



MICHIGAN SELF-INSURERS' ASSOCIATION

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Gerald M. Marcinkoski
Executive Secretary

Board of Managers

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Susan Cyrulnik
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Alticor, Inc.
Steve Ohman
1st Vice Chair

General Motors Corporation
Susan R. Azar
2nd Vice Chair

City of Grand Rapids
Sheila Mahan
Treasurer

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Libby Child

Wayne State University
Pamela Galloway

Ford Motor Company
Jonathan R. Parker

Little Caesar Enterprises, Inc.
C. Michael Healy

AT&T Michigan
Albert Calille

Consumers Energy Company
Doug Wright

Chrysler LLC
Neil D. Levins

DTE Energy
Randall Rutkofske

FinCor Solutions
Janet Kransz

Marathon Oil Company
Barbara Parker

The Pepsi Bottling Group
Amy Tyrala

Tecumseh Products
Randall Krichbaum

Sherriff-Goslin Company
William Ticknor

MINUTES OF BOARD OF MANAGERS' MEETING

September 14, 2007

Fox Hills Golf and Banquet Center
Plymouth, Michigan

Reminder: Beginning January 1, 2008, Minutes will be available only via e-mail or on the website. Please provide your name, company name, and e-mail address to Donna Rinke at drinke@laceyjones.com if you wish a copy of the Minutes e-mailed to you.

Present:

AZAR, S., General Motors Corporation
CALILLE, A., AT&T Michigan
CHILD, L., Varnum Consulting
CYRULNIK, S., Trinity Health
GALLOWAY, P., Wayne State University
HEALY, M. Little Caesar Enterprises, Inc.
MAHAN, S., City of Grand Rapids
OHMAN, S., Alticor, Inc.
PARKER, J., Ford Motor Company
RUTKOFKSKE, R., DTE Energy (by Doug Green)
TICKNOR, B., Sherriff-Goslin Company
WRIGHT, D., Consumers Energy Company

Chairperson's Council:

BLOCK, W., Michigan Chamber of Commerce
SUSSER, D., Smith Haughey Rice & Roegge

Guest:

HANNA, T., MCSIGA

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Not Present:

KRANSZ, J., FinCor Solutions

KRICHBAUM, R., Tecumseh Products

LEVINS, N., DaimlerChrysler Corporation

PARKER, B., Marathon Oil Company

TYRALA, A., The Pepsi Bottling Company

The MSIA Board meeting was called to order at 11:33 a.m., by Chairperson Susan Cyrulnik. The Agenda for the meeting was as follows:

AMENDED AGENDA

1. Minutes of Board of Managers' Prior Meeting
2. Treasurer's Report
3. Technology Committee Report
4. *Amicus Curiae* Committee Report
5. Funds Trustees Report
6. Health Care Committee Report
7. 2007 Fall Conference Report
8. Legislative Committee Report
9. Old Business
 - a. Qualifications Advisory Committee Development
 - b. Magistrate Leventer
 - c. Vocational Rehabilitation Task Force Development
 - d. Location of MSIA Board Meetings
 - e. Other Old Business
10. New Business
 - a. Attendance at MSIA Board Meetings and Relationship to MSIA Board Status
 - b. Composition of 2008 Spring Conference Committee
 - c. Distribution of MSIA Board Members' Address Lists
 - d. Michigan Stay Colder Summit Project
 - e. Ramifications of *Karaczewski v Farbman Stein*
 - f. New Members
 - g. Other New Business

The **Minutes** were approved upon motion of Ms. Azar, seconded by Mr. Ohman.

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The **Treasurer's Report** was submitted by Ms. Mahan. She provided a handout relative to the Income and Expenses Statement for the year September 1, 2006, through August 31, 2007. She also provided the Board with an Income and Expense Statement for the year ending August 31, 2007, with comparisons to the years 2005 and 2006.

The **Technology Committee Report** was submitted by Ms. Child. She reported that the Fall Conference registration brochure had been sent by e-mail as well as regular mail. Additionally, PayPal is available on-line to pay for the conference registration. She also reported that new information was being regularly posted on the website and that the website is becoming more interactive.

The **Amicus Curiae Report** was submitted by Mr. Calille. He went over in detail the issues presented in the Supreme Court's order in *Stokes v DaimlerChrysler Corporation*. The Court ordered the parties to present oral arguments relative to whether the Court of Appeals' decision relieves the plaintiff from carrying his burden of proving disability. The argument took place on October 4, 2007. The MSIA has filed an *amicus curiae brief* in the *Stokes* case, as well as the case of *Simpson v Borbolla Construction/Fluor Constructors*.

Also discussed was the possibility of filing a brief with the Supreme Court in support of the Defendant's Application for Leave to Appeal in the *Robertson v Chrysler Corporation* case. This has to do with whether, in a mental disability case, the Appellate Commission improperly applied a subjective standard to determine whether the claimant's perception of actual events of employment was founded or not. This will be discussed at the next Board meeting.

The **Funds Trustees Report** was given by Ms. Child. At the time of the meeting, Ms. Child noted that there was a concern by the Funds Trustees relative to the payment of benefits if the state government were to shut down. We now know that that did not turn out to be a problem. There was also a discussion by the Trustees relative to the payment of illegal immigrants. At issue is whether the mere status of being illegal constitutes the commission of a crime within the meaning of Section 361(1) of the Act or whether there had to be a court finding of the commission of a crime.

The **Health Care Committee Report** was submitted by Ms. Azar. The Health Care Advisory Committee had met the week before. Two companies made presentations relative to evidence-based medicine and outcomes. The hope was to establish evidence-based guidelines that would indicate treatments that are reasonable and necessary or that are unnecessary. Also discussed was the thought that there may be an unusually high cost associated with medical implants. A taskforce was being put together to look into that question.

The **2007 Fall Conference Committee Report** was submitted by Ms. Azar. Nolan Finley of the *Detroit News* is scheduled to be the keynote speaker. Numerous vendors had already signed up for the conference. The Group Funds Association was trying to schedule their meeting for the night of the conference so as to get more of their members to attend the MSIA conference.

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The **Legislative Committee Report** was submitted by Ms. Block. She reported that the only topic being debated in Lansing had to do with the State budget. She addressed the question of funding for the Workers' Compensation Agency. She reported that at the present time no one was bringing up the issue of the Agency's self-funding.

Under **Old Business**, it was noted that no meeting had been scheduled for the QAC through the end of 2007. The Executive Secretary had written a letter requesting the QAC to look into the conduct and decisions of Magistrate Leventer. Apparently, no copy of that letter had been distributed to the QAC members. It was unknown whether or not the chairperson received a copy of the letter. The next meeting was not scheduled until February 2008. It was also discussed that there was one opening on the Workers' Compensation Appellate Commission. Since that time, Governor Granholm has reappointed Commissioner Donna Grit to the Appellate Commission.

Also discussed were the Vocational Rehabilitation Rules being put together under the leadership of Dave Campbell. Things seem to have been proceeding in good order relative to rules regarding "*Sington*" evaluations. However, at the last moment a plaintiff's attorney stepped forward and suggested that such an evaluation was contrary to the language of the Act. A proposal was made to submit the question to the Workers' Compensation Section of the State Bar. Apparently that was suggested, but not officially proposed. At that point, discussions on the question were tabled, and no meeting is currently scheduled.

Finally, discussion was held relative to moving regular Board meetings to the Rock Financial Showplace in Novi. The contract with the Holiday Inn runs through November 30, 2007. It was decided to discuss this issue again at the next meeting.

The issue of payment of benefits to illegal immigrants also arose. It was pointed out that in Indiana, the policy seems to be to pay medical benefits to illegal aliens but to not pay them wage loss benefits. The current state of the law in Michigan is to terminate paying weekly benefits to an illegal alien once their illegal status is noted. Current case law dictates that at that point they would be guilty of the "commission of a crime" and not entitled to wage loss benefits.

Under **New Business**, the question of attendance was addressed. The Board expressed an opinion that at a minimum 60 percent attendance should be required. Mr. Doug Green was present in the place of Randy Rutkofske for DTE. It appears that he will be a regular substitute. An issue that was discussed was having a regular substitute if a member could not attend so that there remains a certain level of continuity. The attendance of Chrysler LLC and its position on the Board was discussed. It was determined to send a letter to Chrysler to determine what its intention is.

Also discussed was the 2008 Spring Conference Committee. It was generally agreed that the Committee will consist of Ms. Susser, Ms. Azar, Mr. Ohman, Ms. Child, Ms. Cyrulnik, Ms. Kransz, Ms. Mahan, and

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Mr. Wright. The Committee will also engage some vendors to help plan the conference. The keynote speaker is going to be Captain Al Haynes of Flight 232.

A brief discussion was held regarding making the addresses of Board members available to the public. It was decided not to do so.

Also discussed was a Workers' Compensation Stakeholders Summit Dr. Jennifer Christianson is planning for September 26, 2007, at Michigan State University. The purpose of this is to plan a summit in 2008 in an effort to balance the reporting done relative to workers' compensation matters by WCRI. The Stakeholders Summit is filled but members should look for the Summit itself in 2008.

The Board was addressed by Tim Hanna of MCSIGA regarding the Supreme Court's decision in *Karaczewski v Farbman Stein & Company*, 478 Mich 28 (2007). In that case, the Court reversed a longstanding precedent and held that in order for Michigan to exercise jurisdiction over an injury that occurred in another state, the claimant must be a resident of Michigan at the time of the injury and the contract of hire must have been entered into in Michigan.

The case raises two concerns. One, employers may not be either insured or a qualified self-insured in these other states. Two, a concern was expressed that if an employer is not insured and not qualified as self-insured in a state, do they open themselves up to a civil action? In other words, does the exclusive remedy provision not apply when there is no workers' compensation remedy? Seeking a legislative remedy to the perceived problem was discussed. There did not seem to be any interest expressed in opening up the Act to amendment.

Finally, on the motion of Mr. Calille, seconded by Ms. Cyrulnik, the Association welcomed Parker Hannifin Corporation as a new member.

The meeting was then adjourned at 4:19 p.m.

Respectfully submitted,

Michael T. Reinholm for
Gerald M. Marcinkoski
Executive Secretary