

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

**Meeting Minutes**

**August 3, 2016**

**1:00 P.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  
Genevieve Hoffman, Hearing Officer Trainer  
Casaundra Johnson, Administrative Assistant  
Kim Ferkany, Administrative Assistant  
Debbie Fodey, Administrative Assistant  
Greg Hickman, Assistant Legal Counsel  
Jennifer Rohrbaugh, Assistant Legal Counsel  
Scott Greene, Deputy Director

**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

Chairman Bainbridge indicated the meeting would need to conclude at 2:30 p.m. Chairman Bainbridge stated he would like to complete the Hearing Officer Manual if possible. Chairman Bainbridge added that this raised the question of whether it would be possible to table the discussion of the hearing timeliness topic, which was to be presented by Scott Greene. Commissioner Taylor and Commissioner Gillmor agreed. Mr. Greene indicated he could present the topic at any time the Commission wishes and would be available at their request. Mr. Greene then left the meeting.

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

Genevieve Hoffman indicated that she did not have any follow-up regarding the Statewide Hearing Officer meeting, and therefore, that topic could be eliminated from the agenda. Rachael Rentas-Black indicated that she has written the contract for the caterer. Also, Ms. Rentas-Black stated, on August 3, 2016, she was provided with a request to draft a personal service contract for Dr. Stanton-Hicks because his honorarium exceeds \$500.00. She will complete that contract by the end of the week.

**OLD BUSINESS**

**Meeting Meetings: June 15, 2016 and June 29, 2016**

Chairman Bainbridge stated the meeting minutes from the June 15, 2016 and June 29, 2016 Commission Meetings were still being circulated.

**MOTION**

Chairman Bainbridge moved for the June 15, 2016 and June 29, 2016 meeting minutes to be tabled for discussion.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

**NEW BUSINESS**

**Ohio Adm.Code 4121-3-30 “Emergency Hearings” – Approval to final file**

Rachael Rentas-Black indicated Ohio Adm.Code 4121-3-30 was ready to be final filed as it has moved through the JCARR process.

**MOTION**

Chairman Bainbridge moved that pursuant to R.C. 119.03 that the Industrial Commission approve the final filing of amended rule Ohio Adm.Code 4121-3-30 “Emergency Hearings” of the Ohio Administrative Code with an effective date of August 15, 2016, and the next 5-year rule review to be February 1, 2021.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

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

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

**Hearing Officer Manual**

- **Memo C2: Processing of Claims for Mesothelioma**

**MOTION**

Chairman Bainbridge moved for Memo C2, “Processing of Claims for Mesothelioma,” to be approved as presented in the drafts circulated with the agenda. It was further moved for the former Memo C2, “Professional Sports Team Set-Offs,” to be rescinded as it has already been moved and voted in as Memo I6.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo K2: Precise Order Writing**

**MOTION**

Chairman Bainbridge moved for Memo K2, “Precise Order Writing,” to be approved as presented in the drafts circulated with the agenda.

Commission Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

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

- **Memo L3: Signing of Orders**

**MOTION**

Chairman Bainbridge moved for Memo L3, “Signing of Orders,” to be approved as presented in the drafts circulated with the agenda.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

Ms. Rentas-Black stated that, for the remainder of the manual, the cover pages of each section would not need to be adopted as they remained unchanged from the previous adoption.

Commissioner Gillmor asked whether the Commission wanted to review the “Foreword” again. Ms. Rentas-Black indicated the “Foreword” was adopted with the changes presented at the June 29, 2016 meeting; however, an effective date would need to be added which would be determined at the conclusion of the review of the hearing officer manual.

- **Memo M1: Psychiatric and Psychological Consultation Fee – No Psychiatric Condition Allowed**

**MOTION**

Chairman Bainbridge moved for Memo M1, “Psychiatric and Psychological Consultation Fee—No Psychiatric Condition Allowed,” to be approved as presented.

Commission Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

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

- **Memo M2: No Communication with Doctors Examining for the Industrial Commission**

**MOTION**

Chairman Bainbridge moved for Memo M2, “No Communication with Doctors Examining for the Industrial Commission” to be approved as presented, with the elimination of the reference to the Ohio Administrative Code section in the Note as it appears in the body of the memo.

Commission Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo M3: Adjudication of Claims with the Issue of Exposure to Blood or Other Body Fluids as Delineated by R.C. 4123.026**

**MOTION**

Chairman Bainbridge moved for Memo M3, “Adjudication of Claims with the Issue of Exposure to Blood or Other Body Fluids as Delineated by R.C. 4123.026” to be approved as presented with the elimination of the redundant citation to R.C. 4123.026 in the Note as it appears in the body of the memo. Chairman Bainbridge further moved to rescind former Memo M3, “Failure to Appear—Rehabilitation Plan,” as it is obsolete.

Chairman Bainbridge questioned whether the statute R.C. 4123.026 uses “bodily” or “body” fluids. Mr. Hickman stated the statute uses “body.”

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo M4: Status of Mechanotherapists**

**MOTION**

Chairman Bainbridge moved for Memo M4, “Status of Mechanotherapists” to be approved as presented.

Commissioner Taylor stated there were many corrections needed to the citations and questioned whether this was done. Mr. Hickman stated the citations appeared to be correct.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo M5: Documentation Submitted by Physician Assistants, Advanced Practice Nurses, Certified Nurse Practitioners, and Clinical Nurse Specialists**

**MOTION**

Chairman Bainbridge moved to approve Memo M5, “Documentation Submitted by Physician Assistances, Advanced Practices Nurses, Certified Nurse Practitioners, and Clinical Nurse Specialists” be approved as presented with the elimination of the Note’s citation to R.C. Chapters 4723 and 4730 and Ohio Adm.Code Chapters 4723 and 4730 as they are cited in the body of the memo.

Mr. Hickman stated there were a few abbreviations that needed to be spelled out. Mr. Connor indicated that the current Bureau of Workers’ Compensation (BWC) policy was not in conflict with the Commission’s policy. Commissioner Gillmor questioned where the BWC stood regarding co-signing. Mr. Connor responded that anyone can co-sign. Mr. Connor added that the BWC will be addressing this issue in the next few weeks so the Commission will want to revisit this issue again.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

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

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

Commissioner Gillmor indicated in Memo M4 the references to the Ohio Adm.Code needed to be removed because Ohio Adm.Code 4123-7-03 was rescinded and Ohio Adm.Code 4731-1-07 does not address therapists.

**MOTION**

Commissioner Gillmor moved to reconsider Memo M4 “Status of Mechanotherapists.”

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

Mr. Adams asked Commissioner Gillmor if she would like to treat the motion to reconsider as a motion to amend. Commissioner Gillmor agreed.

**MOTION**

Commissioner Gillmor moved to amend Memo M4 “Status of Mechanotherapists” to eliminate reference to Ohio Adm.Code 4123-7-03 and Ohio Adm.Code 4731-1-07.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

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

**MOTION**

Chairman Bainbridge moved to approve Memo M4 “Status of Mechanotherapists” as presented with Commissioner Gillmor’s changes.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo M6: Documentation Submitted by Licensed Professional Clinical Counselors and Licensed Independent Social Workers**

**MOTION**

Chairman Bainbridge moved for Memo M6, “Documentation Submitted by Licensed Professional Clinical Counselors and Licensed Independent Social Workers” to be approved as presented.

Commissioner Taylor asked if there needed to be a space between “Adm.” and “Code” in the citation. Mr. Hickman responded there is no spacing.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo M7: Temporary Total Disability Treatment Requests**

**MOTION**

Chairman Bainbridge moved for Memo M7, “Temporary Total Disability Treatment Requests,” which was split from the former Memo C5, “Temporary Total Disability/Treatment Due to Psychological Conditions,” to be approved as presented. Chairman Bainbridge further moved to rescind Memo M7,



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

“Adjudication of Claims with the Issue of Exposure to Blood or Other Bodily Fluids as Delineated by R.C. 4123.06,” as it has been moved to Memo M3 and previously approved.

Mr. Connor stated Memo M7 basically includes Memos M4, M5, and M6. Mr. Connor questioned if Memo M7 was necessary since it is essentially a “cliff’s notes” version of the prior three memos. Ms. Fodey questioned if Memo M7 was moved from another policy. Ms. Rentas-Black indicated it was. Chairman Bainbridge asked if it would hurt to leave Memo M7 in the manual. Ms. Rentas-Black indicated it would not hurt to leave in Memo M7 and that hearing officers would wonder what happened to the policy if it was removed. Commissioner Gillmor indicated that the reference to “temporary total disability” needs to be removed from the title. Commissioner Gillmor also indicated that the reference to “Mechanotherapists” should be singular.

Commissioner Taylor seconded the motion with the changes added by Commissioner Gillmor.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo M8: Adjudication of Treatment Issues**

**MOTION**

Chairman Bainbridge moved for Memo M8 “Adjudication of Treatment Issues” to be approved as presented.

Commissioner Taylor stated she wanted case law included in a Note that addressed that hearing officers are not medical doctors. Mr. Hickman indicated he researched this issue and that the most relevant cases were *State ex rel. Yellow Freight System, Inc. v. Indus. Comm.*, 81 Ohio St.3d 56, 689 N.E.2d 30 (1998), and *State ex rel. Daimler Chrysler Corp. v. Indus. Comm.*, 10<sup>th</sup> Dist. Franklin No. 13AP-306, 2014-Ohio-2072. Commissioner Taylor stated she would like a Note added that included a reference to the aforementioned cases. Chairman Bainbridge stated he struggled with this section because so much latitude is given to the hearing officers in other sections of the manual and questioned why it could not be given in this particular memo. Commissioner Taylor stated hearing officers still have discretion, but this will limit their ability to change treatment plans. Commissioner Taylor provided an example of a doctor requesting 24 chiropractic treatments and the hearing officer only granting six treatments. Commissioner Taylor added that the hearing officers have been asked not to do this, but the hearing officers were reluctant to follow this direction unless it was put into writing.

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

**MOTION**

Commissioner Taylor moved to adopt Memo M8 “Adjudication of Treatment Issues” as presented with the addition of a Note citing to *State ex rel. Yellow Freight System, Inc. v. Indus. Comm.*, 81 Ohio St.3d 56, 689 N.E.2d 30 (1998), and *State ex rel. Daimler Chrysler Corp. v. Indus. Comm.*, 10<sup>th</sup> Dist. Franklin No. 13AP-306, 2014-Ohio-2072.

Commissioner Gillmor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	No

- **Section N: Handicap Reimbursement**
- **Memo N1: Final Settlement – Pending or Subsequent Application for Handicap Reimbursement**

**MOTION**

Chairman Bainbridge moved for Memo N1 “Final Settlement – Pending or Subsequent Application for Handicap Reimbursement” to be approved as presented.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo N2: All Parties May Appear at Hearings**

**MOTION**

Chairman Bainbridge moved to approve Memo N2 “All Parties May Appear at Hearings” as presented.

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

Commissioner Gillmor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo N3: No Relief for Surety Companies**

**MOTION**

Chairman Bainbridge moved to approve Memo N3 “No Relief for Surety Companies” be approved as presented.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Section O: Settlements**
- **Memo O1: Settlements – Finality, Abatement, and Withdrawal**

**MOTION**

Chairman Bainbridge moved for Memo O1 “Settlements - Finality, Abatement, and Withdrawal” be approved as presented with removal of the citations R.C. 4123.65 and Ohio Adm.Code 4123-5-21 as it already appears in the body of the memo.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

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

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo O2: Staff Hearing Officers Review of Settlements**

**MOTION**

Chairman Bainbridge moved to approve Memo O2 “Staff Hearing Officers Review of Settlements” as presented with the removal of the citation to the Ohio Administrative Code and the Revised Code, as they appear in the body of the memo. Chairman Bainbridge further moved to rescind the former Memo O2, “Settlement Policy Statement,” as it is obsolete.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo O3: Staff Hearing Officer Review of Settlements**

**MOTION**

Chairman Bainbridge moved for Memo O3 “Staff Hearing Officers Review of Settlement,” which is now Memo O2, to be removed and rescinded.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

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

- **Section P: Violations of Specific Safety Requirements**
- **Memo P1: Mine Statutes are Specific Safety Requirements**

**MOTION**

Chairman Bainbridge moved to approve Memo P1 “Mine Statutes are Specific Safety Requirements” as presented with the removal of the citation to the Ohio Constitution as it already appears in the body of the memo.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo P2: Civil Penalty**

**MOTION**

Chairman Bainbridge moved to approve Memo P2 “Civil Penalty” as presented with the removal of the citation to the Ohio Administration Code, as it appears in the body of the memo.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo P3: Violation of Specific Safety Requirement Overpayment Due to Court Decision**

**MOTION**

Chairman Bainbridge moved to approve Memo P3 “Violation of Specific Safety Requirement Overpayment Due to Court Decision” as presented.

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

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo P4: Corrective Orders**

**MOTION**

Chairman Bainbridge moved to approve Memo P4 “Corrective Orders” as presented with the removal of the citation to the Ohio Administrative Code as it appears in the body of the memo.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Section Q: Average Weekly Wage and Full Weekly Wage**
- **Memo Q1: Adjustments in Average or Full Weekly Wage**

**MOTION**

Chairman Bainbridge moved to approve Memo Q1 “Adjustments in Average or Full Weekly Wage” as presented with the removal of the citation to the Ohio Revised Code in the Note as it already appears in the body of the memo.

Commissioner Taylor stated a semi-colon was needed in the second paragraph.

Commissioner Taylor seconded the motion with the additional edit.

**ACTION BY**

Mr. Adams called the roll.

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

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Section R: Hearing Room Issues**
- **Memo R1: Hearings Before the Members of the Industrial Commission Have Precedence**

**MOTION**

Chairman Bainbridge moved for Memo R1 “Hearings before the Members of the Industrial Commission Have Precedence” to be approved as presented.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo R2: Industrial Commission Hearings – Court Reporters**

**MOTION**

Chairman Bainbridge moved for Memo R2 “Industrial Commission Hearings – Court Reporters” to be approved as presented.

Commissioner Taylor indicated Commissioner Gillmor raised an issue regarding Memo R2, and asked whether the Commissioners wanted to include a time frame or a penalty if a party fails to submit the transcript. Commissioner Taylor stated “submitting” in the last sentence should be changed to “requesting” since a party submits evidence to a claim file and then all parties can make copies. Commissioner Taylor also questioned how to address the issue of an unrepresented injured worker and the ability to obtain a copy of their file. Mr. Connor answered the BWC is able to provide a copy to the injured worker.

Chairman Bainbridge then circled back to the issue of adding a timeline and asked whether there was any further discussion regarding this issue. Mr. Connor responded that, if hearing officers are going to wait on a copy of the transcript to issue an order, there should be a time period. Commissioner Taylor stated the transcripts are typically electronically submitted to the attorney within a few days. Commissioner Taylor

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

added that the Commission does not require a certified copy, so this would not add any delay to getting it submitted to the claim file in a timely manner. Chairman Bainbridge questioned how the hearing officers would handle instances where the transcripts are never uploaded. Ms. Rentas-Black answered the hearing officers should still timely issue the order. Chairman Bainbridge asked whether 5 days was sufficient for a party to submit the transcript. Commissioner Taylor suggested 7 days. Ms. Rentas-Black requested clarification on whether the number of days would be considered “calendar” or “business” days. Chairman Bainbridge responded “calendar.” Mr. Hickman pointed out the first paragraph does not clarify whether it is “business” or “calendar” days and should be clarified. Chairman Bainbridge agreed. Commissioner Taylor confirmed that the last paragraph was going to be removed.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo R3: Administrator of the Bureau of Workers’ Compensation Representative Appearance at Industrial Commission Hearings**

**MOTION**

Chairman Bainbridge moved to approve Memo R3 “Administrator of the Bureau of Workers’ Compensation Representative Appearance at Industrial Commission Hearings” as presented.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo R4: Hearing Officer Complaint Procedure**



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

**MOTION**

Chairman Bainbridge moved for Memo R4 “Hearing Officer Complaint Procedure” which was previously Memo R12 be approved as presented, with the elimination of Commissioner Gillmor’s suggested language in the last sentence of paragraph four, which states “and the Office of Human Resources when appropriate.” Chairman Bainbridge further moved for former Memo R4, which was rescinded on June 2, 2004, to be removed and rescinded from the manual in its entirety.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo R5: Public Hearings – Witnesses**

**MOTION**

Chairman Bainbridge moved for Memo R5 “Public Hearings – Witnesses” to be approved as presented.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo R6: Interpreters for the Hearing Impaired or for Foreign Language**

**MOTION**

Chairman Bainbridge moved for Memo R6 “Interpreters for the Hearing Impaired or Foreign Language” to be approved as presented.

Chairman Bainbridge added he received a call from the Columbus Bar Association and that he has put Linda Bozeman in touch with their interpreter contacts. The Columbus Bar Association uses certified

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

interpreters, while the Commission’s interpreters are not certified. Chairman Bainbridge stated he would keep everyone posted on any developments.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo R7: Presentation of Audiovisual Evidence**

**MOTION**

Chairman Bainbridge moved to approve Memo R7 “Presentation of Audiovisual Evidence” as presented.

Commissioner Taylor asked whether there was previously a time frame of 14 days’ notice that was required. Mr. Connor stated this time frame presented a problem because a party could not provide notice of the audiovisual until there was a notice of hearing. Mr. Connor added that many times these hearings would usually be continued. Commissioner Taylor stated as an employer representative, it is usually the employers that are showing the video. Commissioner Taylor also questioned the purpose of the synopsis that must be provided when showing a video, and added it is merely busy work. Commissioner Taylor added that it would be good to provide the hearing officer notice that they will need to view a video for hearing preparation. Ms. Rentas-Black stated 7 calendar days would be a fair amount of time for notice. Mr. Connor indicated that, at the end of the first sentence, the notice could be included to read as “and filed at least 7 calendar days prior to date of hearing.”

Commissioner Taylor asked what the repercussion should be if a party does not submit a notice timely adding that currently the Commission does not exclude evidence. Chairman Bainbridge stated the parties could request a continuance. Mr. Connor added the Rules Advisory Group requested there be some language regarding this issue.

Chairman Bainbridge amended his motion to approve Memo R7 “Presentation of Audiovisual Evidence” as presented with the additional language of the notice requirement.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

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

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo R8: Ethical Conflicts for Hearing Officers**

**MOTION**

Chairman Bainbridge moved to approve Memo R8 “Ethical Conflicts for Hearing Officers” as presented.

Commissioner Taylor questioned whether the reference to “hearing officer” includes “regional managers.” Mr. Connor indicated this would include regional managers.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo R9: Hearing Officers’ Responsibility to Threats of Violence that May Be Made by Parties to a Contested Workers’ Compensation Claim**

**MOTION**

Chairman Bainbridge moved to approve Memo R9 “Hearing Officers’ Responsibility to Threats of Violence that May Be Made by Parties to a Contested Workers’ Compensation Claim” as presented.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

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

- **Memo R10: Hearing Representative Schedule Conflicts**

**MOTION**

Chairman Bainbridge moved to approve Memo R10 “Hearing Representative Schedule Conflicts” as presented.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo R11: Use of Cellular Phones, Telephonic Pagers, Personal Computers, and Other Audible Devices in the Hearing Area**

**MOTION**

Chairman Bainbridge moved to approve Memo R11 “Use of Cellular Phones, Telephonic Pagers, Personal Computers, and Other Audible Devices in the Hearing Area” as presented.

Commissioner Taylor stated instead of using a Note, the last sentence of the second paragraph could be changed to include the phrase “pursuant to Resolution 97-1-02.” Mr. Connor stated reference to Resolution 97-1-03 would need to be added as well. Mr. Connor added that the Commission cannot ban someone from recording a hearing, but the party will have to provide notice.

**MOTION**

Chairman Bainbridge moved to approve Memo R11 “Use of Cellular Phones, Telephonic Pagers, Personal Computers, and Other Audible Devices in the Hearing Area” as presented with reference to Memo R7, Resolution 97-1-02 and 97-1-03 in the body of the memo.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes

Chairman Bainbridge                                  Yes

- **Memo R12: Hearing Officer Complaint Procedure**

**MOTION**

Chairman Bainbridge moved to remove and rescind Memo R12 “Hearing Officer Complaint Procedure” as it has moved to Memo R4.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Section S: Miscellaneous Issues**
- **Memo S1: Representation by Former Employees**

**MOTION**

Chairman Bainbridge moved to approve Memo S1 “Representation by Former Employees” as presented.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo S2: Overpayment Policy**

**MOTION**

Chairman Bainbridge moved to approve Memo S2 “Overpayment Policy” as presented, with the removal of the citation to R.C. 4123.511(K), which is mentioned in the body of the order.

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

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo S3: Subpoenas – Compliance**

**MOTION**

Chairman Bainbridge moved to approve Memo S3 “Subpoenas – Compliance” as presented, with the exception of replacing “Litigation Management” with the “Office of Legal Counsel” in order to best reflect current practices.

Commissioner Gillmor raised the question of what is the process when there is a termination of compensation and the subpoenaed witness does not comply. Mr. Connor stated if the Employer wants to subpoena a witness, and that witness does not comply, the hearing officer can indicate such in the order. Mr. Connor added that subpoena requests are typically for records, not people. Commissioner Taylor added that the Commission does not have the capability to enforce these requests. Mr. Connor stated the hearing officers should be trained that the subpoenas should not just be issued on a whim because it gives an appearance that the records are necessary in order to go forward. Ms. Rentas-Black indicated she is working with the Attorney General’s Office to enforce the outstanding subpoena requests.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo S4: Tampering with Claim File Documents**

**MOTION**

Chairman Bainbridge moved to approve Memo S4 “Tampering with Claim File Documents” as presented with the removal of Ohio Revised Code citations, which are mentioned in the body of the memo.

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

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo S5: Burden of Proof**

**MOTION**

Chairman Bainbridge moved to approve Memo S5 “Burden of Proof” as presented with the removal of R.C. 4123.68, which is mentioned in the body of the memo.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo S6: Motions, Applications, and Appeals Not Filed by a Party in Interest**

**MOTION**

Chairman Bainbridge moved to approve Memo S6 “Motions, Applications, and Appeals Not Filed by a Party in Interest” as presented.

Mr. Connor pointed out Commissioner Gillmor raised an interesting issue regarding Memo S6. Mr. Connor stated currently Memo S6 refers to “signing;” however, it should be changed to “filing.” Mr. Connor added that per case law, signatures can be cured and are a different issue from filing. Commissioner Taylor agreed.

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

**MOTION**

Chairman Bainbridge moved to approve Memo S6 “Motions, Applications, and Appeals Not Filed by a Party in Interest” as presented with the additional changes proposed by Mr. Connor.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo S7: Exclusion of the First Week of Compensation**

**MOTION**

Chairman Bainbridge moved to approve Memo S7 “Exclusion of the First Week of Compensation” as presented with the removal of both citations in the note section, which are already cited in the body of the memo.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo S8: Jurisdiction over Differing Psychological Conditions**

**MOTION**

Chairman Bainbridge moved to approve Memo S8 “Jurisdiction over Differing Psychological Conditions” as presented.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.



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

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo S9: Dual Causation**

**MOTION**

Chairman Bainbridge moved to approve Memo S9 “Dual Causation,” formerly Memo S14, as presented. Chairman Bainbridge further moved to remove from the manual the former Memo S9, which was rescinded on July 30, 2004.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo S10: Formal Applications for Additional Conditions Not Required**

**MOTION**

Chairman Bainbridge moved to approve Memo S10 “Formal Applications for Additional Conditions Not Required” as presented.

Mr. Connor stated he had a concern regarding Memo S10. Mr. Connor questioned what would happen in situations where the evidence in the file clearly indicates there was an amputation or a scheduled loss. Mr. Connor added there was a recent decision by the Supreme Court, *State ex rel. Estate of Sziraki v. Admr., Bur. of Workers’ Comp.*, 137 Ohio St.3d 201, 2013-Ohio-4007, in which Justice O’Connor wrote a strong dissent. Mr. Connor continued stating, pursuant to *Sziraki*, the BWC does not have a duty to process an unfiled application. Commissioner Taylor stated in *Sziraki*, the injured worker showed that the BWC did award a scheduled loss award on its own accord with no formal application; however, the Court determined the BWC does not have a duty to act.

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

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

- **Memo S11: Request for Allowance of a Condition by Either Direct Causation, Aggravation/Substantial Aggravation and Jurisdiction to Rule at Hearing**

**MOTION**

Chairman Bainbridge moved to approve Memo S11, which, as presented, was titled “Request for Allowance of a Condition by Either Direct Causation, Aggravation/Substantial Aggravation, or Flow-Through and Jurisdiction to Rule at Hearing.”

Chairman Bainbridge stated he was unsure whether “flow-through” should be included in Memo S11. Commissioner Taylor added that “must” should be changed to “shall” in order to be consistent with the other memos. Mr. Connor added that the flow-through is a different analysis and theory from direct or substantial aggravation, and the hearing officers do not have a duty to consider all of the theories, only if the theory was presented. Chairman Bainbridge asked Ms. Rentas-Black her opinion to which she responded that the analysis of a flow-through condition is different than the analysis for a condition on either a direct or aggravation/substantial aggravation basis. Ms. Rentas-Black noted that, since the analysis of a requested condition on a direct or aggravation basis is the same, it makes sense to give the hearing officers the ability to address a request for a condition on either of these bases rather than having the injured worker file another motion but that this same reasoning does not apply to a flow-through condition.

**MOTION**

Chairman Bainbridge moved to approve Memo S11 “Request for Allowance of a Condition by Either Direct Causation, Aggravation/Substantial Aggravation and Jurisdiction to Rule at Hearing” with the elimination of “Flow-Through” from the original title and body of the memo and change “must” to “shall.”

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

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

**ROLL CALL**

Commissioner Gillmor                      Yes  
Commissioner Taylor                      Yes  
Chairman Bainbridge                      Yes

- **Memo S12: Role of Surety Companies in Hearings**

**MOTION**

Chairman Bainbridge moved to approve Memo S12 “Role of Surety Companies in Hearings” as presented.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor                      Yes  
Commissioner Taylor                      Yes  
Chairman Bainbridge                      Yes

- **Memo S13: Scheduling Industrial Commission and Bureau of Workers’ Compensation Employees, Relatives, and Significant Others for Hearing**

**MOTION**

Chairman Bainbridge moved to approve Memo S13 “Scheduling Industrial Commission and Bureau of Workers’ Compensation Employees, Relatives, and Significant Others for Hearing” as presented.

Commissioner Taylor asked if Memo S13 provided an obligation for an employee to notify the Commission of a pending hearing of a significant other. Mr. Connor stated that employees are to self-report, and Mr. Adams added that this is a pending issue the Human Resources department is handling.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor                      Yes  
Commissioner Taylor                      Yes  
Chairman Bainbridge                      Yes

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

- **Memo S14: Dual Causation**

**MOTION**

Chairman Bainbridge moved to rescind and remove Memo S14 “Dual Causation” as it is now Memo S9. Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

Chairman Bainbridge stated in order to conclude the review of the hearing officer manual, an overall effective date needed to be decided. Ms. Rentas-Black indicated she would need several days to make all of the changes to the draft of the manual and proofread it before release. Mr. Connor added there needed to be time to allow for the manual to be processed online as well. Chairman Bainbridge suggested the effective date to be August 15, 2016. Mr. Hickman stated Jacob Bell suggested August 17, 2016. Commissioner Taylor stated she wanted the effective date to be on a Monday. Commissioner Taylor also stated Steve Mindzak asked the Commissioners to speak at an upcoming event and was requesting a copy of the updated manual. Chairman Bainbridge indicated a copy can be obtained after the effective date of the updated manual.

**MOTION**

Chairman Bainbridge moved for the effective date of the hearing officer manual to be Monday, August 15, 2016.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

Ms. Rentas-Black requested the meeting enter into an executive session.

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

**MOTION**

Chairman Bainbridge moved for the meeting to enter into an executive session.

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 for the executive session to conclude.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

**ADJOURNMENT**

Chairman Bainbridge moved to adjourn.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

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

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

Respectfully submitted,



Tim Adams  
Executive Director