

Workers' Compensation Board
Meeting Minutes

January 12-13, 2017

Thursday, January 12, 2017

I. Call to order

Workers' Compensation Director Marie Marx called the Board to order at 9:01 am on Thursday, January 12, 2017, in Anchorage, Alaska.

II. Pledge of Allegiance

III. Roll call

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

Stacy Allen	Brad Austin	Pamela Cline
Chuck Collins	David Ellis	Linda Hutchings
Jacob Howdeshell	David Kester	Donna Phillips
Amy Steele	Mark Talbert	Pat Vollendorf
Robert Weel	Lake Williams	

Member Rick Traini arrived at 10:00am and Member Sarah Lefebvre was absent. Quorum was established.

Director Marx introduced senior staff present.

IV. Agenda Approval

A motion to approve the agenda was made by Member Weel, and seconded by Member Vollendorf.

- Member Kester requested to add item to discuss timing of October board meeting. The agenda was amended to include this at end of day on Friday, after case summaries were discussed.

Agenda approved with amendment by unanimous vote.

V. Approval of Meeting Minutes

A motion to adopt the minutes from the October 6, 2016 regular Board Meeting was made by member Kester and seconded by member Weel. The minutes were adopted without objection.

VI. Director's Report

- Director Marx noted that some board member terms were expiring on March 1, 2017.
- Director Marx introduced the new Workers' Compensation Appeals Commissioner Dee Ford.

- The Division has been working to update forms and information packets. The Claim for Benefits form and Petition form have been updated, and the Division plans to update Workers' Compensation & You next.
- The Division's case management system, ICERS, went into production in July 2013. The Division continues to work through some development issues, bugs, and enhancements, and many continue to get resolved. Trading partners have the option of transitioning to electronic reporting, and the Division has seen the majority of insurers make the transition. Only the State of Alaska and Anchorage School District are currently filing by paper and both are now transitioning to electronic reporting. The Division will not be assessing penalties on late filed compensation reports for compensation payments made starting July 21, 2013 through December 31, 2016. Penalties will be assessed for late filed compensation reports for compensation payments made starting January 1, 2017 and ongoing.
- Director Marx provided a brief summary of issues the Board requested information on and provided a plan for the Medical Services Review Committee (MSRC) workgroup in July and August.
- Chief of Adjudications Amanda Eklund reviewed the list of board designees and stated there are no new board designees to add to the list since the last board meeting. Grace Morfield was promoted from Workers Comp Officer I to II, with no change in board designee status.
- Budget - Administrative Officer Alexis Hildebrand provided an overview of Division staffing, the various budget components within the Division, and the FY17 budget performance year-to-date.
- Director Marx briefly discussed the upcoming legislative session.

Break 9:53am - 10:14am

VII. Public Comment Period 10:15am- 11:15am

1. Leann Carrothers - Alaska Physical Therapy Assn.
2. Bill Wise - Wise Physical Therapists
3. Ellen Sutphin - Burr Pease & Kurtz
4. Jade Ekle - Jaded Body Wellness & Spine Inc.
5. Sheri Ryan - Alaska Chiropractic Society
6. Patti Wilson - University of Alaska
7. Misty Steed - PACBLU
8. Mike Jenson - Employee Attorney
9. Julie Ament - North Pole Physical Therapy
10. Rick Katz - HI Physical Therapy in Fairbanks
11. Tina McLean - Sterling Physical Therapy

Off Record 10:57 to fix technical error, back on record at 11:11am

12. Barbara Williams – representing self
13. Rebecca Byerly – Soldotna physical therapy private practice
14. Liz Ann – Forsythe Country
15. Anonymous – representing self

VIII. Old Business

- Amend 8 AAC 45.083, relating to fees for medical treatment and services. The intent of the amendment is to clarify the existing fee schedule and incorporate the most recent MSRC recommendations. Member Kester moved to approve the amendment of 8 AAC 45.083. Member Weel seconded the motion.

The Board reviewed written public comment and began discussion.

*Off record at 11:40 to print and distribute copies of 8 AAC 45.83. Back on record 11:45
Breaking for lunch at 11:47am. Back on record at 1:17pm*

Roll call conducted and quorum confirmed. Member Williams was excused after lunch and Member Kester plans to leave at 1:40pm. A brief discussion continued.

Director Marx called for the question. The Board voted and the motion did not pass on a 7 to 7 vote, with members Allen, Cline, Ellis, Howdeshell, Phillips, Steele, and Traini voting against, and members Austin, Collins, Hutchings, Kester, Talbert, Vollendorf, and Weel voting in favor.

- Amend 8 AAC 45.054, relating to discovery while simultaneously repealing 8 AAC 45.175 relating to subpoenas. The intent of the amendment is to address the great difficulty the Division has been having obtaining records from an employer in failure to insure cases. Member Collins moved to approve the amendment of 8 AAC 45.054 and repeal of 8 AAC 45.175. Member Hutchings seconded the motion. The motion passed unanimously.
- Amend 8 AAC 45.092, relating to copies of SIME records filed with the Board. The intent of the amendment is to update the regulation in light of the Division's move to electronic records. Member Weel moved to approve the amendment of 8 AAC 45.092. Member Austin seconded the motion. The motion passed unanimously.
- Repeal 8 AAC 45.114, relating to hearing briefs. The intent of the repeal is to update the regulation in light of the Division's move to electronic records. Member Weel moved to approve the repeal of 8 AAC 45.114. Member Vollendorf seconded the motion. The motion passed unanimously.
- Amend 8 AAC 45.186(a)&(c), making technical revisions to the Second Injury Fund statute. The applicable Second Injury Fund statutes were amended in 2005, but the regulations were not updated accordingly. The intent of amendment is to bring the

regulation into conformance with AS 23.30.205(a)&(c)'s statutory references. Member Weel moved to approve the amendment of 8 AAC 45.186(a)&(c). Member Collins seconded the motion. The motion passed unanimously.

IX. New Business

- Amend 8 AAC 45.900, relating to the definition of “previously rehabilitated.” Member Weel moved to approve the amendment of 8 AAC 45.900. Member Phillips seconded the motion. The motion passed unanimously.
- Amend 8 AAC 45.092(b)(5), relating to SIME physicians. Member Weel moved to approve the amendment of 8 AAC 45.092(b)(5). Member Cline seconded the motion. The motion passed unanimously.
- Amend 8 AAC 45.082, relating to change of physicians. The Board stated that they did not have enough information to take action. The Board declined to make a motion.
- Motion to adjourn was made by Member Traini at 2:45pm. Member Cline seconded the motion. The motion passed unanimously.

Meeting Adjourned 2:45pm

Friday, January 13, 2017

I. Call to order

Director Marx resumed the Alaska Workers’ Compensation Board meeting at 9:03 am on Friday, January 13, 2017, in Anchorage, Alaska. The following Board members were present

Stacy Allen	Brad Austin	Pamela Cline
Chuck Collins	David Ellis	Jacob Howdeshell
Linda Hutchings	David Kester	Amy Steele
Mark Talbert	Rick Traini	Pat Vollendorf
Lake Williams		

Members Donna Philips, Sarah Lefebvre, and Robert Weel were absent. Quorum was established.

II. New Business Cont.

Member Allen moved to reconsider the amendment of 8 AAC 45.083. Member Steele seconded the motion. The motion passed unanimously.

The Board discussed the dissatisfaction of some members with the lack of collaboration between the MSRC and the Board. Director Marx explained the plan for the upcoming

year, which includes the Board bringing issues to the attention of the MSRC, followed by a joint MSRC/Board meeting. Director Marx also provided a more thorough explanation of the amendment.

Member Kester moved to adopt the amendment of 8 AAC 45.083. Member Talbert seconded the motion. The Board voted and the motion passed unanimously.

Break 10:18am – 10:30am

III. Training Session: Kathleen Frederick, Chief Administrative Law Judge

Kathleen Frederick, Chief Administrative Law Judge with the Office of Administrative Hearings, provided training on Board Member Ethics and Code of Conduct.

Lunch 12:18pm-1:46pm

Member Talbert was excused after lunch.

IV. Case Summaries from the Alaska Supreme Court and the Appeals Commission

Chief of Adjudications Amanda Eklund reviewed recent decisions from the Alaska Supreme Court and the Alaska Workers' Compensation Appeals Commission.

V. New Business Cont.

Member Kester requested to move the date of the October Board meeting. The board discussed and Director Marx suggested that the issue be revisited at the May meeting.

Director Marx reminded the board members that the next board meeting is May 11-12, 2017. This will be the Division's annual in-person meeting as allowed under the Governor's travel restrictions. The Division will also have an in-person joint MSRC/Board meeting, tentatively scheduled for August 4, 2017. Then, the fall Board meeting on October 5-6, 2017 will be by teleconference/videoconference.

Motion to adjourn was made by Member Allen. Member Cline seconded the motion. The motion passed unanimously.

Meeting Adjourned 3:16pm