

OHIO INDUSTRIAL COMMISSION

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AUDIO TRANSCRIPT
January 20, 2021

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Jillian Reedy
Professional Reporter

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APPEARANCES:

Chairman Jim Hughes
Commissioner Jodie M. Taylor
Commissioner Karen L. Gillmor
Executive Director Tim Adams
Director of Adjudication Tom Connor
Chief Legal Counsel Jim Burkart

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P R O C E E D I N G S

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CHAIRMAN HUGHES: Good morning. This is the Industrial Commission special meeting on January 20, 2021. This is Chairman Jim Hughes, and the special meeting of the Ohio Industrial Commission is now called to order. This meeting is being conducted telephonically and is being streamed on the Ohio Industrial Commission's YouTube channel. The link to listen to our meetings is available on our public website. This meeting is being conducted in this format as a precaution against the spread of the Coronavirus Covid-19 in accordance with substitute House Bill 404 signed into law by Governor Mike DeWine and effective on November 23, 2020, which extended the time period in which public bodies may hold remote meetings.

The purpose of the special meeting is limited to the following, revisions to the adjudications before the Ohio Industrial Commission policy so they may comply with recent statutory changes enacted by the 133rd General Assembly. Those policies include Memo A1, exposure to bodily fluids; Memo A2, professional employer organizations; Memo I1, continued jurisdiction

1 10 years and 5 years; Memo L1, hearing room
2 demeanor; Memo M3, adjudication of claims to be
3 issued of exposure to blood or bodily fluids as
4 delineated by Revised Code 4123.026; as well as
5 Memo R11, use of cellular phones, telephonic pagers,
6 personal computers and other audible devices in the
7 hearing areas specified.

8 In addition, approval of 2020 Ohio
9 Industrial Commission meeting minutes ascribed from
10 the audio records and meetings held on March 12th,
11 April 15th, June 3rd, September 14th and
12 October 18th, as well as discussion of personnel
13 matters including vacancies of hearing officers and
14 hearing officer training positions. During this
15 discussion, the Commissioners may adjourn to
16 executive session and return to the open meeting for
17 any open discussion and votes.

18 During this meeting it is important
19 that prior to speaking each participant introduce
20 themselves by stating their name and title. This is
21 so that the record accurately reflects proceedings
22 and the public is properly informed. I now ask our
23 Executive Director, Mr. Tim Adams, to call the role.

24 MR. ADAMS: This is Tim Adams,
25 Executive Director of the Ohio Industrial

1 Commission. As I call your name, please restate
 2 your name and affirm your presence.

3 Commissioner Karen Gillmor.

4 COMMISSIONER GILLMOR: Commissioner
 5 Gillmor. Present.

6 MR. ADAMS: Commissioner Jodie Taylor.

7 COMMISSIONER TAYLOR: Commissioner
 8 Taylor. Present.

9 MR. ADAMS: Chairman Jim Hughes.

10 CHAIRMAN HUGHES: Chairman Jim Hughes.
 11 Present.

12 This is Chairman Hughes. Let the
 13 record show that a quorum is present. And now we
 14 will move to the first order of business, which is
 15 discuss the revisions to the adjudications before
 16 the Ohio Industrial Commission. At this point in
 17 time, I'm call upon Mr. Tom Connor, who is our
 18 Director of Adjudication, to go through each and
 19 every one of those policies that is to be considered
 20 before the Commission today.

21 Mr. Tom Connor, Director of
 22 Adjudications, are you there, sir?

23 MR. CONNOR: I am. I am. Good
 24 morning. Good morning. What these drafts are, by
 25 and large, are as a result of House Bill 81, which

1 went into effect back in September, as well as
2 Senate Bill 201, is yet to go into effect, has
3 recently passed. And what it amounts to is that
4 it's minor changes, and I'll walk through each one
5 of them and be glad to answer any questions as we go
6 through.

7 Memo A1 deals with post-exposure
8 medical diagnostic services. This is a result of
9 Revised Code 4123.026, which went into effect years
10 ago and allowed for peace officers, firefighters and
11 emergency medical workers to have post-exposure
12 testing paid for when they were exposed to blood or
13 other bodily fluids. What House Bill 81 added
14 effective September 15, 2020, is for exposures after
15 that day a new category of employees, which is
16 detention facility employees including corrections
17 officers; as well a new category of exposures, and
18 that is to a drug or other chemical substance. So
19 the purpose of the amendment or the draft is to add
20 those two categories.

21 You will notice in the first paragraph
22 that the changes are there. And what it points out
23 is that for police officers, firefighters, emergency
24 and medical workers and/or exposures on or after
25 September 15, 2020, detention facility employees

1 including corrections officers. That at the end of
2 that first paragraph it points out that the
3 exposures can be to blood, other bodily fluids of
4 another person, a drug or other chemical substance.

5 One concern was raised yesterday that
6 it may be -- this could be interpreted for some to
7 think that exposure to a drug or other chemical
8 substance was available -- or payment for the
9 diagnostic testing for that type of exposure was
10 available for peace officers, firefighters and
11 emergency medical workers prior to September 15th.
12 And, you know, if the feeling is that there's some
13 lack of clarity in this first paragraph on that, you
14 can go about it a couple different ways. We could
15 put the same date phrase that is in the first line
16 right before a drug or other chemical substance at
17 the end of the paragraph to make it clear that those
18 two additions both apply on or after
19 September 15th, or you can break it into different
20 paragraphs.

21 So one thing I'd like you to know,
22 these issues rarely come to hearing. If -- because
23 obviously if the testing ends up finding a problem,
24 then you end up with a regular claim. These are
25 only situations where you really end up with the

1 test is negative and they're going to pay for the
2 diagnostic testing that renders that test result.
3 So those are the only concerns with the draft that
4 have been brought to my attention.

5 And I don't know if it's the pleasure
6 of the Commission to go through one at a time and
7 answer questions or have me kind of march through
8 all of them and deal with it that way.

9 CHAIRMAN HUGHES: This is Chairman
10 Jim Hughes. Mr. Tom Connor, Director of
11 Adjudications, why don't you go through each and
12 every one of the memos, and then ask the Commission
13 body here if we have any questions or suggestions at
14 that point in time, starting from A1 going all the
15 way down to R11 of the memos?

16 MR. CONNOR: Okay. Tom Connor,
17 Director of Adjudications, that kind of concludes
18 the presentation regarding A1.

19 With regard to A2, this was a --

20 CHAIRMAN HUGHES: I'm sorry. This is
21 Jim Hughes, Chairman. Mr. Tom Connor, Director of
22 Adjudication, why don't we -- at the end of that
23 one, why don't we ask the Commissioners if they have
24 any questions or additions or suggestions, that way
25 they have it fresh in their mind. The Commissioners

1 can ask you, and we can address it right at that
2 point in time.

3 MR. CONNOR: Okay. This is
4 Tom Connor, Director of Adjudication. With regard
5 to A1, that would conclude the presentation. So I'm
6 open for any questions or comments.

7 COMMISSIONER GILLMOR: This is
8 Commissioner Gillmor. Debbie Fodey and I were the
9 ones who brought up the question about whether it
10 will be totally clear to the hearing officers at
11 what time the police officers, firefighters and
12 emergency medical workers were able to have their
13 exposure to blood or bodily fluids paid for. And so
14 we had suggested putting in a second paragraph
15 saying, on or after September 15, 2020, peace
16 officers, firefighters and emergency medical workers
17 and detention facility employees including
18 corrections officers, and the only employees -- are
19 the only employees eligible for post-exposure
20 medical diagnostic services consistent with the
21 standards of medical care existing at the time of
22 the exposure, following exposures to a drug or other
23 chemical substance.

24 We thought it was important to state
25 it very clearly considering the number of new

1 hearing officers we are employing due to a lot of
2 retirements. So we were asking to -- to add a
3 paragraph clarifying.

4 And then we also felt that there
5 should be definitions added for detention facility
6 employee and corrections officer since the memo
7 contains definitions for peace officer, emergency
8 medical worker and firefighter. We distributed
9 these suggestions prior to this meeting.

10 CHAIRMAN HUGHES: This is Jim Hughes,
11 Chairman. Thank you, Commissioner Gillmor.

12 Tom Connor, Director of Adjudication,
13 do you have a comment on that, on what Commissioner
14 Gillmor is suggesting?

15 MR. CONNOR: Yes. This is Tom Connor,
16 Director of Adjudication. In the final draft we
17 did -- as far as the definitions, we did pull in
18 what a detention facility means and tried to address
19 that issue. And like I said, it was just we went
20 back and forth and tried to offer two different
21 possible solutions. And I certainly have no
22 objection to trying to break the concept in the
23 first paragraph into two as Commissioner Gillmor had
24 suggested. The idea is to try to make it as clear
25 as possible. This isn't a large volume of hearings,

1 but we want to make sure that people understand what
2 the intent of the legislature was. So that would
3 accomplish the same things as we're trying to make
4 happen in this policy.

5 CHAIRMAN HUGHES: Jim Hughes --

6 COMMISSIONER GILLMOR: This is
7 Commissioner Gillmor.

8 CHAIRMAN HUGHES: Go ahead. Go ahead,
9 Commissioner Gillmor.

10 COMMISSIONER GILLMOR: Thank you.

11 This is Commissioner Gillmor. And I
12 just wanted to add, yes, thank you, Mr. Connor. I
13 have now in front of me the final version I believe
14 of A1 where you did submit the definitions of the
15 most recent three entities that would receive
16 payment. So thank you for that. And I would still
17 like to have another paragraph inserted as I read
18 previously. Thank you.

19 CHAIRMAN HUGHES: This is Jim Hughes,
20 Chairman. I'd like to call upon Commissioner Taylor
21 and see if she has any questions of Mr. Tom Connor
22 or any questions of her colleague, Commissioner
23 Gillmor, in terms of what we're talking about here.

24 Commissioner Taylor.

25 COMMISSIONER TAYLOR: This is

1 Commissioner Taylor. Yes. Thank you. This is
2 Commissioner Taylor. You know, when I -- I did have
3 a conversation with Tom previously, and I do agree
4 that it could be worded better. I think I agree
5 with Commissioner Gillmor that it is confusing on
6 the dates and just to make sure it's clear and it's
7 not just -- in my opinion, it's not just for the
8 hearing officers but the outside representatives and
9 union members, you know, for a lot of the public
10 employees. You know, the firefighters, correction
11 officers, you know, for them to understand what's
12 going to be paid and, you know, what's eligible for
13 payment for the testing.

14 So I have no problem with Commissioner
15 Gillmor's suggestion on adding a separate paragraph.
16 I think another paragraph would make it clearer to
17 everybody of what -- of what's going to be paid and
18 what type of people are eligible for that. So I
19 have no problem with that. Thank you.

20 CHAIRMAN HUGHES: This is Chairman
21 Jim Hughes. Thank you, Commissioner Taylor, for
22 your comments on that.

23 Commissioner Gillmor, do you have
24 any -- is this in form of a motion to have this --
25 are you making this as a form of a motion? Do you

1 have some language you'd like us to consider in
2 terms of breaking up because I do find your argument
3 is well founded, and I am in agreement with you, as
4 well as with Commissioner Taylor on this. Do you
5 have anything you'd like the Commission to consider
6 regarding A1 at this point in time?

7 COMMISSIONER GILLMOR: Yes. I would
8 like to move to amend Memo A1 to insert as the
9 second paragraph, on and after September 15, 2020,
10 peace officers, firefighters and emergency -- and
11 emergency medical workers and detention facility
12 employees including correction officers, are the
13 only employees eligible for post-exposure medical
14 diagnostic services consistent with the standards of
15 medical care existing at the time of the exposure,
16 following exposure to a drug or other chemical
17 substance.

18 CHAIRMAN HUGHES: This is Chairman,
19 Jim Hughes. That was Commissioner Karen Gillmor who
20 made that motion.

21 Is there a second to Commissioner
22 Gillmor's motion to amend?

23 COMMISSIONER TAYLOR: This is
24 Commissioner Taylor, I will second.

25 CHAIRMAN HUGHES: It has now

1 been -- this is Jim Hughes, Chairman. It has now
2 been properly moved by Commissioner Gillmor and
3 properly seconded by Commissioner Taylor to amend
4 A1, the language she just read into the record. At
5 this point in time I'm going to call upon Executive
6 Director Tim Adams to call the role regarding the
7 amendment to Memo A1.

8 MR. ADAMS: This is Tim Adams,
9 Executive Director of the Ohio Industrial
10 Commission. As I call your name, please restate
11 your name and state your vote.

12 Commissioner Karen Gillmor.

13 COMMISSIONER GILLMOR: Commissioner
14 Gillmor. Yes.

15 MR. ADAMS: Commissioner Jodie Taylor.

16 COMMISSIONER TAYLOR: Commissioner
17 Taylor. Yes.

18 MR. ADAMS: Chairman Jim Hughes.

19 CHAIRMAN HUGHES: Chairman Jim Hughes.
20 Yes.

21 This is Chairman Jim Hughes. The
22 amendment does pass. It does become part of the
23 bill -- or excuse me -- of the memo. At this point
24 I'll ask if there are any other additions or
25 deletions to Memo A1. Is there any other discussion

1 on A1 -- Memo A1? If not, what is the pleasure of
2 the Commission regarding Memo A1? This is Chairman
3 Jim Hughes. I will move for the adoption of Memo A1
4 as amended by Commissioner Gillmor this morning. Do
5 I have a second to my motion?

6 COMMISSIONER TAYLOR: This is
7 Commissioner Taylor.

8 COMMISSIONER GILLMOR: This is
9 Commissioner Gillmor.

10 CHAIRMAN HUGHES: I think we lost --

11 COMMISSIONER TAYLOR: This is
12 Commissioner Taylor, I will second.

13 CHAIRMAN HUGHES: This is Chairman
14 Jim Hughes. I have moved, and it's been properly
15 seconded by Commissioner Taylor to adopt -- to move
16 Memo 1A. Is there any discussion on the motion?
17 This is Chairman Jim Hughes. Hearing no discussion,
18 we now ask Executive Director to call the role on
19 Memo A1 as amended by Commissioner Gillmor.

20 MR. ADAMS: This is Tim Adams,
21 Executive Director of the Ohio Industrial
22 Commission. As I call your name, please restate
23 your name and state your vote.

24 Commissioner Karen Gillmor.

25 COMMISSIONER GILLMOR: Commissioner

1 Gillmor. Yes.

2 MR. ADAMS: Commissioner Jodie Taylor.

3 COMMISSIONER TAYLOR: Commissioner
4 Taylor. Yes.

5 MR. ADAMS: Chairman Jim Hughes.

6 CHAIRMAN HUGHES: Chairman Jim Hughes.
7 Yes.

8 The -- this is Chairman Jim Hughes.
9 The Memo A1 does have the proper number of votes to
10 pass. That policy will be adopted as amended by
11 Commissioner Gillmor regarding exposure to bodily
12 fluids.

13 At this point in time we'll next move
14 to the next memo that is for consideration, which is
15 Memo A2, which is professional employer
16 organizations, and call upon Mr. Tom Connor,
17 Director of Adjudication, to address the Commission
18 regarding these proposed changes.

19 Mr. Tom Connor.

20 MR. CONNOR: This is Tom Connor,
21 Director of Adjudication. Memo A2 in its current
22 form only deals with professional employer
23 organizations, which have been in existence in Ohio
24 for some time. Recently in Senate Bill 201, a new
25 category of employer called alternate employer

1 organizations was created. It is similar to a
2 professional employer organization, but it has some
3 additional limitations, some additional things that
4 they aren't able to do that some professional
5 employer organizations can.

6 So when the Commission deals with
7 these issues, we do not remove any named employer.
8 So for instance, in a claim if an employer is
9 originally named in a claim and then that employer
10 signs up or contracts with a professional employer
11 organization in the past, we just add the
12 professional employer organization and its
13 representative to the claim so that we can ensure
14 that all possible impacted parties continue to get
15 notice.

16 I think that the risk side the BWC
17 deals with, they actually replace employers in some
18 of these circumstances. We just add on the new
19 entity. So with regard to what we do at the
20 Commission, adding this new type of employer --
21 alternate employer organization, just requires us to
22 follow the same policy with regard to either PEOs,
23 professional employer organizations, or AEOs,
24 alternate employer organizations. So the draft only
25 adds alternate employer organizations each time it

1 goes through and talks about professional employer
2 organizations. And, again, what we will do in
3 practice is when we become aware that this type of
4 organization is involved in a claim, we add them to
5 the name of the employer so we can ensure that all
6 parties and their representatives get notice. I
7 don't know if there's any questions about that.

8 CHAIRMAN HUGHES: This is Jim Hughes,
9 Chairman. Are there any questions of
10 Mr. Tom Connor, Director of Adjudication, regarding
11 Memo A2, professional employer organization?

12 This is Jim Hughes Chairman. Hearing
13 no questions, Memo A2, professional organization, is
14 there any discussion? Hearing no discussion
15 regarding Memo A2, professional employer
16 organization, I move as Chairman Jim Hughes for
17 adoption of the policy of Memo A2, professional
18 employer organization, as presented to us today by
19 Mr. Tom Connor.

20 Do I have a second to my motion?

21 COMMISSIONER TAYLOR: This is
22 Commissioner Taylor. I will second.

23 CHAIRMAN HUGHES: This is Jim Hughes,
24 Chairman. It has now been properly moved, as well
25 seconded by Commissioner Taylor regarding Memo A2,

1 professional employee organizations. Is there any
2 discussion on the motion before I call the role?
3 Hearing none, I'll call upon our Executive Director,
4 Mr. Tim Adams, to call the role regarding Memo A2,
5 professional employee organizations.

6 Mr. Adams.

7 MR. ADAMS: This is Tim Adams,
8 Executive Director of the Ohio Industrial
9 Commission. As I call your name, please restate
10 your name and state your vote.

11 Commissioner Karen Gillmor.

12 COMMISSIONER GILLMOR: Commissioner
13 Gillmor. Yes.

14 MR. ADAMS: Commissioner Jodie Taylor.

15 COMMISSIONER TAYLOR: Commissioner
16 Taylor. Yes.

17 MR. ADAMS: Chairman Jim Hughes.

18 CHAIRMAN HUGHES: Chairman Jim Hughes.
19 Yes.

20 Memo -- this is Chairman Jim Hughes.
21 Memo A2, professional employee organization did
22 receive the necessary votes to pass so that policy
23 of Memo A2, professional employee organization as
24 presented by Mr. Tom Connor, Director of
25 Adjudication, does pass.

1 I'll now go to Memo 11, continued
2 jurisdiction 10 years and 5 years and ask
3 Mr. Tom Connor, Director of Adjudication, to present
4 the changes to the Commission, please.

5 Mr. Tom Connor.

6 MR. CONNOR: This is Tom Connor,
7 Director of Adjudication. This is another policy
8 that had to be amended in light of House Bill 81,
9 which went into effect back in September 15, 2020,
10 to what the change was made in the law is that the
11 measuring date for the last date of medical prior to
12 September 15th would be when the medical bill was
13 paid. When the law changes, you look for the date
14 the medical service was rendered, not the date it
15 was paid. So, for instance, if somebody had
16 treatment on September 1st but that bill didn't get
17 paid until November 1st of the year, you would be
18 looking at the September 1st date going forward, not
19 the November date.

20 The one other interesting thing that
21 happened in this is rather than it being effective
22 September 15th, it was specifically -- this change
23 was made specifically effective July 1, 2020, I
24 believe to match up with the experience period and
25 make things easier at BWC, as far as calculating

1 premiums. So that is the change here. It is the
2 third paragraph. And it just makes clear for date
3 of injury or disability on or after July 1, 2020,
4 that the claim is active from the 5 years from the
5 date of last payment of compensation or 5 years from
6 the last date of medical services rendered,
7 whichever is later. And that third paragraph is the
8 only change to existing policy. I don't know if
9 there's any questions on this one.

10 CHAIRMAN HUGHES: This is Jim Hughes,
11 Chairman. Thank you, Mr. Tom Connor, Director of
12 Adjudication.

13 Is there any questions from the fellow
14 Commissioners on Memo I1, continued jurisdiction
15 10 years and 5 years to Mr. Tom Connor?

16 COMMISSIONER GILLMOR: This is
17 Commissioner Gillmor. This is a very small point,
18 but I had circulated the correction for the first
19 paragraph, which is -- the first paragraph is all
20 one sentence. So toward the end of that sentence it
21 talks about, or 10 years from the last payment of
22 and then we added "a" -- of a medical bill. Our
23 copy that we received of Memo I1 did not have the
24 "a" in it.

25 CHAIRMAN HUGHES: This is Jim Hughes,

1 Chairman. Thank you, Commissioner Gillmor. Are
2 there --

3 Mr. Tom Connor, did you want to
4 respond to that?

5 MR. CONNOR: This is Tom Connor,
6 Director of Adjudication. Actually that's my fault.
7 It is in. I should have brought that up. I
8 overlooked that small change. It wasn't bright
9 enough for my eyesight at my age to have jumped out
10 at me.

11 CHAIRMAN HUGHES: This is Jim Hughes,
12 Chairman. Are you saying, Mr. Tom Connor, Director
13 of Adjudication, that in the final version that
14 we're looking at the "a" is in there or it should be
15 in there and we should amend it as Commissioner
16 Gillmor is suggesting?

17 MR. CONNOR: This is Tom Connor,
18 Director of Adjudication. In the final version I
19 believe it is in there. I just overlooked it when I
20 was having my discussion.

21 CHAIRMAN HUGHES: This is Jim Hughes,
22 Chairman. Commissioner Gillmor, is that sufficient
23 then?

24 COMMISSIONER GILLMOR: This is
25 Commissioner Gillmor. Yes.

1 Thank you, Tom.

2 CHAIRMAN HUGHES: This is Chairman
3 Jim Hughes. Is there any other questions of
4 Mr. Tom Connor regarding Memo I1? Hearing none, at
5 this point in time, I, Jim Hughes Chairman, will
6 move the Memo I1, continued jurisdiction 10 years
7 and 5 years, the "a" addition that we just spoke
8 about and make sure we vote on that one. I make a
9 motion we approve that. Is there a second to my
10 motion?

11 COMMISSIONER TAYLOR: This is
12 Commissioner Taylor. I will second.

13 CHAIRMAN HUGHES: This is Chairman
14 Jim Hughes. It's now been properly moved by me, as
15 well as seconded by Commissioner Taylor to approve
16 the vote on Memo I1, continued jurisdiction 10 years
17 and 5 years. I will now call upon our Executive
18 Director, Mr. Tim Adams, to call the role, please.

19 MR. ADAMS: This is Tim Adams,
20 Executive Director of the Ohio Industrial
21 Commission. As I call your name, please restate
22 your name and state your vote.

23 Commissioner Karen Gillmor.

24 COMMISSIONER GILLMOR: Commissioner
25 Gillmor. Yes.

1 MR. ADAMS: Commissioner Jodie Taylor.

2 COMMISSIONER TAYLOR: Commissioner

3 Taylor. Yes.

4 MR. ADAMS: Chairman Jim Hughes.

5 CHAIRMAN HUGHES: Chairman Jim Hughes.

6 Yes.

7 Memo 11, the continued jurisdiction
8 10 years and 5 years, having received the proper
9 number of votes, this policy then is approved by
10 the Commission.

11 We will next move to Memo 11, hearing
12 room demeanor with Mr. Tom Connor.

13 MR. CONNOR: This is Tom Connor,
14 Director of Adjudication. 11 is dealing with
15 hearing room demeanor. There was some specific
16 language in this policy that dealt with dress code
17 type of issues, and it was felt that some redrafting
18 was necessary. Upon further inspection, it also
19 pulls in, for instance, the Industrial Commission's
20 dress code policy. So it is my suggestion or my
21 request that the Commissioners table this -- this
22 draft at this point, and I'd rather come back at the
23 next meeting with any necessary changes once we can
24 be sure that we're not inadvertently impacting some
25 different policy of the Commission.

1 CHAIRMAN HUGHES: Chairman Jim Hughes.
2 Thank you, Mr. Tom Connor, Director of Adjudication
3 for that.

4 Is there any questions by the fellow
5 Commissioners of --

6 I guess we're having somebody else's
7 phone ring. If somebody could please put that on
8 mute, we would appreciate it.

9 Is there any other questions of
10 Mr. Tom Connor, Director of Adjudication, regarding
11 Memo L1, hearing room demeanor and to table that to
12 another meeting at a later date in time regarding
13 this?

14 Hearing none, then I, as Chairman
15 Jim Hughes, will make a motion then to table Memo
16 L1, the hearing room demeanor to a later date in
17 order to enable Mr. Tom Connor to check into the
18 other policies to make sure they're all consistent.
19 Do I have a second to my motion to table?

20 COMMISSIONER TAYLOR: This is
21 Commissioner Taylor. I will second.

22 CHAIRMAN HUGHES: This is Chairman
23 Jim Hughes. Thank you, Commissioner Taylor for that
24 second. It's been properly moved by me to table the
25 Memo L1, hearing room demeanor, seconded by

1 Commissioner Taylor.

2 I will now call upon our Executive
3 Director, Mr. Tim Adams, to call the role, please.

4 MR. ADAMS: This is Tim Adams,
5 Executive Director of the Ohio Industrial
6 Commission. As I call your name, please restate
7 your name and state your vote.

8 Commissioner Karen Gillmor.

9 COMMISSIONER GILLMOR: Commissioner
10 Gillmor. Yes.

11 MR. ADAMS: Commissioner Jodie Taylor.

12 COMMISSIONER TAYLOR: Commissioner
13 Taylor. Yes.

14 MR. ADAMS: Chairman Jim Hughes.

15 CHAIRMAN HUGHES: Chairman Jim Hughes.
16 Yes.

17 The motion -- this is Chairman
18 Jim Hughes. The motion of Memo L1, hearing room
19 demeanor to table at a later time has passed. So
20 that will be tabled to a later date. We will now
21 move to Memo A3, which is an adjudications of claims
22 with the issue of exposure to blood or bodily fluids
23 as delineated by Revised Code 4123.026. I'll once
24 again call upon Tom Connor, our Director of
25 Adjudication, to explain the proposed changes to

1 this Memo M3, please.

2 Mr. Tom Connor.

3 MR. CONNOR: This is Tom Connor,
4 Director of Adjudication. Again, this deals with
5 the same statute that the policy we dealt with
6 earlier, A1 deals with. This goes more to what --
7 this is in the medical section of the adjudications
8 before the Commission, and it's a policy giving some
9 guidance as to what the hearing officers have to put
10 in their order when they're going to make an order
11 of making this payment.

12 The only question to the draft that
13 has come to me is the addressing the same issues.
14 It's adding the change in the law that came in
15 HB 81, adding drug and chemical substances exposure
16 and also adding detention facility employees
17 including correction officers. So the purpose is
18 the same. The only question that has come to my
19 attention involves the last paragraph. And I think
20 it was a good suggestion because it could create a
21 little confusion. In the last paragraph in the
22 draft it reads, this policy is applicable to all
23 exposures to blood, other bodily fluids, drug or
24 other chemical substances for peace officers,
25 firefighters, emergency medical workers occurring on

1 or after March 14, 2003, as described in delineated
2 4123.026. Actually that line -- the only addition
3 that's in that line, that is actual last line of the
4 current policy but we've added, drug or other
5 chemical substances. I think it would be a good
6 idea to remove that phrase from the draft that was
7 submitted because it could be read to allow for
8 peace officers, firefighters and emergency medical
9 workers to get the post-exposure diagnostic testing
10 paid for prior to September 15, 2020. And I think
11 that's a good suggestion to leave that alone and not
12 put that in.

13 The last sentence then is okay where
14 it pulls in the detention facility employees and it
15 pulls in drug or other chemical substances. And
16 that last sentence in the draft policy is a
17 completely new sentence. It would deal with both
18 the provisions that were in HB 81. I'll be glad to
19 take any questions.

20 CHAIRMAN HUGHES: This is Jim Hughes,
21 Chairman. Are there questions, suggestions or
22 additions to Mr. Tom Connor, Director of
23 Adjudication, regarding Memo M3, adjudication of
24 claims with the issue of exposure to blood or bodily
25 fluids as delineated by Revised Code 4123.026?

1 COMMISSIONER GILLMOR: This is
2 Commissioner Karen Gillmor. I'd like to ask my
3 assistant, Debbie Fodey, if that change addresses
4 her concern that she raised with me.

5 CHAIRMAN HUGHES: This is Chairman --

6 MS. FODEY: This is Debbie Fodey.
7 Yes, it does.

8 CHAIRMAN HUGHES: Thank you. I was
9 going to ask you to answer that. Thank you,
10 Debbie, for doing that.

11 MS. FODEY: Sorry, Chairman.

12 CHAIRMAN HUGHES: This is Jim Hughes,
13 Chairman. Commissioner Gillmor, do you have a
14 follow-up regarding that issue either with your
15 assistant, Debbie Fodey, or with Mr. Tom Connor,
16 Director of Adjudication?

17 COMMISSIONER GILLMOR: This is
18 Commissioner Gillmor. No, that's sufficient. Thank
19 you very much.

20 CHAIRMAN HUGHES: This is Chairman
21 Jim Hughes. Are there any other questions of
22 Mr. Tom Connor, Director of Adjudication, regarding
23 Memo M3? Hearing none, I, Jim Hughes, Chairman,
24 will move for adoption of Memo M3, adjudication of
25 claims with the issue of exposure to blood or bodily

1 fluids as delineated by Revised Code 4123.026. Do I
2 have a second to my motion?

3 COMMISSIONER TAYLOR: This is
4 Commissioner Taylor. I will second.

5 CHAIRMAN HUGHES: This is Chairman
6 Jim Hughes. Thank you, Commissioner Gillmor. It's
7 now been properly moved by me, Chairman Jim Hughes,
8 as well as seconded by Commissioner Taylor to
9 consider Memo M3. At this point in time, is there
10 any discussion on the motion? Hearing none, this is
11 Jim Hughes, Chairman. I will ask our Executive
12 Director, Tim Adams, to call the roll, please.

13 MR. ADAMS: This is Tim Adams,
14 Executive Director of the Ohio Industrial
15 Commission. As I call your name, please restate
16 your name and state your vote.

17 Commissioner Karen Gillmor.

18 COMMISSIONER GILLMOR: Commissioner
19 Gillmor. Yes.

20 MR. ADAMS: Commissioner Jodie Taylor.

21 COMMISSIONER TAYLOR: Commissioner
22 Taylor. Yes.

23 MR. ADAMS: Chairman Jim Hughes.

24 CHAIRMAN HUGHES: Chairman Jim Hughes.
25 Yes.

1 This is Chairman Jim Hughes. Memo M3
2 now has received the proper number of votes to be
3 adopted. So that policy now will be adopted by the
4 Commission. We'll next proceed to the next memo,
5 which is R11, the use of cellular phones, telephonic
6 pagers, personal computers and other audible devices
7 in the hearing areas specified. I'll call upon
8 Mr. Tom Connor, Director of Adjudication, to explain
9 the proposed changes to the Commission.

10 Mr. Tom Connor.

11 MR. CONNOR: This is Tom Connor,
12 Director of Adjudication. This one is not a big
13 change, and it is not a result of any legislation
14 that was passed. Through our review of the manual,
15 it became evident that the current version of R11 in
16 the very end of the second paragraph cites to a
17 Commission Resolution 97-1-03. We came to realize
18 that actually that resolution has been rescinded and
19 superceded by Resolution 18-1-04. So the only
20 change to this policy is at the very end of the
21 second paragraph to update and properly cite the
22 Industrial Commission resolution that provides the
23 guidance. And I'll be glad to take any questions
24 about that.

25 CHAIRMAN HUGHES: This is Chairman

1 Jim Hughes. Thank you, Mr. Tom Connor, for that
2 explanation.

3 Are there any questions of
4 Mr. Tom Connor, Director of Adjudication, regarding
5 Memo R11, the use of cellular phones, telephonic
6 pagers, personal computers and other audible devices
7 in the hearing areas specified? This is Jim Hughes,
8 Chairman. Hearing no questions, then I move for the
9 adoption of Memo R11, the use of cellular phones,
10 telephonic pagers, personal computers and other
11 audible devices in the hearing areas specified. Do
12 we have a second to my motion?

13 COMMISSIONER TAYLOR: This is
14 Commissioner Taylor. I will second.

15 CHAIRMAN HUGHES: This is Jim Hughes,
16 Chairman. Thank you, Commissioner Taylor.

17 It's has now been properly moved by
18 me, Memo R11, as well as seconded by Commissioner
19 Taylor regarding the use of cellular phones,
20 telephonic pagers, personal computers, and other
21 audible devices in the hearing areas specified. Any
22 discussion on the motion? This is Chairman
23 Jim Hughes. Hearing no discussion on the motion, I
24 now call upon Mr. Tim Adams, our Executive Director,
25 to call the role.

1 MR. ADAMS: This is Tim Adams,
2 Executive Director of the Ohio Industrial
3 Commission. As I call your name, please restate
4 your name and state your vote.

5 Commissioner Karen Gillmor.

6 COMMISSIONER GILLMOR: Commissioner
7 Gillmor. Yes.

8 MR. ADAMS: Commissioner Jodie Taylor.

9 COMMISSIONER TAYLOR: Commissioner
10 Taylor. Yes.

11 MR. ADAMS: Chairman Jim Hughes.

12 CHAIRMAN HUGHES: Chairman Jim Hughes.
13 Yes.

14 This is Chairman Jim Hughes. Memo R11
15 now has received the proper number of votes to pass
16 to be adopted to that policy. The Commission does
17 adopt the Memo R11, use of cellular phones,
18 telephonic pagers, personal computers and other
19 audible devices in the hearing areas specified.
20 That does conclude the first part of our business in
21 regards to revisions to adjudication for the Ohio
22 Industrial Commission.

23 We will now move to a second order of
24 the Commission, which is the approval of the 2020
25 Ohio Industrial Commission meeting minutes, as

1 ascribed from the audio recording of meetings held
2 on March 12th, April 15th, June 3rd, September 14th
3 and October 28th. The Chair is aware that there is
4 to be a motion by one of the fellow Commissioners.

5 COMMISSIONER TAYLOR: This is
6 Commissioner Taylor. I move to table the discussion
7 of the March 12, 2020; April 15, 2020; June 3, 2020;
8 September 14, 2020; and October 28, 2020, meeting
9 minutes to allow further review.

10 CHAIRMAN HUGHES: This is Chairman
11 Jim Hughes. It has been properly moved by
12 Commissioner Taylor to table the minutes -- the Ohio
13 Industrial Commission meeting minutes of 2020 from
14 the audio recording of meetings held on March 12th,
15 April 15th, June 3rd, September 14th, October 28th,
16 all 2020. Is there a second to the motion, I
17 understand by Commissioner Gillmor?

18 COMMISSIONER GILLMOR: This is
19 Commissioner Gillmor. I second.

20 CHAIRMAN HUGHES: This is Chairman
21 Jim Hughes. It now has been properly moved and
22 seconded to table the approval of the 2020 Ohio
23 Industrial Commission meeting minutes -- excuse
24 me -- as ascribed from the audio recording of the
25 meetings held on March 12th, April 15th, June 3rd,

1 September 14th, October 28th, all 2020. Is there
2 any discussion on the motion?

3 COMMISSIONER GILLMOR: This is
4 Commissioner Karen Gillmor --

5 CHAIRMAN HUGHES: Jim Hughes. Go
6 ahead Commissioner Gillmor.

7 COMMISSIONER GILLMOR: This is
8 Commissioner Gillmor. And I would just like to
9 mention sadly that Commissioner Taylor will be
10 having her term end this year on June 30. And so
11 any other outstanding meeting minutes should
12 probably be dealt with and circulated for changes
13 before we meet again so that she may vote on them.

14 CHAIRMAN HUGHES: This is Chairman
15 Jim Hughes. Thank you, Commissioner Gillmor, for
16 that. Is there any other discussion?

17 Commissioner Taylor, do you have
18 anything else you'd like to say regarding your
19 motion before we vote?

20 COMMISSIONER TAYLOR: This is
21 Commissioner Taylor. No, I was -- there are two
22 things. I was going to remind that I will be
23 leaving June 30th, and so we need to make sure that
24 all the minutes that are pending or outstanding are
25 approved before that date.

1 The second thing is I guess more of a
2 question for Chief Counsel is, all of the minutes
3 that were noticed today except for the
4 March 12, 2020, meeting minutes were recorded, you
5 know, available on the YouTube. That includes the
6 ones; April 15th, June 3rd, September 14th and
7 October 28th. And I don't -- I mean, I will be the
8 first one to admit that I'm not probably the
9 savviest when it comes to what we can and cannot do
10 for the public meetings. But I guess my question
11 is, because those are recorded and they are
12 available and you people can go back and listen to
13 them today, is there a way that we can just adopt
14 the recordings of those minutes, or do we have to
15 have them transcribed and then adopted?

16 I mean, that seems to be kind of what
17 happened with the ones today where they were I
18 guess briefly summarized. I'm not sure they were,
19 you know, completely summarized. But I don't know
20 if we are allowed to do that. I mean, in the past,
21 we never had recorded meeting minutes and now we do
22 starting with the April 15, 2020. And I guess
23 for -- maybe if Mr. Burkart could look into that and
24 send something to the Commissioners whether we can
25 just adopt those recordings as our meeting minutes,

1 or do we actually have to have them transcribed and
2 written down and reviewed by all of us?

3 CHAIRMAN HUGHES: This is Chairman
4 Jim Hughes. Thank you, Commissioner Taylor, for that
5 question.

6 I will call upon Mr. Jim Burkart, who
7 is our Chief Legal Counsel to see if that's
8 something he wants to address or if he wants to
9 supplement that to the Commissioners later.

10 Mr. Jim Burkart, you may address the
11 Commission, please regarding the question.

12 MR. BURKART: Thank you, Chairman.

13 Commissioner Taylor, that's a good
14 question. Neither the open meeting act nor the
15 public records act address the medium on which a
16 public body must keep their official meeting
17 minutes. So it's sort of a gray area. The
18 recordings themselves are public records. So we'll
19 prepare a memo for you -- for the Commissioners to
20 review. It's a question that we ask ourselves and
21 there is no definitive answer as to whether or not
22 you can just adopt the recording as meeting minutes,
23 or if they need to be transcribed.

24 A point of order, we did review the
25 actual meeting minutes, the recordings when we

1 drafted the ones that are before the Commission for
2 consideration. So I hope that answers your
3 question. We will draft the legal memo and
4 circulate it.

5 CHAIRMAN HUGHES: This is Jim Hughes,
6 Chairman. That was Mr. Jim Burkart, who is our
7 Chief Counsel who spoke. I will now call to see if
8 either one of the two Commissioners have any follow
9 up to Mr. Jim Burkart, Chief Counsel, regarding his
10 answer to the question that was raised by
11 Commissioner Taylor.

12 Either of you have a follow up to --
13 go ahead, Commissioner Taylor.

14 COMMISSIONER TAYLOR: This is
15 Commissioner Taylor. The only thing, Chief Counsel,
16 I would like you to maybe -- I mean, obviously these
17 YouTube and this forum that we're doing now has been
18 permitted by legislation that was passed recently
19 during the Covid virus. So maybe I guess my
20 suggestion would be or I would like to know what
21 other agencies are doing, what other departments and
22 commissions are doing, you know, with their
23 meetings. I mean, I understand everybody is kind of
24 conducting them the same way, but what are they
25 doing with their minutes? And so maybe if we could

1 reach out to some of our sister agencies and
2 commissions and boards and see how they're handling
3 it, it might give us a better idea of whether we can
4 just adopt the recording in the future. Thank you.

5 CHAIRMAN HUGHES: This is Chairman
6 Jim Hughes. Mr. Jim Burkart, Chief Counsel, is that
7 something you can prepare as instructed by
8 Commissioner Taylor for the Commission?

9 MR. BURKART: Sure. This is
10 Jim Burkart, Chief Counsel. Commissioner Taylor, we
11 will be happy to do that. We will survey other
12 agencies, boards and commissions and find out how
13 they are adapting to the current circumstances we're
14 in and how they are posting their meeting minutes.
15 It'll -- we'll have something probably by the 29th
16 circulated to the Commissioners.

17 CHAIRMAN HUGHES: This is Chairman
18 Jim Hughes. Thank you, Mr. Burkart, for that.

19 Also, the Chair wants to also let
20 people know that it is the inclination of the Chair
21 to bring all the minutes that are outstanding to the
22 Commission, to have them considered to see if they
23 would be adopted before the tenure of Commissioner
24 Taylor, which as noted is going to expire on
25 June 30th of this year, 2020.

1 Is there any other discussion on the
 2 motion to table the minutes that was made by
 3 Commissioner Taylor and seconded by Commissioner
 4 Gillmor? Hearing none, I will call Tim Adams, our
 5 Executive Director, to call the role on the motion
 6 to table the minutes.

7 Mr. Adams.

8 MR. ADAMS: This is Tim Adams,
 9 Executive Director of the Ohio Industrial
 10 Commission. As I call your name, please restate
 11 your name and state your vote.

12 Commissioner Karen Gillmor.

13 COMMISSIONER GILLMOR: Commissioner
 14 Gillmor. Yes.

15 MR. ADAMS: Commissioner Jodie Taylor.

16 COMMISSIONER TAYLOR: Commissioner
 17 Taylor. Yes.

18 MR. ADAMS: Chairman Jim Hughes.

19 CHAIRMAN HUGHES: Chairman Jim Hughes.
 20 Yes.

21 The motion to table the minutes has --
 22 has enough votes so the minutes as described as
 23 proposed today will be tabled.

24 We'll now move to the third part of
 25 the agenda today. This is Chairman Jim Hughes, as I

1 stated. In a moment I'm going to introduce a motion
2 that the Commissioners of the Ohio Industrial
3 Commission adjourn to executive session to discuss
4 personnel matters, specifically the hiring of
5 hearing officers and hearing officer trainer.
6 During the executive session, this hearing will
7 remain open, will not adjourn until we return to our
8 open session. Discussions in executive sessions are
9 limited to specific statutory reason expressed in
10 the motion. The Commission may not vote or make any
11 decisions in executive session. This is in
12 compliance with the provisions to Revised Code
13 121.22.

14 This is Chairman Jim Hughes. At this
15 time I move we adjourn to executive session. The
16 purpose of the executive session is to consider the
17 appointment and employment and promotion of hearing
18 officers and the hearing officer trainer. May I
19 have a second for the motion?

20 COMMISSIONER TAYLOR: This is
21 Commissioner Taylor. I will second.

22 CHAIRMAN HUGHES: This is Jim Hughes,
23 Chairman. Thank you, Commissioner Taylor for that.

24 Is there any discussion on the motion?
25 Hearing no -- this is Jim Hughes. Hearing no

1 discussion on the motion, I now will ask Executive
2 Director Tim Adams to call the role.

3 MR. ADAMS: This is Tim Adams,
4 Executive Director of the Ohio Industrial
5 Commission. As I call your name, please restate
6 your name and state your vote.

7 Commissioner Karen Gillmor.

8 COMMISSIONER GILLMOR: Commissioner
9 Karen Gillmor. Yes.

10 MR. ADAMS: Commissioner Jodie Taylor.

11 COMMISSIONER TAYLOR: Commissioner
12 Taylor. Yes.

13 MR. ADAMS: Chairman Jim Hughes.

14 CHAIRMAN HUGHES: Chairman Jim Hughes.
15 Yes.

16 This is Chairman Jim Hughes. The
17 motion to adjourn into executive session does have
18 the proper number of votes. We will now adjourn to
19 the executive session.

20 (Executive session.)

21 CHAIRMAN HUGHES: This is Chairman
22 Jim Hughes. We are now back on the record and the
23 open meeting continues. Having concluded our three
24 points of business today, the Chair, Jim Hughes,
25 makes a motion to adjourn.

1 Is there a second to the motion to
2 adjourn our meeting today?

3 COMMISSIONER TAYLOR: This is
4 Commissioner Taylor. I second.

5 CHAIRMAN HUGHES: This is Chairman
6 Jim Hughes. I have moved, and it has been properly
7 seconded by Commissioner Taylor to adjourn the
8 meeting. I'll now call upon the Executive Director
9 of the Industrial Commission, Mr. Tim Adams, to call
10 the role, please.

11 MR. ADAMS: This is Tim Adams,
12 Executive Director of the Ohio Industrial
13 Commission. As I call your name, please restate
14 your name and state your vote.

15 Commissioner Karen Gillmor.

16 COMMISSIONER GILLMOR: Commissioner
17 Gillmor. Yes.

18 MR. ADAMS: Commissioner Jodie Taylor.

19 COMMISSIONER TAYLOR: Commissioner
20 Taylor. Yes.

21 MR. ADAMS: Chairman Jim Hughes.

22 CHAIRMAN HUGHES: Chairman Jim Hughes.
23 Yes.

24 The motion to adjourn having the
25 proper number of votes is therefore carried. We'll

1 now adjourn the special meeting of January 20, 2021,
2 of the Industrial Commission. Thank you all for
3 listening. Have a great day.

4 - - -

5 (End of recording.)

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C-E-R-T-I-F-I-C-A-T-E

I do hereby certify that the foregoing is a true, correct and complete written transcript of the audiotaped proceedings in this matter, reduced by me into stenotypy, to the best of my ability, and transcribed from my stenographic notes on the 22nd day of June, 2021.



Jillian M. Reedy,
Professional Reporter and
Notary Public in and for
the State of Ohio

My commission expires February 13, 2026.