



MICHIGAN SELF-INSURERS' ASSOCIATION

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Gerald M. Marcinkoski
Executive Secretary

Board of Managers

Trinity Health
Susan Cyrulnik
Chairperson

General Motors Corporation
Susan R. Azar
1st Vice Chair

City of Grand Rapids
Sheila Mahan
Treasurer

Alticor, Inc.
Lorraine K. Climer

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

DTE Energy
Douglas A. Green

FinCor Solutions
Janet Kransz

Marathon Oil Company
Barbara Parker

The Pepsi Bottling Group
David Sedlock

Sherriff-Goslin Company
William Ticknor

Wayne County Airport Authority
Leigh Stepaniak

MINUTES OF BOARD OF MANAGERS' MEETING

July 11, 2008
Holiday Inn North Campus
Ann Arbor, Michigan

Reminder: Minutes are now only available via e-mail or on the website. If you wish to receive the Minutes via e-mail, please provide your name, company name, and e-mail address to Marianne Melton at mmelton@laceyjones.com

Present:

AZAR, S., General Motors Corporation
CALILLE, A., AT&T Michigan
CHILD, L., Varnum Consulting
CYRULNIK, S. (by Rose Wohlgemuth), Trinity Health
GALLOWAY, P., Wayne State University
GREEN, D., DTE Energy
HEALY, M. Little Caesar Enterprises, Inc.
KRANSZ, J., FinCor Solutions
MAHAN, S., City of Grand Rapids
PARKER, B., Marathon Oil Company
PARKER, J., Ford Motor Company
WRIGHT, D., Consumers Energy Company

Chairperson's Council:

SUSSER, D., Smith Haughey Rice & Roegge

Not Present:

BLOCK, W., Michigan Chamber of Commerce
OHMAN, S., Alticor, Inc.
SEDLOCK, D., The Pepsi Bottling Group
STEPANIAK, L., Wayne County Airport Authority
TICKNOR, B., Sherriff-Goslin Company
ZURVALEC, D., Michigan Manufacturers Association

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AGENDA

1. Minutes of Board of Managers' Prior Meeting
2. Treasurer's Report
3. Nominating Committee Report
4. Technology Committee Report
5. Funds Trustees' Report
6. *Amicus Curiae* Committee Report
7. 2008 Final Spring Conference Committee Report
8. Health Care Committee Report
9. Legislative Committee Report
10. Membership Committee Report
11. Old Business
 - a. Funds Trustee Position
 - b. Appointments to workers' compensation advisory committee
 - c. Evidence based medicine
 - d. Other old business
12. New Business
 - a. *Stokes* and the Workers' Compensation Agency
 - b. SB 1277
 - c. QAC and Magistrate Leventer
 - d. Evaluating Magistrates
 - e. Vendors and MSIA Conference fees
 - f. Other New Business

The **Minutes** were approved, after correction of a typographical error, by Mr. Calille, seconded by Ms. Child.

The **Treasurer's Report** was submitted by Ms. Mahan. She distributed handouts with respect to the present fiscal status of MSIA. Ms. Mahan indicated that the Spring Conference was a resounding financial success. Her report was approved upon motion of Ms. Child, seconded by Ms. Azar.

The **Nominating Committee Report** was submitted by Mr. Calille. Mr. Calille reported that there is one opening on the Board of Managers, the spot vacated by Tecumseh Products. He indicated that three companies have expressed serious interest in being on the MSIA Board of Managers. Mr. Calille indicated that the Membership Committee will meet with these three companies and report to the board with regard to their recommendation. Mr. Calille further reported that Mr. Ohman has separated employment from Alticor. Since Mr. Ohman was the 1st Vice Chair, Mr. Calille recommended that Ms. Azar of General Motors serve as the 1st Vice Chair. Mr. Healy seconded the motion and the board approved the change. Mr. Calille concluded by saying that if any board member has suggestions for vacancies on the board they should be relayed to Mr. Calille. The nominating committee will also be making recommendations regarding the new 1st Vice Chair and 2nd Vice Chair for the following year.

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The **Technology Committee Report** was submitted by Ms. Child. She reported that the photographs of the Spring Conference can be viewed on the MSIA's website, including photographs of vendors. Information regarding the Fall Conference has been posted on the website, including a summary of the recent Supreme Court decision in *Stokes v Chrysler LLC*.

The **Funds Trustees' Report** was submitted by Ms. Child. Ms. Child reported that the last Funds meeting she attended the trustees approved a 1% assessment. The trustees also discussed and debated issues relating to the application of the age reduction division under section 357 of the Act, under certain circumstances. The debate did not produce any firm conclusion. Ms. Child indicated that this was her last meeting as a funds trustee given the expiration of her term. Ms. Azar of the MSIA Board and General Motors will begin serving as a funds trustee at the next funds trustees' meeting.

The **Amicus Curiae Committee Report** was submitted by Mr. Calille and the Executive Secretary. Mr. Calille and the Executive Secretary addressed the Michigan Supreme Court's recent decision in *Stokes v Chrysler LLC*. A handout was provided to the Board of Managers summarizing the case. In this case the Supreme Court explained with great specificity how the *Sington* definition of disability is to be applied. The Supreme Court's opinion implied exasperation with the lip service being paid to the *Sington* definition of disability by some on the Workers' Compensation Appellate Commission and Board of Magistrates. The Supreme Court laid down specific guidelines as to how the definition of disability is to apply in a litigated case. The most salient points are the following four: (1) a claimant must offer proofs that go beyond an inability to perform just his/her prior jobs; (2) a claimant must offer proofs of a good faith job search, unless a claimant is completely unable to do anything; (3) the claimant must fully disclose all information relevant to determining his/her qualifications and training and (4) the employer is entitled to discovery, including an interview with the vocational expert of its choice before trial.

The committee then indicated that two other cases where the MSIA filed *amicus curiae* briefs continue to pend at the Supreme Court: *Robertson v DaimlerChrysler Corporation a/k/a Chrysler LLC* and *Brackett v Focus Hope* [which has since been decided by the Supreme Court in a way favorable to employers].

The **2008 Final Spring Conference Committee Report** was submitted by Ms. Child having obtained the information from Mr. Ohman. As indicated, the Spring Conference was a great financial success. Ms. Azar provided a report with respect to the upcoming Fall Conference on October 21, 2008 at the Rock Financial Showplace in Novi. Ms. Azar reported the brochures for the conference were completed and were to be mailed in early August. There will be no breakout sessions at this conference. Speakers will include Michael Melnik who will discuss an "energized approach" for a healthy and productive workplace; Chairperson Jack Nolish of the Workers' Compensation Agency, Chair of the Board of Magistrates Murray Gorchow and Chair of the Workers' Compensation Appellate Commission, Martha Glaser will speak. Lunch will include a presentation to Mr. Ed Welch. The keynote speaker at lunch will be Mr. Bill Ballenger of Inside Michigan Politics addressing the 2008 campaign. The afternoon will include legal updates from the Executive Secretary.

Other distinguished persons appearing at the Fall Conference are likely to include Chief Justice Taylor of the Michigan Supreme Court and an invitation will be extended to whoever is nominated to run for the Supreme Court at the democratic state convention.

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Ms. Child indicated that at the Spring Conference a number of vendors questioned whether they must follow the themes of the conference in their booths and presentations. Mr. Dana will survey the vendors in this regard. Ms. Mahan asked whether Mr. Dana should set up a blog in this respect.

The **Health Care Committee Report** addressed once again the evidence based medicine. Ms. Azar and Mr. Wright indicated that there would be another meeting, via the open meetings act, on this issue. And, they indicated that there was presently an open spot for a person to join the Health Care Committee.

The **Legislative Committee Report** was provided by means of a handout from Ms. Block of the Chamber of Commerce. The handout was distributed to the Board.

The **Membership Committee** report was provided by Ms. Mahan who recommended strengthening the committee. Ms. Mahan indicated that she would formulate a job description for the membership committee and Ms. Mahan suggested the possibility of outside help for the membership committee from persons other than the Board. Presently the membership committee includes Ms. Parker, Ms. Kransz, Mr. Parker, Mr. Green, Ms. Stepaniak and for the time being Ms. Mahan. Chairperson Cyrulnik resigned from the membership committee.

Under **Old Business**, the Committee addressed the Funds Trustee position which, as indicated earlier, has been filled by Ms. Azar of General Motors given the conclusion of Ms. Child's term there. The Executive Secretary advised the Board of the recent appointments to the Workers' Compensation Advisory Committee (QAC). The Board expressed concern about selective application of alleged conflicts of interest rules to persons appointed to the QAC. The Board will continue to monitor and press for even handed application of any conflict of interest rules. The "evidence based medicine" issue had been discussed by the board earlier under the Health Care Committee Report.

Under **New Business** the Board addressed how the *Stokes* decision is likely to be implemented at the Workers' Compensation Agency. The Executive Secretary advised the Board that the Agency was apparently discussing forms by which employers can receive answers from claimants relevant to the claimants' qualifications, training, background and the like. If there is to be an Agency form to this effect it would reduce the amount of interrogatories employers would furnish claimants to obtain the information now permitted by *Stokes*.

The Board was provided a summary of SB 1277. This is a bill introduced to provide advice and consent by the Senate over the Governor's appointments to the QAC. The concerns about QAC appointments have reached the level of the Senate and thus prompted this bill. The specific concerns are that certain persons who have served on the QAC did not have their terms renewed as a result of alleged potential conflicts of interest, whereas other attorneys continue to serve on the QAC who would appear to have a much greater risk for conflicts of interest.

The Board then addressed the QAC evaluation of Magistrate Leventer. MSIA had voiced concern to the QAC with respect to Magistrate Leventer, including references to Workers' Compensation Appellate Commission opinions in Magistrate Leventer's cases.

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The Board then discussed issues with vendors and MSIA conferences. Ms. Child indicated that there had been complaints that non-registered and non-paying vendors were appearing at conferences and mingling with attendees. The Board discussed various ways to address this problem such as wristbands, notices on the MSIA website, and tickets for the MSIA dinner. The Board thought it best not to make too many changes all at once. The Chair of the Board is to send letters to the known offenders.

The final item under new business was related to Mr. Ohman. Mr. Ohman had done an outstanding job representing Alticor on the MSIA Board. The MSIA Board intends to recognize Mr. Ohman's contribution at its fall conference this year. The Board was advised that Mr. Ohman is presently seeking employment.

Prior to the regular board meeting the Executive Committee of the Board held a meeting to discuss matters relating to the composition of the MSIA Board of Managers.

The meeting adjourned at 4:17 p.m.

Respectfully submitted,

Gerald M. Marcinkoski

Gerald M. Marcinkoski
Executive Secretary