

**California Commission
on
Health and Safety and Workers' Compensation**

MINUTES OF MEETING

Meeting Day and Date: Thursday, July 28, 1994

Meeting Location: State of California Building
455 Golden Gate Ave., Rm 1194
San Francisco, CA 94102

Commission Members present:

Commissioner Jim R. Green
appointed by the Governor, representing labor

Commissioner Leonard McLeod
appointed by the Governor, representing labor

Commissioner Gerald O'Hara
appointed by the Speaker of the Assembly, representing labor

Commissioner Tom Rankin
appointed by the Senate Rules Committee, representing labor

Commissioner Kristen Schwenkmeyer
appointed by the Senate Rules Committee, representing employers

Commissioner Robert Steinberg
appointed by the Speaker of the Assembly, representing employers

Commissioner Gregory Vach
appointed by the Governor, representing employers

Commission Members absent:

None

(One Commissioner position - appointed by the Governor, representing employers - is currently vacant)

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Department of Industrial Relations personnel present:

Lloyd W. Aubry, Jr., Director

Casey L. Young, Administrative Director, Div. of Workers' Compensation

Larry Hoffart, Chief, Div. of Administration

Richard Starkeson, Office of the Director, Legal

Christine Baker, DWC Deputy Director & Acting Executive Officer of the Commission

Linda Kerrigan, Grants Coordinator and Special Assistant

Background:

The California Commission on Health and Safety and Workers' Compensation was established by Senate Bill 1005 (Chapter 227, Statutes of 1993) which is part of the 1993 Workers' Compensation Reform legislation. SB 1005, which became effective January 1, 1994, enacted Labor Code Sections 75 through 78, which abolished the former Health and Safety Commission and created the Commission on Health and Safety and Workers' Compensation in its place.

The Commission on Health and Safety and Workers' Compensation is composed of eight members, four from organized labor and four representing employers. The Governor appoints two organized labor representatives and two employer representatives. The Speaker of the Assembly and the Senate Rules Committee each appoint two members, one each from labor and employers.

The Commission is to perform the following duties:

1. Conduct a continuing examination of the California Workers' Compensation System and examine other states' workers' compensation programs.
2. Conduct a continuing examination of California's activities to prevent industrial injuries and occupational diseases and examine other states' activities to prevent industrial injuries and occupational diseases.
3. Issue an annual report on the state of the California workers' compensation system, including recommending administrative or legislative modifications which would improve the operation of the system.

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4. Review and approve applications for grants to assist in establishing effective occupational injury and illness prevention programs.
5. Review for approval a proposal by the Administrative Director of the Division of Workers' Compensation as required by Labor Code Section 4660 to change the standard disability ratings.
6. Consult with the Administrative Director of the Division of Workers' Compensation, as required by Section 139.2(o) of the Labor Code, on the adoption of regulations prohibiting a Qualified Medical Evaluator (QME) from requesting or accepting any compensation or other thing of value from any source that does or could create a conflict with the QME's duties as a medical evaluator.

Actions of the Commission

Welcome and Introductions

Since this was the first meeting of the new California Commission on Health and Safety and Workers' Compensation, Lloyd Aubry, Jr., Director of the Department of Industrial Relations, announced that he would function as pro tem chair until a chairperson was selected by the Commissioners.

The meeting was called to order at 9 am by Mr. Aubry, who welcomed the new commissioners and the public. The Commissioners and the personnel from the Department of Industrial Relations introduced themselves to the audience.

Mr. Aubry announced that members of the audience may sign the meeting attendance register on a voluntary basis and, if they wished, were welcome to sign up on the Commission mailing list to receive notices of future Commission meetings.

Meeting Procedures

Mr. Aubry reviewed the attached agenda for the meeting and then turned the meeting over to Christine Baker.

Ms. Baker stated that the Commission is subject to the Bagley-Keene Open Meeting Act and suggested that the Commission may wish to utilize Robert's Rules of Order

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as a guideline for conducting meetings in an orderly manner. Ms. Baker also announced that pursuant to Labor Code section 75(a), no action of the Commission is valid unless agreed to by a majority of the membership and by not less than two members representing organized labor and two members representing employers.

The Commission voted unanimously to adopt Robert's Rules of Order as a guide to conducting its meetings and proceeded with the election of a chairperson.

Election of a Chairperson

The Chairperson of the Commission is to be selected by the Commissioners with the requirement that during 1994 the chairman be selected from the members representing organized labor.

Commissioner Rankin was nominated for the position of Chairperson by Commissioner O'Hara. Commissioner McLeod seconded the nomination. No other nominations were made. Commissioner Rankin was named Chairperson of the Commission by acclamation.

Future Meetings

Chairperson Rankin directed the attention of the Commission to a consideration of future meeting dates. After some discussion and the consultation of calendars, it was decided that the Commission would generally schedule its meetings on the second Friday of the month, with adjustments as necessary for holidays and other schedule conflicts. Even though the Commission is required to meet every other month, the Chairman suggested that it should meet every month for the remainder of 1994 to deal with the matters already before it, such as the applications for grants.

It was also decided that next regularly-scheduled meeting would be in Los Angeles to facilitate the presentations of the thirty-five grant applicants from that area.

The regularly-scheduled meetings of the Commission for the remainder of 1994 will be held on the following dates:

Friday, September 9, 1994 in Los Angeles (specific location to be determined)

Friday, October 14, 1994 (location to be determined)

Thursday, November 10, 1994 (location to be determined)

Friday, December 9, 1994 (location to be determined)

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In addition, it was determined later in this meeting that another meeting of the Commission would be held in Sacramento on August 18, 1994 to accommodate those grant applicants who were on this meeting's agenda to give presentations but for whom time was not available.

An official notice of each Commission meeting will be mailed to interested parties, including those persons who sign up on the Commission mailing list.

Conflict of Interest

Chairman Rankin asked Mr. Aubry about the conflict of interest disclosure requirements for the Commission members. Mr. Aubry replied that while the Commission is not yet specifically cited in the Department of Industrial Relations' Conflict of Interest Code, it was the Department's intention to put the Commission in disclosure category 1 which requires that those designated must report "all investments and sources of income". Mr. Aubry suggested that the Commission members submit that data before the next Commission meeting.

Commission Budget

Chairman Rankin requested a report on the Commission's budget. Mr. Aubry explained that when the workers' compensation reform legislation was enacted in July 1993, it created this Commission on Health and Safety and Workers' Compensation to replace the old Health and Safety Commission. Pursuant to the enabling legislation SB 1005, this new Commission is vested with all the powers, duties, purposes, responsibilities and jurisdiction of the old Health and Safety Commission, including the administration of grants to assist in establishing effective occupational injury and illness prevention programs. Therefore, this Commission has \$501,000 in grant monies for 1994-95 which was originally appropriated for the now abolished Health and Safety Commission.

Mr. Aubry called on Mr. Hoffart who discussed details of the Commission budget.

Commission staff

In the handout from Mr. Hoffart was a listing of the proposed staffing for the Commission. Chairman Rankin questioned how the Department set the proposed salary of the executive officer and how it determined the various suggested civil service classifications for the Commission staff. Mr. Aubry replied that the Department looked at other boards and commissions statewide and had suggested

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an executive officer who would be an attorney familiar with workers' compensation and other staff consisting of an associate safety engineer, an associate governmental program analyst and an office technician.

Mr. Aubry explained that an estimate had to be placed in the budget so that the Commission would receive an appropriation for staffing in the budget process. He stated that the Department had no great investment in this staffing structure and if the Commission wanted to do something different, that was entirely up to the Commission.

Mr. Aubry also stated that the Department would be willing to provide clerical and other support to the Commission until it decides on a permanent staff and goes through the hiring process.

With regard to the agenda item on an Executive Officer position, Mr. Aubry suggested that the Commission consider appointing an Interim Executive Officer to move forward with the administrative aspect of the Commission's operations. The Commission could then discuss how it is going to go about selecting a permanent Executive Officer and perhaps some discussion of what they want the qualifications of that person to be.

After some discussion and at the suggestion of Chairman Rankin, the Commission members decided to ratify the appointment of Christine Baker as Interim Executive Officer and to defer the topic of the structure of Commission staffing until the September 9, 1994 meeting in Los Angeles.

Interface with the Division of Workers' Compensation

Chairman Rankin called upon Casey L. Young, Administrative Director of the Division of Workers' Compensation (DWC), to present his reports to the Commission. Mr. Young responded that there are three areas in which the responsibilities of the Commission and the DWC overlap: the Permanent Disability Rating Schedule, the Medical Evaluation Conflict of Interest Regulations, and the development of Workers' Compensation Information Systems.

Workers' Compensation Information Systems

Mr. Young explained that the Division of Workers' Compensation is developing an information system pursuant to Labor Code Section 138.6. While there is not a specific requirement that the DWC coordinate with the Commission on this project, Mr. Young wanted to inform the Commission of this in light of its responsibilities

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to oversee the workers' compensation system as well as the safety prevention system. He stated that DWC has taken the first step by contracting with the survey research center at the University of California, Berkeley, to assess what is needed, to determine what exists now, to design a system using those existing resources and to specify what else is needed.

Mr. Young explained that this information system is separate from the Electronic Data Interchange (EDI) project of the International Association of Industrial Accident Boards and Commissions (IAIABC). The IAIABC effort is directed toward standardizing information and definitions to enable meaningful comparison of data from other states and Canada. The IAIABC project is currently being piloted in California with several insurance carriers.

Medical Evaluation Conflict of Interest Regulations

Mr. Young referred to California Labor Code Section 139.2(o), which provides that a Qualified Medical Evaluator "may not request or accept any compensation or any other thing of value from any source that does or could create a conflict with his or her duties as an evaluator under this code." Section 139.2(o) further provides that the Administrative Director of the Division of Workers' Compensation shall adopt regulations to implement this subsection after consultation with the Industrial Medical Council and the Commission on Health and Safety and Workers' Compensation.

After some discussion, it was suggested that the Administrative Director and the Industrial Medical Council develop draft regulations which will be reviewed by the Commission.

Permanent Disability Rating Schedule Review

Casey Young stated that the Permanent Disability Rating Schedule (PDRS) was the most significant area where the responsibilities of the Commission and the Division cross. Mr. Young explained that the PDRS determines the percentage of disability for a particular impairment, with adjustments for age and occupation. The PDRS was originally adopted in 1914, with a major revision in 1950 and a minor revision in the 1970's, but it has been basically the same for seventy years.

California Labor Code Section 4660(d) provides: "On or before January 1, 1995, the administrative director shall review and revise the schedule for the determination of the percentage of permanent disabilities. The revision shall include, but not be limited to, an updating of the standard disability ratings and occupations to reflect

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the current labor market. However, no change in standard disability ratings shall be adopted without the approval of the Commission of Health and Safety and Workers' Compensation. A proposed revision shall be submitted to the commission on or before July 1, 1994."

Mr. Young stated that the DWC contracted with the California State University at San Diego to draft a revision of the PDRS. DWC has also established a committee comprised of disability raters from the DWC Disability Evaluation Unit to focus on the revision of the schedule, with emphasis on upper extremities, lower extremities and visual impairment, and sensitivity restrictions (sunlight, for example). Mr. Young introduced the head of that committee, Sharon Collins, who reviewed sample ratings, showing how differences in ages and occupations will yield differing percentage disability ratings for the same impairment.

When the DWC formulates the draft revision of the Permanent Disability Rating Schedule, it will be presented to the Commission for review and approval and then will go to public hearing.

Grant Applications

Mr. Aubry introduced Linda Kerrigan, Special Assistant, to discuss applications for grants to assist in establishing effective occupational injury and illness prevention programs. Ms. Kerrigan stated that there were 91 grant applications totalling approximately \$5.5 million, including seven grant applications which were deferred by the former Health and Safety Commission for the review and approval by the present Commission.

Policy for the Evaluation of Grant Applications

Ms. Kerrigan stated that the Commission is to establish policies for the evaluation of grant applications. The Commission is required to give priority to grant applicants targeting high risk industries and occupations, including those with high injury or illness rates. The Commission is also required to give priority to grant applications that target those employees who are exposed to one or more hazardous substances or conditions or where there is a demonstrated need for research to determine effective strategies for prevention of occupational injuries or illness.

The evaluation policies adopted by the former Health and Safety Commission were given to the present Commission. After some discussion, the present Commission determined that those policies would be utilized to evaluate the 91 grant applications.

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Grant Application Conflict of Interest Issues

Ms. Kerrigan informed the Commission that it was subject to Government Code Section 87100 which states: "No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest."

Presentations by Grant Applicants

A total of 63 grant applicants from Northern California, including the seven applicants referred from the previous commission, were scheduled to give 3 minute presentations of their proposals. The attached meeting agenda lists those applicants.

Due to time constraints, the Commission decided to schedule another meeting in Sacramento on Thursday, August 18, 1994 to hear the presentations of 15 grant applicants who were originally scheduled for this Commission meeting . In addition, the Commission requested that the grant applications be categorized to facilitate analysis and review. Ms. Kerrigan stated that she would perform that function.

The grant applicants from Southern California are scheduled to give presentations at the Commission meeting in Los Angeles on Friday, September 9, 1994.

Presentations by the following grant applicants are scheduled for the August 18, 1994 meeting in Sacramento:

#94-56	University of California Davis, Medical Center	\$69,449
#94-59	Plumas Community Clinic	\$74,547
#94-64	ALLPRO Environmental Corporation	\$73,108
#94-65	California Hotel and Motel Association/Calif. Restaurant Association/Hotel Employees and Restaurant Employees Union Local 49	\$75,000
#94-67	California Conference of Machinists	\$75,000
#94-70	City of Napa/County of Napa/City of American Canyon/City of Calistoga/City of St. Helena/Town of Yountville/Silverado Country Club	\$38,022.71
#94-72	Bel Air Mart, Inc. (dba Bel Air Markets)	\$76,883

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#94-73	California Youth Authority (Preston School of Industry)/California Correctional Peace Officers Association/California State Employees Association/Int'l Union of Operating Engineers	\$75,000
#94-76	Showroom Services/Independent Maintenance Contractors Association	\$75,000
#94-81	Bay Counties District Council of Carpenters/ The 46 Northern California Counties Carpenters Joint Apprenticeship Training Program	\$37,809
#94-83	Yuba-Sutter Disposal, Inc.	\$73,197
#94-85	Cambria Community Healthcare District	\$12,545
#94-89	Bigham Taylor Roofing	\$75,000
#94-91	S. Martinelli and Company/Teamsters Local 912	\$75,000

Other Business

Commission Chairperson Tom Rankin requested that Interim Executive Officer Christine Baker arrange for presentations on the following topics to be given at the Commission meeting in Los Angeles on Friday, September 9, 1994:

- Status of Workers' Compensation Reform Legislation relating to Loss Control Services
- Cal/OSHA's High Hazard Industry Program and Targeted Inspections
- Status of Proposed Ergonomics Standard

Adjournment

The meeting was adjourned at 5 pm by Chairman Tom Rankin.

Attachment: Meeting agenda

Approved:

Respectfully submitted,

 9-15-94
Tom Rankin, Chairman Date


Christine Baker, Interim Executive Officer