will be developed once the list of doctors has been updated. It is still very difficult to add new IME doctors. After the results of the survey are returned, General Counsel Richard Hewes will reach out to members of the medical community to recruit doctors if the need exists.

2. Personnel Subcommittee

The Personnel Subcommittee met prior to the Board meeting. The subcommittee recommends that the Board enter into a contract with retired Administrative Law Judge Glenn Goodnough in an amount not to exceed \$3500 to allow Mr. Goodnough to complete work on cases that were pending when he retired.

Director Wallace MOVED TO ENTER INTO A CONTRACT WITH GLENN GOODNOUGH IN AN AMOUNT NOT TO EXCEED \$3500 TO WORK AS A CONTRACT ADMINISTRATIVE LAW JUDGE; Director Davis seconded. **MOTION PASSED 7-0.**

The subcommittee also discussed the reappointment of ALJ Knopf (term set to expire 12/31/2019).

Director Wallace MOVED TO REAPPOINT ADMINISTRATIVE LAW JUDGE EVELYN KNOFF TO A SEVEN YEAR TERM, STARTING JANUARY 1, 2020; Director Green seconded. **MOTION PASSED 7-0.**

IV. EXECUTIVE DIRECTOR REPORT

1. Department of Labor Meetings

Executive Director Rohde, General Counsel Hewes, and Deputy Director Lizzotte met with a representative of the Department of Labor on September 17, 2019 regarding the Vocational Rehabilitation Memorandum of Understanding. There are no major changes and the agencies will continue working together.

ED Rohde, GC Hewes and Deputy GC Crasnick met with representatives of the Department of Labor and the Maine Revenue Service on October 1, 2019 to discuss the ongoing problem of employee misclassification. The agencies discussed ways to assist each other in identifying misclassified employees such as sharing information about new employers. Currently, the Board is not receiving information from DOL about new employers and this has adversely impacted the Board's ability to identify employers that are not in compliance with Maine law.

2. Lewiston ALJ

Bryan Chabot began his new position yesterday as the Administrative Law Judge in the Lewiston Regional Office.

3. Information Technology

The Board continues to work with the Office of Information Technology (OIT) with respect to our database, Progress. Progress has become cost prohibitive as the number of available programmers has dwindled down to only two and the program becomes more outdated. One of those two programmers will be retiring in two years which will leave the Board with even fewer OIT resources for Progress. One option is to move to a Microsoft based program so there will be more programmers available within OIT.

4. Medical Fee Schedule

The updated medical fee schedule for inpatient facility fees was effective September 1, 2019. There will be additional updates effective on January 1, 2020. The next major review of the medical fee schedule is due in 2020.

V. GENERAL COUNSEL REPORT

General Counsel Richard Hewes reported that there have been two payments made so far this year to parents of employees who died at work and did not have dependents. Under §153 (10) permanent impairment (PI) data due to the Legislature. As the Board is no longer collecting PI data this obligation will be difficult to fulfill. A legislative change may be needed.

Abuse Attorney Advocate Shannon Collins has accepted a post with another agency. The Abuse Unit will be posting her position.

VI. OLD BUSINESS

1. LD 756 (PL 2019, C. 344) Working Groups

LD 756 working groups met for the third time on October 21, 2019. It is unclear if the work search and vocational rehabilitation group will be meeting again in November. The contractor under/uninsured employer fund group will be meeting again on November 19, 2019.

The work search discussion revolved around two basic questions: would changing the work search standard impact whether/when an injured employee returns to work; and whether the current work search standard can be amended to be more consistently applied.

The uninsured employer group agrees the Board should draft legislation that would fit in Title 39-A, to be discussed during the next meeting. The draft will likely include exceptions for residential home owners, a safe harbor provision for general contractors, be limited to the construction industry, and include additional enforcement tools to ensure employers are not able to avoid complying with the Act's coverage requirements.

The Predetermination of Independent Contractor Status has also been discussed at these meetings. Employee misclassification remains a part of the discussion.

2. Advocate Division Legislative Study

The study of the advocate division is being conducted internally. Senior Staff Attorney Thom Watson is drafting a report that will look at the advocate salaries and resources available to the advocates.

VII. NEW BUSINESS

1. Compliance Reports

Kimberly Belka presented the 2nd Quarter 2019 Compliance Report. There are no significant changes to report.

Director Koocher MOVED TO ACCEPT THE 2nd QUARTER 2019 COMPLIANCE REPORT; Director Davis seconded. **MOTION PASSED 6-0-1** (*Director Deabay abstained*).

2. Maine Municipal Association Waiver

The Board reviewed a request from MMA to be granted a waiver for the filing of electronic documents during the time frame that MMA will be upgrading their software programs.

Director Wallace MOVED TO GRANT A BOARD WAIVER PERMITTING MAINE MUNICIPAL ASSOCIATION TO BE EXEMPTED UNDER Me. W.C.B. Rule, ch. 3 §4 (1) (C) FROM THE REQUIREMENT THAT IT FILE DOCUMENTS ELECTRONICALLY DURING A PERIOD OF FIVE CONSECUTIVE DAYS, WHICH

MAINE MUNICIPAL ASSOCIATION WILL IDENTIFY FOR THE WORKERS' COMPENSATION BOARD NO LATER THAN 14 DAYS BEFORE THE PERIOD OF COMPUTER MAINTENANCE. Director Burroughs seconded. **MOTION PASSED 6-0-1** (*Director Deabay abstained*).

3. Director Burroughs offered remarks in remembrance of Clayton Grover, a 67-year employee of Bath Iron Works, who died October 4, 2019 at age 86. Mr. Grover began working at the shipyard in 1952. Over the next seven decades he was a role model both at work and personally. He made countless sacrifices for his family, his employer and his community.

VIII. ADJOURNMENT

Director Koocher MOVED TO ADJOURN; Director Wallace seconded. **MOTION PASSED 7-0.**

The meeting formally adjourned at 10:30 a.m.