

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

Meeting Minutes

June 29, 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

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

Meeting Minutes: June 15, 2016

Chairman Bainbridge noted the meeting minutes from the June 15, 2016 were not yet available for approval. Chairman Bainbridge suggested making a motion to table the meeting minutes; however, Ms. Rentas-Black stated a motion was not necessary as it was merely an update on the status of the meeting minutes. Ms. Rentas-Black stated the minutes were provided to her on 06/24/2016 and she was in the

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

process of reviewing. Because the minutes are currently 29 pages long it may take a little extra time, but that she would circulate the minutes for the Commission's review once completed.

NEW BUSINESS

Final Filing Ohio Adm. Code 4121-3-30

Chairman Bainbridge started the discussion regarding Ohio Adm.Code 4121-3-30 "Emergency Hearings" and requested an update on the status of the rule from the previous meeting. Ms. Rentas-Black stated at the previous meeting, Ohio Adm.Code 4121-3-30 "Emergency Hearings" was presented to the Commission Members for a vote to final file the rule. Ms. Rentas-Black added Commission Taylor noted the version that was presented to the Commission Members was missing the word "is" and there was a misplaced comma. Ms. Rentas-Black stated at the previous meeting she would work with the Legislative Service Commission (LSC) to correct the errors. After the meeting, Ms. Rentas-Black was informed that LSC would correct the misplaced comma, but would not insert the word "is." Ms. Rentas-Black stated after the meeting, her office discovered that an earlier version of the rule was filed on the Electronic Rule Filing System and was not the version approved by the Commission Members at the December 17, 2015 meeting. Ms. Rentas-Black re-presented the draft that was approved at the December 17, 2015 meeting along with the version approved from the June 15, 2016 meeting. Ms. Rentas-Black stated if the Commission votes to file the version approved at the June 15, 2016 meeting without the insertion of the word "is" it can be immediately final filed with no further delays. Ms. Rentas-Black continued, stating if the Commission desires to insert the word "is" or decides to file the version approved at the December 17, 2015 meeting, then the rule will have to be filed as a "refiled rule" and JCARR will have another 30 days of jurisdiction over the rule. Ms. Rentas-Black added that JCARR will place the refiled rule on its agenda and a representative would have to attend another JCARR hearing. Afterwards, the rule could then be final filed. Chairman Bainbridge asked Ms. Rentas-Black if she suggested filing the most recent version approved at the June 15, 2015 meeting. Ms. Rentas-Black responded that she presents all three versions to the Commission Members for their decision. Commissioner Taylor added the recent version does not have Mr. Connor's additions from the December 17, 2015 meeting, to which Ms. Rentas-Black responded this was correct. Commissioner Taylor continued, stating she preferred Mr. Connor's version as it sounded better. Commissioner Taylor added that submitting Mr. Connor's version would not require a public hearing and the Commission would not have to start the process over.

MOTION

Chairman Bainbridge moved that pursuant to R.C. 119.03 that the Industrial Commission approve the refiling of amended rule 4121-3-30 "Emergency Hearings" of the Ohio Administrative Code, as approved by the Commission Members at the December 17, 2015 meeting.

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 |

Statewide Hearing Officer Meeting

Ms. Hoffman stated the Statewide Hearing Officer Meeting will be held at the Bureau of Workers' Compensation's auditorium as it has in the past years due to the continuing contractual problems with the Greater Columbus Convention Center. Ms. Hoffman inquired of the Commission Members whether the increased price of attendance of \$125 should be lowered back down to \$100 since the additional costs associated with the venue are no longer included. Both Commissioner Taylor and Mr. Adams stated the cost should be \$100, with Mr. Adams adding the charge cannot be in excess of the costs. Chairman Bainbridge agreed and stated a motion was not needed on the topic.

Ms. Hoffman continued the discussion asking the Commission Members if they would like to suggest any topics or if they would like to pursue a vocational expert for the second day of the training. Mr. Connor added he did not want outside people to think that the vocational training is being hidden from them. Mr. Connor stated a similar training was done in the past for hearing officers and the outside representatives complained. Commissioner Taylor stated providing the vocational training would be difficult because some of the experts are injured worker or employer friendly. Commissioner Taylor added Hearing Officers have discretion regarding vocational issues and their opinion could be swayed depending upon the expert that presents. Chairman Bainbridge stated he was comfortable having the vocational expert present on either day one or day two. Ms. Hoffman clarified that the schedule for day one was full, so any vocational training would take place on day two. Commissioner Taylor suggested having a few seasoned hearing officers talk to their fellow peers and go over relevant court cases. Alternatively, Commissioner Taylor suggested Mr. Connor and Ms. Rentas-Black could present the vocational training. Commissioner Taylor added if a vocational expert is solicited then there should be an expert for both injured workers and employers. Ms. Rentas-Black stated, as a District Hearing Officer, she did not find the vocational training useful since it was not pertinent to her position. Ms. Rentas-Black suggested offering a different topic at the time the District Hearing Officers could attend separately. Ms. Rentas-Black acknowledged the difficulty of running two simultaneous training sessions with the limited space of BWC's auditorium. Based upon Ms. Rentas-Black comment, Chairman Bainbridge suggested eliminating the vocational training. There were no objections to Chairman Bainbridge's suggestion.

Since the vocational training was eliminated from the schedule, Ms. Hoffman asked the Commission Members if they had any suggestions for topics for the second day of training. Commissioner Taylor suggested Nilima Sinha and the new Director of Security Services, Chris Minter, speak as they have done in the past. Mr. Connor also suggested having a one hour ethics portion that has been presented by Renee

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

Davis-Carroll in the past. Both Chairman Bainbridge and Commissioner Taylor agreed. Commissioner Taylor suggested a presentation of the updates to the hearing officer manual be included. Ms. Hoffman agreed, adding that there will be 45 minutes at the end to address the changes to the hearing officer manual. Ms. Hoffman went on to add that the focus will be for outside attendees on day one and internal attendees on day two.

Chairman Bainbridge asked Ms. Hoffman if there was an update regarding a food vendor for the meeting. Ms. Hoffman replied she was actively soliciting catering quotes and has received two proposals thus far. Ms. Hoffman stated she was waiting on a third proposal upon which all three will be submitted to Brian Kelly. Ms. Rentas-Black asked if the fees for the food would be over \$500. Ms. Hoffman stated the budget is \$10 per person for food costs so it is expected to be over \$500. Ms. Rentas-Black replied the Office of Chief Legal Counsel would need to review the contract since it will be over \$500. Ms. Hoffman was agreeable.

Hearing Officer Manual

Ms. Rentas-Black suggested starting the discussion regarding the Hearing Officer Manual by reviewing the policies that were sent to her and Mr. Connor for review at the previous Commission hearing. Chairman Bainbridge agreed, and Commissioner Taylor suggested beginning with the “Foreword.”

- **Foreword**

Ms. Rentas-Black indicated she revamped the “Foreword” and presented it to Mr. Connor. Mr. Connor did not have any additional thoughts. Ms. Rentas-Black added the language was updated to incorporate the mandatory language Commissioner Taylor requested. Both Chairman Bainbridge and Commissioner Taylor were fine with the “Foreword.”

MOTION

Chairman Bainbridge moved to accept the “Foreword” as presented.

Commissioner Taylor indicated there still needed to be a discussion regarding the date. Mr. Adams also pointed out the website address is not correct on page one as it should be “@ic.ohio.gov.” Chairman Bainbridge asked if there were other corrections needed and the response was no.

MOTION

Chairman Bainbridge moved to approve the “Foreword” as presented with the added correction, and the effective date to be consistent with the effective date of the hearing officer manual once determined.

Commission Taylor seconded the motion.

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

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

• **Memo D3: Salary Continuation**

Ms. Rentas-Black stated she tried to rework the language regarding Memo D3 “Salary Continuation” but was unable to come up with better language. Ms. Rentas-Black requested input from the Commission Members. Commissioner Taylor indicated in section two with the sentence that begins “[h]owever, to the extent that...” it is missing something. Commissioner Taylor added the meaning is fine, but the sentence structure is lacking. Ms. Rentas-Black suggested changing “would if he or she” to “would have received if he or she...” Commissioner Taylor agreed. Ms. Rentas-Black then confirmed for the Commissioner Members the change in section two would read as:

However, to the extent that temporary total disability compensation would exceed the after tax amount received by the injured worker through salary continuation, that excess amount shall be ordered paid in temporary total disability compensation to the injured worker, so that the injured worker receives the same net amount of money as he or she would have received if he or she were paid temporary total disability compensation.

MOTION

Chairman Bainbridge moved that Memo D3 “Salary Continuation” be approved pursuant to Ms. Rentas-Black’s additions.

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 C2: Processing Claims for Mesothelioma**

Commissioner Gillmor pointed out there still needed to be a discussion regarding Memo C2 “Processing Claims for Mesothelioma” and that she did not receive any proposed language. Mr. Connor responded he thought Memo C2 was approved at the previous Commission Meeting and that the proposed language was passed out then. Commissioner Taylor agreed with Commissioner Gillmor adding that the new Memo C2 was never adopted at the previous Commission Meeting. Commissioner Taylor stated the previous Memo C2 “Sports Team Set Offs” was repealed and the Commission Members were waiting on language from Mr. Connor to adopt for the new Memo C2. Ms. Rentas-Black suggested tabling the discussion for the next Commission Meeting.

Mr. Connor then brought the discussion back to Memo D3 and asked whether the Commission desired to use the date of injury or date of contradiction of disease. Mr. Connor added that the Bureau of Workers’ Compensation uses the date of disease, and that the use of “contraction” comes from the statute. Chairman Bainbridge agreed with Commissioner Gillmor’s proposed changes with the use of the word “contraction.” Ms. Rentas-Black added that Memo D3 was accepted by the Commission with Commissioner Gillmor’s proposed language.

• **Memo D5: Voluntary Abandonment**

Ms. Rentas-Black stated that Memo D5 “Voluntary Abandonment” was updated to include language in section 3 that stated the list was not intended to be all-inclusive. Specifically, Ms. Rentas-Black added the sentence at the end of section three “[t]he foregoing list of examples is not intended to be all-inclusive. Hearing Officers must consider the facts of each case to determine whether the requisite intent exists.”

MOTION

Chairman Bainbridge moved for Memo D5 “Voluntary Abandonment” to be approved as presented with the proposed language by Ms. Rentas-Black.

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 D6: Eligibility for Temporary Total Disability Compensation After a Refusal of a Job Offer or Suitable Employment**

Ms. Rentas-Black stated there were a total of three alternatives for the Commission Members to consider. This included the proposed original draft and two alternative drafts that Commissioner Gillmor circulated at the previous Commission Meeting. Chairman Bainbridge stated he preferred the first version that was originally proposed. Commissioner Taylor agreed, adding the first proposed draft was concise. Commissioner Taylor further added *State ex rel. Akron Paint & Varnish, Inc. v. Gullotta*, 131 Ohio St.3d 231, 2012-Ohio-542, 963 N.E.2d 1266 is difficult to synopsize and the original draft provided the most conformity with the other memos.

MOTION

Chairman Bainbridge moved to leave Memo D6 “Eligibility for Temporary Total Disability Compensation After a Refusal of a Job Offer of Suitable Employment” as originally drafted.

Commissioner Taylor seconded the motion.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

Commissioner Gillmor Yes
Commissioner Taylor Yes
Chairman Bainbridge Yes

- **Memo E5: Permanent Partial Disability – Payment over Omitted Periods**

Ms. Rentas-Black indicated there was discussion at the previous Commission Meeting regarding whether the language in Memo E5 “Permanent Partial Disability – Payment over Omitted Periods” was obsolete. Ms. Rentas-Black further added the Commission requested for her and Mr. Connor to update the language. Ms. Rentas-Black proposed changing Memo E5 to read:

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

Hearing Officers shall adjudicate an Application for Determination of Percentage of Permanent Partial Disability or Increase of Permanent Partial Disability to determine a percentage of disability without consideration of whether the award is payable. It is the responsibility of the Bureau of Workers' Compensation or the self-insuring employer to determine the period over which an award of permanent partial disability will be paid.

MOTION

Chairman Bainbridge moved to approved Memo E5 "Permanent Partial Disability – Payment over Omitted Periods" as presented by Ms. Rentas-Black.

Commissioner Taylor seconded the motion.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Section H: Death Claims**

MOTION

Chairman Bainbridge moved to approve the title page of Section H "Death Claims" 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 H1: Death Benefits – Eligibility for Maximum Benefits**

Chairman Bainbridge indicated he did not have suggestions other than eliminating the reference to R.C. 4123.59 in the note section since it is referred to in the body of the memo.

MOTION

Chairman Bainbridge moved to accept Memo H1 “Death Benefits – Eligibility for Maximum Benefits” as previously written with the exception of the reference to R.C. 4123.59 in the note section.

Commissioner Taylor seconded the motion.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Memo H2: Eligibility for Death Benefits and Accrued Compensation**

MOTION

Chairman Bainbridge moved that the language for Memo H2 “Eligibility for Death Benefits and Accrued Compensation” be approved as presented with the exception of the reference to R.C. 4123.60 in the note section.

Commissioner Taylor seconded the motion.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Memo H3: Reapportionment of Death Benefits – Remarriage**

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 H3 “Reapportionment of Death Benefits – Remarriage” as presented.

Commissioner Taylor stated rather than starting off with a motion, each memo should be opened up for discussion and then a motion made after discussion. Chairman Bainbridge indicated he thought making the motion did open it up for discussion. Mr. Adams stated Chairman Bainbridge was correct. Ms. Rentas-Black then asked the Commission Members if there was any discussion regarding the motion made for Memo H3.

Commissioner Taylor seconded the motion with correction to the citation in the notes.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Memo H4: Appeal Abated by Death**

MOTION

Chairman Bainbridge motioned for Memo H4 “Appeal Abated by Death” be opened up for discussion. Chairman Bainbridge further moved Memo H4 be approved as presented with the changes by Commissioner Gillmor. Chairman Bainbridge added he was bothered by the use of “claimant” but wants to remain consistent.

Commissioner Taylor indicated she thought the memo should refer to “injured worker” instead of “claimant.” Commissioner Taylor reasoned that there needs to be a claim in order to be abated; therefore, the injured worker would no longer be considered a “claimant.” Commissioner Gillmor stated that both claimants and injured workers could have their claim abated and suggested to use “injured worker/claimant” in order to cover all possibilities.

Chairman Bainbridge moved to amend his previous motion regarding Memo H4 to adopt as presented with the exception of replacing “claimant” with “injured worker/claimant.”

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 with the additional correction to the citation in the note section.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Memo H5: Accrued Compensation Reminder**

MOTION

Chairman Bainbridge moved to adopt Memo H5 “Accrued Compensation Reminder” with the changes as presented; however, under discussion, Chairman Bainbridge indicated he wanted to discuss why the date in the last paragraph of page one was changed from 1987 to 2014 and 2015.

Mr. Connor indicated the changes in the dates were not significant and it was simply to update from 1987. Ms. Fodey added it is likely the revisions of the manual started in 2014. Ms. Rentas-Black asked Chairman Bainbridge whether the reference to R.C. 4123.60 in the note section should be removed.

Chairman Bainbridge further moved to adopt Memo H5 as presented with the changes suggested by Commissioner Gillmor and elimination of the reference to R.C. 4123.60 in the note section.

Commissioner Taylor seconded the motion.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Memo H6: Rate of Compensation Where There Are Wholly Dependent Persons**

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 Memo H6 “Rate of Compensation Where There Are Wholly Dependent Persons” be adopted as presented with changes by Commissioner Gillmor.

Commissioner Taylor seconded the motion with the requirement the citation be corrected.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

Commissioner Gillmor added there needs to be a period after the “v” in the citation.

MOTION

Chairman Bainbridge moved to add a period after the “v” in the citation of Memo H6.

Commissioner Taylor seconded the motion.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Memo H7: Payment of Death Benefits Following a Trial Court Judgment Entry Granting a Surviving Spouse and/or Dependents the Right to Participate in the Workers’ Compensation Fund**

Ms. Rentas-Black stated Memo H7 was an issue that came up at the previous Commission Meeting. Mr. Connor suggested changing the last sentence of the memo to read as “the issue of death allowance through the appellate process.” Commissioner Gillmor also stated the first sentence should be changed to “Hearing Officers shall order the payment of death benefits...” Commissioner Taylor pointed out the

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

citation needed correction as well. Commissioner Gillmor stated R.C. 4123.512(H) should be added in the note section.

MOTION

Chairman Bainbridge moved to adopt Memo H7 “Payment of Death Benefits Following a Trial Court Judgement Entry Granting a Surviving Spouse and/or Dependents the Right to Participate in the Workers’ Compensation Fund” as presented along with the corrections suggested.

Commissioner Taylor seconded the motion.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Section I: Jurisdiction**

MOTION

Chairman Bainbridge moved to adopt the title page of Section I “Jurisdiction” 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 I1: Continuing Jurisdiction – 10 Years and 5 Years**

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 that Memo I1 “Continuing Jurisdiction – 10 Years and 5 Years” be adopted as presented with Commissioner Gillmor’s corrections.

Mr. Hickman pointed out there was a redundant citation in the note section.

Chairman Bainbridge amended his motion to include the elimination of R.C. 4123.52.

Commissioner Taylor seconded the motion.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Memo I2: Two Year Limit and R.C. 4123.52, Application for Compensation Construed and Additional Conditions**

MOTION

Chairman Bainbridge moved that Memo I2 “Two Year Limit and R.C. 4123.52, Application for Compensation Construed and Additional Conditions” be approved as presented with Commissioner Gillmor’s changes and the elimination of the citation to R.C. 4123.52 and R.C. 4123.84 in the note section.

Mr. Hickman stated the first sentence of the memo sounded awkward and suggested adding “states” in order to help the sentence flow better. Therefore, the first sentence would read “R.C. 4123.52 states, in part, that...”

Chairman Bainbridge amended the motion to include the word “states” in the first sentence.

Commissioner Taylor stated there needs to be a period at the end of the citation in the note section. Chairman Bainbridge asked the Commission Members whether there should be a discussion regarding the use of “doctors” or “physicians.” Commissioner Taylor stated it was agreed upon at the last meeting to use “doctors.”

Commission Taylor seconded the motion.

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

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Memo I3: Processing of Claims Where the Same Injury Results in an Ohio Claim and a Foreign Claim**

MOTION

Chairman Bainbridge moved to approve Memo I3 “Processing of Claims Where the Same Injury Results in an Ohio Claim and a Foreign Claim” as presented with Commissioner Gillmor’s changes.

Commissioner Taylor indicated the previous Memo I3 “Last Payment of Compensation – Date on Face of Warrant or Date of Last Transfer” would need to be repealed. Commissioner Gillmor stated one of the concerns was whether the Bureau of Workers’ Compensation adopted a rule on out of state claims. Mr. Connor responded the Bureau of Workers’ Compensation did adopt a rule; however, it had no impact on the Commission since it focuses on reimbursement.

Chairman Bainbridge moved to amend the previous motion and approve Memo I3 “Processing of Claims Where the Same Injury Results in an Ohio Claim and a Foreign Claim” as presented along with the elimination of the previous Memo I3 “Last Payment of Compensation – Date on Face of Warrant or Date of Last Transfer.”

Commissioner Taylor seconded the motion.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Memo I4: Computation of Time Limitation**

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 I4 “Computation of Time Limitation” as presented with the proposed corrections of Commission Gillmor and the elimination of reference to R.C. 1.14 in the note section.

Commissioner Taylor seconded the motion.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Memo I5: Processing Compensation and Medical Benefits Issues in Claims When an Original Allowance or Additional Allowance Issue is in Court**

Ms. Rentas-Black indicated there were additions made on the second page of Memo I5. Ms. Fodey stated the changes did not include Commissioner Gillmor’s proposed changes of using “shall” rather than “should.” Ms. Rentas-Black responded there would need to be a motion since Memo I5 was not updated to reflect the Commission’s changes from the previous meeting.

MOTION

Chairman Bainbridge moved to approve Memo I5 “Processing Compensation and Medical Benefits Issues in Claims When an Original Allowance or Additional Allowance Issues is in Court” as presented with changes by Commissioner Gillmor and Commissioner Taylor and with the elimination of the reference to R.C. 4123.512 in the note section.

Commissioner Taylor seconded the motion.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Memo I6: Professional Sports Claims**

MOTION

Chairman Bainbridge moved that Memo I6 “Professional Sports Claims” 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 I7: Processing of Claims Where the Same Injury Results in an Ohio Claim and a Foreign Claim**

Ms. Rentas-Black indicated Memo I7 does not need to be addressed since it is now Memo I3. Ms. Rentas-Black stated Memo I7 will need to be rescinded.

MOTION

Chairman Bainbridge moved Memo I7 “Processing of Claims Where the Same Injury Results in an Ohio Claim and a Foreign Claim” be rescinded as it is now Memo I3.

Commissioner Taylor seconded the motion.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Section J: Appeals**

MOTION

Chairman Bainbridge moved to adopt the title page of Section J “Appeals” 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 J1: Signing of Notice of Appeals**

MOTION

Chairman Bainbridge moved that Memo J1 “Signing of Notice of Appeals” be approved as presented along with Commissioner Gillmor’s changes and the elimination of the reference to Ohio Adm.Code 4121-3-18 in the note section.

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 J2: Remanding of Claims**

MOTION

Chairman Bainbridge moved that Memo J2 “Remanding of Claims” be approved as presented with Commissioner Gillmor’s changes and the elimination of the reference to R.C. 4123.68 in the note section.

Commissioner Taylor seconded the motion.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Memo J3: Handling Subrogation Motions**

MOTION

Chairman Bainbridge moved that Memo J3 “Handling Subrogation Motions” be approved as presented with the exception of Commissioner Gillmor’s last edit be changed back to “was” instead of “may have been.”

Commissioner Taylor questioned whether “claims” should be singular. Ms. Rentas-Black responded it would sound better as singular, but can be either. Commissioner Taylor stated it should be “claim.”

Chairman Bainbridge moved that Memo J3 be adopted as presented with the exception that “claims” be changed to “claim,” “was” replaces “may have been,” and the citation is corrected in the notes.

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 |

- **Section K: Order Writing**

MOTION

Chairman Bainbridge moved that Section K “Order Writing” 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 K1: Allowance – Dismissal Order v. Merits**

MOTION

Chairman Bainbridge moved for Memo K1 “Allowance – Dismissal Order v. Merits” be approved as presented with the corrections proposed by Commissioner Gillmor with the exception in paragraph (A) it should state “denied” instead of “disallowed.”

Chairman Bainbridge asked whether the last sentence should remain or be removed. Chairman Bainbridge then suggested it may be something Ms. Rentas-Black should research. Ms. Rentas-Black responded the last sentence was suggested by Mr. Connor. Commissioner Taylor added that she does not have a problem with the use of “supporting allowance” in the second paragraph of section (A); however, she wants to remain consistent. Mr. Connor stated that when the hearings officers are referring to an allowance of a claim they are to use “disallowed.” Mr. Connor further added that the use of “grant” goes with “deny” and “disallow” goes with “allow.” Commissioner Taylor stated she preferred to stay with the changes proposed by Commissioner Gillmor and use “disallowed.” Chairman Bainbridge asked if Memo K1 was requiring the hearing officers to list all of the reports relied upon. Mr. Connor stated this would be

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

a good suggestion as it would follow the *Fultz* issue. Mr. Connor added that Memo K1 is not mandating hearing officers to rely on a report, but if a report is relied upon it should be listed.

Chairman Bainbridge moved that Memo K1 “Allowance-Dismissal Order v. Merits” be approved as presented with the proposed changes of Commissioner Gillmor, with the addition of the sentence “In addition, Hearing Officers shall include the name of the doctor and date of report upon which a hearing officer is relying upon” at the end of paragraph 2.

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 that Memo K2 “Precise Order Writing” be approved as presented with the proposed changes by Commissioner Gillmor.

Commissioner Taylor asked Mr. Connor what “form order” means. Mr. Connor responded this term is outdated, and that there used to be boilerplate orders by issue. Mr. Connor added there was a project where these boilerplate orders were sent in and a template was created; therefore, the issue has been resolved and that particular sentence could be removed from the memo. Commissioner Taylor responded she is hesitant regarding this memo and she spoke with Mr. Connor regarding her concerns that the memo does not go far enough. Commissioner Taylor stated there have been instances where outside parties typed up orders and handed them to the hearing officer. The hearing officer then used the order word for word, including the typographical and grammatical errors. Commissioner Taylor added the problem with the memo is that hearing officers are prohibited from using “cut/paste” orders from other hearing officers, but there is no provision to prohibit hearing officers to use an order prepared by the outside. Chairman Bainbridge stated he agreed 100% with the issue Commissioner Taylor presented. Chairman Bainbridge added he believes the issue comes from standard court practice that has carried over to the Commission’s hearing rooms. Chairman Bainbridge suggested adding a provision restricting hearing officers from using outside templates/orders. Commissioner Taylor stated the Commission cannot control if an order is provided by an outside representative, but the memo can prohibit hearing officers from using 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 added she has seen hearing officers use the order provided to them by the outside representative and she dislikes this practice. Mr. Connor stated he had a concern that not allowing the hearing officer to use a well-written order provided by an outside representative would influence the hearing officer’s decision. Commissioner Taylor responded that she has faith in the hearing officers that they would be able to reword and rephrase if the order was that well-written. Chairman Bainbridge suggested to move forward with Memo K3 as presented and to work on the issue of outside orders at a later date.

Commissioner Taylor seconded the motion.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Memo K3: Orders on Coverage – No Jurisdiction to Address Risk Matters**

MOTION

Chairman Bainbridge moved to approve Memo K3 “Orders on Coverage – No Jurisdiction to Address Risk Matters” as presented with Commissioner Gillmor’s corrections.

Mr. Connor stated he was unsure why “in the course of employment” was in the last paragraph. Commissioner Gillmor added she also had a problem with this language. Mr. Connor added that as adjudicators, hearing officers do not pay temporary total disability compensation, but rather, adjudicate whether an injured worker is entitled to the compensation. Mr. Connor stated the Bureau of Workers’ Compensation handles the risk. Commissioner Taylor stated the Commission does assess multi-violations and suggested eliminating “and other charges in the course of employment.”

Chairman Bainbridge moved to alter the previous motion to also include the elimination of “and other charges in the course of employment.”

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 K4: Overpayments, Reimbursements from the Surplus Fund and Recoupment Pursuant to R.C. 4123.511(K)**

MOTION

Chairman Bainbridge moved to approve Memo K4 “Overpayments, Reimbursements from the Surplus Fund and Recoupment Pursuant to R.C. 4123.511(K) as presented with the elimination of the reference to R.C. 4123.511 in the note section.

Ms. Ferkany indicated the citation needed corrected.

Commissioner Taylor seconded the motion with the added requirement the citation be corrected.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Memo K5: Timely Completion of Orders**

MOTION

Chairman Bainbridge moved to approve Memo K5 “Timely Completion of Orders” as presented with the proposed changes by Commissioner Gillmor.

Ms. Rentas-Black indicated the citation needed to be corrected.

Commissioner Taylor seconded the motion with the added requirement the citation be corrected.

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 K6: Corrected Orders**

MOTION

Chairman Bainbridge moved to approve Memo K6 “Corrected Orders” as presented with the proposed changes by Commissioner Gillmor.

Commissioner Taylor seconded the motion.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Section L: Hearing Officer Duties**

MOTION

Chairman Bainbridge moved to approve the title page of Section L “Hearing Officer Duties” 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 L1: Hearing Room Demeanor**

MOTION

Chairman Bainbridge moved to approve Memo L1 “Hearing Room Demeanor” 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 L2: Determination of Correct Employer in Claims Involving Temporary or Employee Leasing Agencies**

MOTION

Chairman Bainbridge moved to approve Memo L2 “Determination of Correct Employer in Claims Involving Temporary or Employee Leasing Agencies” as presented with the exception of eliminating the second paragraph and rescind Memo L2 “District Hearings – Hand Carrying Claims.”

Chairman Bainbridge clarified he did not wish to eliminate the second paragraph but instead not adopt the proposed changes by Commissioner Gillmor.

Commissioner Gillmor stated the proposed changes were in response to the phrase Chairman Bainbridge preferred in differentiating between employers. Chairman Bainbridge suggested sending the memo back to Ms. Rentas-Black for her review. Commissioner Taylor responded it is something that could be handled at the current meeting. Commissioner Taylor found Commissioner Gillmor’s distinction helpful.

Chairman Bainbridge moved to approve Memo L2 “Determination of Correct Employer in Claims Involving Temporary or Employee Leasing Agencies” as presented with the proposed changes by Commissioner Gillmor.

Commissioner Taylor seconded the motion.

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

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Memo L3: Signing of Orders**

MOTION

Chairman Bainbridge moved to approve Memo L3 “Signing of Orders” as presented with the proposed changes by Commissioner Gillmor.

Commissioner Taylor presented the question of whether there was any need with situations in the past with insuring against conflicts. Mr. Connor responded there has been a technology wave that is to catch the conflicts. Commissioner Taylor responded the onus is on the hearing officer; however, would like to table the discussion and have language added to the memo that would ensure a hearing officer could not sign an order if there is a conflict. Chairman Bainbridge stated he thought there was already a policy regarding this issue. Commissioner Taylor responded there is a policy that prohibits a hearing officer from conducting a hearing if there is a conflict, but there is no policy on signing an order.

Chairman Bainbridge moved to approve Memo L3 “Signing of Orders” as presented with the additional language that hearing officers are not to sign any orders when there is a conflict.

Commissioner Taylor moved to table to the discussion regarding Memo L3 so that Ms. Rentas-Black and Mr. Connor can come up with the language.

Chairman Bainbridge stated his motion should eliminate the issue Commissioner Taylor has concerns with. Commissioner Gillmor stated there will need to be another meeting so it wouldn’t hurt to allow Ms. Rentas-Black and Mr. Connor to research the issue.

Commissioner Gillmor seconded Commissioner Taylor’s 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 L4: Ex-Parte Discussions**

MOTION

Chairman Bainbridge moved to approve Memo L4 “*Ex-parte* Discussions” as presented with the proposed changes by Commissioner Gillmor.

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 pointed out the former Memo L4 “Review of District Dockets” needed to be rescinded. Mr. Hickman added there was a page break on the new Memo L4 that resulted in the previous Memo L4 printing on a separate page.

MOTION

Chairman Bainbridge moved to rescind the previous Memo L4 “Review of District Dockets.”

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 L5: Informing Injured Workers about Payment**

MOTION

Chairman Bainbridge moved to approve Memo L5 “Informing Injured Workers about Payment” as presented with the proposed changes by Commissioner Gillmor.

Commissioner Taylor seconded the motion.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Memo L6: Hearing Officer Schedule Sheets Not Public**

MOTION

Chairman Bainbridge moved to approve Memo L6 “Hearing Officer Schedule Sheets Not Public” as presented with the proposed changes by Commissioner Gillmor.

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 L7: Ex-Parte Discussions**

Ms. Rentas-Black pointed out Memo L7 “*Ex-Parte Discussions*” is now Memo L4.

MOTION

Chairman Bainbridge moved to rescind Memo L7 “*Ex-Parte Discussions*” as it is now Memo L4.

Commissioner Taylor seconded the motion.

ACTION BY

Mr. Adams called the roll.

ROLL CALL

| | |
|----------------------|-----|
| Commissioner Gillmor | Yes |
| Commissioner Taylor | Yes |
| Chairman Bainbridge | Yes |

- **Memo L8: Determination of Correct Employer in Claims Involving Temporary or Employee Leasing Agencies**

Ms. Rentas-Black pointed out Memo L8 is now Memo L2.

MOTION

Chairman Bainbridge moved to rescind Memo L8 “*Determination of Correct Employer in Claims Involving Temporary or Employee Leasing Agencies*” as it is now Memo L2.

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*

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 |

Respectfully submitted,



Tim Adams
Executive Director