

**MINUTES OF THE WORKERS' COMPENSATION SECTION  
EXECUTIVE COMMITTEE  
July 14, 2017**

**I. CALL TO ORDER**

Chair Jenny Ogawa called the Executive Committee (EC) to order at 12:06 PM.  
EC Committee members attending or absent were:

<b>Exec Board Member</b>	<b>Present in Person</b>	<b>Present by Phone</b>	<b>Absent</b>	<b>Comments</b>
Bohy, Ronald	X			
Caldwell, Kate	X			
Chen, Bin	X			
Conratt, Linda	X			
Dibartolomeo, Joe		X		
Fisher, Martin		X		
Frost, Christine	X			In at 12:30 PM
Garrow, Phil	X			
Harrell, Tom	X			
Lesh, Allison			X	
Ogawa, Jenny	X			
Olney, Kathryn		X		
Oswald, John	X			
Patrick, Jovanna	X			

Semple, Keith		X		
Smith, Bruce		X		
Wren, Geoffrey			X	
TOTAL	10	5	2	

## II. MINUTES

The June minutes were approved.

The Annual Section Meeting minutes from Salishan were approved.

## III. CHAIR REPORT

### CLE Feedback Request from Helen Hierschbiel

On 6/23/2017, Chair Ogawa received notice that the Board of Governors “unanimously voted to approve changes to section CLE co-sponsorship which requires each section to co-sponsor a four-hour program with the OSB CLE Seminars Department at least once every three years.”

### Past chair award

Chair Ogawa presented Tom Harrell with a plaque recognizing his service as prior chair of the EC.

## IV. TREASURER REPORT

Treasurer Ron Bohy reported based on the 6/30/2017 statement of revenues and expenses. It appears that all the costs associated with Salishan have been paid. The section is running a net revenue of just over \$7,500. Everything that has been budgeted has been paid with Bench Bar Forum the one remaining major expense.

Membership is currently at 334, with 349 the budgeted number of memberships. Treasurer Bohy anticipated we would still reach the budgeted number by the end of the year.

Chair Ogawa, Chair Elect John Oswald and Treasurer Bohy received an email from Helen Herschbiel regarding our level of reserves. BOG will be talking about sections carrying high reserves again in the future. We are one of the sections with a high reserve. Treasurer Bohy reported that going back to 2014, the informal policy has been to keep no more than 2 times the annual membership fees in reserves. Projections for

this year put the section likely about \$4K over that informal cap. Helen would like the EC to talk about what to do to decrease reserves. Treasurer Bohy suggested more paid speakers at Salishan and perhaps upgrading the food for lunch and the reception at that event.

## **V. COMMITTEE REPORTS**

### **A. Professionalism Award**

No report.

### **B. Access to Justice**

#### Lou Savage with WCD

Lou Savage and Stan Fields from WCD attended today's EC Meeting.

Jovanna Patrick presented the main issues Access to Justice has been looking into and would like to discuss with Stan and Lou. The main issue Access to Justice has been looking at is workers' access to medical treatment, attending physicians in particular. The concern is that MCO lists are often not updated and some of the doctors that are on the list are only there so that they can handle worker' compensation claims for existing patients, but are not willing to take on new workers' compensation patients. The subcommittee has found that some doctors do not want to get involved when there is an attorney, litigation, etc, and the lack of doctors seems to be especially bad in rural areas or when there is a language barrier.

Lou and Stan noted that there is an MCO advisory committee in about two weeks where the issue of MCO lists is on the agenda. Jovanna, Bin and Keith are planning on going.

Lou said that WCD continues to struggle with the issue of available providers. They have a medical outreach team that reports regularly about trying to recruit providers across the board.

Jovanna reported that Access to Justice was reaching out to the Oregon Medical Association and OHSU to get a course in place, one that would offer continuing education credits to doctors. Lou said that WCD happy to team up with them.

Chris Frost suggested that the WCD rules, with the possibility of sanctions for failures to comply with various things, may scare some providers off and perhaps there should be more ways for providers to seek sanctions against insurers or others. Jovanna noted that medical providers can take bill disputes to MRT, but there is no fee for a claimant's attorney associated with that, so claimant's attorneys have no incentive to help the providers.

Bin and Jovanna brought up the issues around pre-authorization. The practices are different between private carriers and workers' compensation insurers, which can lead to confusion and delays in treatment. Bin suggested that one solution is to have a very

simple form to respond to preauthorization requests. Something to help the communication process move more smoothly. Rule re response to diagnostic requests has helped claimants. Jovanna suggested some sort of notice when a new attending physician takes over, one that would notify the doctor of the current accepted conditions and provide a list of the types of procedures that require preauthorization.

Jovanna also reported that in talking with the Ombudsman for Injured Workers, Jennifer Flood, and Jennifer thought a separate ombudsman for medical providers would be useful. She gets lots of calls from medical providers but is not able to help much.

Bin suggested some sort of an online forum to post comments about issues with access to medical care, or perhaps something similar to the IME complaint process. Lou agreed that part of WCD's challenge is actually getting this kind of information so they can make some policy changes. They are working on outreach and planning to create some work groups to look at the issues of access to medical care broadly and, based on the EC discussion, perhaps a separate work group to look at the MCO system in particular.

Jenny asked the Access to Justice committee to look in to whether it is viable to create an ombudsman for doctors and suggested they look at the MCO come along rules to see if there are ways to expand that to get more doctors on MCO lists.

#### Proposed Translation Rule

Keith Kekaouha talked to Roger Pearson at WCB about how to suggest a new rule related to the translation of written evidence issues. Roger suggested asking the Board to do a rule concept, which gives WCB more options about how to proceed. Access to Justice submitted a second draft of their proposed letter to WCB for EC approval. The letter was approved and EC gave the ok for Access to Justice to send the letter to the WCB.

Chair Ogawa will send the proposed letter to Susan Grabe at Public Affairs, who will forward it to the BOG for approval.

#### Other WCD Topics:

Lou reported that WCD is looking at the penalty structure. While they have authority to penalize insurers for things, they are very low penalties. They can only issue 10K a quarter to an insurer. They will be deciding whether to ask the legislature to raise the penalty structure for civil penalties.

WCD will also be looking at large deductible policies, Self insured employers are shrinking, and are getting large deductible policies. ( Some of those acting like self insured even though they are not, so WCD will be investigating whether they need to change their regulatory policies to oversee those.

WCD is also looking to modernize its claims information system. It is a multimillion dollar project that they are just in early stages of. They want new system to be flexible enough

so that they can add on other pieces so that more things can be electronic, like Board's Portal. They are hoping to get a concept ready for the 2019 session.

**C. Salishan**

No report.

**D. Bench Bar Forum**

No report.

**E. Going Forward**

The social event co sponsored with YLD was well attended. John and Jovanna attended and felt the collegiality of the section came through.

**F. Legislative and Rules**

No report.

**VI. OLD BUSINESS**

Riverhouse Convention Center in Bend as an option for CLE

This was tabled until the next meeting due to time constraints.

**VII. NEW BUSINESS**

None

**VIII. ADJOURNMENT AND NEXT MEETING**

The EC meeting adjourned at 1:29 PM.

The next meeting will be September 8th at noon at the OSB offices.