



MICHIGAN SELF-INSURERS' ASSOCIATION

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Gerald M. Marcinkoski
Executive Secretary

Board of Managers

Trinity Health
Susan Cyrulnik
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General Motors Corporation
Susan R. Azar
1st Vice Chair

Little Caesar Enterprises, Inc.
C. Michael Healy
Treasurer

City of Grand Rapids
Mary Beth Jelks

Alticor, Inc.
Lorraine K. Climer

Varnum Consulting, LLC
Libby Child

Wayne State University
Pamela Galloway

Ford Motor Company
Jonathan R. Parker

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

Kelly Services, Inc.
Lesley Zielinski

MINUTES OF BOARD OF MANAGERS' MEETING

September 12, 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
CLIMER, L., Alticor, Inc.
CYRULNIK, S., 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
STEPANIAK, L., Wayne County Airport Authority

Chairperson's Council:

SUSSER, D., Smith Haughey Rice & Roegge
VENET, K., Chrysler LLC
ZURVALEC, D., Michigan Manufacturers Association

Not Present:

BLOCK, W., Michigan Chamber of Commerce
SEDLOCK, D., The Pepsi Bottling Group
TICKNOR, B., Sherriff-Goslin Company
WRIGHT, D., Consumers Energy Company (due to phone failure at Fox Hills)

MICHIGAN SELF-INSURERS' ASSOCIATION

Page 2

The Chairperson called the meeting to order at 11:35 a.m. to discuss the following:

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 Fall Conference Committee Report
8. Membership Committee Report
9. Health Care Committee Report
10. Legislative Committee Report
11. Old Business
 - a. Magistrate evaluation forms
 - b. Vendors and MSIA Conferences
 - c. Other old business
12. New Business
 - a. Agency form 105
 - b. Scheduling of QAC meetings and interviews
 - c. Guest list for Workability in Michigan Summit
 - d. Other new business

The Chairperson, Ms. Cyrulnik, asked for introductions of everyone at the Board meeting, given new faces. Immediately following those introductions, the Chairperson presented Sheila Mahan, Treasurer, with a plaque commemorating her 13 years as Treasurer of MSIA. Ms. Mahan has been an outstanding officer of MSIA, superbly and successfully managing MSIA finances. Ms Mahan has recently retired from the City of Grand Rapids; this was her final Board Meeting. The City of Grand Rapids, will now be represented by Mari Beth Jelks.

The **Minutes** were then approved, following an alteration requested by Mr. Wright, upon motion of motion of Ms. Child seconded by Mr. Green.

The **Treasurer's Report** was submitted by Ms. Mahan via handouts furnished to the Board. The handouts included much information with respect to the upcoming Fall Conference. Ms. Mahan discussed the transition of the Treasurer's responsibilities to Mr. Mike Healy. Mr. Healy will assume those responsibilities from this point forward.

The **Nominating Committee Report** was submitted by Mr. Calille. He reported that the Committee met to identify three companies to potentially the one opening on the Board of Managers. Following interviews, Mr. Calille advised that the Committee recommended Kelly Services to be a member of the Board of Managers because they bring a different type of industry to the Board. Leslie Zielinski will

MICHIGAN SELF-INSURERS' ASSOCIATION

Page 3

represent Kelly Services on the Board. Mr. Green moved that the Board adopt the Nominating Committee's recommendation and Ms. Kransz seconded that motion. The recommendation unanimously passed.

The **Technology Committee Report** was submitted by Ms. Child. She indicated that the MSIA website was receiving many "hits" and sponsors. Mr. Dana, the webmaster, is expected to be adding Membership Committee material to the website in the future.

The **Funds Trustees' Report** was submitted by Ms. Azar. She reported the new Chair of Funds Trustees is Richard Zapala of the Accident Fund Insurance Company of America.

The **Amicus Curiae Committee Report** was submitted by Mr. Calille and the Executive Secretary. Mr. Calille relayed a request made for an *amicus curiae* brief with respect to a wrap around policy issue in a case pending at the Court of Appeals. Mr. Calille recommended the Board decline that request to see how the Court of Appeals resolves the issue. Mr. Calille also received a request for an *amicus curiae* brief in *Romero v Burt Moeke Hardwoods, Inc.* This case is being appealed to the Supreme Court by the employer after an unfavorable Court of Appeals' opinion. The sole focus of the *amicus curiae* brief would be the Court of Appeals' refusal to remand the case for a *Stokes* evaluation of the claimant's disability status. Mr. Calille recommended the MSIA authorize an *amicus curiae* brief with the fee not to exceed \$1,000.00. Ms. Child seconded the motion. The motion passed unanimously. The Executive Secretary then reported on the Supreme Court's release of *Brackett v Focus Hope*. This is a case where the Supreme Court, reversing all lower courts' rulings, held the claimant was not entitled to compensation because her injury was a result of her own intentional and wilful misconduct under MCL 418.305. The facts were that the claimant was told at the time of hire her attendance at annual Martin Luther King Day celebrations was mandatory, yet she intentionally did not attend the celebration. The claimant then claimed a psychiatric and emotional disability as a result of being confronted by a superior with respect to her non-attendance. The Board discussed the potential large impact of the case. A suggestion was made that employees sign forms as part of their intake training so as to later be able to demonstrate, if necessary, that particular rules were impressed upon the employees at the outset. Additionally, employee evaluations might include references to the need for obedience to work rules.

The **2008 Fall Conference Committee Report** was submitted by Ms. Azar. Ms. Azar reported that the Committee met in the morning before the Board meeting. The two nominees for the spot on the November ballot for Justice of the Supreme Court will be invited to the Conference to briefly address the attendees: the current Chief Justice of the Court, Clifford Taylor, and his opponent, Judge Diane Hathaway. They will be invited to speak during the luncheon portion of the Fall Conference. There will also be a presentation to Mr. Ed Welch during this portion of the program by the Chairperson of MSIA.

The **Membership Committee Report** was then submitted. Ms. Mahan had been the Chair of this subcommittee and the Board resolved that Ms. Child and Mr. Healy will now co-chair the Membership Committee. Mr. Healy will deal with the financial aspects of the Committee and Ms. Child with respect to the other aspects. Ms. Mahan left a detailed job description of what is required of this Committee. The Board resolved to involve Mr. Dana more closely with this Committee by automating certain functions that are presently performed by hand. The Board also resolved that there should be more than one check signer for MSIA. Besides the Treasurer, the Chair and the Vice Chair will now also be check signers. Mr. Healy recommended that many of the functions Ms. Mahan had performed as Treasurer should be

MICHIGAN SELF-INSURERS' ASSOCIATION

Page 4

transferred to be the work of the Membership Committee because that is where these functions belong. The Board agreed.

The **Health Care Committee Report** was submitted by Ms. Azar. Ms. Azar reported that a Health Care Committee meeting had recently taken place. There had been a quorum at the meeting and the Committee resolved not to change the fee schedule. Ms. Azar also said that a large audience had been present at the Committee meeting to discuss a contentious question relating to freestanding surgical outpatient facilities. That matter was discussed by the Health Care Committee with no firm resolution as of yet. Ms. Azar also reported that there has been no movement from the administration recently with regard to the evidence-based medicine issue.

The **Legislative Committee Report** was submitted by Mr. Zurvalec. Mr. Zurvalec relayed the failed effort the "Reform Michigan Government Now" Committee. The Board was also advised of the interest of the Senate in the inner workings of the Workers' Compensation Agency, in particular the guidelines or informal rules of the Qualifications Advisory Committee [QAC]. The Board discussed the scheduling of the final QAC deliberations on a date when not all employer representatives on the QAC could be present and what might be done in that regard to ensure a fair process.

Under **Old Business**, the Board was furnished with Magistrate evaluation forms to be completed and returned at the next Board Meeting. And, the Spring Conference Committee considered writing letters to vendors appearing at MSIA conferences without having registered for the conference. The Board also discussed other possible measures to remedy the problem.

Under **Other Old Business**, Ms. Kransz indicated that the Spring Conference Committee would conduct a survey to determine whether themes for conferences is favored or unfavored, as well as soliciting other input regarding conferences. Ms. Child reported that the MSIA Spring Conference will take place at the Grand Traverse Resort through 2010 as the contracts have signed through that time. Additional contracts are being sent to Ms. Child for the years 2011, 2012, and 2013 for review. Ms. Child is still negotiating with Grand Traverse Resort. The Board voted to authorize Ms. Child to lock in the dates for the MSIA Spring Conference at the Grand Traverse Resort through 2013. The Chairperson made a point of thanking Ms. Child for her successful and involved negotiations with the Grand Traverse Resort. All on the Board whole heartedly agreed.

Under **New Business**, the Executive Secretary reported on the Agency Form 105. This is an Agency-approved Form that would elicit information with respect to the claimant's qualifications, training, educational background, skills that is now information needed as a result of *Stokes v Chrysler LLC*. The Form is voluntary but it is expected that there will be institutional pressure on claimants to respond to this questionnaire at the risk of rejection of their claim for disability benefits. The Executive Secretary suggested that in voluntary pay cases the 105 be sent to claimants with a template-type letter explaining the necessity to furnish the information requested in the Form in order to determine whether the claimant remains entitled to voluntary payment of weekly workers' compensation benefits in light of *Stokes*. Ms. Child described the upcoming QAC interviews of candidates for the Board of Magistrates. She anticipated that there would be approximately 40 applicants for the positions. Ms. Child on another matter then invited the Board to a May 1, 2009 "Workability in Michigan Summit," spearheaded by Jennifer Christian.

MICHIGAN SELF-INSURERS' ASSOCIATION

Page 5

Finally, the Membership Committee indicated that it would meet at 3:00 p.m. prior to the next Board of Managers meeting on October 20, 2008.

Under **Other New Business**, Mr. Green was appointed to the Audit Committee in place of Mike Healy. The Board also instructed the Executive Secretary to produce a projected list of meeting dates for 2009 to be reviewed at the next Board Meeting, along with a new register list of the Board of Managers members.

The meeting adjourned at 2:20 p.m.

Respectfully submitted,

Gerald M. Marcinkoski

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Executive Secretary