

## Meeting Minutes

Wednesday, January 30, 2008 – 8:30 a.m.  
30 West Spring Street, 30<sup>th</sup> Floor, Conference Room A

**Present:** Gary DiCeglio, Chairman  
William Thompson, Commissioner  
Kevin Abrams, Commissioner

**Attendees:** Patrick Gannon, Executive Director  
Tim Adams, Director, Non-Adjudicatory Operations  
Tom Connor, Director, Hearing Services  
Rick Tilton, Hearing Officer Trainer  
Paul Walker, Legal Counsel  
Debbie Fodey, Administrative Assistant  
Janet Lucktenberg, Administrative Assistant  
Susan Murnane, Administrative Assistant  
Rupi Singh, Administrative Assistant

Chairman DiCeglio called the meeting to order. Mr. Gannon called the roll.

**Roll Call:** Chairman DiCeglio Present  
Commissioner Thompson Present  
Commissioner Abrams Present

### Old Business:

- (A) November 27, 2007 Meeting Minutes: Commissioner Abrams moved to approve the minutes of the November 27, 2007 meeting. Commissioner Thompson seconded the motion. Mr. Gannon called the roll:

**Roll Call Vote:** Chairman DiCeglio Yes  
Commissioner Thompson Yes  
Commissioner Abrams Yes

### New Business:

- (A) Rules 4121-1-01; 4121-1-02; 4121-1-03; 4121-3-01; 4121-17-07; 4121-3-19; 4121-3-32: The Commission members and staff discussed the rules. The Rules Advisory Group recommended that the Commission make no changes to the rules. Chairman DiCeglio moved that notice be provided to the Joint Committee on Agency Rule Review that after the review required pursuant to Section 119.032 of the Revised Code that the rules of the Ohio Administrative Code listed below be continued without change. Chairman DiCeglio further moved that the next rule review date for rules 4121-1-01, 4121-1-02, 4121-1-03, 4121-3-01, and 4121-17-07 be February 1, 2013 and that the next rule review date for rules 4121-3-19 and 4121-3-32 be February 1, 2012. Commissioner Thompson seconded the motion.  
4121-1-01 Notice procedure for the adoption, amendment or rescission of rules (Attachment A)

- 4121-1-02 Notice of public meetings  
(Attachment B)
- 4121-1-03 Non-adjudicatory meetings of the industrial commission  
(Attachment C)
- 4121-3-01 Office locations and office hours  
(Attachment D)
- 4121-17-07 Filing of bills  
(Attachment E)
- 4121-3-19 Form reference  
(Attachment F)
- 4121-3-32 Temporary disability  
(Attachment G)

Mr. Gannon called the roll:

Roll Call Vote:	Chairman DiCeglio	Yes
	Commissioner Thompson	Yes
	Commissioner Abrams	Yes

- (B) Rule 4121-3-13 – Disputed self-insuring employers’ claims: The Rules Advisory Group made suggestions for changes to the rule. The Commission members and staff discussed proposed changes to the rule as set forth in Attachment H. Chairman DiCeglio moved that after the review required pursuant to Section 119.032 of the Revised Code that Rule 4121-3-13 of the Ohio Administrative Code be originally filed for amendment as set forth in Attachment H, in accordance with Chapter 119 of the Revised Code. Commissioner Thompson seconded the motion. Mr. Gannon called the roll:

Roll Call Vote:	Chairman DiCeglio	Yes
	Commissioner Thompson	Yes
	Commissioner Abrams	Yes

- (C) 4121-3-26 – Effect of rules: The Rules Advisory Group made suggestions for changes to the rule. The Commission members and staff discussed proposed changes to the rule as set forth in Attachment I. Commissioner Thompson moved that after the review required pursuant to Section 119.032 of the Revised Code that Rule 4121-3-26 of the Ohio Administrative Code be originally filed for amendment as set forth in Attachment I, in accordance with Chapter 119 of the Revised Code. Commissioner Abrams seconded the motion. Mr. Gannon called the roll:

Roll Call Vote:	Chairman DiCeglio	Yes
	Commissioner Thompson	Yes
	Commissioner Abrams	Yes

- (D) Rule 4121-15-10 – Standards of conduct for adjudicators: The Rules Advisory Group made a suggestion for a change to the rule as set forth in Attachment J. Chairman DiCeglio moved that after the review required pursuant to Section 119.032 of the Revised Code that Rule 4121-15-10 of the Ohio Administrative Code be originally filed for amendment as set forth in Attachment J, in



accordance with Chapter 119 of the Revised Code. Commissioner Abrams seconded the motion. Mr. Gannon called the roll:

Roll Call Vote: Chairman DiCeglio Yes  
Commissioner Thompson Yes  
Commissioner Abrams Yes

- (E) Rule 4121-3-34 – Permanent total disability: The Rules Advisory Group made suggestions for changes to the rule. The Commission members and staff discussed proposed changes to the rule as set forth in Attachment K. Commissioner Abrams moved that after the review required pursuant to Section 119.032 of the Revised Code that Rule 4121-3-34 of the Ohio Administrative Code be originally filed for amendment as set forth in Attachment K, in accordance with Chapter 119 of the Revised Code. Chairman DiCeglio seconded the motion. Mr. Gannon called the roll:

Roll Call Vote: Chairman DiCeglio Yes  
Commissioner Thompson Yes  
Commissioner Abrams Yes

- (F) Rule 4121-3-10 – Lump sum payment for attorney’s fees for securing an award: The Rules Advisory Group made a suggestion for a change to the rule. The Commission members and staff discussed proposed changes to the rule as set forth in Attachment L. The Commission members also directed Mr. Connor to provide instructions to staff that an ex parte order should be issued adjudicating the application for lump sum payment. The ex parte order will be final unless a party files an objection within ten days of receipt of the ex parte order. If an objection is filed, the application will be set for hearing on a Staff Hearing Officer miscellaneous docket. Should the objection be filed by the injured worker, the application would be set for hearing as a fee dispute. Commissioner Thompson moved that after the review required pursuant to Section 119.032 of the Revised Code that Rule 4121-3-10 of the Ohio Administrative Code be originally filed for amendment as set forth in Attachment L, in accordance with Chapter 119 of the Revised Code. Chairman DiCeglio seconded the motion. Mr. Gannon called the roll:

Roll Call Vote: Chairman DiCeglio Yes  
Commissioner Thompson Yes  
Commissioner Abrams Yes

- (G) Rule 4121-3-15 – Percentage of permanent partial disability: The Rules Advisory Group made suggestions for changes to the rule. The Commission members and staff discussed proposed changes to the rule. The Commission members determined to discuss the matter further with the Bureau of Workers’ Compensation and take no action at this time on Rule 4121-3-15.

- (H) Rule 4121-3-09 – Conduct of hearings before the commission and its staff and district hearing officers: The Rules Advisory Group made suggestions for changes to the rule. The Commission members and staff discussed proposed changes to

the rule as set forth in Attachment M. Commissioner Thompson moved that after the review required pursuant to Section 119.032 of the Revised Code that Rule 4121-3-09 of the Ohio Administrative Code be originally filed for amendment as set forth in Attachment M, in accordance with Chapter 119 of the Revised Code. Chairman DiCeglio seconded the motion. Commissioner Thompson moved to withdraw the motion. Chairman DiCeglio agreed. After further discussion, Commissioner Thompson moved that after the review required pursuant to Section 119.032 of the Revised Code that Rule 4121-3-09 of the Ohio Administrative Code be originally filed for amendment as set forth in Attachment M, in accordance with Chapter 119 of the Revised Code. Chairman DiCeglio seconded the motion. Mr. Gannon called the roll:

Roll Call Vote:	Chairman DiCeglio	Yes
	Commissioner Thompson	Yes
	Commissioner Abrams	Yes

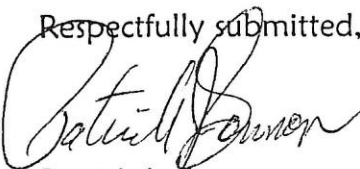
- (I) Rules: Mr. Walker explained that for the rules being submitted without change, the Joint Committee on Agency Rule Review (JCARR) has 90 days to review the rules. Typically, such rules are placed on JCARR's consent docket and no comments are made. As far as the rules being filed with changes, the Commission is required to provide 30 days notice for its public hearing. The notice is posted with the Ohio Register, on the Commission's website, and in all Commission offices. The website also offers a post office box for comments on the rules. The JCARR hearing typically takes place following the Commission hearing. Chairman DiCeglio moved to set the Commission's public hearing for March 14, 2008 at 1:00 p.m. Commissioner Abrams seconded the motion. Mr. Gannon called the roll:

Roll Call Vote:	Chairman DiCeglio	Yes
	Commissioner Thompson	Yes
	Commissioner Abrams	Yes

Commissioner Abrams moved to adjourn. Chairman DiCeglio seconded the motion. Mr. Gannon called the roll:

Roll Call:	Chairman DiCeglio	Present
	Commissioner Thompson	Present
	Commissioner Abrams	Present

Respectfully submitted,



Patrick J. Gannon  
Executive Director