

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

**Meeting Minutes**

**December 17, 2015**

**11:00 A.M.**

**TYPE OF MEETING**

Commission Meeting

**ATTENDEES**

Chairman Thomas H. Bainbridge  
Commissioner Jodie M. Taylor  
Commissioner Karen L. Gillmor  
Tim Adams, Executive Director  
Tom Connor, Director of Hearing Services  
Rachael T. Rentas-Black, Chief Legal Counsel  
Jacob Bell, Director of Operations/Legislation  
Casaundra Johnson, Administrative Assistant  
Kim Ferkany, Administrative Assistant  
Debbie Fodey, Administrative Assistant  
Greg Hickman, Assistant Legal Counsel  
Jennifer Rohrbaugh, Assistant Legal Counsel

**CALL TO ORDER**

The meeting was called to order by Chairman Bainbridge.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Present
Commissioner Taylor	Present
Chairman Bainbridge	Present

**OLD BUSINESS**

**MOTION**

Chairman Bainbridge moved to approve the September 23, 2015 minutes as distributed with the agenda to be approved as indicated.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

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**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

**NEW BUSINESS**

**DISCUSSION**

**Five Year Rule Review**

Rachael Rentas-Black led the discussion regarding the rules that are due for the statutory five year rule review. Ms. Rentas-Black indicated there are six rules with recommendations of no change, and three rules with recommendations to amend for reasons set forth. Chairman Bainbridge determined it was best to go through the rules chronologically.

The first rule for review was Ohio Adm.Code 4121-3-16 “Motions”. Ms. Rentas-Black recommended to the Commission to amend the rule by eliminating paragraph (E) that states “[w]here required, a motion shall contain citations to the legal authorities relied upon.” Ms. Rentas-Black stated after discussions with the Rules Advisory Group, it was determined this requirement is unnecessary because there is no requirement in the rules that requires such citation. Therefore, based upon the discussions with the Rules Advisory Group, Ms. Rentas-Black recommended to amend Ohio Adm. Code 4121-3-16 and eliminate paragraph (E).

Next, Ms. Rentas-Black recommended to retain Ohio Adm.Code 4121-3-17 “Briefs”, 4121-3-18 “Administrative appeals”, and 4121-3-21 “Change of address” as is. Ms. Rentas-Black indicated after discussions with the Rules Advisory Group and comparison to the Bureau of Workers’ Compensation companion rules no changes were needed. Ms. Rentas-Black added all decisions from the Rules Advisory Group were unanimous.

Ms. Rentas-Black recommended the Commission amend Ohio Adm.Code 4121-3-22 “Inspection of Claim Files.” Ms. Rentas-Black indicated the Rules Advisory Group did not recommend any changes to this rule; however, after reviewing the Bureau of Workers’ Compensation companion rule, Ms. Rentas-Black determined the Commission’s rule was significantly different from the Bureau of Workers’ Compensation companion rule of the same title, Ohio Adm.Code 4123-3-22. Ms. Rentas-Black indicated the Bureau of Workers’ Compensation made many changes in 2014 to the companion rule. Those changes were presented and approved by the Bureau’s Board of Directors and JCARR. Ms. Rentas-Black noted that, with the transition to electronic claim files, many of the rule’s requirements are now obsolete. Ms. Rentas-Black clarified that the Bureau of Workers’ Compensation does not use the same Rules Advisory Group as the Commission. Ms. Rentas-Black recommended the Commission amend Ohio Adm.Code

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4121-3-22 in an effort to maintain consistency with the Bureau of Workers' Compensation companion rule.

Commissioner Taylor expressed concern with eliminating paragraph (G) from Ohio Adm.Code 4121-3-22. Paragraph (G) reads that a "[r]equest for inspection shall not be honored where the request is made by a person representing a claimant unless such person is an attorney at law, authorized to practice in the state of Ohio, or unless such person certifies on the authorization that he or she is not receiving a fee for his or her participation in the claim." Commissioner Taylor expressed concern that this section provides clarification on who may access a claim file and that there is not another rule that provides this clarification. Mr. Connor replied that paragraph (C) provides who may have access to a claim file. Mr. Connor also stated that there are verification steps within the ICON system.

After this discussion, Commissioner Taylor stated she was comfortable with the removal of paragraph (G) from Ohio Adm.Code 4121-3-22.

Ms. Rentas-Black recommended to retain Ohio Adm.Code 4121-3-24 "Fee controversies" and 4121-3-25 "Application for change of occupation allowance" as is. Ms. Rentas-Black stated the Rules Advisory Group determined unanimously that no changes were needed to these rules.

Ms. Rentas-Black recommended to amend Ohio Adm.Code 4121-3-30 "Emergency hearings" to include a section that requires the Commission contact both parties in an attempt to reach an agreement regarding the date and time of an emergency hearing. Ms. Rentas-Black stated that, if an agreement cannot be made, a hearing will still be scheduled on the next available date. Commissioner Taylor added this was an area of frustration when she was practicing as an employer's representative before the Commission. Commissioner Taylor also explained she understood the need for the rush; however, at times it could be troublesome for the employer's representative if there were multiple hearings scheduled across the state that day. Chairman Bainbridge added he is pleased with the suggested changes.

Commissioner Taylor noted section (B)(2) should be changed from "[u]pon determining the request valid..." to "[u]pon determining the request is valid..." Mr. Connor suggested changing section (B)(2) to "[u]pon determining the request meets the requirements of paragraph (A) of this rule." Commissioner Taylor agreed with Mr. Connor's suggestion and added that section (C)(2) should reflect the same language.

Finally, Ms. Rentas-Black recommended the Commission make no change to Ohio Adm.Code 4121-3-31 "Waiver for recreational activities." Ms. Rentas-Black added that the Rules Advisory Group considered eliminating the rule as it is deemed a function of the Bureau of Workers' Compensation. However, Ms. Rentas-Black noted currently the Bureau of Workers' Compensation does not have a rule on this topic. Therefore, Ms. Rentas-Black recommended the Commission retain Ohio Adm.Code 4121-3-31 as is until the Bureau of Workers' Compensation promulgates a similar rule.

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**MOTION**

Chairman Bainbridge moved, after the review required pursuant to Section 119.032 of the Revised Code, that the following rules of the Ohio Administrative Code be originally filed for amendment in accordance with Chapter 119 of the Revised Code: 4121-3-16 “Motions”, 4121-3-22 “Inspection of claim files”, and 4121-3-30 “Emergency hearings.”

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

**MOTION**

Chairman Bainbridge moved, after the review required pursuant to Section 119.032 of the Revised Code, that the following rules of the Ohio Administrative Code be continued without amendment in accordance with Chapter 119 of the Revised Code: 4121-3-17 “Briefs”, 4121-3-18 “Administrative appeals”, 4121-3-21 “Change of address”, 4121-3-24 “Fee controversies”, 4121-3-25 “Application for change of occupational allowance”, and 4121-3-31 “Waiver for recreational activities”. Chairman Bainbridge further moved that the next rule review date for the aforementioned rules be February 1, 2021.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

Hearing Officer Manual Draft Update

Chairman Bainbridge indicated currently the draft of the proposed Hearing Officer Manual is with Commissioner Gillmor for her review. Chairman Bainbridge asked if Commissioner Gillmor had any suggestions regarding the manual to discuss at the meeting. Commissioner Gillmor indicated she did not have any suggestions to discuss at this meeting. Commissioner Gillmor added most of the changes that have been made thus far are grammatical errors, and that she is following the Supreme Court of Ohio’s

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Writing Manual in her changes. Commissioner Gillmor stated there are substantive changes to be made and that those will be finished by the first week of January.

All members of the Commission agreed to meet February 3, 2016 at 10:00 A.M. in order to start the review of the suggested changes. Tim Adams requested any changes be presented to Chief Legal Counsel for review no later than the first week of January.

Afterwards, Commissioner Gillmor questioned whether the Hearing Officer Manual is presented to the Rules Advisory Group after the changes are agreed upon by the Commission. Ms. Rentas-Black answered that it has not been presented to the Rules Advisory Group because it was still in draft form, and it would be up to the Commission if they wanted the manual presented to the Rules Advisory Group before distribution to the hearing officers. Chairman Bainbridge asked if revisions to the Hearing Officer Manual have been presented to the Rules Advisory Group in the past, and Ms. Rentas-Black responded it has not. Commissioner Taylor stated it has taken so long to work on the manual; it would be best if the Commission approved the manual and distributed it to the hearing officers to provide them guidance. Commissioner Taylor added that, if there is a policy with which the stakeholders have an issue, the Commission can review those policies on an as need basis. Chairman Bainbridge agreed, and prefers to keep the discussion of the manual among the Commission only. Mr. Connor added that he and Ms. Rentas-Black were questioned at the previous Rules Advisory Group meeting on whether the manual would be presented to the group or not. Mr. Connor informed the group he was unsure at the time, but he did welcome any discussions of concerns or issues regarding the current version of the manual. Mr. Connor noted no issues or concerns have been brought to his attention by the Rules Advisory Group. Mr. Adams added that the manual is for the Commission's employees, and not for those that practice before the Commission. Chairman Bainbridge agreed, and again indicated his desire to keep the discussion of the manual within the Commission. Commissioner Taylor added it was best to get the manual to the hearing officers as soon as possible in an effort to provide consistency. Ms. Rentas-Black indicated that she and Mr. Connor will inform the Rules Advisory Group at their next meeting that the Hearing Officer Manual will not be presented.

**ADJOURNMENT**

Chairman Bainbridge moved to adjourn.  
Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tim Adams". The signature is fluid and cursive, with a large initial "T" and a long, sweeping underline.

Tim Adams  
Executive Director