



MICHIGAN SELF-INSURERS' ASSOCIATION

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Gerald M. Marcinkoski
Executive Secretary

Board of Managers

Varnum Consulting, LLC
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1st Vice Chair

Wayne State University
Pamela Galloway
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Treasurer

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Jonathan R. Parker

Little Caesar Enterprises, Inc.
C. Michael Healy

ThyssenKrupp Budd Company
James Commet

SBC
Albert Calille

Consumers Energy Company
Janice E. Thomas

DaimlerChrysler Corporation
Neil D. Levins

DTE Energy
Danielle F. Susser

General Motors Corporation
Susan R. Azar

**Michigan Health & Hospital
Association**
Janet Kransz

Alticor, Inc.
Steve Ohman

Marathon Oil Company
Barbara Parker

MINUTES OF BOARD OF MANAGERS' MEETING

July 15, 2005

Holiday Inn, North Campus
Ann Arbor, Michigan

Present:

AZAR, S., General Motors Corporation
CHILD, L., Varnum Consulting
COMMET, J., ThyssenKrupp Budd Company
CYRULNIK, S., Trinity Health
HEALY, M., Little Caesar Enterprises, Inc.
PARKER, B., Marathon Oil
PARKER, J., Ford Motor Company
MAHAN, S., City of Grand Rapids

Not Present:

CALILLE, A., SBC
GALLOWAY, P., Wayne State University
KRANSZ, J., Michigan Health & Hospital Association
LEVINS, N., DaimlerChrysler Corporation
OHMAN, S., Alticor, Inc.
SUSSER, D., DTE Energy
THOMAS, J., Consumers Energy Company

Guests:

ZURVALEC, D., Michigan Manufacturer's Association

The meeting was called to order at 11:45 a.m. to discuss the following agenda:

AGENDA

1. Minutes of Board of Managers' Prior Meeting
2. Treasurer's Report
3. Nominating Committee Report
 - a. Withdrawal of Michigan Retailers Association and Kmart
 - b. New representative for DTE Energy
4. Technology Committee Report
 - a. Website links

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- b. Other
- 5. Funds Trustees Report
- 6. Editorial Committee Report
- 7. Amicus Curiae Report
- 8. Health Care Committee Report
- 9. 2005 Spring Conference Final Report
- 10. 2005 Fall Conference Report
- 11. Old Business
 - a. Workers' Compensation Funding
 - b. Medicare setasides
 - c. High deductible companies
- 12. New Business
 - a. New workers' compensation proposed legislation
 - b. Upcoming magistrate appointments
 - c. Other new business
- 13. Adjournment

Chairperson Libby Child called the meeting to order. The **Minutes** of the previous board meeting were approved upon motion of Ms. Mahan seconded by Mr. Healy.

The **Treasurer's Report** was delivered by Ms. Mahan and approved upon motion of Mr. Healy seconded by Mr. Commet. She reported that the Grand Traverse resort bill from the spring conference was still outstanding. She reported that an anticipated profit of approximately \$10,000.00 from the Spring Conference was likely. Ms. Mahan also indicated that, possibly at the end of the fiscal year, the MSIA should consider placing \$50,000.00 in a Certificate of Deposit. The MSIA dues notices will be sent out in August, 2005.

The **Nominating Committee Report** revealed Kmart Corporation will no longer have a seat on the Board of Managers. Also, the representative from DTE Energy, Danielle Susser, has left the employment of DTE Energy and for that reason can no longer represent DTE Energy on the Board. Therefore, another representative of DTE Energy will need to be designated. Finally, the Michigan Retailers Association is becoming a mutual fund and, as a consequence, it has of necessity withdrawn as a member of the MSIA and their spot needs to be replaced on the Board. The Board discussed a number of companies who have expressed interest in being on the Board of Managers to fill these vacancies. The departure of Ms. Susser and Mr. Hallan (of Michigan Retailers) also creates a need for new board members on the legislative committee and on the amicus curiae committee. The Executive Secretary will bring to the next board meeting a list of the group self insureds in the state and Ms. Mahan will bring the names of MSIA companies and contact people.

Mr. Commet was added to the membership committee. The new Membership Committee consists of Mr. Commet, Ms. Child, and Mr. Calille.

The **Technology Committee Report** was presented by Ms. Child. She reported that the website will display pictures from the Spring Conference. The Board discussed advertising on the MSIA website. Ms.

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Mahan questioned whether only members of the MSIA should be permitted to advertise. The question was left unresolved. The web master will be working as necessary on the MSIA blog.

The **Funds Trustees' Report** was delivered by Ms. Child. She indicated that there was no meeting of the Funds Trustees in June. They would meet again on the following Monday. Ms. Child indicated that the sense of the Funds was that they would probably not be seeking a motion for rehearing in the *Bailey v Oakwood Hospital* case. The possibility of a legislative change to provide for a two year limit on reimbursements from the Funds was discussed.

The **Editorial Committee Report** was tabled due to Ms. Thomas's absence.

The **Amicus Curiae Report** was delivered by the Executive Secretary. He reported that the Michigan Supreme Court has released its decisions in *Cain v Waste Management/Second Injury Fund* and *Bailey v Oakwood Hospital/Second Injury Fund*. In *Cain*, the Supreme Court held that the specific loss requirement can be met even if the limb in question has not been amputated so long as it has been rendered practically useless. And, a total & permanent disability finding can follow for loss of the legs where one leg is amputated and the other leg meets the specific loss criteria. In *Bailey*, the Supreme Court held that an employer can still obtain reimbursement from the Fund under Chapter Nine's Vocational Disability Provisions if the employer fails to notify the fund within the set time requirement described in Chapter Nine. The Executive Secretary also indicated that the Supreme Court has before it a non workers' compensation case that relates to workers' compensation. The question in that case is whether the Circuit Court can determine whether a plaintiff is an "employee" under the Act. That case is *Reed v Yackell*. Finally, the case of *Paige v City of Sterling Heights* continues to pend before the Supreme Court on the employers' application for leave to appeal. The case involves the claim of death benefits.

The Board then considered the *amicus curiae* request by the employer in *Harris v DaimlerChrysler*. This is a case where the employer was precluded from presenting a defense under §222 of the Act. The case is pending before the Supreme Court on the employer's application. The Board agreed to file an *amicus curiae* brief urging the Supreme Court to hear the case with a limit of \$3,000.00 on the cost of such brief.

The **Healthcare Committee Report** was submitted by Ms. Azar. She indicated that the health care committee had met and amongst the topics discussed was the possibility of a cap being placed on durable medical equipment. Ms. Azar indicated there will likely be rule changes proposed in Autumn, 2005, and there will be a public hearing held with respect to the proposed changes in the rules.

The **2005 Spring Conference Report** was delivered by Ms. Child. The Board recognized the excellent efforts of the Spring Conference Committee. As noted earlier, the indication was that the Spring Conference was a financial success in terms of netting approximately \$10,000.00 in profit. Evaluations of the speakers were distributed to the board members. The Board decided that next year's Spring Conference should take place on the same approximate dates, immediately after Memorial Day, given the good response to that timing this year. The Board discussed offering free registration to high deductible employers to next year's Spring Conference as this would be a good way to communicate to high deductible employers the benefits of belonging to MSIA. Ms. Child indicated the Accident Fund

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expressed a willingness to work on the Spring Conference Committee next year. The Board also agreed that entities who expressed an interest in sponsoring the spring conference early may be included in the Spring Conference Brochure. Ms. Susser will continue to work on the Spring Conference Committee in 2006. The Board will select the 2006 Spring Conference Committee at its next board meeting.

The Conference Brochure was distributed as part of the **2005 Fall Conference Report**. The date of the Fall Conference is October 26, 2005. It will be held at the St. John's Conference Center. The theme of the conference will be the "Extreme Makeover" concept. Many vendors have expressed a willingness to help at the conference. Ms. Cyrulnik will inquire into holding the board meeting at the nearby Hilton. Other sites discussed were Northville Hilton or Oak Point. Ms. Cyrulnik distributed a rough agenda for the fall conference.

Under **Old Business**, the Executive Secretary distributed a letter signed by Mr. David Plawecki indicating that the administration has decided to abandon for the time being efforts to seek alternative funding, such as assessments, for operation of the Workers' Compensation Agency.

The Executive Secretary distributed the letter MSIA had drafted and forwarded to Representative Dave Camp urging federal action on the problem created by medicare set-asides and the approval necessary from the Center for Medicare and Medicaid Services [CMS]. The Executive Secretary also distributed a copy of talking points on the medicare secondary reform proposals being circulated.

The Executive Secretary distributed figures relating to the number of high deductible policies within the state over the preceding seven years.

Under **New Business**, the Board discussed proposals for changes in the workers' compensation act that has been drafted and presented elsewhere. The Executive Secretary will email a copy of the proposed legislation to the board members.

The Board then discussed upcoming magistrate appointments and the matter will be taken up again at the next board meeting.

Four new members were welcomed to the MSIA: Relevar Home Care, Human Engineering Software and Services, Professional Claims Investigations, and Preferred Case Management. All of which were admitted as Associate members except Relelar Home Care which was admitted as an active member.

The meeting was adjourned at 4:20 p.m.

Respectfully submitted,

Gerald M. Marcinkoski

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Executive Secretary