

Workers' Compensation Board

Meeting Minutes

October 6, 2016

Thursday, October 6, 2016

I. Call to order

Workers' Compensation Director Marie Marx called the Board to order at 9:03 am on Thursday, October 6, 2016, 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
David Kester	Sarah Lefebvre	Ron Nalikak
Donna Phillips	Amy Steele	Mark Talbert
Rick Traini	Pat Vollendorf	Robert Weel
Lake Williams		

Member Duquette arrived in the afternoon and Member Howdeshell was excused.

A quorum was established.

Director Marx introduced senior staff present.

IV. Agenda Approval

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

V. Approval of Meeting Minutes

A motion to adopt the minutes from the May 12-13, 2016 regular Board Meeting was made by Member Hutchings and seconded by Member Kester.

- Cline is listed as attending on May 13th, but she was excused.
- Lefebvre name spelled wrong

Corrections were noted and the minutes as corrected were adopted and accepted by unanimous vote.

VI. Director's Report

Director Marx provided a brief summary of the public hearings held by the Medical Services Review Committee (MSRC) workgroup in July and August.

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.

Chief of Adjudications 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.

VII. Old Business

There was no old business.

Break 10:00am-10:15am

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

Sheri Ryan – Alaska Chiropractic society

John Pairmore – Pairmore & Young Synergy Chiropractic, and Alaska Chiropractic Society

Todd Curzie – Curzie Chiropractic, and Alaska Chiropractic society

Heather Johnson – Advocate for Curzie Chiropractic

Sonya Bowery– North Pole Physical Therapy

Steve Constantino – Attorney

Dr. Daniel Holt – Board of Chiropractic Examiners

Barbara Williams – Alaska Injured Workers Alliance

IX. New Business

1. 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 Hutchings moved to approve the amendment of 8 AAC 45.083 and the guidelines by reference. Member Kester seconded the motion.

Director Marx began discussion comparing chiropractic rules of 2010 vs current CMS. Carla Gee from Optum was available telephonically for technical questions. Director Marx explained that the MSRC's confirmed its recommendation to adopt CMS billing and payment rules, and that issues may be brought to the MSRC to be considered as a state-specific "carve out."

Lunch Break 12:05pm-1:35pm

Roll call conducted and quorum confirmed. Julie Duquette was present, and Members Collins and Phillips arrived late.

Director Marx described the new medical fee schedule process: the MSRC makes its recommendations, then the recommendations go to board for consideration of approval and adoption of the recommendations as regulations. The Board listened to a snippet of a recording from the August 12, 2016 MSRC meeting in which Dr. Pfeifer,

who fills the Alaska Chiropractic Society seat on the MSRC, presented requests for “carve outs” of certain CPT codes, which the MSRC then accepted and recommended as state-specific “carve outs.”

Director Marx Director Marx called for the question. The Board voted and the motion passed on a 14 to 2 vote, with members, Austin, Cline, Collins, Duquette, Ellis, Hutchings, Kester, Lefebvre, Nalikak, Steele, Talbert, Vollendorf, Weel and Williams voting in favor, members Allen and Traini voting against.

2. Amend 8 AAC 45.082(c), relating to an unlawful change of physician. The intent of amendment is to address issues that have arisen regarding the Board’s consideration of records flowing from an unlawful change of physician. Member Hutchings moved to approve the amendment of 8 AAC 45.082(c). Member Kester seconded the motion. After discussion, the Board unanimously agreed to table this issue until the next board meeting.
3. 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 Kester moved to approve the amendment of 8 AAC 45.092. Member Cline seconded the motion. Member Lefebvre pointed out a few errors. Director Marx called for a break to make corrections.

Break 3:05pm-3:20pm

During the break, Director Marx made additional changes, per member Lefebvre’s comments. Kester motioned to accept the amendments. Member Cline seconded the motion. 8 AAC 45.092, as amended, passed unanimously.

4. 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 Lefebvre moved to approve the amendment of 8 AAC 45.186(a)&(c). Member Talbert seconded the motion. The motion passed unanimously.
5. Repeal 8 AAC 45.114(5), 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 Kester moved to approve the repeal of 8 AAC 45.114(5). Member Lefebvre seconded the motion. The motion passed unanimously.
6. Amend 8 AAC 45.054, relating to discovery while simultaneously repealing 8 AAC 45.175 relating to subpoenas. The intent of amendment is to address the great difficulty the Division has been having obtaining records from an employer in failure to insure cases. Member Kester moved to approve the amendment of 8 AAC 45.054 and repeal of 8 AAC 45.175. Member Lefebvre seconded the motion. The motion passed unanimously.

7. Member Steele raised the issue of the large number of C&R denial hearings due to “previously rehabilitated” language in 8 AAC 45.900(j). In 2011 the board changed the definition of previously rehabilitated. Now the Board is seeing many injured workers come before the Board who are injured and unable to return to work, but they are being deemed ineligible for reemployment benefits because of prior injuries which had been settled. After discussion, the Board agreed to table this issue until the next board meeting, by which time a new Reemployment Benefit Administrator will have been appointed.
8. Member Steele raised a concern that SIU cases were being settled after the Board had issued a civil penalty. Chief Investigator Rhonda Gerharz explained that this has only occurred during an appeal of the case.
9. Director Marx reminded the Board members the next board meeting is January 12-13, 2017.

Meeting Adjourned 4:43pm