

Workers' Compensation Board
Meeting Minutes
January 12-14, 2011

Wednesday, January 12, 2011

I. Call to order

Director Monagle called to order the meeting of the Workers' Compensation Board (Board) at 10:33am on Wednesday, January 12, 2011, in Anchorage, Alaska.

II. Roll call

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

Brad Austin	Jeffrey Bizzarro	Chuck Collins	James Fassler
Don Gray	Linda Hutchings	David Kester	Sarah Lefebvre
David Robinson	Damian Thomas	Patricia Vollendorf	Janet Waldron
Robert Weel			

III. Agenda Approval

The agenda was read and approved by unanimous vote.

IV. Approval of Meeting Minutes

Meeting minutes from the October 1, 2010 regular Board meeting were read and unanimously approved.

V. Director's Report

1. Administrative Manager Alan Ezzell reviewed the FY11 YTD budget, and the proposed FY12 budget.
2. Mr. Ezzell discussed proposed move of the special investigation unit and the reemployment benefits unit from 6th and K to Eagle Street.
3. Mr. Ezzell and Director Monagle reviewed current Division staffing.
4. Director Monagle reviewed the status of the workers' compensation re-write.
5. Director Monagle reviewed pre-filed legislation. HB12 establishes a workers' compensation advisory council and HB13 authorizes the Division to produce a new medical fee schedule. Director Monagle provided a status report on current efforts to contract with a vendor to produce the requisite fee schedule.

VI. Continued Business from Previous Meeting

The Board resumed discussion of previously proposed regulations.

- Director Monagle noted regulatory changes, previously proposed by the Board, have been submitted to Law for review and public comment. These proposals will be back before the Board at its May 12-13 for final adoption, and include the following:
 - Appeal of Board designee discovery order
 - Continuances and cancellations
 - Finding of frivolous or unfair controversions
 - Unlawful change of physician and definition of a month
- Firefighter Presumption
 - Director Monagle reviewed the proposed regulation, noting the changes made by Law, which were deemed merely stylistic and not substantive. Therefore, the proposed regulations did not need to go back out for public comment. Motion to adopt was made by member Hutchings and seconded by member Kester. After discussion, the Board approved the regulation on a unanimous vote.
 - Discussion ensued by Board members on whether this presumption should apply to all firefighters.

Lunch 11:59pm-1:30pm

VII. Approval of 2011 Board Designee List

The proposed calendar year 2011 Board list of designees was reviewed and unanimously approved.

VIII. Resolution of the Board

A motion was made by member Gray and seconded by member Robinson to adopt a resolution in support of an amendment to AS 23.30.121, extending the presumption to existing firefighters who did not receive a qualifying medical exam upon becoming a firefighter. After discussion, the motion was approved on a 9-4 vote. Voting for: members Collins, Austin, Fassler, Gray, Robinson, Vollendorf, Bizzarro, Thomas & Weel. Voting against: members Hutchings, Kester, Waldron, and Lefebvre.

IX. Training Session by Reemployment Administrator Mark Kemberling

Break 2:58pm-3:17pm

X. Adjudications Report

Chief Janel Wright and hearing officers reviewed cases from the Board, the Appeals Commission, and the Supreme Court.

XI. Public Comment Period

- Betty Leef, Rehabilitation Specialist – Continual changes to the workers’ compensation act made it difficult for rehabilitation specialists to assist injured workers’. A practicing rehabilitation specialist should be on the Board.
- Sandy Travis, Injured Worker – Complaint concerning lack of consideration for injured workers by workers’ compensation staff, and failure of staff to follow its own rules and regulations.
- Shelby Davison, Defense Attorney, member of the Workers’ Compensation Committee of Alaska – Complaint about board members’ failure to be fair and impartial.
- Theresa Hennemann, Defense Attorney - Complaint about board members’ failure to be fair and impartial.
- Erin Havard, Claims Adjuster - Complaint about board members’ failure to be fair and impartial.
- Janice Shipman, Rehabilitation Specialist - Continual changes to the workers’ compensation act made it difficult for rehabilitation specialists to assist injured workers’. Statutes don’t allow ADA accommodations
- Steven Constantino – Board members and hearing officers have the highest standards. He says he has not observed unfairness or bias.

Meeting Adjourned 5:10pm

Thursday, January 13, 2011

I. Call to order

Director Monagle resumed the Board meeting at 9:00 am on Thursday, January 13, 2011 in Anchorage, Alaska.

II. Training Session on Ethics for Board Members by Assistant Attorney General Judy Bockman

Break 10:30am-10:50am

III. Discussion by Board Members on Ethical, Fair, and Impartial Behavior, and Conflicts of Interest

Lunch 11:45am-1:16pm

IV. Review of Draft Resolution Pertaining to the Firefighter Presumption

The Board reviewed the draft resolution drawn up in response to yesterday’s resolution adopted by the Board.

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V. Annual Reports

- Director Monagle reviewed annual report information from the 2009 reporting year, based on data collected from insurers pursuant to AS 23.30.155(m).
- Director Monagle reported on several of the Division's programs, including the Second Injury Fund, the Benefits Guaranty Fund, and the Self-Insurance program.
- Chief Janel Wright presented a report on the Adjudications Section.
- Chief Sherrie Daigle presented a report on the Special Investigations Section.

Break 3:00pm-3:17pm

- Reemployment Benefits Administrator Mark Kemberling presented a report on the re-employment benefits unit.

Meeting Adjourned 5:00pm

Friday, January 14, 2011

I. Call to order

Director Monagle resumed the Board meeting at 9:02 am on Friday, January 14, 2011 in Anchorage, Alaska.

II. Discussion of APOC reporting and Public Comment Period for Proposed APOC Regulatory Changes

III. Consideration of Proposed Regulatory Changes Pertaining to Reemployment Benefits

- Consideration of proposed amendment to 8 AAC 45.510. Motion to adopt by member Gray. Second by member Bizzarro. Motion carries unanimously.
- Consideration of proposal to repeal 8 AAC 45.520. Motion to adopt by member Gray. Second by member Weel. Motion carries unanimously.
- Consideration of proposal to add 8 AAC 45.522. Motion to adopt by member Lefebvre. Second by member Robinson. Motion carries unanimously.
- Consideration of proposal to repeal and readopt 8 AAC 45.525.

Break 10:25am-10:40am

- Consideration of proposal to repeal and readopt 8 AAC 45.525 (continued).

Lunch 11:35am-1:23pm

- Consideration of proposed amendment to 8 AAC 45.530(b).
- Consideration of proposed amendment to 8 AAC 45.530(c).

- Consideration of proposal to repeal and readopt 8 AAC 45.535.
- Consideration of proposal to repeal and readopt 8 AAC 45.540.
 - Proposal stricken.
- Consideration of proposed amendment to 8 AAC 45.542(a).
- Consideration of proposed amendment to 8 AAC 45.550(a)(3).
- Consideration of proposal to repeal and readopt 8 AAC 45.550(a)(6).
- Consideration of proposed amendment to 8 AAC 45.550(b).
- Consideration of proposal to add 8 AAC 45.560.
 - Proposal stricken.
- Consideration of proposal to add 8 AAC 45.900(i)(4).
 - Proposal stricken. Members would like this issue brought forth at next Board meeting, with the idea of preventing an injured worker from receiving benefits if he/she has been previously rehabilitated, settled his/her claim, or accepted the dislocation benefit.

Break 2:35pm-2:52pm

- Motion by member Robinson, second by member Weel, to approve proposed regulatory changes to 8 AAC 45.525; 8 AAC 530; 8 AAC 45.535; 8 AAC 45.542; and 8 AAC 45.550, as previously discussed. Motion passed unanimously.
- Director Monagle expressed his appreciation for the hard work and cooperation demonstrated by the Board.

Meeting Adjourned 5:00pm