



# MICHIGAN SELF-INSURERS' ASSOCIATION

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**Wayne County Airport Authority**  
Leigh Stepaniak

**Kelly Services, Inc.**  
Lesley Zielinski

**Meijer**  
Sherri Miller

## MINUTES OF BOARD OF MANAGERS' MEETING

February 12, 2010  
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](mailto:mmelton@laceyjones.com)**

### Present:

AZAR, S., General Motors LLC  
CLIMER, L., Amway  
FISK, T. (by Rose Wohlgemuth) Trinity Health  
GALLOWAY, P., Wayne State University  
HEALY, M. Ilitch Holdings, Inc.  
JELKS, M., City of Grand Rapids (by phone)  
MILLER, S., Meijer  
PARKER, B., Marathon Oil Company (by phone)  
PARKER, J., Ford Motor Company  
STEPANIAK, L., Wayne County Airport Authority  
ZIELINSKI, L., Kelly Services, Inc.

### Chairperson's Council:

CHILD, L., Qualifications Advisory Committee  
SPIKE, J., Michigan Manufacturer's Association  
SUSSER, D., Smith Haughey Rice & Roegge

### Not Present:

BLOCK, W., Michigan Chamber of Commerce  
CALILLE, A., AT&T Michigan  
GREEN, D., DTE Energy  
KRANSZ, J., FinCor Solutions  
LEVINS, N., Chrysler Group LLC  
TICKNOR, B., Sherriff-Goslin Company  
WRIGHT, D., Consumers Energy Company

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The Chairperson called the meeting to order at 11:42 a.m. to discuss the following Agenda:

### AGENDA

1. Presentation of Mr. Edward Welch
2. Discussion of Mr. Welch's project
3. Minutes of Board of Managers' Prior Board Meeting
4. Treasurer's Report
5. Membership Committee Report
6. Nominating Committee Report
7. Funds Trustees' Report
8. *Amicus Curiae* Committee Report
9. Technology Committee Report
10. Health Care Committee Report
11. Legislative Committee Report
12. 2010 Spring Conference Committee Report
13. Old Business
  - a. Conflict of interest statements/Whistle Blower's forms
  - b.. Ohio approval of continuing legal education credits
  - c. RICO inquiry from NCSI
  - d. Other old business
14. New Business
  - a. New rule re: IME doctors
  - b. New site for Spring Conference?
  - c. WCRI research briefing
  - d. Magistrate appointment
  - e. Other new business

The Board welcomed Mr. Edward Welch who described the present status of study groups he is overseeing relating to potential changes to the workers' compensation system. Those four different groups are: the finance committee; the state funds committee; the data processing committee; and the litigation committee.

Mr. Welch explained that the funds committee's work is completed. The committee recommended ending the dust fund, retaining the logging industry fund, ending the PBB fund, no changes to total and permanent disability funding, elimination of the two years continuous fund payments, retention of the dual employment fund, retention of the seventy percent reimbursement aspect of the second injury fund, and no new certification for chapter nine "vocationally disabled" f/k/a "vocationally handicapped" fund. Any changes in the law would be tied to the date of injury, such that persons previously receiving monies would not be affected by the changes. Mr. Welch said that the savings to be reaped from these changes would not be realized for a long time. The Self-Insurers Security Fund (SISF) was not discussed by the fund committee, nor is it part of Mr. Welch's project. Mr. Welch did underscore the administration's concern about the viability of this fund.

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With respect to the data committee, that committee had discussed electronic filings of different forms. Mr. Welch and the board discussed in general how to best effectuate the necessary changes. Mr. Welch recognized these changes as a priority.

The litigation committee, which is comprised mostly of attorneys, had met only one time as of the time of the MSIA Board Meeting. This committee addressed the desire to retain all present hearing sites, and adding at least two more magistrates. It also discussed the possibility of eliminating mediators and requests by plaintiffs' attorneys for an increase in their attorneys fees. The litigation committee was to meet again.

The finance committee had also discussed hearing sites. Some of its members expressed skepticism about the request of plaintiffs' attorneys for an increase in fees. This committee primarily discussed whether assessments were necessary to fund the workers' compensation system. However, Mr. Welch explained that the Governor's proposed budget – which had just been announced the day before the MSIA Board Meeting – contained funding for the workers' compensation system through the general fund. When the finance committee had met, the committee had anticipated there would not be general fund support for the workers' compensation system. The Governor's proposed budget contemplates funding the Workers' Compensation Agency at the same level as the present year. Mr. Welch added, however, that it does not provide additional money for more magistrates, nor money to aid the modernization of data processing. Mr. Welch alluded to potential retirements of state employees as effecting savings for the Agency. In light of the Governor's proposed budget providing for general fund money to be used to operate the workers' compensation system, Mr. Welch explained that it is now a legitimate question whether employers need to continue to consider whether ongoing discussions of assessments are necessary. Mr. Welch felt that such talks should continue because the climate is ripe for discussion and the need for additional magistrates is favored by most and should not be delayed. Mr. Welch was of the opinion that a few more magistrates were needed.

The Board thanked Mr. Welch for his presentation and thoughts and, after his departure, the Board discussed them. The Board favors the addition of at least two more magistrates but felt the money to pay for those magistrates does not require further assessments or fees given that at the first finance committee meeting the Agency had already planned "internal adjustments that will result in a reduction of \$450,000.00." That figure is more than enough to pay for at least two more magistrates. The Board believes the Qualification Advisory Committee needs to be more diligent in its review of magistrates and appellate commissioners in terms of productivity, efficient handling of cases, and charges of bias. The statutory means exist for the QAC to demand more accountability, but the Board doubted that these powers are being seriously applied by the QAC. The Board believed that the efforts of the data committee should continue because the modernization of the state's system needs to happen particularly when Michigan's processes are compared and contrasted with other state's systems. The Board is willing to help provide technical support for this effort. The Board believes all lines of communication with respect to the data committee should remain open. With respect to the fund committee work, the Board generally agrees with the committee's recommendation but recognized it will take legislation to accomplish them. There is no appetite presently for going to the legislature to seek workers'

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compensation changes. The Board favored ending the litigation committee as it was strongly opposed to plaintiff's attorney's request for an increase in fees. Finally, with respect to the finance committee, the Board believes release of the Governor's budget eliminates the need for fees and assessments. In this regard and as indicated above, the Board was of the mind that two more magistrates could be added from the projected internal adjustments planned by the Agency and reported at the initial finance committee meeting. Finally, the Board noted that the uncertain status of funding for the Self-Insurers' Security Fund towered over other considerations of possible fee increases and until that Fund's status is firmly established, it is premature to discuss other fees and assessments.

The **Minutes** of the Board's prior Board meeting were then approved upon motion of Ms. Miller seconded by Ms. Galloway.

The **Treasurer's Report** was provided by Mr. Healy who furnished a handout that was distributed to the Board. The Treasurer's Report was approved upon motion of Ms. Zielinski, seconded by Ms. Stepaniak.

The **Membership Committee Report** was provided by Mr. Healy. He indicated there was one new membership application received and he responded to it by explaining that under the MSIA constitution the applicant could only be admitted as an associate member. Mr. Healy also reported that he had responded to a prior inquiry with regard to the last spring conference's attendance fee.

The **Nominating Committee Report** was tabled due to Mr. Calille's absence.

The **Funds Trustees Report** was tabled due to the absence of Mr. Green.

The ***Amicus Curiae* Committee Report** was provided by the Executive Secretary. He reported that the case *Trammel v Consumers Energy*, which relates to implants and specific loss claims, remains pending at the Michigan Supreme Court on the employer's application for leave to appeal. [The employer's application has since been denied by the Supreme Court]. And, the Executive Secretary reported on the status of the RICO case where the United States Supreme Court recently denied the employer's appeal to that Court. That denial means the case returns to the federal district court for trial.

The **Technology Committee Report** was provided by Mr. Parker. He updated that Board on developments with respect to MSIA's website. The committee continues to consider pursuing additions to the website.

The **Health Care Committee Report** was submitted by Ms. Azar who reported that nothing of substance occurred at the last Health Care Committee meeting.

The **Legislative Committee Report** was provided by Ms. Spike. She relayed the Governor's budget information that, as indicated above, had been released the day before. Ms. Spike also provided the Board information with respect to tax reforms under present discussion in Lansing. She related that the Michigan Manufacturers' Association did not believe the tax reforms were aggressive enough.

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The **2010 Spring Conference Committee Report** was submitted by Mr. Parker. He reported on the agenda for the conference saying it will be posted on the MSIA website. The highlights of the conference include an address by Mr. Tim Skubick, of Public Television's "Off the Record" and a longstanding member of the state capitol press corps. He will be addressing state government issues. Another major topic of discussion at the conference will be medical marijuana and coordinating ADA, FMLA and workers' compensation. The Workers' Compensation Agency's personnel will address the conference along with the Executive Secretary. Details for the Conference, as well as registration materials, can be found on the MSIA website. The Board also discussed the need for waivers for Board members and person's working for the Board and Mr. Healy will check on workers' compensation and general liability coverage as it relates to MSIA persons and/or any contractors working at MSIA events.

Under **Old Business**, the Board was provided copies of sample conflict of interest and whistleblower forms. They were approved and the Executive Secretary will draft one for each Board member to sign once per year before the MSIA Fall Conference. The Executive Secretary reported on Ohio Supreme Court's approval of continuing legal education credits for the last MSIA conference and advised that each particular conference requires separate approval for continuing legal education credits by the Ohio Supreme Court. The Executive Secretary also relayed information from the National Council of Self-Insurers which requests that any company encountering a RICO lawsuit should advise the National Council.

Under **Other Old Business**, Ms. Zielinski discussed the scholarships MSIA offers to student(s) of Olivet College. She reported that Mr. Ticknor had spoken to the college. Ms. Zielinski and Mr. Ticknor recommend one student from the college be invited to the Spring Conference. The Board again discussed the waiver of liability form mentioned earlier and determined that college students should sign these forms as well. The only other old business was the Board being provided an updated copy of the new Registrar Form with the contact number for different Board members.

Under **New Business**, the Executive Secretary reported on developments with respect to the new proposed administrative rule for IME doctors. The Executive Secretary will explore this further to determine its relevance and possible applicability to workers' compensation. The Executive Secretary will report at the next Board meeting with updated information in this regard. The Board then discussed the possibility of a new site for the Spring Conference. Ms. Azar suggested a sub-committee to research alternative locations and it was approved. Ms. Zielinski will poll and survey MSIA members with respect to their preference for sites. The sub-committee is to be composed of Ms. Zielinski, Ms. Child, Ms. Azar, Ms. Susser and Denise Pretzer and begin its work after this year's Spring Conference.

The Executive Secretary alerted the Board to the Workers' Compensation Research Institute's briefing scheduled for March 16, 2010 and provided information in that regard.

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Finally, the Executive Secretary reported on the appointment of Magistrate Logan by the Governor to the Magistrate spot vacated by Mr. Gorchow, who is now the Chair of the Workers' Compensation Appellate Commission. The Executive Secretary also reported on a letter received by former Magistrate Guyton.

The meeting adjourned at 4:33 p.m. upon Motion of Mr. Healy, seconded by Ms. Stepaniak.

Respectfully submitted,

*Gerald M. Marcinkoski*

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Executive Secretary