



MICHIGAN SELF-INSURERS' ASSOCIATION

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Sandra DiCicco

University of Michigan
Kathleen M. Rychlinski

Marathon Petroleum Company LP
Lina Lee

MINUTES OF BOARD OF MANAGERS' MEETING

February 20, 2015
Holiday Inn North Campus
Ann Arbor, Michigan

Reminder: Minutes are now only available via e-mail 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:

ALBAUGH, T., Kellogg Company
AZAR, S., General Motors LLC
BRUNO-HERLINE, L., AT&T Michigan
COULSON, C., City of Grand Rapids (by phone)
DICICCO, S., Kelly Services, Inc.
FLYNN, T., Johnson Controls
GALLOWAY, P., Wayne State University
LEE, L., Marathon Petroleum Company LP (by phone)
NIEHAUS, M., Ilitch Holdings, Inc.
OHMAN, S., Spectrum Health Occupational Services
PARKER, J., Ford Motor Company
RYCHLINSKI, K., University of Michigan
SCHNEIDER, M., Trinity Health
SMITH, C., Wayne County Airport Authority
WRIGHT, D., Consumers Energy Company

Chairperson's Council:

BLOCK, W., Michigan Chamber of Commerce (by phone)
PENZ, M., HSAWCF (representing the Group Funds)
SUSSER, D., MacArthur, MacArthur & Associates, P.C.

Not Present:

CHILD, L.
GREEN, D., DTE Energy
McKINLEY, D., Michigan Manufacturers' Association
WHITE, D., Chrysler Group, LLC

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The Chairperson, Mr. Ohman, called the meeting to order at 11:37 a.m. to address the following Agenda:

1. Minutes of Board of Managers' prior Board Meeting
2. Treasurer's Report
3. Funds Trustee Report
4. Excess Coverage discussion with John Schrock, Administrator of the Self-Insured Programs Division, State of Michigan, and Shaun Mackey, Midwest Employers' Casualty Company
5. Legislative Committee Report
 - a. Workers' Compensation Board of Magistrate Rules/Scheduling Order
 - b. Evidence Based Medicine
 - c. First Responders Presumed Coverage Fund
 - d. Magistrate reappointments
 - e. Status of SISF redemptions
6. Membership Committee Report
7. Nominating Committee Report
8. *Amicus Curiae* Committee Report
 - a. *Arbuckle v General Motors LLC*
9. Technology Committee Report
10. Health Care Committee Report
11. 2015 Spring Conference Committee Report
12. Member Roundtable Committee Report
13. Old Business
 - a. Metrics on Self Insurance versus other forms of claims management
14. New Business
 - a. MHSA contract
 - b. Contract review committee

At the outset of the meeting, Ms. Keeli Baker and Ms. Holly Mauk from Muchmore, Harrington, Smalley and Associates (MHSA) were present to introduce themselves as the liaisons to the Board following the Search Committee's recommendation and the Executive Committee's approval of MHSA to be the new vendor providing event planning services and other services to the Board. Both Ms. Baker and Ms. Mauk indicated they look forward to working with the Board and all MSIA members.

Next, the **Minutes** were approved upon motion by Ms. Rychlinski seconded by Ms. Galloway. The Board then welcomed John Schrock, Administrator of the Self-Insured Programs of the State of Michigan and Shaun Mackey of Midwest Employers' Casualty Company to the meeting. They were present to address the current issues pertaining to excess coverage in the State of Michigan. Mr. Schrock discussed the fact that there are a handful of employers in the State of Michigan who currently do not have excess coverage. It is the goal to have all employers have statutory coverage in place by September, 2015. There was discussion by Mr. Mackey that Michigan is an excellent place to do business as the fee schedule works very successfully to reduce costs.

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Mr. Schrock noted there were approximately four to six excess carriers in the Michigan market at this time. He indicated the state is very involved in making sure all employers have statutory coverage as recent events and insolvency issues with the Self-Insured Security Fund provides a historical perspective on what can occur when there is an insolvency.

Mr. Schrock stated that approximately 68% of the existing employers in the state have a SIR of between \$100,000.00 and \$500,000.00. He indicated that this versus the contemporaries in other states shows that Michigan is pretty reasonable in their requirements. Mr. Mackey indicated that the average retention for Midwest clients in the state of Michigan is between \$450,000.00 and \$475,000.00. He stated again that medical is controlled well and that we are in a good state to write excess coverage. Mr. Schrock further added that he believes the retention levels are leveling out. He stated he is always willing to have a conversation with employers about issues they are facing in obtaining statutory limits of excess coverage. He stated it is clearly a balance of goals versus practical challenges versus availability in obtaining excess coverage.

Ms. Flynn inquired of Mr. Mackey what role third party administrators (TPA) play in determining rates for coverage. Mr. Mackey noted that a TPA company can impact rates. Mr. Schrock indicated that the state approves service companies if they meet certain requirements. He stated that sometimes issues arise if claims handling is performed out of state by a third party administrator. He stated that if a company does not have an office in Michigan they have to get approved by the state.

Mr. Schneider inquired as to whether Mr. Mackey has seen any statistics on whether evidence based medicine improves excess insurance rates. Mr. Mackey stated that in the approximate 35 states he is aware of that follow evidence based medicine guidelines, he is unaware of any statistics as to whether this has a bearing on improving excess rates. He did underscore the fact that Michigan, per a Workers' Compensation Research Institute (WCRI) study, has done a good job in controlling costs as the fee schedule is quite effective.

The **Treasurer's Report** was submitted by Mr. Niehaus. He indicated that the transition has been going well. He stated it is a quiet time as far as the financials are concerned and everything is steady. He indicated he is working with Ms Zielinski and will be working with MHSA to transition the bank statements and producing a balance sheet. The Treasurer's Report was approved upon motion by Ms. Azar and a second by Mr. Schneider.

The **Funds Trustee Report** was deferred as Mr. Green was absent.

The **Legislative Committee Report** was submitted by Ms. Block. She indicated that in discussions with Funds Administrator, Mark Long, he has advised that the overarching goal of the state is to ensure there are timely and cost effective resolutions on all the existing claims. He indicates that a full and final redemption that includes medical would be the most cost effective strategy that will, in turn, limit the long term exposure of the SISF. He indicated there is a vendor who is currently handling the MSA's for the state.

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Additional information included the discussion pertaining to the legislation SB 211 signed into law by Governor Snyder. The legislation amends MCL 418.405 and creates the First Responders Presumed Coverage Fund. This amendment creates a presumption of compensability for certain cancers suffered by firefighters and provides a fund for payment of such claims. It is the creation of the fund that sets the legislation apart from prior versions that were not enacted. However, there is presently no funding for the fund. It is currently in the stages of creating a process and procedure for implementation.

The **Membership Committee Report** was submitted by Ms. Flynn. She stated that there have been no new applications for membership. She stated it is a slow time of the year and that brochures had been mailed out to all self-insured's who currently are not members of MSIA.

The **Nominating Committee Report** was submitted by Ms. Susser. She indicated that on January 20, 2015 an email blast had been sent to active employer members to advise them of an opening on the Board. The deadline for responses was February 19, 2015. She indicated that two responses have been received and that interviews will be set up to follow up with the candidates.

The **Amicus Curiae Committee Report** was submitted by the Executive Secretary. There was a discussion of the recent Court of Appeals case in *Arbuckle v General Motors LLC*. In an unpublished decision, the Michigan Court of Appeals reversed the Michigan Compensation Appellate Commission and held that the employer could not coordinate workers' compensation benefits with disability retirement benefits despite specific authority to coordinate in the last collective bargaining agreement (CBA). The Court of Appeals indicated that the plaintiff was not bound by the CBA because he was not represented in the negotiations after his retirement by the union. General Motors is deciding whether to appeal. The Board discussed filing an *amicus curiae* brief in the event General Motors does appeal. Upon motion by Mr. Bruno-Herline and seconded by Ms. Rychlinski, the Board approved Jerry Marcinkoski to submit an *amicus* brief on behalf of MSIA should General Motors appeal.

The **Technology Committee Report** was submitted by Mr. Parker. He indicated that so he could keep track of changes on the website, there is going to be a website change request document. Accordingly if you would like to request a website change, please complete the form and mail it to contact@michselfinsurers.org. The entire Board again thanked Mr. Parker and the Committee for their continued hard work on the new web page. It was noted by Mr. Wright that MSIA is working to develop a Linked In page as well.

The **Health Care Committee Report** was submitted by Ms. Azar. She stated a meeting was held on January 14th. Director Elsenheimer had reported that there would be information coming out on evidence based medicine at some point in the future but the committee had not yet received that information. She further indicated that Director Elsenheimer wants to do a formulary (or drug list) similar to what other states had done and found to be cost effective.

Additionally, Ms. Azar noted that the "anesthesiologist assistant" title was approved and recognized in regards to the workers' compensation fee schedule.

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The **2015 Spring Conference Committee Report** was submitted by Ms. Albaugh. She stated that several exhibitors had come to the Spring Conference Committee Meeting and there was a good discussion regarding different options for exhibitors. She indicated that things are progressing well in regards to the conference and that MHSA had begun working on the transition as the new event planner. Ms. Albaugh indicated that the reception on Wednesday June 10th at the Spring Conference will be held at the J W Marriott. Ms. Albaugh indicated that the theme of the conference is the "Nuts and Bolts of Workers' Compensation." Additionally, discussion was held regarding the 2015 Fall Conference contract with the Suburban Collection Showplace. Ms. Azar indicated we will be working with MHSA to get the contracts completed.

The **Member Roundtable Committee Report** was submitted by Ms. Azar. She indicated that with the transition to a new Event Planner for the Spring Conference, the decision was made to push the member Roundtable Event into the late summer or early fall.

Under **Old Business**, Mr. Schneider discussed having metrics on self insurance versus other forms of claims management. Several board members discussed several productive ideas on determining the benefits of self insurance and how this could further be discussed amongst the members.

Under **New Business**, the Executive Secretary discussed with the Board the new Scheduling Order which will be issued in all new cases by the Board of Magistrates. The Executive Secretary pointed out key provisions pertaining to the exchange of medical and employment records, as well as scheduling dates pertaining to facilitations, IME's and depositions.

Next, Ms. Bruno-Herline presented a discussion of the MHSA contract for services. There had been an Executive Committee Meeting as noted in the minutes dispersed regarding same. There was discussion pertaining to the treasury responsibilities for MHSA as well as the membership responsibilities, meeting space, as well as a discussion as to the precise role of MHSA. Ms. Susser noted that historically the Board has felt more influential as an organization if it was not a lobbying organization, notwithstanding IRS concerns, if MSIA was a lobbying organization. The Board concurred that MSIA is an educational organization and that there needed to be a specific clause in the contract indicated that the contract excludes specifically any activity as it pertained to lobbying. Ms. Azar and Mr. Wright indicated that the intention in hiring MHSA was to assist in the administrative functions of the organization and there is no intention for those functions to become intertwined with lobbying. It was noted that MHSA will have a dedicated phone number and address for MSIA. The transition will begin immediately.

The Board wishes to acknowledge Marianne Melton for her 13 years of services to MSIA as the Assistant to the Executive Secretary and the entire MSIA Board. Additionally, Mr. Parker indicated that the Contract Committee to include Ms. Galloway and Ms. Bruno-Herline should also be recognized due to their hard work in reviewing the contract with MHSA. Additionally the Search Committee was recognized for their commitment and work in the selection process of MHSA.

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No further business to be conducted, the Board Meeting was adjourned upon motion by Ms. Bruno-Herline and seconded by Mr. Wright at 3:38 p.m.

Respectfully submitted,

Dawn M. Droblich
Executive Secretary