

**MINUTES OF THE ILLINOIS WORKERS' COMPENSATION COMMISSION
WORKERS' COMPENSATION ADVISORY BOARD MEETING
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH STREET
CHAIRMAN'S CONFERENCE ROOM
HELD ON OCTOBER 24, 2012 at 1:00 PM**

Present at the meeting:

Chairman Mitch Weisz
Richard Alesky
Mitch Abbett
Michael Carrigan
John Carpenter
Aaron Anderson
William Lowry

Not present at the meeting:

Phil Gruber
David Halffield

Present by telephone:

Mark Denzler
Sean Stott
Mark Prince

IWCC staff present at the meeting were:

Kimberly Janas, Secretary of the Commission
Ron Rascia, General Counsel
Dennie Michelle Zankel, Deputy General Counsel
Lola Dada-Olley, Deputy General Counsel

Chairman Mitch Weisz called the meeting to order and noted that a quorum was present. There was a motion by Mr. Lowry, seconded by Mr. Alesky and unanimously carried to approve the minutes from meetings held on July 25, 2012, July 31, 2012, and August 1, 2012.

Next, Chairman Weisz updated the advisory board on the new employees that had joined the Commission. Mary Jane Adkins was hired as a staff attorney performing an analysis of arbitrator decisions. Chairman Weisz explained that Adkins is looking for trends that can help detect clusters of workers' compensation claims, such as what occurred at the Menard prison facility. She will also be reviewing and summarizing settlement contracts that have been entered and approved by the Commission after September 1, 2011 to see how the settlements have been impacted by the provisions of HB 1698. In addition, she will be performing the arbitration call in Chicago when any arbitrator is absent.

Chairman Weisz also announced the new hire of Amiel Harper, who is working with the Insurance Compliance Unit, Self Insurance Program, and the Rate Adjustment Fund.

The dental fee schedule has been published on the Commission's website. This was one of the requirements of Public Act 97-18. Replacements of the two vacant arbitrator positions have not been made yet, and current arbitrators are effectively filling-in to cover the vacancies.

The Commission would also examine ways to streamline the verification of non-insurance that is currently performed by the Insurance Compliance Unit. The Commission is seeking the input of petitioners' attorneys on possible ways to change this process, as these attorneys need the certification to proceed in cases naming the Injured Workers Benefit Fund. The Manager of the Insurance Compliance Unit, Robert Ruiz, and Secretary of the Commission, Kim Janas, will be coordinating this effort.

Chairman Weisz also stated that the Commission is seeking to hire a part-time adjuster for the workers' compensation claims administered by the Self Insurance Program. The Commission has retained the prior adjuster, Greg Davis, on a 75-day contract in the interim. Amiel Harper has already been trained by Davis on these responsibilities as well.

The mainframe programmer position has been posted on Dice.com, which is a national IT job posting website, and in newspapers in the Central Illinois area. Chairman Weisz stated the Commission is encouraged by the responses received thus far and hopes to hold interviews soon.

Next, Chairman Weisz discussed whether the advisory board needs to address drug compounding and the use of such drugs for the treatment of work-related injuries. With the recent news reports of fungal meningitis resulting from unhygienic compounding practices, there has been an increased focus on compounding in the workers' compensation arena.

Mr. Vite asked the Chairman to further explain the need to examine drug compounding. Chairman Weisz responded that the two issues regarding compounding that the Commission staff will be monitoring are safety concerns regarding compounding and the pricing structure for compounded drugs.

Ms. Janas then provided a report on the Commission's rules and the proposed legislative changes for the 98th General Assembly. Ms. Janas announced that the rule changes involving the updates to the Medical Fee Schedule and rules governing the testing for drugs and alcohol will take effect once accepted by the Secretary of State Index Department. In addition, the Joint Committee on Administrative Rules will be meeting in Chicago on November 13th. The Commission rules that are on this meeting agenda include the updates to the rule on the disqualification of arbitrators and commissioners; updates to the Commission Review Board procedures; and the rule involving repackaged medication filled and dispensed outside of a licensed pharmacy.

Rules related to electronic billing of workers' compensation medical claims have not yet been filed. Pursuant to Public Act 97-18, the Department of Insurance is required to promulgate these rules. Commission staff have been providing the Department with input and suggestions for this rule. The Department is still working on a final version to be submitted for approval.

Finally, Ms. Janas informed the advisory board that last week she and Chairman Weisz had met with the legislative staff of the Governor's office regarding proposals to change the Workers' Compensation Act in order to address the operations of the Commission. These legislative proposals include the following

Improvements to RAF Benefits Program – The Commission recommends that the RAF provision of the Act be amended to require that eligible individuals apply with the Commission to receive their RAF payments. This change would not preclude the payment of past-due benefits if an eligible person failed to apply to receive RAF benefits.

Rather, the goal is to remove the audit finding because the Commission is currently required to find and identify all eligible participants.

Statutory Gaps in RAF Assessment Process – There are statutory gaps in the RAF provisions of the Workers’ Compensation Act related to the way that the program is funded, posing a potential threat that the Commission may be unable to levy timely assessments to support the payments and obligations of the RAF program. Although the Commission is not currently recommending additional legislative changes to the RAF program, it should be noted that because the RAF benefit is tied to State Average Weekly Wage rather than cost-of-living, at a future date, the current assessment provisions set forth in Section 7 of the Act will likely no longer be sufficient to fund RAF liabilities at some point in the future.

Elimination of Certified Record Calculation – Another potential legislative change to eliminate several audit findings and reduce the expenditure of unnecessary resources at the Commission is to amend Section 19(f) of the Act to eliminate the statutory fee requirement for the probable cost of the record and the archaic per page calculation of this record when a case is appealed by a party from the Commission to the circuit court. This process does not add any necessary revenue for the Commission and accounting principles require that at least two fiscal staff analysts are involved with the processing of these checks for the certified receipt.

Posting of the Handbook on the Commission’s Website – Section 15 of the Workers’ Compensation Act currently requires that the Commission upon receipt of first report of injury shall determine that a copy of the handbook has been forwarded to the injured employee or his beneficiary. The first report of injury addresses are typically unreliable and the Commission feels that removing this requirement and instead requiring the handbook to be posted on the Commission’s website would be a better use of State resources.

Notification Period for the Injured Worker Benefit Fund – The Workers’ Compensation Act allows an injured employee 90 days after the receipt of an award to notify the Commission in order to receive benefits from the IWBF. Because of this 90-day period, which extends past the end of the fiscal year, the Commission is unable pay the benefits with the proceeds of fines collected in the same fiscal year as the award, which is specifically required under the Workers’ Compensation Act. Thus, a potential legislative solution is to change the 90-day period to 30 days, which would allow the Commission to pay out the IWBF payments during the lapse period of the fiscal year.

Correcting Drafting Inconsistencies in Section 14 regarding Arbitrator Qualifications – The final recommendation for a legislative change to the Workers’ Compensation Act is to rectify some drafting inconsistencies in Section 14 of the Act, which was amended significantly by HB 1698. There was a provision added to Section 14 by HB 1698, which stated that the Arbitrators shall be appointed pursuant to the provisions of Section 14 “notwithstanding any provision of the Personnel Code.” However, the drafters of HB 1698 failed to remove a portion of Section 14 which provides that all Arbitrators “shall be subject to the provisions of the Personnel Code.” These contradictory statements can only be reconciled through a legislative change to clarify that the Personnel Code does not apply to the Arbitrators, who are now appointees of the Governor, confirmed through advice and consent of the Senate.

Upon conclusion of the presentation by Ms. Janas, Mr. Carrigan stated that he would need to see the actual language in order to sufficiently analyze it before providing any feedback to the Commission. Mr. Vite also agreed that the actual language would have to be reviewed before advisory board members or their organizations could issue any formal comments on the proposed legislative changes from the Commission. Chairman Weisz concluded the discussion by saying that these are proposals that will allow the Commission to operate more efficiently and are not meant to be advantageous to either labor or business interests. Ms. Janas stated that there was not a final version of these changes drafted as of that time, as she is awaiting input from the Governor’s office. Once drafted, she would be happy to circulate any language. Chairman Weisz also

offered that any other legislation changes addressing the operations of the Commission should be brought to his attention.

Finally, Mr. Carrigan stated that the proposed April 17, 2013 meeting date for the advisory board may conflict with the General Assembly session schedule. If the General Assembly is in session on that date, Mr. Carrigan suggested that the meeting be held in Springfield instead of Chicago. Chairman Weisz stated that he was open to adjusting the meeting schedule and locations if necessary.

There was a motion by Mr. Alesky, seconded by Mr. Vite, and unanimously carried to adjourn the meeting.