

**MINUTES OF THE ILLINOIS WORKERS' COMPENSATION COMMISSION
WORKERS' COMPENSATION ADVISORY BOARD MEETING
4500 S. SIXTH STREET FRONTAGE ROAD, SPRINGFIELD, IL
HELD ON JULY 25, 2012 at 1:00 PM**

Present at the meeting were:

Chairman Mitch Weisz, ex officio member

Participating via Teleconference were:

Mitchell Abbett – Holten Meat Inc.

Richard Aleksy – Corti, Aleksy, and Castaneda

Aaron Anderson – Painters District Council #30

John Carpenter – Chicagoland Chamber of Commerce

Michael Carrigan – Illinois AFL-CIO

Mark Denzler – Illinois Manufacturers' Association

Phil Gruber – International Association of Machinists and Aerospace Workers

David Halffield – Sears Holding Management Company

William Lowry – Nyhan, Bambrick, Kinzie, and Lowry

Mark Prince – Prince Law Firm

Sean Stott – Laborers' International Union

David Vite – Illinois Retail Merchants Association

IWCC staff present at the meeting was:

Ronald Rascia, General Counsel

IWCC staff participating via teleconference was:

Kimberly Janas, Secretary of the Commission

Chairman Mitch Weisz called the meeting to order at 1:03 pm and noted that a quorum was present. Chairman Weisz inquired whether any members had any additions or corrections to make regarding the minutes of the April 23, 2012 meeting. No additions were suggested. Mitch Abbett moved to approve the minutes of the April 23, 2012 meeting. The motion was seconded by multiple parties telephonically and the minutes were unanimously approved as amended. Chairman Weisz then informed the board to respond to the open question at the April meeting by Mr. Vite. Chairman Weisz advised that all money borrowed by the Governor's office per the legislation has been paid back into all IWCC funds and that no interest was paid on the money per the terms of the Finance Act.

The Chairman next noted that the arbitrator review program was completed. Commissioners observed and reviewed those 11 arbitrators up for reappointment next. Over 330 surveys were collected and compiled from attorneys.

The 11 Arbitrators due up for reappointment are as follows:

- Peter Akemann
- George Andros
- Gerald Granada
- Douglas Holland
- Jacqueline Kinnaman
- Nancy Lindsay

- Stephen Mathis
- Neva Neal
- Peter O'Malley
- Maureen Pulia
- Brandon Zanotti

The Chairman noted that the fate of the 11 Arbitrators with expired terms is now in the hands of the Governor's Office. All Arbitrators have been interviewed by the Governor's Office. Member Vite advised that he recently delivered a letter to the Governor's Office seeking that the Worker's compensation Advisory Board be involved in the process, by way of allowing the WCAB to tender recommendations on reappointments to the Governor. The appointment process has a deadline of August 31, 2012 per statutory mandates. Continuing on the subject of Arbitrators, the Chairman explained the process of conversion of Arbitrators to State appointees from Commission employees. Once confirmed by the Senate, the IWCC will be required to pay all applicable accrued sick and vacation time. The estimates are as follows: Year one – \$188,000; Year 2 – \$100,000; and Year 3 - \$127,000.

The next topic presented concerned the document destruction process. In April 2012, 1700 boxes of outdated case files located at the Hollander warehouse were destroyed. 1700 additional boxes are set for destruction in August 2012. Once the August process is complete, the IWCC estimates that approximately 96,000 pounds of outdated records will have been destroyed. The first round of destruction involved pre 1983 files. The current round is through 1988. The next round will concern 1987 through 1993. 1,000 boxes of onsite documents were shipped to the storage facility. Currently the physical configuration of the 8th floor Commission space is being altered. The public computer area is being relocated as is the Insurance Compliance unit. The former Insurance Compliance area may be considered for a possible return to Central Management Services to reduce the IWCC's rent costs at the J.R. Thompson Center. The Information Department will be relocated in the future for better public access. The Information department has experienced a significant reduction in calls since the enhancement to the mainframe case information system, which allows data base search by name and date of birth. The Chicago office has a 48% decrease in call volume while Springfield noticed a 98% reduction. Tracking for the IWCC website is showing a 1,100 – 1,200 hit per day volume.

The Chairman advised that Carolyn Parks, Executive Director of the Commission will take on additional duties by overseeing the Information department.

The NCCI State Advisory Forum is set for September 13th, at the Hyatt Regency O'Hare. All advisory board members will receive an invitation. Due to a conflict with the IWCC Judicial Training set for September 12th and 13th, NCCI has agreed to provide IWCC executive staff with a private presentation.

The Chairman advised that the filing system currently used – SMEAD- is no longer being supported by updates. The IWCC is discussing a possible new vendor.

Turning to judicial reassignments the Chairman advised the Board of the following Arbitrator moves:

- a) Carlson to Zone 6 replacing Fratianni
- b) Fratianni to Zone 3 replacing Akemann
- c) Akemann to Zone 2 to replace Gallagher
- d) Gallagher to Zone 1 to replace Simpson
- e) Simpson to Chicago to replace Carlson

A target on red line case docket management is being instituted by the Chairman. In the next 6 – 12 months, Arbitrators are instructed to reduce redline cases to less than 20% of their docket. Long term the target will be

less than 18%.

The New Lennox hearing site, temporarily replacing Joliet, has been greatly received by the bar. The 2013 arbitration calendar is currently being drafted. Kewanee will be eliminated and Rock Island will return to the zone.

The Chairman also discussed Commissioner reviews as it relates to Commissioners often taking testimony for another member. The reality of the process is such that a transcript often needed for ultimate resolution so efficiencies are realized. It has been suggested to the Commissioners that 19(b) remands specify the Arbitrator by name for docket management purposes. Hardships to the parties can be resolved by the Chairman's reassignment.

The Chairman advised of an additional Deputy Legal Counsel joining the Commission. Dennie Michelle Zankel joins the Commission from Swanson, Martin, and Bell and will assist in the RAF administration as well as litigation matters. Dennie will also work with Kim Janas on preparing an RFP as it relates to RAF management of state employee cases. RAF fiscal procedures are now complete.

The next topic related to the Transcript Fund. This legacy account was historically tracked on index cards. The funds collected on transcript deposits for circuit court review is archaic. A new account system going forward has remediated several issues. The Chairman advised that the FY2013 budget was approved as submitted.

The Insurance Compliance unit continues to expand enforcement efforts. According to Mr. Ruiz, manager of Insurance Compliance, there are currently 31 claims for its Injured Workers' Benefit Fund. He anticipates payout may approximate 50 cents on the dollar. As for citation activity, Mr. Ruiz reported to the Chairman 281 citations have been issued with \$88,000 in fines collected. In addition, 176 employers were brought into compliance which affected 937 employees.

The IT Department has undergone a transition with a transfer of control of the IWCC network to Central Management Services. The IWCC has asked CMS to approve the update of our public terminals.

The annual report has been finalized. The electronic version is available while the printer completes bound copies.

The Chairman next discussed self – insurance matters. Self – insured Employco (workplace solutions) is in bankruptcy. General Counsel has been advised that a significant exposure to the fund, the GF structures lose, may be indemnified by Travelers Insurance. IWCC Self-insurance awaits verification of this coverage. A more recent bankruptcy filing by Patriot Coal, formerly known as Peabody coal has a limited exposure to the fund as Patriot Coal has lost self-insurance status in 2007. There are no significant claims. Self-insureds are being surveyed to obtain feedback on the effects of the HB1698 reforms.

In the subject of audits, the Chairman advised at the management audit and FCIAA audit are now complete. It was noted that the FCIAA audit was completed timely on May for the first time. Annual audits for this year include the Self-insurance Insurance Security Fund.

The last major topic was on the subject of proposed rule changes. Kim Janas, Secretary of the Commission, outlined the 3 proposed rule changes.

- 1.) Disqualification, recusal and substitution of Arbitrators – this was in response to the Resolution 131 audit which indicated that our rules were inconsistent with the Illinois Code of Judicial Conduct now applicable under HB1698. The proposed rule mirrors Rule 63 of the judicial Code and the set substitution procedure mirrors civil rules of practice. It was reported that this rule was recommended for filing with JCAR by the Commission at the July 24, 2012 meeting.
- 2.) The second rule presented involves a restructure of the Commission Review Board which primarily functions as an adjudication system for complaints against Arbitrators and Commissioners. Current rules are outdated and were the suspect of audit findings due to lack of meeting protocols. The current 15 day rule for meeting upon receipt of a complaint is unmanageable.
- 3.) The final and most controversial rule proposal confronts physician dispensed drugs. The Medical Fee Advisory Board voted against a recommendation to the Commission to forward the rule to JCAR at the July 24, 2012 meeting. The Commission hearing the same testimony and reviewing the presented exhibits voted 9-1 in favor of submission of the proposed rule to JCAR at the July, 24 2012 Commission meeting. In its most concise description the proposed rule address the average wholesale price issue as it relates to reimbursement. The proposed rule identifies AWP to be used as that of the manufacturer and not the pricing of the repackaging entity. The Chairman indicated the issue involved in repackagers obtaining their own NDL code. The proposed rule identifies the appropriate price to be the manufacturers AWP. The Chairman also noted that several other states have adopted a similar approach. Underscoring the issue are concerns over patient safety, access to care, and efficiency of treatment. Various members had questions on the topic. Mr. Stott inquired as to whether any price tag was calculated as to this possible change in pricing. The Board was advised that NCCI could not quantify savings at this time. NCCI advised that they would provide information during the JCAR process. Mr. Aleksy observed that the problem seems to have risen dramatically and inquired about the extent of the issue as well as questions about efficiency of treatment. The Chairman responded with information regarding entities like Stone River which undertakes payment of these transactions. Mr. Vite identified pharmacies as members of his organization and related that the legislative intent of HB 1698 was not to eliminate physician dispensary but to identify the proper AWP. The Chairman opined as to the practicality of allowing physician physicians access to the pharmacy database for safety reasons.

Finally, Mr. Lowry asked for an update on the reappointment process of the 11 Arbitrators whose terms expired this year. The Chairman responded with a reference to Mr. Vite's letter previously mentioned. Mr. Vite clarified that the letter sought recommendation input from the entire WCAB and not various representative entities.

The Chairman advised of the next quarterly meeting date as October 24, 2012 at 1:00 p.m. in Chicago. Mr. Aleksy moved to adjourn which was seconded by Mr. Abbett and a host of others which was unanimously carried to adjourn the meeting. The meeting adjourned at 2:00 p.m.