



# 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  
1<sup>st</sup> Vice Chair

**General Motors Corporation**  
Susan R. Azar  
2<sup>nd</sup> 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

**DaimlerChrysler Corporation**  
Neil D. Levins

**DTE Energy**  
Randall Rutkofske

**MHA Service Corporation**  
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

February 9, 2007

Holiday Inn North Campus  
Ann Arbor, Michigan

### Present:

AZAR, S., General Motors Corporation  
CALILLE, A., AT&T Michigan  
CYRULNIK, S., Trinity Health  
GALLOWAY, P., Wayne State University  
HEALY, M. Little Caesar Enterprises, Inc.  
KRANSZ, J., MHA Service Corporation  
MAHAN, S., City of Grand Rapids  
TYRALA, A., The Pepsi Bottling Company  
OHMAN, S., Alticor, Inc.  
PARKER, B., Marathon Oil Company  
PARKER, J., Ford Motor Company (by Bob Irwin)  
RUTKOFKSKE, R., DTE Energy (by Rae Gross)  
TICKNOR, B., Sherriff-Goslin Company  
WRIGHT, D., Consumers Energy Company

### Chairperson's Council:

SUSSER, D., Smith Haughey Rice & Roegge  
ZURVALEC, D., Michigan Manufacturers Association

### Not Present:

BLOCK, W., (Chairperson's Council) Chamber of Commerce  
CHILD, L., Varnum Consulting  
KRICHBAUM, R., Tecumseh Products  
LEVINS, N., DaimlerChrysler Corporation

The MSIA Board meeting was called to order at 11:35 a.m. by Chairperson Susan Cyrulnik. The following Agenda was discussed:

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### AGENDA

1. Minutes of Board of Managers' Prior Meeting.
2. Treasurer's Report.
3. Membership Committee Report.
4. Nominating Committee Report.
5. Technology Committee Report.
6. *Amicus Curiae* Report.
7. Funds Trustees Report.
8. Health Care Committee Report.
9. 2007 Spring Conference Report.
10. Legislative Committee Report.
11. Old Business.
  - a. Mileage Questionnaire/reimbursement of mileage for Board Members.
  - b. David Campbell's Vocational Rehabilitation Task Force.
  - c. Other Old Business.
12. New Business
  - a. Appointment of New Magistrates.
  - b. QAC Conflict of Interest Issue.
  - c. WCRI Advisory Committee Presentation.
  - d. Current concerns regarding Magistrate(s).
  - e. Other New Business.

The **Minutes** of the prior Board were approved upon motion of Mr. Calille seconded by Mr. Ohman.

The **Treasurer's Report** was submitted by Ms. Mahan. She reported there was no significant activity since the last Treasurer's Report. The finances of the Association remain in good shape. The cash balance on hand is \$75,523.96. The Treasurer's Report was approved upon motion of Ms. Tyrala seconded by Mr. Wright.

The **Membership Committee Report** was delivered by Ms. Mahan and there was nothing new to report.

The **Nominating Committee Report** was submitted by Mr. Calille. Mr. Calille said the Nominating Committee recommended Susan Azar for the vacancy in the 2<sup>nd</sup> Vice Chair of the Board of Managers. Ms. Azar's nomination was unanimously approved.

The **Technology Committee Report** was tabled given the absence of Ms. Child.

The **Amicus Curiae Report** was submitted by Mr. Calille. He reported that the MSIA *amicus curiae* brief was filed with the Supreme Court supporting DaimlerChrysler's application for leave to appeal in *Stokes v DaimlerChrysler*. Mr. Ohman reported that Alticor had also filed an *amicus curiae* brief supporting DaimlerChrysler's position.

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Mr. Calille next reported that he received a request for an *amicus curiae* brief in the case pending on leave granted at the Michigan Court of Appeals: *Raybon v D.P. Fox Football Holdings LLC/Grand Rapids Rampage*. The issue in *Raybon* is whether professional athletes who had no pre-injury history of working during the off season could receive weekly wage loss benefits during the off season when they would not be earning a salary anyway. Ms. Cyrulnik indicated that the outcome of such a case could affect other professions as well, such as teachers who might have no history of working during the off season. The Board also noted that there is legislation relating to the calculation of the average weekly wage for professional athletes and their receipt of benefits during the off season. Mr. Healy reported that two professional sports teams in the Detroit area contemplate filing an *amicus curiae* brief supporting D.P. Fox Holdings LLC/Grand Rapids Rampage in *Raybon*. In response to the *amicus curiae* request, Mr. Calille noted that the Board normally does not involve itself in *amicus curiae* work at the Court of Appeals level. Therefore, in light of this policy and possible *amicus curiae* help from other entities, Mr. Calille recommended that MSIA should await the Court of Appeals' decision and, if it is adverse, the Board would then consider an *amicus curiae* brief supporting the employer's further appeal. The Board agreed to withhold *amicus curiae* participation at this time.

The **Funds Trustees Report** was tabled given the absence of Ms. Child.

The **Health Care Committee Report** was submitted by Ms. Azar. She reported that there was no recent meeting of the Health Care Services Committee and, consequently, there was nothing new to report.

The **2007 Spring Conference Committee Report** was delivered by Mr. Ohman. He reported that the Spring Conference Committee had met again prior to the Board of Manager's Meeting. The theme of the Conference is "Superheroes of the Comp World." The Conference will take place from Wednesday, May 30, 2007 through Friday, June 1, 2007. The first day (Wednesday) there will be a workers' comp trial presented by "Supergirls of the Comp World." There will also be a reception and disc jockey at the Trillium restaurant afterwards. On Thursday the popular keynote speaker will be Mr. Richard Pimentel. He will discuss aging in the work force. There will also be seven break out sessions with attendees able to pick three. Please follow developments on the MSIA web site for the topics in the breakout session, which will include discussions of: substance abuse, the distinction between degenerative and traumatic conditions, medicare set-asides, safety in the workplace, pandemic flues, and other subjects. On Friday we will have the Agency update by Director Jack Nolish and a review of recent workers' compensation developments and case law from the Executive Secretary. The conference will conclude with a game show relating to topics presented at the conference with prizes. Besides the substantive events, there will also be the golf outing, a bus excursion to the nearby wine country, and free t-shirt give-aways.

The **Legislative Committee Report** consisted of a discussion of the recent decision in Mr. Craig Petersen's case against the Department of Labor and Economic Growth. Mr. Petersen grieved the abolition of his position as Acting Director of the Workers' Compensation Agency and the creation of the position of the Director of Workers' Compensation Agency after the Governor's executive order reorganizing the administration of workers' compensation. A hearing officer last year had granted Mr. Petersen's grievance. The Employment Relations Board granted an application for leave to appeal filed by DLEG contesting that hearing officer's decision. The Employment Relations Board then ruled Mr. Petersen had "adequately proved that DLEG abolished his position and created a new position for reasons other than administrative efficiency." Therefore, the Board recommended affirmance of the decision.

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With respect to the remedy, the Board ruled that "DLEG shall restore Petersen... to his 18-level State Administrator Position retroactive to the date of his layoff, and restore him the job duties of the Director of Workers' Compensation." The Board also said that, at the time of his restoration, DLEG may also offer Petersen a level 19 position and, if it does not (or if Mr. Petersen does not accept such offer), his position remains at the level 18. The Board discussed the possible impact of this decision on administration of workers' compensation. Ongoing developments in this case will appear on the MSIA website.

Under **Old Business**, the Board reviewed the mileage questionnaire and reimbursement form that had been distributed by Ms. Mahan. Ms. Mahan explained that, on the basis of the responses received thus far, she was not prepared to make a specific motion at the present time but would make a recommendation at the Board meeting in March.

The Board then discussed the work of Mr. Campbell's vocational rehabilitation task force and was provided a copy of the letter the MSIA had directed to Mr. Campbell in relationship to his work on administrative rules governing vocational rehabilitation.

Under **New Business**, the Board reviewed the appointments of new magistrates. The following six people have been appointed as magistrates: Mr. William Baillargeon (Kalamazoo); David Merwin (Kalamazoo); Christopher Ambrose (Lansing); Jennifer Crawford (Grand Rapids and Kalamazoo); Lee Decker (Pontiac); Murray Gorchow (Chairperson, Detroit); Valencia Jarvis (Detroit); and Rosemary Wolock (Pontiac). The terms for each of these magistrates extend to January 26, 2011.

The Board next discussed the possibility of a conflict of interest on the QAC. The Board was advised that it had not received a response from the Chair of the QAC regarding a letter sent six weeks earlier asking for an explanation on how one member on the QAC does not have a conflict of interest. The Executive Secretary was directed to send a follow up letter to the Chair of the QAC.

The Board then discussed the Workers' Compensation Research Institute Advisory Committee's report recently presented in Lansing. There, the Massachusetts-based research institute presented a compare-and-contrast study of Michigan and approximately 14 other states. A summary of the presentation was distributed to the Board. Ms. Azar then relayed to those who had not attended the presentation what had transpired.

A number of questions were raised by the Board with respect to the report. The Board questioned whether the report made any attempt to capture the "long tail" of Michigan workers' compensation cases whereby weekly benefits can be paid for many years including the claimant's entire life. Other Board members questioned whether an accurate sampling of states had been reviewed by the WCRI. The Board also questioned the "tweaking out" or balancing of manufacturing jobs with other jobs by WCRI and how that might impact the outcome. Finally, the Board noted that the statistics indicating slower reporting in Michigan than other states may be due to a large number of employees in Michigan who receive alternative employer provided benefits, such as sickness disability benefits, in lieu of workers' compensation benefits.

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The Board decided that its various criticisms of the report should be sent to Ms. Azar within the week as she is chair of the Board's subcommittee in relationship to this report.

The Board then briefly discussed current concerns regarding magistrates and agreed to take up the point further at the next Board meeting. Upon motion of Mr. Ohman seconded by Ms. Parker the meeting was adjourned with no other new business as of 4:08 p.m.

Respectfully submitted

*Gerald M. Marcinkoski*

Gerald M. Marcinkoski  
Executive Secretary