

**John R. Kasich, Governor**  
Thomas H. Bainbridge, *Chairman*  
Jodie M. Taylor, *Member*  
Karen L. Gillmor, Ph.D., *Member*

## Meeting Minutes

**June 17, 2014**  
**11:00 A.M.**

**TYPE OF MEETING**                      Commission Meeting

**ATTENDEES**                              Chairman Thomas H. Bainbridge  
Commissioner Jodie M. Taylor  
Commissioner Karen L. Gillmor  
Tom Connor, Executive Director  
Rachael Rentas-Black, Chief Legal Counsel  
Kerry Mackin, Hearing Officer Trainer  
Debbie Fodey, Administrative Assistant  
Robin Hossfeld, Administrative Assistant  
Genevieve Hoffman, Administrative Assistant  
Greg Hickman, Administrative Assistant  
Keith Carpenter, Administrative Assistant  
Jacalyn Borchardt, Reporter (Cleveland Plain Dealer)

**CALL TO ORDER**

The meeting was called to order by Chairman Bainbridge.

**ACTION BY**

Mr. Connor called the roll.

**ROLL CALL**

Commissioner Gillmor	Present
Commissioner Taylor	Present
Chairman Bainbridge	Present

**OLD BUSINESS**

Chairman Bainbridge moved to approve the April 3, 2014, Meeting Minutes. Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Connor called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

**MOTION**

Chairman Bainbridge moved to approve the April 14, 2014, Meeting Minutes. Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Connor called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

**NEW BUSINESS**

**DISCUSSION**

Draft IC-2 Application

Chairman Bainbridge noted that the IC-2 PTD application underwent several corrections and additions from the Rules Advisory Group ("RAG"), including Bob Kendis and Phil Fulton. Chairman Bainbridge asked if the suggestions from RAG regarding the IC-2 should be considered now or at a later date. Mr. Connor noted that the IC-2 PTD application draft is from the BWC policy group. Commissioner Gillmor noted that we should table the matter for a later date. Mr. Connor noted that we have not spoken

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about it and preferred looking at the suggestions. Mr. Bainbridge noted that several of the suggestions from RAG members were non-substantive and to send the draft back to RAG. Commissioner Taylor noted that RAG should provide us with substantive changes so that we can get moving on this.

**MOTION**

Commissioner Gillmor moved to table the approval of the IC-2 PTD application. Chairman Bainbridge seconded the motion.

**ACTION BY**

Mr. Connor called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

**DISCUSSION**

Memo I-5

Mr. Bainbridge presented for discussion the Hearing Officer Manual Memo I-5. Mr. Connor noted that RAG discussed case law changes in .512 appeals. Mr. Connor noted that within the last 5-10 years the courts have been moving away from the de novo process and have begun to consider only specific conditions argued administratively. Ms. Rentas-Black indicated that Mr. Connor provided a good summary of RAG concerns, which satisfies public concerns.

**MOTION**

Chairman Bainbridge moved the Memo I-5 amendments be approved, effective June 18, 2014. Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Connor called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
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Commissioner Taylor                    Yes  
Chairman Bainbridge                Yes

**DISCUSSION**

Hearing Officer Meeting:

Kerry Mackin discussed the agenda for the Hearing Officer Meeting set for September 8, 2014. Ms. Mackin noted Dr. Welch’s preferred order for speaking at the meeting: 1) Dr. Soin; 2) Dr. Perkins; 3) Dr. Stanton-Hicks. Ms. Mackin noted that all the listed doctors are pain management specialists, and that Dr. Soin is an effective speaker and also a member of the Ohio State Medical Board. Chairman Bainbridge asked if any of the listed doctors have been formally asked about speaking. Ms. Mackin indicated that they have not. Chairman Bainbridge noted that he is not familiar with any of these doctors. Commissioner Taylor noted that she is familiar with Dr. Stanton-Hicks from the Cleveland Clinic. Chairman Bainbridge asked if Dr. Welch recommended Dr. Soin. Ms. Mackin responded that he did. Chairman Bainbridge suggested to ask Dr. Soin. Ms. Mackin asked for thoughts on Dr. Soin. Commissioner Taylor asked if Dr. Soin was familiar with workers’ comp. Chairman Bainbridge then asked who Dr. Welch’s back-up was? Ms. Mackin indicated that it was Dr. Stanton-Hicks. Chairman Bainbridge noted to have Dr. Stanton-Hicks as a back-up. Ms. Mackin indicated that she will submit the program package to the (Ohio) Supreme Court for CLE credit—6.5 CLE hours, which will include 1.5 hours of professional conduct. Ms. Mackin also asked whether the fee from previous years should be raised from \$100 to \$135. We are not providing lunch this year, so should we lower the cost? Chairman Bainbridge advised that we should keep the fee the same to cover costs. Commissioner Gillmor noted that we need to cover costs. Ms. Mackin indicated that costs are down. Commissioner Taylor advised that if our costs are down, then let’s lower it. Chairman Bainbridge noted that if things are going down... let’s do \$125—worried about unknown costs. Commissioner Taylor agreed. Ms. Mackin noted that we will get this in motion. She also noted that we can provide breakfast in the upper and lower atriums. Commissioner Bainbridge asked if lunch would be on the participant? Ms. Mackin provided that it would be. Commissioner Taylor asked Ms. Mackin to prepare a rough draft for day two.

Procedures for claims set for hearing before Deputies:

Chairman Bainbridge presented the above issue. Ms. Rentas-Black asked if we want presents available for deputies to review. Commissioner Taylor noted that this issue came up during a Workflow training session, and that IT was not aware that deputies could review presents. Commissioner Taylor learned that deputies have had access to presents for two years or so. The deputies did not have access to presents prior to this. Mr. Connor noted that if the presents are in the claim file, then they should see them but if not, then they should not be able to see them. Commissioner Taylor noted that the deputies should not be able to see the presents if others cannot. Some might like to know—but probably not appropriate. This is all part of the deliberation process of

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Commissioners—not for deputies. Commissioner Taylor mentioned that the regional managers talked about correcting orders. Ms. Rentas-Black noted that the deputies should not have access. Mr. Connor noted that there is no policy to change here. Chairman Bainbridge noted to change policy verbally—have IT change it.

Commission Level Hearing orders—procedures

Mr. Connor noted that CLH brought to his attention the issue of vote changes—need guidance on what the Commission wants to rely on. Ms. Rentas-Black added that the issue is when there is a change in a vote—they would like to be pulled into a room to understand what everyone is saying. Commissioner Taylor mentioned that on a 3-0 vote it would not matter—just let everyone know. Commissioner Taylor indicated that if a vote is changed on a 2-1 vote, and it changes the order, then it ought to be discussed. Chairman Bainbridge noted that the crux of the issue is when it changes the order. Commissioner Taylor noted that we are allowed to change vote—until Mr. Connor signs it. Commissioner Gillmor noted that Commissioner Taylor is right and that they discuss afterwards, but they think and talk about it later as well—would like to know why someone changed his or her vote (new evidence—it could change a vote). Ms. Rentas-Black advised that the Commissioners are entitled to do that. Commissioner Taylor noted that she appreciates the hearing officer’s work, but sometimes a vote may change. Ms. Rentas-Black asked for guidance on how to handle and when to deliberate—need to know if there is a change or when the order is changed. Commissioner Gillmor stated if a Commissioner discovers relevant information post-hearing, such as case law, a claims discussion should take place for the reason the information may impact the vote of the other Commissioners. Commissioner Taylor noted that this has happened. Chairman Bainbridge noted that votes do change, but not often. Chairman Bainbridge advised that a motion is not necessary. Ms. Rentas-Black indicated that this is a policy.

**ADJOURNMENT**

Commissioner Taylor moved to adjourn. Commissioner Gillmor seconded the motion.

**ACTION BY**


Mr. Connor called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

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Respectfully submitted,



Tom Connor  
Executive Director