

## LA WORKERS' COMPENSATION SECOND INJURY BOARD

Meeting of February 9, 2017

The regular meeting of the Second Injury Board convened at 2:04 p.m.

The following were present:

1. Director Sheryl Kellar, Director of Workers' Compensation Administration
2. Mr. Charles Hansberry, representing the Commissioner of Insurance, Chairman
3. Ms. Lynette Mack, representing the State Treasurer
4. Mr. Chip Coulter, representing the DCFS
5. Pauline Williams, Deputy Director/Acting Director of Second Injury Board
6. Michelle Sumrall, SIB Compliance Supervisor
7. Meridith Trahan, General Counsel
8. Darrick Lee, General Counsel
9. Shaneka Davis, Recording Secretary

Mr. Hansberry called the meeting to order and began with *Item 1* on the agenda, being the reading of the minutes from the previous meeting. Ms. Mack moved to dispense with the reading of the minutes and approve the minutes as printed and distributed. The motion was seconded by Director Kellar and passed unanimously.

Mr. Hansberry moved to *Item 2* on the agenda for hearings. No hearings were scheduled. Before moving to *Item 3*, Mr. Hansberry took the opportunity to introduce the newly appointed representative of the Department of Children and Family Services, Mr. Chip Coulter, on record. Mr. Coulter stated, "It is my honor and privilege to join here for the meeting." He also mentioned he previously served as an attorney for the Second Injury Board years ago, and never imagined he would return to serve on the Board itself.

The Chairman moved to *Item 3* on the agenda which listed (10) claims where recommendations were made for payment starting with Claim #13-0519 and ending with Claim #16-0871. The motion to approve the claims for payment was made by Director Kellar, seconded by Ms. Mack and passed unanimously.

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|-----|---------|---|---------------------|
| 1.  | 13-0519 | LUBA Casualty Insurance Company             | 104 week deductible |
| 2.  | 14-0826 | American Interstate Insurance Company       | 104 week deductible |
| 3.  | 15-0749 | LUBA Casualty Insurance Company             | 104 week deductible |
| 4.  | 15-0802 | Stonetrust Commercial Insurance Company     | 104 week deductible |
| 5.  | 15-0877 | Terrebonne Parish Government                | 104 week deductible |
| 6.  | 16-0084 | LUBA Casualty Insurance Company             | 104 week deductible |
| 7.  | 16-0144 | Parish Government Risk Management Agency    | 104 week deductible |
| 8.  | 16-0215 | Great American Alliance Insurance Company   | 104 week deductible |
| 9.  | 16-0549 | Louisiana Workers' Compensation Corporation | 104 week deductible |
| 10. | 16-0871 | LA Construction & Industry                  | 104 week deductible |

The Chairman moved to *Item 4* on the agenda, being the recommendation of staff to deny reimbursement for the following (90) claims; beginning with Claim #13-0254 and ending with Claim #16-0808. The motion to deny reimbursement was made by Ms. Mack seconded by Director Kellar and passed unanimously.

1. 13-0254 Office of Risk Management
2. 13-0257 City of New Orleans
3. 13-0263 UNVERIFIED
4. 13-0269 Office of Risk Management
5. 13-0272 Louisiana Workers' Compensation Corporation
6. 14-0283 Louisiana Office of Risk Management
7. 14-0495 Lumbermens Underwriting Alliance
8. 15-0519 Travelers Property Casualty Company of America
9. 15-0521 Ace American Ins. Co
10. 15-0628 Stonetrust Commercial Ins. Co.
11. 15-0643 Louisiana Health Care SIF
12. 15-0733 LA Construction & Industry
13. 15-0734 Bridgefield Casualty Insurance Company
14. 15-0748 LUBA Casualty Insurance Company
15. 15-0757 Ace American Insurance Company
16. 16-0007 Bridgefield Casualty Insurance Company
17. 16-0042 Lafayette Parish School Board
18. 16-0043 Louisiana Workers' Compensation Corporation
19. 16-0048 Louisiana Construction & Industry SIF
20. 16-0061 UNVERIFIED
21. 16-0079 Bridgefield Casualty Insurance Company
22. 16-0095 Lafayette Parish School Board
23. 16-0139 Caddo Parish School Board
24. 16-0142 Louisiana Workers' Compensation Corporation
25. 16-0148 Louisiana Office of Risk Management
26. 16-0154 United States Fire Insurance Company
27. 16-0163 Indemnity Insurance Company of North America
28. 16-0166 Louisiana Office of Risk Management
29. 16-0171 Louisiana Health Care SIF
30. 16-0228 LA Workers' Compensation Corp
31. 16-0235 Winn Dixie Montgomery, LLC
32. 16-0266 Old Republic General Ins. Co.
33. 16-0274 Bridgefield Casualty Insurance Company
34. 16-0277 Evangeline Parish School Board
35. 16-0280 Ace American Ins. Co
36. 16-0285 Zurich American Insurance Company
37. 16-0289 Office of Risk Management
38. 16-0292 American Interstate Insurance Company
39. 16-0293 Continental Indemnity Company
40. 16-0295 Office of Risk Management
41. 16-0299 Louisiana Workers' Compensation Corporation
42. 16-0305 Property, Casualty Insurance Company

43. 16-0313 Travelers Property Casualty Company of America
44. 16-0315 Travelers Indemnity Company
45. 16-0316 Office of Risk Management
46. 16-0331 Office of Risk Management
47. 16-0335 Lafayette Parish School Board
48. 16-0336 LA Municipal Risk Management Agency
49. 16-0339 Lafayette Parish School Board
50. 16-0340 Office of Risk Management
51. 16-0345 Louisiana Hospital Association
52. 16-0349 Office of Risk Management
53. 16-0355 Office of Risk Management
54. 16-0360 LA Workers' Compensation Corp
55. 16-0361 Louisiana Workers' Compensation Corporation
56. 16-0364 Office of Risk Management
57. 16-0367 Parish Government Risk Management Agency
58. 16-0368 LA Construction & Industry
59. 16-0369 UNVERIFIED
60. 16-0375 Praetorian Insurance Company
61. 16-0380 Louisiana Workers' Compensation Corporation
62. 16-0382 Bridgefield Casualty Insurance Company
63. 16-0395 Standard Fire Insurance Company
64. 16-0431 Office of Risk Management
65. 16-0433 City of New Orleans
66. 16-0435 Great American Alliance Insurance Co
67. 16-0437 Parish Government Risk Management Agency
68. 16-0439 Ace American Insurance Company
69. 16-0441 Silver Oak Casualty Insurance
70. 16-0443 LA Workers' Compensation Corp
71. 16-0444 LA Workers' Compensation Corp.
72. 16-0455 Argonaut Insurance Group
73. 16-0470 Calcasieu Parish School Board
74. 16-0479 Office of Risk Management
75. 16-0512 Office of Risk Management
76. 16-0515 Office of Risk Management
77. 16-0516 UNVERIFIED
78. 16-0522 Bridgefield Employers Insurance Company
79. 16-0532 LCTA Casualty Ins. Co.
80. 16-0543 UNVERIFIED
81. 16-0544 Office of Risk Management
82. 16-0550 Office of Risk Management
83. 16-0553 Retailers Casualty Insurance Company
84. 16-0554 Bridgefield Casualty Insurance Company
85. 16-0631 Louisiana Restaurant Association
86. 16-0669 Great American Insurance Company
87. 16-0743 LA Commerce & Trade Assn. SIF
88. 16-0756 City of Baton Rouge, East Baton Rouge Parish
89. 16-0802 Office of Risk Management
90. 16-0808 Office of Risk Management

The Chairman moved to *Item 5* on the agenda, being the recommendation to approve reimbursement of (260) partial payments beginning with Claim #81-0040 and ending with Claim #15-0371. The Chairman asked for a motion to accept the recommendation and approve reimbursement of the partial payments as submitted on the agenda of February 9, 2017. The motion was made by Ms. Mack seconded by Director Kellar, and passed unanimously.

The Chairman moved to *Item 6* on the agenda, being the recommendation to approve (97) quarterly payments due beginning with Claim #88-0220 and ending with Claim #15-0062. Ms. Mack moved to accept the recommendation of staff and approve reimbursement of quarterly payments as submitted on the agenda of February 9, 2017. The motion was seconded by Director Kellar and passed unanimously.

The Chairman moved to *Item 7*, Public Comment. No one from the public was present and the Chairman moved to *Item 8* on the agenda, Executive Session. Director Kellar made a motion to go into Executive Session to discuss Second Injury Board litigation and settlements. Ms. Mack seconded the motion and it passed unanimously.

Upon returning from Executive Session, the Chairman moved to *Item 8a* of the agenda, being settlement recommendations. The Chairman requested a motion to approve the recommendations of the Director regarding settlement authority as discussed in Executive Session and to extend settlement authority to be reimbursed on quarterly basis for the following (7)claims:

1. 06-0764
2. 09-0332
3. 11-0879
4. 12-0385 Indemnity Only
5. 13-1030
6. 14-0633
7. 14-0696

Ms. Mack moved to accept the recommendation. The motion was seconded by Director Kellar and passed unanimously.

The following (6) claims were recommended for settlement denial and to continue to be paid on an on-going basis:

1. 05-0925

2. 08-0483
3. 09-0181
4. 10-0105
5. 10-0680
6. 12-0708

Director Kellar moved to accept the recommendation. It was seconded by Ms. Mack and passed unanimously.

The Chairman moved to *Item 8b* of the agenda, being Second Injury Board litigation. The Chairman asked for a motions to grant authority to legal counsel to represent the Board as discussed in Executive Session. Motions and seconds were made in the following manner and passed unanimously:

1. Claim #10-0600 Settlement Authority Motion – Director Kellar/Second – Ms. Mack
2. Claim #10-0765 Continued Litigation Motion – Director Kellar/Second – Ms. Mack
3. Claim #12-0334 Continued Litigation Motion – Ms. Mack/Second – Director Kellar
4. Claim #13-0464 Settlement Authority Motion – Ms. Mack/Second – Director Kellar
5. Claim #14-0490 Settlement Authority Motion – Director Kellar/Second – Ms. Mack
6. Claim #14-0527 Settlement Authority Motion – Director Kellar/Second – Ms. Mack
7. Claim #15-0334 Settlement Authority Motion – Ms. Mack/Second – Director Kellar
8. Claim #15-0587 Settlement Authority Motion – Director Kellar/Second – Ms. Mack
9. Claim #15-0736 Continued Litigation Motion – Director Kellar/Second – Ms. Mack

The Chairman then moved to *Item 9* asking if there were any other matters requiring attention. Director Kellar made a motion to expand the agenda to discuss hearings. The motion was seconded by Ms. Mack and passed unanimously. Director Kellar briefly explained the issue of attorneys routinely requesting hearings before the Board and requested a discussion, opinion, and decision of whether or not the Board is required to grant a hearing under the statute. Mrs. Trahant read from a First Circuit decision, in which this issue was won on appeal. The case affirms the statutory language which states the board has discretion concerning whether or not to grant requests for hearings (see attached). Mrs. Williams gave a history of the problematic issue that included reasons why staff felt the requests were being used to circumvent submitting information required by the statute. She also mentioned the trend that was appearing of requests for hearings that included requests for subpoenas to be issued.

Mrs. Williams's opinion is that it's the Board's discretion to grant requests for hearings. Director Kellar requested the reading of 1378(C) (see attached) to which Mrs. Trahant obliged. Director Kellar made a motion that 1) requests staff creates rules for the Board's consideration and 2) the Board issue a policy to staff regarding the handling of requests for hearings in that they are presented to the Board at the meeting following the request. The motion was seconded by Ms. Mack and passed unanimously.

Minutes (cont'd)

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The Chairman then asked if there was any other business to discuss. Mr. Coulter questioned the practice of mediating claims and wondered if it could benefit the Fund. Mrs. Williams explained the conflicts that come into play regarding setting and reporting of reserves. After some discussion the Chairman asked again if there were any other matters needing to be brought before the Board. There being no further business to discuss, the Chairman asked for a motion to adjourn. Ms. Mack moved to adjourn. The motion was seconded by Director Kellar and passed unanimously.

The meeting was adjourned at 3:16pm

Recording Secretary: Shaneka Davis