



# 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

March 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  
KRICHBAUM, R., Tecumseh Products  
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  
LEVINS, N., DaimlerChrysler Corporation

The MSIA Board meeting was called to order at 11:42 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. Technology Committee Report.
4. *Amicus Curiae* Report
5. Funds Trustees Report.
6. Health Care Committee Report.
7. 2007 Spring Conference Report.
8. Legislative Committee Report.
9. Old Business.
  - a. Mileage Questionnaire for Board members.
  - b. David Campbell's Vocational Rehabilitation Task Force.
  - c. WCRI Report feedback.
  - d. Other Old Business.
10. New Business
  - a. Make up of 2007 Fall Conference Committee.
  - b. Update on Craig Petersen's case.
  - c. QAC Conflicts of Interest?
  - d. Contested case assignments to magistrates.
  - e. New Members.
  - f. Other New Business.

The **Minutes** of the prior Board Meeting were approved upon motion of Ms. Azar seconded by Ms. Tyrala.

The **Treasurer's Report** was submitted by Ms. Mahan. She distributed extensive reports including the dues payment history of members. The Association has a present cash balance in its checking account of \$81,223.50.

The **Technology Committee Report** included a suggestion by Ms. Azar that dues might be paid by credit card via the MSIA website. Mr. Dana, the webmaster, has suggested that this could be accomplished on the website. Ms. Mahan noted potential problems in keeping track of dues and conference registrations if payments are made this way. The Board decided that the Technology Committee should confer with Mr. Dana as to whether dues payment and conference registration can be effectuated via the website and if so, how it might be effectively implemented. Ms. Tyrala will contact Mr. Dana in this regard.

The **Amicus Curiae Report** was submitted by Mr. Calille and the Executive Secretary. Mr. Calille reported that the *Stokes v DaimlerChrysler Corporation* case remains pending before the Michigan Supreme Court on the employer's application for leave to appeal. The Board has also considered filing an *amicus curiae* brief in *Raybon v D.P. Fox Football Holdings LLC/Grand Rapids Rampage*. This is a case of a seasonal employee (a professional athlete) who was awarded weekly workers' compensation benefits during the off season although he had no history of working in the off season. The Board decided not to file an *amicus curiae* brief in *Raybon* at this time. The Board's reasoning was that two Detroit

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professional sports teams were already contemplating filing an *amicus curiae* brief in *Raybon* and the Board thought it best to wait to see what the Court of Appeals holds and then – if necessary - file an *amicus curiae* brief with the Supreme Court.

The Board then discussed a request for an *amicus curiae* brief in *Simpson v Borbolla Construction*. This is the case where the employer is appealing the Court of Appeals' published decision to the Supreme Court. The employer is arguing that the Court of Appeals limited the reach of the Supreme Court's decision in *Rakestraw v General Dynamics Land Systems*. The Court of Appeals held that the *Rakestraw* rule only applies where the preexisting condition is a *non work related* condition. The facts in *Simpson* were that the preexisting condition was a work related condition caused by a prior employer and, therefore, the Court of Appeals said *Rakestraw* was inapplicable. Mr. Calille moved to authorize One Thousand Five Hundred (\$1,500.00) Dollars for submission of an *amicus curiae* brief supporting the position that *Rakestraw* should not be narrowed as it was in the Court of Appeals' decision. Ms. Parker seconded the motion and the motion passed.

The **Funds Trustees Report** was submitted by Mr. Calille in the absence of Ms. Child. The Board discussed at length the amount of the assessment on employers and carriers for the Self Insurers Security Fund. Mr. Calille indicated that Mr. Dennis Morrill of the Funds had suggested three options that might be considered in these "tough times." One option is the full three (3%) percent assessment. A second option is an assessment of less than the maximum but more than the amount that would otherwise be assessed under normal circumstances. The third option is to assess what normally would be assessed based on projected expenses with the understanding that a second assessment during the year could be entertained if a significant bankruptcy occurred. Mr. Calille felt that the first two options had the potential to over-assess employers. He favored the third option because it is based on known claims. Mr. Calille moved that the Board advise Ms. Child, who is one of the Funds Trustees, to pursue the third option because it is the option based on known claims. Mr. Healy seconded the motion and the motion passed unanimously.

The **Health Care Committee Report** was delivered by Ms. Azar. She reported that the State's Health Care Committee had not met since the last MSIA Board Meeting and, therefore, there was nothing new to report. She also said that the Health Care Committee Meeting scheduled for the following week had been canceled.

The **2007 Spring Conference Committee Report** was delivered by Mr. Ohman. He reviewed the program for the Conference to be held on May 30, May 31, and June 1, 2007 at the Grand Traverse Resort. Conference details can be accessed on the MSIA website. Brochures on the conference have been mailed out. The CEU credits are set. He reported that vendor booths were filling quickly. There are different levels of sponsorship for the Conference. There will be t-shirts and polo shirts available. The lead speaker will be the popular speaker, Mr. Richard Pimentel.

The **Legislative Committee Report** was submitted by Mr. Zurvalec who expressed the belief that any effort by the state to have employers fund the workers' compensation system could only be accomplished via legislative change. The Board was also advised of the Senate's interest in workers' compensation matters, particularly the following: the resistance of employers to funding operation of the workers' compensation system; the need to preserve the integrity of the voluntary pay system in Michigan;

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concerns about proposed administrative rule changes in the vocational rehabilitation realm; and, concerns relating to the Governor's appointments and operation of the Qualifications Advisory Committee.

Under **Old Business**, the Board discussed again the mileage questionnaire for Board members. Ms. Mahan moved to reimburse Board members upon their request for mileage to Board meetings and conferences, as well as waiving conference registration fees for all members of the Board of Managers. Ms. Mahan explained that she would use the applicable IRS rate of mileage. She recommended review of this policy on an annual basis. She recommended the effective date of this policy to be on September 1, 2007 for the year 2006 retroactively. The recommendation was that Board members must meet the minimum attendance requirement and their company must have paid their dues to be eligible. Ms. Azar seconded the motion and the motion passed. Ms. Mahan will draft forms to be filled out for these purposes.

The Board discussed Mr. David Campbell's vocational rehabilitation task force. The Board was advised that much hard work has gone into the administrative rules. The proposed rules do begin with a specific rule explaining that their scope is limited to traditional vocational rehabilitation under MCL 418.319 and are not applicable for use of vocational experts for *Sington* disability questions under MCL 418.301(4). The Board noted that Mr. Marty Critchell, substituting at times for Ms. Child at the meetings, was particularly helpful at the task force meetings.

The Board then reviewed feedback from the Workers' Compensation Research Institute Report. Ms. Azar summarized the concerns collected with respect to the report. The Executive Secretary was directed to send a letter incorporating these concerns to the authors of the report. On a related point, Mr. Healy indicated that he is awaiting a study of workers' compensation costs per One Hundred (\$100.00) dollars of payroll and, once that study was completed, he would share it with Ms. Azar and the Board.

Under **New Business**, the Board selected the members of the Fall Conference Committee. Ms. Azar will be the Chair. Other members on the Committee will be Ms. Gross, Ms. Susser, Mr. Wright, Ms. Kransz, Mr. Parker and also perhaps Ms. Cyrulnik. The Board was then updated on the status of Mr. Petersen's case. The Board was advised that the motion of the Department of Labor & Economic Growth to rehear or reconsider the ruling in Mr. Petersen's favor was rejected and the decision was signed by the Civil Service Commission. The State could appeal the decision to the court or else the decision becomes final. The Board then discussed questions of potential conflicts of interest on the Qualifications Advisory Committee. The Board agreed that it was in the best interest of the QAC that, while care must be taken that QAC members do not appear before magistrates or the Workers' Compensation Appellate Commission, other potential conflicts of interest concerns should not be vigorously pursued.

The Board also heard concerns over assignment of cases to magistrates. Discussion involved matters relating to the policies regarding recusals of magistrates as well as assignment of cases to particular magistrates. The Board resolved to leave the matter open for the time being.

Under **Other New Business**, the Board welcomed a new member: Scientific Consultants who is admitted upon motion of Mr. Calille, seconded by Mr. Ohman.

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Ms. Azar discussed issues relating to the necessity to have adjustors licensed. Mr. Healy indicated that in April the MSIA's D & O policy will need to be renewed.

Upon motion of Mr. Calille, seconded by Ms. Tyrala, the Board adjourned at 4:12 p.m.

Respectfully submitted

*Gerald M. Marcinkoski*

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Executive Secretary