

UNITED STATES DEPARTMENT OF LABOR

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ADVISORY BOARD ON TOXIC SUBSTANCES AND WORKER HEALTH

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SUMMARY MINUTES

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NOVEMBER 16-17, 2017

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The Advisory Board met at The Lodge at Santa Fe, 750 N. St. Francis Dr., Santa Fe, New Mexico, Steven Markowitz, Chair, presiding.

MEMBERS

SCIENTIFIC COMMUNITY:

JOHN M. DEMENT
MARK GRIFFON
KENNETH Z. SILVER
GEORGE FRIEDMAN-JIMENEZ
LESLIE I. BODEN

MEDICAL COMMUNITY:

STEVEN MARKOWITZ, Chair
LAURA S. WELCH
ROSEMARY K. SOKAS
CARRIE A. REDLICH
VICTORIA A. CASSANO

CLAIMANT COMMUNITY:

DURONDA M. POPE
KIRK D. DOMINA
GARRY M. WHITLEY
JAMES H. TURNER
FAYE VLIIEGER

DESIGNATED FEDERAL OFFICIAL:

DOUG FITZGERALD

Introductions

Doug Fitzgerald called the meeting to order at 8:33 a.m. All Board members were present. Chair Markowitz welcomed everyone to the meeting and reviewed the meeting agenda.

Transition to new Advisory Board

Chair Markowitz said that the DOL will soon be appointing a new Board and that the current board needed to figure out how to finish its work and hand it off to the new Board. A new Board will be seated in February or March of 2018.

Chair Markowitz reviewed that there have been almost 300,000 claims under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) since the beginning of the program with \$4.2 billion in compensation paid under Part E. There has been over \$14 billion in compensation paid under Parts B and E.

Chair Markowitz said that the Board should agree on the major points of its responses to the DOL responses to the Board recommendations before the end of the meeting. The Board's responses will be written up by members of the Board. The content of those responses will be affirmed by a vote during a telephone meeting of the Board in January 2018.

DOL Responses to the October 2016 Recommendations

Recommendation #1

DOL agreed with the recommendation. The Board did not entirely agree with the "higher burden of proof" rationale that DOL gave for agreeing with this recommendation but this point was moot in that both DOL and the Board agreed on the outcome, i.e, accepting the recommendation. Ms. Leiton said that DOL has no mechanism in place to electronically review specific post-1995 cases that might be affected by the proposed change. There has been a manual process to make sure that the cases that "might" have been referred to an IH (industrial hygienist) have definitely been referred to an IH.

DOL has identified a cohort of cases and provided lists of the claims to the claims staff. Since the rescission of circular 15-06, any claim that was after the 1995 exposure analysis was referred to an IH. It would be helpful if DOL could provide the Board a report on how many claims have been reviewed and how many of those claims have been remanded to be re-reviewed.

Also, the Board was concerned that presumptions may be viewed as a

different burden of proof. Ms. Leiton said that she didn't think that the argument about burdens of proof undermines the development of positive presumptions.

As far as tracking cases, Ms. Leiton said that DOL is going to want to show that it has systematically tracked the cases. Once a presumption is established, there will be a circular or a bulletin that tells the claims examiners about the new process. The problem with exposures and the date is that DOL does not have a way to search the claims tracking system for whether a claimant's only verified employment was 1995 forward, in the same way that there are ways to look in the system and find if a claim was denied for a particular cancer, for example.

Recommendation #2

The Office of Workers' Compensation Programs (OWCP) agreed that a number of the references provided by the National Institute of Medicine (IOM) might be useful. OWCP thought that the Board should narrow the list of references. The Board's response to the OWCP was discussed later in the meeting, during the SEM Subcommittee update.

Recommendation #3

OWCP agreed that it would be beneficial for former DOE workers to administer the Occupational Health Questionnaire (OHQ) interview. Member Boden suggested that preferential hiring be given to former DOE workers for these positions. Member Welch suggested that the Board look at this recommendation again in the context of the whole administration of the occupational history questionnaire, not just focus on whether the contract should be changed to encourage hiring DOE workers first. Chair Markowitz said that the Board should refine its recommendation, which wasn't specific enough. The goal of this recommendation is to improve exposure information for use by health professionals to determine whether a case is compensable or not. There's a need to develop additional credible sources of information beyond the SEM, particularly around exposure, but also around exposure-disease connections.

Ms. Leiton said that focusing on how DOL can train people even if they aren't the experts into drawing out relevant information is something that DOL can dig its heels into quickly. Member Cassano said that if DOL is not going to utilize the OHQ as prima facie evidence for exposure, then everything that the Board is doing is moot.

Member Silver thought that former DOE employees who have

administered the site-specific former worker program questionnaire might do a better job administering the OHQ because they've seen a lot of the details of the historical plant processes and exposures that are brought out by the former worker program questionnaires.

Recommendation #4

OWCP agreed that there are certain circumstances in which it would be beneficial for the IH to speak directly with a claimant. Ms. Leiton said that DOL is asking the industrial hygienists, if they believe that there should be further discussion, to reach out to the claims examiner, and then the claims examiner will facilitate a discussion with the claimant. It's great education for the claims examiners because they would be listening in on detailed conversations about people's exposures in the plant and they're going to learn from that.

Recommendation #5

OWCP did not support reviewing policy teleconference notes, redacting confidential information, and posting that information in a publicly available database. The members discussed that this is a tradeoff between transparency and the need to think out loud without coming to a decision, the need to bat around ideas in a non-public setting, which is important. Ms. Leiton said that the program's policy branch is the one that reviews all of the notes, conducts the policy teleconference calls, updates the procedure manual, and writes the circulars. If something is a big change, the program puts out a circular about the change and goes back and looks at other cases.

OWCP also has a database on its website that has precedent-setting decisions. There are specific cases in that database for things that are out of the ordinary. The process would get complicated if all of the changes to procedures had to undergo public scrutiny. That would be like a regulation that undergoes public comment, that requires DOL to respond to all those public comments. It would be a very large, bureaucratic nightmare to do that. DOL explains its circulars and the bulletins when changes are made and the background behind those changes.

Recommendation #6

OWCP agreed that claimants are entitled to access to their own case files. However, electronic access is not currently technically feasible, and OWCP will need additional resources in order to make this access possible. Ms. Leiton said that OWCP is going to piggyback on the Federal Employee Compensation Act (FECA) program's two factor authentication process and technology. The Department is working on making this happen.

Recommendation #8

OWCP did not agree with providing the entire case file to both the industrial hygienists and the CMCs (contract medical consultants). Member Cassano said that DOL should want the proper people to have access to the appropriate, relevant, and necessary facts for a claim to be adjudicated properly. The industrial hygienists and the CMC's have a lot more experience in determining what those facts are in order to adjudicate the claims than the claims examiners. Member Welch added that the Board needs to make a firm statement that it does think that it's the role of industrial hygienists and the CMCs to go through the records to be sure that every relevant bit of information is being used in making the determination. There was strong agreement on the Board for making the entire claims file available.

Chair Markowitz raised the issue of efficiency. Member Cassano said that the only cases that would go to the CMC would be the ones that that the claims examiner asks for an opinion on. Ms. Leiton said that DOL's recommended decision is what the department actually makes a decision on at the end of the day, and that's going to incorporate anything that the DOL received from a CMC or a treating physician. The DOL will revise its determination based on a CMC opinion, especially if it's going to impact a case in a positive way.

The Board was concerned about whether the CMCs and the IHS learn, understand, and are updated on the procedure manuals and policies, et cetera, of the program. Ms. Leiton said that when it comes to the training of the claims staff, there is a process for training on new circulars and bulletins as they come out. In the coming years, the DOL can look at the specific case files and at whether these policies and procedures have been incorporated.

Recommendation #7

While OWCP appreciated the Board's recommendation regarding the provision of medical advice specific to the EEOICPA program,

OWCP believes that further information needs to be provided to the Board for it to have a fuller understanding of the current structure OWCP has in place to provide medical advice to the EEOICP program. The Board agreed that some sort of discussion is helpful both educationally and also to provide greater consistency, which is important for a compensation program. Occupational medicine is so broad and there are so many thousands of toxins and hundreds of diseases that no one can know everything. The expertise of multiple physicians should be made available to the CMCs. The Board wanted to know how many full-time physicians and Ph.D.-level people there are within the OWCP. Ms. Leiton said that she would get back to the Board with that information.

DOL Responses to the April 2017 Recommendations

Recommendation #1

OWCP agrees that the 250-day aggregate duration of exposure is a reasonable standard to apply when assessing presumptive standards for asbestos-related health effects pertaining to the following five asbestos-associated conditions: asbestosis, asbestos-related pleural disease, lung cancer, and cancer of the ovary and larynx.

The Board generally agrees with OWCP on the issue of latency. More challenging is agreement on job categories that would be covered by a presumption. Someone has to do the work of aggregating the specific job titles into categories in order to work with the presumptions. It would make sense to have exposure presumptions that are relatively generous, because the data (i.e., industrial hygiene measurements) generally do not exist to allow one to make a determination by specific job category.

A exposure-disease presumption will likely include a limited number of people who didn't have sufficient exposure. But it will include most of the people who did have a significant occupational exposure to asbestos. Including only a limited number of very specific job titles in a presumption would mean excluding large categories of workers. There are many job titles that are very specific but that have not been studied due to inadequate resources, population size, etc.

Notably, OWCP uses an Agency for Toxic Substances and Disease Registry (ATSDR) source document that doesn't list janitors and

cleaners as heavily exposed to asbestos, but they are in the references that the ATSDR document cites (NIOSH 2003-2008). Somewhere along the line these job titles were dropped from the list and were never carried forward.

With regard to the difference between significant exposure at high levels and low levels, Ms. Leiton said that for the '87, when OWCP says "significant" it's applying the exposure presumptions. If it says "significant," then DOL is going to use the exposure presumptions that are in the already existing policy because the problem with the word "significant" is that it's written in the law: "at least as likely as not significant exposure to..." And so, that's why DOL continues to use the word "significant." In the context of the exposure presumptions if it fits into one of those two "significants," whether it's high or low, DOL still applies those other presumptions.

In reference to the Board's Recommendation No. 1 to apply the asbestos presumption to "all DOE workers who worked as maintenance or construction workers at a DOE site," OWCP needs additional information and clarification. Ms. Leiton said that DOL is being inclusive of maintenance workers, but it would be helpful if the Board provided more information about what should be included in that category.

The Board's recommended presumption doesn't address the issue about lesser exposures to asbestos and at what level one would consider it significant. The Board's recommendation defines by job category and time period, as listed in the table, those workers who are significantly exposed.

OWCP agreed to changing current latency periods for all of the conditions as recommended and to changing the duration of mesothelioma to greater than or equal to 30 days. However, with regards to the 2005 date, OWCP seeks additional clarity as to the underlying research and the rationale supporting the selection of that date as a temporal basis for application in the Board's presumption. Finding a line in the sand will be a challenge.

Member Vlieger said that the rebuttals to the 15-06 circular came from the United Steel Workers and also from other organizations that cited DOE's own inspections and lack of compliance with the rules. The Board will need to take a look at this issue in the future.

Member Cassano said maybe the way to look at this recommendation is that instead of looking at the date of a claim, OWCP could say something like if a claimant was working in a building that was built before 1978 and there was no documentation that the asbestos present was abated, then the presumption should apply, because asbestos was supposedly not used after 1978.

OWCP agreed that all claims for the six asbestos-related associated conditions that do not meet the exposure criteria shall be referred to industrial hygienists and CMCs as appropriate.

Recommendation #2

OWCP agreed that a diagnosis of asthma by a treating physician should be sufficient without specific references to the tests listed in Recommendation 2-2. However, the physician's opinion should include an appropriate medical rationale based on objective findings to support the diagnosis as is required for any other diagnosis claimed under the program. The Board said that it would be helpful if DOL included an example that was something other than a breathing test example in the procedure manual.

As to Recommendations 2-3 and 2-4, in its most recent update to Chapter 15 of the procedure manual, OWCP applies the policy regarding the assessment of work-related/occupational asthma that comports with these recommendations. Ms. Leiton said that a medical doctor stating that asthma was related to a toxic substance would be what DOL is looking for, rather than having the claims unit go through a whole IH SEM assessment. However, the update to the procedure manual needs more thought when it comes to vapors, gases, dust, and fumes.

Member Redlich said that after years of research, there's still a lack of understanding of the mechanisms by which numerous agents cause asthma.

Member Griffon asked whether the statement that the CE does not apply a criterion about a toxic substance exposure to a claim for work related asthma include bypassing use of s the SEM or IH referral.. Any dust, vapor, gas, or fume has the potential to affect asthma. Does this mean that there's a presumed exposure at any DOE site for gas vapor or fumes? And, therefore, the DOL is saying that a claimant doesn't get a

exposure assessment, because DOL is assuming any employee at any of the sites has a potential for significant exposure in one or any of those vapors, gases, dust, or fumes (VGDFs). Is that why DOL doesn't require the assessment? Ms. Leiton stated that DOL is not saying that - and that's why the chapter on VGDF is worded very carefully.

Recommendation #3

OWCP will consider modifications of the current COPD presumptive standards. However, OWCP had a number of questions and concerns with this recommendation as stated. Member Dement said that the recommendation is simply trying to bring this presumption in line with the vast body of scientific literature in this area. Member Sokas said that accepting the NIH definition of "toxic substance" would go a long way to helping with this particular recommendation.

Ms. Leiton said DOL's presumption is about exposure to asbestos versus exposure to VGDF. The biggest challenge is the suggestion that the Board provide DOL with a list of toxins, then explain how that list applies to the literature with regard to the duration of exposure. Chair Markowitz was skeptical about the Board's ability to come up with a fully inclusive list. It is clear from epidemiologic studies that exposure to VGDF to - aggravates, contributes, or causes -COPD, so that workers in the DOE complex who had routine exposure to VGDF can be accommodated with respect to COPD.

Member Welch said that there are groups of chemicals, respiratory irritants, and organic solvents that would be accepted under any NLM definition of toxic substance because they're considered a chemical class of some kind. If it's necessary to have a list, it would be better if the list is longer than just the 14 that are in the SEM. Then there would be people who don't fit but should go for an industrial hygiene evaluation. The precedent is already well accepted that mixtures are considered causative.

Recommendation #5

OWCP agreed that it would be useful to have additional scientific and technical capabilities to support the development of policies and enhance decision-making with respect to individual claims, and to inform the assessment of the merit of the work of the CMCs and the IHs. Ms. Leiton said

that DOL will provide the Board with the credentials of the SEM team. Member Sokas noted that the NIOSH Radiation Board does have a technical contractor to assist them and perhaps the DOL Board could look into hiring a contractor.

Recommendation #6

DOL did not support the recommendation that the finding of two borderline beryllium lymphocyte proliferation tests (BeLPTs) be considered to be equivalent to one abnormal BeLPT for the purposes of claims adjudication. The Board's recommended presumption seeks to equate two borderline BeLPTs with an abnormal BeLPT, which cannot be done under the language of the program's statute.

There is an exception that's made under Part B for people who cannot develop an abnormal BeLPT due to taking steroids. The Board could develop that kind of a rationale. The literature supports that two borderline tests have a predictive value that is the equivalent of an abnormal BeLPT.

Recommendation #7

This recommendation is related to the quality assessment of CMCs. Member Sokas gave a brief recapitulation of the work done by the Subcommittees on Weighing Medical Evidence and CMCs and IHs. Member Sokas thought that the CMC form and the way it's being applied is too narrowly focused on the specifics of the American Medical Association (AMA) guidelines. Member Silver noted that the claimants and the advocate community had concerns that there are some CMCs who keep making the same mistakes over and over again for many years. Perhaps a bigger sample needs to be drawn. The CMCs are selected by the contractor, and there are various methods in place to review their work.

Member Redlich mentioned that the Part B Lung Disease Subcommittee had looked at about 60 cases that had a CMC report. And of those, over half of them were from the same CMC. Everyone on the subcommittee agreed that this particular CMC had appropriate credentials but also had a "bit of an attitude." There was agreement that his cases accounted for almost all of the decisions that the subcommittee disagreed with. Also, Member Dement assembled a summary of the data from each year of the number of cases under different conditions that were accepted and denied. The numbers are not so huge that

one couldn't target the CBD denials. It would be a manageable item to review. Ms. Leiton said that there is no formal process that Dr. Armstrong goes through in order to detect patterns after re-reviewing cases. Dr. Armstrong's reviews may be more verbal rather than formal and documented.

With regard to changing the form, Member Sokas said that the suggestion is to change the form itself to include both the methodology change that the reviewer would review the whole record and add the part about whether the CE sent the appropriate information. The next step would be to recommend changes to that process and an approach that encompasses alternative mechanisms for reviewing the reviewer. The original recommendation did recognize what was currently happening. The Board needed to see what was happening and then adapt the recommendation based on that.

Chair Markowitz reminded the Board that one of its tasks is to evaluate the industrial hygiene function and that task should not go by the wayside. Ms. Leiton said that there is not currently a similar audit process of the industrial hygienists as there is for the CMCs.

Public Comments

Ms. Jacquez-Ortiz

Ms. Jacquez-Ortiz shared with the Board a statement from Senator Udall. DOL should prioritize Board recommendations intended to assist claimants. The community of claimants from the Cold War era is getting on in years. Many have already waited too long for their claims to be evaluated. Also, DOL should strongly consider providing the Board with a technical contractor to assist it.

Ms. Martha Trujillo

Ms. Trujillo's father passed away 10 years ago. He and her mother both fought for a number of years to get compensated. And about one month after her father passed away, he did receive his compensation. Ms. Trujillo thanked the Board for the hard work that they are doing.

Mr. Tim Lerew

Mr. Lerew is the chair of the Cold War Patriot Executive

Committee. He spoke very briefly to presumptive causation. As Member Boden and others had noted, the positive effects of presumptive causation could help many with pulmonary and other illnesses. There is a willing partner in the Department of Labor for many of their 400 claims examiners to take the input that the Board has made and continue to carry that forward. That's already reflected in the policy and procedure manuals.

Mr. Raymond Singer

Mr. Singer is a doctor of neuropsychology. He spoke about the types of injuries that neurotoxicity can cause like anxiety, depression, psychosis, panic attacks, learning disabilities, memory disorder, and/or neurological degeneration that can be diagnosed as dementia, Alzheimer's disease, Parkinson's disease, and other motor disorders. Solvents are among the neurotoxic substances. Pesticides, metals, mercury, lead, and many other metals as well as mold are neurotoxic substances. The Board should keep these substances in mind.

Mr. Paul Griego

Mr. Griego is a former radiation worker. He was denied health screening program under the workers compensation program. The Pacific Proving Grounds have SEC years from 1947 to 1962. He filed a petition for an amendment to the special exposure cohort to include the 1977-1980 atomic cleanup of Enewetak Atoll with NIOSH. Mr. Griego went to speak with one of the NIOSH representatives present.

Dr. Sood

Dr. Sood is board-certified in pulmonary medicine and occupational medicine and the only occupational pulmonologist at the University of New Mexico. Dr. Sood commented on the shortage of providers for DOE workers, asthma, COPD, and chronic beryllium disease. Dr. Sood really liked what the Advisory Board said about vapors, gases, dust, and fumes. As a risk factor, it's well recognized by the scientific literature and certainly something that was recommended by the Advisory Board. DOL should revise their stand on vapors, gases, dust, and fume exposure. Dr. Sood thought that the Board's recommendations on asthma, COPD, sarcoidosis, and CBD were simple and practical.

Ms. Maxine Pennington

Ms. Pennington was a chemist at the Kansas City Plant. Ms. Pennington thought that 1990 was an inaccurate year to stop evaluating for exposure to chlorinated solvents. There are many toxic substances that were specific to nuclear weapon production. Exposure to polychlorinated biphenyls occurred way past 1979, the year when the transformers were taken out at the site. It went into the '90's. Many other mixtures are recognized as human carcinogens by NIOSH and others. But in the review of the cases of plastics workers at the site, there hasn't been a specific chemical compound or element linked to a specific target cancer. Because of this, those claims are being denied.

Ms. Jan Martinette

Ms. Martinette's husband worked at Kansas City Honeywell Plant for 44 years. He died 10 and a half years ago, and she has not received compensation. She has filed claims and been denied. Ms. Martinette said that PCBs (polychlorinated biphenyls) are cumulative. They will cause any kind of cancer. Her husband had been exposed to PCBs. She was encouraged to speak directly with agency representatives who were present in the room following her comments.

Ms. Cathy Turpin

Ms. Turpin thanked the Board for its work and welcomed everyone to New Mexico. She acknowledged the immense task that lies before the Board.

Ms. Terrie Barrie

Ms. Barrie was worried that DEEOIC may be inadvertently duplicating some of the Board's responsibilities like conducting audits of the CMCs, determining whether or not individual claim evidence should be applied broadly as programmatic guidance, and deciding if it warrants the establishment of a new health effect or a modification to the causative threshold applied to the program guidance. Ms. Barrie also thought that it would be a good idea for the Board to use a technical contractor much like the NIOSH board does.

Mr. Eric Bustos

Mr. Bustos worked at Los Alamos and his father was a plumber

there who recently died from liver cancer. Mr. Bustos said that NIOSH missed a scheduled meeting with his family. They never heard back from NIOSH about this missed meeting.

Ms. Stephanie Carroll

Ms. Carroll thought that the Board should seek outside technical assistance from a technical contractor. Ms. Carroll commented on borderline and other BeLPT results. She said that requiring a positive BeLPT to accompany a physician-supported diagnosis of CBD approved under the program under Part E is unfair, arbitrary and capricious. She also objected to the new procedure manual. Everything that has gone into policy for this program should be put online, especially the telephone conference calls. Also, sarcoidosis should be in the Site Exposure Matrix (SEM). Getting yearly claim approval statistics for each site's beryllium sensitization claims and chronic beryllium disease claims would be helpful.

Mr. Rendell Carter

Mr. Carter was a claimant who has been diagnosed with light chain deposition disease - a very rare condition that is closely related to multiple myeloma. Mr. Carter's claim was denied due to a lack of dialogue between the claims examiner and the contract medical consultant. Mr. Carter felt that the burden should fall on DOL to refute his physician's opinion, not the other way around.

Ms. Marla Ortiz

Ms. Ortiz's dad worked for Los Alamos National Lab. His name was Dan Ortiz and he became ill after working with toxic substances during his employment. After leaving the lab on a mandated medical retirement and, despite having worked tirelessly to help establish the compensation program, he became a victim of the bureaucracy of the DOL claims process. After a decades-long road of suffering injustices and declining health, Ms. Ortiz's father's DOL claim finally went through about five and a half years later, and he received full compensation for his claim. Submitting a legitimate DOL claim should not be this difficult. Injured workers should have a much more streamlined process and not have to endure additional stress and anxiety.

Ms. Donna Hand

Ms. Hand said that recommendation number 4 needed corrected. It says "at least as likely as not that exposure to a specific toxic substance." Specific is not in the statute at all nor is it in the regulation.

Ms. Hand raised several issues, including: the definition of "significant factor"; DOL policy being discretionary; the ubiquity of asbestos at sites; the inability to narrow exposure by labor category; COPD; asthma; at least as likely as not criteria; and the concept of "a work day."

Ms. Vina Colley

Ms. Colley raised the issue of uranium processing at Portsmouth and Paducah. She also mentioned radioactive oil at facilities in these two locations and the workers exposed to this oil. Ms. Colley asked why it was taking so long to get these workers compensated. The government admitted that they made the workers sick, and they admitted that Portsmouth and Paducah wasn't told that it had plutonium despite the fact that there's been plutonium there since 1953. Ms. Colley asked the Board to revisit these sites.

Mr. Gary Van der Boegh

Mr. Van der Boegh, with Nuclear Whistleblowers Alliance, said the Board is doing a fabulous job. He said that former workers are not intimidated by anybody. Mr. Van der Boegh was sick of staff hearing officers. He suggested that the Board watch the November 2, 2017 episode of Tucker Carlson on Fox News. Mr. Van der Boegh said that workers are not getting compensated for beryllium.

Chair Markowitz adjourned the meeting at 6:15 p.m.

FRIDAY, NOVEMBER 17, 2017

Introductions and review of recommendations

Mr. Fitzgerald opened the meeting at 8:00 a.m. and the Board continued its review of recommendations. Chair Markowitz assigned members to write responses to the various DOL responses to the Board's recommendations. With regard to Recommendation 5, DOL was not interested in publishing its policy teleconference notes, so no one was assigned to that.

SEM Subcommittee

Member Welch said that the SEM Subcommittee recommended that DOL first integrate data into the SEM from the International Agency for Research on Cancer (IARC) and the EPA Integrated Risk Information System (IRIS) database. EPA is very thorough and active in terms of the assessments of chemicals. EPA gets chemicals proposed to them by other agencies or by outside groups and they frame the scientific questions specific to the assessment. This information is then reviewed by health scientists within EPA and by interagency scientific consultants. Then the draft is reviewed for public comment. It goes through an external peer review process and those comments are incorporated into a final interagency science discussion. There are about 500 assessments within IRIS and 110 of those have an assessment for inhalation exposure. The assessments are done for the purpose of assessing environmental exposures that are highly applicable to the occupational environment.

The IARC Group I carcinogens are accepted as known human carcinogens and are most likely already incorporated into SEM by virtue of SEM relying on Haz-Map. Since Haz-Map hasn't been updated, the new IARC monographs have probably not been added to the SEM. The SEM Subcommittee also recommended that DOL incorporate the Group II IARC carcinogens as well. Other members supported adding the National Toxicology Program (NTP) data. The door should be open for using NTP evaluations for non-cancer outcomes, which could be very valuable because they do detailed reviews of neurotoxins, respiratory toxins, immunotoxins, and a variety of other non-cancer causing chemicals.

Chair Markowitz said that this is added information and evidence that there needs to be an enhanced capacity of EEOICP to have access to enhanced scientific, medical, industrial hygiene, and toxicological expertise in order to do this. Epidemiology is the key to interpreting the various databases and how to use them.

Chair Markowitz asked Ms. Leiton to keep the Board abreast of DOL's plans to integrate the sources that the Board recommended into the SEM. The Board should also look critically at the job categories and the chemicals that those categories use in the SEM. Member Vlieger asked for rationale documents for when something is added or subtracted from the SEM. Ms. Leiton said that there is a process for altering the SEM. She is going to have to look at what documentation exists and what DOL can provide to the Board within their contract. She also noted that it is easier to add things to the SEM than to subtract things.

Occupational Health Questionnaire

This recommendation is about enhancing the occupational health

questionnaire. The SEM really doesn't contain information of frequency, duration, and intensity of exposure within the complex. That's an issue for people who are trying to make a judgment about work-related diseases and relevant exposures. Member Dement said that the question is how best to get information from workers who may or may not have a good level of recall. The Building Trades National Medical Screening Program (BTMed) asks if a worker worked with a particular material and then, based on that experience over the last 20 years, the workers are given a list of common tasks that construction trade workers would have done with the material and asked how frequently they worked with the material. Taking that information and relating it to specific health outcomes is a useful way of separating exposures and identifying higher and lower risk groups.

Member Domina said some chemicals, like the ones that were used at Hanford, are so exotic that there are no health studies. And some of those chemicals are still not classified. The task really should be the focus. With regard to personal protective equipment (PPE), the Board recommended that OHQ drop questions about PPE. It's more of a marker of exposure than a marker of protection against exposure.

Member Welch said that the SEM Subcommittee could have a conference call to talk about the new OHQ draft in light of what the Board's goals have been with its recommendations and then make a proposal to the full Board about how to respond.

Part B Lung Disease Subcommittee Report

Member Redlich gave the report. She said that the subcommittee has reviewed 80 Part B cases, made three recommendations, and responded to a list of specific questions from DOL. Ms. Leiton asked if she could get the subcommittee's evaluation of the CMCs. This issue of CMCs using incorrect criteria relates to the Board's recommendation about taking a look at a sizable number of claims and identifying systematic issues.

Presumptions Working Group

Chair Markowitz said that the working group still has a presumption recommendation on hearing loss that is outstanding from the June 2017 meeting. Member Sokas reiterated that the presumptions are positive and not negative. If a claimant doesn't meet a presumption, it means that the claim goes to an industrial hygienist, not that the claim is automatically denied.

Procedure Manual

A transmittal letter about the changes in the manual came out in

September. Reviewing exactly what changed in the manual could be a task for the next Board.

Organizing Public Comments

Chair Markowitz raised the issue of how to integrate public comments into the work of the Board. Member Griffon said that the NIOSH Board's practice was to collect public comments in a matrix and then at the next meeting the Board would go through those comments from the prior meeting and say how they had been dispositioned, whether it was an individual claim, NIOSH dealt with it, or whether it was something that was going to be moved to a subcommittee or work group. Public comments could be dispositioned by agencies and forwarded to the appropriate agency to deal with, whether it's NIOSH or DEEOIC. This Board has a spreadsheet listing all of the public comments to date. The Board will need to decide how to use it.

Prioritizing issues for the next Board

Chair Markowitz said that the next Board should look at what it means to say a condition is "aggravated or contributed" to by an exposure. Member Welch said that the Board needs to revisit the SEM at a broad level, looking at exposure assessment in general for the claims process and focusing on things that are outside the SEM. Member Redlich encouraged the next Board to look more deeply at the available data - particularly continuing with the analysis that Member Dement did of the data.

Member Silver mentioned continuing to work with DOL to make sure the employment history of claimants is well-documented. Member Vlieger suggested that the next Board look at the topic of durable medical equipment authorization.

The new Board should also look at the most commonly denied claims and the list of conditions which are most commonly denied. The Board also needs to look into neurologic illnesses, like toxic encephalopathy. Member Redlich said that more interaction with physicians from DOL would be helpful. It would also be helpful for the next Board to have refresher presentations from DOL and the NIOSH Board.

Mr. Fitzgerald adjourned the meeting at 10:54 a.m.

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

Submitted by:



Steven Markowitz, MD, Dr.Ph.

Chair, Advisory Board on Toxic Substances and Worker Health

Date: 2/16/2018