

UNITED STATES DEPARTMENT OF LABOR

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ADVISORY BOARD ON TOXIC SUBSTANCES AND WORKER

HEALTH

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COMBINED MEETING OF THE SUBCOMMITTEE ON MEDICAL ADVICE RE: WEIGHING
MEDICAL EVIDENCE (AREA #2) AND THE SUBCOMMITTEE ON IH & CMC AND THEIR
REPORTS (AREA #4)

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SUMMARY MINUTES

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MONDAY,

OCTOBER 23, 2017

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The Subcommittees met telephonically at 1:00 p.m. Eastern
Time, Victoria A. Cassano and Rosemary K. Sokas, Co-Chairs,
presiding.

MEMBERS

SCIENTIFIC COMMUNITY:

LESLIE I. BODEN
KENNETH Z. SILVER

MEDICAL COMMUNITY:

STEVEN MARKOWITZ
VICTORIA A. CASSANO, Co-Chair
ROSEMARY K. SOKAS, Co-Chair

CLAIMANT COMMUNITY:

FAYE VLIENER

DESIGNATED FEDERAL OFFICER:

CARRIE RHOADS

Call to order and roll call

Ms. Rhoads, the DFO for the committee, called the meeting to order at 1:07 p.m. She called the roll and noted that at its April 2016 meeting the board voted that subcommittee meetings should be open to the public. Co-Chair Sokas outlined the committee's agenda items for the call, including an overview of the July 11 2017 meeting with the Department of Labor and a discussion about the merger of the two subcommittees, to be further addressed at the upcoming full board meeting.

Results of meeting with DEEOIC medical and industrial hygiene experts

Co-Chair Sokas noted that she, Co-Chair Cassano and Member Silver all participated in a meeting on July 11th that allowed members of the two subcommittees to talk with Dr. Christopher Armstrong and Mr. David Levitt. Dr. Armstrong is the medical director for the Division of Energy Employees Occupational Illness Compensation, and Mr. Levitt is the division's lead industrial hygienist. Other attendees at the meeting included Ms. Rachel Leiton, Mr. Doug Pennington, Ms. Carrie Rhoads, and Mr. John Vance.

Co-Chair Sokas characterized the group's discussion on the review of Contract Medical Consultants (CMCs) and industrial hygiene as useful, and she made note of the fact that Dr. Armstrong has been reviewing some CMC reports. The subcommittees and the full board had made previous inquiries and received information about the process of compiling the CMC and IH reports, but they had not received access to evaluations of the content of those reports. These evaluations by Dr. Armstrong and Mr. Vance are now publicly available on the Department of Labor's website, and Co-Chair Sokas noted that it would be beneficial for board members to look over the reviews themselves and said that she would propose this at the next full board meeting.

Co-Chair Cassano raised the question of what information the CMCs and industrial hygienists (IHS) receive and use to formulate their opinions, and mentioned some uncertainty amongst the subcommittee members about how the claims examiners are able to sift through the information provided and extract relevant data without extensive medical and/or industrial hygiene knowledge. She said that this discussion will probably be included in the full board meeting and that the subcommittee will try to make sure that the CMCs and IHS

receive all of the information that they need to produce high-quality reports.

Member Silver expressed concern that claims examiners are not incentivized to dig deeper and find more information for themselves before documents are passed along to CMCs and IHs. He noted that it seemed like the audit documents first began to appear around the time that the board was created, and asked whether the documents extend back in time prior to 2016. Co-Chair Sokas said that as far as she knows the process began with Dr. Armstrong, who was not here prior to 2016. She asked Ms. Rhoads about enquiring into similar quality evaluations by previous medical directors, and Ms. Rhoads said that she would follow up on that question.

Planning for upcoming full-Board meeting

Co-Chair Sokas asked for discussion from everyone on the line about the question of merging the two subcommittees. Member Markowitz mentioned that the terms of almost all the board members expire in February and that it is uncertain how much turnover will occur at that time. He and Co-Chair Sokas reminded everyone that applications to serve on the board were due within two days following this meeting if anyone would like to reapply. Member Markowitz said that significant turnover among the board members could result in a majority of new members who start their terms by focusing on learning about the board's four tasks. Because the subcommittees are structured according to those tasks, combining these two subcommittees could divert attention from the issue of the CMCs and the IHs.

Co-Chair Sokas said that she was not concerned about this issue receiving less attention if the subcommittees were merged; Co-Chair Cassano agreed, and added that it is logistically onerous to share information between the two subcommittees when the components of their collective task cannot be evaluated in isolation. Member Vlieger said that it would be wise to combine the subcommittees in the context of the meeting with DEEOIC and the idea of having someone with medical experience review the evidence. Co-Chair Cassano added that even if the subcommittees were combined, their tasks could still be classified by subject.

Co-Chair Sokas said that she didn't see a need to vote on this issue and suggested that the group raise it as an agenda item at the full

board meeting. Either way, the subcommittees will continue to collaborate. Member Silver pointed out that if the Department of Labor were to adopt the board's recommendation and provide a contractor to do a file review of 50 cases, it would be easier for that person to report their results to one subcommittee than two. Co-Chair Sokas agreed and added that they based that recommendation on faulty input and it should be discussed further. Member Boden added his agreement.

Turning to the topic of the Department of Labor's responses to the full board's recommendations, Co-Chair Sokas introduced the items that were most relevant to the two subcommittees. Recommendation #2 was related to the Site Exposure Matrix (SEM). Recommendation #3 concerned hiring former workers to administer the Occupational Health Questionnaire, and Co-Chair Sokas anticipated more discussion between the board and the Department on this issue. Recommendation #4 suggested that the IH and the claimant have more direct communication, and she asked Member Silver about deferring discussion on this recommendation to the full meeting. Member Silver suggested that members of the public might be able to add comments during the full board meeting. Member Markowitz noted that the Department of Labor seemed to want to include the claims examiner as much as possible in the collection of additional data, and that it is good for the claims examiner to be involved to minimize miscommunication. Co-Chair Cassano added her agreement. Multiple members agreed that further clarification was needed on the intention behind this response.

Recommendation #5 was about making teleconference notes publicly available with redactions, and Co-Chair Sokas suggested that this item would also be expanded upon in the full board meeting. Member Markowitz clarified for any members of the public on the phone that the recommendations were made publicly available on the board's website. Member Boden suggested that the Department's intent behind their response to Recommendation #5 was to give them more freedom to discuss policy issues without making the full extent of these discussions public.

Recommendation #6 suggested making case files accessible to the claimant online, and received a positive response from the Department. Recommendation #8 was that the IHS and CMCs also receive access to the full set of files and not just what was forwarded by the claims examiner, and Co-Chair Sokas said that she interpreted the

Department's response to this as negative. Co-Chair Cassano mentioned that she was in the process of drafting a response to the Department's response and would send it to Member Markowitz, and Member Markowitz said that they would discuss the topic at the full board meeting. He also said that in the absence of more data on the quality of the claims examination process, the subcommittees' arguments behind their recommendations would not be as persuasive. Co-Chair Cassano said that the recent trip to Seattle did help to clarify how well the claims examiners are doing their jobs, but she agreed that it is difficult to know exactly what the problem is without seeing the entire picture. Co-Chair Sokas said that the subcommittees needed to discuss their recommendation regarding a case file review at the next meeting. Member Markowitz suggested that more than 50 claims should be examined in the review.

Recommendation #7 concerned reorganization of the Department, and several members agreed that it was not particularly relevant to the subcommittees. Co-Chair Cassano said that it is inefficient to put time into developing recommendations without first receiving Department responses to previous sets of recommendations. She suggested making a request to the program that the board should receive Department responses to recommendations at least 30 days before the next full board meeting. Members Boden and Markowitz stated their agreement, and Member Markowitz said that they should raise this issue at the upcoming full board meeting.

Member Vlieger pointed out that although the subcommittees did not recommend that Circular 1505 on asbestos and presumption of exposure go forward, the Department of Labor incorporated it into the new procedure manual. She suggested that this should be discussed at the next meeting. Member Markowitz suggested to Ms. Rhoads that at the board meeting in New Mexico a representative from the Department of Labor should be prepared to clarify the chronology of the Department's actions concerning Circular 1505 and other rescinded circulars, and Ms. Rhoads said that she would pass along that request.

Other items

Member Markowitz asked about the public availability of Dr. Armstrong's audits and Mr. Vance's memoranda, and Ms. Rhoads responded that both are posted in the public reading room of the DEEOIC website. Member Markowitz asked about discussing the audits

and memoranda at the full board meeting, and Co-Chair Sokas said that she had envisioned providing those documents to the board in un-redacted form as part of a reexamination of the subcommittees' recommendation to have a subcontractor do a case file review. Member Markowitz pointed out that whether or not the all of the board members read those documents, members of the subcommittees could present that information and lead discussions at full board meetings.

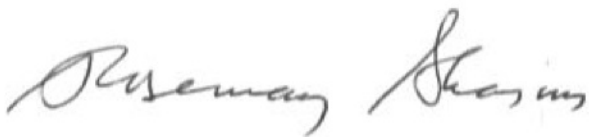
Co-Chair Cassano said that as part of a robust review, in addition to looking at the files where Dr. Armstrong found problems, they also needed to examine cases where he did not find problems. She also suggested that some of the IHs and physicians reviewing the files should have access to the OIS imaging system. Co-Chair Sokas proposed that she and Co-Chair Cassano would work together to develop a presentation for the board meeting that places the audits in the context of past recommendations and current knowledge.

Member Vlieger pointed out that when they are reviewing the audits, subcommittee members do not know the training background for the auditors because the Department of Labor considers that information proprietary. Co-Chair Sokas suggested that they ask at the next board meeting about the existence of a publicly available template for CMC quality. If one does not exist, the board may want to create one. Co-Chair Cassano agreed and said that the subcommittee members should look at the template to make sure it covers areas that they consider to be important. Member Markowitz said that those templates have been circulated and asked Ms. Rhoads to send them to the subcommittee members.

Adjournment

Ms. Rhoads closed the meeting at 2:09 p.m.

I hereby certify that, to the best of my knowledge, the foregoing minutes are an accurate summary of the meeting. Submitted by:



11/20/17

Rosemary Sokas, MD, MOH, M.Sc
Chair, Subcommittee on IH & CMC and Their Reports

Date

I hereby certify that, to the best of my knowledge, the foregoing minutes are an accurate summary of the meeting.



_____ 11/27/17 _____

Victoria A. Cassano, MD, MPHIL, MPH. FACPM, Date
FACOEM
Chair, Subcommittee on Medical Advice re: Weighing Medical Evidence