

**Minutes of Council of the Workers' Compensation Section
December 5, 2014**

Present at Meeting:

J. William Housefield
Chris Rabideau
Ella Parker
Tim Esper
Rosa Bava
John Combs
Matt Conklin
Dennis Flynn
Phil Frame
Andrea Hamm
Jayson Chizick
Danielle M. Brown—State Bar Liaison on behalf of our Section

Chairperson Bill Housefield called the meeting to order at 12:20 pm to address the following Agenda and introduce Ms. Brown:

- 1. Secretary's report**
- 2. Treasurer's report**
 - a. Reimbursement for Phil/Andrea for Breakfast expenses**
 - b. Cost of Lunch for Council**
 - c. Honorarium for speakers**
- 3. Director's report**
- 4. MCAC report**
- 5. Magistrate's report**
- 6. Old business:**
- 7. Choice of site for 2015 Annual Meeting**
 - a. Speakers/Topics**
 - b. Subpoena, copying charges, Heath Service Rules (JWH)**
 - c. Proposed Administrative Rules (status) person(s) interested in monitoring?**

d. 1 to 5 year plan: any ideas for discussion?

8. New Business:

1. Upon Motion by Member Flynn, seconded by Member Bava, the Council approved the **Minutes** from the November 7, 2014 meeting.
2. Member Esper submitted the **Treasurer's Report**. The Section had \$74,306.62 in funds as of September 30, 2014. Upon motion by Member Parker, and seconded by Member Hamm, the Treasurer's report was approved.
 - a. Reimbursement to Member Frame/Hamm for Breakfast Expenses: deferred at request of Member Frame until they total receipts.
 - b. Cost of Lunch for Council: Member Parker moved, seconded by Member Chizick that we pay for the cost of the lunch provided for the Council members after the annual meeting. By unanimous vote, the motion passed.
 - c. Honorarium for Speakers: Council addressed the issue of an honorarium for our vocational speakers at the general meeting today. Upon motion by Member Parker, seconded by Member Bava, and with a friendly amendment by Member Chizick, the council voted unanimously to offer the two vocational speakers an honorarium of their choice: \$100 if they would like to submit a W9 to the state or a \$25 gift card to Starbucks.

Later during council's meeting a question arose as to whether the State Bar of Michigan had a handling fee or whether our entire dues went into our account. Ms. Danielle Brown agreed to follow up on that question.

3. Kevin Elsenheimer submitted the **Director's Report** during the annual meeting before the council meeting. Director Elsenheimer apologized for missing the annual meeting last summer due to an unavoidable conflict.

Director Elsenheimer indicated that the trend is continuing with fewer cases being filed and fewer redemptions being heard. He discussed the proposed MAHs and Opioid rules and his expectation that they would become final by yearend.

Director Elsenheimer did not foresee any major changes to the statute. However, he is still considering Evidence Based Medicine proposals to remain competitive with other states. Director Elsenheimer expected his committee to have a final proposal to him by

yearend and indicated that he would consider our input. He has not seen any reports or studies about the percentage of re-injuries to workers who return to work too soon under Evidence Based Medicine rules.

Director Elsenheimer also addressed a question from a member about whether Michigan was working with the Federal Government about the misclassification of certain employees as independent contractors. Director Elsenheimer indicated that we would cooperate but was unaware of any specific group that had requested that information.

One member wanted to know if the Agency kept a scorecard regarding wins and losses and why claimants were losing so many cases in Michigan. Director Elsenheimer indicated that he was unaware any scorecard but given the clarity in our laws, we should expect that a large percentage of the cases are resolved by settlement. Director Elsenheimer would be glad to look at any analysis the member had but expects our Magistrates and Commissioners to deal with all cases appropriately.

4. Mr. Wyatt was present on behalf of the MCAC. He indicated that the Commission averages 80 applications per month, which is trending up a little. Most continue to be unemployment review decisions.

Mr. Wyatt advised that Commissioner Greg Przybylo resigned for private employment purposes and could not deliberate on any decisions during his last few weeks.

Commissioner Wyatt reaffirmed that the attorney assigned to the file must file the claim for review.

5. Chief Magistrate Klaeren also reported at the section meeting. The number of filings continue to decline as does the average number of settlements per magistrate per month. The year before, they averaged 55 settlements per month per magistrate. This past year, the average was only 45 per month.

The facilitation process seems to be successful and Magistrates are facilitating more cases on average per month from 11 to 14. Their goal was 15 per month since 2011 but that probably will not happen.

The average age of cases in the system will probably increase this next year because of all the GM Cap cases and Delphi cases coming to fruition. They have not been included in the numbers in the past until other litigation resolved. Now that there has been a change in the law allowing the Self Insured Fund to settle the cases and still continue to claim reimbursement from a specific carrier, more are resolving. This brings the

numbers back into the calculations and due to the age of the cases, this will cause the average age at settlement to increase.

Chief Magistrate Klaeren also addressed the changes in MAHS, including closure of the Flint office, three courtrooms in Dimondale, magistrates up for reappointment and new Scheduling Orders. Moreover, beginning immediately, in order to request a file for Redemption purposes, counsel must file a Form C and check the box "other". In the comment section, council should indicate that the file should be sent to the appropriate hearing site for redemption purposes.

6. Old business:

- a. Choice of site for 2015 Annual Meeting: Council agreed that the Chairperson should have the privilege of selecting the location of the annual meeting. After a discussion on the issue, Chairperson Housefield selected the Park Place Hotel in Traverse City. The hotel is in a historic building, has a great view of Grand Traverse Bay and is centrally located. Member Parker moved that we allow member Housefield to sign a contract with the Park Place up to \$1,000 for the deposit. Member Bava seconded and there was a unanimous vote to approve.
- b. Next, council addressed the topic of **proposed speakers** such as a lobbyist to walk us through the legislative process in regards to changes to the statute or rules. Ms. Danielle Brown, our new liaison with the SBM, suggested a lobbyist for the State Bar and indicated she would provide the specific information as to the name.
- c. Member Housefield discussed **subpoena copying charges** and having the Health Service Rules changed to set a specific reasonable price. He was advised that anyone could attend the meeting and propose a rule. Member Frame moved and Member Hamm seconded that the council form a committee to help draft such a rule. The motion passed unanimously and Members Frame, Hamm and Bava agreed to be on the committee to help draft a rule and submit it council for consideration.
- d. Next, council addressed the issue of forming a committee to monitor legislative proposals that affect the Workers Compensation Section and its members. Member Parker moved that we form a committee to address legislation and rules that may impact the Section and report to council and to ask attorney Robert McDonald (pending his interest in serving) to be on the committee. Member Chizick seconded and the motion passed unanimously. Member Jayson Chizick and Member John Combs both expressed an interest in serving on the committee as well.
- e. 1 to 5 year plan: Members Matt Conklin and Jayson Chizick advised we do not yet have a plan in place.

New Business

Member Parker reminded everyone that the Newsletter should be coming out at the beginning of the year and we need nominations for the Hall of Fame. Chairperson Housefield indicated that he would send out an email blast.

Member Parker, seconded by Member Chizick, approved adjourning the meeting at 1:01 pm, upon motion.

Respectfully Submitted,

Ella S. Parker, Secretary, Workers' Compensation Section