

Workers' Compensation Board
Meeting Minutes

October 3-4, 2019

Thursday, October 3, 2019

I. Call to Order

Workers' Compensation Director Grey Mitchell called the Board to order at 9:01 am on Thursday, October 3, 2019 in Anchorage, Alaska.

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

Brad Austin	Pamela Cline	Chuck Collins	Bob Doyle
Julie Duquette	Sara Faulkner	Bronson Frye	Jacob Howdeshell
Sarah Lefebvre	Donna Phillips	Nancy Shaw	Diane Thompson
Lake Williams	Kimberly Ziegler		

Members Randy Beltz, Justin Mack, Rick Traini and Robert Weel were absent. Quorum was established.

Director Mitchell introduced senior staff present.

II. Agenda Approval

A motion to approve the agenda was made by member Austin, and seconded by member Shaw. Due to a scheduling conflict, Director Mitchell requested that New Business be moved to allow for the ethics presentation to begin at 4:00pm on October 3, 2019. Member Austin amended his motion as requested, and member Shaw seconded. The agenda as amended was approved by unanimous vote.

III. Approval of Meeting Minutes

A motion to adopt the minutes from the May 2-3, 2019 regular Board Meeting was made by member Doyle and seconded by member Howdeshell. The minutes were adopted without objection.

IV. Director's Report

Acting Chief of Adjudications Ringel reviewed the list of board designees. Chief Ringel noted that Anchorage Workers' Compensation Officer Sam Woolfenden was replaced by Jan Carolyn Hardy. Member Austin moved that the Board approve the amended list of Board Designees, and member Lefebvre seconded. The motion passed unanimously.

Director Mitchell noted changes to the 2020 Hearing Calendar. A motion to adopt the revised 2020 hearing calendar was made by member Doyle, and seconded by member Collins. Member Lefebvre suggested that January 2nd not be included as a hearing day, but did not make a motion. The motion to adopt the revised calendar passed without objection.

Break 9:36am-9:47am

Director Mitchell provided staffing updates and provided legislative updates.

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

Beni Labrada – representing AMLJIA

- Has concerns with the EDI sequencing requirements for compensation reporting.
- Reminded the Board that insurers/adjusters are penalized when compensation is not timely reported, and stated that EDI sequencing requirements can make it difficult to file timely.
- Requested that sequencing requirements be relaxed.

Duane Gurlac – representing self

- Did not have any public comment.

McKenna Wentworth – President of Wilton Adjustment Services and Workers’ Compensation Committee of Alaska

- Voiced support for MSRC efforts.
- Does not support amendment of 8 AAC 45.415, as she felt it removes credentialing requirements for out of state rehabilitation specialists.
- Requested that the Division explore implementing a registration system for adjusters, to ensure that adjusters are following the resident adjuster requirements.
- Encourages the Board look into Utilization Standards.
- Encouraged the Board to look into certification for non-attorney representatives.

Barbara Williams – representing Injured Worker’s Alliance

- Supports regulatory proposals.
- Opposes “value book-based medicine.”
- Feels there is not equal access to attorneys between employees and employers.
- Thanked staff for handling a recent ADA issue very well.
- Feels that injured workers need to be better supported by the board.
- Cited *Drewry v. Jones*.
- Suggested that the State implement a training program for non-attorney representatives.
- Feels non-attorney representatives should be allowed to be compensated for the time they spend assisting injured workers.

Samantha Atlas – representing self

- Claims that her phone calls are not returned by the board.
- Suggested that the board proactively call injured workers to ask if they need assistance.

Joel Webb - representing Risk Manager for Colaska

- Expressed concerns with Medical Fee Schedule.
- Expressed frustration with how employees can be caught in the system when medical opinions are disputed.
- Requests that the board explore options for standard care metrics to sway medical providers from excessive treatment.
- Gave example of three similar shoulder injuries with widely varied total medical costs.

Heather Johnson - Patient Advocate

- Claims Providence Hospital has conflicts of interest with attorneys and case workers.
- Provided several case examples.
- Stated injured workers don't choose to be injured and should not be treated as such.

Eric McDonald - representing self

- Does not support evidence-based treatment guidelines.
- Has not been successful finding an attorney to represent him.

Tanya Tresino - representing Arctic Slope Regional Corporation

- Thanked the MSRC for the work they have done.
- Supports the Medical Fee Schedule.
- Gave examples of doctors who are encouraging individuals to fraudulently state that injuries are work related, so the Doctor may be paid at the Workers' Compensation Fee Schedule rate because it is higher than private insurance.
- Feels the Workers' Compensation fee schedule should be consistent with fees for non-Workers' Compensation medical care.

Jennifer White - representing self

- Advocated for assistance for disabled injured workers.

Bill Wise - representing Wise Physical Therapy

- Expressed concern that the four Lay members of the MSRC have a background in insurance industry, and feels that the MSRC is too industry heavy.
- Opposes the Medical Fee Schedule.
- Feels that physical therapists should be paid at 100% of the Physician Maximum Allowable Reimbursement.
- Expressed concern that special interests are driving the Fee Schedule.
- Responded to comments from Tanya Tresino - Explained that doctors will repeatedly ask if an injury is work related to avoid billing errors which can take many hours of work to correct.

Sandy Travis - representing self

- Opposes evidence-based treatment guidelines.
- Claims that many doctors refuse to see workers' compensation patients.
- Feels that injured workers do not have fair access to care due to medical providers having agreements with employers.
- Ms. Travis also provided written public comment.

Break 11:18 – 11:35

VI. Old Business

Amend 8 AAC 45.415(3)(A), relating to the definition of rehabilitation specialist. Director Mitchell provided background on this proposal. Member Austin moved to adopt the amendment of 8 AAC 45.415(3)(A). Member Shaw seconded the motion. The motion passed on an 11 to 2 vote, with members Austin, Collins, Faulkner, Howdeshell, Lefebvre, Mack, Phillips, Shaw, Thompson, Williams, and Ziegler voting in favor, members Cline and Doyle voting against, and member Duquette abstaining.

Amend 8 AAC 45.083(a), 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 recommendations. Member Collins moved to adopt the amendment of 8 AAC 45.083. Member Lefebvre seconded the motion. Director Mitchell summarized the changes between the 2019 and proposed 2020 Alaska Medical Fee Schedule. Member Phillips asked that the topic of treatments outside the scope of practice be added to the list of MSRC Action Items, to be revisited when they meet to make recommendations for the 2021 Fee Schedule. Director Mitchell called the question. The motion passed on a 13 to 1 vote, with members Austin, Cline, Collins, Doyle, Duquette, Faulkner, Howdeshell, Lefebvre, Mack, Phillips, Thompson, Williams, and Ziegler voting in favor, and member Shaw voting against.

Lunch Break 12:20pm-1:30pm

VII. New Business

Ken Eichler of Official Disability Guidelines (ODG) provided a presentation on evidence-based treatment guidelines.

Break 3:45pm-3:50pm

VIII. 2018 Annual Report

Dani Byers, Acting Workers' Compensation Officer II, reviewed SIME statistics.

IX. Board Training

Assistant Attorney General Maria Bahr provided ethics training to the board members.

Meeting recessed 4:56 pm

Friday, October 4, 2019

I. Call to Order

Director Mitchell resumed the Alaska Workers' Compensation Board meeting at 9:01am on Friday, October 4, 2019, in Anchorage, Alaska. The following Board members were present

Brad Austin	Pamela Cline	Chuck Collins	Bob Doyle
Julie Duquette	Sara Faulkner	Bronson Frye	Jacob Howdeshell
Sarah Lefebvre	Donna Phillips	Diane Thompson	Lake Williams
Kimberly Ziegler			

Director Mitchell noted that member Nancy Shaw was excused. Members Randy Beltz, Justin Mack, Rick Traini and Robert Weel were absent. Members Lefebvre and Phillips arrived after roll call. Quorum was established.

II. 2018 Annual Report Continued

Alexis Newman, Administrative Officer, provided an overview of the various budget components within the Division, the FY19 budget performance, and the FY20 budget performance year-to-date. In response to public comment regarding compensation reporting through Electronic Data Interchange (EDI), Ms. Newman also provided an overview of the Division's EDI efforts. The board expressed that they would like to put forth a Board Resolution, encouraging the Department and Division to increase efforts to address the reporting issues that claim administrators are experiencing. The director will draft language for approval at the January 2020 Board meeting.

Velma Thomas, Program Coordinator, reviewed statistics from the Division's 2018 annual report, a compilation of statistics and benefit data obtained from insurers and self-insured employers pursuant to AS 23.30.155(m). Ms. Thomas also reviewed the funds and programs administered by the Division: the Benefits Guaranty Fund, the Fishermen's Fund, the Second Injury Fund, the Self-Insurance Program, and the Proof of Coverage Program.

Break 11:06am-11:17am

Rhonda Gerharz, Chief of the Special Investigations Unit (SIU), gave an overview of the SIU's performance.

Stacy Niwa, Reemployment Benefits Administrator, reviewed the performance of the Reemployment Benefits Program.

Ron Ringel, Acting Chief of Adjudications, reviewed the performance of the Adjudications Section.

III. New Business Continued

Member Faulkner brought forth a question regarding insurance requirements for revocable trusts. Under the new requirements established by HB79, it is unclear if revocable trusts are required to carry workers' compensation insurance. After some discussion, Director Mitchell stated he would review the issue and seek an opinion from the Department of Law.

Member Collins motioned to establish a working group to investigate evidence-based treatment guidelines, to include two members of the Workers' Compensation Board, one representing industry and one representing labor, and two members of the Medical Services Review Committee, one representing physicians and one representing insurance. The intent of the group would be to address the question: Would this work for Alaska; and to bring recommendations before the Board at the January 9-10, 2020 meeting. Member Thompson seconded. Director Mitchell called the question and the motion passed unanimously.

Member Williams suggested that the Board explore options to allow for non-attorney representatives to receive compensation. This would require a statutory change. Acting Chief Ringel suggested providing training for non-attorney representatives, or possibly creating training materials.

Director Mitchell reminded the Board members the next regular board meeting is January 9-10, 2019. The meeting will be by teleconference for those outside of Anchorage.

Motion to adjourn was made by Member Williams at 1:01pm. Member Doyle seconded the motion. The motion passed unanimously.

Meeting Adjourned 1:01pm