

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

**Meeting Minutes**

**November 29, 2017**

**10:00 A.M.**

**TYPE OF MEETING**                      Commission Meeting

**ATTENDEES**                              Chairman Thomas H. Bainbridge  
Commissioner Jodie M. Taylor  
Commissioner Karen L. Gillmor  
Tim Adams, Executive Director  
Tom Connor, Director of Hearing Services  
Rachael T. Rentas-Black, Chief Legal Counsel  
Genevieve Hoffman, Hearing Officer Trainer  
Steven Kramer, Administrative Assistant  
Robin Hossfeld, Administrative Assistant  
Debbie Fodey, Administrative Assistant  
Greg Hickman, Assistant Legal Counsel  
Jennifer Rohrbaugh, Assistant Legal Counsel  
Julia Smythe, Administrative Assistant

**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**

Chairman Bainbridge indicated there was no “Old Business” to discuss on the agenda.

**NEW BUSINESS**

**Memo to Regional Managers, Hearing Administrators, Staff and District Hearing Officers – Changes to the Law in Light of House Bill 27**

Ms. Rentas-Black stated that, at the August 24, 2017 Commission Meeting, Commissioners Taylor and Gillmor requested that the Chief Legal Counsel prepare a memorandum detailing the changes made by House Bill 27. Ms. Rentas-Black indicated that the memorandum was completed and circulated to the

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

Commission Members for their review. Ms. Rentas-Black went on to explain that the issue before the Commission was Tom Connor’s proposed memorandum to the hearing officers regarding the HB 27 changes that affect adjudications. Commissioner Gillmor questioned if everything that was included in Ms. Rentas-Black’s memorandum was also included in Mr. Connor’s memorandum. Commissioner Gillmor went on to add that changes made pursuant to House Bill 27 to both R.C. 4123.56(E) and 4123.57 were not included in the latest version of Mr. Connor’s memorandum. Commissioner Gillmor expressed the importance of including those changes along with others since it affects the hearing room. Commissioner Gillmor suggested either updating Mr. Connor’s memorandum or sending Ms. Rentas-Black’s memorandum to the hearing officers. Mr. Connor responded he was amenable to circulating Ms. Rentas-Black’s memorandum if the Commissioners agreed. Commissioner Taylor stated she was not comfortable circulating Ms. Rentas-Black’s memorandum since it would be possible that it would reach the public and be used in a manner not intended by the Commission. Commissioner Taylor explained that Ms. Rentas-Black’s memorandum included her legal opinion regarding the impact of each change made by House Bill 27 and shared her concern that these “impact statements” could later be used to influence hearing officers’ decisions without the benefit of a Commission policy or rule being passed. Ms. Rentas-Black stated she could remove the “impact statements” prior to circulating the memorandum to the hearing officers. Chairman Bainbridge suggested referring the memorandum back to Ms. Rentas-Black and Mr. Connor in order to remove the impact statements. Commissioner Taylor also suggested dividing the memorandum into changes that have an impact on the hearing room and other interesting changes that do not affect the hearing room. Commissioner Gillmor agreed with sending the memorandum back for further editing with the suggestions made at the meeting.

**Memo E4 – Processing C-92 Applications for Determination of Percentage of Permanent Partial Disability or Increase of Permanent Partial Disability in Claims in which Permanent Total Disability Compensation has been Previously Granted.**

Ms. Rentas-Black recommended that the Commission rescind Memo E4 to make it consistent with the recent Supreme Court decision of *State ex rel. Ohio Presbyterian Retirement Servs., Inc. v. Indus. Comm.*, Slip Opinion No. 2016-Ohio-8024. Ms. Rentas-Black explained that she is recommending rescission and the creation of a new memo because more than half of the existing text is being stricken from the current version of Memo E4.

**MOTION**

Chairman Bainbridge moved that current Memo E4 “Processing C-92 Applications for Determination of Percentage Permanent Partial Disability or Increase of Permanent Partial Disability in Claims in which Permanent Total Disability Compensation has been Previously Granted,” be rescinded. Commissioner Gillmor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

**MOTION**

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

Chairman Bainbridge moved that proposed new Memo E4, "Processing C-92 Applications for Determination of Percentage Permanent Partial Disability or Increase of Permanent Partial Disability in Claims in which Permanent Total Disability Compensation has been Previously Granted," be approved as presented in the draft circulated with the agenda.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

**MOTION**

Chairman Bainbridge moved that the effective date of proposed Memo E4, "Processing C-92 Applications for Determination of Percentage Permanent Partial Disability or Increase of Permanent Partial Disability in Claims in which Permanent Total Disability Compensation has been Previously Granted," be November 29, 2017.

Commissioner Taylor seconded the motion

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

Commissioner Taylor stated that the Commission has been receiving Requests for Reconsideration regarding Memo E4. Commissioner Taylor stated that, going forward, she is going to vote to set these requests before a Deputy so that the parties do not have to travel to Columbus for a full Commission Hearing. Ms. Fodey indicated that the IT department would need to add an option for the Commissioners to send the requests to the Regional Managers/CLH Staff Hearing Officers. Commissioner Gillmor indicated she objected to this change and questioned how she would be aware of the claim and how the other Commission Members voted, if the IT department makes this change. Commissioner Taylor explained that the Commission Members would ultimately sign the orders so they all would be aware of the decision to set the matter before a Deputy. Commissioner Gillmor explained she wants to know whether the Commission is referring the request to the Regional Managers/CLH Staff Hearing Officers or denying the request. Commissioner Taylor explained that the Commission would not deny the request but, instead, grant it and refer it to a Deputy for hearing. Chairman Bainbridge inquired whether these requests could be handled with an *ex parte* order. Ms. Rentas-Black explained that a hearing must take place since the Commission must vacate the prior orders in accordance with *Ohio Presbyterian*. Ms. Rentas-Black further explained that the only other option for vacating the prior orders, if the Commission does not wish to conduct a full Commission hearing, would be to send to a Regional Manager/ CLH Staff Hearing Officer for adjudication.

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

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

**MOTION**

Chairman Bainbridge moved that proposed amended Memo M5 “Documentation Submitted by Physician Assistants, Advanced Practice Nurses, Certified Nurse Practitioners, and Clinical Nurse Specialists,” be approved as presented in the draft circulated with the agenda.  
Commissioner Gillmor seconded the motion.

Mr. Connor explained that staff has realized that Memo M5’s language contradicts the policy of the Bureau of Workers’ Compensation, Ohio Adm.Code 4123-5-18. Mr. Connor further explained that, for this reason, staff is recommending a reference to the Bureau’s rule. Commissioner Taylor indicated that she wanted to include a reference to Memo D8 and Chairman Bainbridge agreed. Commissioner Taylor stated that she has received many questions regarding this issue during the speeches she has given in the last six months. Commissioner Taylor went on to add that there were questions on whether Memo D8 applies to the six weeks from the date of injury or six weeks following the first period of temporary total disability. Commissioner Taylor recommended clarifying this issue in an upcoming Hearing Officer Newsletter to reiterate that Memo D8 applies only to the six weeks from the date of injury. Chairman Bainbridge asked if Memo M5 should be sent back for further editing and Ms. Rentas-Black indicated that the amendments made at the meeting could be included in the amendment and voted on by the Commission.

**MOTION**

Commissioner Taylor motioned to amend proposed Memo M5 to include a reference to Memo D8 of the “Adjudications before the Ohio Industrial Commission.”  
Chairman Bainbridge seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

**MOTION**

Chairman Bainbridge moved that the effective date of proposed amended Memo M5 “Documentation Submitted by Physician Assistants, Advanced Practice Nurses, Certified Nurse Practitioners, and Clinical Nurse Specialists,” be November 29, 2017.  
Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

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

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

Commissioner Gillmor asked if the minutes from the August 24, 2017 meeting were ready to be circulated to the Commission Members. Ms. Rentas-Black responded that the Executive Director provided her his edits to those minutes and that her office will circulate the minutes once her secretary has made the requested changes. Ms. Rentas-Black indicated the meeting minutes from this meeting would be completed and circulated as soon as possible. Mr. Adams followed up that the minutes from this meeting will be complete by the end of December 2017.

**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