



MICHIGAN SELF-INSURERS' ASSOCIATION

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Gerald M. Marcinkoski
Executive Secretary

Board of Managers

Trinity Health
Susan Cyrulnik
Chairperson

Alticor, Inc.
Steve Ohman
1st Vice Chair

General Motors Corporation
Susan R. Azar
2nd Vice Chair

City of Grand Rapids
Sheila Mahan
Treasurer

Varnum Consulting, LLC
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
Douglas A. Green

FinCor Solutions
Janet Kransz

Marathon Oil Company
Barbara Parker

The Pepsi Bottling Group
David Sedlock

Tecumseh Products
Randall Krichbaum

Sherriff-Goslin Company
William Ticknor

MINUTES OF BOARD OF MANAGERS' MEETING

October 24, 2007
Rock Financial Showplace
Novi, 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
GREEN, D., DTE Energy
HEALY, M. Little Caesar Enterprises, Inc.
KRANSZ, J., FinCor Solutions
OHMAN, S., Alticor, Inc.
PARKER, B., Marathon Oil Company
PARKER, J., Ford Motor Company
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
ZURVALEC, D., Michigan Manufacturers Association

Not Present:

KRICHBAUM, R., Tecumseh Products
LEVINS, N., DaimlerChrysler Corporation
MAHAN, S., City of Grand Rapids

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November 26, 2007

The MSIA Board meeting was called to order at 4:05 p.m., by Chairperson Susan Cyrulnik. The Agenda for the meeting was as follows:

AGENDA

1. Minutes of Board of Managers' Prior Meeting
2. Treasurer's Report
3. Nominating Committee Report
 - a. DTE Energy
 - b. Chrysler LLC
 - c. Tecumseh Products
4. Technology Committee Report
5. *Amicus Curiae* Committee Report
6. Funds Trustees Report
7. Health Care Committee Report
8. Legislative Committee Report
9. Old Business
 - a. E-mailing Minutes to Multiple Parties of One Company
 - b. Qualifications Advisory Committee Developments
 - c. Vocational Rehabilitation Task Force Developments
 - d. Location of MSIA Board Meetings
 - e. Other Old Business
10. New Business
 - a. 2007 Fall Conference Report
 - b. Audit Committee Report
 - c. Schedule of 2008 Meetings
 - d. New Members
 - e. Other New Business

The Chairperson began the meeting by introducing the new person representing Pepsi Bottling Group on the MSIA Board of Managers, David Sedlock. The Chairperson then introduced the new representative for DTE Energy on the MSIA Board of Managers who is Doug Green.

The **Minutes** of the Boards' previous meeting were corrected with respect to the Health Care Committee Report, upon recommendation of Ms. Azar. After that, the Minutes were approved upon motion of Ms. Child, seconded by Ms. Azar.

The **Treasurer's Report** was tabled and deferred in light of the absence of Ms. Mahan. Ms. Mahan had provided handouts which were distributed to the MSIA Board Members.

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The **Nominating Committee Report** was deferred in an official sense given to the absence (at the time) of Mr. Calille. However, the Executive Secretary did relate Mr. Levins' request to continue participation at meetings by telephone conference, a practice the Board previously used. Concern was expressed by one Board Manager to the effect that it was possible that telephone participation could, in general, displace physical attendance at meetings. The matter was let temporarily unresolved. The Chairperson and the Executive Secretary voiced the belief that it would be best to keep all of the "Big Three" on the MSIA Board. The Board noted the written desire of Tecumseh Products, transmitted by Randy Krichbaum, that it wishes to withdraw from the Board. The MSIA Board voted to add Mike Healy to the Nominating Committee. The Board then voted to have the composition of the MSIA Board of Managers remain as it is for the time being with any changes or replacements to be addressed at a later.

The **Technology Committee Report** was submitted by Ms. Child. She reported widespread satisfaction with the MSIA's website. Job openings and resumes are posted on the website and blogging is available. Ms. Child encouraged the membership to look to the website for important dates. She also reported that the expense for maintaining the website has lessened. She concluded by advising that the webmaster, Tom Dana, is always open for new ideas and suggestions.

The **Amicus Curiae Report** was related by the Executive Secretary. He advised that the Michigan Supreme Court had heard oral argument in *Stokes v Chrysler LLC* on October 4, 2007. This was an oral argument on Chrysler's Application for Leave to Appeal the Court of Appeals' *Stokes* decision. The oral argument was focused solely on the relative burdens of proof of the claimant and the employer on the disability question. An *amicus curiae* brief had been submitted to support Chrysler.

The Executive Secretary also reported that the Supreme Court is scheduled to hear oral argument on November 8, 2007, in *Simpson v Borbolla Construction/Fluor Constructors, Inc.* This case is before the Supreme Court on the Application for Leave to Appeal by one of the employers. This is the case where the Court of Appeals held that *Rakestraw's* rule does not apply in cases where the preexisting condition is a work-related problem. The MSIA also filed an *amicus curiae* brief in *Simpson*.

Finally, the Executive Secretary relayed a request for *amicus curiae* support in *Robertson v DaimlerChrysler Corporation*. This case is before the Supreme Court on Chrysler's Application for Leave to Appeal the Court of Appeals' decision. This is the mental disability case where the Supreme Court previously overruled the prior mental disability standard and remanded for redetermination. On redetermination, the result has been that the claimant's mental disability is still considered work related. Chrysler is challenging that latest finding. After discussion and upon motion of Ms. Child, seconded by Mr. Ohman, the MSIA Board approved filing an *amicus curiae* brief supporting Chrysler's position. The Board set a maximum cost for such brief as \$2,500.00.

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The **Funds Trustees Report** was submitted by Ms. Child. She reported the Funds are in good order with 99% of the assessments having been paid. She related that there are no known major bankruptcies on the horizon at this time. Ms. Child also related that her term ends in April 2008. Because the MSIA has traditionally nominated one person for a seat on the Funds' Board of Trustees, the Board discussed possible candidates to recommend to the Governor for the position. Ms. Azar expressed possible interest. Any other Board member considering the position should contact one of the MSIA Board's Nominating Committee members who are: Mr. Calille, Mr. Healy, and Ms. Child. The MSIA Board also noted that Funds Trustees are subject to Senate confirmation.

The **Health Care Advisory Committee Report** was submitted by Ms. Azar. She reported that there had been no meeting of this Committee since the last MSIA Board Meeting. For that reason, there was nothing new to report.

The **Legislative Committee Report** was submitted by Ms. Block and Mr. Zurvalec. Ms. Block explained that the budget crisis continues to occupy the attention and energies of the lawmakers. She reported that the budget for the Department of Labor and Economic Growth did not at the time have anything within it suggesting the state was looking for employer funding of the workers' compensation system. The employer community has steadfastly resisted requests for employer funding in the past. Ms. Block cautioned that the budget negotiations were ongoing and that they needed to be monitored. The Legislature's taxes on various services was discussed. Specifically, the Board discussed whether third-party administrators of employers would be taxed for services they provide. If they are, the Board wondered whether employers were not, in effect, funding the workers' compensation system in that manner. Again, the budget negotiations would continue to be monitored.

Under **Old Business**, the Board discussed a request that the MSIA Board's Minutes be e-mailed to numerous parties within any individual member company, as opposed to one designated person for that company. The board resolved that furnishing the Minutes to multiple people within the company was unnecessary, particularly since the Minutes could be distributed by the recipient to others within the company by simply forwarding them.

The Board also discussed developments at the Qualifications Advisory Committee. Ms. Child indicated that she is seeking reappointment on the Qualifications Advisory Committee. She has the MSIA's full support. The Board then discussed the recent ruling by Magistrate Ambrose that dismissed a recent defense counsel's charges against Magistrate Leventer on procedural grounds. The Board noted that the next Qualifications Advisory Committee meeting is scheduled for February 2008 and Magistrate Leventer is due to be evaluated and discussed at that meeting.

The Board next discussed developments at the Vocational Rehabilitation Task Force. This is a group that has been drafting proposed vocational rehabilitation rules that would apply (only) to traditional vocational rehabilitation under MCL 418.319. The Board was advised that certain plaintiff's attorneys have voiced

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objections to the draft. The Board said it would work to ensure that the rules not be unfairly altered or altered in a manner that would confuse traditional vocational rehabilitation under Section 319 with vocational information pertinent to the disability evaluation under *Sington* and Section 301(4). The Board was alerted to the possibility that the administrative rules may never come to be.

The Board next discussed the location of future MSIA Board meetings. After much discussion, the Board resolved to continue to hold its normal meetings at the Holiday Inn in Ann Arbor for 2008. The Executive Secretary was directed to confirm the bookings for next year at that location. In conjunction with discussion of the 2008 meeting dates, it was noted that the dates of the Spring and Fall Conferences would be posted on the MSIA website so that other organizations, law firms, or the like can avoid scheduling seminars that conflict with MSIA's schedule.

Under other **Old Business**, Mr. Healy followed up on a discussion from the previous Board meeting that related to group funds and the impact of *Karaczewski*. *Karaczewski* is the case where the Supreme Court held that MCL 418.845 means what it says when it requires Michigan residency at the time of injury in order for Michigan to exercise jurisdiction over the employee's outstate workers' compensation claim. Mr. Healy said there are endorsements to insurance policies that might say that, if an employee is temporarily in another state, workers' compensation coverage extends to such employees. The Chairperson added that there are "all states endorsements" and it might not normally necessary to obtain specific permission in other states to have employees working there so long as a company has an "all states endorsement".

Under **New Business**, the Board reviewed the plans for the Fall Conference to take place the following day. Ms. Azar, the Chair of the Fall Conference, reported that approximately 290 people were expected at the conference. She noted that the MSIA conference did conflict with two other events being held, thus supporting the need to advertise the MSIA conference dates on its website. The Board discussed the introductions and format of the next day's conference.

The **Audit Committee Report** was submitted by Mr. Calille who said the Audit Committee approved the MSIA's annual finances.

The Executive Secretary then related the applications of three new companies for MSIA Board membership: Bradley Consulting & Management, Contractors Steel Company, and Livonia Public Schools. The Board approved the membership for all three, contingent upon payment of dues. The Board also moved and approved sending the Executive Secretary to the American Bar Association's seminar and conference on workers' compensation in March 2008.

Finally, upon motion of Mr. Calille, the Board reelected the same officers of the MSIA Board who presently serve. The motion was unanimously adopted and would be presented to the general

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membership at the Fall Conference the next day. The Board discussed who might be the next Treasurer should Ms. Mahan cease to fulfill that role. Mr. Healy indicated he would consider the position.

The meeting was then adjourned at 7:10 p.m.

Respectfully submitted,

Gerald M. Marcinkoski

Gerald M. Marcinkoski
Executive Secretary